



Sylvia Yazid

Indonesia's Civil Society in the Age of Democratization

NGO-Responses
on the Issue of Labor Migration



Nemes

Die Deutsche Nationalbibliothek lists this publication in the Deutsche Nationalbibliografie; detailed bibliographic data is available on the internet at <http://dnb.d-nb.de>.

Zugl.: Monash University, Australia, School of Political and Social Inquiry, Faculty of Arts, Diss., 2011

ISBN 978-3-8487-0697-6

1. Edition 2013

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Acknowledgements

The publication of this book is made possible by the support from Professor Dr. Christoph Schuck and his team at the Department of Philosophy and Political Science, Faculty of Human Sciences and Theology at TU Dortmund University and the funding from the Gambrinus Fellowship of Dortmunder Volksbank, Germany. This book is based on my Ph.D. thesis, written in the School of Political and Social Inquiry, Monash University, Australia. The completion of the research would not have been possible without the remarkable support from my supervisors, Associate Professor Susan Blackburn and Dr. Penelope Graham. I am also grateful for the inputs from Dr. Michael Janover, Professor Ken Young, Professor Greg Barton, Professor Amarjit Kaur, Associate Professor Nicola Piper, and Professor Kathryn Robinson whose feedback and suggestions have helped me in shaping the research and writing this book. For the preparation of the manuscript, I would like to acknowledge the immense support from Matthias Heise, M.A., and the assistance from Julia Dumin.

I am greatly in debt to my respondents. They are Anis Hidayah, Wahyu Susilo, Alex Ong, Salma Safitri, Thaufiek Zulbahary, Risma Umar, Asma'ul Khusnaeny, Tati Krisnawaty, Damos D. Agusman, Tatang B, Razak, Ferry Adamhar, Syafruddin Setiabudi, Jumhur Hidayat, Ade Adam Noch, Ramiany Sinaga, Lisna Poeloengan, Nursyahbani Katjasungkana, Tuti L. Soetrisno, Albert Y. Bonasahat, Riana Puspasari, Riwanto Tirtosudarmo, Lisa N. Humaidah, Indra Piliang, Cynthia Gabriel, Irene Fernandez, Ridwan M. Sijabat, Geni Achnas, and many others whose knowledge and experience I have benefited from.

My candidature was made possible with the funding from the Australian Development Scholarship. For that, I thank the AusAID staff in Jakarta, Canberra, and Melbourne. To pursue my study and the fellowship, I had to be absent from the Department of International Relations, Parahyangan Catholic University, Bandung. I thank my colleagues, the faculty, and the staff for their support and understanding. For the continuous encouragement to expose myself to the international world, I thank Professor Bob S. Hadiwinata and Dr. Pius S. Prasetyo. I am also deeply grateful for the friendship of Aknolt Kristian Pakpahan, Kathrin Rucktäschel, Elisabeth S. Dewi, Riesa Fiana, Aquarini Prabasmoro, Illiah, and Gracia Girsang.

To my heart and soul, my husband Gumelar Rahayu, our son Chaska Rashadel Gumelar, and our daughter Nayla Amabel Gumelar, I could not ask for better companions in making my intellectual journey.

This book is dedicated to the brave Indonesian women who leave their families and homes in search of a better living abroad and all parties that have relentlessly made the efforts to protect these women along the way.

