

Social Security Provision for International Migrant Workers: Comparing Indonesia and the Philippines

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Abstract

Despite migrant workers' contribution to economic development, their social security protection remains inadequate. This article examines social security provisions for Indonesia's international migrant workers and compares them with another labor-sending country, namely the Philippines using a desktop study. The Philippines is interesting to discuss due to their recognition as role model in managing labor migration and providing excellent social security protection for their national abroad. The purpose of this thesis is to answer the research question on how do Indonesia and the Philippines manage social security programs for their international migrant workers? What can Indonesia learn from the Philippines? This study demonstrates that both countries have implemented several schemes to protect migrant workers. Indonesia has provided a range of social security programs with the operation of a special insurance scheme under BPJS Ketenagakerjaan. The Philippines has covered their migrant workers through social insurance schemes under SSS, OWWA, and PhilHealth. The Philippines also complements its national scheme with bilateral social security agreements. It is concluded that Indonesia's social security protection for migrant workers is still lagging behind the Philippines. Indonesia is considered inadequate to extend the protection for their nationals abroad due to a lack of bilateral social security agreements with receiving countries, which eventually hinders the portability of benefits for the migrant workers. While bilateral social security agreements are significant instruments for the Philippines ensure overseas Filipino workers acquire appropriate social security benefits in the receiving countries and enjoy the portability of social security benefits.

Keywords:

social security programs; Indonesia; the Philippines; migrant workers; social security agreement, BPJS Ketenagakerjaan

Introduction

Migrant workers are a vital part of global economic development. International migrants are people living in a country other than where they were born. Global labour migration has gotten much attention as the number of migrant workers all around the world is increasing. In the last two decades, the number has risen from 102 million in 1980 to 214 million in 2010 (ILO, 2010). Particularly in Asia, in 2015, the region saw a rapid growth in the number of international migrants with an addition of 26 million (UN Population, 2015, p.1).

Indonesia and the Philippines are the largest exporters of migrant workers in Southeast Asia (ASEAN) region. In 2015 the Philippines was positioned at the eighth-ranked with more than five million Filipinos living abroad, while Indonesia was at fifteenth with around 4.8 million emigrants (UN Population, 2015).

The reason for these increased numbers of the emigrant to seek jobs abroad was due to limited job vacancies at home. Working abroad is widely perceived as a way to escape poverty in Asia, such as Indonesia and the Philippines (Setyawati, 2013). International migrant workers are named as remittance heroines for their countries due to their contribution to the country's GDP. However, the cost of labour migration may outweigh the benefits when the rights of migrant workers are not protected (APF, 2012). Olivier and Govindjee (2016) noted that migrant workers become vulnerable as they often face discriminatory practices by state officials both at countries of origins and country of destination, with particular social security benefits.

Limited social protection and unequal treatment are also increasing the vulnerability of migrant workers. Referring to BNP2TKI between 2010 to 2014, there were 289,622 Indonesian migrant workers or around 15.3% returned home with problematic issues (BNP2TKI, 2015). This data shows that there were still a high number of workers faces unfortunate situations when working overseas. Until March 2019, based on the statistics on migrant workers complaints, 82% of it happened in host countries (BNP2TKI 2019). Unpaid wages, illness, and wanting to return home are the most common problems that occur to Indonesian migrant workers. The Philippines also faces similar problems; in 2015, there were 839 Overseas" Filipino Workers (OFWs) have been assisted due to various problems they experience while working abroad¹. Additionally, the majority of Indonesian workers are less educated, insufficiently prepared, and have language barriers (Arisman & Jaya, 2018). While OFWs are more educated and fluent in English, so they have more advantages than the Indonesian counterparts.

Thus, the study of social security for migrant workers is crucial. Social security is every individual right (United Nations, 2015). Furthermore, states are obliged to ensure that migrants can experience fair treatment and protection regardless of their nationality (APF, 2012). Therefore, social security is a way to protect and fulfill basic human rights and should be implemented seriously.

Social protection for migrant workers has been described as public efforts that lead to better protection for migrants in combating hazardous working conditions, physical and sexual abuse, psychological repression, underpayment, and other forms of inhuman action (Blokhus, 2004). The increasing number of migrant workers contrasts with social protection security. Van

¹ <https://dfa.gov.ph/assistance-to-overseas-filipinos-in-distress>

GINNEKEN (2010) in OLIVIER & GOVINDJEE (2016) described that in low-income regions, social security systems are weak, including in protecting their citizens abroad. Although migrant workers contribute to the economies of their home and host countries, social protection schemes (social insurance or social assistance) have not secured them in time when they need it most.

