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Indonesian Worker Protection from Labour Exploitation in Singapore

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Abstract

Since 2017, Indonesian labour in Singapore has been getting a salary of SGD 550 excluding the compensation for overtime work. It has attracted Indonesian citizens to work in Singapore. However, they experience exploitation from their employers and, based on the survey, they work over time, receive low salaries and a little time off even some of them experience physical or verbal abuse. The regulations issued by Indonesia have not been able to protect the rights of its migrant workers in Singapore. This is due to the weakness of legal enforcement. To get the protection, the victims require long and strenuous efforts. This is very aggravating for Indonesian labour, considering they are in a state of fear. Indonesian government should learn from the experience of the Philippines, in which the sender of the labour is the government of the Philippines which has been recognized by ILO.

Keywords: Protection, Indonesian labour

Abstrak

Sejak tahun 2017 Tenaga kerja Indonesia di Singapura mendapatkan gaji sebesar 550 Dolar Sinagapura tidak termasuk kompensasi untuk lembur. Hal ini menarik perhatian warga negara Indonesia untuk bekerja di Singapura. Walau bagaimanapun, pengalaman mereka pernah di eksploitasi oleh pemberi kerja dan berdasarkan survey mereka bekerja melebihi waktu, menerima gaji rendah dan waktu yang untuk istirahat yang singkat, juga termasuk pernah mengalami pelecehan secara fisik maupun verbal. Peraturan di Indonesia belum dapat membeirkana perlindungan terhadap hak-hak para tenaga kerja Indonesia di Sinagapura. Ini menunjukkan kelemahan dari penegakan hukum. Untuk mendapatkan perlindungan korban masih harus memelalui usaha yang Panjang dan sulit. Hal ini sangat mencemaskan bagi tenaga kerja Indonesia, serta menakutkan. Pemerintah Indonesia seharus belajar dari pengalaman Pemerintahan Filipina, dimana pengirin tenaga kerja adalah negara Filipina dan telah di akui oleh ILO.

Kata Kunci: Perlindungan, Tenaga Kerja Indonesia

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Introduction

An important issue related to the qualifications of Indonesian labour working abroad is that most of them have low educational levels and are unskilled workers. Most unskilled migrants never receive any practical training to prepare them to work overseas. Steps should also be taken to ensure that prospective migrant workers are supplied with knowledge of specific jobs they would be expected to perform in order to help protect them from employer abuse (Aswatini R, 2007).

There is frequent news about persecution, rape, sexual harassment, alleged, deceit, exertion and other crimes that are forbidden by laws, especially when the victims are Indonesian labours in Singapore. Tam Peck Hoon said that cases about sexual

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harassment are only the tip of iceberg since many are not reported. Tam Peck Hoon is the chairman of advocacy of Humanitarian Organization for Migration Economics (HOME), in March 2015. Sexual harassment was found in their research. The samples were about 670 housemaids. This research reported issues experienced by housemaids and lack of protection by government. 74% of them were locked in house, experienced private violence (their goods such as passports were hidden or held by employers), the telephone was hidden, they got late supper or dinner, and half of them did not have proper medicine, worked long hours and many more (Seiff, 2015). A Survey reports that six out of ten foreign domestic workers in Singapore are exploited by their employers. The survey was conducted by independent consultancy Research Across Borders and involved both foreign domestic workers and employers in Singapore. In the report, servants complained about bad living conditions, excessive working hours, deduction of monthly salary, as well as violence. 60% of 735 Filipino and Indonesian respondents were identified as exploited, with 23% identified as victims of forced labour that involved threats, control, leverage or force. In global terms, Indonesia is an important source of unskilled migrant workers. The Philippines, another important labour-sending country in Southeast Asia, is already one step ahead and has shifted the deployment of its labour from unskilled to more educated and skilled sectors (**Huguet, 1992**).

The study on Indonesian migrant workers has the following characteristics: a low level of education; limited knowledge and skills and including their lack of rights as workers. The low quality of workers causes them to be vulnerable to the exploitation and neglect of their rights as workers (**Syamsul Hadi, 200**).

Indonesia is still facing major problems in benefiting from globalisation and the deregulated global labour market. Globalisation also generates intense competition for employment opportunities. Under these conditions, three major problems currently faced by the Indonesian Government are: (1) how to improve the qualifications of Indonesian migrant workers so they can have an improved bargaining position in the international labour market; (2) how to minimise undocumented Indonesian labour migration; and (3) how to provide Indonesian migrant workers with international standards of protection against abuse and exploitation before their departure, and after they arrive in destination countries (**Aswatini R, 2007**).

