The Indonesian Women Migrant Workers: Redefinition and Termination of Sending Them Abroad

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Indonesian diplomacy criticized as “too slow, too weak, and too late” to protect its migrant workers. Indonesian migrant workers that consist 80% of women, sent to fulfill the high demand for domestic workers and low level labor in Saudi Arabia and Malaysia. The qualification of workers that mostly uneducated and lack of job experience caused many social-economic issues in receiving countries. Moreover, lack of training led to problems related to violation of human and workers’ rights, even in many cases turned as the victim of human trafficking. The problems at domestic level are related to corrupt government officials, weak of bureaucracy, and lack of coordination amongst government’s institutions. In addition, the business interests of recruiting agents both at home and host countries added to complexity of issues. Problems during recruitment, preparation and sending process also caused legal, social and cultural problems that need diplomatic efforts both at the bilateral and multilateral level. Due to diplomatic failure that undermined Indonesian reputation in receiving countries, in addition to unresolved domestic problems, this article proposes the Indonesian government to terminate the sending of domestic workers. Furthermore, the immigration policy needs to be reevaluated. In the future, the Indonesian government should send only legal, documented workers, with skilled or semi-skilled qualifications.

Keywords: diplomacy, women migrant workers, human rights, effective diplomacy, negotiation

Introduction

Indonesia is the biggest dispatcher of informal migrant workers to oil-rich countries in the Middle East region, especially Saudi Arabia, and to its neighboring country, like Malaysia. After more than five decades of sending Indonesian women migrant workers (“workers”), the problems are greater compared to the benefits. The workers are beneficial in providing foreign exchange in the form of remittance from the workers, which has contributed significantly to Indonesia’s economy. The remittance from the workers’ sectors is the third biggest after oil and tourism. In 2015, the World Bank reported that remittance amounted USD 10.5 million or approximately Rp 140 billion. The Bank of Indonesia reported the remittance amounted USD 119 billion in 2015; while in the period of November-October 2016, the amount had reached USD 7.47 or Rp. 97.5 billion. This is the reason why the government has been referring the migrant workers as “the heroines of foreign exchange”.

Despite its contribution to the national economy, problems have existed related to human and workers rights from pre-departure up to returning. These problems were due to the fact that they fulfilled the so-called

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4D jobs: “demeaning, dirty, dangerous, and difficult”. Media coverage on issues in Malaysia and Saudi Arabia is like the tip of the iceberg, as the actual problems were more massive than media publication exposed. The workers that are mostly working in a domestic environment, informal and private in nature, are most vulnerable to human and worker rights forms of abuse. The national and international media often published news on the abuse of workers’ rights, being overstayers, and facing death penalties after serious criminal acts in receiving countries. The media publications only responded when the problems had been reported to the authorities and published by the media.

Despite the significance of workers to Indonesia’s economy, even after more than five decades of having dispatched workers, the government failed to improve its performance in terms of migration management. Inability to overcome the problems has also undermined the Indonesian government’s reputation internationally. Several issues at the domestic level could not be resolved internally and turned to be international issues. The basic issue was related to the departure process which is full of conflicts of interest amongst the government, business sector, and individuals. Moreover, the workers often suffer from a lack of pre-departure training and preparation. The recruitment process had violated government regulations, reflected by the corrupt government officials, which made problems more complicated.

The qualifications of workers that are mostly uneducated and lack job experience have caused social-economic challenges in the receiving countries. The workers remain among the most vulnerable members of society as they are often the first to lose their job when the destination countries experience an economic downturn. They also often work for less pay, for longer hours, and often become the victims of human trafficking. Menozzi and Ho (2015) stated that even though the conditions are frequently unfavorable, migration remains one of the few options for women to find decent work and escape poverty, persecution, and violence. Even though there have been many negative issues around workers, there were success stories of the returnees that have encouraged others to migrate. No doubt the biggest percentage of workers has been able to make a good living and provide a brighter future for their family, and this has encouraged others to take all risks involve in working overseas.

Issues at the domestic level have undermined bilateral relations with host countries. The Indonesian diplomats often blamed for being ineffective, unresponsive, and not proactive enough. Considering the above arguments and unresolved problems, the author is proposing the complete termination of sending migrant workers. The discussion will start with domestic issues that undermined diplomatic relations with receiving countries, followed by analyzing the performance of Indonesian diplomacy in receiving countries. Diplomatic analysis will particularly examine negotiation and results of agreements both at bilateral and multilateral levels as legal mechanism of protection. The negotiation will particularly deal with the over-stayers and workers waiting for execution of the death penalty, which considered as most challenging.

