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## EMPIRIC JURIDICAL REVIEW OF THE WEAK LEGAL PROTECTION OF INDONESIAN MIGRANT WORKERS

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### Abstract

*The narrowness of land for employment, low education, economic pressure requires that most Indonesians must try their fortune abroad in order to meet their daily needs. Reflections on Indonesia's life are currently experiencing a decline in quality, because Indonesia can be said to be the largest export of migrant workers to several countries such as Taiwan, Hong Kong, Singapore, Malaysia, Korea. With this phenomenon the government is seen as failing to prosper the lives of its people.*

**Keywords:** *Migrant Workers, Government, Law*

## A. INTRODUCTION

### 1. Background

The times and advances in education and technology have had a huge impact on the economy, especially Indonesia. However, it also has negative impacts on disadvantaged communities. Having a fortune in a foreign country as a migrant worker can provide certainty about a relatively high wage compared to your own country, but the consequences are of course big. Migration of Indonesian Migrant Workers who go to work abroad is growing rapidly. Due to the labor problem in the country that has not been resolved. Economic developments that do not meet any bright spots can lead to an accelerated export of BMIs. Poverty and inequality of income distribution that occur due to narrow opportunities and employment opportunities in various regions throughout Indonesia. This imbalance is evident in the development of the workforce, which

increases every year compared to the ability to accommodate workers for work and part of the company field. Low employees/laborers do not need special skills. Poverty, economic pressure, as well as the lack of opportunities and income opportunities in the agricultural sector do not have an impact on a permanent and continuous outcome, with work opportunities to migrate far from home in other countries, therefore many Indonesians decide to work abroad with the intention of looking for a wage supply that is relatively larger than in his own country.<sup>1</sup>

Taking jobs to migrate and away from home is not an easy thing, but there are also many risks that BMIs must find and experience. The risk of BMIs does not only stop at the high risk of work for themselves but also for their children who have to leave their children to earn a living in order to raise money for school fees, this also creates a problem because BMIs do not know how their children are developing, even There are also many BMIs who leave children from the age of 2 to 17 years and have just returned home to the homeland so they only know that their children are adults. The impact of this phenomenon is many, ranging from children without supervision and upbringing as well as direction from parents in their growth and development to make children lose control in socializing and children feel they have the freedom to do everything without restrictions.<sup>2</sup>

Lack of job availability, of course, the existing jobs cannot accommodate the large number of workforce who want to get a job. So, it is no longer an open secret that there is unemployment everywhere and the decision to work in another country is one way to continue to support the family and to prosper physically and mentally.

Indonesian Migrant Workers (BMI), every Indonesian citizen who meets the requirements to work abroad in a work relationship for a certain period of time and receives wages. It is undeniable that living in modern times, money is everything and it is not without reason that without money it is difficult to do anything. The economic pressure that is getting higher every day makes Indonesian citizens decide to work abroad because of the demands of life that they have to live, the narrow job space is also a major factor that requires working abroad. as well as job qualifications in the country which on average require an S1 graduate and therefore the majority of Indonesians who only

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<sup>1</sup> Tri Lisiani Prihatinah and others. 2011. *Kendala Perlindungan Hukum Terhadap Buruh Migran Di Kabupaten Cilacap*. 1. 6–9.

<sup>2</sup> Endar Susilo. 2016. *Rekonstruksi Perlindungan Hukum Tenaga Kerja Indonesia (TKI) Dalam Perspektif UU No.39 Tahun 2004 Tentang Penempatan Dan Perlindungan Tenaga Kerja Indonesia Di Luar Negeri Yang Berbasis Nilai Keadilan*. Hukum. 9. 39. 155–75.

graduate from high school have no other choice but to make a living as migrant workers in other countries even though there are jobs in Indonesia, but it is still sufficient to meet the costs of daily living. Of the factors, these problems are the most common reasons for migrant workers and in fact there are still many factors that underlie why they choose to work abroad with high risk, but the main factor is due to fate, for the sake of their family and economic pressure.

