15 Indonesia's Response to Global Recommendations on Labour

Migration during a Pandemic: Muddling through Priorities and Needs

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Abstract

Policies made to address the global COVID-19 pandemic have significantly affected people's mobility between countries. For migrant labour sending countries, such as Indonesia, the government has had to deal with the pandemic domestically while simultaneously managing the social and economic impacts and safety of citizens abroad or in transit. This chapter assesses the Indonesian government's policy responses related to labour migration. It shows that they have been in line with the recommendations made by relevant international organizations, such as the International Labour Organization (ILO), but that such recommendations often fail to address nation-specific issues. In doing so, this chapter contributes to the understanding of transnational migrant labour governance in Asia.

Keywords: Indonesia, labour migration, International Labour Organization, global health governance, labour mobility, COVID-19

Introduction

COVID-19, with its rapid transmission rate, has required countries to take strong emergency actions to limit its impact. While SARS and MERS were relatively containable, COVID-19 has seen governments implementing policies specifically targeting highly affected areas and has forced countries

to temporarily close their borders. The pandemic has caused stagnant economic growth, pushing different countries into recessions.

A striking feature of the pandemic has been the effect it has had on the mobility of migrant workers. It has disrupted workers' mobility as countries have implemented protectionist policies such as border and travel restrictions, as well as entry bans for migrants from certain countries. For countries such as Indonesia that send many workers abroad (referred to as 'sending countries'), this has led to postponed departures and the unplanned return of migrant workers. For example, Indonesia's National Board of the Placement and Protection of Indonesian Overseas Workers (BP2MI), reported in early 2020 that 37,379 Indonesian migrant workers had postponed their departure, and 129,202 workers were repatriated (BP2MI 2020). As a result of this, concerns have surfaced about the protection of the rights of these workers. If restrictions continue, labour migration might go underground, with migrant workers departing through unofficial channels.

When it comes to migration governance in Southeast Asia, nations already have limited capabilities (Kneebone 2010, 392), signifying the importance of external parties such as international organizations. Epidemics and pandemics have further highlighted how global health governance requires rigorous coordination between various stakeholders at different levels and the commitment of global, national, and local authorities. This chapter examines Indonesia's policy responses to the pandemic, assessing whether they are in line with recommendations made by international organizations such as the International Labour Organization (ILO). While the COVID-19 pandemic requires collaborative actions led by global authorities, criticism concerning the performance of international organizations and the commitments of member countries grew during the pandemic. This chapter shows how attempts at global governance should take into account the specific characteristics and needs of each country, in this case of Indonesia.

Method

The 1990 *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* recognizes the need for states to ensure the protection of the rights of migrant workers (Nanda 1993, 161-177). However, the signing and ratification of this convention do not automatically guarantee that these rights will be fulfilled. Two decades later, there remains a gap between the global recommendations and countries' specific needs for protection of migrants' rights.

This chapter analyses whether, in the case of Indonesia's response to the COVID-19 pandemic, these measures are actually closing the gap. It does so by combining a literature study with interviews to analyse Indonesia's response to the pandemic and its conformity to ILO recommendations regarding labour migration during a pandemic. The research relies on publicly available data and information gathered from interviews. The interviews were with Judha Nugraha, Director of Protection for Indonesian Citizen and Legal Entities of the Ministry of Foreign Affairs of Indonesia, Brian Sriprahastuti, Senior Advisor at the Executive Office of the President of Republic of Indonesia, and Anis Hidayah, Head of Migrant Study Center of Migrant CARE, all of whom kindly agreed to be identified for the purpose of this study.

Protecting Migrant Workers during the Pandemic: ILO Recommendations

The ILO has released several policy recommendations regarding migrant workers and the fulfilment of their rights during a pandemic. This chapter refers to the earlier policy brief titled *Protecting Migrant Workers during the COVID-19 Pandemic* (ILO 2020). It was released in April 2020 and highlights three key areas of action: 'migrant workers' inclusion in national COVID-19 responses, bilateral cooperation between countries of origin and destination, and social dialogue and full involvement of employers' and workers' organizations in the development of COVID-19 responses' (ibid.). For the purpose of analysing Indonesia's responses, this chapter focuses on the first area of action, consisting of six recommendations. Although these recommendations may seem directed toward countries receiving migrants ('receiving countries'), they are actually quite general and are also of concern for sending countries.

