



Legal Protection Against The Implementation Of Policies For Deportation In The Border Areas Of Indonesia.

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ABSTRACT

Indonesia's constitution guarantees the right of citizens of Indonesia (WNI) to get a job and a decent livelihood in accordance with Article 27 Paragraph 2 of the 1945 constitution. The citizens also has the right to seek work anywhere as he wishes. This right cause migration of citizens abroad, especially to the neighboring Country, Malaysia. Unfortunately, many problems arise when they get in Malaysia which then resulted in a lot of citizens who should be deported to the border regions Nunukan Kalimantan Utara. Thus, this study aims to determine the form of the legal protection of the rights of Indonesian citizens who were deported in Kabupaten Nunukan in North Kalimantan Province. Specifically, the objectives are: (1) To determine the form of the legal protection of Indonesian citizens who were deported under the Labour LAW. This research is a legal research then approach the problem used is the method of approach to the law (statute approach), approach cases (cases approach), and a conceptual approach (conceptual approach). The approach of the law performed by means of studying the laws and regulations that still applies in particular in Kabupaten Nunukan in North Kalimantan Province are involved with legal issues. This approach is used to inventory and analyze the legal instruments of the national Indonesia for the rights of Indonesian citizens, especially the rights of Indonesian citizens who were deported. The results of this study are expected later able to provide input to the policy-setting protection strategies for deportan in the border region of Indonesia.

INTRODUCTION

Economic relations of Indonesia is relatively high in the heart of Southeast Asia not being able to maintain the figure is based on the conditions of employment that are still very important to be known up to this moment. Basically, the constitution of benjamin rights of Indonesian citizens (WNI) to find a job anywhere in accordance with its objectives (Article 27, Paragraph 2 Number 39 Year 1999 on the Rights of the Association of Humans).

Rights is in line with Article 23 of the Universal Declaration of Human Rights, namely: *"Everyone is entitled to a job, select the job, enjoy the conditions of work and protection over the threat of unemployment"*.

Such a right is personal freedom which became the fundamental rights (nature basics) that can not be separated (inalienable) and can not be reduced (non-derogable). Up to now, the job market abroad is still a mainstay of Indonesian citizens to find a job especially in the field of semi-

skilled occupations (jobs that require a background in education is low). Thus, this right cause the migration of citizens of the state of Indonesia to the outside country and the majority of this migration is heading to the nearest neighboring countries such as Malaysia. The similarity of language and habits to be the main reasons in choosing Malaysia as a place of Indonesian workers looking for a job. also due to the boundaries of districts and provinces in the country to the neighboring countries (such as Malaysia), which is very easily penetrated with a variety of ways. one of the border is Nunukan in North Kalimantan Province, which bordered directly with the City of Tawau, Sabah, East Malaysia. The Indonesian citizen (WNI) it crosses the border area with a variety of ways both legally and illegally, with a variety of reasons and purposes. Along with this, the many violations committed by CITIZENS, such as for example the CITIZEN who entered the neighboring countries without official document which resulted in the majority of the CITIZENS of this should be deported to the area of the entry point nearby such as Kabupaten Nunukan. Based on data from the Center for Development Research and Information of the National Agency for Placement and Protection of Indonesian Workers (PUSLITFOBNP2TKI), during the year 2010 up to 2013 the number of CITIZENS who reported deported in Nunukan is as much 14.059 people.

The above amounts, not including the CITIZENS who came home in the great outdoors deported or that are not recorded due to go back to Indonesia through traditional port or through the lines of rats which there are many in the border area. Given that the WORKERS are national assets that bring in foreign exchange of the country then the government of Indonesia, both at central and local levels are required to always be ready at any moment if deportation occurs in order to avoid the recurrence of the tragedy of INDONESIANS working in Malaysia in year 2002. Although the government of INDONESIA has issued a variety of legal instruments in an attempt to guarantee and protect the CITIZENS, but the fact is there are still many exploits and abuses experienced by CITIZENS, including the rights of CITIZENS who were deported.

METHOD

Writing this using the method of qualitative analysis-descriptive (descriptive-qualitative). Qualitative studies considered to be more relevant to use to study the problems of the issue the law in this writing, because shades of qualitative research is try to do the construction against the reality of the law and further understand the reality of the law.

Making procedures and data collection in this study conducted in two ways: by studying the literature and interviews with key informants such as lawyers, and prosecutors and service providers finance. Data analysis technique begins with an examination of the data done the collected data then conducts direct and directed interviews and then analyzes the data qualitatively, the data obtained is systematically compiled and then analyzed qualitatively in the form of rules. The process of legal analysis is linked to the theo retical framework to be able to answer the formulation of the problem under study

RESULTS AND DISCUSSION

The protection of the law in the narrow sense is something that is given to the subject of law in the form of the law, both preventive and repressive, as well as in the form of written or not written. In other words, the protection of the law can be interpreted as a description of the function of the law, namely, peace for all human interests that exist in the society so as to create harmony and balance in the life of the community. While the protection of the law in the broad sense is not only given to all living things and all God's creation and be used together in the life of a fair and peaceful. Indonesia is a country that berideologikan Pancasila, then the system of legal protection are adopted should be based on the basis of the State, namely Pancasila.

