

INDONESIA'S DIPLOMACY EFFORTS IN HANDLING CASES OF INDONESIAN LABOR OVERSTAYERS IN SAUDI ARABIA

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Abstract

This study analyzes the efforts of Indonesian diplomacy in dealing with the problems of overstayers Indonesian Workers (TKI) in Saudi Arabia. Overstayers TKIs are Indonesian workers who exceed the residence permit limit in Saudi Arabia. Several reasons for migrant workers in Saudi Arabia to become overstayed, include migrants who run away from employers so that they become illegal migrants, ex-pilgrims who work illegally, and Indonesian citizens who enter on a visitor visa, calling visa or calling work visa to work at Saudi Arabia. Overstayers TKIs in Saudi Arabia face immigration problems. They do not have complete documents to work in Saudi Arabia, so they are declared illegal migrant workers and do not get social security and legal protection. The condition of overstayers TKI who were displaced under the Kandara bridge in Jeddah as well as in shelters that are not fit to be in the public spotlight. The Indonesian government is demanded to immediately address the overstayers TKI problem. The concept used in this research is diplomacy. The method used in this research is

descriptive qualitative method. This study aims to determine the problems of overstayers TKI, as well as Indonesia's diplomacy efforts in dealing with these problems. From the results of the study, it was found that the efforts made by the Government of Indonesia were to conduct diplomacy against the government of Saudi Arabia to request amnesty (forgiveness) for all overstayers TKIs as well as the ease of returning the troubled migrant workers back to Indonesia. The overstayers TKI handling program in 2011 was gradual repatriation of 7,926 people with a repatriation scheme using commercial aircraft and ships "KM. Labobar".

Keywords: TKI, Overstay, Diplomacy, Amnesty, Government of Indonesia, Kingdom of Saudi Arabia.

Abstrak

Penelitian ini menganalisa upaya diplomasi Indonesia dalam menangani masalah Tenaga Kerja Indonesia (TKI) Overstayers di Arab Saudi. TKI Overstayers adalah Tenaga Kerja Indonesia yang melebihi batas izin tinggal di Arab Saudi. Beberapa alasan para TKI di Arab Saudi menjadi overstay, antara lain TKI yang melarikan diri dari majikan sehingga menjadi TKI illegal, eks jamaah umroh yang bekerja secara illegal, dan warga negara Indonesia yang masuk dengan visa kunjungan, calling visa atau calling visa kerja untuk bekerja di Arab Saudi. TKI Overstayers di Arab Saudi menghadapi masalah keimigrasian. Mereka tidak mempunyai dokumen lengkap untuk bekerja di Arab Saudi, sehingga dinyatakan sebagai TKI illegal dan tidak mendapatkan jaminan sosial serta perlindungan hukum. Kondisi TKI Overstayers yang terlantar di bawah jembatan Kandara Jeddah serta di tempat-tempat penampungan yang tidak layak menjadi sorotan publik. Pemerintah Indonesia dituntut untuk

segera menangani persoalan TKI Overstayers ini. Konsep yang digunakan dalam penelitian ini adalah diplomasi. Metode yang digunakan dalam penelitian ini adalah metode kualitatif deskriptif. Penelitian ini bertujuan untuk mengetahui permasalahan TKI Overstayers, serta upaya diplomasi Indonesia dalam menanganani masalah tersebut. Dari hasil penelitian, ditemukan bahwa upaya yang dilakukan Pemerintah Indonesia adalah melakukan diplomasi terhadap pemerintah Arab Saudi untuk meminta amnesty (pengampunan) bagi seluruh TKI Overstayers serta kemudahan untuk pemulangan TKI bermasalah kembali ke Indonesia. Program penanganan TKI Overstayers pada tahun 2011 adalah pemulangan massal secara bertahap sebanyak 7.926 orang dengan skema repatriasi menggunakan pesawat komersil dan Kapal Laut "KM. Labobar".

Kata Kunci: *TKI, Overstay, Diplomasi, Amnesty, Pemerintah Indonesia, Kerajaan Arab Saudi.*

Background

Diplomatic relations between the Republic of Indonesia and the Kingdom of Saudi Arabia were officially opened on May 1, 1950. To strengthen bilateral relations between the two countries, on November 24, 1970, a Treaty of Friendship was formed between the Republic of Indonesia and the Kingdom of Saudi Arabia (Treaty of Friendship Between the Republic of Indonesia and the Kingdom of Saudi Arabia). A Joint Commission Session was also formed which functions as a bilateral forum to discuss various issues relating to the two countries (Voices, 2010).

