

RINGKASAN

Yoga Khirari Haggai, Hukum Perburuhan, Fakultas Hukum, Universitas Brawijaya, Juni 2016, Moratorium Sebagai Upaya Perlindungan Hukum Terhadap Tenaga Kerja Indonesia Bidang Penata Laksana Rumah Tangga Yang Bekerja Di Arab Saudi, Ikaningtyas, SH., LL.M., Ratih Dheviana Puru HT., SH., LL.M.

Dalam skripsi ini, penulis meneliti tentang kebijakan pemerintah tentang perlindungan hukum TKI melalui perlindungan hukum bersifat Represif/Kuratif dengan cara melakukan penghentian pengiriman dan penempatan TKI (moratorium) ke Arab Saudi guna mengurangi permasalahan terhadap TKI di Arab Saudi. Keberadaan *Memorandum of Understanding* (MoU) masih belum dapat mencegah perlakuan sang majikan/pihak-pihak yang tidak bertanggung jawab terhadap TKI terlebih PLRT yang bertindak sewenang-wenang, sehingga pemerintah Indonesia melayangkan kebijakan moratorium TKI terhadap Arab Saudi guna mengurangi permasalahan seperti penganiayaan, pelecehan seksual, kekerasan, perjanjian yang tidak sesuai Perjanjian Kerja dan hal-hal lainnya yang menciderai hak-hak TKI tersebut serta memperbaiki SDM dan pembenahan peraturan perundang-undangan yang mengatur tentang perlindungan TKI. Dengan berdasarkan Undang-Undang 39 Tahun 2004 tentang Perlindungan Penempatan Tenaga Kerja Indonesia di Luar Negeri serta Peraturan Pemerintah Nomor 3 Tahun 2013 tentang Perlindungan Tenaga Kerja Indonesia di Luar Negeri

dimana secara umum peraturan perundang-undangan tersebut berisikan tentang upaya perlindungan hukum TKI yang dilakukan oleh pemerintah baik saat masa pra-penempatan, masa penempatan dan pasca penempatan hingga sampai moratorium TKI. Dalam hal ini TKI yang bekerja pada sektor informal seperti PLRT memiliki kekurangan dalam hal pengetahuan serta kesadaran akan hukum.

Berdasarkan hal tersebut diatas, karya tulis ini mengangkat rumusan masalah: (1) Bagaimana pengaturan perlindungan hukum terhadap TKI Bidang PLRT yang bekerja di Arab Saudi menurut peraturan Perundang-undangan yang terkait? (2) Apakah moratorium tenaga kerja Indonesia bidang penata laksana rumah tangga di Arab Saudi dapat dikategorikan sebagai wujud perlindungan hukum terhadap keselamatan TKI?

Kemudian penulis menggunakan metode yuridis normatif yaitu dengan peraturan perundang-undangan yang berlaku khususnya mengenai perlindungan hukum TKI dan dasar moratorium TKI diberlakukan, dengan Pendekatan perundang undangan (*statute approach*) dan Pendekatan Analitis (*Analytical Approach*). Bahan hukum primer berupa peraturan perundang-undangan dan bahan hukum sekunder diperoleh dari segala referensi yang mendukung dan memperjelas bahan hukum primer diatas, seperti buku, makalah, jurnal, internet, dan lain sebagainya. Bahan hukum tersier berupa petunjuk atau penjelasan bermakna terhadap bahan hukum premier dan hukum sekunder, seperti kamus dan ensiklopedia dan seperti kamus besar bahasa Indonesia.

Hasil penelitian dengan metode diatas, penulis memperoleh jawaban atas permasalahan yang ada. Bahwa perlindungan hukum terhadap TKI telah diatur jelas didalam peraturan perundang-undangan baik dari lingkup nasional maupun lingkup internasional. Seperti perlindungan yang terdapat dalam hukum nasional dimana perlindungan hukum TKI wajib dilakukan saat masa pra-penempatan, masa penempatan dan masa pasca penempatan bahkan dalam hal memberhentikan pengiriman TKI ke negara tujuan guna menyelesaikan dan mencegah timbulnya permasalahan antar TKI dan majikan ataupun pihak ketiga lainnya. Sama halnya seperti peraturan nasional, peraturan perundang-undangan internasional pun melindungi hak-hak TKI baik dari hak atas persamaan, rasa keadilan, merasa aman, kebebasan pribadi, kesejahteraan dan lain sebagainya. Selain itu kebijakan yang dilakukan pemerintah seperti kebijakan moratorium TKI adalah hal yang dapat dikatakan perlindungan hukum terhadap TKI bersifat Represif, dimana pemerintah berusaha untuk menyelesaikan permasalahan yang ada terlebih dahulu di bidang ketenagakerjaan terlebih TKI sektor informal yaitu PLRT sesuai dengan peraturan perundang-undangan tentang perlindungan TKI di luar negeri, agar terlihat sifat yang saling mengikat antara peraturan perundang-undangan dengan pihak-pihak yang bertanggung jawab di bidang TKI.

