

Institutionalization of TKI Handling in Jember District

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Abstract

Jember is one of the migrant workers source in East Java with large number of problems. The problems source is allegedly due to problems that come from institutional aspects. Therefore, this study was conducted with the aim to explore, describe and interpret the institutional aspects of the migrant workers handling in Jember District, through an analysis of the dynamics between these institutional dimensions with the policy / institution hierarchy approach. This theory describes that a policy will succeed if the policy has good vertical consistency between its institutional dimensions. The institutional dimensions in question is, namely *policy level*, *organizational level* and *pattern of interaction* or individual response. Policy level relates to the harmonization of Indonesian labor legislation. Organizational level relates to relationships between organizational devices in the handling of migrants workers. The pattern of interaction relates to the patterns of individual interaction as the institutional response that resides on it. The research approach used is qualitative which is case study type. Selection of Informants is determined by purposive technique and the data is analysed using interactive model. The results showed that there is disharmony between legislation related to the TKI handling, either on a vertical or horizontal level. Disharmoni at this level of policy triggers the existence of dualism between organization. I.e. between the Ministry of Manpower and BNP2TKI. This dualism leads to mutual claims of authority. This mutual claim raises a different perspective from the migrant workers and leads to deviant behavior of CTKI. This condition is exacerbated by the low level of supervision. The results of this study indicate that vertical consistency alone is not sufficient to support the success of a policy. Horizontal harmonization is also required for a policy to work properly. This research also recommends repositioning the role as a form of improvement of the TKI handling.

Keywords : institutional, disharmony, organizational dualism, pattern of interaction

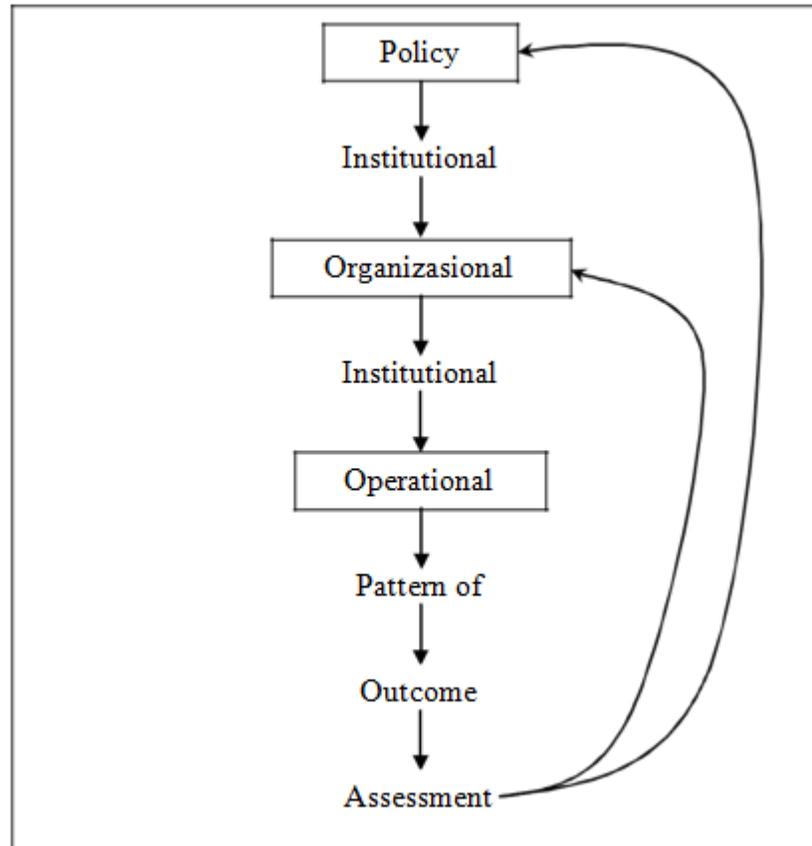
1. INTRODUCTION

This study aims to explore, describe and interpret the institutionalization in the handling of migrant workers in Jember Regency through an analysis of the dynamics of the institutional dimensions. The selection of Jember Regency as a research location is based on the fact that Jember District is one of the migrant workers sources with the fourth largest problem in East Java. In connection with this, Massey et al (1993) argues that institutional matters may constitute either legal or political obstacles or endorsements of one's chances for international migration.