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Glossary of Terms

Advokasi	Advocacy
Aksi	Action/protest
Apjati	<i>Asosiasi Perusahaan Jasa Tenaga Kerja Indonesia</i> , Indonesian Workers Service Companies' Association
ASEAN	Association of Southeast Asian Nations
Badan Legislatif	Legislation Body
BNP2TKI	<i>Badan Nasional Penempatan dan Perlindungan Tenaga Kerja Indonesia</i> , National Authority for the Placement and Protection of Indonesian Overseas Workers
Buruh migran perempuan	Women migrant workers
Calo	Sponsor or broker or middleman
CARAM Asia	Coordination Action Research on AIDS and Mobility Asia
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
Draft akademis	Academic draft/script
DPR	<i>Dewan Perwakilan Rakyat</i> , House of Representatives
Ecosoc	A Jakarta-based NGO focusing on the issues of migrant workers, the urban poor, and malnutrition and hunger
Fatayat	The young women's wing of the Indonesian Muslim mass organization <i>Nahdlatul Ulama</i>
FOBMI	<i>Federasi Organisasi Buruh Migran Indonesia</i> , Federation of Migrant Workers' Organizations
Foker	<i>Forum Kerja untuk Keadilan Pekerja Rumah Tangga Migran</i> , Forum for Justice for Migrant Domestic Workers
GPPBM	<i>Gerakan Perempuan untuk Perlindungan Buruh Migran</i> , Women's Movement for the Protection of Migrant Workers
HRW	Human Rights Watch
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
ILO	International Labor Organisation
IMF	International Monetary Fund
INFID	International NGO Forum on Indonesian Development
JKP3	<i>Jaringan Kerja Prolegnas Pro Perempuan</i> , National Network on Pro-Women National Legislation Program
Komisi	Commission
Komnas Perempuan	<i>Komisi Nasional Anti Kekerasan Terhadap Perempuan</i> , National Commission on Violence against Women
Komunitas	<i>Community</i> , A term used for the branch of <i>Solidaritas Perempuan</i>

Kontrak politik	Political contract
Kopbumi	<i>Konsorsium Pembela Buruh Migran Indonesia</i> , The Consortium for the Defense of Indonesian Migrant Workers
LBH	<i>Lembaga Bantuan Hukum</i> , Legal Aid Institute
LIPI	<i>Lembaga Ilmu Pengetahuan Indonesia</i> , Indonesian Institute of Science
LSM	<i>Lembaga Swadaya Masyarakat</i> , Self-reliant Community Institutions
Mahkamah Konstitusi	Constitutional Court
MFA	Migrant Forum in Asia
Mitra	Partner
MoFA	Ministry of Foreign Affairs
MoMT	Ministry of Manpower and Transmigration
MoSA	Ministry of Social Affairs
MoU	Memorandum of Understanding
MPR	<i>Majelis Permusyawaratan Rakyat</i> , People's Consultative Assembly
Muslimat	The women's wing of the Indonesian Muslim mass organization <i>Nahdlatul Ulama</i>
Musyawah	Consultation
Musyawah komunitas	Community forum
New Order Era	<i>Orde Baru</i> , The era under Soeharto's presidency, 1965-1998
NGO	Non-Governmental Organization
NOVIB	<i>Nederlandse Organisatie voor Internationale Ontwikkelingssamenwerking</i> , a Dutch NGO
NU	<i>Nahdlatul Ulama</i> , Indonesian Muslim mass organization
Ops Nyah	Get Rid Operation
Panitia Kerja	Working committee
Panitia Khusus	Special committee
PDI-P	<i>Partai Demokrasi Indonesia Perjuangan</i> , Indonesian Democratic Party of Struggle
Pekerja rumah tangga mi-gran	Migrant domestic workers
Pelita	<i>Pembangunan Lima Tahun</i> , Five-year Development Plan
Perserikatan	Association
PJTKI	<i>Perusahaan Jasa Tenaga Kerja Indonesia</i> , labor agencies
PKB	<i>Partai Kebangkitan Bangsa</i> , National Awakening Party
POEA	Philippine Overseas Employment Administration
PPTKIS	<i>Pelaksana Penempatan Tenaga Kerja Indonesia Swasta</i> , Migrant Worker Placement Private Organizer
Prolegnas	<i>Program Legislasi Nasional</i> , National Legislation Program
RANHAM	<i>Rencana Aksi Nasional Hak Asasi Manusia</i> , National Plan of Action on Human Rights

