

Article

The Consignment of Indonesian Migrant Workers in Saudi Arabia and Its Resilience: Examining the Impacts of Indonesia's Moratorium Policy (2011-2015)

Jihan Djafar Sidik¹, Witri Elvianti²

¹BA graduate in International Relations 2013, President University.

²Full time lecturer at International Relations Study Program, President

SUBMISSION TRACK

Received : 5, February, 2018
Final Revision : 27, March, 2018
Available Online : 30 May 2018

KEYWORD

Impacts, Indonesian Migrant Workers, moratorium policy, national interests, Government of Indonesia, Government of Saudi Arabia.

KATA KUNCI

Dampak, Kebijakan Tenaga Kerja Migran Indonesia, Kepentingan nasional, Pemerintah Indonesia, Pemerintah Arab Saudi

CORRENPDENCE

Phone : 082122704548
Email : w.elvianti@gmail.com

ABSTRACT

Indonesian migrant workers in Saudi Arabia, particularly in informal sectors, had experienced the lack of protection that supposedly addressed by the Government of Indonesia (GoI). Thus, former President of Indonesia, Susilo Bambang Yudhoyono, declared a moratorium policy during the cabinet meeting on June 23, 2011, in order to improve the protection mechanism of Indonesian migrant domestic workers. The government perceived moratorium policy as strategic instrument to influence and urge Saudi's government to sign the MoU with Indonesian authorities related to the domestic workers protection. In milieu of this issue, the researchers attempted at analyzing the impacts of such a policy. The analysis was based on national interest theory and designed as a qualitative research which sought to describe the implementation of moratorium policy. This study came to argue that the moratorium policy could be seen as a manifestation of political commitment from Indonesia's government perceiving the protection of Indonesian migrant workers is high in the list. As a tool of transformative mechanism, moratorium brought several impacts which affected Indonesia's government. This policy apparently stimulated the institutionalized protection mechanism, the improvement of pre-departure program particularly in the aspects of physical and psychological empowerment, the formulation of three layered advocacy including pre-consignment, on-consignment, and post-consignment; and last but not least the signing of MoU between the GoI and the King of Saudi Arabia which then eventually necessitates strong manifestation of Saudi's political willingness to provide effective protection mechanism for Indonesian migrant workers

ABSTRAK

Tenaga kerja migran Indonesia yang bekerja di Arab Saudi, terutama di sektor-sektor informal tidak mendapatkan perlindungan yang sepatutnya diberikan oleh pemerintah Indonesia. Mantan Presiden Indonesia Susilo Bambang Yudhoyono mendeklarasikan sebuah kebijakan moratorium tenaga kerja Indonesia yang bekerja di sektor domestik. Pemerintah menganggap kebijakan moratorium tersebut sebagai instrumen yang strategis untuk mempengaruhi dan mendesak pemerintah Arab Saudi untuk menandatangani MoU dengan otoritas Indonesia berkaitan dengan perlindungan pekerja domestik. Peneliti berusaha menganalisis dampak dari kebijakan tersebut. Analisis didasarkan pada teori kepentingan nasional dan didesain dengan metode penelitian kualitatif yang bertujuan untuk mendeskripsikan implementasi dari kebijakan moratorium. Penelitian ini menemukan bahwa kebijakan moratorium bisa dilihat sebagai sebuah manifestasi komitmen politik dari pemerintah Indonesia untuk menjadikan perlindungan terhadap tenaga kerja migran Indonesia sebagai prioritas. Sebagai alat dari mekanisme transformatif, moratorium mendatangkan beberapa dampak terhadap pemerintah Indonesia. Kebijakan ini menstimulasi mekanisme perlindungan yang terinstitusional, perkembangan dari program terutama dalam aspek pemberdayaan fisik dan psikologis, formulasi dari advokasi tiga lapis yang terdiri dari pre- pengiriman,

saat pengiriman dan pasca pengiriman dan yang terakhir yaitu kedatangan MoU antara Pemerintah Indonesia dengan Raja Arab Saudi yang kemudian akhirnya mengharuskan manifestasi dari keinginan politik Saudi untuk menyediakan mekanisme perlindungan efektif bagi tenaga kerja migran Indonesia.

Background of the study

Oxford Dictionary simply defines moratorium as “a temporary prohibition of an activity”. The word originally came from modern Latin, *moratorius*, in the late of 19th century. Although it probably means as simple as such definition, as a public policy, moratorium carries with itself the dimension of political power. Moratorium could be used as a tool of repressive or curative action to prevent further implications (Subhan, et.al, 2012,p.38). Hence, the state could terminate an activity or a process in accordance with creating regulations if the national welfare or safety is threatened (Roland C. Amundson and Lewis J. Rotman, 1984, p.16).

In Indonesia, one of the most critical moratorium policies which has been implemented by far and reached controversies is the moratorium policy on the consignment of Indonesian migrant workers to many destination countries, specifically Saudi Arabia. The practice of sending migrant workers abroad received greater attention from scholars and practitioners due to its increasing trends yet dilemmatic results. The consignment of Indonesian workers overseas was made by Indonesian government to solve the increasing number of unemployment and solved the economic issues at that time (UNHCR, 2015; Prihanto, 2013, p.62).

In terms of labor itself, migrant workers divided into two clusters, formal and informal. Most of Indonesian migrant workers occupied informal sectors, particularly domestic sectors, due to the lack of skills and low education level. UNHCR described domestic worker as any person engaged in work performed within an employment relationship, in or for a household such as housekeeper, nurses, personal drivers, plantation workers and gardeners, cleaning service, construction workers, contractor, waiters, laundry workers up to the chef, they lack of protection because

they lived within the household and lack of monitoring (Farbenblum, Bassina, Eleanor Taylor-Nicholson, and Sarah Paoletti, 2013). In 2010, Indonesian migrant workers in informal sector amount up to 29,762 workers (Badan Pusat Statistik, 2013).

Current Dynamic of Indonesian Migrant Workers in Saudi Arabia

In fact, there are many problems faced by migrant workers in informal sector. Those problems divided into two categories, which are labor case and non-labor case (Usman, 2015). Labor cases are the cases that happened related to the working activities, such as the unpaid wages, different working tasks that mentioned in the contract, working accident, and overwork. Non-labor cases are the cases that are unrelated to the working activities, such as the physical abuses as if the employer torturing or beating the worker, facing sexual harassment, violates the law and regulations also limited access to contact the consulates or embassies in the destination countries.

In 2010, the cases related to Indonesian domestic workers in Saudi Arabia, which were mostly women workers, escalated significantly from 23, 760 to 31,676 cases (BNP2TKI, 2013). The worst story arose when they intentionally broke their contracts if they faced physical abuses, beaten or burned, facing overwork and did not get enough time to sleep, or the employers withholding the important document of the workers. News websites such as Aljazeera, Saudi Gazette, and Gulf News have published some reports on the increasing numbers of women who have mysteriously disappeared, murdered, sentenced to death, or committed suicide in Saudi Arabia (Tirtosudarmo, 2000). Indeed, in recent years, Migrant Care as the social activist located in Jakarta have pressured Indonesian government to prohibit the placement of Indonesian workers

in Saudi Arabia until they get better protections and succeed to push both states to sign the bilateral agreement on the related issues (BBC Indonesia).