Referring to the explanation, the focus of this research is the *socio-cultural* factor (non-economic), especially on the institution (institutional) as one of the determinant factors in international migration. The selection of this research focus is based on the theoretical reason as Massey et al (1993) points out that some fundamental aspects that are perceived as weakness of many international migration studies are, among others, many studies of international migration approach the economic and demographic factor, while for nature of socio-cultural factor, especially institutional, is still little hasn't been touched. Approach to these factors is already there, but the results obtained sometimes still can not describe the real conditions in the area of study.

Furthermore, Massey (1998) added that migratory studies are still fragmented partially for each region. This makes many indicators and significant economic determinants in a region actually become less influential in other areas. This is reinforced by the statement from Battistella (2003), he said that the study of migration in Southeast Asia and East Asia has a complex typology. The complexity in question is the political fluctuation and economic crisis that makes the pattern of migration in these two regions is different from the results of existing studies⁴. While the focus of research choice on institutional roles based on the concepts presented by Jennisen (2004 cf De Brujin, 1999) states that the Institution as some conceptual entity such as universities, organizations, corporations and so on, which is generally recognized as an institution. Generally, the definitions of institutions can be used for some abstract things such as democracy, religion, policy, and the gender system or the bases of science (natural science, social, etc.). According to Massey et al (1993), the institution represents obstacles or legal and political support for one's opportunity to engage in international migration.

The institutional dimensions referred in this study refer to the theory of Bromley (1989) which describes the institutional as a series of institutional arrangements in the form of two aspects which is policy and response. More concretely, the institution is (a) any form of policy generated by the policy level which will then be responded in stages in the form of (b) a new lower policy on the organizational level (c) behavior at the individual and household level affected by the policy. (d) proposed changes to the policy as a result of the evaluation. In other words, the individual's behavior and the choice of collective action at both the household and community levels, is essentially a series of institutional responses to policy on a high-level basis. This research seeks to reveal that the problems in the handling of migrants workers in Indonesia, especially in Jember District is a form of institutional responses that indicate the existence of irregularities at the institutional level. The description of Bromley's (1989) theory that underlies this argument is as follows.



Source: Bromley, *Economic Interest and Institutions, the conceptual foundations of public policy*, Basil Blackwel, Oxford, 1989: 33.

The picture above shows that the policy process as a hierarchy has the meaning that *institutional arrangement* as a policy level and organizational in policy theory can be called as public policy. In this case, public policy should not be hierarchically contradictory. This means that lower-level policies should not be contradictory, obscure or not in line with higher-level policies. If there is a conflict, then the implementation of the policy becomes ineffective. In this case, the organizational level serves as the implementor of the policy. The implementor has the right to create an institutional arrangement that serves as a more technical regulation to support the implementation of the policy. In Indonesia, this can be exemplified as a ministerial regulation, head of agency regulations, etc. The technical regulation is then used as a reference for work by the lower level, which can be local or in the case of TKI is PPTKIS.

This hierarchical system of Bromley indicates that if there are problems at the lower level (individual or household), this indicates that there are irregularities in the institutional level above it, both *organizational level* and *institutional arrangement*. The Problems related to the Indonesian labor migrants handling in Indonesia generally, and in Jember district specifically indicate that there is institutional irregularities at higher levels. This is the focus of this research.

2. RESEARCH METHODS

This research method is descriptive qualitative, which is a kind of research that is intended to develop concepts, collect facts and does not perform hypothesis testing. the approach used in this research is case study, it aim to the process and problems of TKI in Jember to explain how the institution handle TKI in the region. Case study is not a methodological choice but rather as a choice of the object under study, this case study was selected to explore a particular case in order to present a perspective on the issue or the

improvement of a theory. In this case, the case itself is not of primary interest; cases only play a supportive role, which facilitates our understanding of something to be examined.

The scope of the research lies in the focus and locus of the study. The focus of the study is the institutional dimensions in the handling of international migration, especially in the handling of TKI in Jember District. It is selected as a case study to explain how the actualization of institutions in the handling of labor migrants in the region. This research was conducted in several places which are generally located in Jember District. The details are as follows.

- Office of Manpower and Transmigration of Jember Regency.
- Some PPTKIS *
- House of Full Time Migrant Workers in Kec. Semboro, Ledokombo and Ambulu *
- Jember Immigration Office
- House of Representatives Officers Recruitment Candidate of Indonesian Workers or Field Officers
- UPTP3TKI Jagir Wonokromo Surabaya

On the other hand, the object of this research is institutional handling of TKI in Jember Regency with three aspects of study that is relation between regulation, response and relation between organizational device and individual response. The source of data is the research analytical unit is at the organizational and individual level, ie the *stakeholders* who are usually involved in the process of TKI handling in Jember.