Rapat Paripurna	General meeting
RDPU	<i>Rapat Dengar Pendapat Umum</i> , Public Hearing Meeting
Reformasi	Reform
<i>Reformasi Era</i>	Reform Era, The era after the New Order Era ended in 1998
RUU	<i>Rancangan Undang-undang</i> , Bill
SBMI	<i>Serikat Buruh Migran Indonesia</i> , Indonesian Migrant Workers Union
Serikat buruh migran	Migrant worker union/association
SMoWE	State Ministry of Women's Empowerment
SOM	Senior Official Meeting
SP	Solidaritas Perempuan
UNIFEM	United Nations Development Fund for Women
Yayasan	Foundation

1. Non-Governmental Organizations and the Issue of Indonesian Women Migrant Workers: An Introduction

This book investigates the activism of non-governmental organizations (NGOs) concerned with Indonesian women who work overseas in the informal sector, mostly as domestic workers. This particular group of migrant workers has become a focus for activism in Indonesia due to their growing number, vulnerability to abuse, poor working conditions, and frequent exclusion from labor laws and policies. Thus, this book aims to assess the roles of Indonesian NGOs in promoting the rights of Indonesian women migrant workers by examining how they attempt to influence the government's policies on labor migration. In doing so, it focuses on two particular NGOs: *Solidaritas Perempuan untuk Hak Asasi Manusia* (SP) or Women's Solidarity for Human Rights, a women's NGO established during the New Order Era which was the first to take up this issue at the beginning of the 1990s, and Migrant CARE or Indonesian Association for Migrant Workers Sovereignty, a relatively younger migrant worker NGO established during the Reform Era with a high media profile. In making a case study of these NGOs, the aim is also to capture the shift in their activism in response to dynamic changes in the Indonesian policy context, particularly the transition from the New Order to the *Reformasi* (Reform) Era.

Although migration occurs in virtually all parts of the world, authors like Munck and Piper have pointed out that significant flows occur more within southern regions like Asia.¹ Nevertheless, most research on the issue of labor migration has focused on conditions in the receiving countries, meaning western countries or the more developed or industrialized countries in Asia. Except for the ones covering the Philippines, who are usually referred to as a success story in the protection of their migrant workers, studies focusing on the sending countries are still quite limited. Therefore, this book aims to contribute to the existing body of research on labor migration by looking at the activism of NGOs concerned with the issue of women migrant workers in Indonesia as a sending country.

In Indonesia, some of the efforts made by the post-New Order governments include passing Law No. 39/2004 on The Placement and Protection of Indonesian Workers Overseas, Indonesia's first law that specifically regulates labor mi-

1 Cf. Munck 2009, Piper 2009.

gration,² and signing bilateral agreements (Memoranda of Understanding or MoUs) with receiving countries such as the one signed in 2006 with Malaysia on the Recruitment and Placement of Indonesian Domestic Workers.³ On April 12, 2012, the Indonesian parliament has finally ratified the 1990 United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW). At the time this book was written, the parliament and the government were still in the process of revising Law No. 39/2004. It is expected, mostly by migrant workers' advocates, that the new law would adopt the principles of the ICRMW. However, since this book focuses on the first decade of the Reform Era, the discussions will be primarily on the main policies made during this period. Therefore, I have chosen Law No. 39/2004 and the 2006 MoU with Malaysia as case studies to examine the involvement and influence of NGOs in the policy-making process.

While a significant proportion of this book examines how NGOs deal with the state, it goes beyond merely discussing NGO-state relationships. Based on the twin assumptions that NGOs conduct their activities within a political space framed by other actors and that NGOs can actually negotiate and expand this particular political space, it examines how they engage with other influential actors. The starting point is that NGOs' roles within the migration system are determined by the nature of their relationships with the key actors involved (i.e. state institutions, international organizations, recruiting agencies, and other local and international NGOs), along with their unique organizational characteristics, the way they embrace and frame the issue, and the approaches they use in conducting their activities.