Through bilateral and multilateral point of views, this study argues that in general, diplomacy has failed to protect. The discussion is limited to the two biggest recipients namely Malaysia and Saudi Arabia, and “the workers” are limited to women. The destination countries are limited to Saudi Arabia and Malaysia, because for five decades since the 1970’s, Indonesian women fulfilled about 80% of the informal-domestic work sectors in Saudi Arabia and Malaysia. Saudi Arabia hosted as much as 34%, while Malaysia reached 17% (Osaki, 2003). The article focuses on the period of 2010-2018, which covered two administrations, President Soesilo Bambang Yudoyono and President Joko Widodo. First of all, the article introduces the Indonesian domestic issues and the problems in the receiving countries related to workers.
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Literature Review

Several articles relate to the issue of migrant workers, e.g., Ananta and Arifin (2004) discussed various aspects and issues of Indonesian migrant workers. Another article is the book chapter written by Pan-Long Tsai and Ching-Lung Tsay, on the economic effect of labor migration to four ASEAN countries. Sukamdi, Satriawan, and Haris (2004) wrote an article related to the impact of remittance to the Indonesian economy, and Tirtosudarmo (2004) analyzed the cross-border migration in Indonesia, especially focusing on the Nunukan tragedy in Malaysia. Even though the mentioned articles are related to Indonesian migrant labour, these exclude the role of diplomacy, as this article is suggesting.

Another study by Ford, Lyons, and Schendel (2012) is related to the impact of migration to Indonesian workers. On concluding chapter, the book discussed workers that are vulnerable human trafficking victims. The study examines law makers’ response to a range of internal and external pressures. The volume did not discuss the role of the Government of Indonesia (GoI) to overcome the issues. A study by Koesrianti (2012) zoomed in on domestic issues using the concept of the state responsibility. The article focuses on female migrant workers and on state responsibility which is relevant to the current study as it reviews the government’s aspect and protection policy during the entire process of employment, including the stages of pre-departure, employment, and arrival. Even though this article deals with government policies, regulations, and institutions, the focus is more on domestic aspects. This article did not touch on the role of diplomats, whereas the article would be complementary. The purpose of this article is to provide a better understanding of the complexity of the issue as well as making the stakeholders involved pay more attention to both domestic and receiving countries.

Research Question and Methods

Research has been conducted through document analysis, policy papers, diplomatic notes, and interviews with workers stakeholders. The question to answer is: “Why does the Government of Indonesia (GoI) need to redefine and to stop sending its migrant workers?” The migrant workers will be limited to women migrant workers as the most vulnerable ones compared to their male counterparts.

This research uses the qualitative approach by collecting data through in-depth interviews with stakeholders and focused group discussion with former female migrant workers during field studies in Jakarta and Bandung. To obtain data on diplomatic activities and performances, interviews were also conducted with diplomats at the Indonesian Ministry of Foreign affairs (MFA) and an activist of Migrant Care, a Non-Governmental Organization (NGO) focused on migration issues. Further data were obtained through conference and seminar papers and power point presentations.

Results

The urgency to terminate the sending of women domestic workers was supported by a series of facts. The first is the failure to overcome domestic issues related to decrease the unemployment rate and to implement the poverty eradication program. Because labor migration is created not only by pull factors in destination countries, the push factor which is a domestic issue is also contributed (Osaki, 2003). The pull factors are Saudi Arabian economic development and the oil boom turned it into an affluent country, followed by the increasing demand for foreign workers. Saudi Arabia has become increasingly dependent on foreign labor, especially domestic workers from Indonesia.
Malaysia as a newly industrialized country is the third wealthiest in Southeast Asia, after Singapore and Brunei Darussalam. The average standard of living is also higher than Indonesia with its highly diversified robust economy (Shukry & Chong, 2017). Migrant workers are essential parts for the Malaysian economy, especially since the country aims to chase the high income status in 2020 (World Bank, 2017). Its economic nature has made it difficult for the government of Malaysia to avoid foreign workers, especially in the area of domestic services, plantation, manufacturing, and construction. The industrialization process and the changes of gender role demanded the significant numbers of domestic workers that have so far been fulfilled by Indonesians.

