

INDONESIA STRATEGY OF DIPLOMACY IN PROTECTING FEMALE MIGRANT WORKERS (TKW) IN SAUDI ARABIA DURING THE JOKOWI PERIOD

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ABSTRACT

TKW is an Indonesian resident who meets the prerequisites to work abroad in a business relationship for a certain period. However, there are several problems in the implementation process, such as problems with pre-placement, placement period, and post-placement, which are considered to have many loopholes and are insufficient to protect TKW in Saudi Arabia. This study aims to determine the strategy of Indonesian diplomacy in the protection of Indonesian female workers (Tkw) in Saudi Arabia in the Jokowi era. The study results show that TKW is entitled to protection from their country of origin, namely Indonesia. In addition to the formation of several laws, there are also efforts being made. Such efforts include sending a letter to the King of Saudi Arabia, holding a meeting between the two countries, pleading with Saudi Arabia to protect TKW, who was sentenced to beheading. The request was made not only through letters but also through discussions between the country's two leaders.

Keyword: *Diplomacy, Protection, Female Migrant Worker, Saudi Arabia, Jokowi*

A. INTRODUCTION

The number of tortures against Indonesian migrant workers (TKI) has increased in the last 10 years. The torture that often happens to Indonesian migrant workers abroad is a violation of human rights. So far, there are around 60,000 Indonesian workers (TKI) working in various countries.¹TKI does not escape all kinds of problems, ranging from sexual harassment, harassment, unpaid employer wages to murder (BP2MI, 2020). Seeing these problems, the Jokowi era government issued various policies regarding TKI. For example, by stopping the delivery of workers, the

¹Mutia Rahmi Pratiwi and Amida Yusriana, 'REFLEKSI CITRA INDONESIA SEBAGAI DAMPAK POLITIK MIGRASI TKI KE MALAYSIA', *Jurnal Ilmiah Komunikasi Makna*, 2018 <<https://doi.org/10.30659/jikm.6.1.46-59>>.



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Indonesian government re-implemented several policies under the Joko Widodo government.²

Joko Widodo's promise is a continuation of the previous vice president's statement, Vice President Jusuf Kalla, who hoped to stop sending migrant workers in stages within five years. Based on the Minister of Manpower Decree 260/2015, Joko Widodo implemented a policy of permanently stopping PLRT TKI to 19 countries in the Middle East starting July 1, 2015, and implemented 2 in Saudi Arabia (Publisher 2015).³

Since the Dutch era, even before Indonesia's independence in 1945, the Indonesian people have established close relations with the people of Saudi Arabia (Desty Purwanti, 2013: 21). This relationship is driven by social similarities, common beliefs as followers of Islam so that workers can perform the pilgrimage (Makarim, 2006: 78). Most of the TKI who try their luck in Saudi Arabia work in the informal sector, such as drivers, shopkeepers, flight attendants, and housemaids. According to data from the Indonesian Embassy in Saudi Arabia, the number of Indonesian workers currently working in Saudi Arabia is 650,000, but according to data from the Saudi Arabian government, 900,000 people, including those who do not have work agreements or are illegal.⁴

The concept of security and protection is the same as the scope of a particular area. However, the concept of security and protection today has changed. Now, "personal security" has become a top priority besides national security. Personal security has now become a critical focus and has also attracted international attention. Why? Because personal safety is not necessarily guaranteed by maintaining the boundaries of a country. As long as national security is achieved, personal security can

²Muhamad Fahrudin Yusuf, 'Citra Inferioritas Tenaga Kerja Wanita (TKW) Indonesia Di Saluran Berita Sabq.Org Saudi Arabia', *KOMUNIKA: Jurnal Dakwah Dan Komunikasi*, 2020 <<https://doi.org/10.24090/komunika.v14i2.2909>>.

³Mikael Loi, 'Politisasi Kabinet Kerja Indonesia Hebat Jokowi-JK', *JISIP: Jurnal Ilmu Sosial Dan Ilmu Politik*, 2016.

⁴Ali Ismail Shaleh and Raihana Nasution, 'PERLINDUNGAN HUKUM TENAGA KERJA MIGRAN INDONESIA DI ARAB SAUDI SEBAGAI NEGARA NON INTERNASIONAL CONVENTION ON THE PROTECTION OF THE RIGHTS OF ALL MIGRANT WOKERS AND MEMBERS OF THEIR FAMILIES', *Jurnal Yustisiabel*, 2020 <<https://doi.org/10.32529/yustisiabel.v4i1.481>>.