At present, it should be noted that Indonesia is the largest exporter of labor compared to several other countries such as Malaysia, Taiwan, Singapore, Hong Kong and Korea. Migrant workers are the largest foreign exchange earner for this country, which is around Rp. 156 Trillion (2019). The value is quite fantastic to make the state begin to pay attention to rights, and to guarantee legal protection for its citizens abroad. Even so, it is not as easy as imagined to carry out a regulation, there are many obstacles that sometimes make the existing laws weak in our country, an obstacle due to differences in legal or governmental situations and conditions in various countries, making our legal space a little limited by the rules of other countries in enforcing it.

Currently, BMIs cannot be underestimated by the state, with the large contribution of foreign exchange figures, which has a figure of about 7% of the state budget income which can be said to have a large share, the state should provide fair protection and the welfare of its citizens who are abroad. Although BMIs make a major contribution to Indonesia's economic growth, the risk tendency at each stage of migration is getting bigger due to the weakness of the system of government roles within which are inadequate, there is no proper protection procedure for foreign BMIs. The situation of BMIs who become ART (*household assistants*) has decreased in numbers because the number of BMI women is small/limited and its progress is difficult to monitor. Even though there have been many laws that protect, there are still some weak loopholes in our laws in dealing with every problem faced by our migrant workers. It is the duty of the state to correct any shortcomings in ensuring a just and prosperous life for its citizens.

Manpower problems in Indonesia, which have been regulated in Law No. 39 of 2004<sup>3</sup> as the highest rule for dealing with BMI problems, do not provide an understanding of undocumented BMIs. This law also does not take a point of view of protection, both undocumented and documented, which is related to the development of an increasingly concerned workforce that can trigger the emergence of several countries receiving export labor from other countries such as the Hong Kong government to carry out policy review

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<sup>3</sup> Sumiyati. 2013. *Perlindungan Hukum Bagi Pekerja Migran Indonesia Di Luar Negeri Akibat Pemutusan Hubungan Kerja Sepihak*. Politeknik Negeri Bandung. 5. 1. 50–66.

activities that encourage BMIs lacks documents such as the two weeks rule.<sup>4</sup> In addition, the economic crisis led to the intention of receiving countries to increase the importation of migrant workers on a large scale without documents (*so that they did not have the right to do anything and to get cheap labor*). From sending countries such as Indonesia, with the phenomenon of its citizens choosing to become undocumented BMIs due to pressure and demands not to be burdened with relatively large wages, starting from the process of dispatching when they have become workers abroad.

## **2. Formulation of the problem**

Based on the background described above, the formulation of the problem that is obtained is how the role of law for BMIs who are outside in order to create a legal balance and there is no legal imbalance for workers.

## **B. RESEARCH METHODS**

The research method used is the juridical empirical legal research method, which is looking at the symptoms of society, and the facts in the field that are related to the law and then a legal analysis of the problem is carried out. The data collection technique used was observation by looking at the symptoms of problems that were happening in the community. Furthermore, the data used in this study include primary data obtained directly from observations in the community and secondary data obtained directly from law books, legal journals and related laws and regulations. Meanwhile, the data analysis used started with the observations made and then analyzed descriptively by classifying the data obtained from the study of documentation, legal theories and statutory regulations so that conclusions could be drawn.

## **C. DISCUSSION AND ANALYSIS**

### **1. Weak Indonesian Diplomacy**

As explained above, there are many things and factors that underlie them working abroad and away from their families. Over time, many problems have also arisen and colored the world of migrant workers, starting from illegal BMIs, unpaid wages, not being sent home, work not in accordance with work contracts, passing away in the country where they work, and the last one that most dominates is receiving violent treatment. physically by his employer.

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<sup>4</sup> Nur Hidayati. 2013. *Perlindungan Hukum Terhadap Buruh Migran Indonesia (BMI)*. Politeknik Negeri Semarang. 13. 3. 207–12.