The high unemployment rate in Indonesia has been the major push factor, which derived from the economic downturn since the 1998 Asian monetary crisis. The world economic crisis in the 2010 had contributed more to economic issues that had not fully recovered from the previous one. The high rate of unemployment had forced Indonesians to work overseas. Further discussion serves to identify domestic issues.

Almost 80% of the issues in receiving states started at the domestic level. During recruitment, only small percentage involved the government of Indonesia in the process, namely the supply-demand mechanism applied between recruiters, the agents (both in sending and receiving countries), and the workers. The first line of actors consists of personal recruiters, which obtain fees based on a certain percentage. The more one recruits workers, the more fees one obtains from the agents. The agencies start to charge the workers since the first day of arrival at training centers. The fees are often overcharged to workers, using all types of modus, e.g., dubious pre-departure training fees, and/or setting the debt/bondage trap. The debt during training process and migration paperwork would be cut-off from workers’ incoming salary. All consumption and services during recruitment and training process are charged fully to workers, and deducted for as much as their first 10 months of working salary. The workers are further required to sign debt statements that would be repaid with the incoming salary. Not all agents have the qualifications to provide training and/or courses to bridge the cultural gap, language proficiency, working skills, and other essential information.

The agents are most responsible for the legal status of workers. Often the ignorant workers who applied to illegal agents would be trapped in human trafficking. Compared to male migrant workers, the women are more liable to become the victims of human trafficking due to their marginal position. The women could easily be deceived and forced by agents with the promise to work overseas legally. Several cases indicated unpaid workers, or if paid, far below the national salary standard, work as commercial sex workers, forced to pay off debt by labor or being physically and mentally exploited. Despite slavery as an illegal practice, this condition remains part of workers’ fate. In most conditions, the workers were not aware of their illegal status holding fraudulent documents. The practice of Corruption, Collusion, and Nepotism (CCN) between the government official, agents, and individuals is common in Indonesia, and even considered as part of the culture. Another issue is related to the weakness in law enforcement. The government has regulated the minimum requirements of workers (minimum age, level of education, and health conditions) which are often violated. These issues created problems in host countries, as discussed in the following parts.

**The Criminal Charges, Imprisonment and Death Penalties**

The workers working in new environment have problems related to their inability to cope with the local culture and language skills, in other words, is the inability to cope with cultural differences and language barriers. Because the majority of workers is illiterate at a low level of education (some hold only primary
school graduate certificate), they often suffer from a lack of professionalism and work ethic. The condition where agents did not adequately provide job training, adds to the lack of professionalism from the employers point of view. Moreover, the position of domestic workers is not covered by the Saudi Arabian labor act, which make them vulnerable to abuse and exploitation both by agents and employers. Miscommunication and cultural differences often lead to physical abuse, in some cases, even to injuries and death. Generally, justice is not being enforced in Saudi Arabia as the abusers rarely face punishment heavier than a fine. The Saudi Arabian government has faced criticism related to the treatment of foreign workers. Some of these cases have attracted worldwide attention. Under these circumstances, the Indonesian diplomats were required to provide protection by arranging legal assistance, accompanying accused workers during court trials, jail visits, and negotiating with employers and government officials to represent workers facing the death row penalty.

The Indonesian diplomats have conducted several meetings to provide more proper legal framework, both in bilateral and multilteral contexts. The most prominent was the Indonesian-Saudi Arabian Preliminary Senior Official Meeting (SOM), on labor cooperation for protection and placement. The meeting aimed to support the MoU that had been initiated by the Statement of Intent (SoI) on 28 May 2011 in Jeddah, at the international level of labor ability and competence. Both countries cooperated on a partnership program to promote job opportunities and developed a scholarship and the “training for the trainer” program, and data exchange. An agreement was reached to reorganise labor agencies in Saudi Arabia and Indonesia. Both parties had established a Joint Working Committee (JWC) in Riyadh, July 10-13th 2011, to follow up the above mentioned plenary meeting. The SoI was renegotiated along with the basic points to be implemented on the MoU, its mechanism, and implementation.