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be achieved. However, this idea is not entirely correct by considering the large number of citizens who live abroad and comply with the laws of the country of residence, including migrant workers or female workers.⁵

This is an exciting study that explores how a country protects its citizens, even if they live in countries with different powers and sovereignty and are in different regions. The state must think of a strategy for that and make plans, actions, and attitudes determined by decision makers to deal with the state or the external environment to defend, overcome, and resolve the national interest and the state's survival.

B. RESEARCH METHOD

This type of research is descriptive with qualitative approach. Because It uses a qualitative approach with a descriptive type of research, so sources of data in this study are secondary taking from literature, reports and related news. Data collection techniques are carried out by collecting similar theories, opinions and similar researches. While, the data analysis in this study used a secondary analysis approach.

C. DISCUSSION

1. Protection Diplomacy

Establishing diplomatic relations with other countries is considered very important for a nation because it is considered essential to realize interests. Likewise, the image of a nation can be formed through diplomacy. Diplomacy is a negotiation between countries through official delegation. The state elects its representatives and does not allow other parties, groups, or countries to interfere with their election. The scope of diplomacy is the entire interaction of foreign relations, including formation, negotiations, and international strategies. Diplomacy can also be said as a kind of operational innovation, which aims to recognize the public interest outside the scope.

⁵Budyanto Putro Sudarsono, Jonni Mahroza, and Surryanto D.W., 'DIPLOMASI PERTAHANAN INDONESIA DALAM MENCAPAI KEPENTINGAN NASIONAL', *Jurnal Pertahanan & Bela Negara*, 2018 <<https://doi.org/10.33172/jpbh.v8i3.441>>.

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The higher the level of relations between countries, the more meetings, and conferences a country holds.⁶

Diplomacy can also be interpreted as a relationship or relationship, cooperation, communication, and connection. In addition, diplomacy is also an interactive process between the two countries to realize their respective foreign policies.⁷ Therefore, diplomacy and foreign policy are two inseparable aspects of currency. This is because foreign policy is the central part of a country's mechanism to implement foreign policy, and diplomacy is the process of implementing a country's foreign policy. Therefore, foreign policy diplomacy must be mutually supportive and bound.⁸

In addition to other forms of activity, such as visits, meetings, and agreements, negotiation is a process that is often carried out in the diplomatic process. Negotiation is a means for a country to resolve conflicts peacefully and be able to advance national interests.⁹ Sir Ernest Sato provides ways related to good diplomacy in his book "Guide to Diplomatic Practice." Sir Ernest Sato said in his book diplomacy is "The application of intelligence and tact to conduct of official relations between the government of independent states."

Diplomacy is not always related to peaceful activities. However, diplomacy can also be used when the state is in a state of war or conflict because diplomacy plays a role in conflict management and manages and maintains change through persuasion in the process of cash change. Therefore, diplomacy can be interpreted as a combination

⁶Salmon Abertnego Manurung and Nabitatus Sa'adah, 'HUKUM INTERNASIONAL DAN DIPLOMASI INDONESIA DALAM PERLINDUNGAN TENAGA KERJA MIGRAN INDONESIA', *Jurnal Pembangunan Hukum Indonesia*, 2020 <<https://doi.org/10.14710/jphi.v2i1.1-11>>.

⁷Tryas Dharossa and Teuku Rezasyah, 'Upaya Perlindungan WNI Oleh Pemerintah Indonesia Melalui Pendekatan Diplomasi Digital (2014-2019)', *Padjadjaran Journal of International Relations*, 2020 <<https://doi.org/10.24198/padjir.v2i1.26055>>.

⁸Baidawi Ahmad and Azarkasi Azarkasi, 'Pemasaran Kebijakan Politik Luar Negeri Sebagai Diplomasi Presiden Jokowi Untuk Menarik Investor Asing Di Indonesia', *KEMUDI: Jurnal Ilmu Pemerintahan*, 2019 <<https://doi.org/10.31629/kemudi.v4i1.1307>>.

⁹Rio Sundari Rendi Prayuda, 'Diplomasi Dan Power: Sebuah Kajian Analisis', *Journal of Diplomacy and International Studies*, 2019.

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of science and negotiation science. It can also be interpreted to deliver information through negotiations to realize economic, trade, political, social ¹⁰, cultural, national defense, and military objectives. Thus, international relations can be achieved in many ways to achieve its diplomatic goals and objectives.

