

Measuring The Role of the State in Protecting Indonesian Migrant Workers in Saudi Arabia

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Abstract

The issue of Employment and Unemployment is a problem that is still a scourge for third-world countries. Labour is a factor that influences the improvement of a country's economy, but on the other hand, an increase in labour can become a problem for the country's economy. As always happens in every cooperative relationship between countries in the international scope, be it bilateral or multilateral, where each country has its own interests, it is possible for obstacles such as differences of opinion and even conflicts to occur. In this case, as happened in the bilateral relations between Indonesia and Saudi Arabia in the field of Manpower, although so far the relations between the two countries have been quite good in almost all sectors, with the problems that have arisen in the last few years, especially in the issue of Placement and Protection of Indonesian Migrant Workers In Saudi Arabia, the relationship between the two countries in the field of labour is slightly disturbed. Saudi Arabia is currently focused on meeting the 2030 vision where there will be many developments and projects in various sectors that require a lot of workers from all over the world, including Indonesia.

1. INTRODUCTION

Every country has cooperation partners because countries cannot live alone so they need other countries, in this connection, the intended cooperation begins with the existence of bilateral relations between the two countries or

commonly known as diplomatic relations¹ which is marked by each country opening an official representative office in the partner country.² Bilateral relations are a form of interaction between countries as actors in international relations to fulfill their respective national interests. In practice, it is proven that each country is not able to fulfill its national interests without assistance from other countries, both developing and developed countries. Therefore, along with the globalization process, where the needs of the international community are increasingly diverse, demanding the government of each country to meet their domestic needs which cannot be met only from domestic resources, this creates a mutual habit. need between countries and the international community. As carried out by the government of the Republic of Indonesia and the government of the Kingdom of Saudi Arabia or Saudi Arabia, which have established bilateral relations for more than 60 years, from 1950 to the present. At first, the kinship was established because the Kingdom of Saudi Arabia was one of the countries that recognized the sovereignty of the Republic of Indonesia after colonialism and the proclamation of independence in 1945. In this way, Indonesia as a whole felt supported to build a country that had just emerged from years of colonialism. then paved the way for the two countries to have good relations which at first was only informal, but as the good relations progressed, they were upgraded to diplomatic relations.³

Indonesia and the Kingdom of Saudi Arabia have a fairly strong bond in terms of bilateral relations between the two countries, this is because the Kingdom of Saudi Arabia is one of the first countries to recognize Indonesia's independence. The implementation of the bilateral relations between the two

¹ S. Djelantik, *Diplomasi Antara Teori dan Praktek*, Jakarta: Graha Ilmu, 2008, p. 83

² Kadarudin, *Antologi Hukum Internasional Kontemporer*, Yogyakarta: Deepublish, 2020, p. 451

³ Ratu Rayanti Arumsari, Peran Pemerintah Republik Indonesia dalam Perlindungan Tenaga Kerja Indonesia (TKI) Sektor Informal di Arab Saudi, *Global Political Studies Jurnal*, Vol. 3 No. 1 April 2019, p. 53

countries is through cooperation in the fields of Hajj, labor, and energy.⁴ Diplomatic relations between Indonesia and the Kingdom of Saudi Arabia began on May 1, 1950, which was marked by the opening of the Indonesian Representative in Jeddah. In 1964, the Indonesian Representative in Jeddah changed its status to the Embassy of the Republic of Indonesia. Along with the relocation of the capital city of Saudi Arabia to Riyadh, the Indonesian Government also moved its Embassy from Jeddah to Riyadh in 1985. At the same time, to further enhance economic and socio-cultural relations/cooperation between the two countries, the Indonesian Government opened the Consulate General of the Republic of Indonesia in Jeddah. Saudi Arabia is one of seven Arab countries that gave recognition to the proclamation of Indonesia's independence on November 4, 1947. Cooperation between the two countries is progressing well, both bilaterally and in international forums such as the United Nations, G20, OIC, and the Non-Aligned Movement.⁵

The issue of Employment and Unemployment is a problem that is still a scourge for third-world countries. Labor is a factor that influences the improvement of a country's economy, but on the other hand, an increase in labor can become a problem for the country's economy. This is caused by high population growth and the lack of government in providing jobs so that the workforce is not fully absorbed so that unemployment occurs.⁶

Labor cooperation between countries is actually driven by the need for globalization, including the relationship between Indonesia and the Kingdom of Saudi Arabia. The demands of globalization that require developments in all

⁴ The Jakarta Post, September 24, 2019: Saudi-Indonesia Ties Will Continue to Grow: Envoy, see <https://www.thejakartapost.com/news/2019/09/24/saudi-indonesia-ties-will-continue-to-grow-envoy.html>

