



## Indonesian Legal Protection for Indonesian Citizens Who Have Been Sentenced by Criminal Punishments Abroad from an International Legal Perspective

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Article	Abstract
<p><b>Keywords:</b> Diplomacy; International Law; International Relations</p>	<p><i>Diplomatic protection from the Indonesian state is needed to protect Indonesian people abroad from legal problems with other countries' jurisdictions. Regarding the legal problems of Siti Zainab and Tuti Tursilawati, the Indonesian government experienced difficulties in carrying out diplomatic efforts which resulted in Indonesian citizens being punished with criminal penalties (with permanent legal force) by the jurisdiction of the recipient country. So, to further examine the issues raised, the researcher focuses the discussion on the process of resolving criminal cases for Indonesian citizens abroad who have received criminal sentences (with permanent legal force) from the perspective of international law and foreign relations. This research aims to find out how criminal cases with permanent legal force for Indonesian citizens who are abroad are resolved from the perspective of Inter Law and International Relations, so that through this research both Indonesian citizens and the Ministry of Foreign Affairs can gain additional insight. This research uses a normative juridical method with a prescriptive approach, namely by considering and analyzing existing laws and regulations to provide a solution explanation. The Indonesian state's efforts to protect Indonesian citizens abroad are realized in 3 ways, namely legal protection, the formation of an "Agreement of the placement and protection" agreement, and the establishment of a single channel placement system (SPSK) in digital diplomacy." Strengthening diplomatic relations will bring about mutual agreement so that it can be a solution to solving the problems of Indonesian citizens such as Tuti Tursilawati and Siti Zainab.</i></p>

### INTRODUCTION

Based on ministry data Overseas in 2022, There were 3,378 Cases Indonesian citizens are entangled case criminal abroad. 223 Cases among them Threatened Punishment dead. Incident like This often happen in history of the Republic of Indonesia, such as as in the case of the incident Tuti tursilawat and Siti Zainab. Tuti and

Zainab are a servant House ladder working in Saudi Arabia, During Work Tuti and Zainab often get treatment No human from his employer (Friski Riana 2018)

Case like This become Important because the recipient country of Indonesian citizens often ignore settlement problem in a way diplomacy, and not give chance to the Indonesian state in general sustainable related protection for inhabitant his country that gets problem law(Boby et al. 2022)

In International Law perspective, criminalization related case must be done in accordance with principal *Exhaustion of Local Remedies*. Where the country is experiencing problems is entitled to defense or submit problems for on trial return in the process of effort the law provided. This is explained in Rome Statute Article 84: "

*"The accused person or, after death, spouses, children, parents alive at the time of the accused's death who have been given express written instructions from the accused to bring such a claim, or the prosecutor on the person's behalf, may apply to the appeals chambers to revise the final judgment of conviction or sentence on the ground"*

The state can do effort defense law as form protection to inhabitant his country in matter happen problems faced by residents his country No capable completed myself. With thus execution punishment crimes committed based on jurisdiction national a country without gives Information to the country of origin convict set aside the rights of other countries in do Legal efforts. So that for to study more carry on about issues raised, Researchers will focus discussion on how the settlement process case criminal Indonesian citizens abroad who have get verdict punishment criminal ( capable of law still) from corner Legal and Relationship Viewpoint International abroad.

Diplomacy is Art in negotiate, A person who represents a country is called a diplomat (Asep Setiawan 2016). A diplomat is obliged bring information and provide Information Back to land the water, as embodiment representative in carry out task state affairs. diplomacy will relate direct with jurisdiction of another country. Jurisdiction a country does not can separate from principle sovereignty a country, so that become Consequence logical from existence sovereignty in a country. A sovereign country have their respective territorial areas , as form from sovereignty a country . Sovereignty jurisdiction of the country Sourced from international law which includes there is division of territory state jurisdiction , such as EEZ, Shelf contingent, Sea free, and Space

State jurisdiction in international law can arise due to actions legislative executive and judiciary . This action become a representative of existence society and is also form Each other keep an eye on what's happening in Government Agency For reach a decisions based on needs public .

Lord macmillan : *"It is essential attributes of the sovereignty , of this realm , as of all sovereign independent states , that it should possess jurisdiction over all person and things within its territorial limits and in all causes and criminal arising within these limits "*.

According to the Former Lord Judge Macmillan a country in operate his role For bring in welfare own right obligation and sovereignty based on jurisdiction and to that Also applicable rights against all persons, objects, criminal or civil cases within its territorial boundaries (LordMacmillan 2023). The sovereignty of the state shared into two specifications special namely Internal and External (Jean Bodin 1576). Internal Sovereignty is A authority that is of a nature exclusive owned by a country for determine the state institutions alone, how method operating, and has right for to form manifested regulations in Invite law (privacy act) without feel Disturbance from other countries. While sovereignty in a way external Is sovereignty based on classification of areas in carry out authority. *“QUI IN TERRITORIO MEO EST, ETLAM MEUS SUBDITUS EST”*. Which mean that everyone should subject to the laws in force in that area. Sovereignty external or sovereignty of this region Alone covers three areas namely land sea and air in these areas to form Territorial or State jurisdiction

The UN Universal Declaration of Human Rights (1948) states that citizenship is an inalienable human right and that no one shall be deprived of his or her citizenship (Aryan Kashyap 2020). Citizenship make all human beings falls under the scope of international law. In theory Nationality active, Declare a country has right For carry out jurisdiction to inhabitant their country, even when they are in foreign (Asep Setiawan 2016)territory. When complying with law International (Obligations) one country against another country), law national always tend follow somebody beyond the limit as far as concerning his personal status.

