

Indonesia's Political Position on the Protection Policy of Migrant Workers in ASEAN

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Abstract

As a sending country of migrant workers in ASEAN, Indonesia has a weaker bargain than the receiving countries. This is in line with the thoughts of Marxist Feminism arguing that within the structure of a capitalist society, the owners of the capital, in which context are the receiving countries, have more power to control the factors of production. Indonesia has weak bargaining power, so Indonesia's political position in protecting its migrant workers in ASEAN has never changed. It has always been a follower country. One instance of the studies investigating the position was conducted by Amelia (2013) with their political position indicator. The researcher divides the country's political position into the first country, the follower country, the satellite country, and the independent country. This study aims to examine Indonesia's political position in the protection policies of Indonesian migrant workers in ASEAN. This study is framed by qualitative method with case study and interpretative analysis. The results of this study indicate that Indonesia's political position on its migrant worker protection policies can be categorized into a follower country.

Keywords:

protection policy; migrant workers; political position; follower country; ASEAN

Introduction

The issue of protection for migrant workers in ASEAN cannot be separated from the Cebu Declaration (Philippines) in 2007 when ASEAN leaders committed to accelerate the formation of the ASEAN Economic Community (AEC). This agreement subsequently resulted in the freely moving flow of goods, services, investment, skilled labor, and capital between the territorial areas of ASEAN member countries. For the Indonesian migrant workers, AEC is good news because as the fourth most labor-sending country in the world, the acceleration has opened up more opportunities to work overseas.

Cebu Declaration has significantly contributed to the protection of migrant workers, as it has mandated relevant bodies in ASEAN to develop instruments on the

Protection and Promotion of the Rights of Migrant Workers. It was then at the 31st ASEAN Summit in the Philippines that the leaders of ASEAN countries officially signed a consensus on the Protection and Advancement of the Rights of Migrant Workers in Southeast Asia. From a gender perspective, this protection instrument is a significant development considering that the regulations reflected in the articles in the consensus have accommodated gender issues (ASEAN, 2007). Then, there is the ASEAN Consensus on the Protection and Promotion of The Rights of Migrant Workers (ACMW), hereinafter referred to as the ASEAN Consensus, which was signed on November 14, 2017, by all ASEAN member countries in Manila, Philippines. This ASEAN Consensus is the first consensus that integrates the entire ASEAN region in a commitment to advancing

the issue of migrant workers (Putri & Sari, 2021), which was then followed up by forming an Action Plan 2018-2025 to implement it (Olivier, 2018, p.18).

However, there have not been any social security or labor agreements signed among ASEAN countries to provide a comprehensive consensus on social protection and security for migrant workers. This fact is an irony considering that there is a memorandum of understanding (MoU) on labor that generally regulates non-discrimination and equality for migrant workers, especially those based on gender issues (Hall, 2012). It should be noted that recently several ASEAN member countries are generally considering signing bilateral social security agreements for migrant workers (for example, between the Philippines and Thailand). However, as found in the ILO report (Olivier, 2018), the laws and national practices of the receiving countries have not fully provided adequate access to social security for migrant workers. This is also reflected in the policies of most receiving countries for Indonesian migrants, such as in Malaysia, where the Malaysian government has not fully provided access to social security for migrant workers.

Meanwhile, although some sending countries have offered and even pushed for innovative measures to extend social security for their existing migrant workers in the receiving countries, these measures remain relatively limited in scope and impact. In line with this fact, Indonesia, as a sending country and provider of migrant worker services to ASEAN, especially Malaysia, Brunei Darussalam, and Singapore, has also offered and negotiated with the receiving countries to expand social security as well as the protection rights of migrant workers. Therefore, this study aims to determine the extent of Indonesia's political position in the protection policy for Indonesian migrant workers within the ASEAN region.

Furthermore, at the state level, the adoption of regulations on gender-equitable worker protection policy is not only important but also urgent to formulate, implement, and then ensure that it is enforced. Because as mentioned above, the international community recognizes that adequate or appropriate access to social security based on gender and nationality is necessary to ensure that free movement between countries can take place properly. Even so, the state has an obligation to provide social protection and security for migrant workers through the formation of laws and regulations governing such protection. This is in line with the ASEAN spirit to form an inclusive and responsive community, which ensures that all people enjoy human rights and fundamental freedoms and develop in an environment that is just, democratic, harmonious and gender-sensitive (The ASEAN Community Vision 2025). Therefore, Indonesia's political position as a sending country for migrant workers in ASEAN for implementing the spirit of ASEAN above is an important focus to research because it can show the level of Indonesia's endeavor to protect the rights of its migrant workers.