⁵ Ministry of Foreign Affairs of the Republic of Indonesia: Bilateral Relations of the Republic of Indonesia – Kingdom of Saudi Arabia, see https://kemlu.go.id/riyadh/id/pages/hubungan_bilateral_ri_-_arab_saudi/635/information-sheet

⁶ Haryono, Globalisasi dan Migrasi Tenaga Kerja Indonesia (Studi Deskriptif Sosiologi Kependudukan), *Jurnal Hermeneutika*, Vol. 3, No. 2, November 2017, p. 3

fields that are colored by high competition force countries to use various solutions and alternatives in order to survive and at the same time compete in the competitive world progress. The state is then encouraged to exploit and utilize all its potential in order to achieve these ideals. This survival and development effort has further increased interdependence between countries. Countries will then work together to meet each other's needs and interests. In the following discussion, the author will try to explain the aspects that underlie and motivate labor cooperation between Indonesia and Saudi Arabia. Saudi Arabia is currently focused on meeting the 2030 vision where there will be many developments and projects in various sectors that require a lot of workers from all over the world, including Indonesia, there are as many as 200,000 job opportunities in various industrial sectors, with various types of positions. Saudi Arabia's Vision 2030 is a plan to reduce Saudi Arabia's dependence on the petroleum sector, diversify Saudi Arabia's economy, and develop public service sectors such as health, education, infrastructure, recreation, and tourism.

As always happens in every cooperative relationship between countries in the international scope, be it bilateral or multilateral, where each country has its own interests, it is possible for obstacles such as differences of opinion and even conflicts to occur. In this case, as happened in the bilateral relations between Indonesia and Saudi Arabia in the field of Manpower, although so far the relations between the two countries have been quite good in almost all sectors, with the problems that have arisen in the last few years, especially in the issue of Placement and Protection of Indonesian Migrant Workers in Saudi Arabia, the relations between the two countries in the field of labor are slightly disturbed, the government's attention is now focused on solving the problem in the hope that it will not interfere with RI-Saudi Arabia relations in other fields. The issue of the Placement and Protection of Indonesian Migrant Workers has been regulated in the Law of the Republic of Indonesia Number 39 of 2004, regarding how the procedural and operational implementation is carried out, what is the

role of the government in carrying out its function as an authority and the extent to which the relevant agencies and legal entities in charge of ensuring the survival and as a legal umbrella for Indonesian Migrant Workers who work abroad, especially in this case in Saudi Arabia, it is clearly recorded in the law.⁷

In general, Saudi Arabia is a destination country for worship for Muslim communities around the world. Apart from being a destination for worship, Saudi Arabia is also a destination for Indonesian Migrant Workers to work for. The lack of employment opportunities and the sluggish rural economy has made some of the lower middle-class Indonesian workers look at the option of working as migrant workers abroad. Many Indonesian Migrant Workers prefer to work abroad. Many of these workers choose Saudi Arabia over other countries that are safer and more promising for their income. They chose Saudi Arabia in the hope of getting the opportunity to perform the pilgrimage which is very difficult for them to realize if they only work in Indonesia. The number of PMIs who choose Saudi Arabia as their work destination is very large, but 90 percent of them work in the domestic sector and work as housemaids. Saudi Arabia is the country with the largest number of immigrants because it almost exceeds the number of natives in Saudi Arabia. The number of foreign workers reaches 8-9 million people from the 27 million population, with 905 people working as domestic helpers or working in the domestic area. As an oil exporting country, Saudi Arabia is a promising country of choice, even though its political economy is now no longer relying on oil. Indonesian Migrant Workers working in Saudi Arabia are spread across several employment sectors, namely domestic helpers, bus drivers, and packers who are placed in the formal and informal sectors.⁸ Based on this description, the problem that will be discussed in this paper is how is the condition of Saudi Arabia so that it becomes a work destination for Indonesian

⁷ Ratu Rayanti Arumsari (2019), *Loc.Cit.*, p. 54

⁸ Octariandry Shavita Putri and Yusnarida Eka Nismi, *Perlindungan Pemerintah Arab Saudi Terhadap Imigran (Tenaga Kerja) Indonesia 2010-2012, Jurnal Online Mahasiswa Universitas Riau*, Vol 1. No. 1, 2014, p. 4

migrant workers? and what is the role of the state in protecting Indonesian migrant workers in Saudi Arabia?