The domestic worker problems are related to private working space, which lies beyond the official capacity to monitor. Even though several legal frameworks have been agreed on, the challenge lies in its implementation. Moreover, the Saudi Arabian culture perceived the domestic workers as slaves, non-professional, and depending on the employer’s mercy. Any family issues would be considered as private-domestic matters, where external intervention is unwelcome. The way to terminate this problem is to implement the moratorium agreement of sending domestic workers.

**Repatriation of Over-stayers**

Overstayers are those who extend their stay after the tourist visa has expired. The first type concerns intentional over-stayers, with support of a third party, workers’ agents, or individuals. The workers’ illegal status is perceived as providing greater economic advantages, as they did not apply immigration procedures, by neglecting to pay work permits document fees. The second type is “unintended”, due to previously having problems with employees, or escaped from unbearable work conditions. Both of over-stayer types wander in the main streets and use city bridges as shelter (*Kompas*, 2010). These over-stayers have been creating serious social and economic problems with Saudi Arabian government.

This issue challenged Indonesian diplomats, especially after the local government’s policy in Jeddah applied a deportation program in 2011. A report from National Agency for Placement of Indonesian Labor Protection (BNP2TKI) stated that the deadline from the immigration authorities to register was September 14th, 2011, which meant the GoI has to repatriate approximately 18,000 workers. Before deportation, the workers temporarily resided at Tarhil (immigration shelters). The high number of overstayers was increased due to the absence of any bilateral agreement. After several government efforts, the number of over-stayers in Saudi
Arabia increased during the period of 2010-2017, which indicated a lack of diplomatic effectiveness (Razak, 2012).

The basic law of the GoI to provide protection is Act No.37/1999. Chapter 5 of this act states that workers are entitled to protection, legal assistance, and repatriation, which are covered by the government’s budget. The basic law did not discuss technical issues, where new agreements would be needed. The previous bilateral negotiation is covered only by the Statement of Intent (SoI), the Joint Working Group, and an MoU on special Labor. The MoU specified the implementation of government regulations of Saudi Arabia, the protection of labor rights, the limit imposed on working overtime, the right to have one day off, and other aspects.

The establishment of a Labor Task Force was criticized by the media and Migrant Care, a migrant worker’s NGO, as redundant and wasting the government’s time and energy. The GoI has already had BNP2TKI bearing similar responsibility, whose role has not been effective in resolving migration issues (Susilo, 2011). The position of BNP2TKI falls under the Ministry of Manpower, the same ministry that provides permits to labor agents, which operates at the provincial, city, and village level. To strengthen and empower the role of BNP2TKI is preferable rather than to form the new body. Migrant Care further proposed to develop better coordination at the provincial level. The establishment of this Task Force has demonstrated the government’s reactivity to counter the national media’s extensive criticism.

As stated by BNP2TKI, In Malaysia, issues regarding overstayers and illegal immigrants (PATI) also remain unresolved. The Consul General at Johor repatriated 13 illegal workers in March 2012. The PATI issue could be resolved after coordination with the Immigration Office, the Ministry of Internal Affairs, and the Ministry of Manpower and Transmigration. All parties agreed on the establishment of a Comprehensive Management Program for Illegal Immigrant Workers on April 24, 2011. In 2016, almost 18,000 workers were deported after serving jail sentences for various legal offences. In the Indonesian border town of Nunukan in North Kalimantan, there was mass deportation of hundreds of illegal workers who had served their jail sentence and were deported in early 2017. Tension continued when Malaysia delayed deportation of hundreds of workers due to lack of funds.

**Defending the Death Penalty Charges**

Saudi Arabia’s policy is based on Islamic Law where the death penalty is the severest form of punishment. Four countries in the Middle East, namely Saudi Arabia, Jordan, Kuwait, and Syria, have the highest number of death sentences imposed on Indonesian workers. The main cases involved workers who had endured years of abuse before they committed act of murder. The workers mainly argued self defence or confronting life threatening circumstances, unbearable working hours, and physical, mental, or sexual abuse in their defense.

The GoI formed a Task Force on the death penalty in 2011 with the main task to advocate at every legal process. The GoI allocated a budget, provided lawyers, and mediated with victim’s family to ask for official clemency or reduce the amount of Diyat (blood money). Further efforts included using all communication channels to relevant institutions, including sending clemency letters to the Saudi Arabian King. The Task Force also mediated communication between the Indonesian President and the Saudi Arabian King. Since it ratified the UN convention of 1990 regarding migrant workers and family members in April 2013, the GoI has increased its ability to negotiate and initiate diplomatic actions in Saudi Arabia (Drajat, 2015). However, the case of the unnecessary execution of Ruyati, in addition to continuing human and workers rights violations triggered the imposition of a moratorium on sending workers on August 1st, 2011. The moratorium had
effectively decreased the number of workers, from 437,708 to 146,048 people in 2011.

