

# **INDONESIAN MIGRANT WORKERS IN MALAYSIA AND THE ASEAN COMMUNITY 2015: Prospects and Challenges**

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## **Abstract**

This article explains the dilemma of Indonesian workers especially those who categorized as illegal in Malaysia. Both countries have recognized their positive contribution whether for Malaysia or Indonesia. It was undeniable that all sectors in Malaysia especially construction and plantation were using Indonesian workers services. At the same time, Indonesia also indirectly obtained advantages through the remittance which totally contribute to the national economic development. However, what happened in Malaysia is illegal workers were arrested and treat as a criminal. It should be stopped and substituted by the constructive policies which could give benefits to the both countries. Indonesia and Malaysia and the countries in ASEAN should build strong partnership in all sectors especially migrant workers which seen obtain small attention. Facing the ASEAN Community 2015 both countries should prepare as maximize as possible by empowering all aspects including migrant workers. By take positive action towards migrant workers both countries indirectly has contribute to the development of “*Ummah*.”

Keywords: migrant workers, Indonesia, Malaysia, ASEAN Community.

## **INTRODUCTION**

### **Migrant Workers and International Affairs: A Short View**

In the context of migrant workers in Malaysia some scholars have discussed in the social political aspects. However, along with the changes of international political situation and triggered by rapid development of information technology, migrant workers become one of important area. It is because the issues involving migrant workers have close correlation with human rights and human security issues which are become high attention especially after the Cold War era in 1990s onwards. Consequently, all types of issues are indirectly and vastly entertain world society beyond the state borders. Furthermore, globalization also became more popular and one of crucial factor behind the wider attention of many issues related to human developments including migrant workers and social issues. Nonetheless, although social issues normatively can be included into international perspective, yet still debatable among their scholars regarding the position of social issues especially social work itself as an applied discipline (Midgley, 2001: 22). Gray (2005) for instance tend to concern about relationship

between social work in the context of globalization–localization, Westernization–indigenization, multicultural–universalization and universal–local standards. Engstrom and Jones (2007) have five areas which potentially could empower social work as a discipline especially to social work students in international area specifically culture and behavior, experiencing of being different, comparative views of social welfare, global responses and local responses and different contexts and social work practice.

As abovementioned globalization is a critical factor behind the raise of social and political sciences with social work become more internationalize. The raise of globalization is phenomena which made world become more complex. Since then global society witness so called economic interdependence, while the concept itself also become more enlarge and involving non-state actors /transnational[.], so that emerge what liberalism scholars call as “complex interdependence” (Keohane and Nye, 2001:20-32). Keohane and Nye (2001) believe that “complex interdependence” occurred due to international relations become more complex and not emphasize on state-to-state relations *per se*. People-to-people relations as well as inter-organizations also should taking into account as international relations phenomena. Hence, the existence of the relationships was real and not easy to control. This is because the emergence of so called multiple channels (Keohane and Nye, 2001:21) in the globalization era which totally affected to transformation of human relations. Everybody could build relationship and contact with their partners worldwide beyond the state borders. Abubakar Eby Hara (2009) opine that transnational relations emerge due to the role of non-state actors such as mass media, NGOs supported by internet access facilities become more dominant and critical in international affairs.

The migration is one of easy sample how human movements become freely and hardly uncontrolled including in Malaysia-Indonesia migration phenomena. Migration is often framed as a security problem - a threat to public order, national identity and welfare - (Huysmans, 2006) and irregular migration a criminal offense (Bigo 2003, AasFranko 2007 & Pinyol-Jiménez, 2012). Whereas trade and finance are subject to global regulation, human mobility is not governed by a formal regime (except for refugees) (Kalm 2012). In short, while capital, goods and skilled workers circulate freely; *unskilled* migrants do not, at least not in a legal fashion. Thus, “mobility is a privilege that is unevenly distributed among human beings” (Pécoud and de

Guchteneire, 2006). Migration control is a complex and costly endeavor including border patrols, issuing of visas and residence permits, prosecuting, detaining and removing undocumented migrants (Pécoud and de Guchteneire, 2006).