There have been scientific works discussing Indonesia's political position, focusing on the potential of natural resources in Indonesia. The existence of Indonesia's vast forests gives Indonesia a strong bargaining position in discussing environmental issues in global forums (Windiani, 2013). The wealth of energy resources owned by Indonesia can be a bargaining power that determines Indonesia's position, unfortunately, Indonesia is only used and exploited by other countries for their interests (Rachmat, 2018). This is in line with what was conveyed by Amelia, who also stated that natural wealth makes Indonesia a vassal country in the hegemony of capitalist countries that dominate the international market (Amelia, 2013). Other studies have researched the position and responses of

the state to the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers, which focused on Indonesia and Malaysia as representatives of sending and receiving countries (Putri & Sari, 2021).

Unlike the existing studies, this article does not look at the potential of natural resources and human resources owned by Indonesia. It also does not focus on the migrant protection regime in ASEAN but instead aims to address the question of Indonesia's political position based on an analysis of the government's active actions, in the form of policies taken by the government regarding migrant workers in several ASEAN member countries, namely Malaysia, Singapore, and Brunei Darussalam, with an approach based on the Marxist feminist perspective.

Literature Review

The use of Marxist Feminism in this study departs from the fact that Indonesia as a sending country for migrant workers has a weaker bargaining position compared to the receiving country of migrant workers. This is in line with the thought of Marxist Feminism which states that in the structure of a capitalist society, the owners of capital have more power in controlling the factors of production. In the context of this research, owners of capital, including receiving countries of Indonesian migrant workers in ASEAN, have greater power and ability to control production factors. Meanwhile, Indonesian migrant workers are one of the elements of the production factors.

Furthermore, Marxist Feminism views state that women never get the same opportunities as men by analyzing the relationship between women's employment status and women's self-image in a capitalist system of society. The exploitation of women developed when the economic system of capitalism began to exist. Initially, when industrial capitalism had not yet developed, Marxist Feminist explained that the family was a production unit in which

both women and men carried out production activities to maintain their lives. However, since the development of the capitalist system, production activities have shifted from houses to factories. This then separates jobs where women work at home while men work outside the home (Ferguson et al., 2021).

Marxist Feminists believe that currently the capitalist system requires women in the labor market. However, the role of women in the labor market in the capitalist system is seen only as a reserve army of labor (Bruegel, 1979). According to Bruegel (1979), capitalism needs female workers because women are willing to be employed as part-time workers, are easily dismissed if the economy is shaken, and are easily pulled back to work because women workers do not ask for higher salaries because income for their work is viewed as additional income. Therefore, from the thought of Marxist Feminism it can be concluded that there is a close relationship between the way women are exploited through capitalism and individual ownership of private property (Desai, 2014, p. 119). The position of women in the capitalist system conveys the fact that women do a lot of time-consuming and unpaid work such as domestic work and do not get compensation (Ferguson et al., 2021).

Meanwhile, Gilman (1998) argues that women's oppression stems from being forced by other women to work in private spaces. It happens when wealthier women work in public spaces, and other women replace doing domestic work. The condition of women will improve when their work is placed, recognized, and respected in the public space; thus, women should also be encouraged to work in the public space and even occupy positions that are often associated or identified as men's jobs (Gilman, 1998). Gilman's opinion is then supported by Davis (1983) who states that the concept of homework is attached to women whose duties show the capitalist construction of a gendered labor force at home and show how women are

exploited through domestic slavery. In a way in which it is women who are required to do this domestic work, domestic slavery is seen to uphold the structural injustices faced by women in all capitalist economies (Davis, 1983).

Indicators of Indonesia's Political Position

The political position of countries in the international political arena according to Amelia (2013) can be divided into four categories namely first country, follower country, satellite country and independent country. Amelia explains that the first country are those which have a major influence in the world's politics. The follower countries are tied to other countries due to their foreign policy and some of the problems in their country. Meanwhile, a satellite country is a country whose foreign policy conditions depend on other countries because of certain interests in that particular country. Furthermore, an independent state is a country that manages domestic and foreign politics according to its own will and is based on its national interests (Amelia, 2013). The four categories in the political position of countries in international politics will be used as indicators in this study to be able to see Indonesia's political position in the policy to protect its migrant workers within ASEAN countries. This research aims to classify Indonesia's political position whether it is included in the category of a first, a satellite, a follower, or an independent country in its domestic and foreign policies related to the protection of Indonesian migrant workers within ASEAN.

