

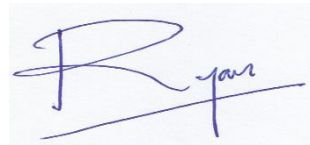
THE ROLE OF POLICY ENTREPRENEURS IN  
INDONESIA'S FOREIGN POLICY

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A Thesis Submitted for the Degree of  
Doctor of Philosophy  
at the Australian National University  
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I hereby declare that this thesis is my own work and has not been submitted for any other degree in the same or other form to any other university

A handwritten signature in blue ink, appearing to read 'Yasmi Adriansyah', is centered on a light blue rectangular background. The signature is written in a cursive style with a horizontal line underneath the main part of the name.

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Yasmi Adriansyah

18<sup>th</sup> October 2018

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## **List of Abbreviations**

- Apjati : Asosiasi Perusahaan Jasa Tenaga Kerja Indonesia (Association of Companies for Indonesian Migrant Workers)
- ASEAN : Association of Southeast Asian Nations
- AICHR : ASEAN Intergovernmental Commission on Human Rights
- ASEAN-ISIS: ASEAN Institutes of Strategic and International Studies (ASEAN-ISIS)
- ARRAK 90 : Aliansi Rakyat untuk Ratifikasi Konvensi Buruh Migran 1990 (People's Alliance for the Ratification of 1990 Convention)
- BDF : Bali Democracy Forum
- BNP2TKI : Badan Nasional Penempatan dan Perlindungan Tenaga Kerja Indonesia (National Agency for the Placement and Protection of Migrant Workers)
- CMW : United Nations Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
- CSIS : Center for Strategic and International Studies
- Depnakertrans : Departemen Tenaga Kerja, Transmigrasi dan Koperasi (Department of Manpower, Transmigration and Cooperative Units)
- DPR : Dewan Perwakilan Rakyat (Indonesia's House of Representatives)
- DTP : Diplomacy Training Program
- ECOSOC : UN Economic and Social Council (ECOSOC)
- EEC : European Economic Community
- FDR : People's Democratic Front
- FPA : Foreign Policy Analysis
- GBHN : Garis-Garis Besar Haluan Negara (State Guidelines)
- GPPBM : Gerakan Perempuan untuk Perlindungan Buruh Migran (Women's Movement for the Protection of Migrant Labour)
- HRWG : Human Rights Working Group
- IGWG : Intergovernmental Working Group of Experts on the Human Rights of Migrants
- ILO : International Labour Organisation
- INFID : International NGO Forum on Indonesian Development
- IOM : International Organisation for Migration
- Kadin : Kamar Dagang dan Industri Indonesia (Indonesia's Chamber of Commerce)
- Kemenakertrans: Kementerian Tenaga Kerja dan Transmigrasi (Indonesia's Ministry of Manpower and Transmigration)

Kemenlu	: Kementerian Luar Negeri (Indonesia's Ministry of Foreign Affairs)
Kopbumi	: Konsorsium Pembela Buruh Migran (Consortium for the Defence of Migrant Labour)
KNIP	: Komite Nasional Indonesia Pusat (Central Indonesian National Committee)
LBH Jakarta	: Lembaga Bantuan Hukum Jakarta (Jakarta Legal Aid Institute)
MESCA	: Mediterranean and Scandinavian Countries
MFA	: Ministry of Foreign Affairs
MDG	: Millennium Development Goal
MoU	: Memorandum of Understanding
NEP	: New Economic Policy
NGO	: Non-Governmental Organisation
NSA	: Non-State Actor
PATI	: Pendatang Tanpa Izin (Migrants without Permission)
PBM	: Peduli Buruh Migran (Care for Migrant Workers)
PDIP	: Partai Demokrasi Indonesia Perjuangan (Indonesian Democratic Party of Struggle)
PJTKI	: Perusahaan Jasa Tenaga Kerja Indonesia (The Migrant Labour Service Providing Companies)
PPP	: Partai Persatuan Pembangunan (United Development Party)
RANHAM	: Rencana Aksi Nasional Hak Asasi Manusia (National Action Plan for the Promotion and Protection of Human Rights in Indonesia)
Repelita	: Rencana Pembangunan Lima Tahun (Five Year Development Plan)
SBMI	: Serikat Buruh Migran Indonesia (Indonesian Migrant Labour Union)
SBY	: Susilo Bambang Yudhoyono
SP	: Solidaritas Perempuan (Solidarity for Women)
TATN	: Tim Advokasi Tragedi Nunukan (Advocating Team of Nunukan Tragedy)
TF-AMW	: Task Force on ASEAN Migrant Workers
TKI	: Tenaga Kerja Indonesia (Indonesian Migrant Workers)
UNESCO	: United Nations Educational, Scientific and Cultural Organization
YLBHI	: Yayasan Lembaga Bantuan Hukum Indonesia (Foundation of Indonesian Aid Institute)



## **Abstract**

This thesis is primarily concerned with how and why policy entrepreneurs succeed in promoting their ideas or policy proposals. In examining this, the thesis uses the case of Indonesia's foreign and domestic policies regarding the protection of its own migrant workers who work abroad, particularly with the ratification of the 1990 United Nations Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW). There are three central questions that this thesis examines: (1) To what extent were the policy entrepreneurs important in shaping or playing roles in Indonesia's foreign policy regarding the protection of its migrant workers and who were the main policy entrepreneurs?; (2) How did these policy entrepreneurs attempt to ensure that their policy proposals were adopted or their ideas heard?; and (3) Why were the policy entrepreneurs successful in promoting their ideas?

The thesis argues that the protection of Indonesian migrant workers has become a pressing issue in the context of nation's foreign and domestic policies. This can be seen from the decision of Indonesia's Kementerian Luar Negeri (Ministry of Foreign Affairs) in 2002 to establish a special directorate to address the issue, namely the Directorate for the Protection of Indonesian Citizens and Legal Agencies. Nonetheless, despite the establishment of this directorate, protection from this institution was still viewed as relatively poor since there were still numerous high-profile cases involving Indonesian migrant workers in cases related to torture and even some resulting in death. Recent policies developments, spurred by increasing democratisation, can be viewed as an improvement. This is demonstrated by Indonesia's decision to ratify the CMW in 2012. With regard to this important decision, my empirical analysis showed that there were at least two categories of policy entrepreneurs that played important roles in influencing the decision: key figures operating within the important civil

society organisations who worked under the umbrella movement People's Alliance for the Ratification of 1990 Convention (ARRAK 90) and several elected members of the Dewan Perwakilan Rakyat (DPR – Indonesia's House of Representatives).

Overall, the thesis argues that policy entrepreneurs were successful if: (1) they advocated cogent policy proposals; (2) these proposals were based on normative principles; and (3) they promoted their ideas with persistence. Each of these three factors is examined in the case studies. In testing the notion of persistence, the thesis measures activities such as: conducting a series of demonstrations; writing papers; and holding lobbying luncheons or dinners.