The significant impact of this moratorium in the Saudi Arabian economy had made the host country renegotiate. The Indonesian economy was similarly affected, as indicated by the significant decrease in remittance (Bisnis Indonesia, 2012). The moratorium was released after the GoI signed an MoU on “the protection and social security” in Jakarta on February 22nd, 2012. However, the agreement was illegal considering the imbalanced representation of actors. The Saudi Arabian side was represented by a private sector, the International Social Security Program (ISSP), versus the Ministry of Manpower on behalf of the GoI. Considering the reciprocity principle in diplomacy, the agreement should have been between two government representatives. The under representation indicated the weakness and failure of Indonesian diplomacy (Susilo, 2011). The nature of the private institution focused more on business considerations and economic transactions is incompatible with the government’s interest to protect. Both governments should negotiate policies where the private sector serves to implement.

Discussion

Migrant workers became a main issue in bilateral relations with Saudi Arabia since the signing of the manpower export agreement in 1983. Indonesia’s majority Muslim population (90%) made Saudi Arabia, the birthplace of Prophet Muhammad into the most favorite destination. Working in Saudi Arabia potentially provides an opportunity to actuate pilgrimages (Hajj) or religious visits (Umrah), as required in the fifth Islamic pillar. Migrant workers flooded to Saudi Arabia after the Asian monetary crisis in 1998. The high demand for workers and the agent’s economic interest often neglected proper administrative procedures that led to disadvantages in terms of legal protection. Saudi Arabia in particular and other Gulf countries in general are not equipped with a legal framework as the recipient of domestic migrant workers.

With many issues related to workers-related issues, the Indonesian diplomats in Saudi Arabia and Malaysia are often blamed for incability to protect their nationals. Bilateral problems with Malaysia start when the influx of illegal and undocumented Indonesian workers outnumbers legal and documented workers. From about 2.5 millions of Indonesian workers in Malaysia almost half are illegal. The issue has been causing considerable bilateral friction with Malaysia. Because the issues in host countries are rooted on the domestic level, the diplomats describe the situation as “cleaning up the mess after someone else’s party” (Razak, 2012). The diplomatic failures are also due to lack of coordination between the government institutions and private companies. Several government bodies, along with sending and receiving agents were involved, each with its own interests has added to complexity of issues. One way to solve coordination issue, the GoI had established the National Agency for the Placement and Protection of Indonesian Migrant Workers (BNP2TKI) in 1975. Since 1998, the management of migrant workers has been handled by the National Workers Recruitment Agency (PJTKI). Other than the government-owned ones, there are private agencies that operate in most Indonesian provinces.

Extensive media publications on various human right violations led to the moratorium on Saudi Arabia in 2011, and had been applied until 2018. The moratorium on Malaysia was in a relatively short period of time, from 2009 to 2010 (Rahman, 2011). During the moratorium, the sending process continued to both countries, which indicated the ineffectiveness of the agreement. The violators were not punished accordingly, and so illegal migration and people smuggling increased. Weak border control and lack of coordination also add to security issues. People smuggling are often supported by security forces at airports and seaports, as well as
avoiding documents fees and pre-departure training course requirements. In 2015, the GoI had successfully prevented the sending of 1,584 illegal migrant workers to Saudi Arabia and 1,310 workers in 2016. No reports on criminal charges were made concerning violators.

The problems were not completely surmounted, as conflicting parties only negotiated on a case-to-case basis. For example, the absence of security cooperation and border patrol. Indonesia and Malaysia shared long and porous land borders, incomparable to the very lucrative nature of labor recruitment business (Ananta & Arifin, 2004). The GoI showed a lack of effort to protect its borders that has allowed the continuity of people smuggling. The practice of corruption, collusion, and nepotism, still exists and has even become part of the Indonesian bureaucratic culture.

