



RESEARCH ARTICLE

A Review of the Implementation of Dispute Settlement of Indonesian Migrant Workers Placement by the Central Java Provincial Labor Dispute Settlement Service Center

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ABSTRACT

The Central Java Provincial Labor Dispute Settlement Service Center or *Balai Pelayanan Penyelesaian Perselisihan Tenaga Kerja (BP3TK)* of Central Java Province is an institution that resolves labor disputes in Indonesia. The purpose of this research is to find out, understand, and analyze the implementation of dispute resolution over the placement of Indonesian migrant workers by the Central Java Province Labor Dispute Settlement Service Center. The approach used in this research was the empirical juridical method. The specifications in this research were analytical and descriptive. The results showed that the implementation of dispute resolution over the placement of Indonesian migrant workers by the Central Java Province Labor Dispute Settlement Service Center went through the clarification and mediation stages. Furthermore, regarding obstacles and solutions to resolving disputes over the placement of Indonesian migrant workers by the Central Java Province Labor Dispute Settlement Service Center, there were obstacles from the parties and the Central Java Province BP3TK and the solution is to create an application and forum for benchmarking perceptions.

INTRODUCTION

Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers was formulated to protect Indonesian migrant workers. Article 1 number (2) of Law No. 18 of 2017 concerning the Protection of Indonesian Migrant Workers states, "Indonesian Migrant Workers are any Indonesian citizen who will, are or has done work by receiving wages outside the territory of the Republic of Indonesia". Those dreams or hopes to work and get wages from countries outside Indonesia can be achieved easily. Many things were experienced by Indonesian migrant workers while working in Malaysia, Brunei, Saudi Arabia, and others. In those countries, Indonesian migrant workers are treated poorly by their employers. Indonesian migrant workers are protected by the central and regional governments including before working, during working, and after working. The private sector is only given the role of executing the placement of these workers. The protection of Indonesian migrant workers requires strict supervision and law enforcement. Law enforcement is administrative sanctions and criminal sanctions. This is contained in Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers.

The Indonesian Migrant Workers Protection Agency (BP2MI) recorded, from January to July 2023, the number of complaints from Indonesian Migrant Workers in July 2023 amounted to 252 complaints, an increase when compared to July 2022 with 163 complaints and July 2021 with 69 complaints. The total number of complaints from January to July 2023 was 1150 complaints. Data showed increasing legal cases due to Indonesia's low Human Capital Index (HCI). Indonesia's HCI score in 2020 was 0.54. This means that the productivity of each child born only reaches 54 percent of its ideal capacity. Based on this data, it is necessary to study the number of complaints submitted.

Article 77 of Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers mandates that the Regency/Municipal Government, Provincial Government, or Central Government

in the manpower division have the authority to resolve labor placement disputes. According to this legal basis, the authority is the Labor Dispute Settlement Service Center. Indonesia has many Labor Dispute Settlement Service Centers, one of which is the Central Java Province Labor Dispute Settlement Service Center, hereinafter referred to as Central Java BP3TK. The Central Java BP3TK is one of the work units of the Central Java Provincial Manpower and Transmigration Office located in Semarang with a working area of 35 regencies/cities in Central Java Province.

The Central Java Labor Dispute Settlement Service Center of labor placement settlement is authorized to resolve labor placement disputes between the Inter-Regional Inter-Regional Work (AKAD) and the Inter-National Inter-Regional Work (AKAN). Article 77 paragraph (1) of Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers states that should there be a dispute between Indonesian migrant workers and companies as the placement executors regarding placement agreements, the settlement shall be carried out through deliberation. The Indonesian Migrant Worker Placement Agreement, hereinafter referred to as the Placement Agreement, is a written agreement between the executor of the placement of Indonesian migrant workers and prospective Indonesian migrant workers which contains the rights and obligations of each party, in the context of the placement of Indonesian migrant workers in the destination country under the provisions of laws and regulations. It means that the parties involved in the dispute are job seekers, namely Indonesian migrant workers, and the companies as the placement executors. Article 77 paragraph (2) of Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers states that if the dispute cannot be settled through deliberation, the parties can request dispute resolution assistance from the office responsible for manpower in the Regency/Municipal Government, Provincial Government or Central Government. This labor placement dispute is settled by the Labor Dispute Resolution Service Center (BP3TK). The Central Java BP3TK is one of the institutions to solve labor problems in Indonesia. The settlement of labor disputes at the Central Java BP3TK is handled by the Labor Placement Dispute Settlement Division. This study aimed to examine how the Labor Dispute Resolution Service Center in Central Java Province resolves various labor placement disputes and explain the obstacles faced and solutions that can be provided.