The thesis concludes that there were two success factors that brought Indonesia's foreign policy shift from non-ratification to ratification: coalition-building and advocacy persistence. In coalition-building, policy entrepreneurs believed that the emergence of ARRAK 90 significantly transformed the policy context. Working in coalition, policy entrepreneurs undertook continuous activities in terms of substantive work, demonstrations, and lobbying. As the policy context changed and window of opportunity presented themselves, policy entrepreneurs demonstrated enormous persistence in presenting their ideas. In this context, the policy entrepreneurs continuously pushed their demands, writing to influence public opinion, conducting various demonstrations for the purpose of raising public awareness, seizing government attention, and being persistent in demanding the adoption of their proposals. All these factors, particularly coalition-building and persistence, answer the primary questions of this thesis: to what extent were policy entrepreneurs important in policy change, how did they achieve change, and why were policy entrepreneurs successful in promoting their policy proposals?

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# Introduction

## A Tragic Catalyst

On 18 June 2011 an Indonesian migrant worker, Ruyati binti Satubi, was beheaded in Saudi Arabia after murdering her employer. This case is significant for several reasons, not least the national outcry within Indonesia and the government's swift retribution through establishing a moratorium on the sending of migrant workers. Ruyati was a 54 years old migrant worker who had worked in Saudi Arabia twice: five years in Madinah and six years in Abha. Before leaving for her third trip to Saudi Arabia, Ruyati's family attempted to dissuade her from the plan due to her age. "You should just stay at home, Mom, take some rest. Let your children earn a living," said Evi, Ruyati's second daughter (*Viva News* 2011a). Nonetheless, due to pressure from the employment company she was registered with, PT. Dasa Graha Utama, Ruyati persisted with her plan even though she had to falsify her date of birth, from the original 7 July 1957 to 12 July 1968 (*Ruang Hati* 2011). Ruyati then worked for the family of Mr. Omar Halwani in Mecca. She had been working with them as a domestic maid for one year and four months when tragedy struck.

On 14 January 2010, Warni, Ruyati's friend in Saudi Arabia called Ruyati's family in Bekasi, West Java, Indonesia, saying that Ruyati had murdered her 64 year old employer, Ms. Khairiyah binti Hamid. Later in court, Ruyati confessed she had murdered Khairiyah due to physical abuse and the prolonged harsh treatment she used to receive from her (*Detiknews* 2011, *Tribunnews* 2011). Prior to the murder, Ruyati made plans to run away, however this proved impossible as the house was always tightly locked. Then, on 12 January 2010, after a huge fight as her request to return to Indonesia was again rejected, she stabbed her employer several times with a knife (*Detiknews* 2011, *Viva News* 2011a). Ruyati was then brought to the

Saudi Supreme Court where she confessed to the murder. As the justice system in the country applies *Qisas* (the law of retaliation), the Court sentenced her to death.

Upon hearing this shocking news, Ruyati's family could not remain silent. They approached several relevant institutions such as Indonesia's Ministry of Foreign Affairs, the National Agency for the Placement and Protection of Migrant Workers (BNP2TKI), and Migrant Care, an NGO known to provide advocacy for migrant workers. *Viva News* (2011a) reported that Een Nuraeni, Ruyati's first daughter, said, "I asked for assistance to all institutions so that my Mom's penalty could be reduced." Een knew that if her mother was found guilty, the execution of the sentence was just a matter of time. On 18 June 2011, Ruyati was beheaded with a single stroke of a sword.

To make the case even more disheartening, the Saudi authorities did not inform the Indonesian diplomatic mission prior to the execution of Ruyati, let alone her grieving family in Bekasi. According to Faizol Riza, an advisor to Indonesia's Minister of Manpower, "Even her lawyer, who visited the prison one day after the execution, was surprised upon learning that her room was empty. Ruyati had been executed" (*Viva News* 2011a).

The execution of Ruyati soon created an outcry in Indonesia. Upon learning this situation, the Saudi government sent its apology. "The apology was conveyed in a closed meeting between Saudi's Ambassador to Indonesia with the Director of Middle Eastern Affairs, Indonesia's Ministry of Foreign Affairs" (*Viva News* 2011b). Yet the Indonesian public was already deeply angry; the damage had been done. Indonesian media reported that a few days after the execution, hundreds of people held demonstrations in front of the Saudi Embassy in Jakarta. Een Nuraeni said, "I will show my anger. I hate them." Observing the issue from a foreign policy perspective, Wahyu Susilo, an advocate from Migrant Care, stated, "Indonesia must break its diplomatic relations with Saudi Arabia." Being touched by this case, Sam



Bimbo, a prominent Islamic singer, demanded, “Stop sending our women migrant workers to Saudi Arabia” (*Viva News* 2011b).

Following the national outcry, Dewan Perwakilan Rakyat (DPR – Indonesia’s House of Representatives) moved quickly, demanding a moratorium on sending migrant workers to Saudi Arabia. Through a plenary meeting just three days after the death of Ruyati, all the political parties in the DPR agreed to the proposed moratorium. “This moratorium is our *harga mati* (non-negotiable demand),” stated Marzuki Alie, DPR’s speaker (*Kontan* 2011). A similar call was also made by an NGO focusing on women’s rights. *The Jakarta Post* (2011c) reported, “A leading NGO on women’s rights, the Women’s Forum for Indonesia, has called for a moratorium on sending migrant workers to countries with whom Indonesia has yet to establish a workers’ protection accord”. Other NGO activists from Jaringan Masyarakat Sipil dan Komunitas Keluarga Buruh Migran Indonesia (Alliance of Civil Society and Family Community of Indonesian Migrant Labour) organised a demonstration and blamed the government for its failure to protect Ruyati (*Suara Merdeka* 2011).

After mounting pressure, the Indonesian government finally imposed the moratorium. On 23 June 2011, the then President Susilo Bambang Yudhoyono stated, “I decided to implement the moratorium on sending Indonesian migrant workers to Saudi Arabia, effective on 1 August 2011” (Partai Demokrat 2011).

It may be thought that the idea of a moratorium emerged only after Ruyati’s beheading created the public uproar. In fact, demands for a moratorium had been voiced since early 2011 by Tim Khusus DPR untuk Penanganan TKI di Arab Saudi (DPR’s Special Team in the Management of Migrant Workers in Saudi Arabia). “In relation to the many cases of Indonesian migrant workers in Saudi Arabia, the team demands the government and BNP2TKI (National Agency for the Protection and Placement of Indonesian Migrant Workers) conduct a study on the moratorium on sending unskilled migrant workers overseas” (*Republika* 2011).

The DPR Special Team's call for a moratorium prior to Ruyati's beheading showed that the team attempted to influence government foreign policy toward Saudi Arabia. Nonetheless, the government remained unmoved. It was only after the beheading of Ruyati that the team saw a window of opportunity and later moved quickly by again demanding a moratorium. It finally succeeded in pushing the government to act.