With the increasing number of labour migrations, the study of social security provision for migrant workers is significant, owing to the fact that every citizen including migrant workers needs social security as it is part of human rights. Not only that, but it is also the responsibility of the state to protect its citizens wherever they live. Although several similar research has been conducted, there was still a dearth of information regarding social security provision for migrant workers in their home countries. Much research usually analyzes from receiving countries perspective, but this study tries to analyse from sending countries² perspective, especially with regards to social protection scheme.

This study attempts to compare the social protection scheme and to examine how the Philippines can have better social protection system for its migrant workers, while Indonesia has not. What Indonesia can learn from its neighbour is one of the targets of this study.

Literature Review

The relationship between labour migration and social security has attracted many scholars' attention. Many studies have been done to analyse these two subjects. HIROSE et al. (2011) stressed that only a minority of migrant workers enjoy social security benefits. SETYAWATI (2013) did a comparative study on the regulatory framework of labour migration from Indonesia and the Philippines. Setyawati compared Indonesian law No. 39/2004 with the Philippines Law RA No. 10022. She used a literature review approach, and she found out that the Philippines regulated migrant workers' protection in a more comprehensive than Indonesia's. However, Setyawati did not specifically focus on social security programs for migrant workers.

BLOKHUS's study (2004) compared and contrasted social protection for women migrant workers in Asia Pacific region. She pointed out that The Philippines, India, and Sri Lanka had excellent mechanisms and practices to protect their migrant workers, while Indonesia, Pakistan, and Thailand showed poor performance. The Philippines is highly seen as a model country in addressing labour migration and social security (OFRENEO & SALE, 2014, p. 183). This is because the regulation and protection program for migrants is administered through the POEA, OWWA, and DFA-DOLE combined. However, ARISMAN & JAYA (2018) noted that numerous cases of abuses

² Sending country is the country whose citizens leave to migrate to other countries usually to seek for employment.

of Filipino migrant workers had been recorded. Also, numerous bilateral agreements that the Philippines have signed with other countries are poorly implemented. As a result, Filipino migrant workers cannot get benefits.

Rahayu (2017) observed Indonesian migrant workers protection policies in protecting the women migrant workers. Similar to Blokhus, her study focused on women migrant workers who are more vulnerable to violence and trafficking. Rahayu (2017) also did her research using literature and secondary data. She was more into analyzing regulatory aspects, such as Indonesian laws and other implementing regulations. Although the government of Indonesia has stipulated a new bill on migrant protection, the women migrant workers remain vulnerable to the threat of violence and human trafficking (Rahayu, 2017).

The Asia-Pacific Thematic working group in 2015 pointed out that the Philippines has put the most comprehensive policy framework for migrant workers compared to other countries in the Asia-Pacific region. Even *Republika*, one of the prominent news media in Indonesia, noted that the Philippines indeed has a better mechanism for their migrant workers. This news media criticizes Indonesia's system, in which, according to the author, did not provide enough security for migrant workers (Muhammad, 2012). Another comparative study on social security and labour migration in ASEAN concluded that the portability of social security become the prominent issue for migrants workers (Pasadilla, 2011).

In essence, migrant workers are vulnerable to lose their entitlement to social security. Also, most of the existing literature agrees that the Philippines has a more sophisticated system in assisting and protecting their overseas migrant workers compared to Indonesia. The Philippines has arranged and established specialized agencies that manage all stages of labour migration (POEA, OWWA, POLO, DFA-DOLE).

Method

The research method used in this study is a comparative study using a qualitative approach. Comparative research, simply put, is the act of comparing two or more things with a view to discovering something about one or all of the things being compared. When doing comparative research, desk study and library research are the main research focus to gain and build new knowledge. Desk study is a review of available resources and information. It involves the literature review and secondary data analysis. Secondary data consist of existing data sets, reports, and documents that usually compiled by other researchers or organization. The utilization of desktop studies provides a doable option for the researcher with time and resources restrictions.

Data collection is conducted through the internet and various media such as books, brochure, and online newspaper. Potential data sources may include but, are not limited to law and bills documents, official policy papers, online news, archival records, statistical data, and other literature data. Although the possibility to gather data from multiple sources is extremely tempting because the rigorousness of the research can be associated with this approach, but there are some drawbacks. One of the drawbacks is the data collection process may be overwhelming. Often, researchers become 'lost' in the data. In addition, because this study will employ secondary data, it is essential to assess the data carefully.