According to Kautilya, in his book entitled Kautilya's concept of diplomacy: a new interpretation, the purpose of diplomacy is to guarantee the interests of a country. Thus, the main reason for diplomacy is to guarantee the interests of the country itself. However, there are different interests, such as economic, trade, commercial interests, cultural and ideological development, protection of citizens living in different countries, expanding kinship with different countries, and so on.¹¹

There are many types of diplomacy, and protection diplomacy is one of them. Diplomatic protection governs the international community and allows a country to protect its citizens abroad.¹² Laws around the world stipulate that a country has the privilege and obligation to ensure its residents abroad. For example, in countries where migrant workers are responsible for foreign nationals who work there, the state has the privilege and commitment to secure residents experiencing problems abroad through diplomacy.

There are procedural rules for a country to conduct and carry out protective diplomacy with other countries. The 1961 Vienna Convention on Protective Diplomacy regulates this procedure as the basis of diplomatic law; all countries have ratified the Convention. The Government of Indonesia in Law Number 1 of 1982 discusses the Ratification of the Vienna Convention on Diplomatic Relations and the Optional Protocol to the Acquisition of Citizenship. The presence of Law Number 1 of 1982 is expected to encourage the government to fulfill its obligations in carrying out the

¹⁰A Puspa Marinda, 'DIPLOMASI BUDAYA KOREA SELATAN Di Indoensia(2002-2017)', *Digitallibrary*, 2018.

¹¹Channarong Chati, Ni Nyoman Ayu Nikki Avalokitesvari, and Ni Kadek Surpi, 'State Defense Diplomacy In Chanakya Viewpoint (Study of Arthashastra Text as a Basis Strategy of Defense Diplomacy)', *Vidyottama Sanatana: International Journal of Hindu Science and Religious Studies*, 2018 <<https://doi.org/10.25078/ijhsrs.v2i2.621>>.

¹²Manurung and Sa'adah.

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provisions of the Vienna Convention. Overall, this can be used as a rule for the Indonesian government to efficiently help Indonesia complete its diplomacy with various countries.¹³

In addition to the defense strategy set out in the 1961 Vienna Convention, the 1963 Vienna Convention also regulates counselor relations. Consular law is framed through many bilateral agreements between countries. The Vienna Convention governing Consular Relations was ratified in 1963 and entered into force on March 19, 1967, after being approved by several participating countries. If a country does not send a delegation, its position and capacity can be replaced by a consular representative and vice versa. Because in this situation, peace delegates and consular agencies are essentially the same things.¹⁴

Similarly, Article 3 in the 1961 Vienna Convention, which regulates Protection Diplomacy between States, also regulates guarantees for foreign nationals. This article describes the protection of countries that receive migrants and countries' interests that send migrants and their citizens within the scope permitted by international law. Laws worldwide stipulate that a country is obliged to treat foreign nationals on its territory well, and any inappropriate treatment of foreigners is seen as an affront to equality.¹⁵

Craig Forcese also said that to complete a diplomacy policy, three conditions must be met:

An international wrong means that the sender commits to provide security to his residents abroad in the event of a violation of laws around the world proposed by

¹³'PERTANGGUNGJAWABAN NEGARA ATAS PELAGGARAN HAK KEKEBALAN DIPLOMATIK MENURUT KONVENSI WINA 1961 TENTANG HUBUNGAN DIPLOMATIK', *LEX ET SOCIETATIS*, 2015.

¹⁴'TANGGUNG JAWAB NEGARA DALAM PERLINDUNGAN WARGA NEGARA DI LUAR NEGERI BERDASARKAN KONVENSI WINA TAHUN 1963 TENTANG HUBUNGAN KONSULER', *LEX ET SOCIETATIS*, 2018.

¹⁵'PERWAKILAN DIPLOMATIK MELAKUKAN TINDAK PIDANA DI NEGARA PENERIMA MENURUT KONVENSI WINA 1961', *LEX CRIMEN*, 2018.

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the country's citizens.¹⁶ This refers to article 3 of the 1961 Vienna Convention (VCDR) on protection diplomacy, which states, "protecting in the receiving state the interests of the sending state and its nationals, within limits permitted by international law."

Exhaustion Local Remedies means that the protection and particular diplomatic security (a country's legal assistance to its residents to carry out legal claims of a country) will be completed if the citizen has taken legal action in the country where he works. Link of Nationality is a strategic guarantee provided by a country whose population has violated the law in another country.¹⁷

The diplomacy strategy runs through ministries of foreign affairs, embassies, consultants, and special missions worldwide. Diplomacy covers a wide range of interests, from fundamental issues in relations between the two countries to significant issues of war and peace. If diplomacy fails, there will be an emergency, posing the risk of war. The essence of diplomacy is compromising to reach a mutual agreement between two or more countries.¹⁸ Not only with exchanges, methods, or procedures that must be possible, but a country can also resolve them through negotiations and make agreements.

