

INDONESIAN MIGRANT WORKER PROTECTION: THE ROLE OF BNP2TKI TO PROTECT INDONESIAN MIGRANT WORKER IN SAUDI ARABIA 2016 POST MORATORIUM

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Abstrak

Indonesia merupakan salah satu negara berkembang, pemerintah Indonesia harus berusaha dalam memajukan perekonomian Indonesia, salah satu strategi pemerintah Indonesia dalam memajukan perekonomian Indonesia adalah pengiriman Tenaga Kerja Indonesia keluar negeri. Lembaga nasional yang bertugas atas penempatan tenaga kerja Indonesia adalah BNP2TKI, dengan banyaknya permasalahan terhadap Tenaga Kerja Indonesia pemerintah Indonesia membuat kebijakan kepada penyaluran Tenaga Kerja Indonesia berupa surat keputusan menteri Ketenagakerjaan No. 260 tahun 2015. Peran pemerintah Indonesia terhadap Tenaga Kerja Indonesia adalah memberikan perlindungan dan memenuhi haknya sebagai warga negara, sehingga penyaluran tenaga kerja Indonesia perseorangan diberhentikan. Hal ini bertujuan untuk menjaga warga negara Indonesia yang bekerja di luar negeri dan pemenuhan hak terhadap tenaga kerja Indonesia. Teori Perlindungan hukum berkaitan dengan hukum-hukum yang mengatur perlindungan Tenaga Kerja Indonesia diluar negeri sesuai dengan hukum Indonesia, sedangkan konsep hak asasi manusia berkaitan dengan hak-hak yang didapatkan Tenaga Kerja Indonesia yang berkolerasi dengan ad-dhuriyat atau pemenuhan hak dalam Islam. Peran pemerintah Indonesia sangat penting terhadap perlindungan tenaga kerja Indonesia,.BNP2TKI sebagai lembaga nasional yang bertugas melindungi tenaga kerja Indonesia diluar negeri mempunyai kebijakan kepada tenaga kerja Indonesia yang bekerja di luar negeri, kebijakan yang diatur oleh menteri ketenagakerjaan Indonesia kemudian dikembangkan oleh BNP2TKI dalam membuat kebijakan terhadap Tenaga Kerja Indonesia di negara Arab Saudi, kebijakan yang dilakukan oleh BNP2TKI antara lain, tidak ada penyaluran tenaga kerja Indonesia perseorangan kenegara Arab Saudi sesuai dengan ketentuan Menteri Ketenagakerjaan, Tenaga Kerja Indonesia Fornal masih bisa disalurkan kecuali cleaning service perempuan. Usaha-usaha pemerintah dalam perlindungan Tenaga Kerja Indonesia di negara Arab Saudi sudah efektif dan akan lebih efektif jika pemerintah Indonesia membuat perjanjian dengan negara-negara penerima Tenaga Kerja Indonesia terkait perlindungan Tenaga Kerja Indonesia.

**Kata Kunci : Tenaga Kerja Indonesia, Arab Saudi, Perlindungan, Hak dan
Moratorium.**

Abstract

Indonesia is one of the developing countries. Thus the government of Indonesia should strive in advancing the Indonesian economy. One of the Indonesian Government's strategies in advancing the Indonesian economy is the distribution of Indonesian Migrant Workers abroad. The national agency which assigned to the placement of Indonesian workers is BNP2TKI. With many problems against Indonesian Migrant Workers in Saudi Arabia, Indonesian Government makes the policy to the distribution of Indonesian Migrant Workers in the form decree of the Ministry of Manpower of the Republic Indonesia Number 260 in 2015. The Minister of Manpower policy is the Moratorium of Indonesian Migrant Workers to the Middle East Region, especially Saudi Arabia. The role of the Indonesian Government towards Indonesian Migrant Workers is to provide protection and fulfill their rights as citizens so that the distribution of individual Indonesian workers is banned. It aims to keep Indonesian citizens working abroad and fulfillment of the right to Indonesian Migrant Workers. Theory of Legal Protection relates to laws governing the protection of Indonesian workers abroad in accordance with Indonesian law, while the concept of human rights relates to the rights that Indonesian Workers are getting which is correlated with ad-dhuriyat or the fulfillment of rights in Islam. The role of the Indonesian government is important to the protection of Indonesian Migrant Workers, BNP2TKI as a National Institution in charge of protecting Indonesian Migrant Workers abroad have policies to Indonesian Migrant Workers abroad, the policies regulated by the Indonesian manpower minister are then developed by BNP2TKI in making policies against Indonesian Migrant Workers in Saudi Arabia, the policies are undertaken by BNP2TKI, there is no distribution of Indonesian individual Migrant Workers in Saudi Arabia in accordance with the provisions of the Minister of Manpower, the Indonesian Formal Migrant Workers can still be distributed except for women's cleaning service,. Government efforts in the protection of Indonesian Migrant Workers in Saudi Arabia are effective and will be more effective if the Indonesian government makes agreements with recipient countries of the Indonesian Migrant Workers on the protection of Indonesian Migrant Workers.