Similar to other qualitative research, data collection and analysis occur at the same time. This research mainly uses literature review analysis and secondary data analysis. A literature review is not just simply summarized the information from key sources but also synthesized the information. A summary is a recap of the important information of the source, but a synthesis is a re-organization, or a reshuffling, of that information in a way that informs how you are planning to investigate a research problem. Secondary data analysis is a method to analyze the data that have been collected by someone else for another primary purpose (Johnston, 2014). Secondary analysis is an empirical exercise that applies the same basic research principles as studies utilizing primary data and has steps to be followed just as any research method (Johnston, 2014).

Due to constraint in accessing wider sources of information within time and space allotted, this study remains a rudimentary discussion and comparison of the general situation regarding migrant workers' social security in Indonesia and the Philippines.

Results and Discussion

Existing Regulation on Migration and Social Security in Indonesia and the Philippines

Indonesia

In Indonesia, international labour migration is mostly occupied by low-skilled labour. Limited skills and low education attainment make Indonesian migrant workers mostly engage in 3D (dirty, dangerous, and demeaning) work. The high demand for low-skilled workers such as maids, nannies, and labourers also influence the flow of unskilled workers. With the high number of migrant workers, the need to provide protection is crucial. Indonesia has shifted its focus from solely taking advantages from migrants' remittances to the protection of migrant workers with the establishment of a specific institution such as BNP2TKI and the enactment of new regulations to improve and empower migration output.

Indonesia, on the other hand, has useful infrastructure resources to develop an effective migration scheme. However, Indonesia has a big challenge in terms of the legislative and

institutional environment which hampers synchronisation among stakeholders, including different government institutions (Testaverde et al., 2017).

The constitution of the Republic of Indonesia (Undang-Undang Dasar 1945) avows that every person has the right to live worthy and prosperous lives. The Constitution guarantees this to Indonesian citizens, particularly article 27, Paragraph 2;

“Every people have the right to work and to earn humane livelihoods. Every person shall have the right to work and to receive fair and proper recompense treatment employment.”

Furthermore, in the article 28 G of the constitution, every citizen is promised the protection of his human dignity, including the right to be free from torture or degrading treatment (Rahayu, 2017). Also, article 31 of the 1945 Constitution emphasises:

“Every worker has the same rights and opportunities to choose, get or change jobs and earn a decent income inside or outside the country.”

Indonesia has a wide range of migratory legislation and rules both in the national and local level. The legislation does not describe institutional responsibilities clearly. Previously, labour migration from Indonesia was governed by Law No. 39 of 2004 regarding the Placement and Protection of Indonesian Migrant Workers, which provided a framework for the international migration process. Law No. 39 of 2004 regulates mainly placement procedures such as pre-placement training, pre-departure programs, but lack of focuses on the protection procedures for migrant workers. Law No. 39 of 2004 appeared insufficient and showed several shortcomings (Husni, 2011; Setyawati, 2013; Tan & Shahrullah, 2017; Testaverde et al., 2017).

Perhaps, most important problem with this law is the lack of clarity about responsibilities among national agencies and between national and local authorities. As a result, there were duplication of tasks, competition among institutions, and weaker protections for workers (Setyawati, 2013; Testaverde et al., 2017). Law No. 39 of 2004 was also giving too much role to the private sectors in placement and social security provisions without a strict evaluation from the government.

Besides the national legislation, the migration policy in Indonesia also comprises of local regulations. The involvement of local government in the migration process shows a strong commitment to promoting a better migratory scheme. Data from the BNP2TKI official website, there are about eleven local regulations regarding the placement and protection of migrant workers. Although all the policies demonstrate the strong commitment of the government to manage their national abroad effectively, its implementation still far from success (IOM, 2010, p.

xi). Local regulations also cannot contribute much because these regulations are superseded by national legislation (Bachtiar, 2011).

After many critics towards the Law No. 39/2004, the attitudes of the government were changing to pose more significant action over this loosely regulated sector. In 2017, under Joko Widodo administration, Indonesia's house of parliament (DPR) has passed a new Law No. 18 of 2017 on the Protection of Indonesian Migrant Workers (Perlindungan Pekerja Migran Indonesia – PPMI). This law officially replaced Law No. 39 of 2004. In general, Law No. 18 of 2017 has a lot of progress in several aspects compared to its predecessor. There are at least eleven improvements in Law No. 18 of 2017 Law compared to Law No. 39 of 2004;

- Reducing the role of the private sector in the placement of Indonesian migrant workers. In the PPMI Law, the role of the private sector is no longer recruiting and educating but only placing it;
- The government is given a more significant role in the migration process starting from providing information, education, and training, providing one-stop services to handling cases not only inside but also abroad;
- The role of local government is more enlarged in the migration process, including involving the participation of village governments (decentralization of migration authority);
- A Clearer division of tasks between the central government, regions, and agencies so that there is no overlapping of authority;
- Strengthening the function of labour attaché abroad in handling Indonesian migrant workers' labour migration;
- Sanctions imposed not only on corporations and individuals but also on officials;
- The law minimises conflicts of interest in the migration process;
- Zero Cost migration for the migrant workers;
- Profit-oriented migrant workers' insurance regimes are replaced with BPJS Ketenagakerjaan;
- The limitation on making derivative rules mandated is only two years since the PPMI Law came into force;
- The Law also acknowledges that migrant workers are not only land-based workers but also sea fearers.