The GoI has established several services to address the workers’ problems, but they did not solve the root causes. For example, within the Embassy structures both in Malaysia and Saudi Arabia, citizen service units have been established to provide legal advocacy. The Ministry of Foreign Affairs (MFA) reported in 2012 that in cities where the workers’ issues are prominent, experienced career diplomats with negotiating skills were assigned. Another effort was the establishment of the Directorate of Protection of Citizens and Legal Entities (PPWNI-BHI). The institution within the MoFA is considered as a significant effort which indicates strong commitment to provide maximum protection and represent workers’ interests. The result is, among others, an MoU on formal workers in 2004 and the one on informal workers in 2006 with Malaysia. The MoU was signed on May 10th 2004 in Bali on the recruitment and placement of domestic workers. The MoU also agreed on the right to open a bank account, to provide identity cards (KTKLN), and to bear one’s own passport (Pramono, 2014). Even though both parties had agreed on bearing individual passports; however, in reality, the employer keeps the original. Renegotiation has been conducted related to this matter (Rahman, 2011). The office also facilitates the Joint Working Group (JWG), an inter-ministerial meeting to coordinate the government’s function in handling excess of migration issues, such as death penalties, overstayers, and repatriation. The performance of the Joint Working Group (JWG) was reviewed on July 6th, 2009 (Rahman, 2011).

Even though several problems had been finalized; however, unpaid wages, criminal issues, illegal labor, sexual harassment, and the repatriation process of over-stayers have not been finalized. The two ministers signed the MoU regarding the placement and protection of domestic workers on May 30th 2011. The agreement included working contracts, wages, payment method, weekly day off, passport bearers, recruiting agents, the cost structure, competence training, conflict resolution, the journey performed (JP), visas, and the direct recruitment process. The 7th Joint Working Group (JWG) and Joint Task Force (JTF) were established to control the implementation of the amended MoU. The MoFA also implemented multi-track diplomacy, by involving non-state actors and individuals to support the tasks at hand. The MoFA further applied strategies to increase bilateral relations with receiving countries by providing a Mandatory Consular Notification (Razak, 2012).

The GoI also increased its efforts to provide consular services (including passport extension, publishing birth and marriage certificates), and to advocate general issues. Further efforts included the establishment of task forces for the Protection and Service to Indonesian citizens, which are attached to the Embassy (The Ministry of Foreign Affairs of the Republic of Indonesia, 2009). Considering the sporadic nature of the Consular offices’ accredited area, the diplomats were being proactive by visiting workers. In 2010, the embassy had finalized 1382 cases, the most prominent of which were related to unpaid workers. The issues have saved
workers’ income amounting to approximately Rp.300-500 million. This program is supported by the immigration officers and staff of the Ministry of Education. Even though the MoFA claimed its optimal efforts, the number of issues is far beyond the diplomats’ competence to handle.

The Indonesian Embassy in Kuala Lumpur-Malaysia, reported (2011) that both Indonesia and Malaysia have agreed on several issues, e.g., to provide a “smart card” and hotline service (15,999) to respond to issues related to domestic and other types of physical abuse. The Ministry of Foreign Affairs (MFA) also reported on agreement to provide information about black-listed agents with a previous history of violating the laws. The amendment was followed by the sign of a Letter of Intent (LoI) on May 18th, 2009, addressing the issues of keeping passports, one day off weekly, and a better organised departure process. However, Malaysia disagreed on points related to the monthly minimum wage (RM 600) (Triaji, 2011). The issues of minimum wages remained unresolved, where Indonesia wanted to provide maximum protection, while Malaysia was criticized for taking advantage of the low cost of migrant labor.

Workers issues were also addressed in the multilateral diplomacy mechanism, especially within the Association of Southeast Asian Nations (ASEAN) members. The association’s members are divided into two categories, the sender (Indonesia, the Philippines, Laos, Cambodia, Vietnam, and Myanmar), and the destination/recipient (Singapore and Brunei). Malaysia and Thailand are considered as both origin and destination members (Ananta & Arifin, 2004). The two parties have different economic levels which are reflected in the interest and negotiation processes. The association had conducted several meeting on migrant workers as early as 2007 in Cebu-the Philippines. The “Cebu Declaration” agreed on the mechanism to handle the issues on documented (legal) and undocumented (illegal) status. Further agreement was reached on three main issues to protect workers from exploitation, discrimination, and physical abuse. Secondly, to promote workers’ rights and thirdly to abolish the problem of human trafficking in the region.