2. RESEARCH ACCOMPLISHED

Nur Hidayah⁹ in his research revealed that as a country that bears the title *Khodimul Haramain*, Saudi Arabia is the main destination for Hajj and Umrah for Indonesian Muslims every year. So the Indonesian government has a great interest in Saudi Arabia. Moreover, the number of Indonesian pilgrims each year is the largest when compared to other countries. However, Indonesia also has an important position for Saudi Arabia, with Indonesia's contribution to solving one of Saudi Arabia's domestic problems, namely the scarcity of the number of workers. Indonesia has been a supplier of labor for Saudi Arabia, especially in the domestic sector since 1970. Indonesia's contribution is very significant and cannot be underestimated by Saudi Arabia, although then Indonesia is not the only one that sends its workers to the country. This can be seen from the moratorium policy on sending Indonesian Migrant Workers by the Indonesian government after the beheading of Ruyati binti Satubi, an Indonesian migrant worker in 2011. The close relationship between Indonesia and Saudi Arabia is a mutually beneficial relationship. Although it is profitable and generates additional foreign exchange for each country, this relationship also produces problems that cannot be said to be simple for each country. In fact, these problems can be very serious and disrupt the stability of their respective countries. However, this relationship is urgent and cannot be replaced by other countries. So the only way that both countries can do this is diplomacy¹⁰ to establish communication and understanding in various aspects that are important to both. Because each country makes a major contribution to the other,

⁹ Nur Hidayah, Permasalahan yang Timbul dalam Hubungan Bilateral Indonesia-Arab Saudi, *Mukaddimah: Jurnal Studi Islam*, Volume 4, No. 1, June 2019, p. 39, 151

¹⁰ Sumaryo Suryokusumo, *Praktek Diplomasi*, Jakarta: STIH Iblam, 2004, p. 42

in addition to both being brought together within the framework of the common religion of the majority of the population, namely Islam. The most sensitive issue of this good relationship is the emergence of an ideology that wants to purify Islam and oppose the practices of Indonesian Muslims that have succeeded in dividing Indonesian society. This issue is no longer limited to ideological issues but has entered the political and social realm. So from here, studies are needed that are carried out in-depth and continue to understand the cultural roots of Saudi Arabia and Indonesia in order to produce mutual understanding and respect for each other.

Octariandry Shavita Putri and Yusnarida Eka Nismi¹¹ in his research revealed that the protection of the Saudi Arabian government against Indonesian immigrants was very weak, based on BNP2TKI data it was noted that in 2010 the number of victims of violence against Indonesian workers reached the highest number, namely 5,495 people. The high number of victims of violence against workers during 2010 led to a decrease in the number of Indonesian workers stationed in Saudi Arabia. The number of cases of torture that occurred was caused by the weak protection provided by the Saudi Arabian government. In several cases of abuse experienced, Indonesian Migrant Workers do not get legal clarity and unfair court decisions, one example is that victims of torture have to wait up to three years before the trial of their case is carried out. The Indonesian Embassy in Riyadh stated that in 2006 there were 3,687 complaints received.¹² The existence of discrimination against foreign workers in Saudi Arabia causes some workers to quit or run away before the end of the employment contract, including Indonesian workers, but workers who quit before the contract period ends are still considered as undocumented workers. In addition, the existence of the kafala system or the iqama system shows the weak protection provided by

¹¹ Octariandry Shavita Putri and Yusnarida Eka Nismi (2014), *Loc.Cit.*, p. 10-11

¹² Human Rights Watch. *Saya Bukan Manusia*. see <http://www.hrw.org/id/node/80940/section/13> in Octariandry Shavita Putri and Yusnarida Eka Nismi (2014), *Ibid*.

the Government of Saudi Arabia to existing workers, including Indonesian workers. In the kafala system, the employee's passport and visa are held by the employer so that during the contract period the worker cannot leave the place regardless of the conditions experienced, the existence of the kafala system indirectly causes the employer to have full power over loyal workers, in addition to the Saudi Arabian government which justifies the act of withholding visas and passports for workers on the grounds that every Saudi Arabian society has paid a high price to agents to get workers.

In the iqama system, every worker must obtain permission from the employer if they want to quit or change jobs. In addition, different legal bases also make it difficult for workers to get protection for each case experienced, Saudi Arabia uses Islamic Law or Sharia Law as a legal basis so the rules set are different. When viewed from the various systems implemented by the government of Saudi Arabia on Indonesian Migrant Workers including how to handle cases, the government does not really care about the rights of Foreign Workers in Saudi Arabia, including Indonesian Workers, even though in 2013 Saudi Arabia already has According to the domestic worker law, however, the protection provided by the Government of Saudi Arabia to Indonesian Migrant Workers is still very weak, so that Saudi Arabia is a country with a weak level of security and protection, both for citizens of Saudi Arabia and against foreign workers including Indonesian workers. Saudi Arabia is also considered a country that failed to deal with the problem of the existence of a slavery system through one of the monitoring of humanitarian organizations carried out by the United States. However, in its current development, the Saudi Arabian government already has an Informal Labor Law. The existence of the law allows the reopening of the system of sending foreign workers to Saudi Arabia, including Indonesian workers, although they have to wait for several more meetings regarding the Saudi Arabian government's policy. Currently, Saudi Arabia's domestic labor law provides protection for many migrant workers who work in the local sector

in the country, meaning that foreign workers have become one of the state's affairs.