The Philippines

Migration policy in the Philippines was initially pursued to promote migration for employment and remittances. The Philippines indeed sent domestic and low-skilled workers, but at the same time, they also promoted the skilled labour migration such as nurses and technicians. The Philippines is highly seen as a model country in addressing labour migration and social security (Ofreneo & Sale, 2014, p. 183). Their migration system has the capacity of to reducing information mismatches through proper dissemination of information campaigns and job postings. Also, the Philippines maintains to work closely with receiving countries (Testaverde et al., 2017).

Currently, the Philippines takes a broader perspective on the link between migration and development. The current migratory policy through Republic Act 8042 of 1995 tries to de-emphasized the economic aspect of migration and try to set a higher standard for the protection and welfare of overseas workers (IOM, 2013).

The Philippines also has a wide array of legislation and regulation covering all aspects of migration, including special protections for migrant domestic workers. In the Philippines, international labour migration became massive under the Marcos era in the 1970s. The Marcos administration introduced labour code of the Philippines in 1974. This labour code was intended to stimulate full employment; assured the best possible terms and conditions of employment for every people desiring to work overseas; facilitate and regulate the movement of workers in conformity with the national interest; rationalize the participation of the private sector in the recruitment and placement of workers overseas.

After the execution of Flor Contemplacion, a Filipino migrant worker in 1995, has become a crucial phase in the development of the Philippines labour migration policy. This execution has triggered a demonstration on the streets of the city. The protesters have demanded the government do reform and reorganize its state migratory apparatus (Tyner, 2000). Therefore, President Ramos advocated the enactment of the Magna Charta of Overseas Filipino Workers or Republic Act number 8042 in the same year.

The Republic Act (RA) No. 8042, which was amended in 2010 through RA 10022 is the most solid legal framework governing migrant workers. The RA 8042 and its amendment stipulate all aspect of migration, including the recruitment process, the protection of overseas Filipino workers, returning and reintegration schemes. More details on these functions are regulated in the Philippines Overseas Employment Administration (POEA) regulations. RA 8042 seeks to give full protection and promote equal employment opportunities for overseas Filipino.

This act is expected for the assurance of the dignity and fundamental human rights and freedom of the overseas Filipino workers.

RA 8042 also institutionalized/established:

- A Legal Assistance Fund for migrants;
- An Emergency Repatriation Fund to be administered by OWWA;
- A National Reintegration Center for OFWs (NRCO) under the DOLE;
- The Filipino Workers Resource Center, funded and managed by DOLE, in areas with a large number of OFWs;
- A pre-departure loan program and family loan assistance to be administered by OWWA for the benefit of workers seeking overseas employment;
- Created the Office of Legal Assistant for Migrants;
- Institutionalized the one country-team approach to protecting migrants in the foreign posts.

While RA 10022 expands the standard of protection and promotion of the welfare of migrant workers, their families, and also overseas Filipinos in trouble. This act sought to improve the standard of the state assistance and promotion of foreign workers' welfare. By amending the articles, the law developed the rescue and assistance mechanism, provided for compulsory insurance for migrant workers at the employers' and recruitment agencies' cost, expanded the scope of illegal recruitment definitions, set heavier penalties for violators, and included penalties for overseas employment administration members who did not follow the law (Setyawati, 2013).

The RA 10022 institutes continuous monitoring and ratifying of international conventions, enter a bilateral agreement with host countries, enhancement of skills and training programs for the unskilled workers. The state also recognizes the role of non-government organizations, trade unions, workers association and other stakeholders in the protection of the Filipino overseas workers.

Institutional Framework

Both countries have established exclusive agencies dealing with migration administration and migrants' welfare. In Indonesia, the agency that responsible for managing emigration on the national scale is the National Body for the Placement and Protection of Indonesian Overseas Workers (BNP2TKI). BNP2TKI was established through a presidential decree. BNP2TKI is coordinated by the Ministry of Manpower, but they are responsible directly to the president. However, there is dualism of responsibility in the recruitment process between BNP2TKI and

MoM. Referring to MoM, recruitment process should be through labor market, while according to BNP2TKI, the recruitment process could be represented by an agent.