Bilateral relations between Indonesia and Saudi Arabia are increasingly enhanced through cooperation in various fields, including economics, trade, education, religion, and employment

(RI, 2012). But the dynamics of relations between the two countries are often colored by various issues and problems. One issue that is often a concern of the Indonesian public towards Saudi Arabia is the issue of employment of Indonesian Workers (TKI) (RI, 2012).

It is undeniable that the migration of TKI to Saudi Arabia reached a large number. The data recorded in 2011, TKI who were in Saudi Arabia reached 19% of the total number of TKI abroad or around 641,039 people. Saudi Arabian migrant workers are more concentrated in Riyadh, totaling 225,453 people (35%) and in Jeddah totaling 415,586 people (65%) (Diplomasi, 2011).

While data recorded at the Directorate General of the Protection of Indonesian Citizens and Indonesian Legal Entities Ministry of Foreign Affairs, the number of migrant workers with problems in Saudi Arabia in 2010 reached 4,242 cases (Diplomasi, 2011). Issues affecting migrant workers in Saudi Arabia are in the spotlight because of indications of human rights violations. Cases such as violence, abuse, and sexual harassment of Indonesian migrant workers, making Saudi Arabia a red zone country or prone to problems for migrant workers (Nasional, 2010).

One of the problems of migrant workers which is of concern to both countries is regarding Overstayers Indonesian Workers (TKI) in Saudi Arabia. Overstayers TKIs are Indonesian workers who violate a residence permit or TKI who have expired their residence permit but are still working in Saudi Arabia. So that the main problems experienced by migrant workers are immigration and labor issues (Diplomasi, Kementerian Luar Negeri RI, "Kompleksitas Permasalahan WNI/TKI Overstayersdi Arab Saudi", , 2011)

These Overstayers TKIs are usually Indonesian Migrant Workers (TKI) who run away from their employers for various

reasons, such as unpaid salaries, wanting to change employers, or even experiencing problems with employer violence. In addition, there are also Overstayers TKI who are Indonesian citizens who use umrah visas or visit visas but have expired their residence permit and work illegally in Saudi Arabia (Diplomasi, Kementerian Luar Negeri RI, "Kompleksitas Permasalahan WNI/TKI Overstayers di Arab Saudi", , 2011).

In Saudi Arabia every year there are estimated to be tens of thousands of Overstayers Indonesians/TKI spread across various regions. Quoting data from the immigration technical Indonesian Consulate General in Jeddah, from 2008 to 2011 there were 78,444 Indonesian citizens/migrant workers Overstayers who had been returned to Indonesia via Jeddah (Indonesia, 2012). The migrant workers whose permits have expired are eventually displaced in various places in Saudi Arabia. There are those who choose to live under a bridge or illegal shelter.

The location which is mostly inhabited by TKI Overstayers is under the Kandara bridge in Jeddah. Until 2011, before being repatriated, there were about 305 Overstayers TKIs who were there. Under the Kandara bridge, Jeddah is also inhabited by other citizens, such as Bangladesh, the Philippines, India, Pakistan, Ethiopia, Djibouti, Somalia, and Yemen. The Kandara Jeddah Bridge is the choice for Overstayers TKIs to stay temporarily in the hope that they will be caught in raids and deported (News, 2011).

The problem of immigration is a major factor making it difficult for Overstayers TKI to return to Indonesia. In addition, they also do not have enough funds to return to their homeland. The number of Overstayers TKI who reach thousands of people is a problem for the government of Saudi Arabia. The deportation process requires

a lot of money so that the government of Saudi Arabia claimed to be overwhelmed to accommodate and deport (Care, 2009).

Protection of Overstayers TKI refers to the 1990 Migrant Convention which guarantees the rights of migrant workers that must be protected, such as the right not to be the object of torture, sadistic, inhumane acts, the right to freedom and security as a person, and the right not to be subjected to expulsion. Therefore, Overstayers TKI in Saudi Arabia under various conditions must be a concern for the Indonesian government in the effort to protect Indonesian citizens abroad.

In accordance with the mandate of the constitution, the Indonesian government is obliged to protect its citizens who work abroad. This is stated in the 1945 Constitution Article 27 Paragraph 2 which states that every citizen has the right to work and a decent living for humanity. And Article 28D which states that everyone has the right to work, get compensation, and treat them fairly and properly in an employment relationship. Its implementation is with Law Number 39 of 2004 concerning the Placement and Protection of Indonesian Workers Abroad (Wahyuni, 2010).