Whereas developed countries have the resources necessary to enforce strict migration control the developing countries subject to the largest influx of immigrants are for the most, neither well equipped to protect their borders, nor to accommodate refugees and migrants. The paradoxical development with a free flow in capital but not in human beings and the uneven burden sharing of immigration raise several ethical, social and political questions. What impact do changing border-control regimes have on migrants? Can developed countries be ethically justified in excluding migrants from underprivileged parts of the world? What rights and duties hold between migrants and states? Do affluent nation states have any particular duties towards the global poor? These questions were seen very critical including in the context of Indonesian migrants phenomena in Malaysia. In term of social political sciences and social work perspective it was related to how the countries handle these issues, while diplomatically both countries also has attempted to manage the issues properly. Human rights issues also should put at the discussion due to human rights will be bridging between social political approach - social work and migrant issues management. The terrible treatment towards Indonesian workers in Malaysian will be suitable if analyzed from human rights and be widened to a critical discourse especially moral and ethics.

### **The Issues of Indonesian Immigrant Workers in Malaysia**

Looking back to the past century, the existence of Indonesian migrant workers in Malaysia known as *Tenaga Kerja Indonesia* (TKI) was close correlation with regional powers before the arrival of bevy colonial. Such empires as Majapahit, Srivijaya and Malacca were among kingdoms which have huge influence and power in the Southeast Asian region. Lili Yulyadi (2009: 364) opined that among people in the region has a good relationship in relation to communication, trade and cultures indeed. It can be said that people to people contact or cross-border activities arguably has established since early through various and multiple channels. Manuscripts and many historical stories such as *Sejarah Melayu*, *Hikayat Hang Tuah* and

*Hikayat Melayu dan Bugis (Tuhfat al-Nafis)* mentioned that trade and wars are mediums used by peoples in the region to interact each other in order to build intensive cooperation/communication. Furthermore, colonial and Malay authorities were also encouraged and really welcome Indonesian workers to Malaya (Liow, 2005: 45). The cross-border activity between the two countries slightly down when the emergence of *Konfrontasi* 1963-1966, though still smoothly maintain (BNP2TKI 2012). Hence, this scenario totally changes after the occurrence of bloody ethnic riots in 13 Mei 1969. Consequently, Malaysian government especially UMNO the ruling party felt that Malay supremacy was under threaten and seek to make a balance. UMNO observed that the existence of Indonesian migrant seen as a potential voters and very prospective to enhance Malay power. Under this circumstances the arrival of huge number of Indonesian migrant to Malaysia were totally encourage, appreciated, unofficial and “silently welcomed” (Liow, 2005: 46).

Culture similarities such as language, ethnic and custom were significant factor behind the easy and rapid assimilation of Indonesian migrant with local community especially Malay ethnic. The May 13<sup>th</sup>, 1969 riot became a momentum to accomplish Indonesia-Malaysia relationship which jeopardized by Sukarno’s aggressive policy. Furthermore, the arrival of Indonesian migrant also supported by international agenda namely war against communism which became attention between the two countries concurrently. Along with the rest and slow down of communism attack, while the influx of Indonesian migrant are still increase from time to time. This is because Malaysia was under good condition after the government launched New Economic Policy (NEP), while the demand towards Indonesia cheap workers significantly rose. However, large number of unemployment notably in Java Island is the main factor behind this scenario (Liow, 2005: 47).

Having close culture and similarities notably religion, the skilful and hard workers of many Indonesian were the main reason of Malaysian to more recognize and appoint Indonesian workers than others (Nor Azizan Idris, 2005: 148). Ironically, in the mid of Malaysia rapid development and the rise of huge number of middle class income many Malaysian are tend to neglect the “dirty and rough” jobs. Automatically this vacancy totally utilized and fulfilled by many Indonesian workers which recognized as hard workers and specialize in 3D sectors namely

(dirty, dangerous and difficult) (Muhammad Iqbal dan Arifin Zainal, 2009). Former Malaysian minister of communications and multimedia Zainuddin Maidin also recognize that “many Malaysian are selective in job vacancies and unskillful compared to Indonesian. Without Indonesian workers we are in difficult situation” (Buletin KJRI, 2007: 16). Accordingly, Malaysia is highly dependent towards Indonesian workers notably informal sectors.