While in the Philippines, there are several agencies designated to manage different stages of the migration process. At least, there are three main agencies under DOLE dealing with the protection of overseas workers namely Philippines Overseas Employment Administration (POEA), Overseas Workers Welfare Administration (OWWA), and Philippines Overseas Labour Offices (POLO). With these different agencies that worked together, the Philippine could maximize their protection.

In the Philippines, the registration or accreditation selection process for migrant workers is carried out directly by the government. The agent is only permitted in recruiting the workers, while all documents verification process is carried out by the POEA. POEA oversee the employment contract and authorizes it. By doing this, POEA ensures that the contents of the contract will not harm the workers. On the contrary, Indonesia allowed all migration process – from recruiting, documentation, training until the placement – carried out by the recruitment agencies which often did not comply with the regulation. Thus, this agency's malpractice increased the vulnerability of the migrant workers. Fortunately, through the new Law No. 18 of 2017, the roles of government are maximized to improve migrant workers welfare.

OWWA is responsible to developing and implementing responsive programs and services while ensuring fund viability towards the protection of the interest and promotion of the welfare of its member- Overseas Filipino Workers (OFWs). Migrant workers should pay \$25 as a membership fee. OWWA provides several assistances, such as scholarships sand entrepreneurship loans, and also provides social security benefits such as death and disability benefits. However, OWWA services have created confusion about its responsibilities and powers because some of the services are redundant (programs are overlapping with SSS). Thus, it is often questioned whether OWWA is and insurance scheme, a protection agency, a loans bank, or social security.

POEA has overseas representative offices which referred to as Philippines Overseas Labour Offices (POLO). POLO tasks are registering foreign employers and overseeing compliance with POEA policies. POLO is represented by one labor attaches in each foreign office. Up to date, there are 39 POLO offices around the world. While Indonesia only has nine labor attaches where there are high concentrations of Indonesian migrant workers.

Due to the Philippines' efforts in protecting their migrant workers through the operation of their specific migration agencies, the Philippines is regarded as a role model in labor migration. The table below compiles the features of each agency in both countries.

Table 1.
Migration Institutions in Indonesia and the Philippines

Category	The Philippines			Indonesia		
	OWWA	POEA	DOLE	POLO	BNP2TKI	MoM
General Remark	OWWA is an agency under the DOLE specialized to manage labor migration. OWWA is a membership agency. Filipino migrant workers should pay \$25	POEA is a governmental agency which responsible to overseeing the benefits of overseas employment for Filipinos.	DOLE is the executive department which responsible to formulating policies, implementing programs and services, and acting as the policy-coordinator in the field of labor and employment.	POLO is part of the DOLE which acts as the foreign representative for DOLE administration and enforcement of its policies and programs. POLO is consisting of labor attachment.	BNP2TKI is the institution responsible for the placement and protection of Indonesian labour migrants.	The Ministry of Manpower is the institution responsible for labor affairs. MoM is responsible to enforce labor laws through labor inspection. MoM also formulates policies, guidelines, standards, and technical guidance in the labor field.
Legal Mandate	A Welfare and Training Fund for Overseas Workers (WTFOW) was first created through Letter of Instruction (LOI) No. 537 in 1977. Then, it was formalized by the issuance of PD 1649, creating the Welfare Fund for Overseas Workers (Welfund). Later in 1981, PD 1809 amended the provisions of PD 1649. With the re-organization of the DOLE by EO 126 in 1987, the Welfund was renamed Overseas Workers	POEA was created through Executive Order 797 (1982). Then, in 1987, EO 797 was amended by EO 247 to systemize the POEA operations to be more effective.	DOLE was founded on December 7, 1933, via the Act No. 4121 by the Philippine Legislature	POLO establishment is based on RA. 8042 of 1995	Presidential Decree No. 81 the of 2006	Government regulation No. 3 of 1947

Category	The Philippines				Indonesia	
	OWWA	POEA	DOLE	POLO	BNP2TKI	MoM
Role	Welfare Administration (OWWA). Develops and implements responsive programs and services ensure fund viability towards the protection of the interests and promotion of the welfare of its member- OFWs.	Industry Regulations Employment Facilitation Worker's protection General Administration and Support Services promote and monitor overseas employment Regulate private sector participation in OFWs recruitment (issuance of private agency licenses).	Policy implementation Approval of the destination countries Arranging and signing MoUs with destination countries	Ensure the protection of the rights and welfare of OFWs Support and implement DOLE programs Assist OFWs if they face employee-employer problem Supervise and coordinate the operations of the overseas resource center	Manage the placement of migrant workers by pursuing an agreement between the government of Indonesia with the government or the legal user of host countries. Provide services, coordinate, and supervise: documents; final departure briefing (PAP); problem-solving; financing sources; departure until repatriation; improving the quality of prospective migrant workers; information; quality of implementers of TKI placements; and improving the welfare of Indonesian migrant workers and their families. Issuing private agency license	Policy implementation Approval of the destination countries Making MoUs with destination countries Issued permit for private agencies regarding recruitment and placement of migrant workers

