

CHAPTER IV

THE ROLE OF THE INDONESIAN GOVERNMENT ON IMPROVING THE SECURITY OF MIGRANT WORKERS

A. The Indonesian government's general policy on migrant workers

Indonesian workers issues every year are facing with high labor force growth. Initially, workforce issues were fields that were within the scope of private law. But in its development, the state needs to carry out affirmative intervention in industrial relations where Indonesia is the sender a workforce. The low quality of migrant workers from Indonesia has been a classic problem that caused many problems. Compared to migrant workers from other countries, the quality of migrant workers from Indonesia is indeed low. This has caused the bargaining position of Indonesian migrant workers to be weak. This condition encourages the National Agency for Placement and Protection of the Indonesian Workers to carry out their roles, functions of publication, advocacy, mediation and support of foreign cooperation. (News, 2014)

The purpose and actions of Migrant Care in encouraging the government to resolve the problem of violence against Indonesian migrants in Malaysia, among others, trying to advocate for Indonesian migrant workers who face cases of acts of violence in Malaysia. Urge the Malaysian Government and the Indonesian Government to make a comprehensive bilateral agreement regarding the protection of Indonesian migrant workers in Malaysia. Besides, Migrant Care urges the Indonesian Government to intensively advocate and monitor every legal process for cases that afflict Indonesian migrant workers, and continue to strengthen diplomatic efforts. Also, it urged the Government to carry out ratification of the 1990 UN Convention on the Protection of the Rights of Migrant Workers and Their Families and amendments to Law No. 37 of 2004 concerning the Placement and Protection of Indonesian Workers Abroad. (Arista, 2014)

The policy is a regulation issued by the Government, and the system contains the concepts that provide the principles that are made as guidelines and the basis of a plan for an action for which it is set. Whereas protection is efforts that are carried out to monitor and maintain a particular object against disturbances that allow it to exist. So that the Protection of Indonesian Migrant Workers is all efforts to protect the interests of prospective migrant workers in realizing the fulfillment of their rights following the laws and regulations, both before, during and after work. (DPRRI, 2004)

As stated in act 77 Paragraph (1) that every Indonesian migrant worker has the right to obtain protection following the laws and regulations. The understanding of the protection of Indonesian migrant workers has been mentioned in Article 1 Number 4, which is meant by the protection of Indonesian migrant workers are all efforts to protect the interests of Indonesian workers in realizing the fulfillment of their rights under laws and regulations, both before, during and after work. Protection of Indonesian migrant workers as referred to in paragraph (1) is carried out starting from pre-placement, placement period, to full placement. There have been many efforts made by the Indonesian government in reducing the number of violence and all violations that have occurred migrant workers.

Starting from the post-independence era on 3 July 1947, which became a historic date for the ministry of labor institutions in the era of Indonesian independence. This era was marked by the ratification of many ILO Conventions by the Indonesian government. Many laws were formulated as ratification of the convention. In general, labor regulations that exist in the post-independence period to provide social security and protection to workers. This can be seen from several regulations in the field of migrant workers which are made into law in the present. The success of achieving independence during the real revolution (1945-1949) moved migrant workers guaranteed to get a good place or position after Indonesia gained its independence. This is particularly evident in the making of

labor policies and laws in Indonesia. Thus, it is not surprising that in the early days of Indonesian independence there were several labor law regulations which could be called progressive or advanced, in the sense of being very protective or protecting the workers. (Wahyu Susilo, 2015)

Through Government Regulation No. 3 of 1947, an institution was established to take care of labor problems in Indonesia under the name of the Ministry of Labor. After that, at the beginning of the New Order, the Ministry of Labor was replaced with the Ministry of Manpower, Transmigration, and Cooperatives until the end of the Development Cabinet III. The Development Cabinet IV changed to the Ministry of Manpower and Transmigration, while the Cooperative formed its own Ministry. Furthermore, it can be said, during the Indonesian independence period until the end of the 1960s, the placement of Indonesian Workers abroad had not involved the government, but was carried out individually, in kinship, and was traditional. (Utomo, 2013)

Historically with different political policy backgrounds, the placement of migrant workers abroad based on Indonesian government policy only occurred in 1969 carried out by the Ministry of migrant workers. With the issuance of Government Regulation No. 4 of 1970 introduced the Inter-Regional Employment Program “Antar Kerja Antar Daerah” (AKAD) and Inter-country Employment “Antar Kerja Antar Negara” (AKAN), then the placement of migrant workers abroad began to involve the private sector. (Company sending services to Indonesian migrant workers or implementing the placement of private migrant workers). The work program between countries is handled by echelon IV level section officials and is directly responsible to the Directorate General of Guidance and Use (Bina Guna). The inter-country work section forms the Middle East Division or Task Force and the Asia Pacific Task Force. (Suparno, 2008)

Meanwhile, the service of placing migrant workers go abroad in the regions is carried out by the Regional Office of the Ministry of Manpower and Transmigration for the provincial

level and the Office of the Ministry of Manpower and Transmigration Level II for the Regency. This activity, which is sheltered by the Director General of Community Development, lasted until 1986. (Prakoso, 2006)

