



Legal Protection For Indonesian Migrant Workers From a Criminal Act of Trafficking

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Abstract

Violations committed by private worker placement companies in deploying ineligible, illegal and/or non-procedural workers abroad can lead to a criminal act of Trafficking in Persons. Required procedures of Indonesian workers placement to foreign countries based on Law No. 39 of 2004 were not properly conducted, and accordingly, as prescribed in the provisions of Law No. 39 of 2004, such action is potential to be classified as criminal acts of human trafficking. Legal protection for Indonesian workers who are assigned overseas is of preventive form, that is legal protection provided starting from the pre-placement period: placement period, up to a post-placement period; and repressive legal protection, the protection granted through deliberation, but if an opportune agreement cannot be reached through deliberation, the settlement can be done through court institution.

Keywords: Human Trafficking; Indonesian Migrant Workers; Legal Protection

INTRODUCTION

Temporary workers have become increasingly important in developed economies such as Germany, Spain, France, and Japan. Facing global competition from low-wage countries, firms in developed economies seek to reduce costs, including labor costs. Hiring temporary workers is one strategy for reducing labor costs (Tanaka, 2017). Foreign firms are generally less labor intensive than national firms, a higher presence of foreign firms could reduce labor demand in business services (Latorre, 2016). Foreign-born workers have been shown to experience poorer working conditions than native born workers (Dunlavy, Garcy, & Rostila, 2016). Multinationals, which usually carry superior technology, may generate a positive technology spillover to domestic firms through several channels (Chen, Ge, & Lai, 2011). Unionization rates in the formal sector, and in particular in foreign-owned firms, are high (Waldkirch & Ofosu, 2010). Construction is one of the most significant industries in terms of contribution to gross domestic product (GDP) in most industrial countries (Korkmaz & Park, 2018). The literature on the employment effects of buyouts has found mixed effects on net employment at the firm level (Olsson & Tåg, 2018).

Trafficking in persons for labour is a tremendous problem in quality and quantity. Unemployment and lack of employment availability are still prevalent problems for the people of Indonesia. This occurs due to the high growth of the workforce which is not balanced with the government's ability to provide employment. The meaning and significance of work for everyone is reflected in Article 27 paragraph (2) of the Constitution of the Republic of Indonesia which states that "each citizen is entitled to obtain work and livelihoods that are appropriate for humanity". However, limited number of jobs in the

country has caused more Indonesian citizens to seek work abroad¹.

Problems related to Indonesian migrant workers who work abroad further add to the burden of employment problems in Indonesia. Some of the problems are, among other things, violations committed by companies that deploy Indonesian migrant workers abroad without meeting the requirements, migrant workers placement that does not comply with salary standard because they do not regard to the agreed contract of service, violence against the labours, sexual harassment, and illegal workers². As a result, Indonesian migrant workers (Indonesian term is *TKI*) abroad are exploited as objects of trafficking in persons, arbitrariness, criminal acts on human rank and dignity, as well as other treatments violating human rights. In fact, it is affirmed that Indonesian state shall guarantee and protect the human rights of its citizens, both at home and abroad, social justice, gender justice and equality, anti-discrimination, and anti-human trafficking. Such an act of uncommendable labours exploitation is an arbitrary act against citizens in the absence of clear wage provisions; unsuitable working conditions; the absence of protection and else; the workers do forced work. The cases continue to happen and generate profits for traffickers. The system of implementing trafficking in person is that workers who are targeted as trafficking crimes are deployed abroad, and after arriving in the destination, the relationship between smuggler and migrant ends. Crossing national borders is considered as an activity of out and in around the market, so that it is arbitrarily and illegally carried out. As for commercial advantage for traffickers is sourced from the exploitation of the victims, which in this case are migrant workers. Smuggler benefits come from the payment of the migrants in sending them to the designated destination, to be made into slaves.

Virtually, as prescribed in Article 10 of Law No. 39 of 2004 concerning the Placement and Protection of Indonesian Overseas Migrant Workers, the deployment of overseas Indonesian migrant workers is executed by the Government and the Private Placement Agency of Indonesian Migrant workers (*PPTKIS*). The Placement of the workers by the *PPTKIS* carried out on the basis that the *PPTKIS* is legally and governmentally entitled to prepare and guarantee the work agreements that shall be signed by the *TKI* prior to departure to the destination country, was not clearly conducted. The validity of the work agreement lies in the agreement and the signing of a work agreement by the worker and the employer even though it is not in the presence of a particular agency official.