In 2009, the newly elected government realized that there was a chance to improve the system of placement and protection of Indonesian migrant workers. As the member country of International Labor Organization (ILO) that has a purpose to promote the social justice, Indonesia was in ways to create a firm standards based on the international labor that aimed to promote the opportunities for women and men to obtain decent work optimally, which gave freedom, equity and dignity. ILO ensures that migrant worker issues prioritized by the government and includes in the National Mid-Term Development Plan (*Rencana Pembangunan Jangka Menengah/RPJMN*)

2010-2014 (International Labour Organization, 2012). The government has sought to strengthen the policy framework through the amendment of Law No. 39 Year 2004 on placement and protection of Indonesian migrant workers.

Unfortunately, the progress of those programs and regulation was not fully effective to supposedly protect the workers. Based on the report BNP2TKI (2013), in 2010, numbers of the issues of Indonesian domestic workers in Saudi Arabia dramatically increased. According to a report by Ministry of Foreign Affairs in 2015, the regulations were overlapped and hence failed to solve the issues of migrant workers, as well as lack of commitment with the destination countries to protect the migrant workers, both formal and informal sector (Ministry of Foreign Affairs, 2015, p.95).

Given this fact, under several circumstances, Indonesian government decided to set *soft moratorium* on January 2011 as the preliminary action for the actual moratorium considering the high number of reported problems in Saudi Arabia (Kementerian Sekretariat Negara Republik Indonesia, 2012). It consists of sweeping the illegal workers and returning the over-stayer workers that did not have legal documents. 233wsazSoft moratorium divided into 2 (two) steps, which are regulating and socializing (Viva News).

Regulation that consisted of supervising the *job order* tightly and controlling the recruitment process up to the placement stage was produced, while socialization actively informed the applicant/prospective migrant workers to advise them that there could be a lot of consequences to work overseas moreover in Saudi Arabia (BNP2TKI, 2011).

As a consequence, Indonesian government faced fluctuation pertaining to its decision to support migrant workers in Saudi Arabia. The decreasing number of Indonesian domestic workers (BNP2TKI, 2011) could not fulfill the demands of Saudi households, makes Saudi government continuously asked Indonesia to have a diplomatic meeting to handle the issues of domestic workers (The Jakarta Post). On one hand, the GoI fully understands it is a high opportunity to provide employment for the low skilled labor yet it also yields a dilemma. There are both exogenous and endogenous factors underlying the government of Indonesia to reconsider Indonesian migrant workers to Saudi Arabia. Internal factors consist of disputes faced by workers when they worked in Saudi Arabia, particularly the capital punishment of Ruyati binti Satubi without informing the Indonesian authorities (Ministry of Foreign Affairs). Pressures and demands from the citizen of Indonesia, especially members of Commission IX House of Representatives and NGO such as Migrant Care that forcedly asked the government to take a decisive action to end the problems of Indonesian domestic workers in Saudi Arabia immediately (Berita Satu). While the external problems affected by the minimum of agreement between Indonesia and Saudi related on the issues of Indonesian domestic workers protection in Saudi Arabia.

Moratorium Policy by Susilo Bambang Yudhoyono's Administration 2011

During the cabinet meeting which held in the Presidential Palace on 23 June 2011, President Susilo held a press speeches and announces that there were 6 (six) points of decisions and instructions related on Indonesian workers, which also unfold the implementation of domestic workers moratorium to Saudi Arabia, primarily applied for informal sector started effectively on 1 August 2011 (Juandea, 2014). It means that the government of the two countries

agreed to have a temporary prohibition on the consignment of domestic workers as a policy with several objectives based on the country's national interest as a repressive action. From the urgency level, the implementation of moratorium chosen because both countries were 'sandwiched' between the interests of a strategic cooperation as well as the pressures from various parties and cases. In other words, moratorium policy became strategic means to influence and urge Saudi government to sign the MoU with Indonesian authorities related to the domestic workers protection (Commission IX House of Representatives, 2011). Within this research, assuming that this policy is really addressed to influence Saudi's government, the researcher would like to raise one critical question whether or not the moratorium policy eventually results in positive impacts to the government of Indonesia.

Research Framework

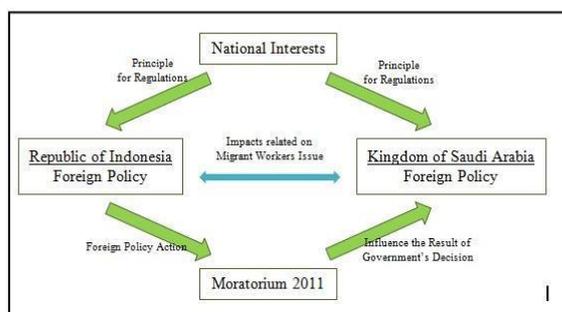


Figure 1 - Theoretical Framework

Figure 1 describes the process of applying two variables, national interests and foreign policy concept, within the scope of this study.

National Interest

According to Michael G. Roskin (1994, p.1), national interest defines as what is good for the nation as a whole in international affairs. National interest includes a set of long-term interests that are commonly good to a state, such as national independence, national integrity, security and economic prosperity (Haryono and Muhamad Afifi, 2014, p.120). Frankel also defines national interest as the desired outcomes and foreign policy as a formulation or instruments of states to achieve that desired outcomes (Frankel, 1970). To achieve the national interest, states always seek national goals from time to time by

initiating a set of actions that constitute the national strategy.

This research will focus on Indonesian national interest, which aims to protect the citizen of Indonesia through diplomatic actions, negotiations and conducting bilateral agreement with the destination countries. These actions also referred as the political analysis and political actions taken by the state to protect its national interests (Frankel, 1970). In the context of defending human rights, Roskin (2012) classified the national interest as permanent, general, and secondary type. He described it as the long-term commitment to human right but without any quarrel with specific country. The situation between Indonesia – Saudi related to the issue of domestic workers has offended the national interest of Indonesia. Therefore, Indonesian moratorium policy of domestic workers consignment to Saudi Arabia in 2011 implemented considering the internal and external factors. The most affected reason is the highest escalation of domestic workers cases at that time.

Foreign Policy

Holsti (1972) explained foreign policy as the actions or ideas planned by policy makers in order to solve a problem or uphold some changes in the environment, which can be in the forms of policies, attitudes, or actions of another states. He stated that there are 4 (four) notions of foreign policy, which consist of foreign policy orientation, national roles, objectives and actions.