The ILO's recommendations on the inclusion of migrant workers in national COVID-19 responses suggest different kinds of support for these workers. The first kind of support is economic. The ILO encourages countries to provide financial support for migrant workers, based on reliable data. It also stresses accessible healthcare and social protection for migrant workers of all statuses. Additionally, making sure that these migrant workers are well-informed regarding health and safety information is considered crucial. Alongside this, the ILO also recommends that countries provide workers with access to essential migration services. This is to ensure that migrant workers do not fall into irregular status. The ILO also states that countries should

provide appropriate communal accommodation and quarantine areas, so that migrant workers are free from hazards in their communal or worksite housing. Finally, the ILO recommends that governments provide migrant workers with legal counsel to prevent them from being undocumented or irregular.

The ILO made these six recommendations at the beginning of the COVID-19 pandemic, giving them to governments to address the main challenges that migrant workers face during the pandemic. The next section looks into Indonesia's policy responses to the pandemic and identifies whether these responses fit into the framework that the ILO set out.¹

Protecting Migrant Workers during the Pandemic: Indonesia's Policy Initiatives

Indonesia confirmed its first positive case of COVID-19 on 2 March 2020. Since then, the government has taken various steps to address the pandemic at the national, provincial, city/municipality, and village levels. There have also been attempts to coordinate between levels and across neighbouring areas. Indonesia's two main policies related to labour migration are: the *Ministry of Manpower Decree No. 151 of 2020 concerning the Temporary Cessation of Placement of Indonesian Migrant Workers (PMI)*, and the *Ministry of Manpower Decree No. 294 of 2020 concerning the Implementation of Placement of Indonesian Migrant Workers during the New Normal Adaptation*.

With the first policy, Indonesia sought to slow the spread of COVID-19 by temporarily stopping the placement of Indonesian migrant workers. Indonesia's National Board of the Placement and Protection of Indonesian Overseas Workers, or BP2MI,² coordinated with a number of related ministries in supporting migrant workers who were delayed in departure, stuck in the country of placement, or who had to return to Indonesia. The enactment of this regulation also temporarily halted the departure of those who wished to leave for placement. However, this was not a full-fledged moratorium or repatriation of Indonesian migrant workers abroad. After

1 The discussion in this chapter has been based on the situation in Indonesia, as well as the information and data that were produced, during the early stages of the pandemic. This situation and information determined many of the related policies made at later stages.

2 Indonesia's National Board of the Placement and Protection of Indonesian Overseas Workers (*Badan Pelindungan Pekerja Migran Indonesia*), or BP2MI, is a non-departmental government agency that oversees the implementation of policies in the placement and protection of Indonesian workers abroad.

the regulation was put in place, those with valid work-visas have still been able to depart if their country of destination allowed arrivals. Those in the country of placement have still been able to reside there in accordance with their work contract (Kemnaker RI 2020a).

To order a complete halt of the placement of migrant workers would have been a difficult choice for Indonesia to take amidst the economic slowdown faced during the pandemic. Therefore, five months after the temporary halt, the placement of migrant workers restarted again, with the sending of migrant workers to thirteen countries. The government adopted this as a new policy, the *Minister of Manpower Decree No. 294 concerning the Implementation of Placement of Indonesian Migrant Workers*, that aimed to regenerate remittances from abroad during what was labelled as a 'New Normal Adaptation'.

The Indonesian government has been trying to balance protecting public health and safeguarding the economy. This balancing was discussed in several of the interviews conducted for this chapter. According to Sriprahastuti, the government's balancing act explains President Joko Widodo's use of an approach that shifted between acceleration and braking.³ The balancing act was also discussed by Nugraha, who posited that migration is not only about economic development, but also about human development.⁴ However, critics also argued that this approach has not prioritized migrant workers. In her interview, for example, Hidayah argued that the current policy was aimed at generating income for the country rather than protecting the welfare of migrant workers.⁵ She warned of the possible increase of migration when the pandemic eventually eases and therefore insisted on the preparation of a concrete welfare protection protocol.

Through the enactment of the aforementioned policies, Indonesia has shown its concerns about economic and human development, social protection, healthcare and safety, information, and documentation schemes. It is apparent that while the safety and health of migrant workers have been considered important, the (re)sending of migrant workers has also been made a part of Indonesia's economic recovery strategy.