Then in 1986, there was a merger of two Directorate General, namely the Directorate General of Utilization and the Directorate General of Development and Protection (BinaLindung) to become the Directorate General of Development and Placement (Binapenta). In 1986 the Section between the work of the state changed to the Center for Interstate Work under the Secretariat General of the Ministry of Manpower and Transmigration. The inter-country work center is led by echelon II level officials tasked with carrying out the placement of Indonesian migrant workers abroad. And in regions at the provincial level or regional offices, the arrangement of migrant workers carried out by work offices between countries. In 1994 the inter-state work center was dissolved, and its function was replaced by the Directorate of Export Services of Indonesian migrant workers (echelon II) under the Directorate General of Development and Placement. But in 1999 the Indonesian migrant workers Export Services Directorate was changed to the Directorate of Foreign Workers Placement (BNP2TKI, 2011)

In an effort to improve the quality of placement and security of the protection of migrant workers, the Indonesian Migrant Workers Placement Coordination (BKPTKI) Board was established on 16 April 1999 through Presidential Decree No. 29/1999 whose membership consisted of 9 agencies related to cross-sectoral services for migrant workers to improve employment placement and protection programs overseas according to the scope of their respective duties. In 2001 the Directorate General of Development and Placement was dissolved and replaced by the Directorate General of Placement and Protection of Overseas Workers (PPTKLN) as well as dissolving the Directorate of Foreign Workers Placement (PTKLN). The Directorate of General of Placement and Protection of Overseas Workers forms the structure of the

Directorate of Socialization and Placement to service the placement of Indonesian migrant workers abroad. Since the presence of the Directorate General of Placement and Protection of Overseas Workers services for the placement of Indonesian migrant workers at the provincial/regional offices carried out by Indonesian Migrant Worker Service and Placement Center.

In 2004 Law No. 39/2004 concerning the Placement and Protection of Indonesian Workers Abroad was born, which in article 94 paragraph one and two mandated the establishment of the National Agency for the Placement and Protection of Indonesian Workers (BNP2TKI). Then followed by the establishment of Presidential Regulation No. 81/2006 concerning the Establishment of the National Agency for Placement and Protection of Indonesian Workers whose operational structure involves elements of the central government agencies related to migrant workers services, including Ministry of Foreign Affairs, Ministry of Transportation, Ministry of Manpower, Police, Ministry of Social Affairs, Ministry of National Education, Ministry of Health, Immigration Ministry of Law and Human Rights, Secretary of State and others. (Permatasari, 2016)

In 2006 the government began implementing “G to G” programs, namely Government to Government or between governments to South Korea through the Directorate of Placement and Protection of Foreign Workers under the Directorate General of Placement and Protection of Foreign Workers of the Ministry of Manpower and Transmigration. In addition, the Presidential Instruction No 6/2006 policy appeared, which contained "Taking the necessary steps in accordance with their respective duties, functions and authorities, in the context of implementing the Policy for Reforming the Placement and Protection of Indonesian Workers", there were also other Policies issued by the Indonesian government is Presidential Regulation No. 81 of 2006 concerning of National Agency for the Placement and Protection of Indonesian Workers. (Dalle, 2016)

In early 2007 Moh Jumhur Hidayat was appointed as Head of National Agency for the Placement and Protection of

Indonesian Workers through Presidential Decree No. 02/2007, whose authority was under the president and was responsible to the president. After the presidential decree the appointment of new leaders and the inauguration of MohJumhurHidayat as Head of National Agency for the Placement and Protection of Indonesian Workers, There is a new Regulation No. 01/2007 concerning the Organizational Structure of National Agency for the Placement and Protection which includes elements of central government institutions related to the services of Indonesian migrant workers. The basis of this regulation is Presidential Instruction No. 06/2006 concerning Reform Policy for the Placement and Protection of Indonesian Workers' Systems. (Ali, 2012)

With the presence of National Agency for the Placement and Protection of Indonesian Workers, all matters of the placement and protection of migrant workers are within their authority coordinated by the Minister of Manpower and Transmigration, but their responsibility to the president. The impact of the presence of National Agency for the Placement and Protection of Indonesian Workers, the existence of the Directorate General of Placement and Protection of Overseas Workers automatically disbanded because its function had been covered to BNP2TKI. The National Agency continued the program of placing Indonesian migrant workers "G to G" to Korea for the Placement and Protection of Indonesian Workers, and even the program was expanded to work with the Japanese government in the placement of "G to G" migrant workers in the field of nurses in 2008, hospital nurses and elderly nurses. (Indonesia M. K., 2014)

Then the policy regarding the Implementation of Placement and Protection of Indonesian Migrant Workers Abroad is regulated in the Regulation of the Minister of Manpower and Transmigration of the Republic of Indonesia No.39 of 2004, then followed by the international convention Act of 2012 and Regulatory Policy President No.3 of 2013 concerning Protection of Indonesian Workers Abroad.