**Keywords: Indonesia Migrant Workers, Saudi Arabia, Protection, Rights
and Moratorium**

Introduction

Indonesia is one of the developing countries in Southeast Asia region with a large population growth of humans, Indonesian Government should put more effort in advancing countries in many aspects such as economic, social, cultural, and other which beneficial for all entire sector in Indonesia. The greatest effort which must be done by Indonesia Government is the advancing economic development in Indonesian, because economic development is one of the ways to make Indonesia to be a developed country.

Every citizen has the right to get a good job, Indonesian Migrant Workers also have the rights to get everything in the development of human resources this has been regulated by

Indonesian Government on the 1945 Constitution article 27 paragraph 2, which reads: " *Tiap-tiap warga negara berhak atas pekerjaan dan penghidupan yang layak bagi kemanusiaan* (Indonesia 1945 Constitution, Article 27 Paragraph 2). From the applicable constitution in Indonesia shows that human resources in Indonesia can develop to fulfill the rights and get decent work.

Indonesia is one of the developing countries that have a lot of human resources and should be able to compete with human resources in other countries. Many Indonesia citizens choose for their job as Indonesian Migrant Workers abroad. This can be proved with Indonesian Migrant Worker statistics table in 2011 to 2016 from National Board for the Placement and Protection of Indonesia Overseas Workers (BNP2TKI) data:

Table 1.1: The Placement of Indonesian Migrant Workers 2011-2016



Source: www.bnp2tki.go.id

Moreover, with the number of Indonesia citizens in 2016 fixed at high numbers or many of Indonesian citizen decided to be migrant workers as their job, despite declining from previous years. In addition, with a considerable number of Indonesian Migrant Workers, this makes the security and fulfillment of the right for Indonesian migrant worker abroad as a task for the Indonesia Government. However, there are many problems experienced by the Indonesian Migrant Worker, this can be proved by data from the BNP2TKI.

Table 1.2 Number of Problems Indonesian Migrant Worker 2008-2013

NO	JENIS MASALAH	2008	2009	2010	2011	2012	2013	2014 (s.d SEPTEMBER)
		(JUMLAH)	(JUMLAH)	(JUMLAH)	(JUMLAH)	(JUMLAH)	(JUMLAH)	(JUMLAH)
1	PHK Sepihak	18,789	13,945	22,123	11,804	9,088	8,152	2,849
2	Majikan bermasalah	1,228	1,916	4,358	9,695	7,221	3,240	2,128
3	Sakit akibat kerja	8,742	10,153	12,772	7,263	4,959	2,125	1,097
4	Gaji tidak dibayar	3,797	1,905	2,874	1,723	2,139	1,241	388
5	Penganiayaan	347	4,822	4,336	2,137	1,633	975	303
6	Pelecehan Seksual	1,889	2,518	2,978	2,186	1,202	477	93
7	Pekerjaan tdk sesuai PK	103	791	989	744	884	699	287
8	Dokumen tidak lengkap	1,547	1,326	1,894	1,454	699	1,147	514
9	Sakit Bawaan	1,436	2,968	1,773	2,328	570	368	303
10	Majikan meninggal	592	334	677	633	532	117	51
11	Kecelakaan kerja	633	1,020	867	732	431	142	36
12	TKI hamil	367	379	471	531	307	143	67
13	Membawa anak	99	34	161	402	214	157	105
14	Tidak mampu bekerja	236	220	868	290	205	197	105
15	Komunikasi tidak lancar	333	315	534	415	188	38	20
16	Lain-lain	1,438	1,792	2,734	2,095	1,256	554	382
	TOTAL	45,626	44,438	60,399	44,432	31,528	19,772	8,728

Source: www.bnp2tki.go.id

The data of problem types explained about many problems that experienced by Indonesian Migrant Workers related protection and rights violation such as unpaid salary, maltreatment, and sexual harassment, that problem includes human rights violations. The problems listed on the table indicated that Indonesian government must protect the security of Indonesian Migrant Worker and fulfill their rights as an Indonesia's citizens.