In terms of economic and human development policies, Indonesia has made efforts to refocus activities and reallocate budgets to accelerate support for migrant workers affected by COVID-19 (BP2MI 2020). Consider, for example, the distribution of Pre-Employment Cards (*Kartu Prakerja*) to job-seekers,

3 Brian Sriprahastuti, interview by author, 3 October 2020.

4 Judha Nugraha, interview by author, 6 October 2020.

5 Anis Hidayah, interview by author, 6 October 2020.

including workers who were laid off due to the pandemic. The holders of these cards are eligible to access skill development training and receive paid post-training incentives. As was explained by Nugraha, this initiative is intended to include migrant workers who lost their jobs.⁶ Therefore, the Ministry of Manpower (MoM) collected data on prospective migrant workers (PMW) and current migrant workers (CMW). It has submitted this data to the Coordinating Ministry for Economic Affairs, so that these migrant workers can be registered for the Pre-Employment Card programme. The National Board of the Placement and Protection of Indonesian Overseas Workers (BP2MI) has also coordinated with local offices of the Ministry of Manpower and the Indonesian Migrant Worker Placement Company (P3MI) to assist in the registration process. This data is also being used for the allocation of the work opportunity expansion programme that aims to encourage labour productivity (BP2MI 2020). Through the programme, it is expected that current and prospective migrant workers will improve their skills and boost productivity, which is hoped to reduce the number of unemployed.

In order to provide social protection for migrant workers, BP2MI has made suggestions to the Employment Social Security Administration (BPJS Ketenagakerjaan). It has made suggestions specifically regarding the filing of benefit claims for current and prospective migrant workers, as well as for utilizing the Social and Environmental Responsibility (TJSL) programme of BPJS Ketenagakerjaan as an effort to ensure the welfare of Indonesian migrant workers (BP2MI 2020). It can be said that by these means, current and prospective migrant workers have been included in the national policies aimed at addressing pandemic-triggered economic issues. This general approach is confirmed by Sriprahastuti, who explained how economic recovery policies such as cash assistance for small and medium enterprises have been given to everyone, including migrant workers.⁷

To ensure access to health services during this pandemic, in March 2020 the Indonesian Task Force for COVID-19 (*Gugus Tugas Percepatan Penanganan COVID-19*) issued the *Guidelines for Rapid Medical Response and Public Health Aspects of COVID-19*. During the early months of the pandemic, when the repatriation wave was high, the government made efforts to ensure the safety of returning migrant workers by imposing measures such as quarantines and provision of facilities, measures in which migrant workers received priority. For example, an emergency hospital was established on Galang Island that specifically prioritized the care of infected migrant

6 Judha Nugraha, interview by author.

7 Brian Sriprahastuti, interview by author.

workers. According to Sriprahastuti, at the beginning of the pandemic when Indonesia was still considered to be safe, more specific attention was given to migrant workers. This specific attention given to migrant workers was based on the idea that they were coming from affected countries.⁸

As the pandemic has continued, the greater attention given to migrant workers has decreased. The direction of efforts has been reversed, from dealing with migrant workers coming back to Indonesia to facilitating their employment abroad. As Nugraha pointed out, the government is now trying to make sure that the immigration services for migrant workers follow the COVID-19 protocols of the destination country both upon their departure and arrival.⁹ Therefore, specific measures regarding health services and social protection have become associated with the mobility of migrant workers. However, once they receive official clearance for entry, workers are again considered part of their local community and are not specifically targeted as migrant workers in official policy. While this approach can be considered fair, migrant workers' advocates have argued for the specific identification and treatment of migrant workers while they are at home in Indonesia. They claim this is necessary because these migrant workers do not face exactly the same problems as the local unemployed.

In ensuring accessible information, the government has made attempts to increase the effectiveness of communication on health and safety with workers and related organizations. BP2MI and the MoM have coordinated with the Representatives of the Republic of Indonesia (KBRI) in migrant workers' countries of placement to provide for logistical needs and repatriation. A 24-hours complaint service for Indonesian migrant workers abroad has been established (Kemnaker RI 2020a). To help overseas workers manage the risks of COVID-19, they have provided protective equipment (such as masks and sanitizers) and risk assessment for individuals with higher risks of being infected (WHO 2020a).

In addition, the government has communicated with employers in placement countries to enable workers to get more flexibility in working hours, while still receiving wages. The government has coordinated with figures in the placement countries to ensure the implementation of the WHO COVID-19 risk management protocols both at work and in the workers' housing facilities. Efforts have also been made to provide information through organizations, public figures, social media platforms, and various other media (Kemnaker RI 2020a).

8 Brian Sriprahastuti, interview by author.

9 Judha Nugraha, interview by author.

Nugraha stated that, although efforts have been made to ensure the dissemination of complete and accurate information, there is still room for improvement, such as extending the coverage of public awareness campaigns to villages.¹⁰ Hidayah also suggested that the information available has tended to be generic, leaving workers to struggle with more specific conditions that are not included in this available information.¹¹ With the reopening of Indonesian borders for workers, the availability of comprehensive information is crucial.