Government policies namely the Law which regulates the protection of the placement of Indonesian migrant workers have many weaknesses which can be counterproductive for candidates migrant workers who will work abroad or for implementing agencies. (Maksum, 2017)

Migrant care state that it is necessary to evaluate so that the government has a stronger lobby and encourages more protection at the time before departing from the aspect of information education so that the same cases can be prevented or even not occur again especially at the village and city level.

Many parties are asking for the government's general policy on migrant workers in Law Number 39 of 2004 concerning the Placement and Protection of Indonesian Workers Abroad that needs to be updated because the law has not fulfilled the development of the protection needs of Indonesian Migrant Workers, or impressed giving legal space for monopoly and exploitation besides that Ramiany Sinaga, Head of the National Bureau of Law and Public Relations of the Indonesian Agency for Placement and Protection of Labor, said that Law 39 of 2004 had not been too detailed in regulating clearly the division of duties and authority of the Central Government, Regional Government and private sector proportionally, so it needs to be changed so that the protection of migrant workers more maximal. (Fachrudin, 2017)

While one of the hallmarks of Law 18 of 2017 compared to the previous Law is the decentralization of service for Indonesian migrant workers, such as emphasizing the protection of Indonesian migrant workers and their families, that the state was obliged to fix the protection system so that Indonesian migrant workers were protected from human trafficking, slavery and workforce, violence and other treatment that violates human rights. (Care, 2017)

The law on the protection of migrant workers number 18 of 2017 clearly states that the protection of Indonesian migrant workers aims to ensure the fulfillment and enforcement of human rights and guarantee the legal, economic and social security of Indonesian migrant workers and their families.

The government has been highly committed to protecting Indonesian workers who work abroad start from recruitment to Indonesian migrant workers returning to the country. This government commitment is proven by the enactment of Law No. 18 of 2017 concerning Protection, which has severe criminal sanctions, although it uses a minimum principle, where the sentence is a maximum of 10 years and a fine of IDR 15 billion for individuals or government officials who place Indonesian workers abroad.).

From 2016 until 2018, the Ministry of Manpower and other relevant ministries build 400 Productive Migrant Villages as realized from Article 42 of the Law. Until now, the government has made one-stop services institutionally in some provinces, districts/cities. One crucial element in the "Productive migrant village" program is that anyone who wants to work abroad must be registered and processed in the local village. So with the decentralization of protection, the state is demanded to come to the home of Indonesian migrant workers. (Sudarmanto, 2017)

And it is made more emphasizing that there are five main scenarios related to the placement of Indonesian migrant workers, among others, business process improvement, Optimization of overseas employment opportunities, Upskill and upgrading of prospective migrant worker capacity, Integrated migrant worker placement services, and workers' economic and social development Indonesian migrants.

The Ministry of Manpower of the Republic of Indonesia, YuliAdiratna, stated, "The best protection is from oneself, namely by applying the 4S principle, physically and mentally prepared, ready to document, Ready for language, culture, and customs of the local country are also Ready for skills/competencies. In addition to the protection of migrant workers from themselves, protection from family and environment must also be implemented by storing photocopies of migrant workers' documents and paying attention to matters relating to the process of departing relatives abroad with the aim of working. With the care of the family or the community around

the Indonesian migrant workers, Indonesian migrant workers are increasingly protected. (ILO, 2016)

B. Types of Protection of Indonesian Workers

1. Social Protection

Social security is a right for all Indonesian, according to the constitution, which mandates the extension of the system to all citizens. The social security reform agenda aims to gradually transform operation of the scattered social insurance program and some non-contributory plan for the very poor, to an integrated and better coordinated social security system with universal coverage as mandated by the constitution. Social protection is a purpose of enabling workers to enjoy and develop their lives as humans in general, and primarily as members of society. Social welfare is important because the rules of the Labor Law on Social Security, No. 3 of 1992 are not intended to protect the interests of one person, but instead are rules of the community. Social protection Law No. 13 of 2003, Chapter X Article 68, which is protection relating to social enterprises, whose purpose of enabling workers to enjoy and develop their lives as humans in general, and primarily as members of the community and family members. Social protection is also called occupational health. Besides the National Social Security Law No. 40 of 2004 guarantees universal access to health care, and income protection in case of work injury, old age and death for the entire population, including foreign workers living in the country. This framework is supplemented by the provision of a severance payment mechanism for dismissed workers, under the 2003 labor Law.