The existence of various phenomena seems to indicate that Indonesia is slow in diplomacy, which is known that Indonesia, Malaysia, Hong Kong, Taiwan, Singapore are neighboring countries. The important role of diplomacy played by the Indonesian government in dealing with several cases of BMI in various countries is still considered slow. The diplomatic role given by the Indonesian government when there are problems with BMIs is still not being handled intensively. This is also a phenomenon in every Indonesian government diplomacy abroad which seems like less active, less attention and less lobbying. Because there are many cases of BMIs that have not been resolved or lack of advocacy that is gradual and comprehensive, it is not uncommon for cases of BMIs to just disappear and drown.<sup>5</sup>

With this phenomenon, the government can be said to have failed to protect every right of its citizens. Lots of reports have been received and received from BMI about physical violence where the violence violates human rights, starting from the iron face, being executed, torture and many more dark stories from BMI friends. This is proof that BMI's human rights are still underestimated and can be treated at will without human limitations, even though BMIs are also human beings who must be humanized like humans. The problem of migrant workers is a serious problem that is not only the government who handles it but also stakeholders and society.

## **2. There is no legal guarantee for BMIs who have problems in the Destination Country.**

The boom in migration rates in Indonesia is something that cannot be denied for a country that is competing in the era of globalization. In Indonesia there are so many legal complications in both formal and material laws, the rule of law always collides with an interest. In Indonesia waiting for the new viral to be handled. This is a reflection of legal delays in acting, even though there are many legal regulations, but in their implementation they do not give a positive response to its citizens. With so many phenomena of violence being inflicted on Indonesian BMIs outside the country, the state is still late in following up on the handling of the human rights of its citizens.

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<sup>5</sup> Arie Ryan Lumban Töbing. 2013. *Pelaksanaan Perlindungan Hukum Terhadap Hak Atas Jaminan Kesehatan Bagi TKI Saat Di Negara Tujuan Bekerja (Studi Terhadap Mantan TKI Yang Bekerja Di Hongkong Di Kabupaten Malang)*. 1. 3–26.

The non-existent bilateral relationship factor is used as a reason given for this injustice, then the legal factor adopted is different is the reason that is often given by the state to the families of the victims and their victims. Legal aid exists because it must receive attention first and then follow it up, this is a reflection of how weak our country is in dealing with human rights cases of its citizens who work abroad and the inability to defend human rights which are clearly protected by the world.

### **3. The government is not able to open many jobs.**

The most dominant reason for BMI abroad is looking for work as laborers. This is because conditions in Indonesia itself do not allow getting a job quickly and this is the most reason for being a factor of poverty, this factor causes many Indonesians to travel abroad, with high wage offers for them to go abroad with the latest educational capital, most of which are SD, SMP / SMA.<sup>6</sup> Prospective workers to become BMIs who are in locations with limited information and remote areas are difficult to access, such as rural areas and far from urban crowds. Employment yesng does not match my educationresult Problemn unemployment in Indonesia does not arisehis balancedngan between education level and availability of employment. Fenomena this is mecause a lot educated workers instead take the work area of the lower groupshis.<sup>7</sup>

The stigma of society and the environment also affects that women are not only dependent on men. They think that being able to earn their own money is also the most important factor affecting their intention to work abroad. The community's socio-culture that has been embedded for a long time and has become a habit among rural communities is not only trusted but also has a big impact on the country.

In East Java Province, especially Ponorogo Regency, on average, all citizens choose to migrate to other countries, it is not a secret and it can be proven that wandering abroad is the only way to revive the family economy and provide a decent life for their families at home. It is true that there is a fact that occurs in

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<sup>6</sup> Susilo, Endar. 2016. *Rekonstruksi Perlindungan Hukum Tenaga Kerja Indonesia (TKI) Dalam Perspektif UU No.39 Tahun 2004 Tentang Penempatan Dan Perlindungan Tenaga Kerja Indonesia Di Luar Negeri Yang Berbasis Nilai Keadilan*.

<sup>7</sup> Sri Endah Kinasih and others. 2015. *Perlindungan Buruh Migran Indonesia Melalui Deteksi Dini HIV/AIDS Pada Saat Reintegrasi Ke Daerah Asal*. 28. 1. 198–210.

society that working abroad can change all conditions of economic problems and the fate that initially had nothing after migrating abroad they can get results for their hard work from overseas, from being able to send their children to school S1 education, can buy a house, motorbike, car, land which does not only amount to one but several in number.