Foreign policy objectives of a state have several purposes, which could be achieved by influencing the behavior of other states (Holsti, 1972). The objectives concerned to solve the problems as they arise, but did not aim for long-term objectives and formulated the means to achieve them. Paul Seabury in Holsti (1972) explained that foreign policy is the result of dead-lock judgment. To achieve its objectives, the actions of foreign policy consist of power, capability and influence. This research will focus on the exercise of influence as the actions of foreign policy in order to achieve the national objectives.

In this context, under the pressure of domestic situation and the escalating cases of migrant workers, Indonesian government started to implement moratorium policy in 2011. In this phase, Indonesian government tried to use the power of influence as a deterrence effect, considering the short-time decision and stress that pressured the government at that time. The feelings of urgency surrounds the policy makers make them immediately take a critical decision. Giau (2014) also explains moratorium in the field of human rights as the new mechanism in attempt to tackle several challenges, because it arises through a pressing challenge that is 'too soon to take a definite decision'.

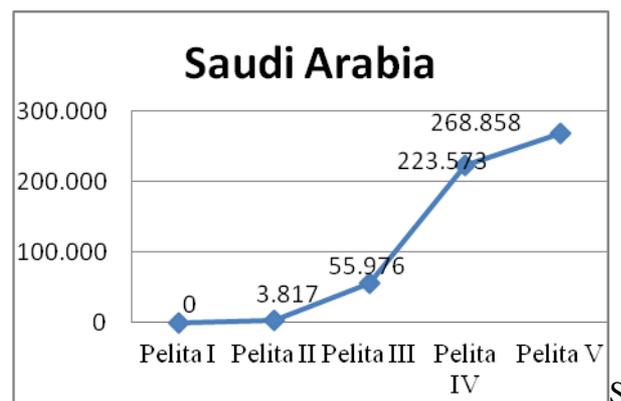
Giau specified moratorium as a transformative mechanism, which proposed a a short-term alternative solution to a problem that aim at the long-term modification of the status quo. Refer to the theory of Giau, Indonesian workers abused under the domestic regulations of Saudi Arabia, which could not provide human rights freedom and access to justice.

Discussion

Saudi Arabia: The First Main Destination

Saudi Arabia is the first destination country that reached the highest number where the workers mostly decide to work in the domestic sector. This issue became a concern that changed the policies of migrant workers from passive (*ad hoc*) to be regulative (Geerards, 2008). Those policies mentioned that Indonesian government, which was under Suharto's regime, had concerned on the issue of the unemployment, support the labor force to increase the quality of skills, also concern on the placement and protection of Indonesian migrant workers, especially in Saudi Arabia. During the authoritarian era, Saudi Arabia remained the main destination as it can be seen in Figure 2.

Figure 1 - The Placement of Indonesian Migrant Workers to Saudi Arabia



Source: PUSLITFO BNP2TKI

Nevertheless, the fall of Suharto's authoritarian order gendered the issue of migrant workers. In following years, more importantly under the leadership of President Abdurrahman Wahid, the rate of women migrant workers was higher than the men, particularly on the domestic sector. One thing that previous regime failed to accommodate was the regulation to anticipate the gendering gap in terms of migrant workers working in domestic areas. The absence of regulation sophistication in protecting women migrant workers resulted in the high frequent human rights abuse. Indonesian migrant workers must obey the regulations in the destination countries. As in Saudi Arabia, most of domestic workers faced limited access to gain their rights if they violated the regulations. They were not protected by Saudi labor law and some employers misused its freedom to take control over the workers.

The Unbeaten Kafala

Saud's national legal system has long blocked integrated protection for Indonesian workers due to the implementation of *kafala*. The *Kafala* (sponsorship) system emerged in the 1950s to regulate the relationship between employers and domestic workers in the GCC countries (Migrant Forum Asia, 2011). It regulates all workers within households which include maid, driver, gardener, and etc. The employer is responsible to pay for the recruitment of the workers to the GCC countries and after the arrival, the workers' visa status is tied to the employers. The minimum

period of the employment contract is 2 years, and there are no contract signed between the employer and the workers. The workers only signed the contract with the recruitment agency. If the contract broken, the employer could ask the worker to pay back the recruitment fee, unless if human rights abuse or proven violation committed by the employer. If the workers escape, they will not get any form of justice even in the case where there is an obvious violation of rights. In some cases, *kafeel* or employers exploit the domestic workers. The employers used their own freedom from obligations under this system to control over the workers (Human Rights Watch, 2008, p.4). This system also uses the term 'transfer or services' in lieu of 'transfer of sponsorship/employer'. The change was necessary to deflect the criticism of the *kafala* system, because most employers treat the workers as a slave that overwhelmed under the power of the employer (Gulf Labour Markets and Migration, 2015, p.6).

Kafala system gives power to the employer and Saudi labor law that exclude protection, rights and duties information of domestic workers worsened the condition of Indonesian workers in Saudi Arabia (Gulf Talent, 2008). Based on the Centre for the Study of Labour and Mobility (Bajracharya), there are 5 types of abuse, which are:

a) Economic abuse

Terms and conditions of the work contract are violated by the employer –not paid on time, paid less or not paid at all. One case, for example, emerged when Sisi R did not receive her salary for 9 years and 3 months. After she complained to the embassy, the employer paid her salary for 2 years and 7 months. They did not pay the rest, so she stayed in the shelter of the embassy for 11 months to get her salary back before she returned to Indonesia (Human Rights Watch, 2008, p.74).

b) Psychological abuse

Employer forbids the domestic worker from contacting their family, restricts movement (withholding passport and other documents), also trauma from sexual advances. This sort of abuse can be seen in

the case of Nour Miyati. She migrated for the third times. First, she was placed in Medina for 4 years and then placed in Ta'if for 2 years. During these years, she never got enough food and did not receive her salary (Human Rights Watch, 2008, p.36).

c) Sexual abuse

Some Indonesian women migrant workers also faced the forced sexual intercourse, such as being raped. Isdiah was one of the victims. At the time she the family had gone out on the night of Eid al-Fitr, she was told to clean the ground floor where her male employer lives. There was nobody else when the male employer naked and tried to rape her. She could not scream or push him off. He said, "*I have not take advantage of you, because I paid a lot of money for you.*" (Human Rights Watch, 2008, p.68).

d) Verbal abuse

The verbal abuse is also common violation faced Indonesian migrant workers in the belated country. The employers, very often too, performed worse through degrading words, insulting, humiliating, and making fun of the workers race, cast, religion, clothes, and personal behavior. Eni M admitted this inhuman treatment performed by the employer as she had to go through the days when the employers shout or hit her and called her an animal (Human Rights Watch, 2008, p.63).

e) Physical abuse

Attacking workers' body is mostly found in the investigation of human right abuse. Workers are slapped, hit, burnt, punched, not given food or enough rest/sleep, no proper health care, locked in the room against the workers will. It gets more ironic when the physical abuse causes the death of the workers. On July 2010, Sumiati binti Salan Mustapa, was admitted to a private hospital in Medina injured from head to toe. Her employers allegedly burned her both legs were almost motionless, broke her middle finger and cut her lips with scissors. According to the Medina police chief, three members of the family were involved in the torture. In response to this

'extraordinary torture' case, President Susilo Bambang Yudhoyono demanded justice for her (Migrant Rights). Another form of physical abuse, which shed more lights on SBY's administration to condemn the violation, was apparent when Saudi's court decided Ruyati binti Satubi (54) was sentenced to death without prior confirmation to Indonesia's authority. According to SBY, Saudi government disregarded the 'norms and manners' of the international relations (Ministry of Foreign Affairs).