In some cases, including the Indonesian workers in Singapore, the promise of a salary five times what she could make at home prompted Nabila to leave Indonesia and her family for a job as a domestic worker in Singapore. However, she worked 17 hours a day and did not get a salary of more than 8 months, because the agent who sent her paid her wages. This situation shows us a problem about the Indonesian worker protection in Singapore.

The vulnerability of migrants to these human rights abuses can be partly attributed to high levels of undocumented labour migration and unscrupulous practices by labour agents, as well as an apparent “normalisation or Invisibility” of exploitation and abuse

among employers of domestic worker in some countries” (Andrevsky & Lyneham, 2014).

Every Indonesia citizen has the same position before the Law (equality before the law) everywhere they are, including the Indonesian workers in Singapore. However, there is a problem for sectoral informal worker from Indonesia in Singapore, if they don't know how to access the information, and do not have skill, or they don't know how to communicate with the delegation from Indonesia to help their problem. It becomes an obstacle to the implementation of the protection of Indonesia employment abroad.

Discussion

Like Australia, Singapore's employment (work pass) entry requirements demonstrate the government's preference for the “right type” of workers, i.e. those who possess skills and talents. The current immigration framework has also progressively been modified to attract those with higher qualifications, as well as business people and entrepreneurs (Kaur, 2007)

All foreign workers in Singapore are protected by legislation and criminal law of Singapore. Singapore's Ministry of Manpower (MOM) discusses about foreign workers if they are prosecuted in court by enacting the employment of Foreign Manpower Act (EFMA). The conditions that must be met by the employers in Singapore to hire foreign workers include providing cost of living as well as the needs of the workers, the cost of health care; the safe workplace and decent accommodation. Employers may not ask for or receive payment, either in money or any other form, in exchange for giving jobs to foreign workers, they are also not allowed to recover cost related to the work of the foreign workers. If the foreign workers work through Agency workers, there is a right of foreign workers, namely: payment for a work permit following the duration of working. It means that they should not be paid more than the length of time for a work permit. If workers already pay in Indonesia, some must be submitted to the Agency in Singapore, i.e. the mandatory payment and it is stored to be presented, if necessary. Every foreign worker must have a contract of employment, containing: monthly payroll and overtime pay; 8 hours per day or 44 hours a week; 1 day off every week without payment, unless requested by the employer, in which the worker will be paid for 2 business days. However, if workers ask to work all day, workers will be paid for 1 working day only. Annual leave is given if they have been working for at least 3 months for 7 days; if they have been working for 12 months, additional 2 days leave will be given. For sick leave, foreign workers are entitled to payment due to illness or hospitalization; if they have worked for at least 3 months, they will get approval from the doctor concerned when they are sick for more than 48 hours. However, if they are sick on a public holiday or annual leave, they are not entitled to sick leave. In addition, the Singapore Government requires every foreign worker to protect himself by complying with applicable work rules, such as using equipment to protect themselves from accidents. It includes

complying with any regulations in Singapore, which, if violated, may result in the withdrawal of work permits and may not enter Singapore in the future.

In Singapore, there are two subgroups: R₁ and R₂. R₁ is issued to skilled foreign workers who possess at least a SPM (Sijil Pelajaran Malaysia) qualification or its equivalent, or a National Technical Certificate Grade 3 (Practical) or other suitable qualifications. R₂ is issued to unskilled foreign workers. Foreign workers are required to carry their WP cards with them for identification all the times. Foreign workers who fail to carry their WP card are liable to have their WP cancelled, and be repatriated and barred from employment in Singapore. Employers are not allowed to retain their workers' WP cards, and those who do so may be debarred from employing foreign workers.

Migration policy needs adequate governance through the harmonization of demands, expectations, objectives, and implementation. Singapore has developed a transparent administration and formulated comprehensive legislation to ensure such efficacy in the management of migration.

The MOM manages foreign manpower in Singapore. It is responsible for devising and implementing foreign manpower policy in Singapore. Within MOM, there are two divisions in charge of foreign manpower issues in Singapore: the Work Pass Division and the Foreign Manpower Management Division (FMMD). The objectives of the Work Pass Division are to develop an efficient, effective, and dynamic foreign manpower admission framework which caters to the needs of the Singapore economy. It facilitates and regulates the employment of foreign nationals by administering three types of Work Passes, discussed in the next section. The Classes of Non-resident Foreign Work Pass Division comprises the WP and EP Departments. The WP Department serves low-skilled foreign manpower, while the EP Department serves highly skilled foreign manpower. On the other hand, the FMMD is in charge of the welfare of foreign workers during their working stint in Singapore. The FMMD works closely with the other departments within the Ministry, in particular the Foreign Manpower Employment Division, Occupational Safety and Health Division, Labour Relations Division, and Corporate Communications Department. The core functions of FMMD include: (a) management and protection of foreign manpower, (b) professionalism of the employment agency industry, and (c) strengthening of enforcement capabilities. The FMMD is structured around four departments: (a) the Employment Inspectorate Department, which seeks to foster effective management of foreign manpower, through policing, in partnership with other enforcement agencies and the business community; (b) the Policy and Regulations Department, which focuses on drafting and implementing policies for the division's management of foreign manpower; (c) the Well-Being Management Department, which focuses on the management and protection of foreign manpower; and (d) the Corporate Management Department, which supports the entire division in the area of office management.

