

Indonesian Government's Efforts to Cooperate with Malaysia's Government in Protecting Educational Rights of Indonesian Migrant Workers Children (Case Study: Children of Indonesian Migrant Workers in Sabah)

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Abstract

Indonesia and Malaysia are geographically close countries. That is one of the reason why many Indonesian Migrant Workers come to Malaysia to look for a job. Although Malaysian Immigration Agency has banned migrants from bringing their families with them, there are still 50.000 Indonesian children in Sabah who work with their parents. But these children do not get a proper education. This study aims to examine how Indonesian Government response and effort to fulfill the protection of the education rights of Indonesian migrant children in Sabah, Malaysia. Using the concept of Soft Power Diplomacy and Legal Protection for Children, this study concludes that the Indonesian government has sought legal protection and education for Indonesian children in Sabah from discrimination by establishing diplomatic relations with Malaysia, NGO Humana Child Aid Society, Kota Kinabalu Indonesian School, and the Community Learning Center.

I. INTRODUCTION

Indonesia is ranked fourth for its largest population in the world. Based on 2015 Inter-Census Population Survey (SUPAS) issued by Indonesian Central Statistic Agency, it was found that the total population of Indonesian people in 2019 was 267 million people. [1] With population growth and a large number of its productive people, in fact, Indonesia has not been able to provide sufficient employment opportunities for its people.

That makes some Indonesian people have to look for opportunities to fulfill their economy as Indonesian Migrant Workers. [2]

Data from the National Agency for the Placement and Protection of Indonesian Migrant Workers (BNP2TKI) explains that of the 34 provinces in Indonesia, the highest percentage of Indonesian citizen who become Indonesian Migrant Workers comes from East Java Province with its total 16.009 citizen on

2019, the second province is Central Java with 13.651 citizen, West java with 13.651 citizen. The total of Indonesian Migrant Workers on 2019 was 64.062 people. [3] Meanwhile, if it analyzed by the district or city, the first place is Indramayu with 5.266 people work as migrants, East Lombok with 2.989 people, and Cirebon 2.799 people.

From many countries that become destination for Indonesian Migrant Workers to fulfill their economy needs, Malaysia is ranked one as migrant destination and it increased year by year for the migrant arrival from Indonesia. [4] Malaysia was chosen by Indonesian Migrant Workers because it has similar language, culture, and geographically close to Indonesia. Thus will accelerate the adaption process for migrant from Indonesia. [5] In 2017 the number of Indonesian Migrant Workers seeking for a job in Malaysia was 7.943 people, increased in 2018 to 88.171 people, and jumped up in 2019 to 19.695 people. Beside Malaysia, the destination chosen by Indonesian Migrant Workers are Hongkong, Taiwan, Singapore, Brunei Darussalam, and Saudi Arabia. [6] The data does not include the large number of Indonesian

Migrant Workers without legal documents or categorized as unlicensed foreign migrants.

Malaysia as a country with highest number of Indonesian Migrant Workers actually had issued regulations on the arrival of Migrant and Foreign Workers. According to Malaysian Immigration regulations, they prohibit foreign workers bring their families to live in their employer's house. [7]

Although Malaysia has their own regulation, in fact, many children of Indonesian Migrant Workers live in Malaysia. It is known more than 50.000 unidentified children of Indonesian Migrant Workers live with their parents who work in Sabah. [8]

Sabah is one from 13 states in Malaysia. Sabah is known as the second largest state after Sarawak. The capital city of Sabah is Kinabalu. With the source of income from oil palm plantations, the majority of Indonesian Migrant Workers work in oil palm plantations in Sabah to fulfill their economy needs. [9] In Sabah, they offer high wages higher than Indonesia worker's wages. So, it makes a lot of Indonesian Migrant Workers choose Sabah as their destination to fulfill their economy needs. The number of Indonesian Workers in Sabah followed by the

number of children living in Sabah to follow their parent's work. [10]

Those children who follow their parents live in Sabah do not have access for good education. In 2001, the Malaysian Government began to restrict Indonesian Migrant Worker's children rights to get proper education without complete documents. This makes Indonesian Migrant Worker's Children can not attend school due to administrative things. The restriction has forced the children to help their parents to work in oil palm field and help their parents to fulfill their daily basic needs. [12]

Children are a gold generation for the nation. Therefore, to produce a golden generation, a good education is needed including children in Indonesia. Indonesia also one of country that has ratified *Convention on the Rights of the Child (CRC)* that guarantee the protection of children's right in economy, social, culture, civil, and political fields. Indonesia has ratified the *Convention on the Rights of the Child* to Presidential Decree Number 36 1990 where Indonesian Government has obligation to maximize their effort to protect Indonesian children's rights. [13] In addition to the CRC, other international human rights law that regulate

children's rights to access education are Article 26 of the 1948 Universal Declaration of Human Rights which states that "*everyone has the rights to education*" it means that all Indonesian children is also rightful to received their education rights. Law number 35 2014 as a replacement from Law number 32 2002 also regulated the child protection includes all forms of protection so that they can grow, develop, and participate in society optimally, and receive protection from violence and discrimination. [14]

The problem of the limited fulfillment of children's migrant workers in Sabah is a concern for the author to write this paper. Based on the problem that have been described, then the author wants to examine how Indonesian Government's efforts in cooperating with Malaysian Government to protect Indonesian Children's Migrant workers in Sabah, Malaysia.