Agreement international This is source law in International Law, and is Umbrella laws used by countries in reach Common goals. The definition of an international agreement itself is contained in Article 2 paragraph (1) letter a of the 1969 Vienna Convention which stipulates that:

*“An international agreement concludes between states in writing form and governed by international law , whether embodied in a single instrument or in two or more instruments and whatever its particular designation”.*

Understanding agreement international more specific set up in Article 1 paragraph 1 of the Law Invite Number 24 of 2000 about agreement international, namely "International Agreement is an agreement in a certain form and name regulated in international law which is made in writing and gives rise to rights and obligations in the field of public law." (AnugrahDwi 2023). *Mochtar Kusumaatmadja* say that an international agreement is an agreement made by members of the community of nations which has the aim of giving rise to certain legal consequences (Sri Setiangsoh Suwardi 2019).

There are also 3 ethics that exist in state relations to carry out diplomatic efforts for its citizens (Edy suryono 1986), namely:

*an International Wrong* , is a wrongful act committed by a country due to violating the law, violating agreements, violating the good faith of the state (*Good faith*) so that in international law the country that made the mistake can accept demands or proposals

to carry out mediation or joint negotiations with other countries as a form of good cooperation in international relations.

*Exhaustion of Local Remedies*, namely the implementation of local legal efforts that can be carried out by the Indonesian government in the event that its citizens experience legal problems abroad. A country that wants to protect its citizens abroad cannot escape the principle of exhaustion of local remedy.

*Link of Nationality*, which is a principle in international law that prioritizes relations between countries in building good cooperation and binding themselves to a bilateral or multilateral agreement. Countries that are interconnected will be easier in terms of resolving Diplomacy problems. Countries that bind themselves to an agreement will be freer to submit opinions, provide input, and participate in political activities that will later be useful for the life of a country.

This research will answer the problems related to the settlement of cases of Indonesian citizens abroad who have criminal problems/disputes (with permanent legal force) and also how the Indonesian state protects its citizens abroad from an international legal perspective.

## METHOD

Type research used in writing thesis This is Juridical legal research normative. Research conducted researcher This nature prescriptive. This type of research The author presents it with considerations and analysis of existing laws and regulations, especially those related to with the title of this thesis. Type study nature prescriptive is also used researchers in to study problem, namely study done through " solution-oriented and capable explanation " finish issues raised through Regulation legislation valid invitation.

Researchers use the statute approach, case *approach*, and conceptual approach . The statute approach is an approach that is carried out by examining various legal regulations that are the focus of the problems raised by researchers. In addition, researchers also conduct literature studies not only on the applicable laws and regulations in International Law but also accompanied by strengthening the Principles, Theories and opinions of legal experts.

In study This writer use Source material law, in solve issue issue the issues raised. The materials the law used in study This among others; Primary Legal Materials, Secondary Legal Materials law secondary, Material law tertiary.

Primary legal materials include : Law No. 37 of 1999 concerning Foreign Relations, the 1961 Vienna Convention concerning Diplomatic Relations , the 1963 Vienna Convention concerning Consular Relations, the 1969 Vienna Convention concerning the Law of Treaties, the Charter of the United Nations , Law Number 39 of 2004 on Placement and Protection of Indonesian Domestic Workers Abroad (*agreement of Placement and Protection of Indonesian Domestic Workers* ).

Material law secondary The legal materials that will be explained from primary legal materials, the secondary legal materials that researchers use include : Books Relevant books such as: International Dispute Settlement (JG MERLINS), Diplomatic and Consular Law (SETYO WIDAGDO), Handbook of International Law (ANTHONY AUST) , Theory and Practice Dictates Diplomacy (ASEP SETIAWAN), A modern introduction to International Law (MICHAEL AKEHURST).

Besides it also exists material law tertiary is material the law that will give explanation to material primary and secondary law, materials law tertiary used researcher between other: encyclopedia, Indonesian dictionary, dictionary law.

Collection Legal materials are carried out with identification Regulation legislation, as well as classification Legal materials according to existing problems. Therefore it is a collection technique Legal material namely by doing literature study . Study literature This done by, Reading, Studying, Taking notes, and making review material Library material . In addition studies In the library, researchers also collect Legal materials Through Online reference. researchers study legal information through online media as material related to the problem which is being researched.

In analyze research, researcher using Prescriptive Techniques that is explain problem with Interpretation and interpretation to Legal materials used For give Appropriate answer with rules law That Alone.

## RESULTS AND DISCUSSION

### RESULTS

#### **Principles of International Law and rules regarding the protection of Indonesian citizens in diplomatic relations**

International law look at Principle sovereignty as power highest a country that does not can restricted its existence by regulation law solely . (Jean Bodin 1576). This sovereignty can only apply to every person, every object or event that occurs in the jurisdiction of a sovereign state. The power of a state to exercise its legal supremacy is determined by territorial boundaries or what is commonly known as jurisdiction . (George schwarzenberger 1971)Territorial sovereignty has 3 main aspects that determine a state's sovereignty: The external aspect of sovereignty which means that the state is free to exercise its legal supremacy, the internal aspect of sovereignty which means that the state has the authority to build a state government institution exclusively and the territorial aspect of sovereignty which means full power to the state to exercise its own territorial power over land, sea, air over every person, object or event.

Sovereignty refers to the concept of independence. Sovereignty and national equality are inherent characteristics of independent states as subjects of international law. Recognition of national sovereignty and equality between nations also form the basis of national status in the international legal system. According to this theoretical view, the concept of sovereignty as something open prioritizes the possibility of

establishing foreign relations based on the principle of good faith in the state. The principle of good faith in the state (*good faith*) in state ethics strives to achieve the principle of *good neighborliness* good *neighbourhood*) a *sovereign country*. *The country must prioritize world peace, and harmony between countries as the main thing that needs to be fought for in taking international agreements.*