Dewi Nurvianti and Fathurrahman,¹³ In particular, in his research, he raised cases that occurred in Saudi Arabia, where cases of violence experienced by workers, especially female workers in the country, continued to occur. In cases related to migrant workers in Saudi Arabia, it is not only their position as victims of violence that ends in death. But also cases where they are involved in the law as perpetrators in that country. This issue is increasingly concerning, as several workers who are accused of violating legal provisions in Saudi Arabia are sentenced to death and executed without notification to their families or to the Indonesian government, this is certainly very disappointing for the Indonesian government.¹⁴ For example, in 2018 there was two Indonesian migrant worker who was executed, namely Zaini Misrin Arsyad and Tuti Tursilawati. Zaini was executed on 18 March 2018, while Tuti was executed on 29 October 2018 by the Government of Saudi Arabia. Execution of both without notification to the Government of Indonesia. Tuti is the fifth Indonesian migrant worker to be tried and sentenced in 2011. Since 2011 no one has been notified by the Saudi government. According to Migrant Care, a migrant worker organization there are 19 Indonesian workers in Saudi Arabia who are on the death row list.¹⁵

Indonesia has Mandatory Consular Notification agreements with a number of countries but Saudi Arabia does not have that agreement. Mandatory Consular Notification is a bilateral cooperation between countries, usually carried out by countries parties to the 1963 Vienna Convention on Consular

¹³ Dewi Nurvianti and Fathurrahman, *Perlindungan Melalui Notifikasi Konsuler Bagi Pekerja Migran Indonesia di Arab Saudi (Kasus Eksekusi Mati Tanpa Pemberitahuan)*, *Mimbar Hukum*, Vol. 32, No. 3, October 2020, p. 423-424

¹⁴ Gina Nanda Utama, et.al., *Social Actor Representation of Indonesian Migrant Workers' Execution in Saudi Arabia*, *International Journal of Humanity Studies*, Vol. 4, No. 1, September 2020, p. 19

¹⁵ BBC News, *Tuti Tursilawati: Arab Saudi eksekusi TKI tanpa pemberitahuan, Indonesia protes*, see <https://www.bbc.com/indonesia/indonesia-46030543> in Dewi Nurvianti and Fathurrahman (2020), *Loc.Cit.*, p. 423-424

Relations. The Mandatory Consular Notification provisions in the covenant are stated implicitly in Article 36, namely consular officials are free to communicate with their nationals and have access to them in the sending country. Furthermore, foreign nationals who are arrested or detained are given notice without delay, as it is their right to have their embassy or consulate informed of the arrest. The Convention also provides that Consular Officers have the right to visit their nationals who are in prison, detention, or detention, to speak and correspond with them, and to arrange for their legal representation. In addition, Saudi Arabia's national law stipulates that there is no notification of the execution of the convict's family. These two conditions often cause the families of Indonesian workers and even Indonesian diplomatic officials in Saudi Arabia to not know about the execution.

3. METHOD

The research is normative-legal research,¹⁶ this research uses a statutory approach, a conceptual approach,¹⁷ and a case approach.¹⁸ The legal materials used are primary legal materials and secondary legal materials,¹⁹ with the technique of using library research, namely by collecting materials from legislation and literature books as a theoretical basis, after the legal materials in the research are collected, the relevant legal materials will be inventoried then synchronized and then analyzed qualitatively by using prescriptive presentation techniques.

4. RESULTS AND DISCUSSION

¹⁶ Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif Suatu Tinjauan Singkat*, Depok: Rajawali Pers, 2018, p. 13

¹⁷ Rossana Deplano and Nicholas Tsagourias (Ed.), *Research Methods in International Law: A Handbook*, UK: Edward Elgar Publishing Limited, 2021, p. 1

¹⁸ Peter Mahmud Marzuki, *Penelitian Hukum*, Revised Edition, Jakarta: Kencana, 2017, p. 134

¹⁹ Kadarudin, *Penelitian di Bidang Ilmu Hukum (Sebuah Pemahaman Awal)*, Formaci Press, Semarang, 2021, p. 171

