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Journal Discussion I: Current Conditions of SEA MDWs Needs and Issues, Laws and Regulations of the Said Needs and Issues, and What It Is Still Lacking of It

Introduction

Asia Continent is a region with a high number of Migrant Domestic Workers. According to International Labor Organization Report in 2021 there are 38,3 million people who work as MDW in Asia-Pacific. It means Asia has contributed to 52,1% of Migrant Domestic Workers Populations around the world. Based on that report, Southeast Asia is the most contributing sub-region in Asia with amount of 4,8 Million MDWs around Asia-Pacific are coming from the region, that means Southeast Asia contributing for 12,5% amount of MDWs availability within the region (International Labour Organization, 2021, p. Executive Summary). Two countries with the most MDWs population in Southeast Asia are Indonesia and the Philippines in which they contribute total of 1,2 Million and 2 million of MDWs respectively (International Labour Organization, 2021, p. 5).

The high amount of MDWs population within the region has made this problem becoming more complex. In positive context, countries are able to turn it into their income trough the economic remittances that the MDWs have done. In other hand, it could lead into something negative because the countries need to provide the MDWs that willing to work abroad with proper and sufficient regulations and accommodations. Therefore, it could be a challenge for the countries to turn the concept of “safe migration” into realization and giving the MDWs protection to their rights.

Speaking of the negative impact, it is worse to know the fact that most of the Southeast Asia MDWs are female. According to International Labor Organizations Report in 2021 80,5% of Southeast Asia MDWs were female. According to CEDAW, Female Migrant Workers are included in the Vulnerable Group due to their vulnerability of being in any kind of danger, and also any potential harm to them. Therefore, in this Journal Discussion, we would like to explain further more about the Current Conditions of Southeast Asia MDWs, Their Needs and Issues, Regulations and Laws of the Said Needs and Issues, and What It is Still Lacking of It.

Discussion

A. Profile of Southeast Asia Economic and Population in General

Southeast Asia is one of the most populated sub-regions in the continent. According to *Worldometer.com*, Southeast Asia has 668,619,840 population within the region which means that 8,6% of world population exist in this region (*Worldometer.com*, 2022). Apart from the population aspect, Southeast Asia also has high number of economic developments. In 2022 alone, the economy of Southeast Asia has been estimated to grow for 5,2% (*OECD Publishing*, 2022). With the combination of high number of population and economic development, there are also some negative impacts upon the high number of the said aspects of the Southeast Asia. According to *Theglobaleconomy.com*, Southeast Asia has also high poverty. Between the year of 1985-2020, poverty rate in Southeast Asia reached the number of 11%. Moreover, in 2022 as the impact of Covid-19 Pandemic, it has been predicted that there are going to be 4,7 Million people in Southeast Asia will fall into poverty and approximately 9,3 Million Jobs Opportunity will be gone due to the same thing (Jacob, 2022).

Out of the Covid-19 Context, poverty has already been a major problem for this region. One of the factors why the poverty rate in Southeast Asia is high is a high number of population growth in every year. According to *Asian Development Bank*, Southeast Asia has 4,9% rate of population growth and that means Southeast Asia is the 3rd region with highest population growth in Asia-Pacific. Dennis Ahlburg has said that high number of population growth could lead a country into some new problems such as lack of job opportunities, over-population, lack of quality education and its access, degenerate the GDP, etc. that could lead into high rate of poverty (Ahlburg, 1996).

B. Southeast Asia Migrant Domestic Workers Profile

We have mentioned before that the high rate of population growth could lead a country into a lack of Jobs Opportunity. With the lack of job opportunity, many people from Southeast Asia countries put themselves into migration or emigration and become Migrant Domestic Workers in other countries. Speaking of Migrant Domestic Workers, Southeast Asia has a high amount of MDWs, there are 4,8 Million of MDWs in Asia-Pacific who come from Southeast Asia and it means 12,5% of MDWs within the region come from Southeast Asia. Most of these MDWs are female in which 80,5% of them are female. They were employed to do domestic works like being a housemaid, or even become a caregiver and the rest of them, or 19,5% of them are male in which employed in a job such as driver, chef, gardener, construction workers, or security

workers. While on a global scale, Southeast Asia contributed for 50% amount of Migrant Workers availability. As for the details are, Philippines (6.094.307 MDWs), Indonesia (4.601.369 MDWs), Myanmar (3.711.751 MDWs), Vietnam (3.392.025 MDWs), Malaysia (1.860.037 MDWs), Laos (1.296.051 MDWs), Kamboja (1.104.819 MDWs), Thailand (1.086.985 MDWs), Singapura (348.464 MDWs), Brunei Darussalam (45.340 MDWs), and Timor Leste (39.588 MDWs) (Migration Data Portal, 2022).