Diplomacy can also be done bilaterally between two countries, or it can also be when two countries negotiate. Meanwhile, within the diplomatic scope of the protection of TKI, the primary responsibility for protection rests with the government. The government includes the Ministry of Foreign Affairs, the President, BNP2TKI, and representatives of other countries. From the 1961 Vienna Convention and the 1963 Vienna Convention, including related protection diplomacy, it can be concluded that

¹⁶Manurung and Sa'adah.

¹⁷Eileen Denza, 'Nationality and Diplomatic Protection', *Netherlands International Law Review*, 2018 <<https://doi.org/10.1007/s40802-018-0119-4>>.

¹⁸Mariane Olivia Delanova, 'ANALISIS KEBIJAKAN DIPLOMASI EKONOMI INDONESIA TERHADAP PASAR NON TRADISIONAL', *Jurnal Dinamika Global*, 2020 <<https://doi.org/10.36859/jdg.v4i02.140>>.

protection diplomacy is protecting a country from foreign countries through agreements and bilateral relations between the two countries.¹⁹

2. Protection Diplomacy in Indonesia

Legal Basis and Commitment of the Government of Indonesia to Protect Indonesian Citizens As a form of commitment to protecting Indonesian citizens, including foreign workers in the formal and informal sectors, the Indonesian government uses the guidelines stipulated in the first constitutional mandate in its efforts,²⁰ as follows:

Paragraph 4: "Then from that to form an Indonesian state government that protects the entire Indonesian nation and the entire homeland of Indonesia and to promote public welfare, educate the nation's life, and participates in carrying out world order..."

Function, Diplomatic Mission – Second, VCCR 1961, Art.3 (1b): "Protecting in the receiving State the interests of the sending State and of its nationals, within limits permitted by international law."

Functions of the Consular Mission – First, VCCR 1963, Art.5(a): "Protecting in the receiving State the interests of the sending State and of its national, both individuals and corporate bodies within permitted by international law."

Law on Foreign Relations – Chapter V Protection of Indonesian Citizens, Article 19 (b): "Representatives of the Republic of Indonesia are obliged to: protect Indonesia abroad, following national laws and regulations as well as international laws and customs."

¹⁹Chayu Amrita Nanda, Yoedhi Swastanto, and Amarulla Octavian, 'ANALISIS DIPLOMASI PERTAHANAN INDONESIA DALAM MENGHADAPI KRISIS SEMENANJUNG KOREA GUNA MENJAGA STABILITAS KAWASAN ASIA TENGGARA', *Jurnal Pertahanan & Bela Negara*, 2019 <<https://doi.org/10.33172/jpbh.v9i1.500>>.

²⁰Paramitaningrum Paramitaningrum, Richa Vidya Yustikaningrum, and Galuh Dian Prama Dewi, 'Model Diplomasi Perlindungan Pemerintah Indonesia Terhadap Warga Negara Indonesia Pekerja Sektor Formal Dan Informal Di Luar Negeri', *Jurnal Global & Strategis*, 2018 <<https://doi.org/10.20473/jgs.12.1.2018.17-37>>.

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UU no. 21 of 2007 concerning the Eradication of the Crime of Trafficking in Persons/TIP. Moreover, it refers to the law for the Protection and Handling of Victims of TIP Abroad, namely: Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol 2000) and the Law of the Republic of Indonesia.²¹

In this discussion, experts will clarify the concept of Indonesian migrants, commonly referred to as TKI, and clarify and make it easier for readers to understand the female workforce. The researcher characterizes TKI according to the Law of the Republic of Indonesia No. 39 of 2004 and the Regulation of the Minister of Foreign Affairs No. 04 of 2008. Law of the Republic of Indonesia No. 39 of 2004 describes the definition of Indonesian workers to guarantee Indonesian workers abroad.

By the Regulation of the Minister of Foreign Affairs of the Republic of Indonesia Number 04 of 2008 concerning the Definition of Indonesian Migrant Workers, the definition of TKI is every citizen who works abroad. At the same time, the government is also obliged to ensure the safety of citizens working abroad. By sending representatives or diplomatic delegations or consular delegations, which officially handle and fight for the interests of citizens throughout the country, and the government of the Republic of Indonesia abroad as well as international associations.²² Political delegates may also be referred to as embassies of the Republic of Indonesia, and consular agents may also be referred to as consulates of the Republic of Indonesia.