MATERIALS AND METHODS

The study used the Empirical Juridical approach. This study analyzed the implementation of positive law and examined the applicable legal provisions and their implementation in society. The empirical juridical approach identifies and conceptualizes law as a real and functional social institution in a real-life system. (Soekanto, 1984)

Research with the Empirical Juridical method is research on legal identification and effectiveness. (Soekanto, 2006) This present research is analytical descriptive research which describes an object being researched from existing data to produce conclusions. The data used in this study was an empirical law with primary data and secondary data. Primary data is obtained directly from the field based on respondents and resource persons. The data was collected through interviews. (ND & Achmad, 2010) Secondary data is ready-made data, such as reports or publications from scientific journals, articles, previous research, libraries, and laws related to the objects of research. (Supranto, 2003) The data analysis method was a description of the methods of analysis. In this present study, the data obtained was edited first and then used for qualitative analysis material. The qualitative analysis produced descriptive data that contained written data and descriptions from source persons and observed behaviors. (S.W. & Sumarjono, 1989)

RESULTS AND DISCUSSION

3.1 The implementation of dispute settlement for the Indonesian migrant workers placement by the central java provincial labor dispute settlement service center

A. The legal basis for dispute resolution of Indonesian migrant worker placement by the central java provincial labor dispute settlement service center

The settlement of disputes over the placement of Indonesian migrant workers aims to solve problems related to labor placement disputes that often arise, namely labor placement problems and requirements that are not in accordance with the employment contract.

Therefore, the government has issued various laws and regulations related to the settlement of disputes over the placement of Indonesian migrant workers. The legal basis that is the foundation for resolving disputes over the placement of Indonesian migrant workers by the Central Java Provincial Labor Dispute Settlement Service Center are: Law Number ... of 2023 concerning Central Java Province; Law Number 2 of 2004 concerning the Industrial Relations Disputes Settlement; Law Number 13 of 2003 concerning Manpower; Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers; Law Number 6 of 2023 concerning Job Creation concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2003 concerning Job Creation; Government Regulation Number 22 of 2022 concerning the Placement and Protection of Migrant Commercial Vessel Crews and Migrant Fishing Vessel Crews; Regulation of the Governor of Central Java Number 83 of 2021 concerning the Organization and Work Procedures of the Regional Technical Implementation Unit at the Manpower and Transmigration Office of Central Java Province

The authority to solve labor placement disputes is regulated in Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers. The placement of Indonesian migrant workers is a service activity to match Indonesian migrant workers with employers abroad based on their skills, interests, and abilities which includes the entire recruitment process, document completion, education and training, shelter, preparation for departure to the destination country, and arrival from the destination country. The role of protecting Indonesian migrant workers is handed over to the central and regional governments, starting before working, during working, and after working. The private parties are only given the role of executing the placement of Indonesian migrant workers. In the implementation of the protection of Indonesian migrant workers, strict supervision and law enforcement are needed. Supervision includes protection before, during, and after working. The law enforcement includes administrative sanctions and criminal sanctions. This provision is contained in the explanation of Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers. Article 77 of Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers states that the Regency/Municipal Government, Provincial Government, or Central Government in the field of manpower has the authority to resolve labor placement disputes. Based on this legal basis, the authority is in the Labor Dispute Settlement Service Center.

B. Central java province labor dispute settlement service center

Indonesia has many Labor Dispute Settlement Service Centers, one of which is the Central Java Province Labor Dispute Settlement Service Center, hereinafter referred to as Central Java BP3TK. The Central Java BP3TK is one of the work units of the Central Java Provincial Manpower and Transmigration Office which is located in Semarang City with a working area of 35 districts/cities in Central Java Province. The Central Java Provincial Labor Dispute Resolution Service Center in the field of labor placement dispute settlement has the authority to resolve labor placement disputes between the Inter-Regional Inter-Regional Work (AKAD) and the Inter-National Inter-Regional Work (AKAN). The Central Java Provincial Labor Dispute Settlement Service Center is one of the labor problem resolution institutions in Indonesia. The settlement of labor disputes at the Central Java Provincial Manpower Office is handled by the Labor Placement Dispute Settlement Division of Central Java BP3TK. It is on Jl. Ki Mangunsarkoro No. 21 Semarang. In carrying out its duties and functions, the Central Java BP3TK has a vision and mission that it firmly holds.