Forms of workforce protection in Indonesia that must be carried namely the maintenance and improvement of welfare the type of general social security which is the right of every workforce which is also an obligation of the employer. Besides that, the social security program for workers has several aspects, among others, providing

necessary protection to meet the minimum living needs of workers and their families. (husni, 2003)

Guaranteed health care as an effort to overcome and prevent health problems that require examination, treatment, or care including pregnancy and childbirth. Health care is intended to increase labor productivity so that it can carry out its duties as well as possible and is a health effort in the field of healing. And because healing energies require funds that are not small and burdensome if charged to individuals, then it can be to overcome the capacity of the community through a social security program for workers. The workers in national development are increasing, with the risks and responsibilities and challenges they face. Therefore, it is necessary for them to be given protection, maintenance, and improvement of their welfare to create a sense of security during work. (Asyhadie Z. , 2007)

The social Health insurance program, administered by Health Social Security Organizing Agency, is implemented since January 2014 and designed to be a universal healthcare program (replacing the existing scattered program targeting specific groups). This scheme, which combines a contributory and a non-contributory components covers around 68% of the population (176 million members out of a population of 257 million as of June 2017) and is targeting universal coverage by 2019 according to the National Medium-term plan 2015-2019. More than half of the participants to the scheme those with the lowest income are subsidized participants (tax-funded).

Work injury, Death benefit, and provident fund are mandatory for formal sector employees. A new pension scheme, implemented since July 2015, is applied to large and medium-sized enterprises while the similar schemes for civil servants and military personal will run separately and be merged by 2029. It is estimated that 29,5 million formal economy workers (out of 53 million) and 1.3 million informal economy workers (out of 61 million) are covered

by these insurance programs, administered by Institution of Social Security employment.

Implementation of Placement and Protection Services, Indonesian migrant workers have two sides of needs that cannot be separated in all its forms namely national commitment on the basis of shared perceptual integrity to mobilize and carry out coordination across regional and sectoral vertically and horizontally, and the need for clarity in the proportion of roles and responsibilities between the Central Government, Provincial Government, District / City Government, private Indonesian labor supply companies and the main supporting facilities in preparing qualified and dignified Indonesian migrant workers. Clarity of proportion and responsibility needs to be established to foster partnerships (Spirit Indonesia incorporate) because when Indonesian migrant workers leave and work abroad, they will bring the dignity of the people of Indonesia, the Nation, the State and the Government in the International World. (Gunawan, 2015)

The government is aware that to prohibit or influence people's decisions not to work abroad is indeed tricky because it concerns human rights that are protected by law and also relates the authority and sovereignty of a country. Even so, the Law also requires the Government to take appropriate policy measures to minimize problems and provide protection to Indonesian migrant workers. The government has a responsibility to improve the quality of migrant workers, both in terms of job competence, language and culture of the destination country. The government is obliged to ensure the quality of migrant workers has the ability according to the standards of workers of the destination country. This is to minimize the violation of work agreements as often happens. (News, 2014)

Social protection is an effort to prevent and deal with the risks of social, group, and community shocks and vulnerabilities so that their survival can be fulfilled following minimum basic needs. In the effort to protect

Indonesian migrant workers, the Government organizes Social Security for Indonesian Migrant Workers and their family members. International Social Security is through a social insurance mechanism.

The Implementation of social security to minimize certain risks that are not covered by the recipient country and the employer, then the labor force can work with state or private institutions. The diversity of the problems of migrant workers abroad and the mechanism, migrant workers are encouraged to follow voluntary insurance such as the Old Age Insurance program.

Through the regulation adheres to three pillars, namely social assistance, compulsory insurance, and voluntary insurance. Social Security Administrator Employment of Indonesian Migrant Workers mandates the second pillar, where there is a mandatory fee that must be paid by the participant, either through a payment mechanism by the employer or the Indonesian migrant workers itself.

The social protection of Indonesian migrant workers often exclude by recipient countries because of factors that inhibit integration. Like non-indigenous people even regulations that are sometimes complicated. Coverage of local state regulations to migrant workers, administration of documents from countries of origin and destination countries, long chains in immigration provisions, the process of transfer of payment of contributions, language factors, service infrastructure in the destination country and implementation mechanisms for certain types of workers regulated by the destination country. Some innovations and strategies need to be developed as an effort to integrate social protection for Indonesian migrant workers abroad, demanding that employers pay contributions into social protection mechanisms; both social insurance and private insurance, payment mechanisms through reimbursing health care costs for the risks of workplace accidents in the destination country, ignoring long processes and using technology as an effort to facilitate payment of contributions.

The transition from the commercial Indonesian migrant workers Insurance Consortium to the organizers of public bodies, such as Social Security Administrator Employment, needs to be supported because it is our demand and also the recommendations of the Commission of Corruption Era dication.

Changes in the concept of Indonesian migrant workers insurance law as norm Article 68 of Law No. 39 In 2004 the idea of social security law and social insurance organized by public bodies such as social security administrator is regulated in the new Law. Urgent efforts to be carried out immediately are through the effectiveness and efficiency of government performance in Malaysia.

The Republic of Indonesia's Manpower Minister Regulation Number 7 of 2017 concerning Social Protection of Indonesian Migrant Workers has stated that it has insured some of the risks of migrant workers. The role of the government in implementing social protection, the Ministry of Manpower has coordinated with various parties including the social security organizing body to form a form of realization of protection for all Indonesian migrants by the government in anticipating risks so that they are more directed towards the welfare of migrants and their families.