It is already explained in the previous paragraph., For example if Indonesian Migrant Worker getting unpaid salary or maltreatment then they do not get decent life because their rights revoked by other people. If we talk about human rights, good life is one of principle from the concept of human rights. The human right itself has been owned by people since they were born in the World, Aswani assumed

“Hak Asasi Manusia memiliki prinsip yakni bahwa setiap orang dilahirkan setara dalam harkat martabat dan hak-haknya yang sama, sehingga seluruh hak-hak yang memiliki sama pentingnya dengan manusia lainnya tidak dapat dicabut dalam keadaan apapun”(Sulthon, 2012).

Indonesian Government also has regulations related to the Indonesian Migrant Worker, The Constitution Number 39-year 2004 about the placement and protection of Indonesian Migrant Worker abroad. Moreover, in article 2 explained that *penempatan dan perlindungan*

Calon Tenaga Kerja Indonesia (CTKI) dan TKI berdasarkan pada keterpaduan, persamaan hak, demokrasi, keadilan sosial, kesetaraan dan keadilan gender, anti diskriminasi dan anti perdagangan manusia (Constitution Number 39 of 2004). Indonesia citizens who work as Indonesian Migrant Workers must complete the requirements in accordance to be establish by the Indonesian Government, the Indonesia Government will be responsible and fulfill the rights of Indonesian Migrant Worker Candidate and Indonesian Migrant Worker.

Table 1.3 Number of Problems Indonesian Migrant Worker in Recipient Country 2008-2013

NO	NEGARA TUJUAN	TKI	TKI	TKI	TKI	TKI	TKI	TKI
		BERMASALAH	BERMASALAH	BERMASALAH	BERMASALAH	BERMASALAH	BERMASALAH	BERMASALAH
		2008	2009	2010	2011	2012	2013	2014 (s.d. SEPTEMBER)
		JUMLAH	JUMLAH	JUMLAH	JUMLAH	JUMLAH	JUMLAH	JUMLAH
1	ARAB SAUDI	22.835	2.376	31.676	18.977	8940	3.775	1.270
2	UEA	3.866	3.667	6.843	6.770	5.545	3.743	2.461
3	QATAR	2.516	1.412	2.924	3.460	4.061	2.777	1.456
4	TAIWAN	4.497	3.491	3.834	3.520	3.231	526	170
5	SINGAPURA	2.937	2.524	3.395	2.972	238	478	207
6	OMAN	1.148	1.194	214	2.131	1.956	1.351	852
7	HONGKONG	2.245	1.625	1.789	1.808	1.215	223	63
8	SYRIA	161	244	339	437	1.214	5.055	1.148
9	BAHRAIN	373	336	743	762	872	641	303
10	MALAYSIA	2.476	1.851	1.953	1.282	683	374	302
11	KUWAIT	2.864	26	2.486	685	299	94	47
12	BRUNEI DARUSSALAM	84	201	190	144	198	61	49
13	KORSEL	10	2	0	4	0	9	1
14	LAIN-LAIN	1.416	1.462	2.107	2.621	534	665	398
TOTAL		46.626	44.369	60.399	44.432	31.528	19.772	8.727

Source: www.bnp2tki.go.id

Saudi Arabia is one of country that received Indonesian Migrant Workers beside that, some of from Indonesian Migrant Worker choose to work in Saudi Arabia. However, many problems experienced by Indonesian Migrant Worker in Saudi Arabia, especially in human rights violations. With that problem in Middle East region especially in Saudi Arabia, Indonesia Government must make decision basic for protecting and fulfilling Indonesian Migrant Workers rights, because many problems experienced Indonesia Migrant Worker in Middle East region especially Saudi Arabia.

One of Indonesian Government efforts can be proven by the decree of the Ministry of Manpower of the Republic Indonesia No. 260 in 2015 about the termination of placements and the prohibition of placement for Indonesian Migrant Worker on the use of individuals in the countries of the Middle East region.

This research aims to see the efforts of Indonesian Government to protect Indonesian Migrant Worker in Saudi Arabia because many problem experienced by Indonesian Migrant Worker in Saudi Arabia. The regulation from Indonesian Government will be useful to protect Indonesian Migrant Worker abroad and get their rights in their work, this is one of obligation Indonesian Government to protect its citizen.

Research Methodology

Research methodology used in this research is descriptive analysis, which is a method used to describe a condition and situation that occurred and has a purpose to achieve the data as deep as possible about the research object, Type of research used in this research is field research, which is looking for data directly from BNP2TKI and use the empirical approach, which is the approach of using objective facts in accordance with the actual information that occurred and obtained with reliable sources, especially in BNP2TKI agencies. Then the author also uses qualitative data, qualitative data is a method that aims to make the exposure becomes clear, systematic, factual and accurate. Method of Collecting Data in this research is as follows interviews and documentation.