All residents in Ponorogo Regency have a good economy, it can be said that they are sufficient because there is a determination to work abroad which on average can change their destiny. Portrait of life that is far from deprived and the poverty rate is reduced. This is one solution that by migrating abroad can minimize the poverty rate and existing social inequalities. It does not stop there, there tend to be many BMIs who have just returned to their homeland who are able to develop their income by building businesses (*building shops, food stores, grocery stores*). With the existence of a business and economic cycle, these successful BMIs also unwittingly open jobs for the residents around them.

#### **4. The law does not work effectively.**

One of the studies in labor law as a supporter of community change is the issue of legal protection for Indonesian migrant workers abroad, especially when they face layoffs. This needs to be studied because, even though Law Number 39 Year 2004<sup>8</sup> Regarding the Legal Placement and Protection of Indonesian Migrant Workers Abroad, it has been established as the basis for this protection, this law cannot yet be implemented as stipulated in the legislation.

The 1945 Constitution also states in Article 27 paragraph (2) of the 1945 Constitution, explaining that "*Every citizen has the right to a job and a living that is decent for humanity*". This article provides a statement and guarantees for each/all people to obtain a job and achieve a level of life that is proper for humanity, which means that the State has no right to prohibit every citizen of its country from working who wants to become office employees, teachers, doctors, even lawyers. All can. However, looking for work is not as easy as imagined, that in this country looking for work is very difficult, even job opportunities are

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<sup>8</sup> Devi Rahayu. 2011. *Perlindungan Hukum Bagi Buruh Migran Terhadap Tindakan Perdagangan Perempuan*. Jurnal Hukum Ius Quia Iustum. Fakultas Hukum Universitas Trunojoyo Madura. 18. 1. 115–36 <<https://doi.org/10.20885/iustum.vol18.iss1.art7>>.

narrow and the population is larger, this is an example of the imbalance of the state in providing facilities and guaranteeing the rights of its citizens.<sup>9</sup>

Protection of Indonesian Migrant Workers is the full responsibility of the government. However, in particular, this handling was initially held by the Ministry of Manpower and Transmigration together with the Ministry of Foreign Affairs.<sup>10</sup> However, in the midst of its journey with many various cases, therefore the government is based on the need to assist the task of securing Indonesian migrant workers abroad according to Law No. 39 of 2004 and the National Agency for the Placement and Protection of Indonesian Workers (BNP2TKI) is set up in Presidential Regulation No.81 2006 year.<sup>11</sup> So that there are 3 state institutions that have a direct connection and continuity to the protection of BMI in other countries, namely the Ministry of Foreign Affairs, the Ministry of Manpower and Transmigration and the BNP2TKI.

BMIs certainly live a life of daily activities such as cooking, cleaning the house like workers in general, they will definitely experience fatigue and even illness, from minor illnesses to serious illnesses. BMI Insurance is based on the Minister of Manpower and Transmigration of the Republic of Indonesia No.PER.07/MEN/V/2010 concerning BMI Insurance which is the implementing regulation of article 68 of Law No.39 of 2004 concerning the Placement and Protection of Migrant Workers in other Countries. While working in a destination country, Indonesian migrant workers tend to experience various problems, such as illness, work accidents, layoffs and even violence.<sup>12</sup>

Indonesia was finally able to make Law No.39 of 2004 concerning the placement and protection of BMIs abroad. The emergence of this law indeed gives a very positive impression for the protection of BMIs who work abroad because they have a permanent and strong legal system, especially to regulate the

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<sup>9</sup> Hidayati Nur. 2013. *Perlindungan Hukum Terhadap Buruh Migran Indonesia (BMI)*. Politeknik Negeri Semarang. 13. 3. 207–12.

<sup>10</sup> Rahayu, Devi. 2011. *Perlindungan Hukum Bagi Buruh Migran Terhadap Tindakan Perdagangan Perempuan*. Jurnal Hukum Ius Quia Iustum. Fakultas Hukum Universitas Trunojoyo Madura.

<sup>11</sup> Salma Safitri and others. 2010. *Menguak Pelanggaran Hak Asasi Buruh Migran Indonesia, Catatan Penanganan Kasus BMP-PRT Solidaritas Perempuan 2005-2009*. 1. 1. 2–174.