There are several data collection techniques used in this research, namely document / secondary data collection, in *depth interview*, observation and *Focus Group Discussion* (FGD). The informants determined in this study are competent informants and involved in "the TKI world", ie some people from the Full Migrant Workers, PRCTKI, the Office of Manpower and Transmigration, and UPTP3TKI Jagir Wonokromo Surabaya. The informant in this research is determined using *purposive* technique.

Analysis is a process that details the research findings to formulate propositions through data abstraction processes and field facts. The data collected in this study is interpreted with a qualitative analysis model, namely *interactive model* consisting of data condensation, data presentation and conclusion.

3. FINDINGS AND DISCUSSION

A. Relation Between legislation

The results of this study indicate that there is disharmony in the relationship between policies or between laws and regulations in the handling of workers, both horizontal disharmony, and vertical disharmony. A statutory law is said to have a horizontal harmonization, if the legislation does not conflict with equal legislation¹⁰ or the laws and regulations governing the same field. meaning a legislation that has the same substantive arrangement or has relevance to the field under study. In that case, this study finds disharmony between Law no. 39 Th. 2004 with several laws, as follows.

- Disharmony with Law no.39 of 1999 on Human Rights
- Disharmony with Law no.32 of 2004 on Regional Government.

Vertical disharmony occurs whenever there is an inconsistency between legislation and its derivative products. In this case, there are some inconsistencies between Law No. 39 Th 2004 and some of its derivative products, namely Presidential Regulation No. 81/2006, and Minister of Manpower and Transmigration Regulation No. 18/2007. This disharmonious relationship has an effect that is causing conflicts and confusion at the organizational devices that are engaged in the handling of labor migrants.

B. Inter-organization Relations TKI Handling

The main obstacle in the institutionalization of Indonesian labor migrants handling in

Indonesia, especially in Jember district is the lack of good relations between institutions in charge. Even at some point, the relationship tends to turn into dualism, which in this case occurs between the Ministry of Manpower and BNP2TKI. The forms of dualism can be described as follows.

1. Dualism in the PPTKIS branch Establishment and Officer recruitment

There are differences of views related to the establishment of PPTKIS to conduct recruitment of CTKI. On one hand, the Ministry of Manpower instructs that PPTKIS operating in the region (undertaking recruitment of CTKI) should open a PPTKIS representative office in the area and must be registered with the local workforce. then after that, they should appoint recruitment officer named Field Officer (PL). The new version of BNP2TKI state that to recruit CTKI in PPTKIS area it is not necessary to open representative office, it only need to appoint some recruitment officer to undergo BNtek by BNP2TKI and get authorization by BNP2TKI. they called PRCTKI which has operational area 5 area (district / city).

2. Dualism in CTKI training

Dualism between the Ministry of Manpower and BNP2TKI continues into the CTKI training. Previously, CTKI training was handled by PPTKIS on the recommendation and supervision of the labor service. However, in its journey BNP2TKI was developing branch in many area by opening recruitment units as well as CTKI training. This shows the existence of dualism in this stage.

3. Dualism in Placement

As described earlier, there is also a dualism between BNP2TKI and Kemenaker about the destination countries. For Japan, Korea and Macau, recruitment, training and placement are handled by BNP2TKI, without Disnaker being involved. Even further the BNP2TKI themselves do the MOU with these countries and to go to these three countries do not need recommendation by disnaker. we can See how kemenaker and BNP2TKI have MOUs with different destination countries. furtherly, the number of CTKIs handled was also divided, as shown in the table below.

