



The Impact of the Influx of Illegal Chinese Workers in Indonesia on Indonesia's Relationship with China

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Abstract

The influx of illegal Chinese workers has resulted in violations against the Indonesian government regulations such as the Immigration, Ministry of Manpower, and Ministry of Law and Human Rights in Indonesia. The method of this research is using qualitative research that explains about how is the impact between the relationship with Indonesia and China of the entry of illegal foreign workers from China on Indonesia from 2015 until 2017. Furthermore, this impact is being analyzed by using Neoclassical theory and Rational Choice theory. Finally within this resarch it has been found that, Indonesia still needs economic improvement from various foreign investors especially from China because the Indonesian State Budget has not reached the target of state infrastructure development. So far, the action that Indonesia can take rationally is to maintain it's good relations with China, for now and in the future. Therefore, Indonesia is still committed on revising its regulations and policies to improve its procedures in the employment and supervision of foreign workers in Indonesia that is in the sectors of the Immigration, the Ministry of Manpower, and the Ministry of Justice and Human Rights in Indonesia.

Keywords: *illegal foreign workers, China, Indonesia, Ministry of Law and Human Rights the Republic of Indonesia, Directorate General of Indonesia, Ministry of Manpower*

Introduction

Illegal foreign workers are certain citizens who work in the destination country but they do not have original documents that support their existence in the destination country to work. The issue of illegal immigrants from other countries, who enter to work in Indonesia, recently has become spotlighted by the media. Currently, the illegal entry of foreign workers (TKA) is no longer through unofficial gates as it has occurred in the past but through official gates, through International airports throughout Indonesia. This has been made possible by the government issuing a "Visa Free Policy" through the Presidential Regulation Number 21 of 2016. in November 2016, shows how many foreign workers there are in Indonesia based on their country of origin. What we can see in this graph is that Chinese are employed the most with 21,300 workers. It is known that the majority of illegal foreign workers in Indonesia come from China because China is experiencing a 5% unemployment rate; that being 40 million people from a population of 1.4 billion people (www.metronews.com 4/4/2017). The fact is there are more illegal foreign workers now due to the Visa Free Policy.

The Visa Free Policy allows visitors from 169 countries to enter Indonesia directly. By creating a visitor visa at immigration at International Airports in Indonesia, the government wants to open the door wide to foreign tourists to visit Indonesia. The foreign

workers from China whom many people discuss, there are some things that can be expressed as an excuse, that they are widely spread in some regions in Indonesia. They are located in Java (Surabaya, Bogor, and Bandung), Kalimantan, Sumatra, Central Sulawesi, and Papua. Most of them are working in the mining sector. Based on the facts mentioned above, the entry of foreign workers from China affects Indonesia, creating more of a financial loss to Indonesia than to China. On the other hand, at this time when Indonesia is in the era of Joko Widodo as the president, the administration has vigorously been carrying out development. It turns out that we need outside parties both in terms of capital and expertise to come to invest in Indonesia and one of them is China. Therefore, the problem of illegal foreign workers from China who work in Indonesia should be handled appropriately so that there is a satisfactory relation between the both sides; so that Indonesia and China will not be disrupted.

Discussion

The Entry Process of the Influx of Illegal Chinese Workers in Indonesia

Indonesia has issued a visa free policy with the aim to increasing the country's foreign exchange, by demonstrating the splendor and natural wealth of Indonesia. This policy has been misused by illegal Chinese workers who enter through every official gateway of all International airports throughout Indonesia via the Visa on Arrival (VoA) by paying only US \$35 or approximately Rp. 474,000.00. China is one of the countries that were designated by the Indonesian government as a country for the visa-free visits throughout 124 land, sea, and air immigration inspection venues in Indonesia. The Regulation of the Ministry of Manpower of Indonesia Number 16 of 2015 with the elimination of " The obligation of foreign workers to speak Indonesian" as contained within the Regulation of the Ministry of Manpower and Transmigration Number 12 of 2013 on "Procedures of the Employment of Foreign Workers". This result enables Chinese foreign workers to have easy access to Indonesia to work illegally without the ability to speak in Indonesian.