The placement of overseas Indonesian migrant workers shall be done in two ways, namely procedurally and non-procedurally. Non-procedurally, the placement of overseas Indonesian workers may result in criminal acts of trafficking (TPPO). Trafficking in Persons is regulated in Indonesian Act No. 21 of 2007 concerning the Eradication of Criminal Act of Trafficking in human. The occurrence of trafficking is inseparable to the presence of a victim who is perfectly understood as a subject who needs to be protected both socially and legally. Basically, victims are persons, either as individuals, groups or communities who have suffered losses, who have been directly disturbed by their experience as targets of crime³.

In some cases of criminal trafficking in persons, the issue of protection of victims is often ignored by the legal apparatus and by the community itself. In fact, the protection for the victims of trafficking is an action that shall be done urgently given the importance of protecting human rights as God's creature who have a higher degree and dignity than other creations. Protection of Indonesian migrant workers in the overseas in addition to using legal facilities can also be executed by holding diplomatic cooperation on employment. This method will work more efficiently and effectively and is easy to do because it is political. In addition, to do this, what is needed is the existence of good relations between countries.

Such aforementioned dreadful facts of criminal acts for human trafficking has inspired the present researcher to carry out an investigation to review the empirical facts of the

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1. Andi, *Himpunan Lengkap Undang-undang Perburuhan, Penjelasan Umum Undang-undang Nomor 39 tahun 2004 tentang Penempatan dan Perlindungan TKI di Luar Negeri*, Yogyakarta, 2006, p. 298.
 2. Ine Ventyrina, *Perlindungan Hukum Terhadap Tenaga Kerja Indonesia Sektor Pembantu Rumah Tangga di Luar Negeri Bagian II*, <http://Hukum.Kompasiana.com/>, accessed on Sunday, May 7, 2017.
 3. Chaerudin & Syarif Fadillah, 2004, *Korban Kejahatan Dalam Perspektif Viktimologi dan Hukum Pidana Islam*, Grhadhika Press, Jakarta, p. 3.

implemetation of overseas Indonesian migrant workers placement and to reveal the exisiting legal protection for the migrant workers as an effort to prevent and to eradicate criminal acts of traffickig in person in the process of overseas workers deployment.

METHOD

This study focused on examining the obscurity of unclear norms of law in Article 55 of Indonesian Act Number 39 of 2004 concerning Placement and Protection of Overseas Indonesian Migrant Workers and Article 54 of Act Number 21 of 2007 concerning Eradication of Criminal Act of Trafficking in Person. The research made use of Juridical-Normative research method. The approaches followed were statute approach and conceptual approach. The technique data collection used was designed through literature study conduction. Collection of legal materials was done in inventory procedure, realized in studying and exploing primary, secondary and tertiary legal materials related to this study. Data analysis was carried out using an interpretation analysis method assisted with secondary material obtained, and then explained with legal argumentation.

RESULTS AND DISCUSSION

Procedure for Placement of Indonesian Migrant Workers and Issues of Trafficking in Persons in the Placement and Protection Process for the Workers Overseas

Regulation of the Placement of Indonesian Migrant Workers Overseas

Provisions on the placement of Indonesian migrant workers are regulated in Law No. 39 of 2004 concerning Placement and Protection of Overseas Indonesian Migrant Workers. It is stipulated that worker placement is the service activities to introduce worker according to his/her talent, interest, and ability to Employer in foreign country that covers the entire process of recruitment, document handling, education and training, accommodation, departure preparation, departure to the destination country, and returning from the destination country⁴. Additionally, it is determined in Article 2 of Act Number 39 of 2004 concerning the Placement and Protection of Overseas Indonesian Migrant Workers that the placement and protection for prospective worker/worker shall be based on integrity, equality, democracy, social justice, gender equivalent and justice, non-discrimination, as well as anti-human trafficking. Protection of Indonesian Workers provided by the government in the context of placement of Indonesian workers abroad starts from pre-placement period, during placement, until post-placement period. It is as mandated in Article 77 of Act Number 39 of 2004 concerning the Placement and Protection of Indonesian Migrant Workers Overseas as follows:

1. Every prospective worker has right to obtain protection according to the prevailing worker regulations.
2. Protection as stated in paragraph (1) carried out from pre placement, during placement, until post placement.