Table of Dualism in the TKI handling

No.	Years	Quantity	institution
1	0.2482	0.2482	
2	2004-2007.	0.2482	
3	0.2482	0.2482	(served by BNP2TKI)
	0.2482	0.2482	served by Kemenakertrans)
4	2009	0.2482	(served by BNP2TKI)
	2009	0.2482	(served by the Ministry of Manpower
5	0.2482	0.2482	(served by BNP2TKI)
	0.2482	0.2482	(served by the Ministry of Manpower)

Source:: Processed from Research and Information Center (Puslitfo) BNP2TKI Year 2010

C. Disharmoni of Policy and Dualism of Organizational Devices

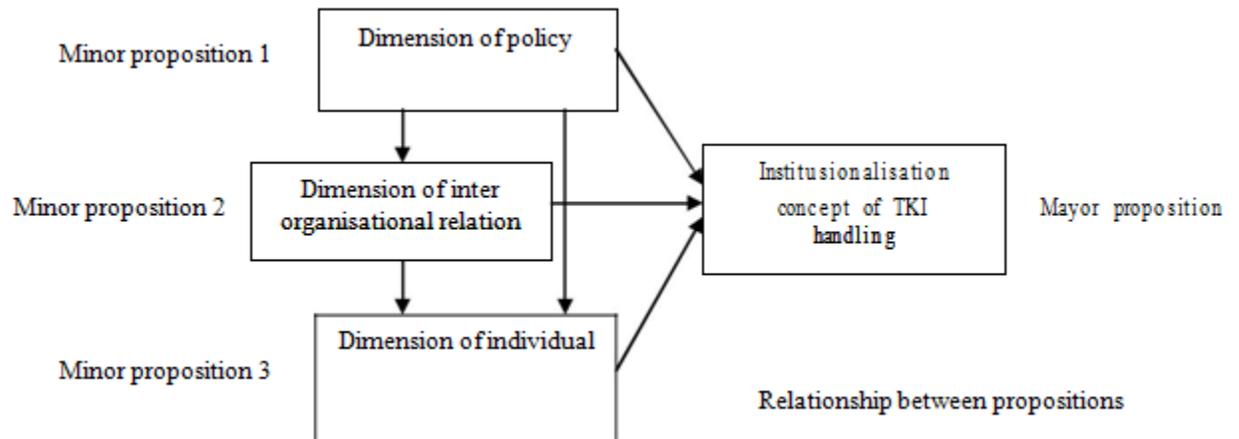
The result of the research shows that the emergence of institutional dualism problems between the Ministry of Manpower and BNP2TKI is triggered by the disharmonized policies, it then resulted in disharmony between organizational devices. The implications of the disharmony and institutional dualism are, among others, low legal awareness of individual workers, caused by the conflicting rules(disharmony) and the dualism of organizational devices. In addition, the supervision is categorized as low. This is because the supervisors are trapped in the disharmony of rules and institutional dualism. it mean, the relationship at these two levels affects the existing supervisory function and ultimately affects the legal behaviors of the individuals concerned.

D. Propositional Formulation

From the description above, several propositions can be constructed and formulated as crystallization of research results.

- **1st minor Proposition** , "the existence of horizontally and vertically policy Disharmoni in TKI handling is causing ineffective legislation".
- **2nd minor proposition** , "Dualism of the organization, namely the Ministry of Manpower and the National Agency for Placement and Protection of Indonesian Workers (BNP2TKI) is the implication of disharmony at the policy level"
- **3rd Minor proposition** , "Weak supervisory function leads to low interaction patterns and low legal awareness at the individual level of Indonesian Workers".

from the three minor propositions above,we can be formulate one major proposition, namely: "Disharmoni of policy and dualism of the organization is causing low interaction patterns and legal awareness of individual Labor". Here are the pattern of relationships between propositions constructed in this study.



E. Theoretical Implications

As previously mentioned, the main theory used in this research is Bromley's theory of the Policy Process As Hierarchy. The policy process as a hierarchy has the meaning that *institutional arrangement* as a policy of *policy level* and organization in policy theory can be referred to as public policy. In this case, public policy should not be hierarchically contradictory. This means that lower-level policies should not be contradictory, obscure or not in line with higher-level policies. If there is a conflict, then the implementation of the policy becomes ineffective.