It is difficult to prove that the team was the only foreign policy actor that succeeded in pushing the government as there were other important actors who made similar attempts, particularly when the case triggered a national outcry. In particular many NGOs voiced similar demands. Together the DPR and the NGOs exerted influence on the government's decision to call a moratorium. The members of these groups performed the role of policy entrepreneurs who, borrowing from Mintrom (2003: 122), promoted and compromised policy ideas.

The case of Ruyati's beheading and how the DPR and NGOs influenced the making of the moratorium policy demonstrates that political and community policy entrepreneurs have played important roles in Indonesia's foreign policy. This case also illustrates the close links between domestic politics and Indonesia's foreign policy in the context of labour migration. In essence, this thesis is primarily concerned with how and why policy entrepreneurs are successful in promoting their ideas for change. The case being used in this research is Indonesia's foreign policy on the protection of migrant workers, particularly the country's ratification of the 1990 United Nations Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW). Based on this case, the thesis will examine three questions: (1) To what extent were the policy entrepreneurs important in shaping or playing roles in Indonesia's foreign policy regarding the protection of its migrant workers and who were the main policy entrepreneurs?; (2) How did these policy entrepreneurs attempt to ensure that their policy proposals were adopted or their ideas heard?; and (3) Why were the policy entrepreneurs successful in promoting their ideas?

## **Indonesia's ratification of the CMW**

The protection of Indonesian migrant workers working overseas has become a pressing issue in the domain of Indonesia's foreign policy. The Kementerian Luar Negeri (Kemenlu – Indonesia's Ministry of Foreign Affairs) established a special directorate to address the complex issue in 2002, namely the Directorate for the Protection of Indonesian Citizens and Legal Agencies. Even though the directorate refers to 'citizens', in reality the directorate mostly deals Indonesian migrant workers. Nonetheless, ever since the establishment of this directorate, the protection dimension of Indonesian migrant workers has often been seen as poor, particularly due to the high number of workers facing death penalties and high profile cases such as the abuse of Nirmala Bonet in Malaysia in 2004, as well as the beheading of Ruyati binti Satubi in Saudi Arabia.

Yet recent developments concerning the policy on Indonesian migrant workers have been viewed as improvements particularly in relation to their protection. This can be demonstrated by the decision of Indonesia to ratify the CMW on 12 April 2012. In regard to this policy change, there are at least two categories of policy entrepreneurs mentioned by the media or referred to by informants from my fieldwork. First, the civil society groups working under the umbrella movement Aliansi Rakyat untuk Ratifikasi Konvensi Buruh Migran 1990 (ARRAK 90 – the People's Alliance for the Ratification of the 1990 Convention) and, second, several members of DPR, such as Rieke Dyah Pitaloka (PDIP, Partai Demokrasi Indonesia Perjuangan – Indonesian Democratic Party of Struggle), Okky Asokawati (PPP, Partai Persatuan Pembangunan – United Development Party), and Nova Riyanti (Partai Demokrat – Democrat Party). All of them were members of the Commission IX<sup>1</sup> of DPR from 2009 to 2014.

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<sup>1</sup> Commission IX of DPR deals with issues on, among other things, migrant workers.

The members of ARRAK 90 are non-governmental organisations (NGOs) such as, but not limited to, Human Rights Working Group (HRWG), Peduli Buruh Migran (PBM, Care of Migrant Workers), and LBH Jakarta (Lembaga Bantuan Hukum Jakarta - Jakarta Legal Aid Bureau). ARRAK 90 argued that the Indonesian government had not achieved much in regard to the protection of Indonesian migrant workers. Its primary role therefore was in urging the government to expedite the ratification of the CMW. Without ratification, argued ARRAK 90, there would not be any obligation for the government to protect the rights of migrant workers as stipulated in the convention (*Republika* 2009). At the same time, several members of DPR also voiced similar concerns. Rieke Pitaloka of PDIP was always critical of the government's handling of the protection of overseas Indonesian workers. She often urged the government to improve the system of work migration not only with regard to work placement but also as a structure to protect Indonesian migrant workers (*Okezone* 2012). Okky Asokawati of PPP called for even further action, arguing that Indonesia should similarly ratify the ILO's Domestic Workers Convention No. 189, which was adopted on 16 June 2011. In that regard Okky highly appreciated the work of civil society groups who have lobbied the parliament intensively and have become an extra-parliamentary power that can expedite deliberations (toward ratification) (*Kompas* 2011a).

Due to the activism of policy entrepreneurs such as those members of ARRAK 90 and DPR, Indonesia finally ratified the CMW on 12 April 2012. This thesis will examine these cases in depth, from the ideas and proposals to the motivation and success factors of the policy entrepreneurs.

### **The Main Proposition of the Thesis**

Based on the above discussion particularly on Indonesia's ratification of CMW, the thesis will examine the proposition that policy entrepreneurs are successful if: (1) they advocated cogent

policy proposals; (2) these proposals were based on normative principles; and (3) they promoted their ideas with persistence. In testing the notion of persistence, the thesis will measure activities such as: conducting a series of demonstrations; numbers of presentations; writing papers; sending letters to key people; and holding lobbying luncheons or dinners.

## **Methodology**

This thesis applies qualitative methodology combined with case study methods. In regard to qualitative methodology, Marshall and Rossman (1999: 25) state that “initial curiosities for (qualitative) research often come from real-world observations, emerging from the interplay of the researcher’s direct experience, tacit theories, political commitments, interests in practice, and growing scholarly interests”. This thesis will examine some of those elements via my direct experience as a former diplomat at the Kemenlu and the growing body of scholarship on policy entrepreneurship and foreign policy. This thesis follows the tenor of Marshall and Rossman (1999) in terms of direct experience and its application to scholarly enterprise, but it also further seeks to emulate the emphasis on discursiveness and depth of analysis intimated by King et al. (1994: 4), who state that

qualitative research [...] covers a wide range of approaches, but by definition, none of these approaches relies on numerical measurements. Such work has tended to focus on one or a small number of cases, to use intensive interviews or depth analysis of historical materials, to be discursive in method, and to be concerned with a rounded or comprehensive account of some event or unit.

In other words, crucial factors in the methodology of this thesis consist of the use of case studies comprising interviews and archival research techniques.

King et al. (1994: 3-9) argue that even though there are differences between quantitative and qualitative methodologies, they retain one similarity: inference. In seeking inferences, quantitative researchers depend on patterns or correlations between numbers within a framework of statistical methodology, whereas qualitative researchers scrutinise the relevant

information in their research in an attempt to ascertain significant associations and, consequently, identify inferences. King et al. (1994) also argue that in order to achieve a successful research outcome, four characteristics need to be met: aiming for inference; applying and justifying public procedures; there is no certainty in conclusions; and the content is the method. According to King et al. (1994), these four factors harness science as a social enterprise in the practice of research. Using this statement as a point of departure, this thesis attempts to treat as an inference the proposition that has been stated previously. The thesis attempts to meet each of the characteristics of a verifiable research project in the process of data gathering as well as the rigorous case study methods it applies.