Malaysia totally take benefits from the existence of Indonesian workers, while Indonesia also obtained reimbursement. Indonesia got advantages in two types namely socially and economically. Socially, the arrival of many Indonesian in Malaysia could diminish huge number of unemployment especially in Java Island. Economically, Indonesian foreign workers make a contribution to the national economy through their remittance. The demand towards Indonesian workers could be traced since 1970s and 1980s. Between 1970s and 1980s Malaysia needs towards Indonesian workers approximately 38%-45% a year which posted in plantation sector. This number is gradually increase from time to time and reach 57% or 12,277 workers in 1991 (Silfia Hanani, 2009). Nonetheless, Indonesian national protection and placement workers body or *Badan Nasional Penempatan dan Perlindungan Tenaga Kerja Indonesia* (BNP2TKI) reported that since 2012, Malaysia is not main destination to Indonesian workers. Arab Saudi replays Malaysia as main host to many Indonesian workers around 1,427,928 followed by Malaysia in the second place with 1,049,325 workers (BNP2TKI, 2012). BNP2TKI release was contradictive with real condition as well as International Organization for Migration (IOM) record. IOM have fantastic number of Indonesian workers in Malaysia which arguably as the second largest migration in the world after Mexico-US cross border. Hence, IOM believe 95% of Indonesia workers in Malaysia were illegal (International Organization for Migration, 2008). The BNP2TKI reports are probably based on fixed number (legal workers) obtained from statistical data and neglected huge number of illegal workers in Malaysia.

Following the arrival of huge number of Indonesian workers in Malaysia, there were emerging some problems relating to their involvement in various cases. The most important case is illegal workers or known as *pendatang asing tanpa izin* (PATI). Since 2005 some reports announced that 80% of 1.2 million of Indonesian workers in Malaysia are illegal (PATI) (Nor Azizan Idris, 2005: 148). However, Indonesian embassy in Kuala Lumpur believed that this number doubled.

The latest source up dated that up to 2012 Indonesian workers in Malaysia close to 2 million and 50% are illegal (Caraka, 2012). Consequently Indonesian workers began to involve in some various cases such as crimes and social problems. Joseph Liow (2005: 148) noted that up to 1987 around 36% of prisoners in Malaysia were Indonesian migrant. Furthermore the trend of Indonesian migrant involvement in criminal significantly growing up especially after 1990s. In 1996 for instance, a report announced that among criminal cases which many migrants involved were murder case 27.3%, attempted murder 18%, group armed robbery 35.6% and individual armed robbery around 16.3%. Approximately 50% of these numbers are involving Indonesian migrant (Nor Azizan Idris, 2005: 152).

Observing above situations Malaysian government was taking into account seriously through some strategic actions. Government stake holders prepared for handling migrant workers such as immigration, army and civil volunteers or *Ikatan Relawan Rakyat Malaysia* (RELA). However, the results not significant while crime index involving Indonesian migrant are considerable increase. Indonesian migrants began to involve in some serious crime activity including riots and attacking police for example in Semenyih Selangor detention camp in 1998, Machap Umboo Melaka immigration detention in 2001 and riot in Pekan Nenas, Pontian, Johor detention. In the same year, Indonesian migrant also involve in a riot and attacking police in Nilai, Negeri Sembilan (Nor Azizan Idris, 2005: 153). Therefore, Malaysia hardly desire to re-examine Indonesian workers and launch “Hire Indonesians last” (Liow, 2005: 149). Local elite especially Malay politicians also worry due to some of them were Christian and allegedly preaching their religion to the local community (Liow, 2003: 49).

Since then, the image of Indonesian workers began to downgrade and fortunately they obtained mistreatment from their employers especially in domestic sector such as sexual harassment, bad settlement, exploitation and so forth (Wan Abdul Rahman Wan Ab. Latif, 2012:132). Meanwhile, the three negative images which embedded in Indonesian workers notably women are maids, “part-timer” or prostitutes and “mistress” (Silfia Hanani, 2009). Analysts pointed out that it was probably due to the lack of education among workers. A report figured out that the majority of Indonesian workers in Malaysia were secondary school graduates (Muhammad Iqbal dan Arifin Zainal, 2009). However, Indonesian ministry of welfare estimate differently where

56,8% of Indonesian workers were no more than elementary school (Sutaat, 2007). The Indonesian government point of view accuse that the negative images embedded to Indonesian workers were stimulated by the uses of “*Indon*” by Malaysia mass media to exploit Indonesian workers (Nasrullah Ali Fauzi, 2009: 483). At the same time, Malaysian government and media also do not hesitate to award Indonesian workers as “troublemaker” (Liow, 2004).