Saudi Arabia as a Destination Country for Indonesian Migrant Workers

Indonesian people have had a close relationship with the people of Saudi Arabia long before Indonesia's independence in 1945. This relationship was motivated by cultural similarities, precisely the similarity of religious beliefs as followers of Islam.²⁰ With the highest number of Indonesian Migrant Workers every year, Saudi Arabia is one of the favorite destination countries for Indonesian Migrant Workers candidates compared to other placement countries in the Middle East. Cooperation with Saudi Arabia in the field of manpower has been built by Indonesia for a long time. Based on its track record, this collaboration does not always have a positive effect for both parties. Indonesian Migrant Workers death, torture, harassment, murder, death penalty and a series of cases that have happened and are often heard of have certainly affected relations between the two countries.²¹ In fact, Indonesia has made a series of policy changes starting from the Indonesian Migrant Workers moratorium in 2011, and the 2014 agreement, the moratorium was returned in 2015, and is now preparing to send Indonesian Migrant Workers through the One Channel Placement System. The track record of Indonesian Migrant Worker's problems is not good as well as various regulatory and policy revisions raise the question of why Indonesia has resumed sending Indonesian Migrant Workers to Saudi Arabia. Every country certainly needs to meet the needs. These needs are then summarized in the national interest. National interest is based on the need or urgency of a country and what is needed, often related to the country's domestic situation. National interest is also the motive behind the actions of a country in formulating and implementing its foreign policy. While the external environment of the state is one of the media to achieve the national interest. Indonesia utilizes the external environment of the country in achieving its national interests. In this study, Indonesia takes advantage of its external

²⁰ Makarim Wibisono, *Tantangan Diplomasi Multilateral*, Jakarta: LP3ES, 2006, p. 78

²¹ R. Tirtosudarmo, *Indonesian Domestic Workers in Saudi Arabia*, Leiden: International Institute of Asian Studies, 2000, p. 31

environment, namely Saudi Arabia by collaborating in the field of employment to achieve the national interest of the Indonesian state.²²

Currently, Indonesia, the fourth most populous country in the world, is the largest Muslim-majority country with the largest number of pilgrims every year. This makes the bilateral relationship between Indonesia and Saudi Arabia even more significant and strong with a long history of cooperation in various mutually beneficial fields. The brotherly relationship between the two countries continues to be strengthened through mutual visits by the leaders of the two countries. Beginning in 1955, Indonesian President Sukarno made a state visit to Saudi Arabia. Meanwhile, King Faisal visited Indonesia in 1970. All Indonesian Presidents visited Saudi Arabia during his reign. Currently, Indonesian President Joko Widodo visited Saudi Arabia in 2015, 2017, and 2019. Meanwhile, King Salman bin Abdulaziz Al Saud visited Jakarta, Bogor, and Bali in 2017. Bilateral cooperation between Indonesia and Saudi Arabia continues to increase and expand the sectors- new cooperation sectors from time to time. During the visit of the Servant of the Two Holy Mosques to Indonesia in February 2019, the two countries were committed to enhancing cooperative relations, particularly in the economic field. This was marked by the signing of 11 agreements in various fields between Indonesia and Saudi Arabia, although none specifically regulates migrant workers from the 11 agreements. Since the first diplomatic relations (1950) to date, there have been more than 40 bilateral agreements between Indonesia and Saudi Arabia.

The background of the Indonesian population migrating into labor in Saudi Arabia is influenced by several factors. First, economic conditions in rural areas that do not provide welfare, narrow employment opportunities, and lifestyles are also factors that strengthen people to become Indonesian workers. The salary of being a migrant worker which has quite a large difference from the

²² Sidik Pangestu, *Diplomasi Indonesia dalam Meningkatkan Keamanan Pekerja Migran Indonesia di Arab Saudi*, Jurnal Hubungan Internasional Universitas Al-Ghifari, 2020, p. 6

domestic salary is also a consideration for the community to choose the country they want to work in. Second, apart from the high salary, there is also a desire to visit Mecca and perform the pilgrimage. So that the country of Saudi Arabia from the past until now has been a prima donna country for prospective Indonesian workers. Third, the level of education is still low²³ namely high school and below also affect the attractiveness of prospective Indonesian workers who think that becoming a migrant worker will change their economic life. So that there are often cases of human trafficking and illegal migrant workers experienced by people who want to work abroad. Because of the lack of knowledge about the recruitment of official TKI. Fourth, the limited domestic employment opportunities encourage Indonesian Migrant Workers to work abroad. Whether as formal or non-formal Indonesian Migrant Workers. From some of the driving factors above, it can be seen that becoming an Indonesian Migrant Worker is an alternative solution for some people. And generally, there is one destination country that attracts prospective Indonesian workers, namely Saudi Arabia.