C. The implementation of dispute settlement for the placement of migrant workers at BP3TK in central java province

1) Clarification

The clarification that would be made to the complainant was carried out by phone, inviting the parties to the office either one by one or all the two parties by the Industrial Relations Mediator. The mediator asked for clarification from the two parties one by one. All mediators

would clarify in turn and not just one mediator who did the clarification. The Central Java BP3TK has 7 mediators. At this clarification stage, a team was formed to resolve disputes. The mediators were appointed by the P3TK section such as Sri Hardono, Rofiq Anas Wirawan, Sorrenti Dian Anggraeni. All these mediators have the same position in the team and there was no chairman. Based on the results of interviews conducted with informant Erry Dyah Nurhidayah, the Head of the Central Java Provincial Labor Dispute Resolution Service Center, it was conveyed that:

" The purpose of clarification is to make everything clear, clarify everything in terms of substance, authority and object" (Interview, February 07, 2024).

Erry Dyah Nurhidayah the Head of the Central Java Provincial Labor Dispute Settlement Service Center, stated that the clarification stage aimed at making the case clearer in terms of substance, authority, and object. The purpose of clarification is to make the next settlement process easier. This activity can facilitate the settlement process so it can be completed faster.

This classification process does not stand alone but is a series of stages of resolving industrial relations and resolving disputes over the placement of migrant workers. This service center optimized a mutual agreement, so a clarification was carried out. The clarification process was done not only once but could be up to 4 times. At this stage, a mutual agreement could be made if all the parties agree. The next process was the BP3TK called the complainant, perspective Indonesian migrant workers, and the Indonesian Migrant Worker Placement Company (P3MI) to clarify. If there was an agreement, it meant that BP3TK would make a signing of a mutual agreement. Therefore, if this mutual agreement had been agreed upon, then the dispute was considered resolved. However, if there was still a party who had not agreed, then another invitation would be made for mediation.

2) Mediation

Mediation is a way of resolving disputes through a negotiation process to obtain an agreement between the parties with the help of mediators. (RI, 2008) The mediators of the BP3TK were chosen by the head of BP3TK who, for labor dispute resolution, are usually mediators from the Migrant Worker Placement Service Center (P3TK) section. The procedures for the appointment and dismissal of the Industrial Relations Mediators are regulated in the Regulation of the Minister of Manpower and Transmigration Number 17 of 2014 concerning the Appointment and Dismissal of Industrial Relations Mediators and Mediation Work Procedures. The industrial relations mediators were authorized to settle the dispute, but technically the ones who did the settlement were the mediators with the job introduction. If there is no agreement, a recommendation will be issued and it is signed by the Industrial Relations mediators. At this mediation stage, the mediators will make a mutual agreement if both parties agree, but if they do not agree, a recommendation will be made to the Industrial Relations Court. The mediator at the clarification stage is the same as the mediation stage. These mediators were chosen directly by the head of BP3TK.

The decision of these mediators still has legal remedies and is not binding. The outputs of the mediators at this mediation stage are mutual agreement and recommendation. If it is agreed, it must be registered at the Industrial Relations Court to have executory power. The executory power is directly enforceable without going through the court and is final and binding on the parties to implement the decision. (Cardima & Prasetya, 2019) Meanwhile, there are legal remedies for the recommendation. This recommendation is then submitted to the Industrial Relations Disputes Mediator of BP3TK in the Province. Its authority is only for those from different districts/cities while authority in one Regency/City is the authority of the Regency/City mediators. The authority of the mediators is only up to giving recommendation. The mediators' output in this service center is only a mutual agreement and recommendation.

The BP3TK of Central Java Province used a win-win solution system to resolve disputes. This service center tried to resolve disputes at the clarification stage so that they do not need to proceed to the next stages. Most of the disputes over the placement of migrant workers in

BP3TK in Central Java Province did not proceed to the court. The Migrant Worker Placement Service Center (P3TK) is not like big companies when a dispute occurs, it can be resolved quickly. Most of the Indonesian Migrant Workers chose to agree to the mutual agreement. If the two parties have agreed, the dispute is considered settled.