In several cases of Indonesian citizens abroad, the recipient country did not provide specific information to the Indonesian government so that diplomatic protection efforts could be made. Such as in the case of Tuti Tursilawati who was an Indonesian worker abroad. Tuti was not treated well as a foreign worker in a foreign country. (Humas Sekkab 2018) The recipient country of Tuti Tursilawati sentenced Tuti to a punishment for violating *Had* which was considered a punishment from God and not a *qisas* punishment, so that the resolution could not be through diplomatic efforts. The Saudi Arabian state viewed the murder of Tuti Tursilawati as a premeditated crime, which caused the resolution of Tuti's case to be carried out through Saudi Arabian legal jurisdiction. Regarding the execution of the death penalty for Tuti Tursilawati, the National Commission on Violence Against Women stated that the Saudi Arabian government must pay more attention to the consular rights of the Indonesian state because it has violated the ethics of notification in the event of problems that befall Indonesian citizens abroad. The National Commission on Violence Against Women also stated that the Saudi Arabian government should better protect Indonesian citizens who work abroad because of incidents like Tuti Tursilawati, has also happened in the case of Siti Zainab, among other things by providing space for the consulate to make direct visits to Indonesian citizens who are experiencing problems. (Humas Sekkab 2018)

A good problem solving is through diplomatic efforts between state leaders so that the problems of Indonesian citizens abroad can be resolved and can receive attention from the Indonesian government (Asep Setiawan, 2016). The resolution of the Tuti Tursilawati case should be through diplomatic efforts by opening a new agreement regarding the request for restitution to the criminal heirs. This is attempted by the Indonesian government through visits and inviting the government of the recipient country to discuss specifically regarding effective and beneficial problem solving options for both parties, through a request for a notification agreement, for example. This notification is a basic right in a consular agreement, as in *article 36*:

*(a). consular officer shall be free to communicate with national of the sending State and to have access to them. Nationals of the sending State shall have the same freedom with respect to communication with and access to consular officer of the sending State;*

*And,*

*(c) consular officer shall have the right to visit a country of the sending State who is in prison, custody or detention, to converse and correspond with him and to arrange for his legal representation. They shall also have the right to visit any national of*

*the sending State who is in prison , custody or detention in their district in pursuit of a judgment . Nevertheless , consular officer shall chorus from taking action on behalf of a national who is in prison , custody or detention if he expresses himself against such action .*

In point (a) it is explained that every consular office or representative of a receiving country is free to build communication with each other. The country's representative has the right to gain access to visit its citizens who are experiencing problems and this diplomatic representative will help citizens to find legal representation as a lawyer in the case they are experiencing.

In the case of the execution of the death penalty for Tuti Tursilawati, which occurred in 2010, the Indonesian government only found out that Tuti had been executed in 2015. (KomnasPerempuan 2018) Indonesia's delay in obtaining information regarding Tuti's death is evidence that the agreement on Indonesia's consular rights has been violated by Saudi Arabia , which in this case is the country receiving Tuti Tursilawati . Problems that occur outside state jurisdiction, its resolution is referring to the Agreement international which is manifestation from law international That Alone. (Salmon Abertnego 2020) The Indonesian government can protect inhabitant his country with strive for the intertwining connection good diplomacy between countries. Protection of the state against Indonesian citizens abroad are regulated in Law Number 37 of 1999 concerning Connection overseas:

### **Article 18**

*( 1) The Government of the Republic of Indonesia protects the interests of Indonesian citizens or legal entities facing legal problems with foreign representatives in Indonesia.*

*And,*

### **Article 19**

*The Representative of the Republic of Indonesia is obliged to: (b) provide protection, shelter and legal assistance for Indonesian citizens and legal entities abroad, in accordance with national laws and regulations as well as international law and customs.*

In addition, the government usually provides political protection to Indonesian citizens who are abroad (ASEAN 2017). Political protection is usually realized by a meeting between the president and the head of state to make an agreement ( *Agreement* ) in a bilateral or multilateral agreement. This agreement will be stated in a memorandum of understanding, this will be mutual Under consent , which is binding between parties in an international agreement. In international law, international agreements are regulated in Article 2 paragraph 1 of the 1961 Vienna Convention, which states that " *Treaty means an international agreement conclude between states in writing dorm and governed by international law ..* " The meaning of this verse is that an international agreement is an agreement between countries that is written and agreed upon as international law in its implementation.

International agreements must be able to mediate the problem of differences in the ideologies of sovereign countries . International agreements are one of the basic

ways to put every country in an equal position and have the same standing in the eyes of the law. In terms of fighting for the interests of their country without harming other countries. This international agreement will later become the basis for an agreement that has a major influence on the survival of the state in an international order that prioritizes the principle of good neighborhood. This international agreement will be the basis for countries to be bound and have obligations in the eyes of the law (Salmon Abertnego 2020). To carry out this agreement, the country must have diplomatic representatives who carry out their duties as representatives of the country for the interests of the country

The task of the representatives of the State is "*purpose of adopting or authenticate the text of a treaty or for the purpose of expressing the consent of the State to be bound by a treaty*" (ASEAN 2017). The representatives of the countries attempted to make: ***Adoption of the Text, Authentication of the text, and Consent to be bound***. The validity of an international agreement between two or more countries is called "*entry into force*". (Aust a 2005) After the countries participating in the agreement bind themselves through the signature of diplomatic representatives, the country becomes part of the agreement. All types of agreement clauses must be agreed upon and implemented as the life of the country progresses. The agreement is declared effective if the memorandum of understanding contains detailed information about the specific things promised and the realization of its implementation is also not disappointing. If all the required requirements are met, then the international agreement can be declared effective.

**Form protection of the Indonesian State in agreement "*Agreement the placement and protection of Indonesian Domestic Workers*".**

Protection of the state is attempted by making an agreement, in this case to protect Indonesian citizens who are abroad, especially in Saudi Arabia, there is an "*Agreement on the Placement of Indonesian Citizens and Protection of Indonesian Domestic Workers*" (WIDAD MUHAMMAD KHAITAM 2014). This agreement was made in 2014, and was the first meeting between Indonesia and Saudi Arabia to discuss diplomatic protection.