The table 1 below shows the list of arrivals of problematic Indonesian domestic workers from Saudi Arabia based on the report of BPK TKI (*Balai Pelayanan Kepulangan Tenaga Kerja Indonesia*) Selapajang, Tangerang in 2008-2011.

Table 1 - Number of Indonesian Domestic Workers Arrivals in Saudi Arabia 2008-2011 (before the implementation of moratorium policy)

No.	Cases	2008	2009	2010	2011
2.	Occupational illness	5,085	6,229	8,001	3,681
3.	Problematic employers	1,493	767	2,192	3,996
4.	Maltreatment	1,509	2,411	2,342	1,031
5.	Unpaid wages	1,996	1,016	1,607	1,031
6.	Sexual harassment	1,039	1,561	1,978	1,282
7.	Congenital illness	490	1,532	974	1,041
8.	Uncomplete document	613	739	1,063	769
9.	Work accident	283	603	526	354
10.	Discrepancy work	332	258	393	217
11.	Pregnancy	135	167	246	255
12.	Unable to work	60	93	387	66
13.	Not fluent to communicate	56	92	212	80
14.	Others	487	620	905	1,051
	Total	22,035	23,760	31,676	18,977

Source: PUSLITFO BNP2TKI

Against this case, the government of Indonesia has urged the Saudi government to sign on the MoU regarding the protection of migrant workers that frequently faced abuses, unfair system of trials, restrictions on the involvement of embassy on the settlement of the disputes, as well as sentenced to death (House of Representatives, 2011). On the other hand, international human rights organizations criticized Saudi Arabia for its treatment toward migrant workers. Human

Rights Watch in 2011 reported that Indonesian domestic workers and elsewhere that travel to Saudi are frequent to endure from psychological, physical and sexual abuse. Some of the cases even became the international headlines (CNN, 2011).

The situation between Indonesia – Saudi related to the issue of migrant workers has offended the national interest of Indonesia. Therefore, the government of Indonesia prioritized the political action that should be implemented regarding to the issue. Based on its characteristic, the stress laid upon domestic element (Frankel, 1970). It describes that if a problem or an element of national interest becomes salient it is subjected by the general public or by some elite (Human Rights Watch, 2008). In other words, when interests are conflicted, there can be no cooperation between countries. As a result, even though Indonesian government should face the consequences, defending its national interest and political power is the main focus of this problem. The situation worsened because of the pressures and demands coming from the Indonesian people, especially member of Commission IX House of Representatives and NGO such as Migrant Care forcedly asked the government to take a decisive action to end the problems of Indonesian domestic workers in Saudi Arabia (Berita Satu).

The Implementation of Indonesia's Moratorium Policy in Saudi Arabia

On 1 August 2011, President Susilo Bambang Yudhoyono started to implement moratorium policy on the domestic sector as to restructure the employment system and migrant worker services and improving migrant worker protection in Saudi Arabia (Ministry of State Secretariat, 2011). These are the details of the six decisions:

1. The Government of Indonesia decided to implement Indonesian domestic workers moratorium policy to Saudi Arabia starting from August 1, 2011. The measures will be carried out as the form of supervision and tightening the consignment of Indonesian migrant workers.

2. The moratorium policy will be applied until Saudi government agreed to sign the MoU and agreement that guarantee the protection mechanism as well as other matters that required by Indonesian workers (Ministry of State Secretariat, 2011)
3. The President would send a letter to King of Saudi Arabia clarifying that, first, bilateral relations will not be affected despite this labor issues; second, grateful appreciation for the unconditional release of hundreds migrant workers in Saudi Arabia; third, a deep concern to the execution of Ms. Ruyati which violate the international norms and manners.
4. The President will form a task force specifically to handle and defense the Indonesian citizen facing the death penalty in Saudi Arabia and other destination countries as well (Ministry of State Secretariat, 2011).
5. Formulating Law and Human Rights Attaché at Indonesian embassies in the destination countries that have a large number of Indonesian domestic workers, particularly the most frequent problems.
6. The national policy that concern on Indonesian migrant workers will be defined further after the President getting recommendations that formulated by the Integrated Team (Viva News).

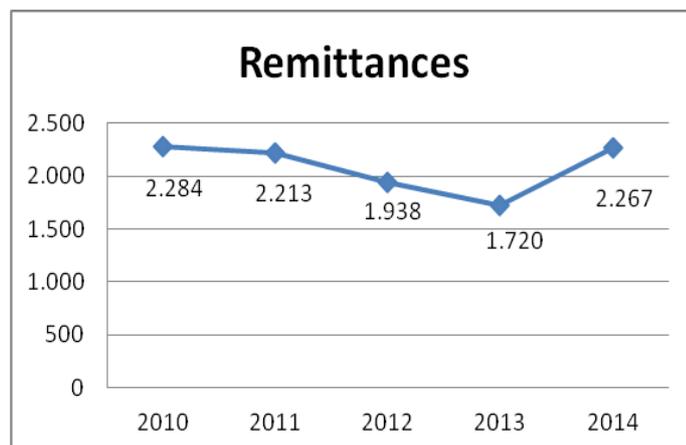
The Impacts of Indonesian Moratorium Policy

Realizing the urgency to recover the bilateral cooperation on the consignment of domestic migrant workers from Indonesia to Saudi Arabia, the government of Indonesia decided to implement moratorium policy. Indonesia's decision to terminate the continuation of migrant workers in Saudi Arabia evidently sheds more lights on classical realist prescription that a state will always seek for its national interests instead of upholding common shared interests. Moreover Indonesian government considered Saudi's decision in the execution of Siti's case as to discharge the strength of diplomatic approach. The failure of Saudi's internal reform in protecting the rights of Indonesian migrant workers remained a real manifestation of Saudi's diplomatic arrogance

due to the absence of shared common interests, in the context of providing workers' rights protection, between both countries.

There will always be two sides of every story. This is evident in Indonesia's decision pertaining to its migrant workers in Saudi Arabia. On one hand, by implementing moratorium policy, the placement of Indonesian migrant workers being suspended and the overstayed migrants were returned, so the remittances that used to be obtained by Indonesian government through migrant workers in Saudi Arabia decreased gradually from 2011 to 2013 (Bank of Indonesia and BNP2TKI, 2015). On the other hand, the government of Indonesia did not undermine its decision despite such remittance decreasing. To this extent, Indonesian government did not decide to prolong the consignment in ways of resembling its institutional reform through formal legal basis. However, given that the constellation between them remained escalated, then it becomes important to ask if the policy contributes to the improvement for the government of Indonesia. By elucidating how he moratorium policy stimulated government's initiatives toward the more-comprehensive regulation, this study argues that the policy constructively affects Indonesia's government though it may also decrease the remittances.