The MOM has been taking various steps to moderate the inflow and raise the quality of foreign human resources in Singapore. The latest amendments to the EFMA, which took effect from 2012, enhance the government's ability to ensure the integrity of the work pass framework. The amendments bolster the efforts to create sustainable and inclusive growth and ensure Singaporeans remain at the core of the workforce, ensure employers pay for the true costs of hiring foreign workers, create a level playing field for law-abiding employers, and stem the worst abuses against foreign workers.

While this legislation provides the legal framework for regulating the import, management, and return of foreign manpower, the administrative structure ensures the execution of foreign worker policies and programmes. Both contribute to the efficient management of foreign manpower in Singapore. Semi-skilled foreign workers constitute the bulk of the foreign population in Singapore. Various micro-aspects of policies for semi-skilled foreign workers are:

1. Selection of Migrant Workers, when it hires low-skilled foreign workers including domestic workers. Singapore has always encouraged the import of skilled migrant workers, even in the bottom-rung jobs, and has therefore favoured skilled migrant workers over unskilled ones. The Basic Skills Certificate (BSC) and SEC (Skills Evaluation Certificate) schemes were implemented in 1998 to raise the skills levels of the construction workforce. The BSC and SEC are certificates issued to NTS workers who have passed the required skills tests in their home country. In the case of foreign domestic workers, they must be at least 23 (up to 50) years old. In addition, they have to produce recognized educational certificates as documentary proof that they have had a minimum of eight years of formal education. With effect from 1 April 2005, all first-time foreign domestic workers are required to pass a written test within three working days of their arrival in Singapore. Foreign domestic workers who fail to pass the test within three working days are not issued a WP and must be repatriated (Foreign Domestic Worker Entry Test). Until recently, skills upgrading was available for male unskilled workers in different sectors. However, the government has recently introduced skills upgrading opportunities for foreign domestic workers in the area of elderly care. The Foreign Domestic Worker Association for Skills Training (FAST) is conducting an elementary course on elderly care for foreign domestic workers.
2. Approved Source Countries and sectors of economy. Owing to its geopolitical location and historical and ethnic links, Singapore privileges Malaysian nationals for work. Presently, the four sources: TS (traditional source), NTS (national traditional source), NAS (North Asians Source), and PRC (People's Republic of China), provide the low-skilled labour needed by Singapore.
3. The levy puts a price on the employment of a foreign worker. The levy is paid monthly by the employer for each foreign worker employed, including domestic workers, and it is payable for the period the temporary WP is valid. It serves to

moderate demand for foreign workers and to narrow the wage gap between local and foreign workers. The levy scheme was enlarged in 1982 to encompass all NTS workers and Malaysian block permit construction workers (Toh, 1993: 5). Singapore has imposed a two-tier levy since 1992 (Low, 1994: 254). In this two-tier system, the levy for a skilled worker is lower than that of an unskilled worker, which affirms Singapore's priority for comparatively skilled workers, even in the low-skilled foreign manpower category.

4. The dependency ceiling stipulates the proportion of foreign workers a firm can hire. Currently, all sectors except domestic service have a dependency ceiling. It prevents employers from relying too heavily on foreign workers at the expense of local employment. The ceiling has varied with economic conditions.
5. Singapore has adopted a demand-driven system to hire low-skilled foreign workers, in which the process of introducing foreign workers begins when employers in Singapore request permission to employ foreign workers. In accordance with the Employment Agencies Act, Singapore allows licensed employment agencies to import and manage foreign workforces on behalf of employers. In addition to residency status in Singapore and the possession of the Certificate of Employment Agencies (CEA), the applicants for licensed employment agencies must furnish a security deposit of S\$20,000 in the form of a banker's guarantee and must not have any record of previous court convictions (particularly under the Women's Charter, Children and Young Persons Act, Penal Code, Employment Agencies Act, and Employment of Foreign Workers Act). These strict measures help ensure transparency in the recruitment process.
6. Man-Year Entitlements or MYE. The number of foreign workers permitted to work in any construction project is determined by the MYE allocation formula. In general, when a project is higher in value, the contractor can hire more foreign workers. The system is designed to give the main contractors better control over the allocation of foreign workers and greater responsibilities over foreign worker management by their subcontractors.
7. During a foreign worker's employment in Singapore, the employer is generally responsible for: (a) paying the foreign worker levy; (b) arranging for the worker to be certified medically fit and free from contagious diseases and drug addiction by a Singapore-registered doctor, when requested by the Controller of WPs; (c) ensuring that the worker does not engage in any form of freelancing arrangements or self-employment; (d) providing basic terms and conditions of employment as stipulated in the Employment Act; (e) resolving all employment-related disputes with the worker amicably; (f) providing workman's compensation for the worker; and (g) sending the worker to a safety Specific Policies Targeting Semi-skilled orientation course, if the worker is a construction worker. For a non-Malaysian worker, the employer is also