According to Law No. 39 of 2004 concerning the Placement and Protection of Overseas Indonesian Migrant Workers, every prospective migrant worker who will register to work in overseas shall take a prescribed procedure. The implementation of the placement of Indonesian migrant workers overseas Article 10 of Act Number 39 of 2004 concerning Placement and Protection of Overseas Indonesian Migrant Workers can be done by:

a. Government

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3. Purnamasari, Irma Devita. 2012. *Hukum Jaminan Perbankan*. Bandung: Kaifa.
 4. Kamelo, Tan. 2006. *Hukum Jaminan Fidusia, Suatu Kebutuhan yang Didambakan*. Bandung: Alumni.
 5. Aermadepa, Pendaftaran Jaminan Fidusia, Masalah dan Dilema Dalam Pelaksanaannya, *Jurnal, Dosen Fakultas Hukum Ummy Solok, Padang*, 2012, Volume 5 Nomor 1, p. 5
 6. Salim HS, 2011, *Op.cit.*, p. 82
 7. Windy Permata Anggun, *Kepastian Hukum Dalam Pemberlakuan Sistem Administrasi Pendaftaran Jaminan Fidusia Secara Elektronik Terkait Dengan Larangan Fidusia Ulang*, *Artikel Ilmiah, Universitas Brawijaya Fakultas Hukum, Malang*, 2014, p. 10-11

b. Private Agency

Worker placement at individual employer should be done through Business Partners in the destination country. Business partners as stated in paragraph (1) should be legal entity established according the regulations in the destination country.

Procedures of Indonesian Migrant Workers Placement Overseas

The placement of Overseas Indonesian Migrant workers is aimed at increasing knowledge and skills for the use of labor in the country and in the future. Stages of placement of Indonesian migrant workers abroad in accordance with Act Number 39 of 2004 concerning Placement and Protection of Indonesian Workers Abroad are:

1. Pre-Placement

According to Article 31 of Law Number 39 of 2004 concerning the Placement and Protection of Indonesian Migrant Workers the pre-placement activities are:

- a. SIP processing;
- b. recruitment and selection;
- c. education and training;
- d. health and psychological examination;
- e. document processing;
- f. competence assessment;
- g. pre-departure training (PAP); and
- h. departure;

2. Placement

- a. Every worker obliges to report his/her arrival to the Representative of the Republic of Indonesia in destination countries.
- b. Obligations to report on the arrival as stated in paragraph (1) for works at individual Employers carried out by the private agency.

3. Post Placement

- a. Every worker who will return to Indonesia obliged to report his/her returning to the Representative of the Republic of Indonesia in destination countries.
- b. Reporting for workers who work with individual Employer carried out by private agency.

Modus Operandi of Criminal Act of Human Trafficking toward Overseas Indonesian Migrant Workers

As explained in the previous section, every placement of Indonesian migrant worker abroad must be done through the correct placement procedure and in accordance with the applicable legal regulations, so if it is done, not in accordance with that provision, the action can be a modus operandi of trafficking.

According to the Head of the National Agency for National Placement and Protection of Indonesian Workers (*BNP2TKI*), Nusron Wahid, there are four modus operandi in trafficking in persons, namely⁵:

1. Falsification of documents in the form of identity of Indonesian migrant workers such as age, falsification of government stamps, and falsification of signatures of parents/husbands in terms of giving permission to leave Indonesian workers abroad.
2. The workers are placed initially in countries not affected by the Moratorium such as Bahrain and Qatar. After arriving there, *TKI* is picked up by a fund agency or employer to be employed in other countries such as Saudi Arabia or the United Arab Emirates and is sold at a price of 60 rea, equivalent to Rp. 192 million.