Interest in working in Saudi Arabia is also balanced with the interest of the Saudi Arabian community toward foreign workers. This is because the number of workers in Saudi Arabia, especially unskilled workers, is relatively small, so Saudi Arabia needs workers from outside such as from Indonesia, India, Pakistan, Bangladesh, and others, the majority of whom work is unskilled. Another factor is that the people of Saudi Arabia prefer foreign workers because the wages paid are not too large compared to having to use workers from within who ask for higher salaries from expatriates. For this reason, every year the interest of Indonesian Migrant Workers to work in Saudi Arabia is increasing.

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²³ Razzaq, S. K. A., Discourse analysis of the representation of migrant workers in the star online newspaper, *Asian Journal of Humanities and Social Sciences*, Vol. 1, 2012, p. 121

Behind the lure of high salaries, there are actually heart-breaking regulatory problems experienced by some TKI, from departure to return. From the start of his departure, the problems that arose were document falsification and the markup of supply costs that were too high. When working, the problems that arise are more severe, such as abuse, sexual harassment, exploitation, forced taking of passport documents by employers, overstayed migrant workers, and migrant workers caught in legal cases. This can be seen from the data on the Indonesian Migrant Worker's Complaint Service at the Crisis Center by the Indonesian Migrant Workers Protection Agency for the 2014 period which stated that Saudi Arabia was the first country to become the object of complaints by Indonesian migrant workers.

There are several forms of the Saudi Arabian government's lack of handling of workers which causes weak protection for workers, namely:²⁴

1. Poor Handling Mechanism

One proof of the weakness of the Saudi Arabian government's protection for Indonesian workers is through poor handling mechanisms. Almost every year the government of Saudi Arabia receives reports of abuse against workers by employers, but the response to acts of exploitation or crime against Indonesian workers is not so good that it does not have much influence on cases of violence that occur. In addition, there are unfair dispute resolution mechanisms, such as officers who try domestic workers based on lawsuits filed by employers, so that at the end of the case, domestic workers are only sent back to their countries of origin without clarity about their rights as domestic workers.

The Ministry of Social Affairs which is in charge of providing services such as resolving visas to return to their country of origin, processing identity documents or resolving disputes related to wages for working for domestic

²⁴ Human Rights Watch. *Saya Bukan Manusia*. see <http://www.hrw.org/id/node/80940/section/13> in Octariandry Shavita Putri and Yusnarida Eka Nismi (2014), *Loc.Cit.*

workers is not fully functioning, because some domestic workers have to settle financial losses and wait in shelters for months. months without receiving clear information about their case. Domestic workers also face several problems when dealing with Saudi Arabia's criminal law, such as slow access to translation assistance, legal assistance, and access to consulates in their country of origin. Poor handling mechanisms can also be seen from the absence of effective local handling mechanisms for victims of abuse, sending countries play a very important role in defending the rights of their respective citizens.

2. Exceptions to Labor Law

Labor law based on Royal Decree No. M/51 dated 27 September 2005 stated that there is a guarantee of protection for every worker such as protection over working hours limits, prohibition of deductions from wages, determination of holidays, or mechanism for solving problems, but in labor law, there are no written rules regarding guarantees of protection for domestic workers.

3. Procedure Violation

Court proceedings in Saudi Arabia are not in accordance with the basis of international law, in some cases, workers do not get translators, legal counsel, or access to the consulate office of their respective countries of origin. In addition, Saudi Arabia's officers are slow in accessing information to diplomatic officers from their countries of origin regarding cases that occur to their respective citizens, so access to assistance for workers sometimes doesn't arrive on time. It is a clear violation of the criminal procedure law that anyone who is arrested or detained has the right to contact whomever he wishes to report his detention and every accused has the right to have a representative or lawyer to defend himself during the judicial and investigative process. On the other hand, based on the Vienna Convention on consular affairs, it is stated that every consular officer has the right to have access to communicate freely with his citizens. Violations of procedures can also be seen from the poor access to written decisions which

complicates the process of filing and preparing appeals because some of the documents provided are in Arabic, making them difficult to understand.

One example of violence against Indonesian Migrant Workers perpetrated by their employers while working in Saudi Arabia is the case of Nourmiati Female Workers who experienced physical violence such as beatings, in addition, Nourmiati also did not get enough to eat and for a year Nourmiati work wages were not given by her employer. The handling of Nourmiati's case lasted for three years, besides that Nourmiati was initially deemed to have made a false complaint and was sentenced to 79 lashes, although the sentence was eventually annulled, Nourmiati's employer who had committed physical violence was also released from legal action.