Furthermore, Indonesian migrant workers who have worked in ASEAN countries since 2018 to date are mostly concentrated in Malaysia, followed by Singapore and Brunei Darussalam. Meanwhile, in other ASEAN member countries, no Indonesian migrant workers are registered. This is in accordance with the data cited in 2019 from the Indonesian Financial and Economic Statistics report which

is sourced from the records of Bank Indonesia and BNP2TKI stating that from 2016-2018 only those three countries became destinations of Indonesian migrant workers in ASEAN. Therefore, to be able to see Indonesia's political position in its migrant worker's protection policy in ASEAN, this research only focuses on the main destination countries for Indonesian migrant workers in ASEAN. Even though Indonesia is a sending country for migrant workers in ASEAN, it is important to examine Indonesia's political position in its migrant worker protection policies to see to what extent the efforts have been made by the state in carrying out its obligations to fulfill the rights protection of migrant workers abroad.

Method

This study is framed by qualitative design with case studies focusing on a single issue, namely Indonesia's policy in protecting migrant workers in ASEAN which is then analyzed to identify Indonesia's political position. In the qualitative method, the researcher is the main instrument for collecting data as well as determining the overall research process (Creswell, 2014). In this case, we analyzed and described Indonesia's political position in the Migrant Worker Protection Policy in ASEAN based on data gathered from sources in the form of books, journals, and other scientific articles, news in the mass media, and other relevant sources on the internet. The purpose of using case studies with a feminist perspective in this scientific work is to analyze changes in phenomena over a certain period, as well as to analyze the relationship between parts of a phenomenon (Reinharz and Davidman, 1992).

Data analysis for this case study research is carried out by focusing the research direction on a single phenomenon, community, individual, or institution to show the interaction of these things (Berg & Lune, 2017). Data is collected, categorized, and then interpreted to produce research findings. Then for validation,

March. The group has the potential to generate foreign exchange of around IDR 3.8 trillion. The potential for remittances generated in 2019 is IDR 160 trillion from 3.74 million Indonesian workers" (*BBC News Indonesia*, 2020).

The Minister of Manpower firmly stated that the government would be at a loss if Permenaker 151/2020, which stopped sending migrant workers, was not immediately repealed. This statement was emphasized by the acting Director-General of Manpower Placement Development and Employment Opportunity Expansion (Binapenta and PKK) at the Ministry of Manpower, Aris Wahyudi, "But we want to maintain a symbiotic mutualism. If it is not filled, the job opportunity will be taken or transferred to another country. We will also lose" (*BBC News Indonesia*, 2020).

The assertion that women are victims of the phenomenon of migrant workers was also stated by Wahyu Susilo, the executive director of Migrant Care, who stated that "Labour migration shows the reality of inequality in wages, job opportunities, which are unfair to men and women, as well as inequality in the poor and rich country. This situation leads to discriminatory and xenophobic attitudes supported by the construction of a patriarchal society" (*Media Indonesia*, 2020).

Indonesia's Efforts in Protecting the Rights of its Migrant Workers

Marxist feminists believe that the institution of the family is related to capitalism, where housework given to women is underestimated, and is not considered as real work. Furthermore, even women who go to public spaces are still exploited to do jobs that are considered proper for women, becoming housemaids, babysitters, and factory workers who require domestic skills such as child care and traits such as patience and attention to detail. Apart from underestimating the nature and function of women's work, capitalism is also an exploitative system. The capitalist system pays the worker only for his

labor power, without paying for the actual expenditure of human energy and intelligence which is taken and transferred into the resulting commodity. Employers monopolize the means of production, so workers must choose between being exploited or having no work at all. This is what happened to Indonesian migrant workers. It also illustrates the power relationship between Indonesia as a labor supply country and a capitalist country as a labor user country (Tong, 2008).

Marxist feminists believe that the phenomenon of female migrant workers is an exploitative phenomenon in the global capitalist system. Marxist feminists who see the position of women migrant workers within the framework of a critique of capitalism, identify the cause of the oppression experienced by women migrant workers as the accumulation of capital and the international division of labor (Natalis & Ispriyarso, 2018). Indonesian women becoming migrant workers is not a conscious choice. In this case, most women who become migrant workers come from rural areas (72%), with an education level below high school (78%), they are poor and have no hope for a decent life in the future (World Bank Indonesia, 2017).