Furthermore, with the understanding that a policy is highly influenced by the dynamic of its environment, the topic is sited in the context of Indonesia's changing political, economic, and social conditions. The late 1990s saw significant national and international changes influencing the policy environment. Domestically, the end of the authoritarian New Order Era in 1998 and democratization efforts led to a relatively more open and accommodative policy environment in Indonesia. Since then, the country has been going through a dynamic reform period under various governments in a relatively short period.⁴ Changes happen-

2 Prior to this law, the highest policy instrument that regulated labor migration from Indonesia was a ministerial decree.

3 This MoU is widely known as the MoU on the informal sector.

4 Since the *Reformasi* Era began, Indonesia has had four presidents. Habibie, as the vice-president when Soeharto stepped down, took over without adequate legitimacy. Abdurrahman Wahid was considered as a democrat but criticized for his "laid back" approach and money politics scandals. Megawati, the daughter of Indonesia's first president Soekarno, became president with strong support from the grassroots but was criticized for failing to fulfill her promises to improve the economy. Susilo Bambang Yudhoyono has a

ing outside Indonesia have also significantly shaped the policy environment, including that of labor migration. The economic crisis that hit many countries in East Asia in 1997 forced receiving countries, including Malaysia, to adjust their policies, including those on labor migration. Furthermore, greater attention was paid to the subject of labor migration at regional and international levels as reflected in the moves made by regional and international organizations such as the International Labour Organization (ILO), the United Nations Development Fund for Women (UNIFEM), and the Association of South East Asian Nations (ASEAN). Therefore, the discussion is framed by the changing contexts at the national and international levels which have strongly influenced the government's policies, particularly those on labor migration. It attempts to understand how changes in the policy environment affect NGO activism in Indonesia, how NGOs respond to these national and international changes, and to what extent they utilize the opportunities brought by the changes.

This book is concerned with four main issues. The first issue is that of Indonesian women working in the informal sector, mostly as domestic workers in Malaysia. According to the data from the Department of Manpower and Transmigration, the number of Indonesian female workers placed in Malaysia through official channels, both in formal and informal sectors, was 111,418 in 2007, 140,658 in 2008, and 61,374 in 2009.⁵ There is no official record available on the exact number of those working as domestic workers but the general assumption is, as asserted by Safitri,⁶ that 70 percent of Indonesian migrant workers are women and 90 percent of them work as domestic workers. This group has characteristics which differentiate them from other migrant workers. The temporary, contract-based and informal nature of their work has differentiated them from other migrant workers. Moreover, the fact that they work in isolation in households, considered a private sphere, makes them vulnerable to abuses. Unfortunately, these conditions are not adequately recognized in most labor legislation and policies, whether in sending or receiving countries.⁷

This leads to the second issue of concern, the activism of Indonesian NGOs that are concerned with women migrant workers. This book aims to examine the

military background and was the first president to be directly elected following constitutional reform. In 2009, Yudhoyono was re-elected for his second term. He was labeled "an institutionalist" for responding to most issues by creating new institutions or task forces. Toward the end of his presidency, he has been busy dealing with issues within his party, Partai Demokrat.

5 Cf. Depnakertrans 2010. It needs to be noted that the official data at most Indonesian government's websites tends to be irregular and inconsistent in terms of availability, structure and accuracy.

6 Interview with Safitri, Salma on June 6, 2007, Jakarta.

7 Cf. Hugo 1992, Yamanaka and Piper 2005.

NGOs' efforts in influencing Indonesian government to significantly address the particular problems faced by this group of migrant workers. In doing so, this book contributes to the documentation and analysis of their activities, particularly those aimed at influencing policies on labor migration. Although the issue of female labor migration has been embraced by various types of NGOs, this book limits the analysis by looking at the activities of two NGOs, a women's NGO and a migrant worker NGO, for two main reasons. *Firstly* because the issue of women migrant workers was initially embraced by a women's NGO, followed later by migrant worker NGOs. *Secondly* because an analysis of the issue of women migrant workers needs to consider their identities both as women and as migrant workers. This book aims to understand the similar or different approaches, resources, and activities of each type of NGO and identify their challenges and opportunities in participating in the policy process.