Figure 2 - Remittances of Indonesian Migrant Workers from Saudi Arabia (Million of USD)



Source: Bank of Indonesia and BNP2TKI

Constructive Impacts

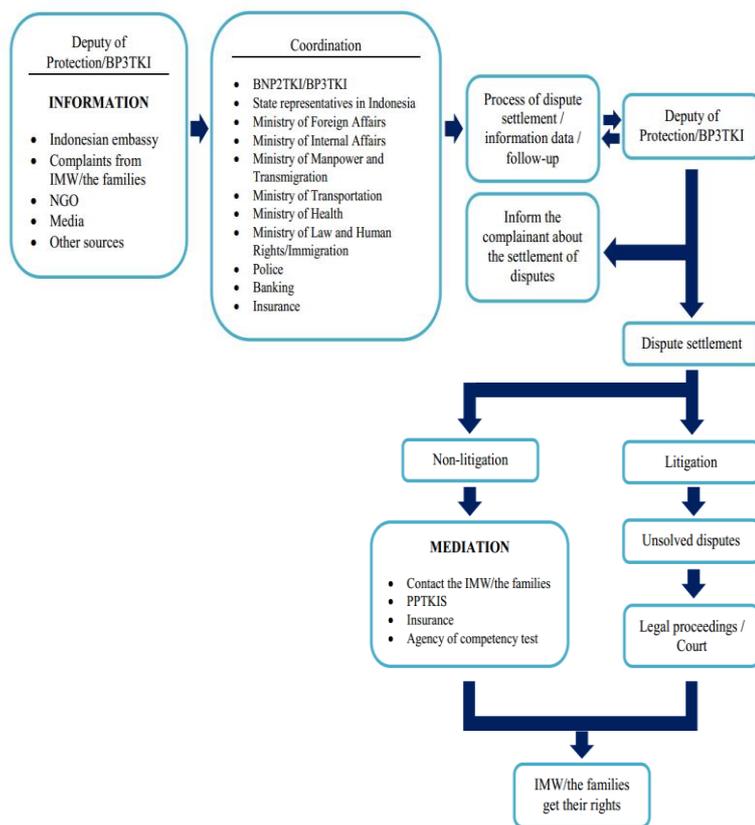
Institutionalization of protection mechanism

The government follows up the moratorium policy through the institutionalization of protection mechanism by providing integrated formal basis. The manifestation of Indonesian government's political commitment to protect its migrant worker overseas results in such an integrated protection mechanism. Following the failure of diplomatic talks responding to the Siti's death penalty, Indonesia's government managed to establish a series of legal procurement so as to avoid the repetition of the same story.

This succeeded the implementation of two formal legal bases, started from Presidential Decree No.15 and No.17 in the Year 2011. The first decree gives a basis to conduct the integrated team to protect Indonesian migrant workers overseas (*Tim Terpadu Perlindungan Tenaga Kerja Indonesia di LuarNegeri*).¹This decree was effectively started on 14 June 2011 which in charged for 6 (six) months. The integrated team expected to evaluate all the policies and regulations as well as the mechanism related on the protection of Indonesian migrant workers overseas, also evaluates the PPTKIS, job training and the related activities.²

To maximize the function of integrated team to protect Indonesian migrant workers overseas, the government of Indonesia decided to immediately implement Presidential Decree No. 17 Year 2011 to handle the case of Indonesian citizen overseas or Indonesian migrant workers that sentenced to death.³ Establishing the task force called SATGAS, it is expected that every migrant worker is able to access legal advocacy at most.⁴ According to the figure 6, it can be said that the mechanism of protection is improved through the process of advocacy and litigation by hiring retainer lawyer to help SATGAS maximize its function (Badan Perencanaan Pembangunan Nasional, 2012).

Figure 3 - Mechanism to Handle the Problematic Indonesian Migrant Workers



Source: BNP2TKI

Through the implementation of SATGAS, in 2012, 72 from 203 Indonesian citizens that sentenced to death overseas have successfully released. The 72 people consist from 6 countries, which are; 24 people in Saudi Arabia, 23 people in Malaysia, 22 people in China, 1 person in Singapore, and 2 people in Iran (BNP2TKI, 2012). Thus, with its successful result of SATGAS as the task force to handle the case of Indonesian citizen overseas which in charged for 6 (six) months from the enactment of this decree, President Susilo Bambang Yudhoyono extended the decree to maximize its function to arrange the standard operating procedures (SOP) as the mechanism to handle the case of Indonesian citizens or Indonesian migrant workers overseas that sentenced to death (BNP2TKI, 2012).

Improvement on pre-departure program

To decrease numbers of Indonesian migrant workers who then become victims of rights abuse in any form, the government of

¹ Presidential Decree No. 15 Year 2011

² Ibid.

³ Presidential Decree No. 17 Year 2011

⁴ Ibid.

Indonesia improves the pre-departure stage particularly in terms of physical and psychological preparation. Susilo Bambang Yudhoyono also signed the Presidential Decree No. 64 Year 2011 on 20 September 2011 that regulate the medical and psychological checking of the candidates of Indonesian migrant workers (*Pemeriksaan Kesehatan dan Psikologi Calon Tenaga Kerja Indonesia*) which clearly mentioned that the candidates of migrant workers must be physically and mentally healthy⁵ and the candidates required to be checked during pre-departure stage so they could go through conducive adaptation process while abroad.⁶

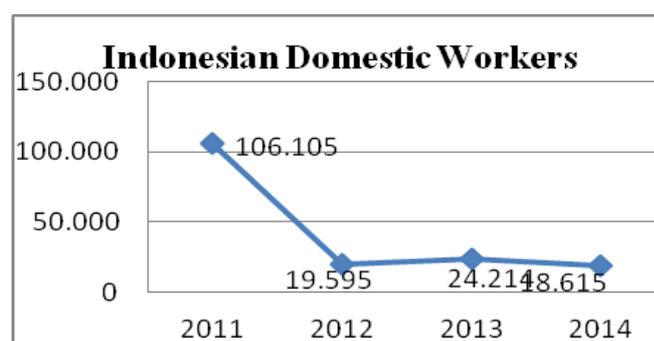
Three layered advocacy

Based on the Government Regulation No. 3 Year 2013, it regulates the protection of Indonesian migrant workers since pre-consignment, on-consignment, and post-consignment.⁷ It stated in the Article 3, the protection given to the applicant of migrant workers, Indonesian migrant workers placed by BNP2TKI, the private agency (*PPTKIS*), and workers that departed individually (besides Middle Eastern Countries). It also mentioned the protection during the placement stage started when the workers arrived at the airport before the placement, up to when they arrived back.⁸ During the placement stage, the protection responsibility given to the embassy based on the regulations of the destination countries⁹ which consist of supervising and monitoring, diplomatic/consular protection, giving legal assistance and defend to get the Indonesian workers' rights overseas.¹⁰

The new mechanism not only affect the protection of Indonesian migrant workers in Saudi Arabia, but also worldwide. Based on the data of BNP2TKI the number of domestic workers has been decreased effectively in Saudi Arabia during the period of 2011-2014. In 2013, as shown in Figure 4, the number increased slightly because Saudi government provides an opportunity for foreign citizens that

violate immigration laws or migrant workers who enter Saudi using a visa for *Umrah* or *Hajj* to work before 3 July 2008, to return back to the home country or extent their permission to work in Saudi Arabia. This amnesty policy was enforced on 11 May-3 July 2013, and extended until 3 November 2013 (DPD RI, 2013). In 2014, there are 298 cases of Indonesian citizens that sentenced to death. From that number of cases, as many as 59 Indonesian citizens released from death (Ministry of Foreign Affairs, 2014).