Therefore, the issue of Overstayers TKI is of concern to both countries, given that media coverage also influences the intensity of the issue. In an effort to deal with these problems, the Indonesian government negotiated the Saudi Arabian government to ask for amnesty (forgiveness) for migrant workers with problems. Including the problem of Overstayers TKI which in the end the Saudi Arabian government granted the request by giving amnesty (forgiveness) as well as facilities for the repatriation process except those involved in serious crimes (News A. , 2011).

Seeing this phenomenon, it is interesting to study that the problem of Overstayers TKI is an issue for bilateral relations between Indonesia and Saudi Arabia. Therefore, researchers are interested in writing about "Indonesia's diplomacy in Handling Overstayers Indonesian Workers (TKI) Problems in Saudi Arabia". The analysis of the problems examined is the Overstayers TKI and the diplomatic efforts of the Indonesian government towards Saudi Arabia in dealing with these problems.

Framework

To explain the main problems, the analysis of this study uses the concept of diplomacy. The concept becomes an analytical tool to describe the problems of Overstayers TKI and the Indonesian government's diplomatic efforts towards Saudi Arabia in dealing with these problems carried out through a framework of cooperation.

The Concept of Diplomacy

Diplomacy deals with the whole process in foreign relations, including the formulation of policies and their implementation. It also includes operational techniques where a country seeks its interests outside its jurisdiction (Suryokusumo, 2004). Diplomacy is an implementation of foreign policy that fights for national interests and is part of a strategy to achieve national goals in international relations.

According to S.L Roy diplomacy in the context of inter-state relations is the art of prioritizing a country's national interests through negotiating in peaceful ways against other countries (Roy, 1995). Furthermore, Barston defines diplomacy as an effort to

manage relations between countries with other actors regarding the provision of advice, determination, and implementation of foreign policy.

Harold Nicholson defines diplomacy as negotiations that are accompanied by processes and mechanisms that are in it. The meaning of diplomacy that is often used in international relations is more likely in any activity that is inseparable from negotiations involving state representatives. So that diplomacy can be interpreted as negotiations and relations between countries carried out by government officials or government representatives in other countries.

In general, the implementation of diplomacy is divided into two lines. First track diplomacy conducted by the government of each country (Government to Government). Second track diplomacy carried out by figures within the scope of civil society or the people of each country (People to People) (Djelantik, 2008).

While seen from its form, diplomacy is divided into two forms. A Bilateral diplomacy carried out by two countries and multilateral diplomacy carried out by more than two countries. Bilateral diplomacy is a form of diplomacy carried out by two countries. Bilateral diplomacy is used as an approach to cooperation between countries through representatives of each country. The efforts of the Indonesian government in dealing with the Overstayers TKI problem in Saudi Arabia were carried out through diplomacy.

Diplomacy in this context is in the form of negotiations between representatives of each country to resolve the problem of migrant workers in Saudi Arabia. Indonesian diplomacy towards Saudi Arabia in dealing with the Overstayers TKI problem is preferred through the government track (first track diplomacy).

The concept of bilateral diplomacy is used to illustrate the efforts of Indonesia and Saudi Arabia in discussing employment issues. The need for diplomacy in addressing the problems of Overstayers TKI in Saudi Arabia, because diplomacy itself has a good purpose for the creation of peaceful means. Bilateral diplomacy carried out by Indonesia against Saudi Arabia as a form of Indonesian diplomatic protection to protect its citizens in Saudi Arabia, including migrant workers who are overstayed under the Jeddah-Kandara bridge.

The Indonesian government's diplomacy towards Saudi Arabia in the effort to handle the Overstayers TKI problem in Saudi Arabia in 2011 was carried out in the form of negotiations by the Indonesian Ministry of Foreign Affairs accompanied by Indonesian representatives in Saudi Arabia. The negotiations resulted in an agreement for the mass repatriation of TKI Overstayers either by plane or by motorboat. Furthermore, bilateral diplomacy between Indonesia and Saudi Arabia resulted in an agreement to form a joint task force to inventory all problems affecting migrant workers in Saudi Arabia.

Research methods

This study uses qualitative analytical descriptive methods. Bogdan and Taylor define qualitative methods as research procedures that produce descriptive data in the form of written or oral words from people and observed behavior.

The purpose of descriptive research according to Mohammad Nadzir is to make a description, description, or painting in a systematic, factual, and accurate manner about the facts, the characteristics, and the relationship between the phenomena investigated. In this study, descriptive-analytical methods are used

to describe labor problems Indonesia (TKI) Overstayers which impacted the bilateral relations between Indonesia and Saudi Arabia and the efforts made by the Indonesian government towards Saudi Arabia in dealing with the problem.