Illegal foreign workers from China come to Indonesia to work without a legal working status. They don't have supportive documents and work without permission from the authorities of Indonesia such as immigration and the ministries. They work to generate revenue and business in Indonesia and they also do not pay government taxes within their ongoing businesses. Violations committed by Chinese workers are contrary to the rules of foreign workers in Indonesia contained in the Regulation of the Ministry of Manpower of Indonesia Number 16 of 2015 Section 5 in Article 36 which states, "Foreign workers must have an education in accordance with job positions in order to work in Indonesia ". However, the majority of illegal foreign workers coming to Indonesia are unskilled with little knowledge and education. Unskilled workers do not have high wages and work in hazardous environments. The objective of a legally employed foreign worker in Indonesia is to provide skills and transfer of knowledge (ToK). The purpose is to limit the impact on Indonesian workers as foreign workers have a certain time and limit to work in Indonesia. As it is contained by the Regulation of the Ministry of Manpower of Indonesia Number 16 of 2015 Article 1 Section 2 which states, "Indonesian worker companions are workers of Indonesian citizenship who are appointed as escorts to foreign workers in the framework to receive technology and transfer of expertise from the foreign workers". Also the problem with illegal Chinese workers is that none of them have a Temporary Stay Permit Card (KITAS), Issuance of Expatriate Employment Permit (IMTA) and an Expatriate Placement Plan (RPTKA). Temporary Stay Permit Cards grant permission to foreigners holding a temporary resident permit in Indonesia to stay within the period of one year. If the workers do not have a KITAS, IMTA, or RPTKA, they are directly classified as an "overstayers".

Problems of Illegal Chinese Workers in Economic, Social and Political Sectors in Indonesia

In terms of economy, Indonesia is one of the countries that is a destination for foreign investors, especially from China. Regarding the increasing numbers of foreign workers who are working on state revenues, by 2017 data sources from the Directorate General of Immigration Ministry of Justice and Human Rights (Kemenkumham). They noted that in the absence of a free-visa policy, this resulted in an increase of non-tax state revenue (PNBP) by 52% or around 1 Trillion Rupiah. Income of the country's foreign exchange was not going as expected by the government towards its' economy growth and Indonesian citizens cannot pay the state tax because of the high unemployment rate and poverty. The Indonesian Central Bureau of Statistics (BPS) provides data about the number of unemployment in Indonesia which in February 2017 reached 7.01 million people.

Social problems are caused by illegal Chinese workers in Indonesia because both domestic and foreign companies tend to prefer foreign workers to work compared to hiring Indonesian workers, especially in mining, power and nickel-based companies. This reason is because the instruction tools are written mostly in Mandarin Chinese script. These unskilled foreign workers are being recruited by the companies in order to be better able to coordinate with the other workers as they are compatriots and being able to communicate enables the company to run well. Difficulties also arise due to the difference of language and the Chinese workers having a lack of knowledge of Indonesian culture which puts more emphasis on politeness this causes quarrels to occur. Social disparities occur that cause many Indonesian workers being laid off by companies for preferring foreign workers. The social problems that are caused by illegal Chinese workers towards the society around them can be seen in the case in South Solok Regency, West Sumatera. The society in this place is restive with the presence of illegal Chinese workers that are working in a mining company that was built by Chinese investors. They work in a buffer zone, which is a "Protected forest ". This forest is being protected by the Sub-district government of Koto Parik Gadang that and is about 120 kilometers south of Padang City. The local people are worried about the activities that are being carried out by these illegal Chinese workers in this mining company on their environment. With possible damage of the ecosystem of their protected forest areas, because these workers are using explosive devices in their area to make the mining tunnels without supervision on how they work. This causes the society nearby every day to be restless, disturbed, anxious and shocked (Tribunnews.com, 2017).