Figure 4 - Number of Indonesian Domestic Workers in Saudi Arabia 2011-2014



The decreasing number of Indonesian domestic workers in Saudi Arabia affected to the decreasing number of cases and complaints. It showed that the moratorium policy brought impacts of better result towards Indonesian domestic workers' protection which was included as one of the Strategic Plan of Ministry of Foreign Affairs 2015-2019. Ministry of Manpower and Transmigration, Ministry of Foreign Affairs, Indonesian embassies as well as BNP2TKI supported to implement moratorium policy on the consignment of Indonesian domestic workers to all Middle Eastern Countries which was started to in force on May 2015 (The Government of Republic of Indonesia, 2015). The impact of moratorium policy which reduced the number of cases and complaints illustrated in the following graph (BNP2TKI, 2015):

⁵Presidential Decree No. 64 Year 2011 Article 2

⁶Ibid. Article 3

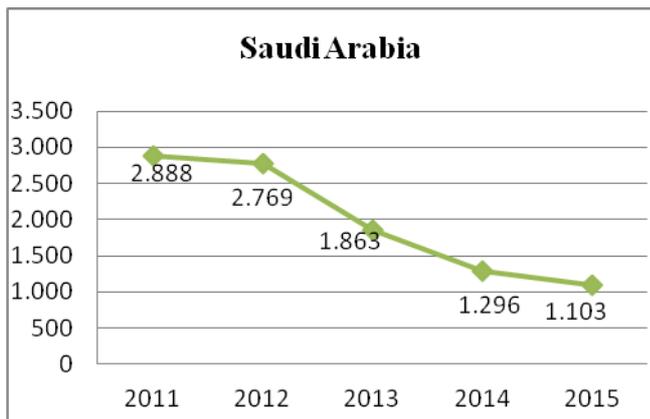
⁷Government Regulation No. 3 Year 2013 Article 2

⁸Ibid. Article 15

⁹Ibid. Article 16

¹⁰Ibid. Article 17

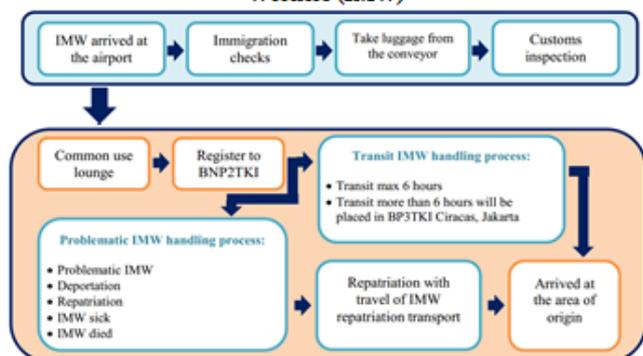
Figure 5 - Number of Complaints from Indonesian Migrant Workers in Saudi Arabia 2011-2015



The signing of MoU between the King of Saudi Arabia and Government of Indonesia

The King of Saudi Arabia finally agreed to sign the MoU on the protection of Indonesian domestic workers on 19 February 2014.¹¹ The signed MoU is the manifestation of Saudi's diplomatic commitment to support the establishment of effective protection mechanism for Indonesian domestic workers.¹² If the disputes occurred, the process of settlement should be done through cooperation by conducting dialogue and diplomatic consultations. After the implementation of MoU, BNP2TKI created better procedure to facilitate the homecoming process of Indonesian migrant workers (BNP2TKI, 2014) as shown in figure 6.

Figure 6 - Procedure of Homecoming Process of Indonesian Migrant Workers (IMW)



Source: BNP2TKI

¹¹ Agreement between the Government of the Republic of Indonesia and The Government of the Kingdom of Saudi Arabia. *The Placement and Protection of Indonesian Domestic Workers*.

¹² Ibid.

The MoU set a standard contract of employment which involved the employer, Indonesian domestic workers, Saudi recruitment offices and Indonesia recruitment agencies.¹³ The contract consists of type of work and working hours, place of work, duties and responsibilities both the employer and the worker, wages, day off and leave, duration of extension and termination of contract.¹⁴ In the Article 3, it is stated that Saudi government must supervised, ensure the right of Indonesian domestic workers to hold their own travel document, given freedom of access to contact their family, facilitate the consular protection and assistance by Indonesian diplomatic/consular missions.¹⁵ This MoU will be in forced for a period of 3 (three) years and automatically renewable.¹⁶

1. Conclusion

Moratorium policy taken by Indonesian government can be viewed as an urgent decision related to the migrant workers issues. As the Indonesian foreign policy to achieve its national interests, moratorium policy defines as the short term decision that aims for the long term decision. It became a tool to influence Saudi government to sign the MoU on the protection of Indonesian domestic workers. As well as the decision of Indonesian government, Saudi government also decided to ban the working visas of Indonesian domestic workers to minimize the further issues of migrant workers.

As a tool of transformative mechanism, moratorium brought several impacts which affected Indonesia's government. On one hand, economically speaking, deficit in remittances cannot be prevented due to the production of this policy. However, under the administration of President Susilo Bambang Yudhoyono, the

¹³ Ibid. Article 2 (h)

¹⁴ Ibid. Article 2 (i)

¹⁵ Ibid. Article 3

¹⁶ Ibid. Article 8 (2)

policy stimulated, first, the institutionalized protection mechanism; second, the improvement of pre-departure program particularly in the aspects of physical and psychological empowerment; third, the three layered advocacy including pre-consignment, on-consignment, and post-consignment; and last but not least, the signing of MoU between the Government of Indonesia and the King of Saudi Arabia which then eventually necessitates strong manifestation of Saudi's political willingness to provide effective

protection mechanism for Indonesian migrant workers. Having said that, it is relevant noting that protecting Indonesia's migrant workers has been high in the list of Indonesia's national interest.