After going through the negotiation process by representatives of Indonesia and Saudi Arabia on the agreement text, it was continued by carrying out the next stage, namely the acceptance or adoption of the agreement text. This stage shows that the parties conducting the negotiations have succeeded in reaching an agreement on the agreement text, although the text is not yet a final agreement or a definitive text.

Article 9 of the 1969 Vienna Convention provides:

- a. Acceptance of a manuscript is determined by the agreement of all participants (unanimously) or;
- b. A two-thirds majority of those present voted.

In a bilateral international agreement, unanimous acceptance of the agreement text by the parties is very easy to achieve. This is because the participants in the agreement only consist of two parties. If both parties have reached an agreement on the agreement text, then both parties can adopt the agreement text and proceed to the next stage, namely authentication of the agreement text. In this agreement, the stage of acceptance and/or adoption of the agreement text and the stage of authentication or ratification of the agreement text are combined into one (Arya Wibisono 2021). Acceptance of the agreement text is also the authentication of the agreement text. By combining these two stages, efficiency in the process of the birth of this agreement is achieved and the birth of the agreement is also faster. After going through the stages of adoption and authentication of the agreement text, it can be continued to the stage of agreement to be bound by the agreement (**Consent to be bound by a treaty**) (Setyo widagdo 2008).

According to Boer Mauna in writing the agreement text consists of a preamble, body, closing clauses and annexes. (Michael akehurst 1983). In the preamble usually begins by mentioning the participating countries. The body consists of the contents of the agreement itself, namely in the form of articles. The closing clause contains the regulatory mechanism. such as starting to apply, conditions of application, duration of the agreement, amendments, revisions, accessions and others. The annex contains technical or additional provisions regarding one article or the entire agreement and is separate from the agreement. The preamble contained in the Agreement The Placement and Protection of Indonesian Domestic Workers , reads:

*“the Government of the Republic of Indonesia represented by the Ministry of Manpower and Transmigration and The Government of the Kingdom of Saudi Arabia represented by the Ministry of Labor hereafter referred by singular as the party and collectively as the parties ”*

In the preamble to the agreement , it is stated that the parties participating in this agreement are the Indonesian Government represented by the Ministry of Manpower and Transmigration and the Saudi Arabian Government represented by the Ministry of Manpower (Arya Wibisono 2021). In addition to mentioning the parties participating in the agreement, the preamble also contains general statements of the agreement which are sometimes political programs of the participating countries. In this agreement , these statements are stated in the following sentences

*“desiring to Promote the existing cooperation through cooperation in the field of labor based on principles of mutual benefit , mutual respect , fairness and transparency ”*

In the sentence it is stated that the making of the agreement is intended to improve cooperation in the field of employment based on the principles of mutual benefit, mutual respect, justice and openness. After the preamble in the agreement , it is continued with a sentence stating that the parties have agreed to various matters stated

in the body. The body of this agreement consists of nine articles where Saudi Arabia is the first party and Indonesia is the second party in the agreement. The points in the nine articles contain the objectives, rights and obligations of the parties, dispute resolution for violations of the agreement, the validity period of the agreement, amendments and termination of the agreement. After the articles of the agreement have been stated in the body, it is continued with closing clauses which are also part of the body. The closing clauses in this agreement are stated in the sentence

*"in witness whereof , the undersigned being Duly authorized there to by there respectively Governments , have signed this Agreement . Done in duplicate , in Riyadhb on the 19th of February 2014 in Indonesian Arabic , And English languages , all text being equally authentic . In case of any divergence of interpretation of this Agreement , the text shah prerval "*

In article two letter (a) *Agreement The Placement and Protection of Indonesian Domestic Workers* states that the parties are required to take the necessary steps, in a manner that has been determined by applicable laws and regulations, which also include international norms, to ensure effective and equal protection of the rights of domestic workers and their employers, including the right to obtain effective legal remedies that exist in their legal systems for the protection of the rights in question. In article two letter (a), the parties are required to guarantee effective protection of the rights of Indonesian citizens and also include the right to obtain effective legal remedies that have existed in applicable laws and regulations including international law. The related laws and regulations in Indonesian national law that regulate the protection of Indonesian migrant workers are Law Number 39 of 2004. In article 8 of Law Number 39 of 2004, the rights of Indonesian migrant workers include:

- a. *Working abroad ;*
- b. *Obtain correct information regarding overseas job markets and procedures for placing Indonesian migrant workers overseas;*
- c. *Receive equal service and treatment in overseas placement;*
- d. *Obtaining freedom to practice one's religion and beliefs and the opportunity to practice worship in accordance with one's religion and beliefs;*
- e. *Receive wages in accordance with the wage standards applicable in the destination country;*
- f. *Obtain the same rights, opportunities and treatment as other foreign workers in accordance with the laws and regulations in the destination country;*
- g. *Obtain legal protection guarantees in accordance with statutory regulations against actions that may degrade his/ her dignity and honor as well as violations of rights stipulated in accordance with statutory regulations during placement abroad;*
- h. *Obtain guaranteed safety and security protection on return home*

*Placement Agreement and Protection of Indonesian Domestic Workers* have legally binding force on both parties (WIDAD MUHAMMAD KHAITAM 2014). This is because the process of formulation or negotiation, acceptance of the manuscript and up to the agreement to be bound by the agreement has been fulfilled and in accordance with the provisions contained in the 1969 Vienna Convention and Law Number 24 of 2000 concerning the basic principles of bilateral diplomatic agreements. In addition, the formal elements in the agreement have been well and systematically arranged, namely from the preamble, body to the closing clause. Therefore, if one of the parties in the agreement violates the provisions that have been agreed upon, they can be held accountable. Legal protection for Indonesian Migrant Workers contained in the Placement Agreement and Protection of Indonesian Domestic Workers include protection in recruitment, employment contract standards, supervision, consular assistance, document storage, insurance, and transportation facilities.