The Protection of Indonesian Migrant Workers

The government in a country is an organizational structure that is responsible for its own citizens until the rights and obligations of citizens can be obtained well. In addition, the role of government is also very important in preventing the existence of violence or violation of human rights, especially citizens who abroad. The government has a great task in guarding and protecting citizens abroad.

Having a job and the protection are the rights of every citizen this is affirmed by the 1945 Constitution of Article 27 (2), explaining that the Government is responsible for proper placement and protection (The Constitution of 1945 Article 27). Therefore, the Government requires the professionalism of the Indonesian Migrant Workers placement abroad.

Aprilia Restuning Tunggal argued for the protection of citizens and the responsibility for the Indonesian government to keep Indonesian Migrant Workers abroad, he argues:

“...The preamble of Constitution 1945 that is mandated for the protection of Indonesian citizens and organized in the Act or the Regulation of Foreign Affairs Minister.

Protection of Indonesian citizens has also become a serious concern by President Ir. Joko Widodo in his government program, known as Nawacita”(Tunggal, 2017; 159).

Aprilia Restuning Tunggal opinion is reinforced by Soemendar's opinion. Soemendar argued about the meaning of government, he said that government is:

“Government as an important entity in the course of his administration, the Government must pay attention to peace and public order, demands and expectations as well as the people's opinions, needs and interests of the community, environmental influences, arrangements, the role of communication and all walks of life and legitimacy”(Syafiie, 2011; 65).

Then also reinforced by Charles Merriam's opinion, he said *“the purpose of the Government includes external security, internal order, justice, general welfare, and freedom”*. (Syafiie, 2011; 64) From all opinions can be described, that the role of government in serving its citizens is very large and is inseparable from the tasks in providing protection to its citizens in the country or abroad.

R. Wisantoro said the best protection obtained by Indonesian Migrant Workers is the protection of the Indonesian Migrant Workers itself because it is necessary requirements for workers who will work abroad¹. Statement from Wisantoro gives an explanation in the fulfillment of protection to Indonesian Migrant Workers, the Indonesian Migrant Workers must require the applicable requirements, so that if there is a violation or problem related to the protection, the government will intervene in solve the problem of Indonesian Migrant Workers.

The Problem of Indonesian Migrant Workers in Saudi Arabia

Indonesia is the Indonesian Migrant Workers supplier country to recipient countries especially Saudi Arabia. The bilateral cooperation between Indonesia and Saudi Arabia will have positive impacts, in the field of employment. However, this cannot be separated from the violations experienced by Indonesian Migrant Workers in Saudi Arabia.

Saudi Arabia which is located in the Middle East region has a list of violations Indonesian Migrant Workers. Based on data in May 2012, out of the 4,553 Indonesian Migrant Workers problem in Middle East region, in Saudi Arabia amount as much is 1,996 Indonesian Migrant Workers problem (National Board for Placement and Protection Indonesia Overseas

¹ R. Wisantoro, Procedure of Problem Solving (CTKI/TKI) Through Mediation and Advocacy, in the meeting at Newton Hotel Bandung 28 February 2017.

Workers). This can be proved by a table explaining the number of violations committed by Saudi Arabia.

Table 2.2

No.	Negara Penempatan	Habis Kontrak	Cuti	Bermasalah	Total
1.	Bahrain	527	24	155	706
2.	Yordania	1.305	20	74	1.399
3.	Kuwait	1.121	151	61	1.333
4.	Libya	10	-	-	10
5.	Oman	1.411	110	371	1.892
6.	Qatar	1.142	102	721	1.965
7.	Arab Saudi	21.912	2.018	1.996	25.926
8.	Suriah	655	4	46	705
9.	Uni Emirat Arab	3.311	327	1.128	4.766
10.	Yaman	15	1	1	17
∅ Å	Total	31.409	2.757	4.553	38.719

Source: www.bnp2tki.go.id

Based on the table, can be seen the level of violations experienced by Indonesian Migrant Workers dominated by of Indonesian in Saudi Arabia on May 2012 a number of 1.996 Problems, then the United Arab Emirates as the second position in the Middle East region.

Saudi Arabia which became the biggest country in violation of Indonesian Migrant Workers gives the negative impacts for both countries, especially cooperation in the field of Indonesian Migrant Workers to Saudi Arabia. From the problems that occurred, the Indonesian government has the rights to make new policies to recipient countries of Indonesian Migrant Workers, in order to safeguard and fulfill the right to Indonesian Migrant Workers.