Both countries have taken serious action around 1970s up to 2000s through consultations and meetings to handle Indonesian workers. However, only two meetings have been made by both parties throughout 1980s to 2000s. Firstly is so called *Perjanjian Medan* or Medan Agreement in 1984 which directly followed by mass huge deportation of Indonesian illegal workers through *Program Pemutihan PATI* (1989-1991) and *Program Pengampunan PATI* (1991-1992) to switch their status being a legal one (Nor Azizan Idris, 2005: 154). In spite of that, Malaysian government seen unsatisfied with Indonesian government, Malaysia also witness Indonesia is unserious and did not really taking into account toughly in handling PATI. Conversely, Indonesian accused Malaysia tend to exaggerate the PATI issue (Liow, 2005: 149).

In August 2001 both governments were agree to overcome PATI problems after Megawati visit to Kuala Lumpur. In the next year, both parties officially sign an agreement in Bali in August 2002 following massive deportation of Indonesian migrant by Malaysian government. This action implement by Malaysian government in order to conduct *Operasi Nyah (Ops Nyah)* to control PATI enrolment in the mid of 1997 Asian financial crisis. Malaysian immigration estimates that up to July 2002 roughly 253,540 PATI successfully transferred to the home country where 82% were Indonesian (Liow, 2005: 155). Nonetheless, these meetings were unsuccessfully to make both parties satisfied (Liow, 2004: 59). Hence, some NGOs like *Suara Rakyat Malaysia (SUARAM)* and *Tenaganita* hugely criticize and condemn the durable policy of Malaysian government which suspected as human rights abuses. The NGOs also accuse that series of riots that emerged in some areas were allegedly triggered by police provocation (Liow, 2003).

In fact, the Indonesian worker issues is a reality should be faced by Indonesia and Malaysia. However, both countries seen dilemmatic due to the issues are enlarged and spread to illegal workers which enormously disturbing to the two nations. In Indonesian point of view, the mass

migration of Indonesian workers to Malaysia is highly advantage to the decline of unemployment while it could contribute to the national income. In the same thing, Malaysia also obtained benefits while their arrival some time influence to social and political stability. Malaysia has to recognize that Indonesian workers were greatly contributed to the national economic development. Regrettably, along with the open and transparence era the cases involving Indonesian workers issues obtain massive attention from the people of Indonesia especially related to maid's torture up to 2004 and beyond. Overall, Indonesian migrant further a sensitive issue from time to time between the two brotherhoods nations. However, both countries sometimes exploit and manipulate these cases along with their political interests while the number of illegal workers still boost and produce many serious problems.

### **ASEAN Community and the Illegal Migrant in Malaysia**

Anisa Santoso (2012) argued that ASEAN has been moving progressively in free market and economic integration. Yet for the areas such as migrant workers protection has had little progress. Compared to such regional organization as European Union (EU) and Mercosur (Mercado Común del Sur), ASEAN has slow progress and coherent policy to protect migrant workers of member countries. EU and Mercosur for instance have progressed well ahead in establishing a regional framework for the protection of migrant workers. They have initiated some comprehensive regulation such as early as 1951 Paris Treaty, 1957 Treaty of Rome, Treaty of Amsterdam 1997 and the establishment of the Community Charter on the Social Rights of Workers in 1989. EU also commits to protect migrant workers further through initiating European Social Fund which include in the Treaty of European Union (TEU). Mercosur as Latin American regional cooperation encompasses Argentina, Brazil, Paraguay, Uruguay, Venezuela, and Bolivia very concern to protect their migrant workers. Through international forum especially ILO (International Labour Organization) the Mercosur members actively initiate and delivering the migrant workers issues. Indirectly, some critical issues addressing by Mercosur were integrated in the ILO conventions. As results, some crucial regulation such as the 1990 ILO Conventions on the Protection of Migrant Workers and their Families and Permanent Multilateral Commission with Decision 19/97 ratified by the members (Santoso, 2012: 2-3).



The Filipino business analyst opines that employees were the one of important issues among ASEAN members. Facing the ASEAN Community 2015 he argued that local businesses should strive to increase productivity of its employees through retooling and retraining. This again entails investments in human capital to ensure that workers keep improving their productivities to improve output (Lugtu, 2013). In this context, it is the positive signal to Indonesia and Malaysia to effort to resolve some migrant workers issues especially Indonesian illegal workers in Malaysia. However, it is not easy to create a comprehensive understanding and cooperation between the two countries. Indonesia and Malaysia were facing dilemma in the mid of huge number of Indonesian illegal workers in Malaysia. The majority of Indonesian workers were illegal, while their contribution totally needed. Thus, both countries should smartly think regarding to resolve and give solution towards Indonesian workers conjunction ASEAN Community 2015. The Indonesian workers were potential capital to the both countries, while the majority of the workers are Muslim. It is great opportunity to join comprehensive partnership between Indonesia and Malaysia as Muslim and main countries in ASEAN in order to achieving the *Ummah* performance.