### *Case Study*

As part of the qualitative methodology, this thesis applies the methodology of the case study. By definition, a case study, according to Bennett (2004: 21), “is the investigation of a well-defined aspect of a historical happening that the investigator selects for analysis, rather than a historical happening itself”. For the purposes of this thesis what should be emphasised here is the “selection [of a case] for analysis” and not necessarily the historical description of the case under observation. Case study methodology has become important in International Relations studies because of its advantages in observing and analysing complex phenomena at a given time and place (Bennett and Elman 2007: 171). Additionally, Smith et al. (2012: 1) argue that case studies are not naively factual because “the theoretical assumptions that guide the analysis of the factual material are merely hidden from view”. In the context of this thesis, the case of policy change concerning the protection of Indonesian migrant workers is a complex phenomenon as it involves civil society, the legislature, the media, the government, and the international community. The case has also been widely discussed and promoted by policy entrepreneurs in Indonesia as a way of promoting further legal reform in developing country.

As with any research method, case study methodology has strengths and weaknesses. On the strengths of this method, Bennett (2004: 19) argues:

The comparative advantages of case study methods include identifying new or omitted variables and hypotheses, examining intervening variables in individual cases to make inferences on which causal mechanisms may have been at work, developing historical explanations of particular cases, attaining high levels of construct validity, and using contingent generalizations to model complex relationships such as path dependency and multiple interaction effects. Particularly important is the ability to identify new hypotheses, which case studies can do through a combination of deduction and induction.

As for its weaknesses, Levy (2002) argues that case study method has a number of serious limitations: (1) too many variables compared with the small number of cases; and (2) probabilistic theories are not easily achieved. Furthermore, as argued by Bennett (2004: 39), one of the most common criticisms of this methodology is that it is prone to “selection bias” and can be overly descriptive.

This research considers the case of a foreign policy determination relating to Indonesian migrant workers. This case can be considered an example of the success of policy entrepreneurs (particularly of civil society groups, members of DPR, and certain public officials) as they have achieved what they set out to achieve: the Indonesian government’s decision to ratify the CMW. Even though policy entrepreneurs continue to seek to secure further achievements, the ratification decision has at least indicated substantial policy progress toward improved protection of overseas workers. This case was also selected because it can be considered extraordinary: an international UN convention adopted in 1990, signed by the government of Indonesia in 2004, and ratified in 2012. It is therefore important to record events associated with the policy change and analyse how policy entrepreneurs attempted to promote their ideas and policy proposals, made themselves heard, struggled, and finally achieved their desired outcomes.

Nonetheless, the same case can be deemed a failure in other respects, particularly to those critics who opposed the ratification of the convention, such as the local business community

and the government bodies that showed reluctance on the ratification. As an example, the Ministry of Manpower and Transmigration – the government body most responsible for the issues of labour including migrant workers – was for years known to be the strong opponent of the ratification of the CMW. Yet their oppositional stance did not win much wider support due to causes that will be explained in this thesis. What makes the research finding interesting is that the success of policy entrepreneurs is not merely the work of a single person but a group of political actors (collective agency) who have been working persistently for a prolonged period. Ideas or policy proposals are indeed important, persuasive normative values may play roles in strengthening policy articulation, but success is largely dependent on the determination of entrepreneurs to work together even though they risk losing their political stamina. As one of the slogans in their final actions, ARRAK 90 once stated: “Our voices are almost finished”.<sup>2</sup>

The selected case may have limitations in that it is prone to what is called “selection bias”. One may wonder, for example, why another case on the role of policy entrepreneurs in Indonesia’s foreign policy was not selected, such as the ‘Diaspora policy’. In this context, the First Congress of Indonesian Diaspora, held in Los Angeles in July 2012, may provide useful insights in relation to the topic. The Congress gathered more than 2,000 representatives of Indonesian diaspora worldwide, and secured the support of the then President Yudhoyono to make ‘Diaspora’ a new government foreign policy. However, the shortcomings of using the Diaspora policy as a possible case in this research are, firstly, that the policy has not been discussed widely by the media and the public to-date; and secondly, the ideas are seen as mostly generated by a single policy entrepreneur, Dr. Dino Patti Djalal, the then Indonesian Ambassador to Washington, as he had been personally active in campaigning for this cause, whereas the Kemenlu was not greatly involved. Hence it was still unclear how much impact Indonesia’s foreign minister, the most prominent Indonesian foreign policy stakeholder after

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<sup>2</sup> “*Suara kami hampir habis*” (Yura 2013, pers.comm., 19 September).



the president, had made. In fact, the then foreign minister Dr Marty Natalegawa did not attend the Congress, whereas other two ministers did, representing Education and Culture, and Tourism and the Creative Economy, of which only one offered speculation as to whether or not the policy was fully accepted at the Kemenlu. With regard to the warm reception given by the president to the matter, it can be argued that this was due to the close connections between President Yudhoyono and Ambassador Djalal, as the later was a spokesperson on foreign affairs during Yudhoyono's presidency in 2004–09.

The most likely limitation on the selected case for this thesis is on the time period that it covers. The relevant period is too long to provide a concise study, as it would need to be traced from 1990 (the birth of the CMW) up until the year of ratification, 2012. Nonetheless, the selected case is particularly suitable for answering the questions of how and why policy entrepreneurs were successful in promoting their ideas. The case provides an appropriate subject matter for this thesis.

### *Levels and Units of Analysis*

Determining the levels of analysis in the study of International Relations, or more specifically Foreign Policy, is another important analytical step to take. There are three commonly recognised such levels, namely: (1) the individual level (2) the national state/country level, and (3) international system level. These three levels mainly refer to the theory of Images established by Kenneth Waltz in his 'Man, War, and the States' (Waltz 1959). Later scholars (Ciot 2014, Willetts 2010, and Neack 2003) add another level of analysis between 'individual' and 'national state' namely 'a group or groups of individuals'. This level may comprise of institutions such as non-governmental organisations, bureaucracy, or even an informal coalition seeking for a policy change.

This research selects policy entrepreneurs as its unit of analysis, be they individuals or a group/groups of individuals. This is in line with the Waltz' First Image that relates to "human behaviour", which is related to the main focus of this thesis: policy entrepreneurs. As argued by Tamaki (2015: 12),

Furthermore, firmly within the First Image is another derivation [...], introducing the notion of *policy entrepreneurs*—individuals who are charismatic and instrumental in bringing about the change. These policy entrepreneurs provide convincing arguments and ideas that can influence the course of international outcomes.

To sum up, based on the section of case study as previously explained, it is evidenced that the levels of analysis in this thesis are 'invididuals' and 'a group/groups of individuals'. Therefore, the unit(s) of analysis of this reserarch are the individuals and a group or groups of individuals who have carried out efforts and being instrumental in making a foreign policy change, namely the ratification of Indonesia to the CMW.