Moh Jumhur Hidayat as Head of BNP2TKI at that time, answered the question of reporter of Cable News Network (CNN) about the many violations in Saudi Arabia, Moh Jumhur Hidayat said:

“So far it is still a strong tendency of Arab society who considers Indonesia Migrant Workers who work on them was purchased. Saudi, before the Moratorium, every day there are 20.000 Indonesian Migrant Worker household sector or 60,000 every month that is placed into a number in the Middle East region. Of that amount, Saudi Arabia is the largest country asking Indonesian Migrant Workers households, in generally dominated by women”(National Board for Placement and Protection Indonesia Overseas Workers).

Moh Jumbuh Hidayat's statement as head of BNP2TKI at the time said that culture of Saudi Arabia considers Indonesian Migrant Workers as their workers have been purchased and ending with violations experienced by Indonesian Migrant Workers in Saudi Arabia.

Indonesian government is responsible for this problem and then comes the decision letters with a new policy, considered to give the protection for Indonesian Migrant Workers abroad. The policy is Decree of Minister of Manpower of the Republic of Indonesia Number 260 of 2015, about Termination and Prohibition of Individual Indonesian Migrant Workers Placement in the Middle East region.

Indonesian Migrant Workers Moratorium Policy by Manpower Minister of Indonesia

The problem happened in the Middle East region, especially in Saudi Arabia make a new policy for recipient countries in the Middle East region. The policy is written in the Decree of the Minister of Manpower of the Republic of Indonesia Number 260 of 2015, about Termination and Prohibition of Individual Indonesian Migrant Workers Placement in the Middle East region.

This statement is clarified by the deputies of placement BNP2TKI Agusdin Subiantoro, he said:

“The moratorium or termination of placement Indonesian Migrant Workers to Saudi Arabia still continues. The government not open the Indonesian Migrant Workers placement of domestic helpers (Housemaid) to the Middle East region. Because the government is still waiting for the completion of the problem-solving until 3 November. The moratorium is still ongoing and the negotiations on the protection of Indonesian Migrant Workers still continue”(National Board for Placement and Protection Indonesia Overseas Workers).

The statement issued by Agusdin Subiantoro as Deputy of Placement can be a proof, that the termination of Indonesian Migrant Workers distribution to Saudi Arabia is still running due to the problems of both countries and this is will be an evaluation for both countries in undergoing bilateral cooperation.

The Decree of the Minister of Manpower of the Republic of Indonesia Number 260 of 2015, about Termination and Prohibition of Individual Indonesian Migrant Workers Placement in the Middle East region. The Individual Indonesian Migrant Workers the meaning is a worker without the special ability or a worker who chooses as a household assistant, private driver,

babysitter and other. While formal Indonesian Migrant Workers can still be channeled to Middle East region with the applicable law of the Indonesian government.

Rights of Indonesian Migrant Workers

Human right is something that has been attached to people since born human rights cannot be taken or removed on the basis of differences such as race, culture, ethnicity, religion, and other. People have been given grace by Allah SWT in accordance with his right that is sustenance from Allah and sent to all mankind.

Human rights in Indonesia has been running for a long time, even the laws contained in Indonesia already exist this proves that Indonesia has upheld the value of human rights. At this time, human rights violations are discriminated by certain groups such as social status, politics, race and other, but there is discrimination does not need to be protected by the government such as gambling, commercial sex workers, prostitute, and hedonism (Syafiie, 2011; 172).

Indonesia is a legal state which upholding the rights and protection so that human rights also contained therein. Referring to the Law of the Republic of Indonesia Number 39 the year 1999, about human rights and Law of the Republic of Indonesia Number 26 of the year 2000 about human rights court, this proves Indonesia is a country which upholds the value of human rights.

Law of the Republic of Indonesia Number 39 the Year 1999 Article 38 Paragraph 1-2, of the right to prosperity contains about:

“(1) Every citizen, according to the talent, skills, and abilities, is entitled to get decent work; (2) Everyone has the right to freely choose his preferred work and is entitled to fair employment conditions”.

Based on these laws can be concluded, every citizen has the same rights. In addition, every citizen also has the right to choose his job to appropriate his wishes.

Purnadi Purbacaraka and Soerjono Soekanto strengthen the argument for the fulfillment of human right, they said:

“In Philosophical, the fulfillment and protection of human rights is a set of principles which emerge from the values and transformed into the rules applicable to human relationships in society. Then human rights are differentiated into positive and negative rights. Positive rights contained basic rights which must be guaranteed, while, a negative

human right is a set of human rights that must be protected from any external interference” (Beruh, 2015; 39).