Poverty is the main factor on why there are so many MDWs coming from Southeast Asia. By employing themselves as MDWs, they have a dream to bring prosperity to their family back home. With low education and skills, the best possible way for them to do such thing is to become MDWs. Apart from that, these MDWs could also help their home country by doing economic remittances so it can help the income of their countries. In 2019 alone, 10% of Southeast Asian Nations income were coming from Economic Remittances. In other words, during the said year countries within the region received US\$ 35,2 Billion amount of income collectively (Migration Data Portal, 2022).

C. Current Conditions, Issues, and Needs of SEA MDWs

In current conditions, the high number of MDWs from Southeast Asia makes them become more vulnerable due to the lack of law and regulation on their protection. It's worse the fact that most of them are female in which according to CEDAW 1979, Female Migrant Workers are included to the Vulnerable Group list which means that they have every right to be protected under an adequate law. According to *International Labor Organizations* Report there are only 67% of MDWs within Southeast Asia and Pacific that covered in the domestic legal framework. (International Labour Organization, 2021, p. Executive Summary).

The lack of legal framework on the protection of MDWs makes the MDWs at some times are threatened with abuse that make them in danger. Low income, Over Working Time, Lack of Social and Healthcare Protection, Low Accommodation, and Lack of Privacy are some of the needs and issues of the Southeast Asia MDWs. In the Asia-Pacific Region only 15,7% total amount of MDWs that are covered in Social Protection (International Labour Organization, 2021, p. XI). Apart from that, there are no specific laws and regulations on the rights of the MDWs, and the host country only refers to their domestic-applied general and regulations or law on manpower.

The other things apart from the lack of specific regulations about MDWs rights and obligations. Working hours regulations is also the one that lacking in the needs and issues of

MDWs in Southeast Asia. Vietnam, Cambodia, the Philippines, and Thailand are the only countries within the region that have specific regulations about Working Hours in which the employer are regulated to give at least 24 hours of break weekly to the employee. Based on the rule of those 4 countries, that means 94% of MDWs in Southeast Asia are not covered with the same rule in other countries within the region (International Labour Organization, 2021, pp. 11-14).

Other needs and issues that SEA MDWs have to face is the regulation-lack of payment and annual leave payment. There are only 19% of MDWs in Southeast Asia-Pacific that are covered and gain the rights to have annual leave payment. As for countries that apply the regulations are the Philippines, Vietnam, and Thailand (International Labour Organization, 2021, p. 14). As for the issues and needs of payment aspects, most of the countries within Southeast Asia apply per hour-payment system and it makes the MDWs don't get the proper amount of payment as they should.

One more thing that has been the needs and issues of the MDWs in Southeast Asia is legal framework and regulations on the protection of social protection, including maternity protection. In Asia-Pacific Region, 27,9% MDWs are at least covered in one aspect of social protection, and countries such as Indonesia, Vietnam, and Thailand have a clear regulation about this aspect (International Labour Organization, 2021, p. 20). About the maternity protection, 59% of MDWs in Southeast Asia are covered for this aspect, whilst in Malaysia and Singapore it is forbidden for the MDWs to get pregnant during their working period in the countries (International Labour Organization, 2021, p. 21).

D. Laws and Regulations of the Said Issues and Needs

This part would give explanations about the Laws and Regulations of the Said Issues and Needs that has been written in the previous part. First, the Laws and Regulations on the Protection of Social and Manpower Rights and Access. As it has been mentioned before, there are only 15,7% of Southeast Asia MDWs that are covered in such regulations. On global scale, this aspect is written in ILO Convention, No. 189 about the Protection of Social and Manpower Rights of the Migrant Workers. Whilst on national scale, only Thailand and the Philippines that have specific regulations on this aspect. As in the Philippines, it is written in *Batas Kasahambay* or Republic Act, No. 10361, and in Thailand it is written in Thai Labor Protection Act/Ministerial Regulations, No. 14. While in Indonesia, there are no specific rule upon this issue but the protection of Migrant Workers Rights is generally written in *UU No. 18 year 2017*

about Indonesian Migrant Workers Protection. In the regional scale, there is ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers, Chapter 3-4 about the Basic Rights of Migrant Workers (International Labour Organization, 2021, p. 12).