The social context of women is an important factor that drives the increase in the number of Indonesian female migrant workers from year to year, wherein in 2019, the number reached 68% of the total number of Indonesian migrant workers (Arista et al., 2020). On the other hand, the state, which is supposed to protect its citizens, such as fulfilling the right to life, political rights, socio-cultural rights, the right to development, etc., actually takes advantage of the existence of these migrant workers as state assets that can bring in foreign exchange which is ultimately able to contribute to the country's economy. Apart from that, the system and governance that should protect migrant workers are also inadequate, both in the context of protection before and during departure, as well as at the time of their return to normal citizens after becoming migrant workers.

Women migrant workers, who are mostly employed as domestic workers, even in the global capitalist structure, are still considered as doing a trivial job, which does not require higher education, and does not require special skills, so they deserve lower wages than other sectors. The position of female migrant workers who work in the informal sector is also prone to violence perpetrated by the employer, in the form of sexual abuse and violence. Following this, the access that these workers must get justice, to file a case is also very little.

This condition is worse, when the migrant workers are at their destination, where national law cannot reach them, and it is the local state that plays an important role in the protection of these migrant workers. Next, to protect migrant workers, the government should make more efforts, considering that in relations between countries there are also class relations. From a Marxist feminist perspective, the sending country has a weak position, as a provider of labor, while the owner of capital is the receiving country. The discussion of Indonesia's political position in ASEAN started from the era of President Susilo Bambang Yudhoyono (SBY) considering that in this era there were many policies for the protection of migrant workers. During the era of President SBY, an important agreement was formed in ASEAN, namely the Cebu Declaration (2007). Cebu Declaration had an impact on opportunities for the exchange of capital, technology, goods, and labor between ASEAN countries. On the other hand, activists call it the era where the lives of Indonesian migrant workers were the "cheapest". Many Indonesian migrant workers are sentenced to death in their local country without protection from the Indonesian government.

a. The Presidency of Susilo Bambang Yudhoyono

President SBY made several policies to protect migrant workers, including: (1) Presidential Decree no. 81 of 2006 concerning

the Establishment of BNP2TKI (National Agency for the Placement and Protection of Indonesian Migrant Workers); (2) Presidential Instruction No. 6 of 2006 concerning the Policy for the Reform of the Indonesian Migrant Workers Abroad Placement and Protection System; (3) RI Presidential Instruction No. 3 of 2006 concerning the Investment Climate Policy Package; (4) Presidential Decree No. 02 of 2007 concerning the Establishment of BNP2TKI; (5) Permenakertrans No. 18 of 2007 concerning the Implementation of the Placement and Protection of Indonesian Migrant Workers Abroad; (6) Permenakertrans No. 14 of 2010 concerning the separation of responsibilities of the Indonesian Ministry of Manpower and Transmigration as the regulator and BNP2TKI as the person in charge of operations; (7) Permenakertrans No. 7 of 2010 concerning Indonesian Migrant Workers Insurance. (8) PP No. 4 of 2013 concerning Procedures for Implementing the Placement of Indonesian Migrant Workers Abroad by the Government; (9) Permenakertrans No. 6 of 2013 concerning Procedures for the Establishment of Implementing Representatives for the Placement of Private Indonesian Migrant Workers Abroad; and others.

The existence of the law and the institutions established by the law are not able to protect Indonesian migrant workers. It is proven that during 2009-2010, data from the Indonesian Migrant Workers Union (SBMI) stated that the persecution of Indonesian migrant workers increased by 39%. Cases of sexual violence increased by 33%, cases of work accidents increased by 61%, and cases of migrant workers sent abroad in a sick condition increased by 107%. Furthermore, the problems mentioned above do not only affect illegal migrant workers, but also legal ones. The death rate of migrant workers in Malaysia, 87% of whom are legal migrant workers. Next, data on trafficking in persons for 2005-2009 shows that 67% of the victims were sent officially by the recruitment agency (PJTKI) (Hukumonline, 2010).

Indonesia's political position in ASEAN is also not strengthened by the policies mentioned above. There were interests from receiving countries such as Malaysia which were still accommodated by the Indonesian government as evidenced by the placement system for overseas migrant workers that does not regulate strict sanctions against private parties. This gap showed that there was an unequal relationship between the Indonesian government as a sending country and Malaysia as a receiving country where the position of the Indonesian government, which should be a protector of its female migrant workers, was unable to be carried out properly because of the dominant capitalist interests.