The results of this study indicate that Bromley's theory is inadequate if used to explain the institutional phenomenon of the handling of Indonesian labor migrants in Indonesia . This is due to several things:

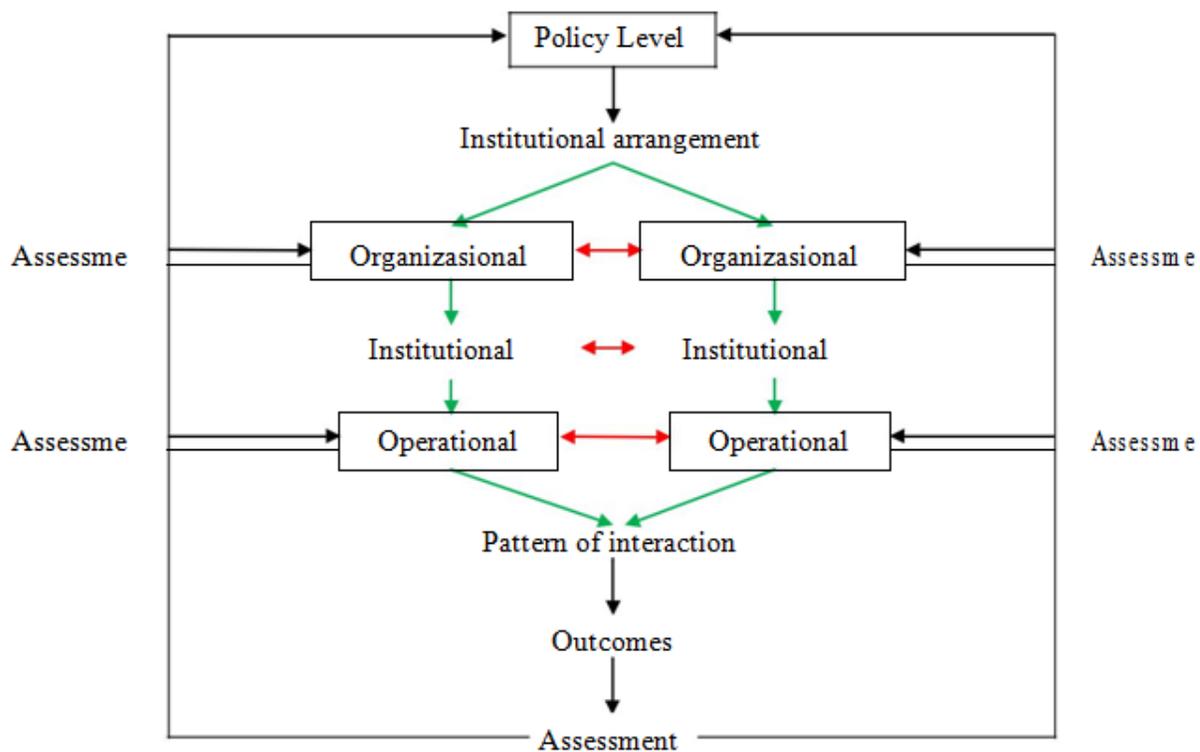
1. There is a problem at the level of *intitusal arrangement* that becomes *policy level* , which is disharmony between regulation both horizontally and vertically.
2. *Organization* in Indonesia that handle the problems of TKI (at the central level) is not only one, but 2 organizations, namely the ministry of labor and BNP2TKI. Each of these organizations has a mandate from *policy level* (Law no.39 Th 2004) and each of these organizations can create an *institutional arrangement* (for the Ministry of Manpower: Permenaker, while BNP2TKI: PerBNP2TKI). The problem is the organization's perspective on the problems of TKI and Law no.

39 Th 2004 is different. This difference of views resulted in institutional arrangement resulting from these two organizations not being synchronized.

3. The two points mentioned above, causing confusion on the level below, namely at the level of *operational level* , especially the Department of labor in the area, PPTKIS and PRCTKI. This confusion in operational level causes the *pattern of interaction* to become blurred. This is the root of the problem of behaviors that violate the provisions either by PRCTKI, PPTKIS or prospective TKI itself.

The findings above indicate that the effectiveness of an institutional implementation is not only determined by vertical consistency as described in Bromley's theory, but there must also be a horizontal harmonization, as it turns out for organizational level there is not only one implementing organization, but several organizations.

In addition, Bromley mentions an assessment which is a form of evaluation of the implementation of policy issues. But the assessment mentioned in Bromley's theory is less comprehensive. Researchers tried to develop two feedback from assessment results. The meaning is, if there are implementation problems, both at the level of *institutional level*, *pattern of interaction* and *outcome* , it can be used as feedback at the level of related institutions, namely *policy level*, *organizational level* and *operational level* . Thus, it is expected that problems in policy implementation will be more quickly responded. Based on these descriptions, this study attempts to develop Bromley's theory according to the constructed propositions, and the results are as follows.