To follow up the agreement, the ASEAN Senior Official Meeting (ALMM/SLOM) had established the Committee on the Implementation of the Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW). Another meeting held in Jakarta in 2007 by the Senior Labour Officials Meeting (SLOM) agreed on the establishment of the ASEAN Forum on Migrant Workers. The ASEAN committee also formalised regulations for protection and increased the rights of migrant workers. However, negotiation on draft instruments for the ASEAN working group on the protection and promotion of migrant workers rights ended in deadlock (Drajat, 2015). Malaysia as the receiving state rejected sending countries proposed points on providing equal treatment of documented or undocumented migrants’ status.

The association also formed The Task Force for ASEAN Migrant Workers (TF-AMW), supported by the Canadian International Development Agency (CIDA) in 2006-2010. The task force consists of civil society members, labour organizations, NGOs for Human and workers’ rights, and the association of migrant workers (Drajat, 2015). The activities involved a solidarity network for regional advocation of Society ASIA (SAPA), consisting of the Asian Forum for human rights and development (FORUM-ASIA), the Migrant Forum in Asia (MFA), the ASEAN Trade Union Council (ASETUC), and a National Working group to coordinate national advocation in ASEAN. The TF-AMW central principles were regardless of migrant workers’ origin or current documented or undocumented status, that migrant workers shall be guaranteed non-discriminatory “national treatment” in both their conditions of work and life outside of work.

As sending countries, Indonesia and the Philippines proposed a draft instrument on ACMW’s 3rd meeting in December 2009. Unfortunately, the draft was rejected by Malaysia and Thailand, especially on the point of
undocumented migrant workers and the application of instruments as binding regulations. The rejection led to further deadlock. The negotiation team returned its mandate to ACMW (Drajat, 2015). Vietnam as ACMW leader did not respond to Malaysia’s draft rejection, and left the case unresolved. The drafting process was discontinued since its substantive point had not been finalized. After the issue was taken over by the highest level of governments the discussion would be continued (Drajat, 2015). If Indonesia and other sending states wanted to finalize the draft, approaches to other sending countries should be continued. The lobbying process should be accompanied by other forms of political pressure at the regional level. Indonesia had conducted a special ACMW session and proposed the involvement of a neutral third party. Another effort was to strengthen the regional migrant workers forum to campaign through seminars and workshops. Indonesian diplomacy had failed to negotiate a migration policy at the regional level. The undocumented workers in Malaysia were still facing a vulnerable position. Therefore, the Indonesian government along with other interested parties should find ways to prevent the sending of illegal, undocumented workers.

Conclusion

The above discussion on failure to negotiate worker issues demonstrates the necessity to redefine its workers. Indonesian diplomatic efforts have generally failed to protect female Indonesian migrant workers in Malaysia and Saudi Arabia. The diplomatic failures were attenuated by challenging domestic issues that involved certain actors with strong economic interests that complicate diplomatic challenges. These failures were mainly due to domestic issues that could not be resolved through negotiation only. The GoI should terminate the sending of domestic and only send legal, documented, or skilled and semi-skilled workers. Better protection could be provided if the workers sent to both countries were all sent under a legal mechanism and bearing proper documents. Realization of these conditions would require close cooperation and strong coordination with the Ministry of Manpower, the provincial government, and the private sectors. Lack of coordination and cooperation has led to the general public belief that Indonesian diplomacy is too weak, too slow and too tardy to protect its migrant workers. Sending informal workers as domestic workers has proved to cause many issues related to human and workers’ rights. The weakness of law enforcement is another consideration for termination, apart from implementing the principle of equality before the law.

Some adequate conditions should be provided to support diplomatic success. Firstly, only competent formal workers with language skills should be sent abroad. Adequate skills and completed documents would be pre-requisites to minimize potential problems while overseas. Secondly, a system to eliminate the possibility of sending illegal workers should be developed. This effort will include close cooperation with the security forces especially in border areas, and to implement strong law enforcement to deal with these issues. Thirdly, negotiation and communication skills should be developed, including the language proficiency of accredited countries. This effort would include broad knowledge of the host country legal system, regulations, and socio-cultural knowledge. Last but not least, public diplomacy and image building should be developed. Public diplomacy should be conducted through close cooperation with external actors, such as private sectors, NGO, academics, research, and the mass media.

Ethical Clearance

The author respects the confidentiality and anonymity of respondents involved in this research.
References


Interviews