In law 18 of 2017, it is stated that organizing social protection for Indonesian migrant workers are no longer private insurance but employment BPJS. The benefit of migrant workers protected by Social Security Administrator is for children of migrant workers. Children from Indonesian migrant workers who die from workplace accidents will be given an education scholarship until they finish their undergraduate degree. For children of migrant workers who have been killed and do not want school, so they are entitled to work education and training. Also, the heirs of Indonesian workers will receive compensation worth IDR 85 million. Also, the policy provides a significant role to Labor Attaches in countries where Indonesian migrant workers are placed. This is as stipulated in Article 32, which states, the central

government can stop and / or prohibit the placement of Indonesian Migrant Workers to certain countries or certain positions abroad with consideration (a) security, (b) protection of human rights, (c) equitable distribution of employment opportunities and, (d) the importance of the availability of labor in accordance with national needs. (N Siregar, 2014)

Through the program accident insurance work, Guaranteed to die, Old age guarantee. While Social security from Malaysia, BPJS and SOSCO (social security in Malaysia) signed Memorandum of Collaboration on the Protection of Indonesian Migrant Workers so that their welfare is better. And starting 2019 migrant workers laws in Malaysia from previously managed by the commercial industry through workmen's compensation now through the sovereign kingdom and managed by sosco. The regulation applies to all migrant workers so that they have the same protections rights in term of social protections with local Malaysian residents without discrimination.

2. Technical Protection

The policy of placement and protecting Indonesian workers abroad is directed at maximizing the placing and protection of Indonesian migrant workers by prioritizing aspects of protection of the dignity and safety and health of Indonesian migrant workers since the pre-placement period, while working in a placement country until returning to their homeland in the area of origin of Indonesian migrant workers. National policies and laws and regulations relating to labor issues are efforts intended to protect Indonesian migrant workers from the actions of irresponsible individuals. Improving the process of sending Indonesian migrant workers in addition to the issuance of various labor regulations, the most needed thing is how to supervise and carry out cleaning actions objectively to various persons involved in misappropriation of Indonesian migrant workers. (Husni, 2011)

Definition of legal protection is a protection given to legal subjects in the form of both preventive and repressive devices, both written and unwritten. In other words legal protection as an illustration of the function of law namely the concept where the law can provide justice, order, certainty, benefit, and peace. Legal protection referred to in this discussion is the protection of the rights of Indonesian migrant workers that must be provided by the government or from an agency of Implementing Placement of Indonesian Private Workers against Indonesian migrant workers from pre-placement, placement period, to after placement. The government is obliged to provide legal protection as a reciprocal to the services of Indonesian migrant workers because after all, and they are have contributed in the form donation of state foreign exchange. (Mirza, 2014)

Improving the quality of migrant workers and improving skills while long-term employment is as comprehensive as possible. Psychological aspects are an essential aspect of improving the quality of Indonesian migrant workers. All parties have the same vision and mission, namely fixing various problems with the mechanism of protection of Indonesian migrant workers. For this reason, the government should provide appropriate treatment to Indonesian migrant workers before departing.

Indonesian migrant workers need to get training that is psychological and especially the ability to adapt and the ability to overcome problems. It is time for the government to try to improve the quality of life by increasing the capacity of Indonesian migrant workers because the Indonesian migrant workers who will live their lives in the neighboring country. Because the quality of migrant workers is absolute things and obligation so that must be fulfilled before becoming migrant workers, among others at least having a foreign language so that it is easy to communicate which is the first thing to interact with or have skills. Besides, the government needs to be firm on the issue of protection and more urging Malaysia to be strict with

naughty employers, especially the effect of the passport being held by the employer, as well as simplifying departure procedures and not fully charging the departure process to Indonesian migrant workers. Then, Indonesian migrant workers can have a good quality of life. Education is one of the crucial factors for a better future. Knowledge is an essential part of human rights that must be protected and must be given to the people of Indonesia.

The workers with low education who lack knowledge in the field of state administration and finance must be faced with various bureaucracies. However, this can be dealt with by registering at the Indonesian Embassy in Malaysia through guarantees of employers or companies by deducting wages for installments, after they have been accepted to work. Vulnerability factors that are "seasonality" which later become risk factors, fluctuating labor needs, and skill factors underlying the competition between Indonesian workers in seeking employers and companies who want to employ are a form of competition that creates a type of vulnerability and opportunity. From this factor, then if what is needed is how do the Indonesian and Malaysian governments carry out law enforcement in a framework to protect the public from illegal actions. (Widyawati, 2018)

This already managed on the law no. 39/2004 Sets out regulations to protect Indonesian workers who are placed in employment overseas.