<sup>12</sup> Arie Ryan Lumban Tobing. 2013. *Pelaksanaan Perlindungan Hukum Terhadap Hak Atas Jaminan Kesehatan Bagi TKI Saat Di Negara Tujuan Bekerja (Studi Terhadap Mantan TKI Yang Bekerja Di Hongkong Di Kabupaten Malang)*. 1. 3–26.



rights and obligations of the parties concerned in it, especially specifically for BMIs and implementers of the placement of BMIs in destination countries.

Many countries have issued labor laws, namely Law No. 39 of 2004 concerning the placement and protection of Indonesian BMIs abroad. The presence of a law in the context of the placement and protection of BMIs who work abroad has been awaited because so far the regulation regarding this matter has been carried out based on the ordination regarding the direction of Indonesians to carry out work abroad. The preamble part considering this Law states that;

- a. Work is a human right that must be upheld, respected, and guaranteed to be upheld.
- b. The right of every citizen to obtain a job and a decent living both at home / abroad in accordance with their expertise, skills, talents, interests and abilities.
- c. In reality, BMIs who work abroad are often used as objects of human trafficking, victims of violence, arbitrariness, crimes against human dignity and other treatments that are contrary to human rights.
- d. The state is obliged to protect the human rights of its citizens who work both inside / outside the country based on the principles of equal rights, democracy, justice, social, gender equality, and anti-discrimination.
- e. The placement of Indonesian BMI abroad needs to be carried out in an integrated manner between both central / regional government agencies and the participation of the community in an adequate legal product to provide maximum protection.

The government should immediately re-correct Law No.39 of 2004 because considering it has been a long time to replace it with a new bill. Many non-governmental organizations have expressed their opinion that the revision of Law 39 of 2004 is immediately revised, this is an urge from women's solidarity and other mass organizations to ask the government to be reviewed. However, the implementation of this design was limited to stopping at the discussion without giving any final results. So that Law 39 of 2004 is still in use and has not undergone renewal. From all the explanations in this chapter, the government in implementing Law 39/2004 has not maximally protected BMIs who work abroad.

However, whether there is a law or not, the fact is that the state cannot provide maximum protection to its citizens. With the evidence that there are still many citizens who are treated unfairly, discriminated against, violence, and many more, it seems as if the state turns a blind eye to the existing phenomena even though if the history is clearly drawn, BMI provides huge income to the state with a nominal amount that is not small .

## **5. Weak Monitoring System for BMIs Abroad.**

Protection for Indonesian migrant workers is still flexible. Protection is given when reports are submitted to Indonesian representatives abroad. Therefore, the representative management is obliged to give the mandate to the lawyer/legal advisor. Protection should not only be implemented when a new case report has been received and it has occurred.<sup>13</sup> It can be concluded that the protection system provided to BMIs is a flexible legal protection measure where every problem is resolved when a violation occurs and then it is reported based on the incoming and recorded problem report. The protection provided to BMIs should be more active in carrying out prevention against potential problems that exist and those that are likely to occur.

The supervision of the Indonesian government tends to provide protective protection when a case occurs in workers whose reports are submitted to the officers as I have explained above by the supervisor. The preventive measures provided for in Law No. 39 of 2004 have not been fully implemented properly. This is due to the inadequate supervision system provided by the government and the Indonesian Consulate General/Indonesian Embassy should carry out data collection on work placements and locations and each BMI, both male/female to supervisory officers abroad, when they can monitor the fulfillment of the rights of BMI workers in each place of residence. which is where the BMIs work.<sup>14</sup> In addition, the shortage of BMI supervisors is also an obstacle to supervision so far, the increasing number of women in domestic workers in several destination countries such as Malaysia, Singapore, Taiwan, Korea, Hong Kong has resulted in dominant overseas supervisors not running and overwhelmed in carry out

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<sup>13</sup> Susilo, Endar. 2016. *Rekonstruksi Perlindungan Hukum Tenaga Kerja Indonesia (TKI) Dalam Perspektif UU No.39 Tahun 2004 Tentang Penempatan Dan Perlindungan Tenaga Kerja Indonesia Di Luar Negeri Yang Berbasis Nilai Keadilan.*

<sup>14</sup> *Ibid*

supervision. Supervisors should not only wait for reports but gradually carry out the function of monitoring the conditions of workers so that the preventive steps taken can overcome/at least minimize the increase in the problem of violations that occur to these workers.