The MoM and the KBRI have taken measures in the placement countries of migrant workers to ensure the proper documentation of Indonesian migrant workers. At the beginning of the pandemic, these focused on returning migrant workers. As the pandemic continued, the measures then sought to ensure the sustainability of the placement programme for prospective workers after the COVID-19 pandemic ends, to synchronize labour migration policy with the policies of the country of placement, and to make sure that all workers are documented and receive training according to existing procedures (Kemnaker RI 2020b).

In the 'new normal' adaptation period which Indonesia has moved into now, the sending of migrant workers abroad is being resumed. The MoM has issued a policy directive to regulate the verification and legalization of Request Letters for migrant workers that overseas employers provide. It has also issued a directive to regulate the quota approvals submitted by employers or business partners through the KBRI or the Indonesian Economic and Trade Office (IETO) abroad. Before departure, the MoM will verify and legalize the Requests for Indonesian Migrant Workers and the quota approvals that employers have submitted (Kemnaker RI 2020b).

The employer and/or the government of the placement country are expected to take responsibility for matters such as workplace safety, working conditions, the cost of implementing the health protocols in the country, and other costs incurred if a worker is infected while abroad. They are also expected to provide a guarantee for the well-being of Indonesian migrant workers. Also, at the time of arrival in their country of placement, workers are required to report their arrival to the KBRI, either offline or online through the SafeTravel application and the Portal Peduli WNI. The Portal Peduli WNI is a digital platform which Indonesian citizens can use to report their own arrivals, transfers, and returns.

10 Judha Nugraha, interview by author.

11 Anis Hidayah, interview by author.

These measures the Indonesian government has taken have been focused on repatriation and facilitating mobility. They are based on previously existing mechanisms, only now with the added health protocol and requirements that the WHO provided. Unfortunately, as Hidayah pointed out, some immigration services in Indonesian embassies have been disrupted as a result of the change to online services made necessary by COVID-19. This has resulted in administrative problems such as challenges to the collection of data about migrant workers' mobility. It has also meant disruption to some consular services.¹² Moreover, as Nugraha stated, protection efforts depend on the procedural or non-procedural nature of workers' mobility, which may be influenced by other countries' policies.¹³

The government has taken steps to ensure the provision of healthy living conditions at communal or worksite housing. In Indonesia, it has made efforts to minimize the amount of communal living during the pandemic by sending home those waiting for departure and vacating shelters and the Overseas Training Centre (*Balai Latihan Kerja Luar Negeri*) (BP2MI 2020). However, the government has not been able to do so much to impact the communal living of Indonesian migrant workers overseas. In terms of communal living arrangements in the country of placement, the BP2MI and the MoM established the aforementioned 24-hours service for complaints of Indonesian labour migrants in placement countries. They also coordinated with relevant stakeholders to monitor the repatriation of prospective workers to their areas of origin (BP2MI 2020).

There have been no reports from migrant workers of serious legal issues resulting from the pandemic. So far, the legal process in place for these workers has been a continuation of what was already in place before the pandemic (Kurniati 2020). Nevertheless, to ensure access to legal remedies for all migrant workers, the MoM continues to monitor condition reports, placement country policies, handling efforts, and potential problems that may occur in fulfilling migrant workers' rights (Kemnaker RI 2020b). The MoM also coordinates with all relevant stakeholders to continue reporting, monitoring, and evaluating the placement of Indonesian migrant workers. In doing this, it focuses on matters such as complaint services, health conditions, numbers of prospective Indonesian migrant workers, and the current condition of the country of placement (Kemnaker RI 2020b). In short, efforts made to ensure access to legal remedies have been similar to pre-pandemic policies.

12 Anis Hidayah, interview by author.

13 Judha Nugraha, interview by author.

Migration Governance in Indonesia during the COVID-19 Pandemic: A Response Aligning with Global Recommendations?

This outline of the situation regarding migrant workers during the early stages of pandemic, and the steps that the Indonesian government has taken on this issue, shows that the government policies and initiatives are essentially in line with the ILO's recommendations. The government's economic and social policies have included migrant workers as beneficiaries, treating them like other citizens of Indonesia. The government of Indonesia has made an effort to give migrant workers access to services and information. There have still been challenges in the implementation of these policies, however, some of which are the result of the need to balance the safety and health of the people and economic recovery. It is difficult to determine whether or not the policies the Indonesian government has taken were made based on the ILO's recommendations. This is particularly as the recommendations made by the ILO are not legally binding and their power depends on the willingness of governments to adopt them. Therefore, to establish correlation between Indonesia's national policies and the ILO's recommendations, the shape of Indonesia's pandemic response needs to be explored in relation to the role that has been played by international organizations during COVID-19.