According to Law no. 39 of 2004, article 1 paragraph 2 concerning the Placement and Protection of Indonesian Migrant Workers Abroad, TKI is every Indonesian resident who meets the requirements as workers who work abroad and is registered with a regional/city government agency responsible for labor work. Furthermore, the Placement of TKI is an activity that places TKI according to their talents, interests, and abilities. Overseas business includes the entire recruitment

²¹Henny Nuraeny, 'Tindak Pidana Perdagangan Orang', *Raja Grafindo*, 2017.

²²Aprilia Restuning Tunggal, 'PERLINDUNGAN TENAGA KERJA INDONESIA DI QATAR: TINJAUAN PERAN PEMERINTAH DALAM MELINDUNGI TKI DI QATAR', *Dauliyah Journal of Islamic and International Affairs*, 2017 <<https://doi.org/10.21111/dauliyah.v2i2.1358>>.

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process, document management, education and training, accommodation, preparation for departure, departure to the destination country, and return from the destination country. Indonesian Migrant Workers, if divided by gender and devoted to homework, are generally referred to as female workers or TKW.²³ This workforce is usually employed in Middle Eastern countries, including Saudi Arabia.

²³Luthvi Febryka Nola, 'Upaya Pelindungan Hukum Secara Terpadu Bagi Tenaga Kerja Indonesia (Tki)', *Negara Hukum*, 2016.

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Table 1. Number of Complainants of Female Labor by Country for the Period of 2017 to 2019

	Country	2017	2018	2019
	Malaysia	704	460	845
	Saudi Arabia	74	68	372
	United Arab Emirates	99	113	43
	Taiwan	22	38	37

Source: BNP2TKI

In addition, from 2012 to 2018, Saudi Arabia was the resettlement country with the highest number of female migrant worker deaths annually in the Middle East. According to the 2018 Indonesian Migrant Workers Protection and Resettlement Data Report, 248 PMIs died in Saudi Arabia during this period and returned to their homes. The amounts are shown in the table below:

Table 2. Data of TKW who died Abroad who were repatriated to Indonesia (from the Middle East)

Placement Country	Year							Total
	2012	2013	2014	2015	2016	2017	2018	
Yordania	13	5	1	2	1	0	0	22
United Arab Emirates	20	1	4	3	10	8	15	61
Saudi Arabia	110	51	12	6	17	27	25	248
Suriah	13	2	3	1	1	2	1	23
Kuwait	5	5	4	1	4	3	4	26

Source: BNP2TKI

In order to minimize the problems of migrant workers residing in Saudi Arabia and protect these migrant workers, Law Number 1 stipulates regulations on the protection of Indonesian migrant workers abroad. 2004 Number 39 concerning the Placement and Protection of Indonesian Migrant Workers Abroad (UU PPTKILN) and

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now Law Number 18 the Year 2017 concerning the Protection of Indonesian Migrant Workers (UU PPMI). The Indonesian government has taken steps to protect citizens facing the death penalty, including implementing a policy of delaying executions and establishing a special task force to handle Indonesian citizens or migrant workers facing the death penalty abroad and bilateral diplomacy. Diplomatic strategy is a method that the Indonesian government continues to do,²⁴ such as negotiations, sending permanent representatives, signing agreements, arbitration, and so on.²⁵

The protection of Indonesian citizens by representatives of the State of the Republic of Indonesia abroad cannot be separated from the motivation for the establishment of the Unitary State of the Republic of Indonesia as instructed in the Fourth Paragraph of the Preamble to the 1945 Constitution of the Republic of Indonesia which reads, "Then rather than that to form an Indonesian State Government that protects all Indonesian people and all Indonesian bloodshed...".

The mandate in the constitution is spelled out in the form of Law no. 37 of 1999 concerning Foreign Relations, in this case giving the mandate to the Indonesian Representatives to protect Indonesian citizens through legal assistance or other means per the government regulation in lieu of law (Perppu), including Law no. 39 of 2004 concerning the Placement and Protection of Indonesian Migrant Workers Abroad which is currently being updated into Law no. 18 of 2017 concerning the Protection of Indonesian Migrant Workers and Minister of Foreign Affairs No. 05 of 2018 concerning the Protection of Indonesian Citizens Abroad.

During the government of President Jokowi, a free and active foreign policy strategy will indeed remain one of the standards set by Indonesian leaders. However, the difference in Jokowi's organizational period, the focus of Indonesia's foreign policy strategy, will change from a high profile character to a low profile position. The shift in

²⁴Aga Natalis and Budi Ispriyarso, 'Politik Hukum Perlindungan Pekerja Migran Perempuan Di Indonesia', *Pandecta: Research Law Journal*, 2018 <<https://doi.org/10.15294/pandecta.v13i2.15784>>.