Maintaining the consistency of government policy stability needs to carry out scaled surveillance of various irregularities that may occur to bureaucrats, immigration officers who are not critical of fake ID cards/passport printing, police officers who are directly/indirectly involved in the trafficking process/ministerial apparatus/the manpower office that carries out a conspiracy to brokers in order to extort/commit trafficking to prospective workers. Handling of cross-border migration cases cannot be resolved by only handling one case. Workers are moved to leave their homes in order to get work abroad because of pressure and the high unemployment rate/small wages they get at home, because they are young/widowed, and the income from the wages is not sufficient to support the children and their families. Therefore, it is necessary to implement a number of regulations in order to improve the current economic situation of the population as a whole, most importantly women in their regions with alternatives to adding job opportunities, improving wages and creating employment opportunities, which in fact women can develop this business/business as well. a form of emphasis on the increasing number of BMIs who go abroad and also minimize the occurrence of violence at work.<sup>15</sup>

#### **6. Obstacles in implementing legal protection for Indonesian Migrant Workers who go abroad.**

Reflecting on the rampant cases ranging from wages that are not fully paid according to the work contract, physical violence, torture, rape to the death penalty are important homework for the government to immediately reform itself in dealing with this problem. Some of the migrant workers who have problems are those who do not have work experience. This is very likely related to their ability to adapt to a new place/be sustainable with their work experience. This trend often occurs in BMIs who are under 26 years of age. This phenomenon makes it

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<sup>15</sup> Rahayu, Devi. 2011. *Perlindungan Hukum Bagi Buruh Migran Terhadap Tindakan Perdagangan Perempuan*. Jurnal Hukum Ius Quia Iustum. Fakultas Hukum Universitas Trunojoyo Madura.

possible for the continuity of labor education standards when compared to the general demand for SMA/SMK graduation standards with the dominant percentage of mastery in the language field of each destination country.

The government has started to pay attention to BMI starting from being guaranteed their rights and human rights by the state, this is good news for BMIs to reduce or minimize the number of violence and human rights violations. All levels hope that protection of migrant workers should be implemented wholeheartedly on the basis of humanity. So that there are things that are not expected, such as torture or inhuman treatment received by workers before and after working from abroad, you can be accounted for. Even steps that end in the death penalty can be reduced by means of cause and effect surgery in every case. Pthe protection of BMI begins with the implementation of appropriate and correct training in the Overseas Training Institute. Among the cases, there were many cases that dragged BMIs in placement countries because the BMIs sent did not carry out training at BLK-LN in accordance with training procedures.

There are 3 important things that must be implemented to increase the quality of the BLK training itself, including a concrete target orientation, complete infrastructure as needed, and instructors who are of good quality. *First, a change in orientation* Many BLKs conduct training only for the purpose of carrying out activities without analyzing the needs of prospective workers, market needs, and progress in the quality of training. What these BLKs do is very much inversely proportional to their vision which is to produce skilled, skilled, productive workers in various skill fields and highly competitive. BMIs cannot have high competitiveness if the orientation of training at BLK is far from the orientation/output results are more oriented towards their output. *Second, improvement of BLK facilities* many BLK buildings are not suitable as quality standards for training centers for labor workers.

*Third, instructors who have good command quality* are a sensitive part of every BMI training process. BLK has a very big responsibility. The risk is not only limited to complementing BLK, but also teaches skills but can also provide information related to the origin of the work to be undertaken by prospective workers and can also be a motivator. Every order in BLK-LN must pass a competency test, because this is the basic key to any improvement in the quality

of BMI abroad. In line with the increasing number of BMIs working abroad and the large number of BMIs every year, it increases the problem opportunities for inhuman treatment of BMIs. Cases related to the fate of BMIs are increasingly diverse and even develop in the rate of human trafficking which can be called crimes against humanity and human rights violations.

However, the government is not completely wrong if the laws/regulations that are issued to regulate BMIs are not effective. From the workforce, BMIs themselves should be aware of the law and follow the existing rules set by the state. Given that they are in another country, starting from the socio-cultural level to the governmental system, it is clearly different from that in Indonesia, if the implementation of the law does not go well because of underlying elements such as lack of communication and cooperation between Indonesia and other countries. these goals and the state's lack of attention to these BMIs.