The political problem that is happening in Indonesia caused by illegal Chinese workers creates disputes between the Indonesian government and Indonesian local workers. The Director General of Developing and Placement of Workers, Maruli Hasoloan said that, "Chinese workers that have been convicted of violations in Indonesia are being handled by our staff by giving sanctions to their committed violations according to our regulations." From the President of the Confederation of Indonesian Workers Union Team (KSPI), Said Iqbal that stated, "I disagree with the statement that has been given by our government, I have participated with other parties to investigate this issue. KSPI has found that, there are many illegal Chinese workers that are also unskilled workers working in all lands and regions in Indonesia. KSPI has also recognized that our government does not see the potential of our Indonesian local workers that have more capable skills and credibility rather than employing Chinese workers to work in various companies in our country." The member of the 9th Commission of the Head of Representatives of the Republic of Indonesia, Aoki Setiawati said that, "Indonesian workers are experiencing massive unemployment mostly by mining industrial companies and that these companies are also foreign companies that are built in Indonesia." In regards to the political problems that are

happening due to illegal Chinese workers, the Deputy President of the Confederation of Indonesian Workers Union Team (KSPI), Muhammad Rusdi in his interview The Director General of Developing and Placement of Workers, Maruli Hasoloan said that, "Chinese workers that have been convicted of violations in Indonesia are being handled by our staff by giving sanctions to their committed violations according to our regulations."

Indonesia's Immigration Issues and Cooperation towards Illegal Foreign Workers in Indonesia

The Immigration of Indonesia based on the Law Number 6 in 2011 that states, "The realization in the implementation of sovereign enforcement in Indonesia's territory is to maintain the order of life of the nation and the state to a prosperous society. Immigration Civil Service Investigators or Penyidik Pegawai Negeri Sipil Imigrasi (PPNSI), according to the Regulations of the Ministry of Law and Human Rights Number 4 of 2017 on Immigration Control Procedures their duties are: observing, investigating, reporting, and giving sanctions that are against Indonesian Immigration regulations. They also coordinate with other civil service investigator agencies, mostly on handling foreign workers. They will work with Civil Service Investigators of Manpower or Penyidik Pegawai Negeri Sipil Ketenagakerjaan (PPNSKT). The problem for the Immigration Civil Service Investigators is created by the shortage of staff which is an oversight. Throughout 2016, the Directorate General of Immigration Ministry of Law and Human Rights recorded 8.9 million foreigners entering Indonesia, while the number of their special officers for surveillance and enforcement of Immigration was not even up to 100 people and the Director of Supervision Immigration, Yurod Saleh claimed that, "The number of our personnel is indeed a major obstacle to supervision, because not all cities and districts have immigration offices. So the scope of supervision cannot be comprehensive to reach the presence of foreign workers especially from China because they are not located in one place but throughout Indonesia" (equator.co. id, 2017). M. Imam Santoso (2004: 2) stated that, "The negative impact of migration flows is the emergence of immigration crimes such as people smuggling, forgery of immigration documents and the misuse of immigration licenses." Based on the data of the Ministry of Manpower in 2017, supervision on foreign workers was carried out by only 2,294 people consisting of, General Supervisors, Specialists and Civil Service Investigators.

In regards to the cooperation between the Directorate of Immigration of Indonesia and the Ministry of Manpower of the Republic of Indonesia over illegal Chinese workers, according to the writer's research, both sides have already held a meeting on the "Matrix Coordination Between the Directorate of Immigration of Indonesia and the Ministry of Manpower of the Republic of Indonesia" the contents included: the perimeter of actions between the agencies, needs and interests of both sides, and other regulations being added. The usual condition of the IMTA is for it to be valid for one year, and it can be extended. Regarding the illegal Chinese workers, it has been decided that the IMTA will be valid in accordance with their working contact within the company where they work for a maximum for three years and it can be extended in the second year for a validity of two years extension. Due to the differences between these agencies some problems have arisen regarding illegal foreign workers from China. The writer interviewed the Regional Action Head for Region I of Directorate General Immigration, Mr. Agung Pramono, he stated that, "There are still misinterpretations in handling foreign workers because this is the responsibility of the staff of the Ministry of Manpower who have a different perception in defining working and visiting in Indonesia."