²⁵'PENANGGALAN KEKEBALAN DIPLOMATIK DI NEGARA PENERIMA MENURUT KONVENSI WINA 1961', *Lex Crimen*, 2016.



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Indonesia's foreign policy direction also affects diplomacy where Jokowi carries out 'pro-people diplomacy' (pro-people diplomacy).²⁶ Pro-people diplomacy must still have a free and active character, but its implementation is not the same as the previous government. The Indonesian Minister of Foreign Affairs, Retno Marsudi, said that the implementation of Indonesia's foreign policy within Jokowi's organization must remain grounded and inseparable from the people's interests. In view of pro-people standards, in her first year, Retno Marsudi revealed that Indonesia had three primary needs: maintaining Indonesian sovereignty, expanding protection for Indonesian residents and legal entities, and enhancing economic diplomacy.²⁷

More people-oriented policies will make the resulting efforts focus more on the people's interests, such as protecting Indonesian migrant workers. During the Joko Widodo administration, the protection of overseas migrant workers was a top priority in Indonesia's foreign policy (Nainggolan, 2017). Therefore, the government issued various programs related to migrant workers. In 2014, training for migrant workers before being placed abroad was a program promoted by President Jokowi. In 2015, the government launched many programs, namely legalization and repatriation, a one-stop policy for sending migrant workers, and the application of an electronic overseas worker card (E-KTKLN). These programs aim to improve the skills of migrant workers, reduce the number of undocumented migrant workers abroad, and increase the number of documented migrant workers.²⁸

Based on all programs related to the protection of migrant workers, it indicates that the government is more focused on changing the governance of the placement and protection of Indonesian migrant workers. The problem of migrant workers abroad is not a new phenomenon, which has occurred from year to year until the

²⁶Asep Setiawan, 'Politik Luar Negeri Indonesia Era COVID-19: Penyelamatan Dan Kerjasama', *Independen, Jurnal Politik Indonesia Dan Global*, 2020.

²⁷Khanisa Krisman and Lidya C Sinaga, 'MENAKAR KEBERLANJUTAN VISI POROS MARITIM DUNIA DI TENGAH AGENDA PEMBANGUNAN MARITIM REGIONAL', *Jurnal Penelitian Politik*, 2020 <<https://doi.org/10.14203/jpp.v17i1.858>>.

²⁸Lia Apriana, 'KEBIJAKAN LUAR NEGERI INDONESIA ERA JOKOWI TERKAIT DENGAN TENAGA KERJA INDONESIA DI NEGARA LAIN DAN DIPLOMASI EKONOMI', *Journal of Chemical Information and Modeling*, 2013.



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Jokowi-JK administration. In general, the problems of migrant workers abroad include three things, namely pre-placement, placement period, and post-placement (Ministry of National Policy, 2011).²⁹ Pre-placement such as illegal recruitment, document falsification, and so on. The placement period includes working hours exceeding the limit, being traded between agencies abroad, as well as being tortured or mistreated—post-placement, such as discriminatory treatment and unprofessional service.

At the national level, the Indonesian government revised Law No. 39/2004 on the Placement and Protection of Indonesian Migrant Workers Abroad (PPTKILN), moratorium policies, various diplomacy, sent diplomatic notes related to illegal worker raids, and in 2017, passed Law No.18/2017 concerning the Protection of Indonesian Migrant Workers. The Directorate for the Protection of Indonesian Citizens and Indonesian Legal Entities (BHI)³⁰ is responsible for protecting migrant workers abroad. Diplomatic and consular officials have duties including notarial services, consular and judicial services, and Indonesian citizens and BHI protection. There are three types of protection for migrant workers carried out by the Indonesian Diplomatic Representative: technical protection, juridical protection, and political protection.

Technical protection aims to provide safe shelter and repatriation, juridical protection, namely legal protection, and political protection, referring to making a memorandum of understanding (MoU) between the Government of Indonesia as the sending country and the receiving country regarding the placement of migrant workers.³¹ The obstacles faced by the Indonesian Representatives were juridical and non-juridical barriers (Susetyorini, MMH Journal, Volume 39 No.1, 2010:72)

²⁹Natalis and Ispriyarso; Hartono Widodo and R. Jossi Belgradoputra, 'Perlindungan Pekerja Migran Indonesia', *Binamulia Hukum*, 2019 <<https://doi.org/10.37893/jbh.v8i1.42>>.

³⁰Sonhaji Sonhaji, 'Peranan Pemerintah Daerah Dalam Upaya Perlindungan Pra Penempatan Pekerja Migran Indonesia Di Luar Negeri', *Administrative Law and Governance Journal*, 2020 <<https://doi.org/10.14710/alj.v3i1.71-91>>.