In 2024, BP3TK of Central Java Province will take steps to resolve disputes over the placement of Indonesian migrant workers by holding socialization for coaching placement companies to prevent cases. It is planned for 2024 because there is a budget for that year. In previous years, the center only focused on handling disputes over the placement of migrant workers and handled Indonesian Migrant Workers cases. This center coordinated with the office that handles manpower in the Regency/City. Previously, the BP3TK of Central Java Province used manual management of documentation and evidence related to the settlement of disputes over the placement of migrant workers. The data was input manually in Microsoft Excel. The data in BP3TK of Central Java was not only completed by BP3TK but also there were data from the results of coordination because the scope of cases that occurred throughout Central Java Province was coordinated with Regencies/Cities. There were several cases in the Central Java BP3TK namely January – November 2023 as many as 30 cases of disputes over the placement of migrant workers and in January – February 2024 there were 2 cases. Several cases were handled by BP3TK from 2022 to 2024.

3.2 Obstacles and their solutions of the settlement of Indonesian migrant workers placement by the central java provincial labor dispute settlement service center

A. Obstacles to dispute settlement of placement of Indonesian migrant workers at the central java provincial labor dispute settlement service center

Several obstacles occur in Central Java BP3TK, both obstacles from the parties and obstacles from BP3TK itself, including:

(1) Obstacles from all parties involved

The obstacle usually comes from the parties involved is related to an uncooperative attitude. A cooperative attitude is wanting to cooperate with others, share, help each other, and not contradict each other. An uncooperative attitude means not wanting to help each other. Usually, the parties involved are difficult to contact so they cannot clarify. If one party is uncooperative, this will be an obstacle because the settlement process must involve both parties.

Another obstacle was companies that had closed. Companies that had closed were certainly an obstacle. Sometimes some companies are replaced by other companies but the owners are the same.

Companies that had closed cannot be processed further because the company that was contacted was based on the data at the time of the complaint submitted to BP3TK. A closed company will be an obstacle because it cannot be replaced by another company even though the owner is the same. This will hinder the settlement process where the settlement of disputes over the placement of migrant workers in BP3TK is usually expected to be achieved, but if there are obstacles, it will certainly become a problem. These obstacles should be overcome immediately so that they will not interfere with the implementation of the settlement of migrant worker placement disputes. If the obstacles can be overcome, the settlement process will be more effective, efficient, measurable, and quick. The dispute resolution process at the Central Java BP3TK was optimized so that it could be completed quickly.

(2) Internal obstacles

The obstacle faced by BP3TK is low human resources. The mediators in BP3TK are industrial relations mediators. The problem is there was no same understanding in carrying out new duties and functions, namely as a mediator in the settlement of labor placement disputes. The BP3TK mediators carried out new duties and functions. Not all mediators understood the settlement of labor placement disputes because it was not the duty and function of the

mediators in industrial relations. Industrial Relations Mediators who usually master industrial relations dispute cases may not be familiar with the duties and functions in the case of settling labor placement because this is a new job. This was certainly an obstacle for BP3TK itself because BP3TK mediators were Industrial Relations Mediators. Mediators must familiarize themselves with the case of migrant worker placement disputes because although this is a new thing, in the future, of course, there will also be cases of migrant worker placement disputes. Consequently, they are needed to improve their competence so that it does not become an obstacle in resolving migrant worker disputes in the future.

B. Solution for obstacles faced by the central java provincial labor dispute settlement service center in the placement of Indonesian migrant workers dispute settlement

There are several obstacles in the implementation of dispute settlement over the placement of Indonesian Migrant Workers. The BP3TK did several things to overcome them. For example, this center developed an application to make dispute settlement can be done quickly, effectively, efficiently, and measurably. With the application, it is hoped that data will be easily stored and managed quickly. With the application, it is also hoped that the clarification stage, and the summoning of the parties can be done online. In addition, it is also possible that the mediation stage can also be done either online or offline, depending on the parties involved, which can obtain a mutual agreement or recommendation. The online meetings allow for a reduction in costs when compared to attending BP3TK in person and also reduce more effective travel time. It can be done anywhere and anytime if the internet network used is good.