#### *Answering the Main Proposition: What Makes Policy Entrepreneurs Successful?*

The primary focus of this thesis is to explain how and why policy entrepreneurs' were successful in policy change. In that regard, the suggestion of McConnell (2010a) for a pragmatic definition of policy success can be useful as a starting point. He defines policy success as follows:

A policy is successful insofar as it achieves the goals that proponents set out to achieve. However, only those supportive of the original goals are liable to perceive, with satisfaction, an outcome of policy success. Opponents are likely to perceive failure, regardless of outcomes, because they did not support the original goals (McConnell 2010b: 39).

The above definition is useful in helping us understand the meaning of policy success. Yet the definition is still too broad and does not cover the concept of policy entrepreneurs in the public policy process. For that reason, this chapter supports the arguments by Mintrom (2002) and Roberts and King (1991), which emphasise the role of policy actors who promote

or introduce new policy ideas. The chapter thus describes the success of policy entrepreneurs as follows.

First, success is achieved when policy entrepreneurs have their ideas or policy proposals adopted or implemented as laws or government policies. As the primary function of policy entrepreneurs is to advocate for proposals, adoption and implementation is the prevailing measure of the success of their attempts.

Second, as suggested by Kingdon (2003), policy entrepreneurs are successful if their ideas are heard and these ideas are followed up in the public policy cycle, either to be formulated as new proposals or to be used in changing or amending existing policy. This is a broader and more nuanced measure of success that accounts for the influence of policy entrepreneurs where the advocated policy is not adopted but, nonetheless, affects policy and policy decisions. Success, therefore, shall be measured from the latter rather than the former notion.

Besides the above mentioned attributes that policy entrepreneurs should possess in order to secure a hearing for their ideas, a further important question concerns how policy entrepreneurs can potentially increase the likelihood that their policy ideas or proposals are successful in implementing or influencing future policy. Arguments among scholars vary on this matter. Mintrom (1997: 740) states, “Crafting arguments in support of their proposed innovation is critical for policy entrepreneurs if they are to successfully sell—or ‘broker’—their ideas to potential supporters”. What we can take from this assertion is the importance of crafting arguments in order for policy entrepreneurs to succeed in selling their ideas.

The formulation of policy alternatives is often regarded as the most important activity for policy entrepreneurs, as it increases the prospects for success. Béland (2005: 1) argues, “The ability to successfully frame policy alternatives can become a decisive aspect of the policy

process”. Furthermore, policy alternatives which triumph over others appear to do so due to “the ability [of policy entrepreneurs] to frame a policy programme in a politically—and culturally—acceptable and desirable manner,” including additional factors such as “support from key political constituencies, technical feasibility in the context of established policy frameworks, and the relative simplicity of the policy ideas themselves” (Béland 2005). In regard to the process of successful policy formulation, Kingdon (2003: 205) argues:

The appearance of entrepreneurs when windows are open, as well as their more enduring activities of trying to push their problems and proposals into prominence, are central to our story. They bring several key resources into the fray: their claims to a hearing, their political connections and negotiating skills, and their sheer persistence. An item’s chances for moving up on an agenda are enhanced considerably by the presence of a skilful entrepreneur, and dampened considerably if no entrepreneur takes on the cause, pushes it, and makes the critical couplings when policy windows open.

Ideas or policy proposals advocated by policy entrepreneurs may not always be successful. Ideas or policy proposals may not work if, as argued by Cutler (2010), they do not orient into prevailing values and there is inadequate information about the quality of the ideas or proposals. Cutler (2010), who focuses his research on health care policy in the United States, further argues that part of the failure of public insurance programs are due to their orientation to volume of care and not value. In that context, the suggestion of Kingdon (2003) is important to highlight, as he argues that avoiding failure for policy proposals often requires alternatives for policy ideas or proposals. In his empirical research on health issues in the US, some of the issues, such as long-term and mental health care, were regarded as low or unimportant, not because participants did not find real problems there but because they were not aware of alternatives that might serve as solutions.

Based on the above descriptions of who policy entrepreneurs are, what they do, and how they sell their ideas, it can then be summarised that policy entrepreneurs are the group of political actors who, first, advocate for policy proposals; second, promote an idea or ideas; and third, are willing to invest their resources to promote a position in return for anticipated future

gain. As for the notion of policy entrepreneurs' success, it can be described as when their policy proposals or ideas are, first, adopted as laws or policies, and, second, are heard and further followed up in a public policy cycle.

It can be argued that the success of policy entrepreneurs requires that their ideas or policy proposals fulfil several key criteria.

First, they offer alternative ideas that are framed in a politically – and culturally – acceptable and desirable manner, as well as consisting of additional content, such as support from key political constituencies, and technical feasibility. What is important here is not the quantity of alternatives but rather how they are framed in a context that is likely to get acceptance from the political constituencies. Their ideas must, therefore, pay attention to the political and cultural context; must not be difficult to be linked technically to existing policy frameworks; and must be easily explained to the public in order to gain broad public support.

Second, the ideas or policy proposals ought to be based on normative principles. The previously mentioned research conducted by Cutler (2010) emphasises the importance normative principles in a broader sense for ideas or policy proposals to win support. Rather than the number of proposed programs, it is the values or normative principles of policies that determine the emotional attachment of potential supporters.

Third, the ideas or policy proposals are promoted with persistence. As suggested by Kingdon (2003: 181), successful policy entrepreneurs “spend a great deal of time” on efforts, such as giving presentations and public lectures, writing position papers, corresponding with key stakeholders, drafting bills, and attending lobbying luncheons. Persistence is an attribute applicable to any individual intent on success, and policy entrepreneurs are no exception. Possessing persuasive ideas or sound policy proposals is not sufficient. Since public policy relates to public concerns, it must link with relevant activities that deal with the public, such as

public presentations, opinion building, or influencing figures who can help to shape the policy cycle in any of its stages.

### *Data Gathering*

Besides relying on analysis of the existing literature, data-gathering employed for this thesis included interviews and the assessment of media publications as well as documents released by the organisations relevant to policy entrepreneurs and their proposed policy. Hence, prior to conducting the fieldwork in Indonesia for the data gathering, a Human Ethics Protocol No. 2013/069 of the Australian National University was secured, approving the research project. Later, primary source data were collected by undertaking interviews with individual policy entrepreneurs who were influential or had played significant roles in the case being researched, or from officials coming from institutions that opposed the ratification proposal. In total, 14 people were interviewed and the interviewees were from NGOs, DPR, the Kemenlu, the Kementerian Tenaga Kerja dan Transmigrasi (Kemenakertrans – Indonesia’s Ministry of Manpower and Transmigration), and various business associations.