II. CONCEPTUAL THEORY

In responding to the effort of Indonesian Government to cooperate with Malaysian Government in protecting the educational rights of Indonesian Migrant Workers Children's in Sabah, Malaysia,

several concepts were used to analyzing the problems:

a. Soft Power Diplomacy

Soft Power Diplomacy Concept based on Joseph Nye (2008) *Soft Power Diplomacy* is 'ability to affect others to obtain the outcomes one wants through attraction rather than coercion or payment' he argues that soft power diplomacy enables a change of behaviour in others without conflict by using persuasion and attraction. [15] Joseph Nye pointed that *Soft Power* consists elements of culture, value system, and regulation / policies. Soft power can only be used if the other actor recognizes the effort, has the same expectations in its implementation, and strengthens the determination to achieve the goals. [16]

In this case, the Indonesian Government uses cooperation and negotiation method without any coercion in dealing with Malaysian Government for educational diplomacy mission related to fulfillment children's rights for Indonesian Children living in Malaysia.

b. Legal Protection for Children

According to Arif Gosita, it is said that the law of child protection is a written or

unwritten law and guarantees that children can carry out their rights and obligations. Child protection concerns various aspects of life and livelihood so that children can really grow and develop properly in accordance with their human rights. [17]

In this case, the efforts made by the Indonesian government in cooperating with Malaysian Government are considered as an effort to protect children's rights.

III. ANALYSIS

According to Hosti, International Cooperation begins because there were several problems in national, regional, or globally so it needs more attention from a country. Then, each government makes an approach by bringing proposal to overcome problems, bargaining, or discussing the problems, and conclude negotiations with an agreement or mutual understanding that satisfies all parties. [18]

The relations between Indonesia and Malaysia tied because the countries has similar common goal to be achieved, to fulfill the rights of Indonesian children residing in Sabah, Malaysia. This bilateral relations tied to

obtain the rights to proper education without discrimination in accordance with the Universal Declaration of Human Rights and the Convention on the Rights of the Child.

a. Children of Indonesian Migrant Workers that residing in Sabah Data

In 2018 Data from Ministry of Education and Culture Indonesia recorded a total 553.757 Indonesian children living in Sabah. 30.373 of the total children still have not had an access to school or proper education. Meanwhile 24.700 children have received their rights to attend school at the Kota Kinabalu Indonesian School. And another 14.000 children received educational services through Community Learning Center in Sabah. [8] Indonesian children residing in Sabah have difficulty accessing formal education provided by Malaysian Government due to legal document as a legal requirement for attending formal school. [19]

b. Indonesia Education Diplomacy towards Malaysia

In conducting diplomatic relations, a country needs to send diplomat with missions that have handed over to

them to be delivered at recipient country so that it can be new agreement and mutually beneficial for both countries.

The government's effort to protect the education rights of Indonesian Migrant Worker's children began in 2006 when the president of Indonesia conferred with the prime minister of Malaysia in Bukit Tinggi to discuss the problems of Indonesian workers in Malaysia, including the rights of Indonesian Migrant's children that residing in Malaysia. Then they signed MoU as a new chapter of Indonesian Government efforts to guarantee the rights of migrant workers and their children in Malaysia. This negotiation and agreement is one of Indonesia's soft power diplomacy in education field because in its implementation, there is no coercion to the Malaysian Government. [20]

In 2008, Soesilo Bambang Yudhoyono as President of Indonesia, reaffirmed the agreement between Indonesia – Malaysia regarding the fulfillment of Indonesian Migrant Worker's children rights in education by establishing the Kota Kinabalu Indonesian School

which received permission from the Malaysian Ministry of Education and several institutions in Sabah on 20088 Annual Consultation agenda. Kota Kinabalu itself is a capital city of Sabah. The Kota Kinabalu Indonesian School established based on Indonesian value and the mission of the school was built to create Indonesian Children with spirit of nationalism and produce good quality human beings. [21]

The Kota Kinabalu Indonesian School is registered as an expatriate school, but in its implementation, all children from Indonesia including worker's or migrant's children can attend the school as long as they have formal document, for example birth certificate.