³¹Rizky Dian Baretta and Budi Ispriyarso, 'Politik Hukum Perlindungan Tenaga Kerja Indonesia Fase Purna Bekerja', *Kanun Jurnal Ilmu Hukum*, 2018 <<https://doi.org/10.24815/kanun.v20i1.9828>>.

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Peni explained that there were two efforts made by representatives or delegations of the Indonesian government to provide migrant workers who were abroad, namely internal efforts and external efforts. Internal efforts are efforts made from pre-placement (preventive protection, repressive protection, and conceptual protection), placement period (preventive protection and repressive assistance), and pre-placement period (preventive protection). Meanwhile, external efforts are efforts made through cooperation with related parties abroad, such as cooperation between Government to Government (G to G), cooperation with Non-Government Organizations (NGOs), International Organizations (IO), Religious Organizations, and/or with private.³²

Ana Sabhana Azmy, in her book, writes about the state and female migrant workers or TKW: Examining the Protection Policy for the 2004-2010 Susilo Bambang Yudhoyono Administration in 2012. This book outlines the conditions and policies of female migrant workers. Here, Ana includes data from BNP2TKI, which states that from 2004 to 2010, female migrant workers were more dominant than male migrant workers. This proves that migrant workers, especially women, can contribute significantly to the pace of the country's economy.³³ Ana said that one of the countries that recruit many domestic workers (PRT) and other informal sectors for women is the Middle East.

According to data from the director of the protection of Indonesian citizens and Indonesian legal aid agencies, Lalu Muhammad Iqbal, from 2011 to 2018, 103 Indonesian citizens were threatened with the death penalty in Saudi Arabia with various background cases.³⁴ Of these, the Indonesian government has succeeded in freeing 85 Indonesian citizens from the death penalty. Then six Indonesian citizens

³²Manurung and Sa'adah.

³³Nurul Husna, 'Kekerasan Terhadap Perempuan Sebagai Pekerja Migran', *Jurnal Al-Bayan: Media Kajian Dan Pengembangan Ilmu Dakwah*, 2014.

³⁴Rahma Kusuma Wardani, Endah Pujiastuti, and Tri Mulyani, 'Perlindungan Hukum Terhadap Hak-Hak Pekerja Migran: Studi Kasus Satinah Sebagai Mantan Tki Di Arab Saudi', *Hukum Dan Masyarakat Madani*, 2015 <<https://doi.org/10.26623/humani.v5i3.945>>.



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have been executed without notification in the last ten years. Until now, including TKW Eti, there are still 13 Indonesian citizens facing the death penalty.

Not every TKI is fortunate. Hoping to improve their standard of living, thousands of Indonesian citizens have traveled abroad, including Saudi Arabia, to provide for their families. In addition, Indonesian migrant workers are also one contributor to the country's foreign exchange, so they often get the hero's nickname to the country's foreign exchange. However, not a few of them also have to swallow the harsh reality. The problems that befell them are not just the amount of salary paid that is not under the contract or being paid late. More than that, some of them had to face legal processes that ended their lives at the hands of the executioners.³⁵

Most of the problems in holding back emotions are because they are no longer able to accept arbitrary treatment from their employers. The resistance that often results in death in the study brings the troubled TKI to legal channels and must follow the legal process in force in Saudi Arabia. Under Saudi Arabian law, if someone kills another person, then the person who killed that person must also be sentenced to death³⁶ unless the victim's heirs forgive the perpetrator. Nevertheless, the perpetrator must pay several diyath determined by the family with a specified payment term.

The government has carried out various kinds of diplomatic efforts during President Joko Widodo starting from sending a letter to the King of Saudi Arabia, holding a meeting between the two countries to discuss the protection of TKI in Saudi Arabia, and pleading with Saudi Arabia to protect TKI who have been sentenced to beheading. In asking for this request not only through letters but in conversations between the country's two leaders have also been carried out. It is just that the laws that apply in Saudi Arabia cannot be in line with the will of the Indonesian government. For example, only the family can forgive the perpetrator, so the King does

³⁵Muhamad Fahrudin Yusuf and Mukti Ali, 'Komparasi Berita Tenaga Kerja Indonesia Di Arab Saudi Dalam Surat Kabar Elektronik Detikcom Dan Sabq.Org', *Communicatus: Jurnal Ilmu Komunikasi*, 2019 <<https://doi.org/10.15575/cjik.v2i1.5031>>.