REFERENCES

Books

- Amundson, Roland C., and Lewis J. Rotman. (1984). *Depression Jurisprudence Revisited: Minnesota's Moratorium on Mortgage Foreclosure*. Retrieved November 5, 2016, from <http://open.mitchellhamline.edu/cgi/viewcontent.cgi?article=2614&context=wmlr>
- Denzin and Lincoln. (2000). *Handbook of Qualitative Research 2nd Edition*.
- Frankel, J. (1970). *National Interest*. London: Palgrave Macmillan.
- Haryono, Endi and Muhamad Afifi Abd Razak. (2014). Analysing Foreign Policy. In M. K. Azizuddin, *International Relations* (p. 120). Malaysia: Pearson.
- Holsti, K. (1972). *International Politics: A Framework for Analysis 3rd Edition*. New Jersey: Prentice Hall.
- Ritchie, J., and Lewis, J. (2003). *Qualitative Research Practice: A Guide for Social Science Students and Researchers*. London: SAGE Publication.
- Roskin, M. G. (1994). *National Interest: From Abstraction to Strategy*. Army War Coll Strategic Studies Inst Carlisle Barracks Pa.
- Roskin, M. G. (2012). *Political Science: An Introduction 12th Edition*.

Journals

- Endang Setyoningsih, Fitriyah and Hermini. (2011). *Peran LSM Migrant CARE Dalam Membantu TKI Bermasalah di Arab Saudi Tahun 2009 dan 2010*. Retrieved October 10, 2016
- Farbenblum, Bassina, Eleanor Taylor-Nicholson, and Sarah Paoletti. (2013). *Migrant Worker Access to Justice At Home: Indonesia*. New York: Open Society Foundations.
- Fatmawati, D. (2014). Penandatanganan MoU Antara Indonesia dan Arab Saudi Tahun 2014. *Prosiding Interdisciplinary Postgraduate Student Conference 1st*, (p. 200). Yogyakarta.
- Geerards, I. T. (2008). Tindakan Pemerintah Indonesia dan Pemerintah Arab Saudi dalam Menangani Permasalahan TKI di Arab Saudi. In *Masyarakat, Kebudayaan dan Politik* (p. 361).
- Giao, R. S. (2014). *New Governance Mechanisms and International Human Rights Law*.
- Gulf Labour Markets and Migration. (2015). *The Legal Framework of the Sponsorship Systems of the Gulf Cooperation Council Countries: A Comparative Examination*. Gulf Research Center.

Gulf Talent. (2008). *Saudi Labour Law: Royal Decree No. M/51*. Retrieved from <https://www.gulftalent.com/repository/ext/Saudi-Labour-Law.pdf>

Juandea, N. (2014). Dampak Penerapan Kebijakan Moratorium Bagi TKI Ke Arab Saudi Oleh Pemerintah Indonesia. *eJournal Ilmu Hubungan Internasional*, 2, 589.

Migrant Forum Asia. (2011). Policy Brief No. 2: Reform of The Kafala (Sponsorship) System.

Peiffer, E. (2005). The Death Penalty in Traditional Islamic Law and as Interpreted in Saudi Arabia and Nigeria. *William and Mary Journal of Women and the Law*, 11.

Penal Reform International. (2015). *Sharia Law and the Death Penalty*.

Prihanto, H. Purwaka Hari. (2013). Kebijakan Moratorium Pengiriman Tenaga Kerja Ke Luar Negeri dan Dampaknya Terhadap Peningkatan Kualitas Pekerja Migran Indonesia. *Jurnal Paradigma Ekonomika*, 1(7), 57.

The Commission of Human Security. (2003). *Human Security Now*.

Tirtosudarmo, R. (2000). *Indonesian Domestic Workers in Saudi Arabia*. Leiden: International Institute of Asian Studies.

Wickramasekara, P. (2006). *Labour Migration in Asia: Role of Bilateral Agreements and MOUs*.

Reports

Badan Perencanaan Pembangunan Nasional. (2012). *Evaluasi Dua Tahun Pelaksanaan RPJMN 2010-2014*. Bappenas.

Badan Pusat Statistik. (2013). *Statistik Mobilitas Penduduk dan Tenaga Kerja*. BPS.

Badan Pusat Statistik. (2013). *Statistik Mobilitas Penduduk dan Tenaga Kerja 2013*. Retrieved from https://www.bps.go.id/website/pdf_publicasi/watermark%20_Statistik_Mobilitas_Penduduk_dan_Tenaga_Kerja_2013.pdf

Badan Pusat Statistik. (2015). *Statistik Mobilitas Penduduk dan Tenaga Kerja 2015*. Retrieved from https://www.bps.go.id/website/pdf_publicasi/Statistik-Mobilitas-Penduduk-dan-Tenaga-Kerja-2015.pdf

Bajracharya, R. (n.d.). *Centre for the Study of Labour and Mobility (CESLAM)*.

Bank of Indonesia and BNP2TKI. (2015). *Migration, Remittance and Female Migrant Workers*.

BNP2TKI. (2013). *Data Kedatangan Tenaga Kerja Indonesia tahun 2010 s.d 2013*. Retrieved October 16, 2016, from http://www.bnp2tki.go.id/uploads/data/data_06-03-2014_113234_Data_Kedatangan_Tenaga_Kerja_Indonesia_2010-2013.pdf

BNP2TKI. (2013). *Data Penempatan dan Perlindungan Tenaga Kerja Indonesia tahun 2013*. Retrieved October 16, 2016, from http://www.bnp2tki.go.id/uploads/data/data_22-06-2015_022721_Data_P2TKI_Tahun_2013.pdf

BNP2TKI. (2014). *Data Penempatan dan Perlindungan Tenaga Kerja tahun 2014*. Retrieved October 16, 2016, from http://www.bnp2tki.go.id/uploads/data/data_16-01-2015_020347_Laporan_Pengolahan_Data_BNP2TKI_S.D_31_DESEMBER_2014.pdf

BNP2TKI. (2015). *Data Penempatan dan Perlindungan Tenaga Kerja Indonesia tahun 2015*. Retrieved October 16, 2016, from http://www.bnp2tki.go.id/uploads/data/data_01-02-2016_122032_Laporan_Pengolahan_Data_BNP2TKI_TAHUN_2015.pdf

BNP2TKI. (2015, March 26). *Materi Sosialisasi Bidang Perlindungan: Mediasi dan Advokasi*. Retrieved February 25, 2017, from <http://www.bnp2tki.go.id/read/9999/Materi-Sosialisasi-Bidang-Perlindungan--Mediasi-dan-Advokasi-TKI.html>

Human Rights Watch. (2008). *As If I Am Not Human*.

International Labour Organization. (2012). *10 Years of Work on Labour Migration in Indonesia*. Jakarta: ILO Jakarta.

International Labour Organization. (2015). *Indonesia: Decent Work for Indonesian Migrant Workers*.

OPEC. (2002). *OPEC Annual Report*. Austria.

Government Documents

House of Representatives. (2011). *Laporan Kunjungan Kerja Luar Negeri Tim Khusus DPR RI Terhadap Penanganan TKI di Saudi Arabia*.