b. The Presidency of Joko Widodo

The protection policy for Indonesian migrant workers began to change and made a lot of progress when the government provided quite a few protections following the implementation of Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers (UU PPMI 2017). Changes in the protection of Indonesian migrant workers can be seen in several aspects, including the aspect of protection which has adopted the International Convention on the Protection of the Rights of Migrant Workers and their family members. In addition, Indonesian migrant workers also received social security as a form of protection. Through this new law, the government also provided services and protection for migrant workers by the central and local governments through one-stop integrated services. Furthermore, the government of President Joko Widodo also formed 21 Task Forces for Indonesian Migrant Workers over the period of 2015-2016. From the 2017 Indonesian Migrant Workers Law and looking at the various domestic actions taken by the government of President Joko Widodo regarding the protection of Indonesian migrant workers abroad, it shows that there

have been efforts to protect the interests of migrant workers which are also the national interests of Indonesia. However, the efforts made by the Indonesian government do not have a significant impact on the protection of Indonesian migrant workers in ASEAN. The Indonesian government is powerless to pressure other ASEAN countries to make policies that are in line with Indonesia's interests so that Indonesia remains a follower country.

The inability of the Indonesian government to pressure the governments of ASEAN countries that receive Indonesian migrant workers is because the receiving countries have capital, and capital occupies a superior position compared to Indonesia as a labor-sending country with low education, low skills, and only has the potential to be placed in the informal sector. The government of the receiving country is more flexible in making policies regarding migrant workers who work in their country, considering that Indonesia is not the only country that sends migrant workers there. These countries will consider getting workers with low wages, with little responsibility to protect workers who are not citizens. There is a hegemony of capitalist power in relations between countries which in the end is still won by the state that owns the capital, the impact of which is the failure of the Indonesian government to seek protection for Indonesian migrant workers abroad.

A derivative of the PPMI Law No. 18 of 2017 was only issued in 2021, namely the Indonesian Government Regulation No. 59 of 2021 concerning the Implementation of the Protection of Indonesian Migrant Workers. The existence of derivative regulations that are expected to be able to protect migrant workers from when they leave Indonesia until they return home is more about technically preparing Indonesian migrant workers to be good workers, according to consumer needs. As stated by the Minister of Manpower, Ida

Fauziah, the governance of the placement of Indonesian migrant workers in this regulation emphasizes the aspects of protection and social security. The government will seek to improve the skills and competencies of migrant workers, facilitate better workers by providing the One-Stop Integrated Service (LTSA) for placement and protection of migrant workers that integrates eight agency/institutional services in the form of a desk. The eight services consist of the employment desk; complaint and information desk; population and civil registration desk; health desk; immigration desk; police desk; banking desk; and social security desk. The following describes a clear division of tasks and responsibilities between the Central Government and Regional Governments down to the villages, in providing protection for Indonesian migrant workers and their families in an integrated and coordinated manner. In addition, there will be supervision of the Indonesian Migrant Worker Placement Company (P3MI) which involves the community (BeritaSatu.com, 2021).

Even from this derivative regulation, there is no affirmative action scheme prepared by the government to improve the quality of life of women migrant workers, as a trending group who experience oppression differently from men. As fellow migrant workers, women have fewer job opportunities than men, namely only in the household sector, as child caretakers for parents, as well as housemaids, and some of them become factory workers or garden workers.

As employees, the average salary difference between women and men with the same type of work is 11%. Women migrant workers who become domestic helpers get an excessive workload. On average, women migrant workers care for a family with 2-3 children or a family with the elderly. Most women migrant workers do not get proper facilities, only get a small bed, and some are only allowed to sleep in the warehouse. Some

women migrant workers do not even get proper food. Likewise, with working hours ranging from 16 to 24 hours, only a short break is allowed between working hours. The working hours of women working in factories are no better; some work up to 18 hours in a doormat factory, and some work 12 hours without a break in oil palm plantations. In the work agreement, female migrant workers get one day off a week, but many do not get the right to vacation. While the salary issue is even more complicated, many get paid according to the work contract, only paid every six months; some get paid after two years of working (Solidaritas Perempuan, 2014).

From the explanation above, it appears that the Indonesian government has failed to protect its migrant workers. To understand more about this, the following are the explanations of the obstacles and resistance from countries that are the main goals of Indonesian Migrant Workers in the ASEAN region when Indonesia implements its migrant worker protection policy.

a) Implementation of Indonesian Migrant Workers Protection Policy in Malaysia

Data from the National Agency for the Placement and Protection of Indonesian Workers (BNP2TKI) from 2011 to 2018 recorded that there were 911.313 Indonesian migrant workers working in Malaysia. In line with the increasing number of Indonesian migrant workers, the number of complaints about acts of violence and maltreatment also increased, namely in 2016-2018 there was an increase of 1,598 complaints (BNP2TKI, 2018). This drastic increase from 2015 to 2018 made Malaysia the country with the highest number of Indonesian migrant workers complaints. Meanwhile, the absence of derivative regulations encourages many Indonesian migrant workers to prefer to take the illegal route. This is what makes the problem of protecting Indonesian migrant workers in Malaysia very complex because 2 million of the 3.3 million Indonesian migrant

workers in Malaysia work illegally (Al Fakir, 2020).