According to Nugraha, the relevance of international organizations has increased during the COVID-19 pandemic. This is because countries frequently lacked the resources to address problems individually, particularly in terms of labour migration.¹⁴ Nugraha emphasized the importance of joint efforts through initiatives such as the Travel Corridor Arrangement (TCA).¹⁵ The TCA is a bilateral agreement between Indonesia and countries including the United Arab Emirates (UAE), South Korea, Malaysia, and Singapore. The agreement was made in order to boost economic relations through travel permits for business essentials and diplomatic visits. Nugraha said he was hopeful that this arrangement would soon be implemented multilaterally.¹⁶ The TCA is evidence of the way in which solutions so far have tended to be sought on a bilateral basis with the countries involved. Since recommendations from international organizations such as the ILO have been quite general, countries have tended to work out their own solutions and arrangements based on their own specific needs.

¹⁴ Judha Nugraha, interview by author.

¹⁵ Judha Nugraha, interview by author.

¹⁶ Judha Nugraha, interview by author.

Sriprahastuti argued that, in making health policy, the Indonesian government has acted in accordance with WHO recommendations. She said, for example, that Indonesia had followed the WHO guidelines in the activation of the initial emergency response.¹⁷ She claimed that Indonesia has adopted two out of the three WHO recommendations: prevention and response. Recovery is yet to be implemented, but social distancing and testing have been adopted. In general, practical and direct recommendations have been easier to adopt. However, there are complex factors that need to be considered. As a sending country, with a large population and approximately 135 entry points, Indonesia is currently facing two major emergencies: the handling of health matters, and the challenge of ensuring economic development.¹⁸

Nugraha explained how Indonesia has implemented the ILO recommendations with local adjustments based on domestic needs.¹⁹ The current challenge is establishing coordination between stakeholders. In this respect, Sriprahastuti argued that, if the policies it has put in place are to have their desired effect, Indonesia needs a more binding structure to ensure the enforcement of new regulations while also considering the economy.²⁰ It is notable that the leadership of the task force responsible for the pandemic response in Indonesia has changed several times. It has moved from the President's Staff Office, to the Head of The National Agency for Disaster Countermeasure, and then finally to the Minister of State Owned Enterprises. This corresponds to a changing policy focus. As the pandemic has continued, the targets have shifted to economic recovery. This also indicates a change in how the issue is perceived, with it moving from being solely a health issue, to a health and economic issue.

Regarding the functioning of international organizations, however, Sriprahastuti also argued that more leadership is needed to improve global governance systems. She argued that the recommendations made by these organizations still treat the economy and health as separate which is detrimental for a comprehensive understanding of labour issues during a pandemic. Sriprahastuti described how, rather than the organizations leading the way, some countries have come up with their own innovations, to which the WHO then responded. On a similar note, Hidayah stated that the ILO's recommendations provided a necessary policy framework. However, whether these recommendations are known and understood by

17 Brian Sriprahastuti, interview by author.

18 Judha Nugraha, interview by author.

19 Judha Nugraha, interview by author.

20 Brian Sriprahastuti, interview by author.

those making policy in Indonesia, and whether they are accommodated in national and local policies, remains unclear.

Conclusion

In managing the issues of Indonesian migrant workers, the government has taken several measures and initiatives to protect and ensure their welfare. These measures have been implemented through the enactment of the Ministerial Decrees No. 151 and No. 294. The government translated this decision into policies in economics and human development, social protection, healthcare and safety, information, and documentation. Meanwhile, on the global scale, the ILO has published policy recommendations for nations to implement in assuring the fulfilment of migrant workers' rights. This chapter has shown that, in general, the policies and programmes carried out in Indonesia have corresponded with the ILO recommendations. However, in the implementation of these policies, challenges prevail both domestically and internationally.

There are two key takeaways that can be drawn from Indonesia's case. First, issues concerning migrant workers during a pandemic should not be perceived only as issues faced by receiving countries. There are also problems when workers are forced to go back to their country of origin. This then requires policies from the sending countries' government. This government may consider the migrant workers returned from abroad as either a regular part of society, or as a particular group that requires specific policies. Second, the general solutions to handling the pandemic proposed by international organizations will eventually reach their limits. Each country has its own issues that require specific, localized solutions. Therefore, recommendations made by international organizations as part of an attempt at global governance should take into account the dynamic and specific characteristics and needs of each country.

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