Case Study: Illegal Chinese Workers at IMIP Company in Morowali, Central Sulawesi

Chinese investors have invested more than a billion dollars into the area of Morowali, Central Sulawesi. This has turned Morowali into a new economic center and luring people from across Sulawesi towards the development that is increasing in this industrial estate. For China, Morowali is an epitome of success on exerting its economy might in Southeast Asia (Jakarta Post, November 14, 2017). China strives in turning this regency into the world's biggest center for integrated nickel contact stainless steel production. Indonesia Morowali Industrial Park (IMIP) Company is a joint venture between China based Shanghai Decent Investment Group and local mining firm Bintang Delapan Group, which is linked to several retired military generals. Until now, investors have invested around US\$ 5 billion in developing the Morowali industrial complex and supporting the infrastructure that includes nickel mines. Moreover, the writer interviewed a former employee of IMIP named Mr. Febrianto Tatong, he was fired by IMIP and said that, there are more than 10,000 Chinese workers living in the IMIP area. They are prohibited to roam around outside or leave this industrial area without permission and need an escort to guide them outside the area. The society in Morowali urged the House of Representatives to deal with the illegal Chinese workers that are currently working in IMIP. There are claims of discriminatory policies carried out by IMIP by the local community and employees in regards to the company's management system. These are very serious as they violate statutory provisions, and there are further issues of environmental damage, human rights violation in this corporate environment. One of the conflicts is, the foreman of the area who is Chinese, does not allow any of the local workers that are mostly Muslims to have their Friday Prayer. In this matter IMIP has not created a sense of security and this has led to social jealousy and even at times deteriorating to physical fights in this working environment. IMIP also prohibits local employees from carrying out their religious obligations which is a private right that can not be disturbed in any circumstances. It is strongly urged that the company abolish all forms of corporate policy that conflict with human rights. (akuratnews.com, 2017).

Indonesia's Rational Decision is to Limit the Impact of Illegal Chinese Workers on Its Diplomatic Relations with China

In 2016, the Ministry of Law and Human Rights of the Republic of Indonesia, and the Ministry of Justice of The People's Republic of China signed a Memorandum of Understanding (MoU) on "Exchange and Cooperation" between the two countries. The memorandum stated that the two countries will work together in: exchanging information and experiences on legal matters and human rights, enhancing functions and competences between both countries, and capacity building in the field of common concerns. Indonesia and China are also intensively increasing their cooperation in economy especially in infrastructure projects and turnkey projects. There are also reports from the immigration office on some priority of projects being listed. Also the Indonesian Immigration has reported that, turnkey projects will involve a number of foreign investors that will also bring their workers from China. Below is an analysis and observation from the Directorate General of Immigration towards foreign investors and the benefits for the Indonesian government. According to the Chief Representative Regional Head I of Indonesia Immigration both of these Ministries are working to support this matter by using the Presidential Regulation Number 91 of 2017 that is about, "Implementation on Accelerating Business".

In classical basic sources of rationality, any operation of reason that occurs in consciousness for instance, engaging in reasoning maybe considered a kind of intellectual experience. (Mele and Rawling, 2004: 19) Indonesia has their experience with China with many considerations taken into account due to the many potentials created from this relationship, especially in Indonesia's economic development. Because Mingst (2003: 139) stated, in actuality, foreign policy outcomes of the state are shaped by both domestic and international factors. Indonesia's outcome towards their foreign policy on focusing on foreign investment gives Indonesia rational obligations towards foreign investors in order for them to have easier access for investing while still maintaining consistency within its sovereignty on protecting its national security. The effect of illegal Chinese workers on the diplomatic relations between Indonesia and China is still in motion that has been stated before by the Minister of Foreign Affairs. This is in part due to Indonesia's continuing need for Chinese Investment. Moreover Mr. Laode Ida stated, "the effect of illegal Chinese workers in Indonesia are causing conflicts with society near them and local workers to be unemployed because Chinese workers are being given preferential treatment." With Indonesia's Rational Decisions with China, the statement from the Minister of Foreign Affairs, Mrs. Retno Marsudi, she stated that, "Indonesia would strive to maintain its good relations with China despite the issue of illegal Chinese workers in Indonesia (Jakarta Post, 2016). According to, Sub-Directorate Head of Work Environment in the Ministry of Defense, Colonel Sudi Prihatin, "one of the new threats to Indonesia's Sovereignty is the large scale of foreign workers entering Indonesia, because threats to a state's sovereignty exist in military and non-military form. Foreign workers are in the form of a non-military threat" (Tirto.id, 2016). However, Vice President of Indonesia, Mr. Jusuf Kalla during his meeting with the Vice Prime Minister Liu Yandong stated, "It is permitted to invest in Indonesia but it is not allowed to bring too many foreign workers because the jobs should be held by local workers. Experts from China are welcome to come as long as they share their knowledge with the Indonesian workers." (Republika, 2017).