The third issue is the transnational nature of labor migration. Because the whole process of migration crosses national boundaries, involving recruitment in and departure from the sending countries, employment in and repatriation from the receiving countries, and arrival back in sending countries, its analysis needs to take into account the various environments, authorities, jurisdictions, governments, regulations, and laws involved. This book is concerned with how the NGOs have been responding to the challenge this complexity poses. One of the NGOs' key responses is their effort to extend their activities to the regional and international level. Realizing their limitations and the need for support, most prominent Indonesian NGOs, including the two researched, have engaged in national, regional, and international networks. Thus, central to the discussion is the NGOs' involvement in transnational advocacy networks, which, according to Keck and Sikkink, "includes those relevant actors working internationally on an issue, who are bound together by shared values, a common discourse, and dense exchanges of information and services".⁸ Since both NGOs researched have responded by extending their activities to the regional and international level, the question then is how the NGOs have benefited from such transnational activism.

The fourth issue is the dynamics of relationships between NGOs and other actors. In conducting their activities, NGOs interact with various actors at various levels. This book aims to document the negotiation, contestation, and/or cooperation between each type of NGO and actors, not only the elements of the state, but also regional and international institutions, local and international NGOs, the media, and recruiting agencies. The main question on this issue is how the NGOs' transnational activism affects their efforts to influence policies on labor migration.

8 Keck and Sikkink 1998, p. 2.

The issues above are framed by the contexts of a globalizing world and a democratizing Indonesia. Consequently, this research requires a multi-level analysis which accommodates the multi-level nature of the issue and the efforts made to address them. The concept of transnational activism advanced by authors like Keck and Sikkink⁹ and Piper and Uhlin¹⁰ will be used to link up the various levels of NGOs' activism.

1.1 NGOs in a Democratizing Indonesia

This book focuses on the first decade of the period after 1998, known as the *Reformasi* Era, which is seen by many as a period in which Indonesia underwent a democratic transition. In identifying the changes that may signify a transition process, this book does not cover all aspects of democratization; rather, it concentrates on one aspect commonly considered an indicator of a democratization process: the increased participation of civil society in the making of public policy. It is further focused by specifically examining the position and role of NGOs concerned with the issue of women migrant workers within the policy cycle.¹¹

One of the main features of the New Order in Indonesia was its ability to maintain its existence for an extended period, 32 years, through utilization of what Hadiz¹² called "coercive power" and "a complex system of patronage". Opposition to the state through civil society activism was repressed on the grounds that it endangered national unity and that it was not part of Indonesian culture.¹³ In addition, as argued by Beittinger-Lee, Indonesian civil society was weak, with a gap between the educated, politically active, urban-based middle classes and the rural population, which made it easier for the state to suppress dissent through intervention and manipulation.¹⁴ Nevertheless, she continued, voices in opposition did not totally disappear because those with grievances and criticisms of the government formed organizations like NGOs.

9 Cf. *ibid.*

10 Cf. Piper and Uhlin 2004b.

11 The term policy cycle is used to refer to a process which is commonly drawn as a continuous cycle and in its simplest form involves input, process, and output. According to Howlett and Ramesh 2003, p. 13, a policy cycle involves: agenda-setting, policy formulation, decision-making, policy implementation, and policy evaluation. The result of the evaluation is then used to start a new cycle. This concept is used as a guideline for the analysis in this book because, in practice, this cycle is likely to occur not in a linear manner, and each country has its own mechanisms for making and implementing policies.

12 Cf. Hadiz 2005, p. 122.

13 Cf. Wessel 2005, p. 10.

14 Cf. Beittinger-Lee 2005, p. 96.