International Regulation Framework: Human Rights Approach

As a part of society and a human being, every people has the right to social security, including migrants. The trend of international labour migration now has changed from permanent migration to temporary migration. International migration becomes the focus of the policy agenda as many scholars and politicians relate migration with development and economic

growth. The higher flow of international and cross-border labour migration is creating new challenges as migrant workers face multiple shortcomings such as limited legal rights, social exclusion, discrimination, and a lack of social security.

Protecting migrant workers' rights to social security is imperative, not only focus on equality of treatment but also extending social security to the unprotected population. *The principle of territoriality* is one of the features that affect migrant workers to obtain social security (Hirose et al., 2011). Social security is confined to the territory of the country in which the legislation has been enacted. Consequently, migrant workers could lose their entitlement and coverage under the national social security scheme in their home country and also might not be eligible to obtain social security protection in the host country.

The principle of nationality also affects migrant workers to get social security (Hirose et al., 2011). Although some countries are acknowledging the equality of treatment between nationals and non-nationals in their social security schemes, other countries discriminate against migrant workers in their national legislations. For instance, some GCC countries exclude migrants from their national labour and social security law. In other words, the coordination of national legislations between countries is imperative to minimize the possibility of losing social security rights for migrant workers. In this sense, international coordination under bilateral and multilateral social security agreements are needed.

International Agreements

International social security agreements between sending and receiving countries – whether in the form of Bilateral Agreements or Multilateral Agreements – have been around for a long time. Bilateral agreement (BA) is an agreement between two countries which describes in detail the specific responsibilities and actions to be taken by each of the parties, to accomplish their goals. BAs create legally binding rights and obligations (Wickramasekara, 2015). A bilateral labour agreement (BLA) is an agreement that reflects the interests of sending countries and host countries regarding temporary migrants. BLA is a crucial tool for protecting the rights, ensuring decent working conditions, non-discrimination, fair remuneration, and also access to social justice.

A bilateral agreement tends to be more binding and action-oriented compared to a Memorandum of Understanding. MoU usually contains a general principle, that then has broader concepts of mutual understanding, goals, or plans agreed by the parties (Wickramasekara, 2015). While a bilateral labour agreement mostly contains general issues of labour, a social security agreement is focused on the implementation of social security benefits to migrant workers and

deal mainly with long-term benefits such as disability, old-age, and survivor pensions. Social security can be provided to migrant workers through coordination between the social security agencies of sending and receiving countries.

The Philippines relies on bilateral agreement scheme to manage their migration regime. RA 8042 and its amendment RA 10022 regulate that the state shall only be permitted the deployment of overseas Filipino workers (OFW) to countries that have bilateral agreements on the protection of the rights of Filipino workers. Nevertheless, the Philippines does not have bilateral agreements with all states and territories where OFWs work and reside, and not all of these BLAs are in force. In 2010, the Philippines had forty-nine BLAs with twenty-three countries and territories³. These bilateral agreements are varied from facilitation of migration to worker welfare and cooperation.

The Philippines also cooperates and negotiates social security agreements (SSAs) with states of employment. Pursuing SSA is a high priority for the Philippines government as mandated in RA No. 10022. Social security agreement aims to ensure protection of social security rights by (1) coordinating and regulating the social security scheme for all people who have worked and paid contributions in host or home countries; (2) eliminating territory boundaries and nationality-based restrictions in accessing benefits especially pension; and 3) settling issues on dual mandatory coverage.

SSS, as the implementing agency on social security provisions in the Philippines, has applied a two-pronged approach in reaching out to Filipino workers. The first approach is negotiating bilateral SSAs. This approach is a collaboration with the Department of Foreign Affairs. The second one is extending SSS coverage program, such as the scope of SSS coverage expanded in 2019 from voluntary membership to mandatory membership for OFWs. The Philippines, in pursuing SSAs, used four basic ILO principles. Equality of treatment and export of benefits as covered under ILO convention No. 118, and totalization of insurance period and mutual administrative assistance as covered under ILO Convention No. 157. To date, the Philippines has established SSAs with twelve countries namely Austria, Belgium, Canada, France, Netherlands, Spain, Switzerland, the United Kingdom, and the province of Quebec, Canada⁴.