The solution to the problem of uncooperative individuals is they can be invited up to 3 times. It is based on the consideration that maybe when contacted, the relevant party is busy or maybe in a hurry. If the contacted party has not answered more than 3 times, it is possible that the case can be postponed until there is clear information from the relevant parties. It is possible to process the other party's case first that both can be contacted.

The solution to the obstacles for BP3TK mediators was there would be a forum for benchmarking perceptions. The mediators could learn together in a forum for dispute resolution of Indonesian Migrant Worker placement which was expected that the mediators would be more skilled and have better knowledge in dealing with dispute cases. Every coordination with the Regency/City also provided an understanding that the settlement of labor placement disputes is a new task and function which is a mandate of laws and regulations. With this solution, BP3TK built a new standard operating procedure, created a technical guideline, and built support for the digitalization of solutions in dealing with the obstacles.

CONCLUSIONS

The implementation of dispute settlement for the placement of Indonesian Migrant Workers by the Central Java Provincial Labor Dispute Settlement Service Center was carried out through 2 stages, namely the clarification stage and the mediation stage. In the clarification stage, all parties were invited. In this stage, the problem could be resolved through a mutual agreement. After the clarification stage, there was a mediation stage. The output of the mediators at this stage was mutual agreement and recommendation. Once it is agreed, it must be registered to the Industrial Relations Court to have executory power. If it has not been agreed, a recommendation would be made. In BP3TK, several cases had been resolved, namely in January – November 2023 as many as 30 cases of disputes over the placement of migrant workers, and in January – February 2024 there were 2 cases. There were two obstacles in the Settlement of Disputes over the Placement of Indonesian Migrant Workers by the Central Java Provincial Labor Dispute Settlement Service Center. First, the obstacles from the parties who were uncooperative and also closed companies. Second, the obstacle of BP3TK was the incompetence of human resources where mediators still lack understanding of dispute settlement in this case. These mediators understood the settlement of industrial relations, but they were not familiar with the settlement of disputes over the placement of migrant workers because it was not the duty and function of industrial relations mediators. The first solution is there should be

an application that can be developed to make dispute settlement can be done quickly, effectively, efficiently, and measurably. Second, the solution to the problem for parties who were uncooperative was the BP3TKI could give a maximum of three invitations. Third, solutions to obstacles for officers, there would be a forum for benchmarking perception. The mediators could learn together in a forum for resolving disputes over the placement of migrant workers, which was expected to make them more skilled and their knowledge can be improved in dealing with dispute cases.

Some of the recommendations that can be given related to the problems include: Central Java BP3TK is hoped to improve competence in the process of resolving disputes over the placement of Indonesian migrant workers; For Prospective Indonesian Migrant Workers/Indonesian Migrant Workers and Migrant Worker Placement Service Center (P3MI), regular socialization is hoped to be provided by BP3TK of Central Java Province to minimize the occurrence of disputes over the placement of Indonesian migrant workers.

REFERENCES

- Cardima, A., & Prasetya, H. I. (2019). Putusan Mahkamah Konstitusi Nomor 18/PUU-XVII/2019: Apa Implikasinya Bagi Proses Bisnis Lelang? Kementrian Keuangan. <https://www.djkn.kemenkeu.go.id/kpknl-bekasi/baca-artikel/12953/PUTUSAN-MAHKAMAH-KONSTITUSI-NOMOR-18PUU-XVII2019-APA-IMPLIKASINYA-BAGI-PROSES>
- ND, M. F., & Achmad, Y. (2010). Dualisme Penelitian Hukum Empiris & Normatif. Pustaka Pelajar.
- RI, K. M. A. (2008). PERMA RI. No. 1 Tahun 2008 tentang Prosedur Mediasi di Pengadilan. 2, 1–12.
- S.W., M., & Sumarjono. (1989). Pedoman Pembuatan Usulan Penelitian.
- Soekanto, S. (1984). Pengantar Penelitian Hukum. Universitas Indonesia (UI-Press).
- Soekanto, S. (2006). Pengantar Penelitian Hukum. Universitas Indonesia (UI-Press).
- Supranto, J. (2003). Metode Penelitian Hukum dan Statistik (2003rd ed.). Rineka Cipta.