On selecting the interviewees, the research applied the snowball sampling technique. Babbie (2014: 200-201) points out that through this technique, the researcher gathers data on the few members of the target population and later “[asks] those individuals to provide the information needed to locate other members of that population whom they happen to know”. Based on this technique, the already located NGOs were visited and the relevant policy entrepreneurs were interviewed. For example, after visiting and interviewing at least two NGOs, namely Migrant Care and Solidaritas Perempuan, the researcher was informed that the other policy entrepreneurs were from, among others, the Human Rights Working Group (HRWG), Serikat Buruh Migran Indonesia (SBMI - Indonesian Migrant Labour Union), Peduli Buruh Migran (PBM - Care for Migrant Labour), and LBH Jakarta. Further, the researcher was

also informed that the policy entrepreneurs from the DPR were, *inter alia*, Rieke Dyah Pitaloka of PDIP, Nova Riyanti Yusuf of Democrat Party, and Okky Asokawati of PPP. As for the policy entrepreneurs from the government, there were two officials from the Kemenlu who were often mentioned: the then Ministry's Director of Human Rights, Muhammad Anshor and the then Deputy Director, Acep Somantri. For all these interviews, the interviewees were asked a progressive series of questions determined by the answers provided. The list of these questions is in Appendix I.

Besides interviewing the above mentioned policy entrepreneurs, interviews were also conducted with people coming from institutions known to have opposed the ratification proposal: the Kemenakertrans and business associations namely Asosiasi Perusahaan Jasa Tenaga Kerja Indonesia (Apjati – Association of Companies for Indonesian Migrant Workers) and Kamar Dagang dan Industri Indonesia (Kadin – Indonesia's Chamber of Commerce). Yet it was only the official from the Kemenakertrans who could provide relevant views as the people from business associations were either new in their positions or unaware of the case being researched.

### **Thesis Structure**

Chapter 1 of this thesis examines the literature of policy entrepreneurship in foreign policy and more particularly in the context of Indonesia's foreign policy. After an introduction on the relationship between policy entrepreneurship and Indonesia's foreign policy, the first part of the chapter draws on the concept of policy entrepreneurship and other relevant matters, such as the conceptual differences between 'entrepreneurs' and 'policy entrepreneurs' and the importance of policy entrepreneurs in the policy-making process. The second part of the chapter also draws on the concept of foreign policy and how foreign policy and domestic politics can influence the dynamics of policy choices/directions. The third part of the chapter

deals with Indonesia's foreign policy. A number of scholarly works are examined, from classical pieces on the history of Indonesia's foreign policy to those focusing on the foreign policy dynamics in the post-Suharto era. Lastly, the chapter introduces the case study of this thesis, namely the ratification by Indonesia of the CMW.

As the case selected for this research is Indonesia's ratification of CMW and more broadly in the context of Indonesian labour migration, it is therefore pertinent to examine a comprehensive account of migration, from the pre-colonial up to contemporary Indonesia. Thus Chapter 2 outlines the history of Indonesian labour migration during the pre-colonial colonial, and more particularly the post-colonial periods. In the pre-colonial period, migration was driven by trade, maritime movement, and other factors. As for the colonial period, in the context of labour migration policies, there were several policies released by the respective colonial powers, such as slave trade and forced labour. The history of Indonesian labour migration of the post-colonial period covers from the independence in 1945 up to 2015. The examination of this period is important as one can trace the historical account of labour migration in relation to Indonesia's ratification of the CMW. The first part of the chapter examines the period 1945-1959 highlighting, among other things, the establishment of the Ministry of Labour. The second part, the 1960s, investigates how Indonesian labour migration was affected by developments in neighbouring countries such as Malaysia. The third part, 1970s, discusses the increasing phenomenon of labour migration in Indonesia due to internal and external factors. The fourth part, the 1980s, examines how the private sector became involved in the migration industry. The fifth part, the 1990s, investigates how Malaysia launched the regularisation policy in a response to the influx of irregular migrants, the majority of them from Indonesia. The sixth part, the 2000s, highlights Indonesia's labour migration policies and the high-profile case of the Nunukan humanitarian crisis. The seventh part, the



2010s, examines a number of recent developments, particularly in terms of migrant rights protection and Indonesia's decision to ratify the CMW, the central theme of this thesis.

As this thesis focuses on the role of policy entrepreneurs in Indonesia's foreign policy in the context of labour migration, it is important to further investigate what foreign policies had been made by successive administrations. Hence, Chapter 3 examines Indonesia's foreign policies on labour migration under each government administration, from the Suharto era (1967-1998) to the Joko Widodo era (2014-2015). The first part of the chapter, focussing on the Suharto era, examines the policies included in the *Rencana Pembangunan Lima Tahun (Repelita)*. The second part, the Abdurrahman Wahid era, investigates, among other things, Law No. 37 on Foreign Relations and the ratification of ILO conventions. The third part, the Megawati Soekarnoputri era, examines policies, including the establishment of the Directorate of the Protection of Indonesian Citizens and Legal Entities at the Kemenlu and the Enactment of Law No. 39 of 2004. The fourth part, the Susilo Bambang Yudhoyono era, investigates a number of foreign policy decisions, including the moratorium on sending migrant workers and the making of the grand design of protection policy. The fifth part, the Joko Widodo era, examines several initial foreign policies on labour migration of the relatively new government. Besides examining each successive administration in terms of foreign policy on labour migration, this chapter also examines the existence of policy entrepreneurs, more particularly in the context of the enactment of Law No. 39 of 2004, the signing of 2006 MoU with Malaysia, and certainly the ratification of CMW.

Chapter 4 then investigates the CMW in more detail. This investigation is important as it can reveal what factors drove the emergence of these international norms, what international events contributed to its making, and why it took as long as ten years to reach the final agreement. Thus, this chapter examines the history of CMW, its contents, its obstacles and challenges at the international level, and what roles international and regional NGOs played

pre and post 1990. On the roles of international and regional NGOs, the thesis argues that it is important to examine the matter as they can present insight into the primary investigation of this thesis. Further, this chapter also briefly examines the role of Indonesian NGOs – the policy entrepreneurs – in the signing and more particularly the ratification by Indonesia of the CMW in 2012

Having examined what the CMW is and the roles played, particularly by the international, regional and Indonesian NGOs in the context of ratification, Chapter 5 examines who the Indonesian policy entrepreneurs were and their views and proposals in terms of CMW ratification. Thus, the first part of the chapter identifies policy entrepreneurs from NGOs. The second part identifies other policy entrepreneurs from the Dewan Perwakilan Rakyat (DPR) and the government. The third and fourth parts examine the policy entrepreneurs' views and proposals respectively. The chapter argues that examining the views and proposals of policy entrepreneurs is an important part of examining their role as they can describe the main ideas of the policy entrepreneurs in pursuing ratification goals.