In making the *Placement Agreement and Protection of Indonesian Domestic Workers*, The process is simpler compared to the stages explained above. Previously, the nomenclature of this agreement was MoU as a preliminary agreement or pre-contract agreement before being signed by the parties (WIDAD MUHAMMAD KHAITAM 2014). Representatives of Indonesia and Saudi Arabia negotiated in drafting the MoU. After the draft was completed, a feasibility study was carried out before making a more detailed agreement. (KemenLu 2022) After both countries have agreed to be bound by the MoU, it can be done by signing, ratifying, or accepting the MoU. In this case, the two countries made an agreement by signing only without ratifying. The ratification stage was not carried out by Indonesia because the material contained in the contents of the agreement has a small scope and does not concern the country's direction. Therefore, ratification or approval from the DPR is not required.

In the implementation of the Placement Agreement and Protection of Indonesian Domestic Workers, the parties, namely Indonesia and Saudi Arabia have agreed that the agreement that has been made is valid since the last notification date. This is stated in article eight paragraph one of the agreement which reads: ***this agreement shall be effective as of the date of the later notification***. The date of signing as the final process of agreement on this agreement is February 19, 2014. Therefore, this agreement has been in effect and binding on the parties since that date. The implementation of the agreement is a practice of article 24 of the 1969 Vienna Convention where the parties are free to determine for themselves when the agreement will come into effect which is adjusted to the content and nature of the agreement that has been made.

Every agreement gives rise to a legal relationship in the form of rights and obligations for the parties bound by the agreement. Likewise, from the time of negotiations to formulate the text of the agreement, its enactment, its implementation with all problems that arise and the termination of the agreement, all are subject to international law and international treaty law. The rights and obligations arising from

the birth of an international agreement are based on the principle of *pact sunt servanda* stating that the agreement binds the parties and becomes the law that applies to the parties. This binding nature means that the state party to an agreement must obey and respect the implementation of the agreement (HarryPurwanto 2023).

## DISCUSSION

### Completion case Indonesian citizens abroad in International Law Perspective.

From an international law perspective, resolving problems between two countries can be done through diplomacy, negotiation, mediation and conciliation through meetings between the respective governments. each country. (Setyo widagdo 2008). The resolution of these problems will give birth to an Agreement or "*Mutual under consent*" in international agreements. This is emphasized in the 1961 VIENNA Convention on diplomatic relations, for example in:

*Article 2 : "The establishment of diplomatic relations between States, and of permanent diplomatic missions , takes place by mutual consent ".*

Based on article 2 of the 1961 Vienna Convention , it is explained that the establishment of diplomatic relations between countries is carried out with mutual agreement, where the mutual agreement is stated in a form of agreement or joint statement. The state is obliged to provide protection to its citizens who are abroad. *Diplomatic Protection* , or diplomatic protection, is attempted by the government of a sovereign country as an affirmative action effort . This affirmative action is also included in the *responsibility agreement. of nation due to international wrongful act* :

*" Action must taken by a state against another state in respect of injury to the person or property of national caused by an internationally wrongful act or omission attributable to the later state ".*

This statement directs sovereign states to take responsible actions as affirmative diplomatic steps due to international problems. This statement is contained in the basic principles of the agreement. *responsibility of nation due to international wrongful act* , which is in line with the intent of diplomatic protection .

There are also 3 ethics that exist in state relations to carry out diplomatic efforts for its citizens (Edy suryono 1986), namely:

- i. ***an International Wrong***, is a wrongful act committed by a country due to violating the law, violating agreements, violating the good faith of the state ( *Good faith* ) so that in international law the country that made the mistake can accept demands or proposals to carry out mediation or joint negotiations with other countries as a form of good cooperation in international relations.

- ii. ***Exhaustion of Local Remedies***, namely the implementation of local legal efforts that can be carried out by the Indonesian government in the event that its citizens experience legal problems abroad. A country that wants to protect its citizens abroad cannot escape the principle of exhaustion of local remedy.
- iii. ***Link of Nationality***, which is a principle in international law that prioritizes relations between countries in building good cooperation and binding themselves to a bilateral or multilateral agreement. Countries that are interconnected will be easier in terms of resolving Diplomacy problems. Countries that bind themselves to an agreement will be freer to submit opinions, provide input, and participate in political activities that will later be useful for the life of a country.

Regarding the resolution of the Tuti Tursilawati problem, it was done by sending a state representative to meet with the victim's heirs. (BBC Indonesia 2018) This meeting was attempted to obtain permission related to the request for inheritance compensation in the law of qisas in the country of Saudi Arabia. This diplomatic representative always strive for bilateral meeting for discuss problem Indonesian citizens abroad whose settlement only can through political lobbying. For example, on December 25, 2011, in effort try to forgiveness from expert the victim's heirs. In addition That Most recently in October 2018 President Jokowi has meet with party government and the Kingdom of Saudi Arabia to talk about problem Indonesian citizens in Saudi Arabia who often do not get appropriate treatment in connection consular (Humas Sekkab 2018). In 2011 it was recorded that the Indonesian government had sending a Diplomatic Note to the Saudi Arabian Ministry of Foreign Affairs 19 times. The Embassy Indonesia's large presence in Saudi Arabia has also send letter personal Indonesian Ambassador to prime Saudi Arabian minister 4 times (Humas Sekkab 2018).

Besides formal efforts of the Indonesian government are also being made informal efforts in protect Indonesian citizens who are abroad. For example with the approach taken by Indonesian diplomats abroad together with the victim's family through institution forgiveness and reconciliation (Humas Sekkab 2018). Approach steps this is also done Indonesian government with the governor Mecca and Office guardian city thaif which aims For do effort mediation at the stage following so that Indonesian citizen settlement the problem Can through effort diplomacy. Besides That the Indonesian government also met family expert victim's inheritance for do effort application in accordance with recommendation from figure prominent local as many as 4 times. The Indonesian government also facilitated family of Indonesian citizen victim Tuti the goddess of love For can see condition Tuti use give support morale including convey development the case experienced by Tutti Tursilawati. KJRI Jeddah regularly always open communication with all, and visit prison Thaif.