Kingdom of Saudi Arabia Ministry of Foreign Affairs. (2016, August 5). *Kingdom Foreign Policy*. Retrieved January 5, 2017, from <http://www.mofa.gov.sa/sites/mofaen/KingdomForeignPolicy/Pages/ForeignPolicy24605.aspx>

Ministry of Foreign Affairs. (2014). *Laporan Kinerja Kementerian Luar Negeri Tahun 2014*. Jakarta: MOFA Indonesia.

Ministry of Foreign Affairs. (2014). *Posisi Dasar Kebijakan Luar Negeri Indonesia*. MOFA.

Ministry of Foreign Affairs. (2015). *Laporan Kinerja Kementerian Luar Negeri Tahun 2015*. Jakarta: MOFA Indonesia.

Ministry of Manpower and Transmigration. (2011). *Perkembangan Ketenagakerjaan di Indonesia*. Retrieved January 11, 2017, from http://www.ilo.org/wcmsp5/groups/public/--asia/---ro-bangkok/---ilo-jakarta/documents/publication/wcms_157809.pdf

Ministry of Manpower and Transmigration. (2015). *Keputusan Menteri No 260 Tahun 2015*. Retrieved from Penghentian dan Pelarangan Penempatan Tenaga Kerja Indonesia pada Pengguna Perseorangan di Negara-Negara Kawasan Timur Tengah: <http://www.kemlu.go.id/tripoli/id/berita-agenda/info-penting/Documents/Kepmenaker%20RI%20Nomo2%20260%20Tahun%202015.pdf>

Ministry of State Secretariat. (2011, August 16). *Presidential State Address on the 66th Anniversary of Independence of RI, 2011*. Retrieved January 16, 2017, from http://www.setneg.go.id/index2.php?option=com_content&task=view&id=5728&pop=1&page=0&Itemid=26

Subhan, Hadi, et.al. (2012). *Perlindungan TKI Pada Masa Pra Penempatan, Selama Penempatan dan Purna Penempatan*. Jakarta: Kementrian Hukum dan Hak Asasi Manusia.

The Government of Kingdom of Saudi Arabia. (2006). *Royal Decree No. M/51 Year 2005*. Retrieved January 20, 2017, from http://www.the-saudi.net/business-center/labor_law.htm

The Government of Republic of Indonesia. (1999). *Undang-Undang No. 39 Tahun 1999*. Retrieved from Hak Asasi Manusia: http://jdih.bnp2tki.go.id/images/uu/UUD_45/UU_No_39_Tahun_1999_Tentang_Hak_Asi_Manusia.pdf

The Government of Republic of Indonesia. (2004). *Undang-Undang No. 39 Tahun 2004*. Retrieved from Penempatan dan Perlindungan Tenaga Kerja Indonesia di Luar Negeri: http://jdih.bnp2tki.go.id/images/uu/UUD_45/UU_No_39_Tahun_2004_Tentang_Penempatan_dan_Perlindungan_Tenaga_Kerja_Indonesia.pdf

The Government of Republic of Indonesia. (2006). *Peraturan Presiden No. 81 Tahun 2006*. Retrieved from Badan Nasional Penempatan dan Perlindungan Tenaga Kerja Indonesia: http://jdih.bnp2tki.go.id/images/perpres/PERPRES_No_81_Tahun_2006_Tentang_Badan_Nasional_Penempatan_dan_Perlindungan_Tenaga_Kerja_Indonesia.pdf

The Government of Republic of Indonesia. (2010). *Peraturan Menteri Tenaga Kerja dan Transmigrasi No. PER.14/MEN/X/2010*. Retrieved from Pelaksanaan Penempatan dan Perlindungan Tenaga Kerja Indonesian di Luar Negeri: http://perlindungan.kemlu.go.id/assets/default/portal/images/galeri_hukum/Permenakertrans_No._PER_14_MEN_X_2010_.pdf

The Government of Republic of Indonesia. (2010). *Presidential Decree No. 5 Year 2010*. Retrieved from National Medium-Term Development Plan 2010-2014: http://theredddesk.org/sites/default/files/rpjmn-2010-2014-english-version__20100521111052__2608__0.pdf

- The Government of Republic of Indonesia. (2011). *Peraturan Presiden No 64 Tahun 2011*. Retrieved from Pemeriksaan Kesehatan dan Psikologi Calon Tenaga Kerja Indonesia.
- The Government of Republic of Indonesia. (2012). *Keputusan Presiden No 8 Tahun 2012*. Retrieved from Satuan Tugas Penanganan Kasus Warga Negara Indonesia Tenaga Kerja Indonesia di Luar Negeri yang Terancam Hukuman Mati.
- The Government of Republic of Indonesia. (2012). *Undang-Undang No 6 Tahun 2012*.
- The Government of Republic of Indonesia. (2013). *Peraturan Pemerintah No 3 Tahun 2013*. Retrieved from Perlindungan Tenaga Kerja Indonesia di Luar Negeri.
- The Government of Republic of Indonesia. (2013). *Peraturan Presiden No 45 Tahun 2013*. Retrieved from Koordinasi Pemulangan Tenaga Kerja Indonesia.
- The Government of Republic of Indonesia. (2014). *Placement and Protection of Indonesian Domestic Workers*.
- The Government of Republic of Indonesia. (2015). *Rencana Strategis Kedutaan Besar Republik Indonesia Riyadh*.
- The Government of Republic of Indonesia. (2015). *Rencana Strategis Kementerian Luar Negeri 2015-2019*. Jakarta.
- The Government of United Kingdom. (2014, March). *Treaties and Memoranda of Understanding (MOUs)*. Retrieved February 25, 2017, from https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/293976/Treaties_and_MoU_Guidance.pdf
- Usman, R. (2015, May 20). *Membangun Kebijakan Tata Kelola Perlindungan dan Penempatan Tenaga Kerja Indonesia*. Kementerian Ketenagakerjaan Republik Indonesia, Jakarta, Indonesia.

BIOGRAPHY

Jihan Dja'far Sidik, was born in Jeddah, 29 June 1995. Her father worked in Indonesian Hajj Affairs section of the Consulate General of The Republic of Indonesia in Jeddah. She lived there for 11 years. Her experiences living in Saudi has inspired her, because lot of migrant workers came to report and asking for legal protection at the Consulate General where her father worked. In 2016, she had an internship at the Manpower and Transmigration Kab. Karawang section Domestic and Migrant Labor for 4 months. There she studied on how migrant workers' get permission to work abroad and how local government proceed their protection. In 2017, she graduated as a Bachelor of International Relations from President University with her thesis concerning on Migrant Workers' protection.

Witri Elvianti is currently working as a full time lecturer at International Relations Study Program, Faculty of Humanities, President University. She completed her bachelor program in International Relations at Universitas Muhammadiyah Yogyakarta in 2008 and attained her master degree in International Relations at the University of Nottingham, the United Kingdom, in 2012. She received a research grant by Asian Muslim Action Network and Thai Research Fund.