Based on the Law and the argument given by Purnadi and Soerjono, it can be interpreted the values are transformed into a human behavior towards society, the human rights divide into positive and negative, positive human rights can be interpreted the role of government that has the obligation to fulfill the rights of citizens and protect, while the negative human rights can be defined as citizens who want all aspects of life not regulated by others or other parties, so have the right to freedom of movement anywhere.

Human Right in Islam

Islam has always applied the fulfillment of the rights to people, the Prophet Muhammad also has taught to the Muslims about the rights obtained by humans. Indeed some observers said the main purpose of *shariah (maqosihid as-shariah)* is different from universal human rights, but in the formulation of classical *ulama*, human rights in Islam are not as a human right but as *adhuriyyat* (a necessity) or an obligation and must be realized in human life (Abdillah, 2011; 17). Therefore, this makes the human rights values contained in the *adhuriyyat* content because it aims for fulfillment of rights and the benefit of mankind.

In addition, source of human rights in Islam are different from human rights derived from a human reason to create a law. The source of the human rights in Islam is Allah, cause Allah knows the true affairs and harm of all actions (Qurbani, 2016, 58).

Islam also has the principle of the freedom to work and strive in life, it meant here that every people has been given his rights by Allah SWT, in terms of the economy has been explained in the verse of the Holy Qur'an surah Al-Hadid verse 5.

“His is the dominion of the heavens and earth. And to Allah are returned [all] matters.”

Then tighten up with surah Al-Baqarah verse 29

“It is He who created for you all of that which is on the earth. Then He directed Himself to the heaven, [His being above all creation], and made them seven heavens, and He is Knowing of all things.”

From the description of the two verses can be concluded, Allah has given all human rights in the form of sustenance and has got its own part, not on one people, class, race and other. The principle of freedom to work and strive also explained that every person can try and have the right to get a better life, so that cannot be limited by a difference that exists in the World (Maulana, 2015; 91). Finally, Every people entitled to get favors or sustenance that Allah has given and also every person has the right to work and to strive in their life without violating Islamic law or state law.

According to M. Quraish Shihab in the book Tafsir Al-Misbah, in the Surah of Al-Hadid Verse 5, it is explained that:

"..... His own is the kingdom of heaven and earth. He is the source of the events and the beginning of all things and to Allah alone, not to other than Him, easily returned by Him all matters. As one of the most obvious about His power is that He is through the laws of nature which He established,..." (Shihab, 2009; 407).

M. Quraish Shihab also interprets in the Surah al-Baqarah Verse 29 which explains that:

"In His Word: He (Allah), Who created everything on earth for you, is understood by many Ulama as to showing that basically everything spread on this earth can be used by humans, except there is another proposition that forbids it" (Shihab, 2009; 166).

The interpretation was taken by M. Quraish Shihab reinforced with the interpretation given by the Ministry of religious affairs of the Republic of Indonesia, which explains:

"In this verse, Allah explained that the Kingdom of the heavens and the Earth is His. It was He who set up both of them with wisdom and wise decisions, as well to all His creatures and all the Affairs going back to Him"(Ministry of Religious Affairs of the Republic of Indonesia, Al-Quran and Tafsir, Volume IX, 2010; 667).

Then in Surah Al-Baqarah verse 29 explained that:

"Allah has granted the last gifts to human beings, created the heavens and the Earth for mankind, to take its benefits, so that people can survive and should worship Allah SWT"(Ministry of Religious Affairs of the Republic of Indonesia, Al-Quran and Tafsir, Volume I, 2010, 70).

Based on Verses and Interpretation described, it can be concluded that Allah created the heavens and the Earth solely for humans to strive and get a decent life. This is related to human rights in getting a good life and cannot be disturbed by anyone people.

The Role BNP2TKI to Protect Indonesian Migrant Workers in Arab Saudi Post Moratorium

The cooperation Indonesia between Saudi Arabia has been a long time, that is can be proved by the bilateral agreement the Indonesia with Saudi Arabia. The first agreement Indonesia between Saudi Arabia already listed in diplomatic relationship at November 21, 1947 marked recognition of Indonesia has been independence and at that time begins diplomatic relationship by opening the Indonesian embassy office in Jeddah on 1964 then moved this office to Riyadh on 1985.