4. Zaeni Asyhadi, 2007, *Hukum Kerja Hukum Ketenagakerjaan Bidang Hubungan Kerja*, PT. Raja Grafindo Persada, Jakarta. p. 218.

5. BNP2TKI, <http://www.bnp2tki.go.id>, accessed November 20, 2017.

3. Workers are dispatched as formal *TKI* with positions such as cleaning service or hospitality, but after they arrived in the destination country, they are employed as domestic helpers.
4. Workers departed through tourist visas and upon arrival at the placement country, there are those who are given temporary residence and even permanent residence sponsorship.

Furthermore, the Head of *BNP2TKI* also explained that recruitment of workers by *PPTKIS* was not procedural. Firstly, it was proven by the absence of a permit document from the District/City Manpower Office. Secondly, it is not followed in the insurance program. Third, the workers do not follow the Overseas Employment Training Center (*BLK-LN*) so that the fingerprints are not recorded in the *BNP2TKI* Computerized Foreign Workers' System (*SISKO-TKLN*) and there are workers who have made passports outside the area such as in Kupang namely Immigration in Batam, and Immigration in West Jakarta.

In accordance with the explanation above, it can be seen that the mode used is done through the recruitment of workers whose identity is falsified, administrative costs by the agent without the calling of a visa by eliminating communication with other parties.

Legal Protection for Indonesian Workers from the Criminal Act of Trafficking in Persons

Preventive Legal Protections

This legal protection is a form of protection that aims to prevent violations. The preventive legal protection referred to in this discussion is the protection of the rights of prospective migrant workers/migrant workers who will work abroad which must be provided by the *PPTKIS* in accordance with the existing legislation. The legal protection provided is starting from the pre-placement period, the placement period until returning to Indonesia, namely post-placement⁶.

Pre-placement

Forms of protection carried out against prospective workers/workers during the pre-placement period are as follows:

- a. Providing complete and correct information about the validity of the *PPTKIS* that will deploy the workers, prospective workers requirements, types of employment opportunities available, working conditions, contract of service, placement fees, and placement procedures;
- b. Prospective migrants workers must understand and comprehend the contents of a contract of service that has been signed before deployment abroad in the presence of an official in charge of the manpower sector;
- c. Issuing Placement Cooperation Agreements, between *PPTKIS* and Business Partners or Employer, containing the rights and obligations of each party and protection of the migrant workers - authorized by the Indonesian Representative;
- d. Legitimation of Real Requests, consisting of job order, demand letter, wakalah visa;
- e. Establishment of a Placement Agreement, between prospective migrant workers and *PPTKIS* which at least includes the type and job description, the deadline for prospective migrant workers, the components and amount of placement fees, the payment of compensation due to cancellation of departure, the rights and obligations of *PPTKIS* and prospective *TKI*, and the requirements work;
- f. Establishment Work Agreements between Indonesian Migrant Workers and Employer, which at least contains the name and address of the employer, the name and address of the migrant worker, the type and job description, the terms of work comprising work time, rest, wages, payment method, overtime pay, leave and social security), the period of employment agreement made in writing in two languages (Indonesian and English/destination language) in triplicate (for wokers, employer and *PPTKI*) as well as copies of

6. *BNP2TKI*, <http://www.bnp2tki.go.id/berita-mainmenu-231/6385-sop-perlindungan-tki-2012-diperkuat-layanan-pengaduan-dipercepat.html>, accessed March 19, 2017.

- the original documents submitted to local *BP3TKI* (Centre for Placement and Protection Services for Indonesian Workers) and Indonesian Representatives in destination countries;
- g. Health and psychological examination to ensure the health and psychological conditions of prospective migrant workers, whether or not are truly healthy;
 - h. Job skills and language skills training according to the destination country;
 - i. Management of complete and valid documents which include Passport, Work Visa, travel ticket, workers savings account;
 - j. Insuring the workers in the insurance protection program for migrant workers;
 - k. Involving Indonesian Migrant Workers in Final Department debriefing (Indonesian term is PAP);
 - l. Providing Foreign Workers Cards to the prospective workers/workers;
 - m. Guidance and Supervision of *PPTKIS* and prospective workers so that the placement process is carried out in accordance with the applicable provisions, as well as taking action against individuals who carry out the process of placing non-procedural workers.