responsible for (a) the upkeep, maintenance, and cost of the worker's eventual repatriation; (b) providing adequate housing; (c) putting up a S\$5000 security bond; and (d) buying a personal accident insurance with a minimum coverage of S\$10,000, if the worker is a foreign domestic worker. The employer should ensure the worker's welfare and interests are well looked after. These include non-statutory requirements such as proper orientation, medical care, hospitalization expenses, and providing for the worker's social and recreational needs

8. The Work Permit (WP) Division of MOM revokes a worker's permit when he or she violates WP provisions. The violations include: (a) changing job or engaging in occupations other than those specified in the WP; (b) engaging or participating in any business or behaving as a self-employed person; (c) deserting the workplace; (d) becoming pregnant (in the case of domestic workers), contracting venereal diseases or being certified by a Singapore registered doctor as medically unfit; (e) marrying a Singaporean without the prior approval of the Controller. The foreign worker is obliged to return his or her WP and leave Singapore within seven days of the termination of service. However, foreign workers who have pending salary or compensation claims or are required as prosecution witnesses are usually issued special passes by the Ministry for a limited period, to allow them to remain in Singapore. They are also allowed to work during this period.
9. Under the Employment of Foreign Workers Act, any person caught employing foreigners without valid permits is liable to be charged in court. A first-time offender faces a minimum fine, equivalent to two years of the foreign worker levy, and a maximum fine of up to four years' levy for each foreign worker, or imprisonment of up to one year, or both.

Population policy is linked Singapore's foreigner employment, i.e. a limited number from the non-resident population is regularly offered PR status and later citizenship. However, the option for PR is not open to all categories of foreign manpower; only the professional and skilled foreigners are encouraged to apply for PR status. The criteria for offering permanent residency are not publicly known; however, it is broadly believed that potential for economic contribution, demography, duration of stay in Singapore, and cultural compatibility are considered when permanent residency is offered to a non-resident foreigner. Since the number of applications for potential permanent residency is several times higher than the numbers of new PRs that the government is willing to accept annually, many applications for permanent residences are turned down, especially in the last few years.

Singapore has devised proactive policies and programs to connect to its population overseas. Singapore has launched outreach initiatives in which citizens and residents of Singapore overseas, i.e. global Singaporeans or Singaporean emigrants, are contacted and encouraged to maintain strong transnational ties with Singapore. In doing so, Singapore

has set up the Overseas Singapore Unit (OSU) under the Prime Minister Office (PMO) to attract global Singaporeans. The OSU is playing a key role in facilitating stays overseas and connecting global Singaporeans into Singapore society.

The policy measures that have been devised to address the different groups of non-resident and resident populations are transparent and pragmatic. It is the integration of foreign and home-grown talent and the efficient management of low-skilled migrants that have allowed the country to enjoy decades of sustained economic growth. Singapore sets an example for other countries in the region and beyond.

Policy-makers have a clear action orientation to achieve their policy. From their perspective, their policy initiatives play a major part in determining the type of migratory movements which affect their countries. They do this by controlling the patterns of arrivals and departures (**Inglis, 2007**). In Changi Airport, these rules for migrant workers are also published everywhere.

An interesting example is the Association of Employment Agencies of Singapore (AEAS) which has a mission to professionalize and raise the standards of labour agencies in Singapore. It has developed accreditation criteria that are slowly improving the accountability of labour agencies. The government supports the association's efforts by making accreditation of requirement for licensing. While it has yet to make important reforms like caps on recruitment fees, it has introduced incremental improvements and raised awareness about good practice (**Nisha, 2006**).

The International Labour Organization (ILO) and the United Nations provide the main standards for protecting migrant workers. The ILO has two legally binding instruments relating to labour migrants: Convention No. 97/1949 on Migration for Employment, and Convention No. 143/1975 on Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers. The United Nations adopted the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW) in New York on 18 December 1990; the Convention came into force on 1 July 2003.