These SSAs connect the host country's social security scheme with those of the Philippines. SSAs support the exportability and totalization of benefits. Therefore, the SSAs allow

³ The land-based agreements are with Bahrain; Germany; Indonesia; Iraq; Japan; Jordan; Korea; Kuwait; Lao PDR; Lebanon; Libya; New Zealand; Northern Mariana Islands; Norway; Papua New Guinea; Qatar; Saudi Arabia; Spain; Switzerland; Taiwan, China; the United Arab Emirates; the United Kingdom; the United States and the territories of Alberta; British Columbia; Manitoba; and Saskatchewan in Canada. The sea-based agreements are with Cyprus; Denmark; Japan; Liberia; and the Netherlands.

⁴ <https://www.sss.gov.ph/sss/appmanager/pages.jsp?page=SocSecAgreement>

Filipinos to file claims with the host country or the Philippines; get equal treatment and coverage with native workers; allow Filipinos to receive benefits upon their return to the Philippines and be eligible to receive benefit regardless of their residential choice; apply totalization of benefit so Filipino migrant workers contribution and employment in the host country and the Philippines counts toward benefit accumulation; and the benefit payments are shared by the host country and the Philippines (Go, 2012).

There is also one scheme that the Philippines develops beside BLAs or MoUs to extend protection for migrant workers. The governments of the Philippines and Saudi Arabia made a Memorandum of Agreement on Domestic Worker Recruitment in 2013. This agreement is projected to protect the rights of both Filipino domestic workers and their Arabian employers, as well as to regulate the contractual relationship. This agreement, however, does not have a specific provision related to social security.

Although it seems that the Philippines has been successful in negotiating SSAs to expand protection for OFWs, flaws remain. A report in 2010 pointed out that the Philippines' agreements are insufficient in coverage, lack of monitoring, and agreements are not binding (CMA, 2010). These agreements have not always led to necessary reforms in national laws and practices. However, social security agreements indeed have the potential to improve protection and equal treatment for migrant workers in the host countries. The Philippines also considers that BA is just one of the mechanisms to protect its migrant workers. The Philippines has tried to reinforce and supplement BAs and MoUs with other measures such as regulation, national labour migration policies, welfare funds, and social security agreements (Wickramasekara, 2015, p. 40).

Indonesia has also tried to protect its migrant workers through international agreements. However, unlike the Philippines which pursues bilateral agreements and social security agreements, Indonesia only has Memoranda of Understandings (MoUs) with host countries. Indonesia has signed MoUs with ten host countries⁵ as a means to protect migrants. In these MoUs, some issues become the concern of the government of Indonesia, such as addressing gender-sensitive, coverage of wage protection, provide social security and health care benefits. Most of the Indonesian agreements specify the applicable wage and some allowances. Malaysia's agreement with Indonesia is an example of these practices.

Female workers encounter different problems that need to be addressed in bilateral agreements, such as pregnancy and sexual abuse. In many destination countries within Asia and GCC and the Middle East countries, domestic work is not covered by labour laws. Therefore, the specialized domestic workers agreement should be omitted in response to this issue, given the

⁵ UEA, Japan, Kuwait, South Korea, Lebanon, Malaysia, Qatar, Jordan, Timor Leste, and Saudi Arabia.

fact that a large number of Indonesian female migrant workers go for domestic work. An agreement between Jordan and Indonesia is an example.

Indonesia's agreements with host countries also have drawbacks. In some cases, the MoUs have not transparent enough, and the agreements are not accessible to the public. In other cases, MoUs are not functioning well. For instance, Indonesia's agreements with Saudi Arabia and Malaysia cannot guarantee the protection of migrant workers. It can be seen from the BNP2TKI report that many Indonesian workers still receive abuse and unfair treatment. MoUs do not include the binding elements of bilateral labour agreements (Testaverde et al., 2017). The absence of bilateral social security agreement in Indonesia, perhaps due to a lack of administrative capacity to enforce and implement such an agreement (Hirose et al., 2011). Additionally, the provident fund scheme tends to restrain sending and recipient countries from concluding social security agreements.

Social Security Provision

Both countries have a comprehensive set of national legislations and regulations to manage migration and the rights of people to live in dignity. Indonesia's and Philippines' respective constitution's guarantee that every people have full rights (social, economic, and cultural rights) to work and receive fair and proper treatment whether they work inside or outside the country. The Philippines also has ratified thirty-three ILO conventions which bind it to fulfill and protect these rights. Nevertheless, political and economic constraints make Indonesia, and the Philippines have a long way to go in providing universal social protection for their citizens. The economic growth that faces stagnancy, and unemployment rate, which is consistently high suggest the persistence of jobless growth. Additionally, Indonesia and the Philippines as middle-income countries only able to accommodate 0.1% and 0.3% of their GDP respectively for social protection expenditure (ILO, 2017).