Basically, international law related to the protection of foreign workers has been regulated in the 1990 United Nations Convention, namely the protection of the rights of all migrant workers and members of their families, which is currently known as the Migrant Convention. This convention was first declared in New York on December 18, 1990, and ratified as one of the international laws on July 1, 2003. The countries that have just ratified are 35 countries including the Philippines and Indonesia in the ASEAN region. Ratification of this convention is basically very important to do as a form of a country's commitment to protecting workers who will be sent abroad. In addition, ratifying this Migrant Convention means that the government is obliged to provide opportunities and opportunities for foreign workers and members of their families to work in the country and family members.

The absence of legal defense against Indonesian Migrant Workers makes cases of violence against Indonesian Migrant Workers increase, in addition, during the trial some workers find it difficult to access assistance for Indonesian diplomatic officers,²⁵ In addition, in some cases, the workforce is not provided with an interpreter so that they have difficulty communicating during the trial.

²⁵ S. Roy, *Diplomacy*, Jakarta: PT. Raja Grafindo Persada, 1995, p. 103

On the other hand, the government of Saudi Arabia confirms the existence of the kafala system in which the visa and passport of domestic workers will be withheld by the employer until the employment contract period ends on the grounds that each employer has paid dearly for each domestic worker. On the legal side, Saudi Arabia is a country that does not have written rules that guarantee the protection of domestic workers because in Saudi Arabia domestic workers are not considered a profession. Weak protection of the Saudi Arabian government against immigrants²⁶ makes Saudi Arabia one of the countries that failed to address the problem of human trafficking.

Ratu Rayanti Arumsari²⁷ in his research stated that the Ministry of Manpower and Transmigration recorded at least 79 cases of the death penalty for Indonesian migrant workers in Saudi Arabia per period 2001-2013, and only about 41 Indonesian citizens managed to escape the death penalty and there are still 38 citizens whose legal status has not been given clarity and clarity. still facing the death penalty in a Saudi Arabian court. So far the steps taken by the Indonesian government to assist these Indonesian citizens are by providing lawyers who are contracted on a case-by-case basis and also retainer (permanent), this step was proposed by the Task Force for Handling Indonesian Citizens/Indonesian Migrant Workers cases. The Saudi Arabian Embassy needs to act on the attitude of individuals who do not carry out their duties properly by organizing and fixing its immigration system, either by direct supervision or by imposing stricter sanctions on perpetrators of illegal fee levies. Because it adds to the burden by complicating the situation of the migrant workers in Saudi Arabia.

More according to Ratu Rayanti Arumsari,²⁸ Some of the problems of violence that occur against Indonesian Migrant Workers, especially those in the

²⁶ Bassina Farbenblum, et.al., *Migrant Worker Access to Justice At Home: Indonesia*, New York: Open Society Foundations, 2013, p. 83

²⁷ Ratu Rayanti Arumsari (2019), *Loc.Cit.*, p. 54

²⁸ *Ibid.*, p. 55

informal sector, such as Housekeepers known as Householders, are caused by many factors that do not only come from abroad but also internal factors that trigger violence against Indonesian Migrant Workers informal sector.²⁹ Domestic factors include the lack of government oversight of the sending agents for Indonesian Migrant Workers or what we know as the Indonesian Migrant Worker Service Company or the Implementing Private Indonesian Migrant Worker Placement. officially registered and do not have written permission from the Ministry of Manpower and Transmigration. This is because there are irresponsible parties who want to get big profits from prospective Indonesian Migrant Workers. Therefore, as a form of negotiation effort from the Indonesian government to the Saudi Arabian government in response to the problem of the Placement and Protection of Indonesian Migrant Workers, especially in this case in the Kingdom of Saudi Arabia, on August 11, 2011, the Indonesian government through the Minister of Manpower and Transmigration issued a Moratorium. Labor that applies to the informal sector in Saudi Arabia.³⁰ The moratorium is a temporary postponement. The delay, in this case, is by delaying the delivery of Indonesian migrant workers to Saudi Arabia by the specified time limit.