Chapter I: Stipulates that placement shall be based on integrity, equality of rights, democracy, social justice, gender equality and justice, anti-discrimination and against trafficking of persons

Chapter II: sets out the responsibilities of the Government including the obligation to regulate, develop, operate and supervise the recruitment and placement of Indonesian workers overseas and to improve protection of Indonesians abroad

Chapter III: sets out the rights and obligations of Indonesian migrant workers including the right to equality of rights and opportunities;

Chapter IV: sets out the duties of placement services, both government and private. Private recruitment and placement agencies must, among other things, place a deposit in a bank before they can obtain a license. The Indonesian embassies are to evaluate the business partners and users with whom recruitment agencies place workers. Those business and users that do not meet the criteria are to be put on a blacklist

Chapter V sets out the procedures for placement of workers including assistance throughout the migration process, signing of employment contracts, education, and training, costs, etc.

Migrant workers who are prone to exploitation and inhumane actions need to be protected. International labor organizations has individually regulated and sought to protect the fundamental rights and freedoms of migrant workers, especially for migrant workers who work in marginal sectors which is not effectively reach by international law by establishing international conventions relating to rights and protection to obtain fair and proper working conditions, free from discrimination, forced labor, trafficking, freedom of movement, and freedom of association. The principle of recognition and protection of human rights is part of the policy of legal protection. (Philipus M Hadjon, 2005).

And in saving Indonesian migrant workers in the category of technical protection in placement and security, it can be implemented by following the MoU procedure between Indonesia and Malaysia in Appendix A article 5.1 of the protocol amending 2006 MoU which reads "Service users must be personally responsible or through authorized agency in Malaysia to obtain permission from Malaysian authorities. And article 4 added from article 13 amending MoU 2006 reads. Parties agree that for technical implementation, form a Joint Task Force from

representatives appointed by each party to try to provide an appropriate solution to the problem of Indonesian migrant workers. (Listed in the attachment amending protocol MoU 2011 Article 5.1 Paragraph “A” (i) and article 4 page 3).

If Indonesian legal migrant workers are likely to be able to obtain constitutional guarantees from the government through the recruitment agency that hires them, otherwise it will be difficult for illegal workers. If like this, so the needed by the government, especially the Ministry of Manpower is created a balanced relationship between Indonesian Labor Service Company, Indonesian migrant workers and the government, Indonesia or Malaysia to build a basis for legal compliance. For employers in Malaysia who commit violence against Indonesian migrant workers, they must be strictly sanctioned and so do illegal Indonesian migrant workers who do violate the rules and must be treated with strict regulations. And on the other hand, the government must conduct comprehensive socialization of the handling of Indonesian migrant workers so as not to make mistakes in the country. In this way, so socialization, communication, and education at least will increase migrant knowledge. (Malaysia A. , 2011)

The Malaysian government considers the illegal Indonesian migrant workers who are listed as having problems to get a rehiring program. The Malaysian government so needs Indonesian foreign workers, especially in some sectors of employment. Considering that there are many cases of problems, a particular communication is necessary from both Indonesian and Malaysian parties in providing the safety of Indonesian workers. Deliberations on bilateral immigration in Indonesia and Malaysia related to an agreement to strengthen immigration cooperation relations at the border it will facilitate the repatriation of troubled Indonesian migrant workers and the handling of immigration activities both in Indonesia or Malaysia. But if there is an imbalance in the relation, then a much more serious problem will occur.

To minimize the negative impact of placement services and protection of Indonesian workers, the necessary intervention of the Central Government and the Regional Government is needed, to prevent migrant workers from accepting jobs that are non-remunerative, exploitative, abuse, fraud and minimize the social costs.

In this case, if using his functional, structural theory Robert King Merton, then a social institution will remain in existence if there are still those who use it. So that the sending illegal Indonesian migrant workers do not continue and stop, then there must be firmness that they are rejected or not used. It is needed to approaches, lobby and a clear strategy. First encouraging migrant workers with the status of non-formal workers to become formal workers. This can be implemented through improving the training system, and survey the needs from the country of placement, so that have compatible between the desired and provided. Besides, it needs a cultural approach to strengthen the quality in work, build a strong character as a migrant worker, and have a work ethic with a vision of the future not always to become migrant workers, support Indonesian workers abroad to become entrepreneurs.

The trick is to equip them with entrepreneurial knowledge and skills so that migrant workers returning to Indonesia can become entrepreneurs because the workforce is the significant capital and implementation the Pancasila community development.

Providing the right place for other agencies to succeed the function and the role of National Agency for Placement and Protection of the Indonesian workforce in carrying out its duties and authorities with emphasizes that other agencies are supporting, not as agencies the main one that handles migrant workers so that the legalization of Indonesian Migrant Worker is entirely in National Agency for Placement and Protection of the Indonesian migrant workers (management of 1 door). This means that all Indonesian Migrant Worker management is carried out and coordinated

by National Agency for Placement and Protection of the Indonesian migrant workers and its derivative agencies with consideration so that it can easily mitigate problems that arise and can maximally provide protection for migrant workers affected people in the country where they work.