Development scheme of Bromley Theorm

In the picture above, Bromley's theory development is on a horizontal line at three different levels, namely *organizational level* , *institutional arrangement of organizational level* and *operational level* . The horizontal line between the two organizational levels means that two institutions (in other cases may be more than two) should have coordination and alignment. This is intended to avoid conflict between *organizational levels* . If horizontal coordination occurs then, it is expected that the *institutional arrangement* of the two *organizational levels* will be aligned and not contradictory. If the *institutional arrangement* of these

two *organizational levels* is aligned, then the *operational level* at the lower level and the *pattern of interaction* will proceed as expected. The horizontal lines at these 3 levels are at the core of the theoretical findings of this research and contributed to theoretical development, particularly from Bromley's theory, so that the effectiveness of policy implementation is not only influenced by vertical inter-institutional consistency, but also of great importance is how horizontal harmonization can be realized. In addition, the development of Bromley's theory is on the assessment side that is the form of evaluation of the implementation problems of a policy. Assessment development is the presence of two assessment wings and three assessment lines. Right and left wing describes that assessment must be done by each organizational level and operational level that number more clearly than one. The three assessment levels mean that the assessment process should not only be done if an outcome has emerged, but prior to that stage it should also be assessed at the organizational level (the result is an input to the policy level) and the operational level (the result is an input for organizational level and or policy level). The input from the assessment at these levels is used to refine the existing institutional arrangement, so that the implementation of a policy can be more effective.

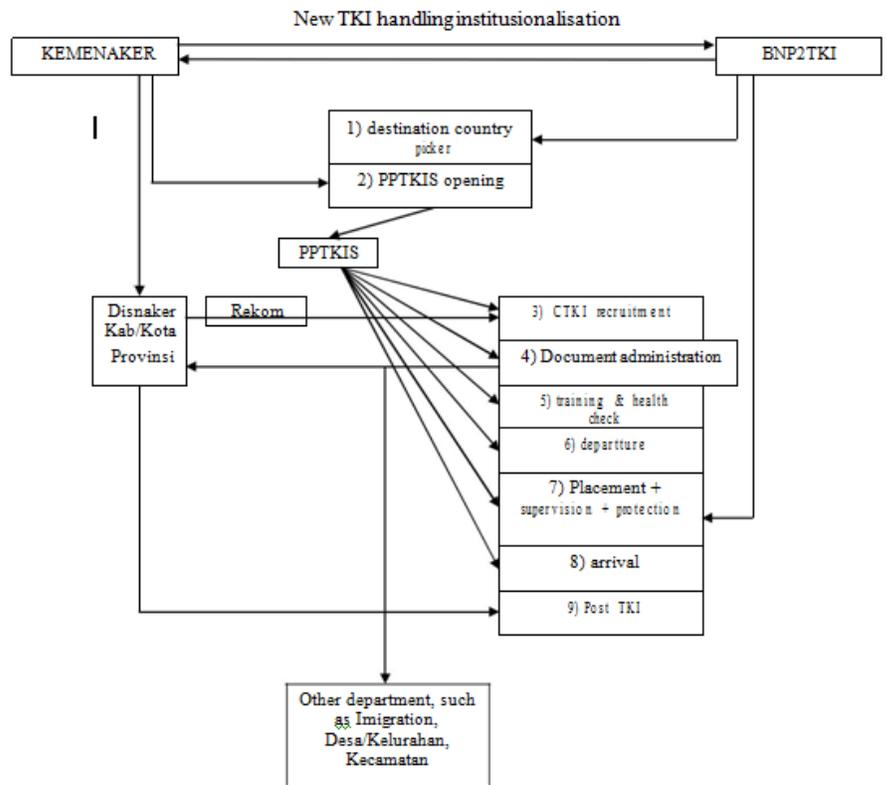
4. CONCLUSIONS

Based on the description mentioned above, it can be concluded that the problems in the handling of TKI in Jember due to disharmony at the level of policy or legislation, both horizontal and vertical. This disharmony is causing the dualism between the organizational devices both the ministry of labor and BNP2TKI as a *leading sector*. These two things cause the individual response pattern to be of low legal consciousness and low in procedure.

POLICY RECOMMENDATION (PRACTICAL IMPLICATIONS)

The above description demonstrates the need for a review of the harmonization of legislation and the repositioning of roles to place the stakeholder organizations into their proper role, which is as shown below.

New TKI handling institutionalization



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