There are at least four agreements signed by the two countries related to migrant workers, namely:

- Notes on the results of the discussion at the Third Senior Officials Meeting between the Delegation of the Republic of Indonesia and the Delegation of the Kingdom of Saudi Arabia regarding the Overstay of Indonesian Migrant Workers in Saudi Arabia, Jeddah, October 1, 2012

²⁹ Jihan Djafar Sidik and Witri Elvianti, *The Consignment of Indonesian Migrant Workers in Saudi Arabia and Its Resilience: Examining the Impacts of Indonesia's Moratorium Policy (2011-2015)*, *Andalas Journal of International Studies*, Vol. VII, No. 1, May 2018, p. 14

³⁰ Purwaka Hari Prihanto, *Kebijakan Moratorium Pengiriman Tenaga Kerja Ke Luar Negeri dan Dampaknya Terhadap Peningkatan Kualitas Pekerja Migran Indonesia*, *Jurnal Paradigma Ekonomika*, Vol. 1, No. 7, 2013, p. 62

- Notes of the Technical Working Group Meeting on Labor Cooperation Agreements between the Kingdom of Saudi Arabia and the Republic of Indonesia on the Placement and Protection of Indonesian Domestic Workers, Riyadh, 01-09-2014
- Agreement between the Government of the Republic of Indonesia and the Government of the Kingdom of Saudi Arabia regarding the Placement and Protection of Workers, Riyadh, 19-02-2014
- Notes on the results of the discussion between Indonesia and Saudi Arabia at the 2nd Meeting of the Preparatory Joint Working Committee on the Agreement on Placement and Protection of Indonesian Domestic Workers, Jakarta, 06-09-2014

The Governments of Indonesia and Saudi Arabia agreed with bilateral cooperation on the One Channel Placement System for Indonesian migrant workers. The signing of the cooperation was carried out in 2018 in Indonesia. This collaboration is in the context of improving the governance of the placement of Indonesian Migrant Workers, both related to protection and improvement of welfare. The signing of this cooperation was also immediately followed by the signing of the technical arrangement. For the Government of Indonesia, this bilateral cooperation is not an easy thing.³¹ This is because there are many cases of Indonesian migrant workers in Saudi Arabia, such as harassment, violence, sexual harassment, unpaid wages, exploitation, and threats of the death penalty.³²

This collaboration is a limited trial, namely with a certain number of Indonesian Migrant Workers, an evaluation is carried out every three months, certain locations (Jeddah, Medina, Riyadh, and the eastern region, namely Damam, Qobar, Dahran) and certain positions (baby sitter, family cook, elderly

³¹ Arab News: Saudi-Indonesian integration system for migrant workers will improve relations, say officials, see <https://www.arabnews.com/node/2155596/world>

³² Gina Nanda Utama, et.al., The representation of executed Indonesian migrant workers in The Jakarta Post News articles, *Leksika*, Vol. 14, No. 1, February 2020, p. 29

caretaker, family driver, child care worker, housekeeper). This cooperation is within the framework of protecting the rights of migrant workers and regulating the employment relationship between employers and migrant workers in accordance with laws and regulations in both countries and international conventions.

There are 21 important points in the One Channel Placement System, which in the previous cooperation were not regulated, and became a weak point in the protection of migrant workers. The new points include the recruitment and placement process for Indonesian migrant workers through an integrated online system that allows the two governments to conduct supervision, monitoring, and evaluation. Indonesian Migrant Workers no longer work with the *kafala* system (individual employer), but the *sharikah* system (a company appointed and responsible to the government of Saudi Arabia). This system makes it easier for Indonesian Migrant Workers and the Indonesian government to protect themselves. Employment agreements also refer to work contracts that have been established based on decent work principles. Salaries are paid through banks, so salary payments can be monitored and any delay in payment can be detected immediately.

Both countries agreed to form a Joint Committee tasked with overseeing/evaluating the implementation of the recruitment process and Indonesian migrant workers placement in the field, including a special call center that handles employment issues in Indonesia. Indonesian Migrant Workers also have access to communication with families. The One Channel Placement System does not mean revoking the Regulation of the Minister of Manpower of the Republic of Indonesia Number 260 of 2015 concerning the Termination and Prohibition of Placement of Indonesian Migrant Workers on Individual Users to the Middle East region. On the other hand, The One Channel Placement System is a policy to ensure that there are no violations in the implementation of the policy of stopping and banning Indonesian migrant workers in the Middle East.

5. CONCLUSION

Saudi Arabia has become a work destination for Indonesian migrant workers against the background of cultural similarities, precisely the similarity of religious beliefs as followers of the Islamic religion. Interest in working in Saudi Arabia is also balanced with the interest of the Saudi Arabian community toward foreign workers. In addition, Saudi Arabia is currently focused on meeting the 2030 vision where there will be many developments and projects in various sectors that require a lot of workers from all over the world, including Indonesia, there are as many as 200,000 job opportunities in various industrial sectors. The role of the state in protecting Indonesian migrant workers in Saudi Arabia is to conduct bilateral cooperation with the One Channel Placement System for Indonesian migrant workers. The signing of the cooperation was carried out in 2018 in Indonesia. This collaboration is in the context of improving the governance of the placement of Indonesian Migrant Workers, both related to protection and improvement of welfare.

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