After examining the views and proposals of the policy entrepreneurs, it is also important to examine what other aspects contributed to the activism and influence of the policy entrepreneurs. Thus Chapter 6 examines the work, resources, motivations and success factors of the policy entrepreneurs. The first and second parts of the chapter investigate the work done and the resources used by policy entrepreneurs in achieving their goals. The third and fourth parts of the chapter investigate the policy entrepreneurs' motivations and success factors. Chapter 6 will also answer the questions of this thesis as stated earlier in this Introduction, particularly on why the policy entrepreneurs were successful in promoting their ideas. This thesis will close with Chapter 7: Conclusion.

# **Chapter 1**

## **Policy Entrepreneurship and Indonesia's Foreign Policy:**

### **A Literature Review**

This chapter will examine the study of policy entrepreneurship applied to the area of foreign policy. As a concept, policy entrepreneurship has been introduced, and has primarily been developed, by scholars in the broad domain of domestic public policy studies (Roberts and King 1991, Mintrom 1997, Kingdon 2003). The concept, however, is also used in the study of international relations and, more particularly, foreign policy issues (see Khan 1997, Carter et al. 2004). Yet the use of the concept in the study of foreign policy is still minimal, particularly as it applies to a country such as Indonesia, the world's fourth most populous country and a "powerful nation" in Southeast Asia (Clark and Pietsch 2014: 19). This chapter will, therefore, examine the use of the concept of policy entrepreneurship in the study of Indonesia's foreign policy.

The chapter argues that policy entrepreneurs have become an important dimension in foreign policy. As suggested by Khan (1997: 145), the foreign policy community has witnessed a gradual development of "a third dimension, composed of non-academic and even some academic experts, former government employees, journalists and lobbyists". What Khan means by the 'third dimension' is the policy entrepreneurs, whereas the first and second dimensions are expert practitioners and specialist academics, respectively. He argues that, unlike academics, the interests of policy entrepreneurs are not intellectual but a policy preference, which they seek to have taken into account in the policy-making process (Khan 1997: 145). Similar to this argument, Carter et al. (2004: 278) also suggest that foreign policy

entrepreneurs “seek to enact their own foreign policy agendas” by framing policy discussions and mobilising public and interest group interest.

Nonetheless, due to the still minimal use of the concept of policy entrepreneurship in foreign policy discourse, one may question whether the concept is more relevant to public policy or domestic politics studies rather than to foreign policy or international relations studies. This thesis, however, supports the arguments of scholars who hold the view that foreign policy and domestic politics are intertwined and, therefore, the two policy domains should not be separated (Putnam 1988, Halperin 1974), and that “domestic politics and international relations are often somehow entangled” (Putnam 1988: 427). This view is supported by other scholars (see Smith et al. 2012, Mintz and DeRouen 2010, and Hudson 2007), making the linkages between the two concepts more obvious. In short, using the concept of policy entrepreneurship and examining the influence of domestic politics on foreign policy is not only highly relevant but can also provide a more thorough understanding of how foreign policy is made.

Indonesia’s foreign policy is the primary subject of this thesis. The relevant literatures I have drawn on are those scholarly works that explain the origins of the foreign policy and the principles that shape it (see, for instance, Agung 1973, Hatta 1976, Leifer 1983). The work of Agung (1973), for example, details how Indonesia’s foreign policy was built and implemented in the period 1945-1965, from the formulation of basic principles to particular cases, such as Indonesia’s confrontation with Malaysia. The speech of Indonesia’s first vice-president, Mohammad Hatta, in September 1948, entitled *Mendayung Antara Dua Karang* (Rowing between Two Reefs), brings us to the foundation of Indonesia’s foreign policy, particularly the ‘independent and active’ principle (Hatta 1976). Leifer provides a comprehensive account of Indonesia’s foreign policy, which investigates “the course and nature of that foreign policy since the proclamation of independence” in 1945 up to 1982 (1983: xvii).

Other important scholarly works on Indonesia's foreign policy examine and explain the transition of the policy from the Suharto/New Order regime (1967-1998) to the post-Suharto era (1998 onwards). For example, on the evolution of Indonesia's foreign policy, Sukma (1995: 305) provides an assessment of the nature of policy from a wider, more conceptual context and examines the changes in terms of the strongly held 'independent and active' principle. Observing Indonesia after the end of the New Order regime in the late 1990s, Anwar (2010) examines how Indonesia's transition to democracy has had important impacts on the making of foreign policy. She argues that Indonesia's transition to democracy has democratised the process of foreign policy-making, due to the existence of multiple power centres and various stakeholders in the *reformasi* era (Anwar 2010: 139). Examining the elite perceptions in Indonesia that determine foreign policy decisions, Novotny (2010: 346) argues that the "balance-of-threat theory is capable of explaining Indonesia's foreign policy dynamics provided it extends the analysis beyond the elite's threat perceptions".

This chapter begins with an introduction to policy entrepreneurship and Indonesia's foreign policy. The first section draws on the concept of policy entrepreneurship and other relevant matters. It shows how scholars define the concept, which may be different from one scholar to the next, yet, in general, they put emphasis on the importance of ideas and how to promote them as policy preferences. Further, the section explains the differences between 'entrepreneurs' and 'policy entrepreneurs', two concepts that may create confusion among readers. On the importance of policy entrepreneurs on the policy-making process, this section argues that policy entrepreneurs can play key or significant roles. Later, the section describes the quality of policy entrepreneurs in influencing policy-making.

The second section examines the concept of foreign policy. It describes a number of definitions of foreign policy. It further argues that there are linkages between international and domestic politics, which explain that foreign policy is often influenced by the dynamics of

domestic politics. The section also argues on the importance of foreign policy analysis (FPA) study in analysing the making of foreign policy, as this study puts greater emphasis on human decision makers acting individually or in groups. The third section deals with Indonesia's foreign policy. It describes a number of scholarly works, from classical pieces that examine the history of Indonesia's foreign policy to works that examine the foreign policy dynamics in the post-Suharto era. This section also examines whether there are any particular references or analyses concerning the role of policy entrepreneurs in Indonesia's foreign policy.

## **1.1 Policy Entrepreneurship**

This section will be divided into several sub-sections, each of which investigates various aspects of the study of policy entrepreneurship, such as the conceptual framework, placement, importance, characteristics, the meaning of success in policy entrepreneurs' activism, to a number of scholarly suggestions on how to achieve such success.

### **1.1.1 Conceptual Framework**

The origin of policy entrepreneurship concept stretches back hundred years ago when the term "entrepreneur" was firstly defined by R. Cantilon in 1755, as those whom are, among others, "self-employed [dealing] with additional uncertainty" (Braunerhjelm 2010: 9). Yet the concept was made more significant and explained more sophisticatedly by a German scholar Joseph Schumpeter who began analysing the term 'entrepreneurship' in his legendary work "The Theory of Economic Development" (1934). Indeed the theories of entrepreneurship vary. Yet the theories offered by Schumpeter is considered by scholars to be one of the most influential. Swedberg (2007: 2), for example, argues, "Of all the theories that exist, [Schumpeter's] theory

is still [...] the most fascinating as well as the promising theory of entrepreneurship that we have.”