Labour is entitled under Article 8 of the Law No. 39/2004 on working abroad; receiving correct information about overseas employment markets, and procedures for placement of Indonesian Overseas Workers; receiving the same services and treatment for overseas employment; enjoying the freedom to adopt his or her religion and belief and to perform/fulfil the worship/duty according to what is required by religion and belief; receiving a wage in accordance with the prevailing wage standard in the country of destination of which he or she is employed; receiving equal rights, opportunities and treatment with persons received by other foreign workers (nationality) in accordance with applicable laws and regulations of the destination country (where Indonesian workers are employed/placed); receiving a guarantee of legal protection in accordance with laws and regulations for acts that may undermine the dignity and value of a human being and for the violation of the rights prescribed in accordance with the laws and regulations while working abroad; receiving insurance of safeguarding the safety and

security of Indonesian workers to return to their place of origin; and receiving original work agreement text.

In the Law No. 6/2012 on the ratification of international conventions on the protection of the rights of all migrant workers and members of their families, every migrant worker and member of his or her family has the right to freedom to leave, enter and settle in any country, the right to life, from torture, the right to freedom from slavery, the right to freedom of thought, belief and religion, the right to freedom of expression, the right to privacy, the right to be free from arbitrary arrest, the right to be treated equally before the law, the right to equal treatment in rights related to contracts/employment relations, the right to association and assembly, the right to health care, the right to access to education for children of migrant workers, the right to respect their cultural identity, the right to freedom of movement, the right to establish associations, the right to participate in government affairs in the country the origin, the right to transfer the incomes. In addition, it also includes additional rights for migrant workers covered by certain occupational categories, such as transboundary workers, seasonal workers, mobile workers, project workers, and self-employed.

Article 8 jo Article 55 of the Law No. 39/2004 shall be granted the right of workers to receive copies of contracts between themselves and their employers abroad. The agreement or contract contains the name and address of the employer, the name and address of the immigrant worker, the occupation or type of work performed by each immigrant, the rights and obligations of both parties, terms and conditions of employment, including working hours, wages and payment procedures, and rest periods, facilities and social security, length of employment covered by the employment agreement. In Articles 77 to 84 of the Law No. 39/2004 jo the Law No. 18/2017 on the protection of Indonesian migrant workers regulates the protection of labour migrants to be deployed overseas, e.g. prohibiting the placement outside of the destination country; prohibiting from employing during the education period; equalizing the place of work according to national needs, etc. as well as supervision carried out by BNPPTKI (Article 95). Criminal sanctions can be imposed to violators of the Law No. 39/2004, considered a criminal offense, e.g. a maximum imprisonment of 5 years and or a fine of 1 billion rupiah, if it does not meet administrative requirements such as recruiting without conditions; no license documents; have no insurance for labour migrants; treats unfairly and inhumanely during the shelter, etc. Article 106 mentions the right of workers to get protection. Based on Article 78 of the Law No. 39/2004, the protection of Indonesian workers is provided by enacting the laws and regulations of the law as well as the International Convention.

The Law No 39/2004 is considered inadequate; therefore, the Indonesia Government must do the obligation to protection the Indonesia workers. This protection must be at the beginning and after the worker go back to Indonesia. Protection for Indonesia worker means efforts to protect the interest of Indonesian migrants workers and/or Indonesian Migrants workers and their families in realizing the fulfilment of their

rights in all activities before working, during working, and after working in legal, economic and social aspects. Social security is provided to make sure that workers can fulfil their basic needs. There are two agreement that must be made, namely: work place agreement and work agreements. Placement agreement is made by Indonesian job placement parties and Indonesia job candidates. It contains the rights and obligations of the parties, to be placed in the destination country in accordance with applicable regulation. Written agreements between Indonesian immigrant workers with their employers contains work conditions rights and obligations each party as well as security and safety guarantee while working in accordance with regulatory requirements regulation. The protection of Indonesian migrant workers has a principle cohesiveness; equality of rights; recognition of dignity and human rights; democracy; social justice; gender equality and justice; non-discrimination; anti human trafficking; transparency; accountability and sustainable.

Every Indonesian migrant has an obligation to:

- a) comply with laws and regulation fine in the country and in the destination country placement;
- b) respect for customs or habits valid in the destination country;
- c) obey the President of the Republic of Indonesia;
- d) obey and carry out their work in accordance with the work agreement, and;
- e) report arrival, existence, and the return of Indonesian workers to representative of the republic of Indonesia, in the destination country placement.