Regardless of bilateral cooperation between Indonesia and Saudi Arabia, there is a problem experienced by two state, related Indonesian Migrant Workers in Saudi Arabia. The Problems is the violations experienced by Indonesian Migrant Workers. As for example the problem related Indonesian Migrant Workers in Saudi Arabia as follows. Quoted by Detik-News a news about Indonesian Migrant Workers in Saudi Arabia by the name Sukmi from Lebak, in the news explained Sukmi did not get a salary for 22 years (Rifai, 2017). Other problem Indonesian Migrant Workers in Saudi Arabia by the name Nenih Rusmiyati, in the news of Antara-News that Indonesian Migrant Workers get treatment of torture and prohibited from extending passport by employer (Rohman, 2017).

Not only from print media but also is there in BNP2TKI data, Herry Prayitno as the coordinator of Crisis Center BNP2TKI reinforced the statement, there is 616 Indonesian Migrant Workers cases in Saudi Arabia who break up communication with his family, from June 27, 2011 until June 7, 2012 (National Board for the Placement and Protection of Indonesian Overseas Workers). This problem can be proved there is a problem between Indonesia and Saudi Arabia in Indonesian Migrant Workers field in Saudi Arabia.

According to Sukoyo as Head of Sub Directorate of Mediation and Advocacy BNP2TKI Middle East region in interview he said:

“...with the problems that occurred in the country of Saudi Arabia then made a policy of moratorium to Indonesian Migrant Workers who informal in Middle East region especially Saudi Arabia by the Minister of Manpower of Indonesia, why this happened?, this happened because of the many problems that occurred in the Middle East region or Saudi Arabia, the problem if detailed there are issues of unpaid salaries, sexual harassment, breaking up communication and other forms of problems”.

The moratorium can be interpreted as a policy of Indonesia Government to countries in the Middle East region, which have problems related to Indonesian Migrant Workers. Thus, the Indonesia Government or BNP2TKI has a responsibility in providing protection to Indonesian Migrant Workers in Saudi Arabia through a moratorium.

Prohibition of Distribution Individual Indonesian Migrant Workers to Saudi Arabia

The problems experienced by Indonesian Migrant Workers in Saudi Arabia, that are responsibility of Government in maintaining and protecting from the problems dangers that experienced Indonesian Migrant Workers. The Government of Indonesia should strive in creating protection because protection is one of fulfillment of rights owned by Indonesian Migrant Workers as Indonesian citizens.

As a form of protection Indonesian Migrant Workers in the Middle East region, especially Saudi Arabia that get issues problem about the rights and protection experienced Indonesian Migrant Workers, the government of Indonesia given a policy to the countries of the Middle East region. The policy is in the form of the Decree of the Minister of Manpower of the Republic of Indonesia Number 260 year 2015, about the Termination and Prohibition of Individual Indonesian Migrant Workers Placement in the Middle East region.

According to Sukoyo as Head of sub Directorate Mediation and Advocacy in the Middle East region, in interview he said:

"Indonesian Migrant Workers divided into two, Indonesian Migrant Workers who formally and Indonesian Migrant Workers who informally. Indonesian Migrant Workers who formally is a workers that has the expertise and the fields of its own like chef or nurse in hospital, while the informally is an Indonesian Migrant Workers who not have a field expert like Housekeeper and the prohibition for distribution is the

Indonesian workers informally, based on the Ministry of Manpower of the Republic Indonesia Number 260 Year 2015” (Sukoyo, 2018).

In the decree, explained prohibition for distribution Indonesian Informal Migrant Workers who does not have areas of expertise such as household assistants, baby sister, private driver, and other who do not have specific expert field. This is due to many problems that experienced to Indonesian Informal Migrant Workers who work in Saudi Arabia. The dismissal of individual Indonesian Migrant Workers to Saudi Arabia is an attempt by the Indonesian government to protect and fulfill Indonesian citizen rights.

According to Sukoyo as Head of sub Directorate Mediation and Advocacy in Middle East region, in interview he said:

“..... The moratorium is the policy of the Indonesian government decided by the Minister of Manpower and BNP2TKI as the operator, in the implementation of the moratorium. Currently, the informal distribution of Indonesian Migrant Workers to the Middle East region, especially Saudi Arabia has prohibition entirely, but workers who had been working there longer, if the time of employment contract has run out must immediately return to Indonesia and cannot renew his contract. Currently, BNP2TKI is trying to repatriate Indonesian Migrant Workers in the Middle East region, especially Saudi Arabia who have long worked and get licensing from his employer...” (Sukoyo, 2018).