Protection against labor intended to guarantee the basic rights of workers/laborers and ensure the similarity of opportunity and treatment without discrimination on any ground for the welfare of the workers and their families with regard to the development and progress of the business world. Based on the provisions of the CONSTITUTION of the unitary REPUBLIC of indonesia year 1945 article 27 paragraph 2 of that

every citizen has the right to get a job and a decent living for humanity. Later in the article 28D paragraph 2 of that every citizen has the right to work and got the reward, and fair treatment in employment relations. From the provisions of the formulation in the details can be seen more explicitly in the Law number 13 year 2003 concerning Manpower. The birth of the Legislation is expected to be a guarantee of legal certainty to any employment issues in Indonesia.

Article 4, letter c of LAW No. 13 Year 2003 concerning Manpower "to provide protection to labor in realizing well-being", this article stipulates that every Indonesian citizen has the right to work to support themselves and their families. Article 11 of the Labor LAW No. 13 Year 2003 "Every worker has the right to acquire and/or improve and/or develop the competencies of work in accordance with their talents, interests, abilities through job training", related job training before starting work also provided, in this case through the Center for Service, Placement and Protection of Indonesian Workers (BP3TKI). Skills training given to the deportan this is a step the government to equip them with the keterampilan. The deportan will be given the knowledge of how to become migrant WORKERS are good and also skills related to the field of work that will be practiced.

Article 31 of the Employment Laws "every worker has the same right and opportunity to vote, to get or moved jobs and earn a decent income on the inside or outside of the country. The problem that arises then is when citizens choose to go into labor is illegal. The legal consequences are the events of the deportation by the destination Country.

In three (3) years, according to Mr. Arbain as the Head of the Protection and Empowerment of BP3TKI Kabupaten Nunukan, the number of citizens who are exposed to the repatriation of forced labor or deportation of such a figure indicates a decrease (see Table 5.1). However, this does not indicate the success of government efforts persuasive against citizens who will travel abroad for any reason.

As an example of Nunukan district where research is conducted, there are Services office One Door Integrated under the auspices of the National Agency for the Protection, management and

Placement of Indonesian Workers (BNP3TKI), i.e., the Loss of Services, Placement and Protection of Indonesian Workers (BP3TKI) which is the formal institution established by the government to handle the issue of labor in Indonesia, including when they are subjected to deportation from the Country of destination. Based on the results of the interview the researcher with the Agency for the Coordination And Placement of Indonesian Workers (BP3TKI) in Nunukan regency shows that there are many factors that cause CITIZENS choose to depart illegally compared to depart legally abroad or in this case to Malaysia as a Country that borders with Indonesia and to be the place of destination the largest Indonesian migrant WORKERS. The unavailability of jobs in Indonesia, the factor of the presence of the family in the region of Malaysia is also a major factor. In addition, CITIZENS also depart legally out of the country with a work permit in accordance with the directives of the pemerintah but then after arriving in Malaysia it turns out that choose to work in a company that not be a reference from the BP3TKI, in the sense that is no longer appropriate document keimigrasiannya from Indonesia and eventually deported back to Indonesia.

Deportation proceedings conducted against a citizen of Indonesia, of course, always work together with the Consulate General of Indonesia which is located in a Country Malaysia, parts of the East. After arriving in Indonesia, then they will first received and will be done by logging immigration by immigration authorities and then to the BP3TKI to be fostered. BP3TKI will then perform the identification of problems to the deportan. From the results of the identification problem is found, the deportan asked to determine the choice from the options provided BP3TKI :[7]

- a. Return to hometown;
- b. Finding a job within the state;
- c. Looking for a job abroad or returning to Malaysia;
- d. Work in Nunukan.

The things that are offered to the above often also a range of options/the desire of CITIZENS who were deported. CITIZENS is then a moment will be accommodated sementara time while waiting for the certainty of the return to the hometown or even wait for the process to obtain the document officially for those who want to return to Malaysia to

work similarly, for those who want to work in the country. Figure 3: Flow pick-up CITIZENS who were deported



CONCLUSION

Figure deportan seen decline in recent years, so it can be drawn the conclusion that the institutions had at least succeeded in carrying out the development for the citizens in order to not experience deportation when trying to make a living in the Malaysian state of the eastern part.

The rights of CITIZENS who were deported associated with the LAW No. 13 Year 2003 concerning manpower, has been given by the state in this case related department located in the border region Kabupaten Nunukan in North Kalimantan Province as a representative of the state, namely: (1) MANPOWER. Party MANPOWER, which is headed by Mr. Abdul Munir, ST explains that the MANPOWER authorities to hold while the deportan during your stay in Nunukan and when the deportan back to work both inside and outside the country, especially back to Malaysi. These rights include: pick-up when in deportation, coaching when up in Nunukan Regency, if there is ill will refer to the general hospital of the area, given the cost if you want to return to his native region, given the option to work in Nunukan and so on (See figure 3: Flow Handling CITIZENS are troubled or deported).

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