In the above development of Indonesian workers in Malaysia highlighted some issues related to the actions against Indonesian illegal workers. Some operations were implemented in order to control illegal foreign workers which suspected as a source of a lot of social problems in Malaysia. The operations indicate that Malaysian government taking into account regarding illegal migrant workers seriously. Automatically, the actions against illegal workers mostly Indonesian were receive hard reactions and condemned whether by Indonesian government as well as the public. Mass media in Indonesia also massively make provocative reporting which indirectly influence to the perception of Indonesian society towards Malaysia specifically in relation to the arrestment of Indonesian illegal migrants. Unfortunately, Malaysia mass media also make a bad reporting and tend to marginalize Indonesian illegal workers. Undocumented may be become main issues behind the mass operation by Malaysian government. However, Malaysia and Indonesia also could deny that the existence of Indonesian workers were gave a positive contribution to the both countries while some negative impacts also should be resolve promptly. Regarding the recent operation Minister of Home Affairs Zahid Hamidi argued that the operation was implemented in order to handle and securing country from social problems as

well as to preserve national security. Nonetheless, Indonesian ambassador to Malaysia should be honest that he wants all Indonesian workers in Malaysia be legally. Indonesian ambassador estimate that during last Ramadhan in 2013 approximately 120 Indonesian illegal workers arrested during operation due to has running a business and did not have official documents (Caraka Agustus 2013).

In the context of Indonesian migrant in Malaysia, Muhamad Fadhil Nurdin, Ali Maksum & Mohd Haizzan Yahaya (2013), argued that relatively similar with such cases as asylum seekers and refugees in terms of their own travel documents which totally undocumented. A country has authority whether to oppose or welcome them and they could not enter a country without any single permission from the host country. However, in a critical situation sometime a country should give permission while protection, assistants and welfare should give them too. Moral and human dignity is the two values which should be considered to those who respect to the human rights itself without any single political interest. Nevertheless, it is interesting to note that in the case of Indonesian illegal workers in Malaysia there is exist some problems which seen as abuses towards human rights and human dignity. We should recognize as mentioned before that the majority of Indonesian workers were illegal. Hence two crucial aspects which quite simply to solve yet still hard to implement is travel documents and in jail process after arrestment and during prosecution. The two issues indicated that both country too wasting energy and should be charged as human rights abuses and even refusing their contributions to the both countries.

The Indonesian illegal migrant workers in Malaysia should take into account seriously by Indonesian and Malaysia governments. In line with ASEAN Community, both countries could establish some bilateral institutions in order to handle the issues. Rizal Sukma (2003) argued that through formal and informal institutions and practices could reduce, prevent, and manage conflicts within ASEAN. Further, he also stated that in order to become a Security Community, in the future ASEAN only needs to strengthen its capability to prevent and resolve conflicts and disorder. Moreover, the basis for a deep economic integration is already provided for in the plan to create an ASEAN Social and Political Economy Community. Thus, again this is a great challenge as well as opportunity to the Indonesia and Malaysia to strength cooperation in order to serve and empowering potential workers. Retraining and educating the workers which

majority were Muslim, significantly will contribute not only to the national economy but also positive development of *Ummah* in Indonesia and Malaysia as the most populous Muslim and important countries in the Southeast Asia.

## CONCLUSION

This article concludes that Indonesian illegal migrant were totally could be analyzed from social politics, international relations and social work perspective. It is because the phenomena were really correlated with trans-border activities especially between Indonesia and Malaysia. Furthermore, as it mentioned above highlight that people-to-people contact has established since the early of the nations building. However, the illegal migrant phenomena were become taking into account seriously after 1990s along with the increasing number of illegal migrant in Malaysia. Malaysian government has taken serious actions to decrease the number of illegal migrant mostly from Indonesia. Nevertheless, they were treated as like a criminal especially by security official, while the government itself did not aware that have conducted human rights abuses. Facing the ASEAN Community, both countries should establish comprehensive cooperation in order to achieve and empowering the potential capital of the Indonesian workers through some smart programs. Retraining and educating the migrant workers are the two important recommendations given to the both authorities. Hopefully, from the programs will produce productive workers and ready to contribute to the both national development. Furthermore, through the implementation of the constructive programs both countries indirectly empowering the *Ummah* in order to facing ASEAN Community 2015.

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