A closer analysis at economic indicators from the data in Chapter 2 leads to an assumption that economic conditions such as unemployment and national income (GDP) shape the corridors of migration. Both Indonesia and the Philippines experienced high unemployment problem followed by the low education attainment of its citizens, and high demand of low-skilled labour in many developed countries made Indonesia and the Philippines decide that sending labour overseas could be a help to alleviate the crisis. The rights of migrant workers are often limited because the more rights unskilled workers acquire, the more undesirable they are. Therefore, they should endure many abusive and discriminative treatments and constraints in accessing social security benefits.

Migrant workers, especially the unskilled and low-skilled one face many disadvantages while working abroad, the legal framework, both national and international, should be established to promote their welfare. There are some situations where traditional or conventional law is not applicable. Thus, international law is essential as an acceptable solution. From Chapter III, we can conclude that bilateral agreements, including social security agreements, is a significant element for enhancing social security protection for migrant workers, while the national scheme is imperative as another tool to secure migrant workers welfare while working abroad. The labour migration policies in Indonesia mostly targeted the unskilled and low-skilled migrant workers. While the Philippines also promoted skilled labour migration. From the analysis in Chapter III, the Philippines show more integrated implementation of migration, including the provision of social protection. Indonesia has an issue with a lack of clarity in the division of tasks, which affects the effectiveness of migration management.

This chapter focuses on the national social security schemes in both countries and tries to give a review on the system and quality of the social security delivery. This chapter is directed to describe the similarities and differences of social security schemes provided by the Philippines and Indonesia. By doing this, we can assess the strength and weaknesses of the system and compare them to draw a better understanding of social security provisions.

This section will further discuss social security providers and schemes by each country. Social security protection for overseas Filipino workers (OFWs) is managed mainly by the Overseas Workers Welfare Administration (OWWA), Social Security System (SSS), and also PhilHealth. While in Indonesia, starting in 2017, social protection was managed by the National Social Security Provider for Employment, known as BPJS Ketenagakerjaan. Previously, insurance for Indonesia's migrant worker was provided by private sectors. The performances of this private insurance are not satisfying enough. Many migrant workers cannot even enjoy the benefits.

Conclusion

So, what does the Philippines do? First, the most significant differences between Indonesia and the Philippines is a strong international commitment. By committing to ratify ILO conventions (International standard instruments), the Philippines shows to the other countries that they are serious and committed to acknowledging migrant's rights and enhance social security protection. They have ratified ILO conventions No. 118 (equality of treatment of social security), No. 157 (maintenance of social security rights), No. 19 (equality of treatment- accident compensation), No. 97 (migration for employment), No. 143 (migrant workers), and No. 189

(domestic workers). In terms of ratification of ILO conventions, Indonesia is lagging behind the Philippines.

Second, the Philippines actively pursues and negotiates bilateral social security agreements with recipient countries. The Philippines has SSAs with twelve countries and territories. It can be said that SSAs are the best tool to expand social security coverage for international labour so that they can enjoy the benefits. The Philippines are fully aware that they can strengthen the protection by using bilateral agreements. Bilateral and multilateral agreements can help to extend the coverage of social security protection for migrant workers, although they do not entirely solve the problem. By actively pursuing and negotiating SSAs, the OFWs can enjoy more social security benefits compared to Indonesian counterparts due to the portability of benefits. The Filipinos abroad can contribute to a pension scheme without losing any entitlement regardless of their residence.

Third, the Philippines also develops a strong national scheme to complement their efforts. Migration policy in the Philippines was initially pursued to promote migration for employment and remittances. Currently, the Philippines takes a wider perspective on the link between migration and development. The current migratory policy through Republic Act 8042 of 1995 tries to de-emphasize the economic aspect of migration and try to set a higher standard for the protection and welfare of overseas workers. The RA No. 8042 and RA No. 10022 regulate most of the aspect of migration. RA 8042 and RA 10022 are concerned about the social security for OFWs by claiming that OFWs are only permitted to work in a country that has social security for migrant workers or already has a bilateral agreement with the Philippines regarding social security protection. By progressing comprehensive national schemes, the Philippines can gain the confidence to pursue and enter into bilateral agreements.

When SSA is not available, or the receiving countries refuse to sign SSA, the Philippines relies on their national scheme. The Philippines makes all their national social security schemes are still valid for their national although they are overseas. The OFWs can access health benefits under the PhilHealth reimburse scheme. Additionally, SSS has around 23 office representatives to accommodate OFWs to register, promote the dissemination of information, claim payment of social security benefits, and premium contribution payment, which offers more convenience to the migrant workers.

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