The Indonesian migrant workers protection agency (BP2MI) stated that from January 2020 to July 2021, the number of migrant workers who died was 841 people. While the number who returned to Indonesia in a sick condition was 1,105 people (Sindonews.com, 2021). There were 150 complaints related to migrant workers in August 2021, and this number increased by 117.4% from the previous month which was only 69 complaints. From this data, the highest percentage of complaints came from Malaysian migrant workers, which reached 35% (katadata.co.id, 2021).

The capitalist system that succeeded in convincing women to enter the productive space by working outside the home, made women the object of exploitation. Those with low education and limited skills do not have access to information, they become victims of brokers for migrant workers, and even become victims of human trafficking. This is evident even though the government has stopped sending migrant workers to Malaysia because there has not been an extension of the MoU, there are still many migrant workers, including female migrant workers who go and choose to use illegal routes. According to data from the Indonesian embassy in Kuala Lumpur, until early 2022, there were at least 2.7 million Indonesian migrant workers in Malaysia. Half of that number comes and works without official documents (BBC Indonesia, 2021). On December 15, 2021, 21 illegal migrant workers candidates, some of them women, died after the boat carrying them to Malaysia sank due to bad weather in Tanjung Balau, Johor (Refleksi Perlindungan Pekerja Migran Indonesia, n.d.). Following January 18, 2022, six prospective female migrant workers also died in Malaysian waters to fight for a better life (detikcom, 2022).

Referring to a number of cases of violence against migrant workers that have occurred, especially in Malaysia, migrant care activist

Anis Hidayah stated that Malaysia is not serious about addressing this issue because its interest is only to meet the needs of cheap workers in companies, plantations, and the household sector, which will bring huge economic profits globally (Sindonews, 2021). Oppression against women migrant workers will disappear if there is a revolution that breaks the international capitalist system and replaces it with a classless socialist system. If this cannot be done, then in this context, Indonesia's political position in ASEAN will forever be a follower, a country which has no bargaining power when dealing with other ASEAN countries, especially countries that use the services of female migrant workers.

Furthermore, the problem of violence and persecution against Indonesian migrant workers in Malaysia also continues to occur due to the absence of an MoU for the Placement and Protection of Indonesian Migrant Workers between Indonesia and Malaysia. Originally, these two countries used to have an MoU but it was ended in 2016. Previously, the MoU between Indonesia and Malaysia regarding Indonesian Migrant Workers began in 2006. In this MoU, several clauses are detrimental to Indonesia as a sending country for Indonesian Migrant Workers to Malaysia. However, at that time the Indonesian government still agreed, and this showed that Indonesia's political position was weak against Malaysia. One of the points in article 7 reads: *"The domestic workers under employment in Malaysia shall comply with all Malaysian laws, rules, regulations, policies, and directives; and respect Malaysian traditions and customs in their code as domestic workers in Malaysia"* (Azmy, 2012). It has an impact on women migrant workers who get lower salaries, given Malaysia's patriarchal tradition, which places women workers as supporting factors for the economy, and not as the main breadwinners. The following, in the 2006 MoU part A point 12 regarding the responsibility of the employer: *"The employer shall be responsible*

for the safekeeping of domestic workers' passports and to surrender such passport to the Indonesian Mission in the event of abscondment or death of domestic workers" (Azmy, 2012). This agreement makes women migrant workers vulnerable when they are in trouble with their employer, which leads to violent or inhumane treatment, and they may choose to run away, or they will be illegal because they do not hold documents.