The field of manpower in the placement and protection of BMIs is regulated by criminal law enforcement as regulated by Article 102 jo. Article 104 of Law No.39 of 2004, namely imposing imprisonment for a minimum of 1 year and a maximum of 5 years and/a fine of at least 1M rupiah and a maximum of 5M rupiah in the provisions of Articles 19, 33, 35, 45, 50, 51, 68 , and Article 70 However, law enforcement on that provision is also weak in strength, as evidenced by the increasing number of violations in each of these articles but not being processed in court.

Lack of legal knowledge and understanding from both prospective BMI and BMI who have worked abroad which incidentally often neglects the procedures that have been carried out, it is not uncommon for BMIs who are still young, basically they only focus on how to get a lot of money and This welfare is also a form and a problem that might cause problems at some point due to the lack of awareness of the laws related to it. Problems like this should get a persuasive attitude in order to minimize the occurrence of things that can harm migrants, even though in reality it will not be possible to work abroad without cases. However, at least the government has provided a standard to be obeyed by its citizens, and on the part of the community itself, they should be aware of the things that will be the boundaries so that everything goes well to suppress the increase in the number of violence and injustice experienced by BMI abroad.

The problems and obstacles that are handled every time they carry out their duties and functions are actually still unsolved because many people do not want to report incidents because they may be afraid/considered unimportant/not discovered by the government, and this is the one in power is BNP2TKI and its staff. Therefore, it is necessary to collaborate between the community and government officials so that they can assist BNP2TKI's duties and functions because of the many factors that are handled. In the provisions of Article 85 of Law Number 39 of 2004, it is stipulated that if there is a dispute between BMI and the implementer of the placement of private BMI regarding the implementation of the placement agreement, the settlement will be carried out in a peaceful manner and by deliberation. The deliberation effort is not achieved, so one or both parties can ask for assistance from the institution responsible for manpower affairs in the district/city, province/central government.<sup>16</sup>

Thus, this is a big task for the state in handling cases of BMIs who are abroad, because considering the contribution of BMIs is 7% of the state budget, the state should also carry out its obligations in protecting its citizens who are affected by cases of violence, human rights violations so that every BMI feels safe. while at work. In fact, this is a form of effort that must be increased to minimize acts of violence and ill-treatment that violate human rights.

## **D. CLOSING**

### **1. Conclusion**

Weak protection for BMI abroad is caused by 3 things, namely; factors of bilateral relations, legal complications both formal/material, and the lack of legal aid agencies and legal entities in the field of BMIs because the state still does not pay attention to the safety and rights of its citizens who are violated in the form of violence, discrimination, and human rights violations and many more.

The state is obliged to pay attention to cases like this so that the number of violence or human rights violations can be minimized, because BMIs also have a big service in terms of foreign exchange whose income is around 7% of the state budget. This is something that needs to be appreciated and should be listened to

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<sup>16</sup> Susilo, Endar. 2016. *Rekonstruksi Perlindungan Hukum Tenaga Kerja Indonesia (TKI) Dalam Perspektif UU No.39 Tahun 2004 Tentang Penempatan Dan Perlindungan Tenaga Kerja Indonesia Di Luar Negeri Yang Berbasis Nilai Keadilan*.

every time he complains, because basically the state is obliged to protect the rights of its citizens wherever they are.

## 2. Suggestion

- a. People who work as BMIs should raise awareness of the application of good laws so that their rights can be obtained at the time before placement, during placement, and after placement and continue to follow the legal procedures that have been determined until the time the contract ends and always maintain an attitude behavior, behavior in the country to avoid and minimize harmful crimes and legal protection.
- b. Placement implementers should improve services to BMIs so that the welfare of BMIs can be realized during the provisioning process, departure, and while working abroad or upon arrival in the country.
- c. The government, both from the Consulate General of the Republic of Indonesia / the Indonesian Embassy and BPN2TKI, should not only provide education and training for competing language skills but also provide advocacy in order to increase legal awareness, legal protection for BMIs to be educated to limit every movement they want to do in other countries, which in fact starting from the socio-culture to the government is different from Indonesia.

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