The moratorium policy becomes a firm policy for the Indonesian government in the effort to protect Indonesian Migrant Workers. Indonesian Informal Migrant workers cannot longer be channeled to the Middle East region especially Saudi Arabia and the Indonesian Informal Migrant Workers who have worked long time in the country of Saudi Arabia if the expiration of the contract work should return to Indonesia, if Indonesian Migrant Workers want to continue working as an Indonesian Migrant Worker, then there is a policy from the Indonesian government-linked these problems with the new government regulations Indonesia.

The next policy after the moratorium of Indonesia Government will make efforts to Indonesian Informal Migrant Workers in Saudi Arabia moved to Indonesian Formal Migrant Workers, that effort called by upgrading skill. Upgrading skill itself is an effort of the Indonesian government, especially BNP2TKI as an operator in the placement and protection of Indonesian

Migrant Workers, the definition of upgrading skill is explained by Sukoyo as Head of Directorate for Mediation and Advocacy of BNP2TKI Middle East region in the interview, he explained that:

"..... The effort BNP2TKI after the moratorium is to attract all Indonesian Migrant Workers in Middle East region especially Saudi Arabia and then upgrading skills. It aims to move Indonesian Informal Migrant Workers in Saudi Arabia into formal, they are taught language, special skills such as sewing, cooking and other. In addition to upgrading skill BNP2TKI also moved the previous Indonesian Informal Migrant Workers in Saudi Arabia to other countries such as Asia or Europe, if they still want to work. That is the new policy that BNP2TKI currently run after a moratorium in the Middle East region ..." (Sukoyo, 2018).

Sukoyo statement was reinforced by the applicable law. According to the regulations of Head of BNP2TKI No. 01 Year 2017 about Guidelines for the Implementation of the Quality Improvement / Competencies Indonesian Migrant Workers Candidate which has enacted the Ministry of Justice and Human Rights on January 18, 2017, that BNP2TKI is an institution that is entitled to appoint and establishing organizers of upgrading skill activities for Indonesian Migrant Workers Candidate. Deputy of Foreign Cooperation and Promotion, Elia Rosalina in Coordination Meeting of upgrading skill on Thursday, January 23, 2017, revealed:

"Upgrading skill activities are applied to Indonesian Migrant Workers who are graduated from primary and junior high school and already have overseas employment contracts will be trained to work in hotels, hospitals, restaurants and non-household sectors, this is applied to one of the strategy distribution Indonesian Informal Migrant Workers to the Middle East region after the moratorium" (National Abroad for the Placement and Protection of Indonesian Migrant Workers).

From the argument concluded that the regulation of the Indonesian government is developing for achieving effective and competitive human resources. It is also a form of protection of Indonesian Migrant Workers in order to have a basis in finding jobs and avoid the problems experienced by Indonesian Migrant Workers. Upgrading Skill and redeployment of Indonesian Migrant Workers to another region, this is for reducing the number of problems and can make other cooperation between Indonesia and Saudi Arabia except for Indonesian Migrant

Workers because there is still much bilateral cooperation which can be done by the state of Indonesia with Saudi Arabia.

Conclusion

From the discussion author can take conclusion as follows, The protection is the right all of citizen which is given by government, so Indonesia one of state law and uphold the protection value must effort to protect Indonesian Migrant Workers abroad. National Board for the Placement and Protection of Indonesia Overseas Workers (BNP2TKI) which one government agencies non-ministry and to be responsible to President about placement and protection Indonesian Migrant Workers abroad.

Saudi Arabia is which one of the receiving country Indonesian Migrant Workers, that is can be proved by The Constitution Number 9 1971, about Friendship Agreement between Indonesia and Saudi Arabia. A lot of the violence experienced by Indonesian Migrant Workers in Saudi Arabia, Indonesia Government created the policy in the decree of the Ministry of Manpower of the Republic Indonesia Number. 260 in 2015 on the termination of placements and the prohibition of placement of Indonesian Migrant Workers on the use of individuals in the countries of the Middle East region.

The Moratorium only applies to Indonesian Migrant Workers Individual or we can call it by informal, while Indonesian Formal Migrant Workers have the policy only for female cleaning service to prohibition of placement. The impacts that happened to moratorium divided into two: Positive impact from moratorium that is the decreased number of violence experienced by Indonesian Migrant Workers and the Negative Impact that is about the declining public economy. However, Indonesia Government will try to solve this problem and developing policy of moratorium. BNP2TKI efforts to follow up the moratorium that is upgrading skill and removal Indonesian Migrant Workers from Middle East region to other region. It aim to solve the problem from negative impact and human resource of Indonesia can compete with human resource in other country

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