Indonesian government always make an effort do negotiation and mediation as effort protection Indonesian citizens abroad. That is because of Negotiations can make

the parties directly bargain for the interests of each country itself. The parties directly supervise or monitor the settlement procedure . Negotiations also avoid public attention and political pressure within the country. Negotiations can be used for any dispute resolution through written, oral, bilateral, multilateral and other negotiations. Also in practice , mediation efforts by the government are actually very beneficial to both parties. This is because the mediation process will be mediated by a neutral party who can see and consider justice from a different perspective.

The Indonesian state today always opens new diplomatic relations with affected countries , and countries with the majority of recipients of Indonesian citizens. The Indonesian government's efforts are made to anticipate the events of Tuti Tursilawati, Siti Zainab , and Nawali Hasan from happening again. Good diplomatic relations between affected countries and countries receiving Indonesian citizens will be an advantage for the Indonesian government. The Indonesian state will not only get certainty about the security of its citizens abroad , but can also get information and connections towards positive geopolitical developments. Diplomatic relations are realized through state representatives through good embassies.

The dispute resolution efforts by the country are closely related to the principle of passive citizenship, where passive citizenship is a condition of an individual who commits an unlawful act in the jurisdiction of another country. (Suryono 1986). A citizen commits an unlawful act in the jurisdiction of another country, for which the country cannot punish the citizen because the citizen is a passive citizen. Therefore, citizens who are outside their jurisdiction are considered by international law to be citizens with passive citizenship. The attention of the government of a sovereign country will continue to try to maintain the legal existence of its country's jurisdiction, but the existence of this passive citizenship makes the legal existence of a country not valid solely based on the supremacy of local law, but rather pays attention to ethics in international law related to consular rights.

To help Indonesian citizens abroad, the Indonesian government is involved in expanding the construction of diplomatic offices as representatives of the Indonesian state abroad to increase and maintain the role of diplomatic functions abroad to remain optimal. Efforts to build these facilities are also realized by establishing citizen services at 24 Indonesian representatives abroad such as in Singapore, Hong Kong , Beijing, New York , European countries , the Middle East, etc. (KemenLu 2022)The opening of diplomatic buildings in all countries is an effort by the Indonesian government to help maximize the country's protection of the welfare of the lives of many people, not only those who live and reside in the country, but also those who live abroad.

In addition, the state also remembers that abroad there are many citizens who cannot access any government assistance and services. Of course this is a crucial thing that is the main focus of the government, namely so that all Indonesian citizens who are abroad can get and feel the real protection of the government . Therefore, the

Indonesian government is trying to encourage digital diplomacy as an innovation to be able to reach Indonesian citizens who are abroad. The development of this technology is utilized by the government, and to maximize the forms of protection and outreach of the Indonesian government to Indonesian citizens abroad. Based on Wilson Dizard's opinion, there are at least 3 main benefits of digital diplomacy , namely so that the Indonesian government does not miss information on geopolitical changes, knows information about Indonesian citizens abroad , and to carry out full monitoring of the political strategies of foreign countries.

The Republic of Indonesia always strives to protect its citizens through the Directorate for the Protection of Indonesian Citizens and Indonesian Legal Entities (PWNI) and (BHI). This government institution functions to supervise and provide reports and protect citizens who are abroad in the event that their citizens experience social or legal problems. This institution is in accordance with the mandate of Indonesian Government Regulation number 2 of 2002 concerning the form of protection attempted by the government

### **Protection efforts Indonesian citizens outside the country perspective Connection overseas.**

The efforts to protect the Indonesian state are realized in 3 ways, namely legal protection, the formation of an " *Agreement " agreement. of the placement and protection* ", and the establishment of a single channel placement system (SPSK) in digital diplomacy. This protection is a manifestation of the state's presence as *an international act of diplomatic protection* ( Aust A,2005). In the last 9 years, diplomacy to protect Indonesian citizens has been the second priority in foreign policy that has been put forward. The Indonesian citizen protection system continues to be built and strengthened, one of which is through strengthening legal instruments ranging from the Law to the Regulation of the Minister of Foreign Affairs ( Permenlu ), including various innovations that have been carried out. Among others, building the Seafarer Corner in Cape Town, Montevideo and Kaohsiung ; appointment of a strong Legal Team for the Protection of Indonesian Citizens in all countries where Indonesian citizens are concentrated; preparation of contingency plans in all countries that have risks of conflict and disaster; protection of Indonesian citizens is also a priority in the diplomatic education curriculum(Humphrey Wangke 2020).

#### **1. Legal Protection**

Legal strengthening is one of the protection efforts that can be carried out by the state to protect Indonesian citizens who are abroad (LordMacmillan, 2023). The problems that occurred in the case of Siti Zainab . Tuti Tursilawati have been anticipated in advance with the existence of laws protecting Indonesian citizens abroad in Indonesia. This protection is contained in Article 18 of Law Number 37 of 1999:

(1) *The Government of the Republic of Indonesia protects the interests of Indonesian citizens or legal entities facing legal problems with foreign representatives in Indonesia.*

And,

*Article 19 b. provides protection, assistance and legal assistance for Indonesian citizens and legal entities abroad, in accordance with national laws and regulations as well as international law and customs.*

In addition, legal strengthening is always carried out to provide maximum legal protection and protection to Indonesian citizens abroad. In Ministerial Regulation No. 5 of 2018 concerning the protection of Indonesian citizens abroad, Article 2 paragraph (1) *Protection is provided for Indonesian citizens who are abroad.* This state protection is in the form of prevention, early detection, and rapid response when Indonesian citizens abroad experience disputes. The form of state protection that can be carried out based on this regulation is stated in Article 7: *The form of protection provided includes: a. Consular Protection; and b. Diplomatic Protection.*