Results And Analysis

Mechanisms for the Protection of Indonesian Workers Overseas

The many problems that have befallen TKIs in Saudi Arabia have caused a reaction from the Indonesian people. The government is urged to immediately resolve various problems of migrant workers, especially those in Saudi Arabia. Efforts that have been made by the Indonesian government related to the protection of migrant workers are successful negotiations with the government of Saudi Arabia who agreed to the existence of the Letter of Intent (Statement of Willing) to formulate a Memorandum of Understanding (MoU) on employment with Saudi Arabia (RI, Buku Diplomasi Indonesia 2011, 2011).

The policy to increase the protection of Indonesian citizens/migrant workers is carried out by the government and representatives of the Republic of Indonesia abroad as a whole, starting from pre-placement, length of service in the placement country, to post-placement. Protection of migrant workers abroad includes three aspects, namely (Negeri, 2011) :

1. Prevention (preventive) Activities that aim to prevent the occurrence of cases. These preventive measures are tailored to the characteristics of the problems that are in each representative. The form of its activities includes public awareness campaigns, information dissemination, collaboration with stakeholders

both at central and regional levels, welcoming programs, the outreach of consular services, empowering Indonesian people abroad, education, and training for HR in representatives.

2. Early Detection Activities that aim to make the problem/ case known immediately before it becomes an uncontrolled issue. The form of activities such as, development of IT-based database systems, database synchronization and integration, provision of hotline services, visits to prisons, immigration detainees, police, and so on, strengthening networking for local agency officials and other stakeholders both at the central and the Indonesian government.
3. Protection quickly and precisely (Immediate Response) Activities that aim to resolve cases that have occurred. The forms of activities are responding quickly and appropriately to every complaint from the public, handling cases in a measured manner, optimizing the citizen service task force in RI representatives, providing shelter for physical protection, providing legal assistance, providing social and humanitarian assistance, repatriation. Meanwhile, the efforts of RI representatives in dealing with the problems of Indonesian citizens abroad were carried out using three approaches, namely:
 - a. Legal approaches, such as mediation or conciliation, legal consultation, providing lawyers, and assisting in the resolution of problems outside the court.
 - b. Humanitarian approaches, such as the provision of shelters/shelters, regular visits and social assistance, spiritual guidance, psychological and health assistance, and repatriation.

- c. Political approach, carried out in the form of first track diplomacy and second track diplomacy. First track diplomacy is carried out by forming a Memorandum of Understanding between Indonesia and the country where the TKI is located, as well as establishing a Mandatory Consular Notification. Then the second track diplomacy (second track diplomacy), is done through the People to People, Government to Government, Government to Non-Government Organization approaches, and Government to International Government.

Furthermore, in the context of efforts to protect Indonesian citizens, especially migrant workers abroad, the Indonesian government established a Citizen Service program. Citizen Service System (Citizen Service) is an integrated citizen service system in the Republic of Indonesia's representative whose aim is to improve the protection of all Indonesian citizens, especially migrant workers abroad. This Citizen Service is part of the implementation of the consular function of RI representatives.

The Citizen Service program is based on the Minister of Foreign Affairs Regulation No. 04 of 2008, as the implementation of Law Number 37 of 1999 concerning Foreign Relations and Presidential Instruction Number 6 of 2006 concerning Reform of the Placement and Protection System for Migrant Workers. Until 2009, Citizen Service was formed in 24 Indonesian Representatives, including the Indonesian Consulate General in Jeddah and the Indonesian Embassy in Riyadh, Saudi Arabia.

Indonesia Diplomatic Efforts In Handling Problems Of Overstayers Tki In Saudi Arabia

The problem of Indonesian workers in Saudi Arabia is the most prominent issue in the bilateral relations between Indonesia and Saudi Arabia. Even so, the friendship between the two countries continued well. Because Indonesia has always prioritized diplomatic efforts in dealing with various issues relating to bilateral relations, including the problems of migrant workers.

In general, safeguards and consular assistance is a consulate's obligation to consular representatives. The consular function can also be carried out by a consular function official at a diplomatic representative. Protection and consular assistance will be very helpful for migrant workers when there is a problem such as issues involving legal issues.

Protection of Indonesian citizens abroad, especially migrant workers, is carried out through diplomacy activities, including by making placement agreements and protecting workers with destination countries. In accordance with Law No. 39 of 2004 which stipulates that the placement of migrant workers abroad can only be done to the destination country where the government has made a written agreement with the Government of the Republic of Indonesia or to a destination country that has legislation that protects foreign workers (Undang-Undang).

The Indonesian government is seeking diplomacy against the Saudi Arabian government in handling the Overstayers TKI problem. On 6 February 2011, the Indonesian Government delegation accompanied by the Indonesian Ambassador and the Jeddah Consulate General held negotiations with the government

of Saudi Arabia to seek a comprehensive solution to the Overstayers TKI problem.