Notwithstanding that, the statement of the Vice President of Indonesia, Mr. Jusuf Kalla makes matters clear, "Basically, Indonesia and China (we) need each other. China needs a big market and Indonesia has it. In addition, it is also a necessary relationship between 'people to people' and investment in various fields. China is one of Indonesia's main economic partners and the trade value of both countries in January until August 2017 reached US\$ 35.79 billion. This value increased 23.12% over the same period last year. Also, throughout January until September 2017, China's investment reached US\$ 2.73 billion and China has become the 3rd largest foreign investor in this country." (Republika, 2017). Despite concerns with this issue, relations between Indonesia and China are still in a good position as can be seen by China still investing in Indonesia. Mr. M. Hanif Dhakiri the Minister of Manpower states that, "the Indonesian economic budget or APBN on infrastructure is not enough, therefore, foreign investors are needed.

Conclusion

Regarding to this issue, Indonesia's relationship with China will remain to have good position because of Indonesia's economy needs towards foreign investors. Even though, the level of supervision of both the government and their agencies of illegal foreign workers at foreign and domestic companies that come to Indonesia is still deficient. This is greatly due to difficulty in reaching particular areas where some of these companies are located. The limited access restricts the supervisory team in monitoring foreigners. The policies issued by the Indonesian government from the Presidential Regulation, the Ministry of Manpower Regulations, and Ministry of Law and Human Rights, the Directorate of Immigration Regulation have not been fulfilled. Due to lack of supervision,

the enforcement of policies has been hindered thereby many illegal foreign workers, especially from China, have been able to get away with committing violations with impunity. Although the highest officials cooperate with the Chinese government, it is their subordinate employees who regulate the entry of foreigners into the territory of Indonesia. It is these subordinates who are behind the cunning allowances for easy entry of foreign workers to work here illegally without documentation. In answering the effect of the entry of illegal foreign workers from China to Indonesia in regards to the relationship between Indonesia and China in the 2015 until 2017 period, by Mrs. Retno Marsudi statement in 2016 that is hoping to maintain Indonesia's relations with China despite the dispute created by the issue of illegal Chinese workers. Also in the statement from Mr. Jusuf Kalla the Vice President of Indonesia in 2017 stated, "China is one of Indonesia's main economic partners and the trade value and investment of both countries is important. However, we do not approve of foreign investors bringing too many of their workers to Indonesia and we suggested that local workers improve their skills in China or in Indonesia so they are able to perform the work needed." (Republika, 2017). With Mr. Hanif Dhakri and Mr. Laode Ida's statements it can be presumed that Indonesia and China's relationship will go well even though this issue has an effect on the social and economic sides in Indonesia. In handling illegal Chinese workers in Indonesia, the Indonesian government should revise and make amendments, and add other regulations in regards to the issue of illegal Chinese workers in Indonesia. The two main agencies: the Ministry of Manpower and the Indonesian Immigration will focus more closely on this issue with their own regulations on supervising, observing, and reporting. The Ministry of Law and Human Rights of Indonesia with the Ministry of Defense of China will enhance the tracking of illegal Chinese coming to Indonesia within their MoU.

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