Another problem that becomes an obstacle to the implementation of the protection policy for Indonesian migrant workers within ASEAN, especially in Malaysia, is the unilateral policies of the Malaysian government (Fanani, 2019). These unilateral policies include the double medical check-up policy as well as immigration policies such as the Foreign Worker Centralized Management System (FWCMS), e-VDR (Visa with Referral), and Immigration Security Clearance (ISC). These unilateral policies also make the procedure for legally placing Indonesian migrant workers more complicated so that most Indonesian migrant workers chose the illegal route. The difference in interests between Malaysia as a country using Indonesian migrant workers services that wish to benefit from the existence of cheap Indonesian Migrant Workers is contrary to the wishes of the Indonesian government which wants to protect and guarantee the rights of Indonesian Migrant Workers. Indonesia's inability to pressure Malaysia can begin from the difficulty of the new agreement process that forms the basis of cooperation between the two countries. Until early 2022 there is no MoU regarding the protection of Indonesian migrant workers in Malaysia between Indonesia and Malaysia.

b) Implementation of Protection for Indonesian Migrant Workers in Brunei Darussalam

The implementation of protection for Indonesian migrant workers in Brunei Darussalam is almost the same as in Malaysia because until now the Indonesian government

does not have an MoU regarding the placement and protection of Indonesian migrant workers in Brunei Darussalam. Therefore, the cases of violence and abuse against Indonesian migrant workers in Brunei Darussalam are still happening. Meanwhile, the submission for MoU in the placement and protection of Indonesian migrant workers in Brunei Darussalam has started in 2018 but remain unfinished until now.

The main problem is that there is no standard mechanism that regulates Indonesian migrant worker rights because there has been no regulation or cooperation covering this matter. Apart from the absence of MoU that regulates Indonesian migrant worker rights, there is also no agreement on the problem of the placement cost for Indonesian workers in Brunei Darussalam, which has not been determined until now (Gumelar, 2018). In fact, according to Law Number 18 of 2017, Indonesian migrant workers have the right to obtain information about the exact placement cost to work abroad.

Moreover, the government of Brunei already has a good formal sector protection law but there is no protection for Indonesian migrant workers who work in the informal sector. Therefore, the Indonesian government is trying to come to an agreement about providing protection for Indonesian workers who work in the domestic sector. Referring to this fact, it can be concluded that the possibility of implementing the protection of Indonesian migrant workers in Brunei Darussalam will not work well because there is no MoU on protection points for Indonesian migrant workers. This will again continue to add to the long list of cases of violence, abuse, and exploitation of Indonesian migrant workers by employers in Brunei Darussalam due to the absence of an MoU between the two countries.

Discussion

Political Position of Indonesia in ASEAN

The protection policy for Indonesian migrant workers carried out by the Indonesian

government continues to change from time to time. This can be seen from the changes in the form and protection efforts made by the respective presidents of Indonesia. This research found the fact that at the beginning, the Indonesian government under President Soeharto firstly sent Indonesian workers to ASEAN in 1970. However, Indonesian migrant workers did not get protection from Indonesia as a sending country because no law covers the issue of protection for Indonesian migrant workers at that time.

The commitment of the Indonesian government to provide better protection for Indonesian migrant workers abroad, including in ASEAN, has been stronger since the enactment of Law number 18 of 2017 during the leadership of President Joko Widodo. In the context of relations with ASEAN countries, Indonesia also has a strong commitment to formulating the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers (ACMW) which was signed in 2017, and to implement it domestically. Indonesia, which is the representative of the sending country for migrant workers in the formulation, is struggling to make the ACMW a document that can be legally binding, even though in the end it only becomes a joint decision, namely morally binding. However, ACMW will be able to become one of the nation's image-formers within ASEAN if it can implement it effectively. This ACMW was followed up with the 2018-2025 Action Plan issued by ASEAN in November 2020, covering the fields of education/information, protection, and reintegration, some of which have been implemented by Indonesia. Some of the agendas include: (1) Public Campaign on Migration Safety which was carried out in 2018, (2) Research on migrant workers based on standard employment contract rights, which is currently ongoing and targeted to be completed by the end of 2021 (3) Preparation of ASEAN Guidelines on the completed Effective

Return and Reintegration was authorized by ACMW on 21 February 2020 (Putri & Sari, 2021). However, Indonesian government faces difficulties due to insufficient capacity to make the ACMW a legally binding consensus for ASEAN countries, as well as the inability to force the passage of several MoUs on the protection of migrant workers with Malaysia and Brunei Darussalam.

Although since the Covid-19 pandemic there has been a decline in the number of Indonesian migrant workers abroad, the presence of Indonesian migrant workers in ASEAN countries is still significant. Bank Indonesia, released data that in 2021, the number of Indonesian migrant workers in Malaysia will reach 1.730 million people in 2021, a decrease from 2020 which reached 1.731 million people (idxchannel, 2022). In Brunei Darussalam, the number of Indonesian citizens, including those not registered at the Indonesian Embassy, is estimated at 50,000 thousand people, 50% of whom work in the informal sector. Even in 2018, the number had reached 80,000 people, which is equivalent to 20% of the population of Brunei Darussalam (KBRI Brunei Darussalam, 2021; Tagar, 2018). While the placement of migrant workers in Singapore in 2020 decreased dramatically from previous years, only 4474 were women. In 2017, the number of Indonesian migrant workers registered at the Indonesian Embassy and working as household assistants reached 98,256, of which around 20,000 were not registered. Apart from that, 29,525 work as crew members, and 19,547 work in the formal sector (Nasional.kontan, n.d.).