The government also needs to encourage a shift in the trend of sending migrant workers from those who have been dominated by workers in the domestic-informal sector towards professional-formal workers. To realize this of course a competency training programs for prospective migrant workers is needed that involves cooperation between the government and the private sector. The two countries agreed to streamline and eradicate rogue Indonesian migrant workers agents both in Indonesia and in Malaysia. The two countries decided to use the Government to Government pathway in the process of recruiting migrant workers. In addition to the one-door agreement, the two countries agreed to form a Joint Working Group (JWG) to deal with migrant workers' problems. (Arvin Tajari, 2015)

Besides, the government also needs to apply more regulations related to improving migrant workers. So far, rules about migrant workers tend not to show partiality to workers. One of the easiest to identify is the complicated and expensive process of migrant workers departing through legal channels, which then fosters the practice of sending migrant workers illegally by brokers. The method of brokering contributed to the disputes over issues related to migrant workers. (Dewi, 2013)

Although the sending of labor illegally has been difficult to eradicate, sending work through one door can prevent people from smuggling and illegal labor. Currently, Indonesian migrant workers to Malaysia were dispatched by 515 agencies and many also departed through informal channels. (Bonasir, 2015)

Plans for sending Indonesian workers through an official door will help reduce the shortage of domestic workers in Malaysia. Each agent will be held responsible for

training the workforce before and provide labor safety insurance. Also, agents are required to ensure that the employer treats the workforce and the salary paid according to the contract. (Adianto, 2018)

a. Short-term technical protection

- 1) Placing the national agency for the protection and placement of Indonesian workers and its derivatives, collaboration with labor attaches who become representatives of the Republic of Indonesia in providing protection measures for Indonesian migrant workers abroad include border migrant workers who experience problems especially legal issues in the recipient country. Makes Indonesian migrant workers services become one door, and avoid overlapping and action issue protection measures that are often too late to be carried out by the Indonesian government.
- 2) Optimizing aspects of law enforcement related to practices illegal departure of Indonesian migrant workers carried out by individuals or brokers, as well as individuals who dispatch migrant workers without going through procedures official. In this case the actual form is with make rules that expressly provide administrative and/or criminal sanctions for migrant workers who do not meet the procedures and persons who help migrant workers cross boundaries without systems, by referring to Deterrence's Theory of Jack Gibbs, i.e. the faster, harder, and the more specific the punishment for lawbreakers, then the criminal index will decrease.
- 3) When needed, a resident raid / judicial operation is conducted for can find out which population is genuine. This can be minimized. The abuse used the fake document for crossing the border with a Cross-Border Pass.
- 4) Increasing Public Service Ads and Socialization, especially to villages regarding the importance of

- following the procedures established by the government for Indonesian citizens who want to become migrant workers abroad, and the adverse effects of illegal migrant workers.
- 5) Some Indonesian migrant workers both in border areas and in general still feeling complicated information and procedures to be able to work abroad. By hence it may be necessary to review the re-socialization of the terms and conditions provisions and the process and management of sending Indonesian workers out the country, in addition to the cost of managing the process expensive and very bureaucratic, so they ended up more choices to become Indonesian migrant illegal and undocumented rather than Legal Indonesian migrant workers.
 - 6) Increase the number of trained personnel, and regularly hold refresher both training and rotation.

b. Long Term strategy technical protection

- 1) Synergizing the parties involved in sending Indonesian migrant workers. Optimize the Countermeasures, Placement and Protection Coordination Team Troubled Indonesian migrant workers abroad who have been formed in the Governor's Decree by entering points cooperation between agencies. So what is needed here by the government especially the Ministry of Manpower, is to create a balanced relationship between the Indonesian Migrant Worker Service Company, Indonesian migrant workers and the government, both Indonesia and Malaysia to build a legal compliance base. For user Indonesian migrant workers who commit violence, it must be treated with strict rules and thus the illegal Indonesian migrant workers who do violate the laws must also be treated with strict regulations. And on the other side, the government must carry out comprehensive

information about the handling of Indonesian migrant workers so as not to make mistakes in the country. The government needs to map the origins of Indonesian migrant workers, especially those that are illegal and thus will be known with certainty about them. In this way, socialization, communication, and education will be done appropriately.

3. Economic protection

The employment opportunity in Indonesia is minimal, especially for the low-educated society. They are willing to get out of their country to try their luck with other workers. Indonesian workers who are abroad and get success will make their families get happiness because for them by working abroad will be high income, and this is something to be proud of in increasing the degree and social status of their families. The issue of Indonesian labor in Malaysia seems endless when employment opportunities in Indonesia are minimal. Working abroad, including in Malaysia, is an attractive choice for some job seekers in Indonesia. In this case, the state also benefited from being one of the contributors to the country's foreign exchange through remittances.