The second needs and issues are Working Hour. On national scale, all countries within the region have different regulations. In Vietnam, this aspect is written in Labor Code Art. 89 and 89 (3) about the maximum amount of working hour in which limited in 48 hours maximum and about consent between employer and employee regarding working hours period. While in Cambodia, it is written in Art. 9 *Prakas* Constitution, No. 235/2018 about minimum limit of break time. In the Philippines they have Constitution Section 21 of Republic Act 10361 about minimum 24 hours of day off weekly. Another law is in Thailand in which written in Section 28 of Ministerial Regulations, No. 14 B. E. 2555 about minimum amount of 1 day off weekly. In Vietnam it's regulated in Article 89 (3(B)) and Article 111 (1) of the Labor Code that require every employer to give 4 days off in a month to their employee (International Labour Organization, 2021, pp. 13-14).

The next one is the issue and needs on Annual Leave Payment. In Southeast Asian, this aspect is actually are highly-considered. According to ILO Report, 65% of MDWs in Southeast Asia are covered on this aspect with different kind of domestic regulations accordingly. In the Philippines, this aspect is written in Section 29 of Republic Act 10361. While in Vietnam they have this aspect regulated in Article 113 of Labor Code 2019 on the obligation to give 12 days off with consistent payment, and in Thailand they have Article 30, Labor Protection Act of Ministerial Regulations, No. 14 Year 2012. Whilst Indonesia, Malaysia, Cambodia, and Singapore are yet to have this regulation (International Labour Organization, 2021, p. 15).

The next one is about the regulations of Payment issue and need. About this issue and need, there are no any specific legal framework in regional scale that obligate about minimum amount of payment. Instead, each countries have their domestic regulation about this one. In Vietnam, it is written in Article 89 (2) of Decree 2022 about minimum limit of payment and monthly accommodation and consumption cost arrangement. In Indonesia there is Article 1 of *Permenaker*, No. 2 year 2015 about normative protection on domestic workers including MDWs. In Thailand, they have Ministerial Regulations, No. 14, and in the Philippines this aspect is obligated in Section 25 of Republic Act 10361 about payment mechanism on domestic workers both migrants and local workers. With those regulations that means 58% of MDWs in

Southeast Asia are covered in the aspect of minimum payment (International Labour Organization, 2021, p. 17).

The last one is the issue and needs of Social Protection, including Maternity Protection. On global scale, this aspect is regulated in ILO Maternity Protection Convention (2000). In Southeast Asia, the countries within the region have their own constitution regarding this aspect. Countries that have the regulation specifically are Indonesia, the Philippines, and Vietnam. In the Philippines they have Social Security System Circular, No. 036 in which ratified to ensure that the employee receive at least 1000 Peso monthly from the employer as their Healthcare and Maternity Protection. Whilst in Singapore it is regulated in Fourth Schedule, Part 4, Section 7 of the EFMA that forbid the MDWs to getting pregnant while they are working in the country, except they have fulfilled the applicable conditions. In Malaysia, the MDWs are forbidden to get pregnant and the MDWs are obligated to pass the pregnancy test before they entry to the nation or before they extend their work permit. In Vietnam this aspect is regulated in Article No. 28 of Decree 27/2014/ND-CP that says MDWs have full Maternity Protection in accordance with applied Domestic Social Protection Constitution (International Labour Organization, 2021, pp. 21-22).

E. Lack of the Said Laws and Regulations of the Said Issues and Needs

Based on the explanation that has been written above, the compliance of the needs and issues of MDWs has at least been fulfilled, though there are not any specific regulations about the protection of MDWs Needs and Issues yet. Starts with working hour aspect, it still lacking in the awareness of the involved stakeholder about the protection of MDWs needs and issues on proper working hours. This lack of awareness leads into the absences of contract standardization for the MDWs in Southeast Asia. Next aspect is about Social Protection. This aspect needs to be improved as it still lacks on its accountability and efficiency, low of benefits, administrative barriers, and high rate of cost and payment makes it is difficult for the MDWs in Southeast Asia to be able to have this protection.

The next aspect of needs and issues that is still lacking of something is Work Safety and Healthcare Protection. What it still lacking from the aspect is the absence of work safety, such as inadequate working environment due to high privacy control from their employer because they work in their employer house. This condition at some time makes them vulnerable and have high working risk in any kind, such as harassment, violence, depression, and low privacy

space in which give impacts to the physical and psychological health of the MDWs (International Labour Organization, 2021).

Moreover, the other lacks of the said regulations are the lack of knowledge about the legal access, language barriers, lack of legal support, and fear of losing the job. Those lacks are the main cause why MDWs in Southeast Asia are often ignoring the existed regulations about the protection of their rights, and continue the job instead, despite not having their needs and issues protected and fulfilled properly.

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