From these figures, it is possible to estimate how much economic benefit the recipient country will get by employing Indonesian migrant workers. The first advantage is related to the fulfillment of the integrity of the workforce, wherein in these countries, the majority of migrant workers are employed in the dirty, dangerous, and degrading sector,

where the original workers of the receiving country are not willing to work.

Migrant workers do not compete in the employment sector in the same way that domestic residents can compete to work in the sector. Migrant workers can become more competitive if they are willing to be paid lower wages for the same quality of work, and this tends to happen to Indonesian migrant workers when the government does not have the power to pressure the receiving country. Meanwhile, citizens of recipient countries can carry out other productive activities that are more profitable and better paid, by diverting jobs in sectors that are considered unproductive to Indonesian migrant workers, especially female migrant workers in the domestic sector.

This imbalance of power relations between the receiving and sending countries can be seen in the discussion of the (ACMW) which took place 10 years from the CEBU Declaration and ended only as a moral bond between ASEAN countries. In this process, Indonesia and the Philippines represent sending countries against Malaysia, Singapore, and Brunei Darussalam as receiving countries that have been in a dominant position considering they control the capital. Recipient countries have an interest in the availability of cheap, skilled, and disciplined labor so that they can get more benefits. Meanwhile, sending countries, which want economic benefits, demand comprehensive protection for the guarantee of the rights of their migrant workers

The ASEAN consensus debate that has been strengthened, among others, is that sending countries hope that the instruments in this consensus are binding, but Malaysia and Singapore prefer it as a moral appeal. Next, the two receiving countries only agreed to provide protection for documented migrant workers, even though the sender wanted protection for all migrant workers. The sending country wants protection for migrant workers and their families, this is also rejected by the receiving

country. In addition, related to the approach used, many countries want a development approach, while what sending countries want is a human rights perspective (Hukumonline, 2017). The Indonesian government is not strong enough to push for common rules within ASEAN to protect female migrant workers. Indonesia's failure shows that Indonesia still occupies a position as a follower country in ASEAN.

Conclusion

Indonesian migrant workers in ASEAN countries whose numbers continue to increase from year to year are still experiencing many problems. Especially for female migrant workers who work in the informal sector. Indonesia as a sending country seeks to protect them with various policies implemented in the country as well as against countries receiving Indonesian migrant workers. Although in reality there is no policy product specifically aimed at female migrant workers, who experience more forms of oppression than men, at least the policy is generally aimed at guaranteeing better protection for all Indonesian migrant workers.

Many things are lacking from the policies made by the Indonesian government so that the number of cases affecting migrant workers is still high and varied. A change of perspective is needed to not see female migrant workers as an asset of a foreign exchange-producing country which also reduces the unemployment rate in the country, but instead to see them as human beings and as citizens whose human rights must be guaranteed. The state should be more pro-women migrant workers than domestic entrepreneurs/businessmen who have been a source of oppression for migrant workers, from their departure to their return to Indonesia, considering that Indonesia still sends migrant workers abroad, even though the number has decreased during the pandemic.

Next, the power relations that have been developed between the sending countries of migrant workers and the receiving countries

are not equal. The receiving country is the determinant for the protection of migrant workers in that country. Whatever policy the Indonesian government takes, when there is no agreement from the recipient country, it will fail and problems will continue to emerge. It will be difficult to get an agreement when the receiving country is still profit-oriented, employs low-paid workers, and does not provide the guarantees and rights that workers should get. This is the capitalist system that is still going on and dominates relations between countries, and Marxist feminists believe that this capitalist system is what causes Indonesian women migrant workers not to be granted their human rights. From this, we can see that Indonesia's position among ASEAN countries regarding policies that seek to protect women migrant workers is not strong. It is necessary to dismantle the world capitalist system so that each country can be equal and able to fight for its national interests, including an effort to protect its citizens. Indonesia with its various policy products, and its negotiation efforts in ASEAN forums have not been able to make Indonesia an independent country. Indonesia is still a follower country because of the hegemony of the exploitative capitalism system, which results in layered exploitation of female migrant workers.

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