The forms of consular protection that can be carried out by the state are listed in Article 8 of the Minister of Foreign Affairs Regulation No. 5 of 2018 concerning the protection of Indonesian citizens abroad. It reads: *Forms of Consular Protection at least include:*

- a. (a) *Protecting the interests of the State and Indonesian citizens in the local country;*
- b. (g) *Representing Indonesian citizens before courts and other institutions in the local country based on the practices and procedures applicable in the local country;*
- c. (e) *Obtain consular notification from the Local Country;*
- d. (h) *Conducting visits to prisons; i. providing information in the event of death, guardianship or protection, shipwreck and air accidents;*
- e. (k) *Providing assistance, mediation, advocacy and providing legal assistance in the form of providing legal services.*

Through the explanation of article 8 of the regulation , the problems of Tutu Tursilawati and Siti Zainab in Saudi Arabia can be covered well. However, due to the Saudi Arabian government not providing notification, the assistance that the state could have attempted was not implemented properly. In the explanation of article 8, it is also stated that Indonesian consular representatives abroad can provide assistance, mediation , advocacy and legal assistance to Indonesian citizens who are experiencing disputes. Even state representatives should be able to visit Indonesian citizens who are undergoing legal proceedings in the recipient country. From the perspective of international law on consular protection, Indonesian citizens also have the right to take legal action ( Edy Suryono, 1986).

## **2. Formation of the agreement " Agreement of the placement and protection "**

Various problems that befall Indonesian citizens abroad can be overcome by forming an agreement as a defense of the country (Setyo widagdo 2008). This defense

of the country can be done because in international law, the country has a consular role that has the right to know information about its citizens. Defense of the country can begin to be realized with the opening of diplomacy by the government of the Republic of Indonesia. The opening of diplomatic relations is the right of the country. Based on international law, the country is the most important legal subject (*par excellence*) compared to other subjects of international law.

*Charter of the united nations Chapter IX Article 55 : “universal respect for , and observation of , human rights and fundamental freedoms for all without distinction as to race , sex, language , or religion*

In this article it is explained that countries uphold the fundamental rights of each country in carrying out diplomatic relations. The rights held by sovereign countries are intended as an order to the state of the international community. Order can be upheld because all countries in making international agreements have the same role and the same high degree. This is because all countries have equality rights , and these rights cannot be taken or intervened by other countries (Salmon Abertnego 2020).

Indonesian citizens who are executed without notification are increasing (BBC Indonesia, 2018). In the case of Siti Zainab, the Indonesian government took steps to hold a bilateral meeting between Indonesia and Saudi Arabia to form *a mutual agreement under consent* , which strengthens Indonesia's existence as a consular state. Then in 2018, the unilateral execution of the death penalty was again carried out by the Saudi Arabian state to sentence Tuti Tursilawati . The Indonesian government finally sent diplomatic representatives to form a *Joint committee* , which functions to supervise and monitor the protection of Indonesian citizens abroad. An agreement to form *a joint This commitment* is a legal strengthening of protection for citizens outside the countries listed in the "*Agreement" of the placement and protection Indonesian domestic workers* ".

In the preamble or preamble to this agreement which becomes part of the joint venture This committee is Indonesia and Saudi Arabia who are both parties to this agreement. Preamble to this agreement:

*“ the Government of the Republic of Indonesia represented by the Ministry of Manpower and Transmigration and The Government of the Kingdom of Saudi Arabia represented by the Ministry of Labor hereafter referred by singular as the party and collectively as the parties ”*

The essence of the agreement between Indonesia and Saudi Arabia to strengthen legal protection is stated in the sentence:

*“ desiring to Promote the existing cooperation through cooperation in the field of labor based on principles of mutual benefit , mutual respect , fairness and transparency ”*

In the sentence it is stated that the creation of the agreement is intended to increase cooperation in the field of employment based on the principles of mutual benefit, mutual respect, justice and openness. After the introduction in *the agreement* said,

continued with a sentence stating that the parties have agreed to various matters set out in the body. In the implementation of *the Agreement The Placement and Protection of Indonesian Domestic Workers*, the parties, namely Indonesia and Saudi Arabia have agreed that the agreement that has been made is valid since the last notification date (KemenLu 2022). This is stated in article eight paragraph one of the agreement which reads: *this agreement shall be effective as of the date of the later notification*. The date of signing as the final process of agreement on this agreement is February 19, 2014. Therefore, this agreement has been in effect and binding on the parties since that date. The implementation of the agreement is a practice of article 24 of the 1969 Vienna Convention where the parties are free to determine for themselves when the agreement will come into effect which is adjusted to the content and nature of the agreement that has been made. (WIDAD MUHAMMAD KHAITAM 2014)

Every agreement gives rise to a legal relationship in the form of rights and obligations for the parties bound by the agreement. Likewise, from the time of negotiations to formulate the text of the agreement, its enactment, its implementation with all problems that arise and the termination of the agreement, all are subject to international law and international treaty law. The rights and obligations arising from the birth of an international agreement are based on the principle of *pact sunt servanda* which states that the agreement is binding on the parties and becomes the law that applies to the parties.

The Republic of Indonesia has established good foreign relations in an effort to form international agreements that benefit the security of the lives of Indonesian citizens living abroad. The Indonesian government has made maximum efforts to create bilateral, regional and multilateral forums so that they can be closely linked together with friendly countries. In these state relations, Indonesia always campaigns for a form of community life that upholds humanitarian values, respects, honors, does not interfere in the geopolitical affairs of other countries, rejects the use of violence and consultations and prioritizes consensus in the decision-making process. In 2024, Indonesia has established bilateral cooperation with 162 countries and one special territory in the form of a non-self governing territory. Indonesia's (KemenLu 2022) partner countries are divided into eight regions (Africa, Middle East, East Asia and Pacific, South and Central Asia, North and Central America, South America and the Caribbean, Western Europe, and Central and Eastern Europe).