Placement Period

The things that shall be done to protect Indonesian migrant workers during the placement period are:

- a. *PPTKIS*, business partner or employer shall report the arrival and whereabouts of Indonesian migrant workers to Indonesian Representatives;
- b. Conduct a welcoming program and exit program;
- c. Providing opportunities for Indonesian migrants workers to communicate with their families, *PPTKIS* and Indonesian Representatives;
- d. Providing assistance, legal assistance and protection to migrant workers who experience problems with the employer;
- e. Fulfilling the rights of Indonesian migrant workers in accordance with contract of service;
- f. Providing guidance for Indonesian migrant workers so as not to take action or matters that are contrary to the rules and customs of the destination country;
- g. The workers must understand how to solve the problems they face;
- h. Business partner or employer report to ratify the extension of the contract of service to the Indonesian representative if the workers are willing to extend the work agreement;
- i. Remittances (sending money to the country of origin);
- j. *PPTKIS* together with the agency are obliged to monitor the development of the presence of Indonesian migrant workers.

Post-Placement

The things that shall be done for the protection of Indonesian migrant workers who end their working period are:

- a. A worker himself or with the help of employer/business partner reports the end of the work agreement and the return of Indonesian migrant workers to the Indonesian Representative;
- b. Employer or business partner shall take the migrant workers to local airport and finance their return to Indonesia;
- c. *PPTKIS* reports the return of Indonesian migrant workers to *BNP2TKI*, because the contract of service ends, has an accident/is sick/passed away, and/or is problematic;
- d. The *PPTKIS* is responsible for returning the workers to their home city, but the Government has the right to regulate their return and to make service posts of their return to every debarkation;
- e. *PPTKIS* is responsible for the rights of Indonesian migrant workers who have not been

- fulfilled by employers during the contract of service;
- f. The return of migrant workers from the debarkation terminal/airport/port is carried out by the Indonesian Migrant Worker Return Service Post, specifically for the central level by the *Selapajang TKI BPK*, through guidance, data collection, handling problems, illness, leave, death, and delivery to the area of origin;
 - g. Safeguarding the return of Indonesian migrant workers is done since the migrant workers are debarked to the area of origin by providing information about migrant worker return procedures and complaint procedures, receiving complaints if the migrant workers experience problems during their return or while in debarkation, as well as taking action against individuals who harm the migrant workers;
 - h. In employing the full-time Indonesian migrant workers, things that shall be done are to record and map the end of contract of service of Indonesian migrant workers; to provide guidance in the rehabilitation of post-problematic Indonesian migrant workers; to foster the promotion of full *TKI* associations, as well as to full talks and expo of Indonesian migrant workers. These activities shall be carried out in the area of origin of Indonesian migrant workers and in the presence of the full-time migrant workers. The implementation is coordinated with relevant agencies/institutions in the province, district/city, sub-district and village.

Repressive Legal Protection

Legal protection in this form usually aims to overcome and resolve disputes between *TKI* and *PPTKIS* regarding the implementation of the placement agreement. In addition, In addition, this legal protection also provides a real action for the agencies who is proven to have committed a violation and allows it to cause harm to other parties⁷.

Subsequent to the signing of the placement agreement is finished and if there is a dispute between workers and *PPTKIS* regarding the implementation of the placement agreement, both parties shall resolve the case in deliberation. However, if peace through deliberation could not be achieved, based on Article 85 paragraph (1) and paragraph (2) of Act Number 39 of 2004 concerning Placement and Protection of Overseas Indonesian Migrant Workers, both parties is permitted to request assistance from the local Manpower Office for resolving the dispute. If one party is proven to have committed a violation in the placement agreement between th workers and *PPTKIS* , the party shall be subject to sanctions in the form of administrative sanctions and criminal sanctions.