But many of Indonesian Migrant Worker's Children did not have birth certificate as a legal document to register and attend the school. So, Indonesian Government initiate to build a non formal school called *Community Learning Center (CLC)* that has been legalized by Malaysian Government and Indonesian Government.

c. Delegation of Indonesian Representative for the Community Learning Center (CLC) Establishment

In carrying out diplomatic mission abroad, Indonesia has its own regulation as stated in article 2 regarding the division of Indonesian Government Representatives, which includes the Embassy of the Republic of Indonesia (KBRI) and consular representatives, which include the Consulate Republic of Indonesia (KRI) and the Consulate General of the Republic of Indonesia (KJRI). [22] the duties and the function of those diplomats are *representing* or as a representatives of the country in pursuing the interests of their country, *protecting* or as a protector of their country's interest and to protect citizen that residing abroad, *negotiation* function that means a diplomat has obligation to negotiate their country's interests to recipient country to make a new agreement, *reporting* function that means a diplomat has to report all of their works to the home based country, and *promoting* or maintain the cooperation between their home based country and the recipient country. [21]

To initiate the establishment of *Community Learning Center (CLC)*, the government has appointed the Indonesian Consulate General in Kota Kinabalu as Indonesia's representative in Sabah to carry out its diplomatic mission regarding establishment of Community Learning Center for Indonesian Migrant Worker's children that residing in Sabah. The Consulate General in Kota Kinabalu is in charge on managing all permits and operational applications for the Sabah Community Learning Center in order to protect the rights of Indonesian children that residing in Sabah and did not have proper education. In this case, The Consulate General in Kota Kinabalu working on protecting mission. Beside protecting, The Consulate General in Kota Kinabalu also working to negotiate with domestic stakeholder like Sabah State Safety Council (MKN), corps in Sabah, Oil Palm Company, Sabah District Education Office, and Sabah Provincial Education Office to take care all licensing, administrative, and legal document regarding Community Learning Center in Sabah that initiated by Indonesian Government.

Community Learning Center (CLC) then developed into a legal school that recorded on State Education Office of Sabah. *Community Learning Center (CLC)* is a free charge school that established in several place around Sabah. [23] To survive and develop their quality, Community Learning Center in Sabah affiliate with Kota Kinabalu Indonesian School to received a support for its learning system and financial support. Until end of 2019, it recorded that there are 232 CLC was established with total student 14.213 and 294 teacher from Ministry Education and Culture of Indonesia also 429 teacher assistance to help learning activities. [24] Beside negotiating and protecting mission, the Consulate General in Kota Kinabalu also working as a representation of Indonesian Government to attend meeting with Malaysian Government, attend invitation to commemorate big events in Sabah, and beside that, the Consulate General in Kota Kinabalu is also representative of Indonesian citizen that residing in Sabah. The Consulate General in Kota Kinabalu is also a representative for Ministry of Education and Culture to help Indonesian

citizen's administration that will residing in Sabah.

d. The Relations between Indonesia and NGO Humana Child Aid Society

Humana Child Aid Society is a non governmental organization that was established in Malaysia on 1991. Humana Child Aid Society as a non governmental organization aims to provide and facilitate learning centers for children living in palm oil plantations around Sabah who do not have legal document. [25]

Humana Child Aid Society adheres to the Universal Declaration of Human Rights and the Convention on the Rights of the Child which guarantees education for every human being without exception. Based on that spirit value, Humana Child Aid Society provides educational services for children in Sabah Oil Palm Plantations, both those who have legal documents and those who do not have legal documents. [26]

The cooperation between Humana Child Aid Society, Government of Indonesia, and Government of Malaysia began with a dialogue and meeting that lead to cooperation in education

services for the children of Indonesian Migrant Workers in Sabah. [27] After *Annual Consultation* 2004, the dialogue between Indonesian Government and Humana Child Aid Society was build. [28] Then in 2006, Government of Indonesia actively provided teaching assistance and educational assistance for Humana Child Aid Society. Humana is take a part to teach the children of Indonesian Migrant Workers from kindergarten to 6th grade of elementary school. Meanwhile for junior high school level and senior high school level will be handed to Kota Kinabalu Indonesian School or *Community Learning Center (CLC)*.

IV. CONCLUSION

The large number of Indonesian population that is not followed by the sufficient job opportunities makes some people look for opportunities to work as Indonesian Migrant Workers. Malaysia as a country that very close to Indonesia is being most destination for Indonesian Migrant Workers look for opportunities. Beside that geographically factor, Malaysia also offer high rate salary than Indonesia.

Sabah was chosen as a destination for many Indonesian Migrant Workers to look for a job. Malaysia through Immigration Office had prohibited migrant to bring their family residing in Malaysia. But that regulation was disobeyed by Indonesian Migrant Workers that brings their family to live in Malaysia, mostly in Sabah. As a consequences, the children who are supposed to be nation's assets do not get proper education services due to administration problem regarding legal documents to attend formal school. So that, Indonesian Government cooperate with Malaysian Government and NGO Humana Child Aid Society in Malaysia to make a formal school and learning center in Sabah. That was Indonesian Government's initiative to fulfill Indonesian children's rights in education. Indonesian Government through The Consulate General in Kota Kinabalu negotiate and affiliate with local stakeholders to established Kota Kinabalu Indonesian School and Community Learning Center for Indonesian Migrant Worker's children. As a result, in 2019 there were

232 Community Learning Center with total 14.213 students and 294 teachers and 429 assistance teachers. This conclude that through soft power diplomacy, Indonesian Government has sought legal protection and education for children in Sabah from threat and discrimination.

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