³⁶Rizka Puspitasari, 'Analisis Penyebab Praktik Kerja Paksa Di Arab Saudi: Fenomena Kerja Paksa Terhadap TKI Informal (2011-2014)', *Journal of International Relations*, 2016.

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not have the authority to cancel the sentence. In addition, the only parties who have the right to know when a TKI is executed are the heirs of the victim, the public prosecutor, the head of the prison, and the institution of pardon.³⁷

This phenomenon then makes various diplomatic efforts that are taken cannot run well. It can be concluded that even a king does not have much authority to free TKI, who are almost executed. However, the Indonesian government continues to seek various ways so that Indonesia is not harmed again but still applies the legal principles in Saudi Arabia. Among them is implementing a moratorium policy on sending TKI, which is still in effect. The government of Saudi Arabia admits to a labor shortage as a result of this policy. The Indonesian government and Saudi Arabia also agreed between the two countries that regulate the placement and protection of Indonesian citizens in Saudi Arabia. This treaty was ratified in 2014 in Jeddah. In addition, the Indonesian government is trying to make a mandatory consular notification agreement so that if there are Indonesian citizens who are caught in a legal case, the Indonesian government will receive prior notification.³⁸

From the descriptions above, it can be concluded that the diplomatic steps taken by President Joko Widodo are modern diplomacy or open diplomacy. In modern diplomacy, it is stated that the negotiation process is not only carried out by the leaders of the two countries, but other parties such as delegations from the two countries, government organizations, non-governmental organizations, and community groups can also provide their aspirations for consideration in decisions. The governments of Indonesia and Saudi Arabia agreed to the placement and protection of Indonesian migrant workers in Saudi Arabia. The agreement contains the obligations of Indonesia and Saudi Arabia to protect Indonesian migrant workers in Saudi Arabia. It is just that the agreement cannot be implemented if it is faced with applicable law in Saudi Arabia. Only the family of the victim can determine whether

³⁷Ratu Rayanti Arumsari, 'PERAN PEMERINTAH REPUBLIK INDONESIA DALAM PERLINDUNGAN TENAGA KERJA INDONESIA (TKI) SEKTOR INFORMAL DI ARAB SAUDI', *Global Political Studies Journal*, 2019 <<https://doi.org/10.34010/gpsjournal.v3i1.2004>>.

³⁸Widodo and Belgradoputra.

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the TKI is still sentenced to death or pardoned.³⁹ Even a king of Saudi Arabia could not determine. So that most beheadings are carried out because the victim's family does not forgive the perpetrator.

However, the Indonesian government is still trying to resolve the cases that ensnared the TKI, hoping that they will be free and return to Indonesia safely. The steps taken by President Joko Widodo include forming a task force assigned as a mediator to the families of the victims. Then as a TKI companion during the legal process, the Indonesian government appointed translators and lawyers.⁴⁰ It is just that usually, the total assistance is only carried out after the Indonesian government finds out that there are Indonesian migrant workers who are sentenced to death.

So that the next step that can be taken is that the president assigns the foreign minister, representatives of the Indonesian Embassy, or the Indonesian Consulate General to approach the victim's family; the Indonesian government also carries out the approach. However, based on the mandate of the Indonesian government, the government of Saudi Arabia also assists the advocacy process. This effort is also not much different from that of President Susilo Bambang Yudhoyono. It is just that President Joko Widodo did not form and order a task force. Both presidents have imposed a moratorium policy in the hope of reducing the number of troubled Indonesian migrant workers.⁴¹ In addition, the steps taken by President Jokowi's government are more intense than the previous administration.

D. CONCLUSION

TKW is part of Indonesian citizens who meet the requirements to work abroad in an employment relationship for a certain period. TKW has the right to obtain protection from their country of origin, namely Indonesia. There are several implementation processes, such as problems with pre-placement, placement period,

³⁹Mimin Anwartinna, 'Responsifitas Pemerintah Terhadap Problematika Tenaga Kerja Indonesia (TKI)', *Journal of Governance Innovation*, 2019 <<https://doi.org/10.36636/jogiv.v1i2.361>>.

⁴⁰Arumsari.

⁴¹Widodo and Belgradoputra.

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and post-placement. The government has made various efforts to help TKWs to be free from legal snares. In addition to the formation of several laws, there are also efforts being made. Such efforts include sending a letter to the King of Saudi Arabia, holding a meeting between the two countries, pleading with Saudi Arabia to protect TKW, who was sentenced to beheading. The request was made not only through letters but also through discussions between the country's two leaders. However, the success of these efforts cannot be guaranteed 100% considering the apology factor from the victim's family that must be obtained.



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