Kesimpulan dari pembahasan tersebut adalah bahwa perlindungan hukum terhadap TKI dibagi menjadi dua bagian yaitu nasional maupun internasional, baik dari saat pra-penempatan, penempatan maupun pasca penempatan serta dari segi sudut pandang hak-hak TKI tersebut. Pemberian

perlindungan terhadap keselamatan dan hak-hak asasi TKI di negara lain harus dijamin keberlangsungannya untuk menghindari tindakan yang tidak nyaman dari pihak-pihak yang berada di negara tempat para TKI itu bekerja. Selain itu, untuk memenuhi kebutuhan perlindungan hukum atas hak dan kewajiban para TKI pemerintah Indonesia wajib membenahi aturan-aturan yang mengatur tentang perlindungan TKI agar lebih terinci, efektif dan tepat sasaran, serta adanya kerja sama diantara pihak-pihak yang wajib bertanggung jawab baik itu dari TKI sendiri maupun majikan dan pihak lainnya yg berada di Indonesia maupun di Arab Saudi.



SUMMARY

Yoga Khirari Haggai, Labour Law, Faculty of Law, University of Brawijaya, June 2016, Moratorium As a Legal Protection Efforts Against Indonesian Labor Safety in the Sector of Domestic Helpers Who Works In Saudi Arabia, Ikaningtyas, SH., LL.M., Ratih Dheviana Puru HT., SH., LL.M.

In this minor thesis, the writer examined the government's policy on the protection of migrant workers laws through the legal protection in a form of repressive / curative by conducting cessation of delivery and placement of migrant workers (moratorium) to Saudi Arabia in order to reduce the problems of migrant workers in Saudi Arabia. The presence of Memorandum of Understanding (MoU) still cannot prevent the treatment of the employer / parties who are not responsible for the migrant workers especially PLRT who act arbitrarily, thus the Indonesian government sent a moratorium regulation of migrant workers to Saudi Arabia in order to reduce problems such as abuse, sexual harassment, violence, agreements that do not fit to Employment agreement and other things that damage the rights of the migrant workers and improve human resources and improvement of legislation governing the protection of migrant workers. By basing on Law 39 of 2004 on the Protection of Placement of Indonesian Workers Abroad and Government Regulation No. 3 of 2013 on the Protection of Indonesian Workers Abroad where in general the legislation that contains the legal protection efforts to migrant workers conducted by the government both at the pre-placement, placement and post placement period up until the moratorium of the migrant workers. In this case the migrant workers who work in the

informal sector such as PLRT has shortcomings in terms of knowledge and awareness of law.

Based on the above matters, this paper raised the formulation of the problem as follows: (1) how are the legal protection of migrant workers in the sector of PLRT working in Saudi Arabia according to regulations of legislation related? (2) Does the Indonesian labor moratorium in the sector of Housemaid in Saudi Arabia can be categorized as a form of legal protection for the safety of migrant workers?

Then the writer used normative juridical method namely with the regulations of legislation applied especially corresponding to the legal protection of migrant workers and base of migrant workers moratorium applied, with an approach of statute and analytical approach. Primary law materials were the regulations of legislation and secondary law materials were obtained from any references supporting and make clear the primary law abovementioned, such as books, magazines, journals, internet, and others. Tertiary law materials were directions or explanation against primary law materials and secondary law, such as dictionaries and encyclopedia and great dictionary of Bahasa Indonesia.

The results of this research with the method above, the writer gained answers towards the presence issue. That the law protection against migrant workers have been regulated clearly in the regulations of legislation either from national scope or international scope. Such as the protection contained in national law where the protection of migrant workers shall be done during pre-replacement, period of placement and period of post-placement even in terms of stopping the deliveries of migrant workers to the targeted state in order to settle and prevent the occurrence of issues among the migrant workers and other third parties. Just as

national legislation, international legislation also protects the rights of migrant workers either from the right to equality, fairness, feel secure, personal freedom, welfare and so forth. In addition, the policy conducted by the government such as the moratorium of TKI is a thing that can be said of legal protection of migrant workers to be repressive, which the government tried to resolve the existing problems in advance in the field of employment especially TKI in informal sector namely PLRT in accordance with the legislation on the protection of migrant workers abroad, to make it look interlocking between the legislation by the parties responsible for migrant workers.

The conclusion of this discussion is that the legal protection of migrant workers is divided into two parts nationally and internationally, both during pre-placement, placement and post placement as well as in terms of the standpoint of the rights of migrant workers. Provision of safety and protection of the rights of migrant workers in other countries must be guaranteed sustainability in order to avoid uncomfortable actions of the parties in a country where the migrant workers are working. In addition, to meet the needs of the legal protection of the rights and obligations of migrant workers the government of Indonesia is obliged to fix the rules governing the protection of migrant workers to be more detailed, effective and targeted, as well as the cooperation between the parties shall be responsible for both from immigrant workers as well as employers and other parties who are in Indonesia and in Saudi Arabia.