Administrative sanctions based on Act No. 39 of 2004 concerning the Placement and Protection of Indonesian Workers Abroad, in Article 100 paragraph (2) are:

- a. Written reprimand;
- b. Temporary termination a part of all worker placement activities;
- c. Permit revocation;
- d. Prospective worker embarkation cancellation; and/or
- e. Returning worker from abroad with its own cost;

Meanwhile, criminal sanctions in Act No. 39 of 2004 concerning the Placement and Protection of Indonesian Migrant Workers Abroad are stipulated in Article 104, namely:

1. Sentenced in jail minimum 1 (one) month and maximum 1 (one) year and/or fined at minimum Rp. 1.00.000.000,00 (one hundred million rupiah) and maximum Rp. 1.000.000.000.00 (one billion rupiah) every person who:
 - a. Places worker not through Business Partners as required in Article 24;
 - b. places worker abroad for company itself without written permit from Minister as stated in Article 26 paragraph (1);
 - c. employs prospective worker who taking part in education and training as stated in Article 46;
 - d. places workers abroad who not possess KTKLN as stated in Article 64; or

7. *Ibid*

e. not depart workers abroad who have fulfilled completed document as stated in Article 67;

2. Criminal acts as stated in paragraph (1) as non-criminal act.

Criminal sanctions applied in this Article are sanctions that are ultimum remedium, namely the last attempt if administrative sanctions cannot be applied.

In addition, according to the provisions of Article 11 paragraph (3) and (4) of the Republic of Indonesia Government Regulation Number 4 of 2015 concerning Supervision of the Implementation of Placement and Protection of Indonesian Migrant Workers Abroad, there are 2 stages of implementing repressive legal protection, namely the settlement outside the court institution and the settlement through court institution.

Government's Effort in Eradicating Criminal Act of Trafficking in Person against Indonesian Migrant Workers

In order to eradicate the criminal act of trafficking in persons against Indonesian migrant workers, an important role of Indonesian government is unavoidably required. This is urgent given the intensity of crime that occurs with that of the form of trafficking in persons is transnational organized crime. Thus, the government plays crucial role to be responsible for protecting its citizens.

Government efforts to protect labor migrants from criminal act of trafficking in persons are set forth in Article 19 and Article 21 of Act Number 37 of 1999 concerning Foreign Relation.

Article 19 of Act Number 37 of 1999 concerning Foreign Relations states that:

Missions of the Republic of Indonesia are obliged to:

1. Foster unity and harmony amongst Indonesia citizens abroad;
2. Provide sense of security, protection, and legal aid to Indonesian citizens and Indonesian legal bodies abroad, in conformity with national legislation and international law and practice.

Meanwhile, Article 21 of Act Number 37 of 1999 concerning Foreign Relations states that:

"In the case where Indonesian citizens are threatened with real danger, the Mission of the Republic of Indonesia is obliged to provide protection and assistance and to assemble said citizens in a safe area, as well as to endeavor to repatriate them to Indonesia at the expense of the state."

Government efforts in protecting Indonesian migrant workers are also contained in Article 7 letter e of Law Number 39 of 2004 concerning Placement and Protection of Indonesian Workers Abroad, in which the article states that:

"Government shall protect the workers during the period pre departure, during placement and post placement"

Concrete steps must be taken by the government as an effort to protect the law against Indonesian labor migrants. Legal protection by the government is emphasized on elements positioning the government as the holder of sovereignty. Hence, the legal protection provided by the government to citizens can be seen in legal instruments and policies issued by the government⁸. Likewise, legal instruments and policies issued by the government to protect labor migrants, as its citizens working abroad. The protection provided can be in the form of health services, counseling, administrative assistance, advocacy, as well as providing safe shelter and seeking to return them to their home areas.

In Article 5 paragraph (1) of Law Number 39 of 2004 concerning Placement and Protection of Indonesian Workers Abroad stipulated:

1. The Government shall arrange, develop, implement, and control the placement and

8. Kurniawan, 2010, *Kedudukan dan Kekuatan Putusan Badan Penyelesaian Sengketa Konsumen (BPSK) Dalam Menjamin Perlindungan Bagi Konsumen*, Disertasi, Universitas Brawidjaja, Malang, p. 35-36.

protection worker abroad.

2. In conducting the duties as stated in paragraph (1), the Government may delegate a part of its authority and/or delegate duties to Local Administration in accordance with regulations.