The Government Regulation No. 3/2013 on the protection of Indonesian workers abroad provides protection to Indonesian labour migrants since arrival at the airport or port of destination country, during work, until returning to the Indonesian airport. The rights of migrant workers who are defended include the rights of labour migrants stipulated in employment agreements, national laws, local labour laws, and international conventions. Protection and other assistance include:

- a) providing a language translator;
- b) repatriation of migrant workers; and
- c) approaching to obtaining pardon. Diplomatic efforts in the protection of migrant workers are conducted through diplomatic channels in a peaceful manner and can be accepted by both parties in accordance with the provisions of national legislation and international law and customs.

The Law No. 39/2004 on the placement and protection of overseas immigrant workers contains stunning provisions, such as insurance that employment will be exercised on the basis of “equal rights”, democracy, social justice, gender equality and gender justice, anti-discrimination, and anti-human trafficking. Another weakness of the Law No. 39/2004, regarding placements, that it places in a more detailed proportion than the protection of labour migrants. While the issue of protection is very important for women workers abroad (**interviewed, 2018**).

In Article 21 of the Law No. 18/2017 on the Protection of Indonesian immigrant workers states that the protection to Indonesian immigrant workers includes:

- a) data collection and registration by the employment attaché or appointed overseas official;
- b) monitoring and evaluation of the Procuring Entity, employment and working conditions;
- c) facilitation of the fulfilment of the rights of Indonesian Migrant Workers;
- d) facilitation of the settlement of labour cases;
- e) consular service delivery;
- f) assistance, mediation, advocacy, and provision of legal assistance in the form of facilitation of advocate services by the Central Government and/or Representative of the Republic of Indonesia and guardianship in accordance with local state law;
- g) guidance to Indonesian Migrant Workers; and
- h) repatriation facilitation including the Social Security for Indonesian Migrant Workers and their families.

Friedman (1984) States that the success or failure of law enforcement depends on law substance, legal structure/legal institution and legal culture. Indonesian law does not only put forward local characteristics, but also accommodate the general principles adopted by the international community. It is regulated in the Law No. 39/2004 on the Right to Placement and protection of Overseas Workers; the Law No. 6/2012 on the ratification of the International Convention on the protection of the rights of all migrant workers and members of their families; the Law No. 18/2017 on the protection of Indonesian migrant workers; the Government Regulation No. 3/2013 on the protection of overseas workers.

In 2018, the Indonesian Government had new application in Singapore. The application is about card for Indonesian worker in Singapore (for crew); job order online related to Indonesian citizen and integrated Social Employment guarantee agency (BPJS Ketenagakerjaan). The Chip card for crew contains info for the crew from Indonesia, where there is a problem, they can get online access. It is specially for those who work on ship. Online application of job order contains agency who will employ the Indonesian workers. It contains submitted documents online trough Indonesian embassy. The third application is to make sure all Indonesian workers has BPJS Ketenagakerjaan.

Protection for Indonesian workers is based on the Law No. 13/2003 and the Law No. 40/2004 on the National security system which instruct all workers to be protected by social security program and in accordance with the mandate of the Law No. 40/2011 on BPJS Ketenagakerjaan. Besides, it refers to the Government Regulation No. 3/2013 on the protection of Indonesian workers abroad and the Government Regulation No. 4/2004 on the procedures for placement of Indonesian workers abroad by the Government.

Indonesian workers are not the second-class citizen, they have already given us much dollar for Indonesian foreign exchange. They had been reducing unemployment and reviving the economy for the country.

The active role of the government to provide Indonesian protection is regulated in the 1945 Constitution and Body of the Law at Article 28 H paragraph (3) and Article 4 Paragraph (2) stating: "Every citizen has the right to social security to improve his dignity and the state is obliged to develop a social security system to protect and empower weak and disadvantage people". This guarantee is made especially for unskilled Indonesia workers. If they return to Indonesia, they still have good guarantee and so they are not neglected. The implementation of Minister of Manpower Regulation No 7/2017 on Guarantee program for Indonesian migrant workers is amended with the Minister of Manpower Regulation No. 18/2018 on social security for Indonesian worker.

Some benefits can be obtained from Social Employment guarantee agency as follows:

- a) Risk of workplace accident: Social employment guarantee agency will provide unlimited medical expense.
- b) Disability benefit is more complete up to Rp.100 million.
- c) The maximum transportation fee is Rp.2.5 million.
- d) Provision of assistive devices or dressing equipment. Previously the insurance consortium only provided medical guarantees and recorded Rp.50 million plus plane ticket economy class and transportation cost to the area of origin.
- e) Risk of death: BPJS Ketenagakerjaan provides death benefit of Rp.85 million. The health care costs are unlimited. At the consortium insurance, compensation for death and funeral reach Rp.80 million and maximum treatment costs reach Rp.50 million.
- f) Risk of loss of mind: if the insurance consortium only provides compensation of Rp.25 million plus economy class airline tickets and transportation cost to the area of origin, BPJS Ketenagakerjaan provides compensation of up to Rp.100 million.
- g) Risk of illness: consortium insurance provides guarantee, health care guarantees in the country of placement (inpatient and out care patient) and future domestic care, while BPJS Ketenagakerjaan provides help services for work accident both before and after placement.
- h) Risk of layoff: consortium insurance provides Rp2.5 million up to Rp.6.25 million based on the working period. Indonesian migrants take park in an old and end old copy guarantee/program that can be benefit from the program to their home.
- i) If migrant workers experience physical violence, rape or sexual harassment, the consortium insurance provides a maximum compensation of Rp.50 million, while BPJS Ketenagakerjaan provides guarantees based on the work accident guarantee greater than Rp.10 million.

- j) Compulsory contribution that's must be paid by Indonesian migrant workers both before placement and after placement, BPJS Ketenagakerjaan gives Rp.370 thousand, while the consortium insurance gives Rp.400 thousand.

The legal structure of the law is concerned with its law enforcement apparatus such as police, judges, prosecutors, immigration officers, local government officials, embassy officials of the Republic of Indonesia and other relevant agencies. In accordance with the authority of each agency, it shall enforce the applicable law. Dealing with prohibited acts or taking action against violations that occur, the law remains upright. In this sense, the imposition of sanctions should still be carried out in accordance with the rule without any strings attached. Many cases that occur indicate that law enforcement officers does not fully perform their duties and authorities carefully.

Age limitation for Indonesia workers abroad pose a problem, especially for workers who want to work in the non-formal as a housekeeper for prospective workers abroad while their ages are not yet qualified in the destination country (**Endar S, 2016**). It is noted that the workers should be at least 18 – 35 years-old for formal sector and 21 – 35 years-old for informal sector. Therefore, the prospective Indonesian workers sometimes fake their data involving the field officer and the company who send the workers.

This situation leads to opportunities for broker or job seeker to trick prospective workers to be able to work abroad. In this case, they conspire with the state or law enforcement officials, such as officer who makes identity card. They change the age of worker to be more mature and organize crime involving other officers from the immigration. Therefore, when one of the is caught, the perpetrators are syndicated. In the other hand, the officers are involved in this syndicates because they get material profit, as long as the crime is on. This situation is still ongoing which is known from public and social media reports.

In addition to the age limitation, formalities are also provided for skills training for workers who will be sent abroad. They do not practice and are not tested by the skills. Only institution is harassed i.e. the one that can be reliable. However, the briefing dan training for prospective workforce is under strict supervision who can do the briefing correctly. It requires the government to make accreditation for companies who send Indonesian worker abroad.

Supervision for this companies are less and not propriate. Therefore, it results in companies sending workers to deviations. These companies abuse the absence of procedures by the states. This situation has led the companies to commit illegal acts and the law is not enforced properly.

Lack of the victim report and complain about his suffering has led the process of sending workers and/or repatriation of worker is not according to the procedure, does not pay attention to the contact, is treated arbitrarily by the employer, overtime work, not paid for overtime, harassed or demeaned wages, and other exploitations. These situation has caused legal protection cannot be given in accordance with the principle of equality before the law. The protection is a state obligation, as stated in the Law No.

39/2009 including not to carry out the obligation to guarantee safety and insurance money to workers who suffer from exploitation abroad. As a result, the state does not carry out its obligations as demanded by the victim above.

This problem can be found in many places in Indonesia, especially in North Nusa Tenggara or Kupang. In this case, the officers are involved and not being executed by the government. Therefore, we can find these problems through social media easily, but the solution is not as easy as we can see. There is no desire to be transparent in all exploitation cases.

On the other hand, the authorities also asked for money from the prospective Indonesian workers at the pre-placement of workers (**Febriyanti, 2006**). Officially, the fees they incur for training in document making and departure have also been imposed between 40 million and 45 million rupiah to go, for example, to Taiwan (**Noeswantari et al., 2011**). The roles of the Republic of Indonesia, in this case, haven't shown maximum results. This situation shows us about law enforcement of the Indonesia regulation abroad.

Legal culture is the attitude of people to the law and the legal system-beliefs, values, thoughts, and expectations. It is an atmosphere of social thought and social force that determine how laws are used, avoided, or abused. In addition, it is closely related to the legal consciousness of society. The awareness of community to the law will create a good legal culture and can change the mindset of the public about the law. In short, the level of public compliance with the law is one of the indicators of the functioning of the law.