Negotiations with Saudi Arabian government officials in 2011 were also a response to the circulation of amnesty (forgiveness) news from the King of Saudi Arabia for foreign workers who had problems with overstaying, those who came on Umroh, Hajj and Pilgrimage visas, and those with problems with their employers (kafill).

The Indonesian government representative questioned the clarity and procedures and the scope of the amnesty. Exactly when amnesty began to be effectively implemented, where is the place to register, how is the technical or procedure for repatriation, and who is included in the amnesty category. Furthermore, the Saudi Arabian government explained that amnesty (forgiveness) only applies to those who come to Saudi Arabia using Umrah, Hajj, and Pilgrimage visas on the condition that they still have a passport even though it has expired.

The problem is that 80% of Indonesian citizens who come to Saudi Arabia have the status of workers who become overstayers because they run away from employers. By reason of various kinds of problems, such as unpaid salaries, salaries that are not in accordance with the contract, the employer acts violently, experiences immoral acts is involved in criminal acts, and is tempted by higher salaries, and so on. While only 10% of problematic Indonesian citizens use Umroh, Hajj, and Pilgrimage visas. So that the amnesty policy of the King of Saudi Arabia has not been able to resolve the illegal Indonesian citizen / TKI problem completely.

The Indonesian government negotiating with the Saudi Arabian government requested that amnesty also be applied to troubled

migrant workers. Finally, the request was agreed by the government of Saudi Arabia, that the problematic Indonesian citizens/migrant workers were given the ease to go home except for those who were involved in serious crimes (Jeddah, 2011).

The negotiations resulted in several agreements, namely the first of the Indonesian government to encourage Saudi Arabian immigration to repatriate as many Indonesians / Overstayers as Indonesian Migrant Workers. Second, speed up the process of giving a Passport-Like Travel Letter (SPLP) by assigning 4 KJRI staff to the immigration office (tarhili). Third, establish a Joint Task Force for handling Indonesian citizens / TKI Overstayers between Indonesia and Saudi Arabia. Fourth, to continue the discussion on the Memorandum of Understanding of the Protection of Indonesian Migrant Workers in Saudi Arabia as a follow up to the 8th Joint Commission Session (SKB) of 2008.

Basically, Overstayers TKI faces three violations of the law at once, namely employment, immigration, and crime. Consular representatives as representatives of the Indonesian government in Saudi Arabia are required to help deal with the problem of violation of the law. So the effort to handle Overstayers TKI is not easy.

In the process of negotiating the handling of the Overstayers TKI problem in Saudi Arabia in 2011 basically went smoothly. Requests for amnesty (forgiveness) of the Indonesian government are limited to foreign nationals who make the pilgrimage, Umrah, and pilgrimage, granted by the Kingdom of Saudi Arabia to be applied also to migrant workers who have problems in employment. This is due to overstayed migrant workers not only having problems with immigration, but also labor issues between migrant workers and employers.

But technically, the handling of the Overstayers TKI problem encountered obstacles, namely: inadequate TKI services provided by Indonesian representatives in Saudi Arabia. The minimum number of employees in the Consulate General is not proportional to a large number of Overstayers TKI who want to take care of labor and immigration documents. The Indonesian representative was quite overwhelmed in handling migrant worker cases in Saudi Arabia, as well as serving immigration documents (passports, visas, birth certificates, death certificates, court decisions, travel documents, etc.).

It can be seen that after the issuance of an amnesty (forgiveness) from the Kingdom of Saudi Arabia, the Indonesian Consulate General in Jeddah felt overwhelmed in serving the handling of 300 Overstayers TKI documents each day. For a while, the Overstayers TKI was placed in Madinatul Hujjaj (Hajj hostel) before being repatriated to Indonesia. The Indonesian Consulate General in Jeddah asked for volunteers from Indonesian citizens in Saudi Arabia and teachers of the Indonesian School of Jeddah (SIJ) to assist in the data collection process and services for Overstayers TKIs.

Conclusion

Globalization has triggered the movement of people to migrate from one country to another, both legally and illegally. Individual migration abroad is intended to find a more decent livelihood. The majority of human migration abroad is to work and earn a living. Similarly, the Indonesian people who migrated abroad to become Indonesian workers (TKI). The factor driving Indonesian citizens to become migrant workers is the lack of domestic employment, which

triggers to improve the status of the economy by migrating abroad to become migrant workers. While the factor of attracting migrant workers abroad is the demand for labor, especially in the informal sector. A large number of migrant workers abroad makes the placement of migrant workers as an Indonesian national program.

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