Government's efforts to address the problem of trafficking can be executed by strengthening the prevention and handling task force, including by improving the protection system for Indonesian migrant workers who will be placed abroad. So far, some cases of trafficking are carried out with the mode of deploying the migrant workers. In addition, the government must also strengthen the network to handle the criminal act of trafficking in persons by cooperating with the government, the public and the private sector.

Prevention of Criminal Act of Trafficking in Persons against Indonesian Migrant Workers

Prevention of criminal acts of trafficking in persons is a social strategy. Therefore, a criminal policy whose purpose is to reduce crime and fulfill a sense of justice for the community is absolutely necessary. Prevention of such criminal acts can be done in several ways, such as, firstly, mapping the criminal acts of trafficking in Indonesia, both for domestic and foreign purposes; secondly, enhancing public education, especially alternative education for women, including educational infrastructure; thirdly, increasing public knowledge through providing the widest information about the crime of trafficking in persons along with all aspects related to it; and fourth, there must be efforts to ensure accessibility for families to obtain education, training, increase in income and social services.

To suppress and even eliminate migration practices for Indonesian citizens to become workers abroad and to deter masked traffickers, there are steps that need to be taken, namely⁹:

1. Economic empowerment of rural communities, especially in areas that have been the source of Indonesian migrant workers abroad. This village economic empowerment can take the form of capital injections from the government for people who want to be entrepreneurs, make crafts, and so on. The government is also a law that must conduct training and entrepreneurial education, including the jasmine of the community to build cooperatives.
2. The government continues to campaign on the importance of society, especially women, not to marry at a young age.
3. Firm law enforcement
4. The Ministry of Manpower and the National Agency for Placement and Protection of Indonesian Migrant Workers (*BNP2TKI*) must continue to be assertive towards mischievous recruitment agencies. The names of the *PPTKIS* whose licenses have been revoked must also be announced in the mass media, if necessary advertised.
5. Serving prospective migrant workers and migrant workers who are still abroad online. Such service can prevent fraud on migrant workers abroad, both as migrant workers who work in the formal sector and those who work in the domestic worker sector.

Regarding the legal protection of Indonesian migrant workers who work abroad, if it is related to Hadjon's legal protection theory, legal protection for the people is a preventive and repressive government action. Preventive legal protection is aimed at preventing the occurrence of disputes, which directs government actions that are cautious in decision-making based on discretion, whereas repressive legal protection is aimed at preventing disputes occurrence and their handling is carried out in the court institutions. In conclusion, migrant workers who work abroad should be provided with protection from pre-placement, placement period and post-placement to prevent the occurrence of trafficking in persons in the process of placing the migrant workers abroad.

The placement and protection of Indonesian migrant workers, if viewed from John Rawls's theory of justice, can be solved so that they can guarantee the maximum protection for Indonesian workers who work abroad. In his theory, Rawls argues that there are things

9. S. Edi Hardum, *Op. Cit.* p. 134-137.

that are solutions to the problem of justice. One of the things referred to here is that of the difference principle, namely: *social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone's advantage, and (b) attached to positions and offices open to all*¹⁰. Thus, the migrant workers who work abroad in general, who in economic terms, have limitations are expected to be able to change their destiny by becoming migrant workers abroad and can generate dollars to be able to get a better life and future. For this reason, the government is expected to provide protection and make rules that are beneficial for Indonesian migrants workers who are disadvantaged from the economic side.

CONCLUSION

Grouped the above-described results of data analysis and discussion of the main problems in this study, conclusions can be drawn as follows.

Firstly, the implementation of the placement of Indonesian migrant workers abroad is very vulnerable to become a place for trafficking in persons. Crime of trafficking in persons is carried out covertly by labeling or sending prospective workers or workers. The criminal act was carried out by masked individuals against Indonesian labor migrants who had economic limitations and lack of insight so that they were easily persuaded, deceived, and exploited.

Secondly, The forms of legal protection as an effort to prevent and eradicate the criminal act of trafficking in Indonesian Migrant Workers in the process of placement of migrant workers abroad, comprise preventive legal protection, namely legal protection provided starting from the period of pre-placement, placement period, post-placement and repressive legal protection, which is done through deliberation, but if the peace through this channel could not be reached, the settlement can be done through a court institution.

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