There is an image in social media about working aboard must make a lot of money, becomes prosperous, have big salary, and can safe and can contribute to the family. Singapore is very prestigious destination country since not everyone can work in Singapore. However, the workers do not know that working in Singapore requires skills and master the local language and can adapt to the environment around it. They must know that to work abroad, they must have skills and must have request from the employer in Singapore.

The level of compliance among the prospective workers is necessary. Legal Awareness has several indicators, namely: knowledge legal regulations, attitudes towards legal rules, and legal behaviour (**Soekanto, Endar, 2016**). They must get socialization about Work Procedure in Singapore as well as the risk if the procedure is not complete. They must be professionalism workers since the Government of Singapore has new levels of immigrant workers, namely R1 and R2. In addition, Indonesian workers must compete with other immigrant workers from Philippine, Vietnam, China, etc. It is common that the Filipinos have a good manner and good skills, fluent in English, resilient worker and know their rights and obligations.

In 2018, there were a number of migrant workers from Indonesia who registered to apply BPJS Ketenagakerjaan in Singapore. They feel that they need to have BPJS Ketenagakerjaan for their future. It shows us about the knowledge of legal regulations

that have reformed the attitudes towards legal rules and legal behaviour. However, the Indonesian migrant workers ignore the importance of legal behaviour after several years.

The Government of Philippine knows how to protect their citizens, especially their workers abroad. Under the President of Aquinas, their migrant workers have special treatments.

From 2017, there has been regulation of the National Agency for Placement and Protection of Indonesian Workers (BNP2TKI) No. 1/2017 on guidelines for implementing quality competency enhancement for the prospective Indonesia workers. The prospective Indonesian workers must have practice and training to meet the required market qualifications.

These three elements are interrelated, the law cannot be enforced if the rules do not accommodate human needs, as well as law enforcement officers who consistently exercise their authority, and the law cannot be enforced if the community is not obedient or there is no awareness to obey. Indonesian people who are still looking for the job abroad have not much knowledge about the existing legal protection. In this case, they have not known that their rights are guaranteed by the state and the state is obliged to provide the fulfilment of those rights. Due to the weak law enforcement, many cases of harassment and exploitation occur in the hands of employment agencies, trainers, employers and human trafficking agents, and inhuman government officials. These cases occur at the time before departure, at the time of working and on returning to Indonesia. In Indonesia, sometimes, prospective migrant workers do not know how to access rights and obligations as labour in the destination country, although it is the government obligation to do public servants. This is an evident from the workers who do not know the agents who recruit them and who can be contacted in Indonesia, and never know the destination country, in case of serious disputes or other emergencies. Whereas in Article 8 jo Article 55 of the Law No. 39/2004 grants the right to workers to receive copies of contracts for themselves and their employers abroad. That the agreement/contract contains: the name and address of the employer, the name and address of the migrant worker, occupation or type of work performed by each migrant worker, the rights and obligations of both parties, terms and conditions of employment, including working hours, wages and payment procedures, leave and rest periods, facilities and social security, and the length of service covered by the employment agreement.

By following the outgoing turmoil of globalization, the government must continuously strive to improve and develop the labour system, so that the basic rights and protections for workers can fulfilled, and at the same time can create the conducive conditions for business development (**Utomo, 2016**).

In May 2017, there was a memorandum of understanding between the Minister of Manpower and Minister of Law and Human Rights of the Republic of Indonesia on legal assistance and resolution of the problems of perspective Indonesian workers. Legal assistance is provided free of charge by paralegals educated by BNP2TKI or legal aid

organization. It provides legal counselling, litigation and non-litigation legal assistance and improve qualification of the paralegals.

Conclusion

There are so many cases involving Indonesian workers in Singapore showing lack of law enforcement and protection for Indonesian workers. Protection has been already given by Indonesian government, following International convention, but in fact, Singapore law gives insurance by issuing regulation about migrant worker protection. Law enforcement shown by the Government of Indonesia cannot protect Indonesian workers. Good laws become meaningful when they are accompanied by public awareness campaigns and training of law enforcement, labour, and immigration officials.

Extending and enforcing the protections of existing labour laws, monitoring the labour recruitment industry, and reforming immigration policies are the steps the governments may take. Such changes do not only encourage safe migration and safe work but also help reduce human trafficking and undocumented migration. Protecting the migrants' right to form associations and raise public awareness among employers can also facilitate a passage of reformation and generate public pressure for accountability. Domestic workers should not have to gamble with their rights. In 2017 and 2018, there was new regulation that can dismiss all of the problems about placement and protection of the Indonesian workers. Singapore has a good regulation which can be copied and implemented in Indonesia.

Suggestion

The Government of Indonesia must learn from the Government of Philippine about the workers sent to the foreign countries as suggested by ILO. They has been protecting their citizens.

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