The most important goal of community development is people's welfare, including labor. Workers as development implementers so must be guaranteed their rights, regulate their obligations and develop their usefulness. Problems violations of human rights against migrant workers are contributed cause the weakness dimensions on implementing protection regulation on policy. Many the number of infringements provisions of the placement and protection of Indonesian workers abroad Law by various individuals, government and private agency. (Republik, 2015)

In law, workers must also get equality in obtaining protection and defense when experiencing problems or being detained also imprisoned. Power of the role of the state at the central and regional levels demonstrates the country's

commitment to protecting workers and respect for human rights. With the prominent task of the state, it will minimize exploitative actions that have been carried out by the private sector to get maximum profits. The dominance of the part of the private sector in the management of migrant workers makes Indonesian workers in situations that are vulnerable to human rights violations. The Ministry of Manpower and the police so intensify sudden inspections and raids in the holding of illegal Indonesian workers especially in the greater Jakarta area. Hopefully the local government will also do the same thing, because the government cannot monitor the existence of Illegal workers in Malaysia when he is still alive and working. Most government will see when he has died and know that news from the mass media and social media. (Nola, 2017)

Protection and the problems labor informal abroad the provision of security by the state to its people is an obligation as mandated by the constitution, in the opening the law of 1945, its fourth line mention of;

"Later than it to form an Indonesian state that protects all the people you from your Indonesia and all Indonesia and to educate the advancement of general welfare nation, and to carry out the world order that is based upon independence, and social justice."

The word protect all the people of Indonesia has meaning and understanding of being very deep, meaning protect is the protection of the individual citizen in all aspects of life from the oppression and exploitation from other parties, while a shield is keeping and provide the opportunity to obtain experience and livelihood as full as worth as human beings

To give a decent livelihood than the government or the state following the message of article 33 verse (3) the constitution 1945 given rights and the full authority over Indonesian natural wealth (Earth, water and anything in it) that used to the public interest and public welfare. Wide as possible

Further, as an effort to give a decent livelihood by the state to its people, the constitution dictates in article 27 verse (2) that; "every citizen is entitled to a job and a decent livelihood for humanity" There are two key words orders in that sentence. First, the state provides jobs and provides a decent livelihood. Provide employment opportunities is an order the constitution to be held by countries that in this case is the government, provide employment opportunities by government to facilitate a fair employment opportunities for the community and the workforce or the community working age or the government open job openings for to work as the government civil servant, employees, and others. With it working its directly or indirectly will be fulfilled the life which they deserve or appropriate minimum living standard.

Second, the livelihood of humanity in full gave the government a decent livelihood when it cannot own. The responsibility of the government of giving in means was not immediately interpreted as responsibility literally, but it is a more social responsibility, which included the responsibility of the community in general and companies or the business environment that is together in public facilities provided by the government.

The government must ensure that the results of development can be enjoyed by the all of community so that economic disparities can be trimmed. The massive infrastructure development carried out in the last four years is ideally integrated with the empowerment of the lower class community. The leaking of village funds worth trillions of rupiah every year should also be able to alleviate the village from poverty and underdevelopment. If it is approved as a result of a town that depends on the bag of debt, then we will be released from all matters relating to migrant workers. A tragic story like the experienced by migrant workers will not happen again. (Sukwika, 2018)

To minimize the economic category such as the lack of employers in providing salary wages, Indonesia and Malaysia have agreed on the contents of the MoU in Article

5.3 which reads "Service users must pay monthly wages according to the terms of the work agreement provisions in the amount determined by the market mechanism with pay attention to the wage range agreed by the parties by making the Mutual Recognition Arrangement. (Listed in the attachment amending protocol MoU 2011 Article 5.3 paragraph "A" (iii) page 3) (Malaysia A. , 2011)

C. The Impact of Indonesia's protection policy strategy

Policies and the role of the government are critical in regulating the course of sending migrant workers to Malaysia. The central government's policy regarding posting migrant workers to Malaysia is a form of communication made by the government as a form of response to problems that occur and in response to feedback caused by the public concerned. Regulations in Indonesia regarding the sending of migrant workers must be following government regulations, namely under the Law. (Trimayuni, 2006)

These policies certainly play an essential role in contributing to the better protection of migrant workers in Indonesia, but because all of these policies have not been optimal in providing security to migrant workers, there are still many people who argue that protection for Indonesian Migrant Workers abroad still weak.

Fundamental problems Indonesian migrant workers have become government homework that is not easy to solve in a short time. The multidimensional problem of the nation has become a barrier as well as a challenge for the government to find a solution for the welfare of all levels of society, including Indonesian migrant workers in Malaysia. There have been many programs conducted by the Government of Indonesia including the Indonesian Embassy in Malaysia on the supervision of Indonesian migrant workers so that they are not become victims of torture by their employers or at least do not allow problems to increase and always try to reduce problems that exist.

Such as in the form of a Joint task force that made progress that many Indonesian migrant workers who are illegal or

undocumented are now registered and can be fought for diplomacy by the government on finding a solution so that they can get rights and justice for creating a document so that can become a legal worker. In addition, the plan to make cooperation in sending workers through one door, namely the official government and more selective delivery also makes the agent sending illegal labor services or whose legal origin but has become invalid because the license has expired, almost extinct, even by urging Malaysia with a moratorium Indonesian migrant workers, make Malaysia sign the MoU, and Indonesian migrant human rights more secure.