Strengthening diplomatic relations is a form of protection from the Indonesian government for Indonesian citizens abroad. Indonesian citizens who have cases abroad, especially in Saudi Arabia, Malaysia, the United States, etc., are basically covered by diplomatic protection. Through this strengthening, all kinds of actions that will be imposed on Indonesian citizens abroad in the future can be handled by providing mobile notifications from the recipient country (Ministry of Foreign Affairs, 2022).

### 3. Establishment of a single channel placement system (SPSK) in digital diplomacy.

Efforts to protect the Indonesian state can not only be done conventionally, but also using digital media as an intermediary for protecting Indonesian citizens abroad. The agreement between Indonesia and Saudi Arabia regarding the establishment of a single channel placement system (SPSK) is to impose a moratorium on the placement of Indonesian domestic workers to recipient countries (HumpreyWangke, 2020). This is because protection for Indonesian citizens abroad has become weak due to the cases of Siti Zainab who was executed without notification in 2015 and Tuti Tursilawati in 2018. The establishment of this single channel placement system (SPSK) was carried out because of the many problems faced by Indonesian migrant workers who work for *individual users* and the absence of guarantees of protection from countries in the Middle East (HumpreyWangke, 2020). This single channel placement system replaces the procedure for Indonesian citizens working abroad, from work under the control of individuals to companies certified by the state.

Most Middle Eastern countries still adhere to the *kafalah system (sponsorship)*, where this system strongly protects individual rights to the ownership of labor (Humprey Wangke, 2020). This system makes Indonesian citizens who work abroad, especially Middle Eastern countries, often disadvantaged by employers due to differences in work patterns and systems adopted. This single channel placement system (SPSK) is implemented through integration between the information systems of the two countries, namely the Saudi Arabian placement system. (*Musaned*) and the labor attaché system (*Sisatneker*). This system is a form of real protection for the government of the Republic of Indonesia, because through it Indonesian citizens who work abroad, especially in Middle Eastern countries, do not need to have a direct employment contract with an employer/individual but rather through a trusted agency that monitors and supervises the protection of foreign citizens in the recipient country.

Modern diplomacy is currently undergoing fundamental changes at an unprecedented level, affecting the character of diplomacy as it has always been known (Humprey Wangke, 2020). These changes, especially digitalization in communication, affect how the work of diplomats should be understood. Diplomats are required to understand the internet not only to know where they can gather the most reliable information to meet decision-making deadlines, but also to know how to exert maximum influence on public debate through social media. Face-to-face negotiations remain their prerogative, but the context of negotiations and the forces at work in those negotiations are changing rapidly. Through the internet these changes occur. Since the changes were made, Indonesian diplomacy has not only been carried out through the negotiating table or through direct lobbying, but also through social media. Diplomats or officials of the Indonesian Ministry of Foreign Affairs are active on Twitter. Through this social media account, Foreign Minister Retno announced various activities

that she was carrying out. The views, policies and activities of Indonesian diplomats can be seen on Twitter through uploads made by Foreign Minister Retno through the ministry account , or through the HPI account, or the UNSC account to find out about Indonesia's activities at the UNSC. Through Twitter, Director General of Law and International Treaties Damos Agusman often explaining various technical aspects of the application of international law which are complicated and difficult to understand.

The Republic of Indonesia always strives to ensure that the protection carried out by the government and diplomatic representatives can be implemented effectively. Efforts to strengthen the law, the formation of *mutual agreement* , and the formation of innovation is a form of state concern for the realization of effective protection. Agreement on the formation of the agreement is the basis for the enactment of a regulation in international law. With the strengthening of the law, cases of Indonesian citizens abroad can be resolved effectively.

## CONCLUSION

From an international law perspective, the solution to resolving problems between two countries is to establish *authentication. text* , as a mutual agreement and becomes a binding legal basis. (Setyo widagdo 2008). The Republic of Indonesia formed an agreement in the " *Agreement of placement and protection of indonesian domestic worker* " on February 19, 2024, to provide legal protection for Indonesian citizens abroad. Indonesia has sent diplomatic representatives as " *man of power*" who carries out the task of forming a joint agreement on the Tuti Tursilawati problem , namely Muhamimin Iskandar as minister . *Agreement The Placement and Protection of Indonesian Domestic Workers* have legally binding force on both parties. This is because the process of formulation or negotiation, acceptance of the manuscript and up to the agreement to be bound by the agreement has been fulfilled and in accordance with the provisions contained in the 1969 Vienna Convention. In addition , the formal elements in the agreement have been well and systematically arranged, namely from the preamble, body to the closing clause. Therefore, if one of the parties in the agreement violates the provisions that have been agreed upon, they can be held accountable.

The protection efforts of the Indonesian State are realized through *Affirmative action* in 3 ways, namely strengthening legal protection, forming an agreement " *Agreement of the placement and protection* " , and the establishment of a single channel placement system (SPSK) in digital diplomacy. This protection is a manifestation of the state's presence as *an international act of diplomatic protection* . The protection attempted by the Indonesian government is carried out so that Indonesian citizens who are abroad the country can live in prosperity. The problems of Siti Zainab and Tuti Tursilawati are the main reasons for strengthening legal protection, the formation of an agreement of the placement and protection , and the formation of a single-channel placement system in digital diplomacy can be formed.

### Suggestion

The Indonesian state needs to be more actively involved in bilateral conversations with countries receiving Indonesian citizens abroad. Protection efforts need to be realized not only through executive government decisions but also through embassy representatives abroad. (*Affirmative action is needed action*) carried out by each person in charge in an effort to protect Indonesian citizens abroad so that cases like Tutti do not occur. Tursilawati, Siti Zainab, and Nawali Hasan will not happen again. A good country is a country that cares about the welfare of the lives of many people, not only those in the country but also those abroad.

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