According to Schumpeter, as I quote from Braunerhjelm (2010: 9), entrepreneurship is an ultimate vehicle “to move an economy forward from static equilibrium, based on combinatorial capabilities of entrepreneurial individuals”. From this statement, the concepts that we can underline are *static equilibrium*, *combinatorial capabilities*, and *individuals*. Put differently, entrepreneurs are individuals possessing combined capabilities and are considered able to transform something static toward a dynamic change.

Up to the present time, Schumpeter’s theories of entrepreneurship are still used, at least as a departing point, by many scholars not only in the studies of economy but also in other disciplines such as political science and international relations. It is with this reason that the term ‘entrepreneurship’ has been coined to other concepts, such as political, public, policy, and so forth.

Goes back to the main theme of this thesis, which is the role of policy entrepreneurs in Indonesia’s foreign policy, the definition of policy entrepreneurship, or policy entrepreneurs, varies from one analyst to the next.<sup>3</sup> In recent years, political science scholars have borrowed the term entrepreneur from economics, applying it to political science. For instance, Mintrom (1997: 740) argues, “policy entrepreneurs can be thought of as being to the policy-making process what economic entrepreneurs are to the marketplace.” They are both change agents. He further defines the concept as identifying key “political actors who promote policy ideas” (Mintrom 1997: 739). Similarly, Kingdon defines policy entrepreneurs as “advocates for proposals or for prominence of an idea” (2003: 122) or “advocates who are willing to invest

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<sup>3</sup> The term ‘entrepreneur’ itself may create confusion to both scholars and the general reader. This is due to the more popular concept of ‘entrepreneur’, which many will understand in terms of business or ‘for-profit’ activities.

their resources – time, energy, reputation, money – to promote a position in return for anticipated future gain in the form of material, purposive, or solitary benefits” (2003: 179). Generally, the literature stresses the importance of ideas and advocacy in the roles policy entrepreneurs play.

Whereas the above definitions do not specify who the political actors, or the so-called advocates, are, other scholars emphasise that policy entrepreneurs come from outside of government. Using a slightly different term, namely ‘public entrepreneurship’, Roberts and King (1991: 147) define this concept as “public entrepreneurs who, from outside the formal positions of government, introduce, translate, and help implement new ideas into public practice”. Roberts and King (1991: 147) further define public entrepreneurship as “the process of introducing innovation – the generation, translation, and implementation of new ideas – into the public sector”. Not all scholars agree that policy entrepreneurs should come from outside the formal position. Kingdon (2003: 204), for example, argues that policy entrepreneurs can be “elected officials, career civil servants, lobbyists, academics, or journalists. No one type of participant dominates the pool of entrepreneurs.”

### **1.1.2 Applicability**

One may wonder on why I apply much of Kingdon’s specific concept on Policy Entrepreneurship throughout this thesis but apply less of his broader theory namely Multiple-Streams Framework (MSF). This framework (Kingdon 2003) in essence argues that there are streams within public policy processes, namely Problem, Policy and Politics. These processes are often coupled, including by policy entrepreneurs, which later create results of a public policy change.



The reason that I apply much of Kingdon's specific concept on Policy Entrepreneurship rather than his Multiple-Streams Framework (MSF) is due to the focus that I attempted to investigate, which is the actor or actors who had been instrumental in bringing about the policy change. There is no doubt that the Kingdon's MSF could be useful in explaining any case being investigated. Yet I would argue that the use of MSF might derail from the main proposition of this thesis is attempting to focus, which is the role of policy entrepreneurs in Indonesia's foreign policy.

There have certainly been different approaches applied by scholars in using Kingdon's theories on policy changes. Some (Gaess 2017, Beland and Howlett 2016, Weiner 2011) apply wholly the Multiple-Streams Framework, whereas others (Mackenzie 2004, Mintrom 1997, Roberts and King 1991) focus on using the notion of policy entrepreneurship. For this reason, I choose the latter. The rationale of this approach is similar to what I have explained as above, namely on what makes policy entrepreneurs successful in bringing a policy change.

On applying the concept of Policy Entrepreneurship in the locus of case study, which is Indonesia, one may ask the applicability of such attempts. This is due to the critical debates that have been emerging since Kingdon's MSF was published in 1984, questioning whether the framework is applicable outside the United States political environment. In this context, I would argue that the debates are mostly on the use of the MSF as a theoretical concept, not exclusive to Policy Entrepreneurship. Chow (2014: 50, emphasis added), for example, states, "The applicability of the *MSF outside the US* political environment has always been a hotly debated topic in the literature". Discussing from a view point of comparative policy analysis, Beland and Howlett (2016: 221, emphasis added) argue, "[It] is not clear that a *framework* developed exclusively on the basis of the examination of a single, somewhat idiosyncratic national [US] case should be able to generate insights for comparative research."

This research, nonetheless, emphasises on the use of Policy Entrepreneurship concept in explaining and analysing the case being investigated. Having reviewed work on Policy Entrepreneurship, I would argue that there have been not much debate among scholars on the applicability of this concept outside the US system. Instead, the concept has been applied in many country settings. The concept, for example, has been used in the context of Australia (Mackenzie 2004), 15 countries and European Union (Meijerink and Huitema 2010), and Turkey (Bakir and Jarvis 2017).

With the above reason, I argue that the concept of policy entrepreneurship can be applied in Indonesia. This is even more evidenced when Indonesia embraced a full-fledged democracy in 1998, when the authoritarian Suharto's New Order regime (1967-1998) fell down and was replaced by the so-called reform era. Starting from this era, people and especially non-state actors enjoy their freedom of expressions and political activism as well as being more critical toward government policies. The section on Indonesia's foreign policy at this chapter discusses further this matter.

Taking into account the legislative process in Indonesia, by rules of procedures, bills can only be proposed by the government and/or the parliament members. Yet others including NGOs, interest groups or even individuals can play roles by influencing the government and the parliament members, at the very least by bringing policy issues into public discourse. As demonstrated by the result of study from The Policy Lab (The University of Melbourne) and the Indonesian Centre for Law and Policy Studies (PSHK) for Knowledge Sector Initiative (Blomkamp *et al* 2017), "Civil society organisations and the media appear to play a particularly important role in creating public awareness of issues."

### **1.1.3 Importance of these Actors**

Similar to other emerging concepts and practices, various scholars have been involved in debates about whether policy entrepreneurs can play a more or less significant role in the public policy process. This thesis argues that policy entrepreneurs play a significant role. As suggested by Mintrom (1997: 739), “policy entrepreneurs can play a key role in identifying policy problems in ways that both attract the attention of decision makers and indicate appropriate policy responses”. Furthermore, using a number of activities in promoting their ideas from the agenda setting stage, Mintrom (2000: 57) argues that policy entrepreneurs engage in “identifying problems, networking in policy circles, shaping the terms of policy debates, and building coalitions to support policy change”. Additionally, having carried out research concerning the US Congress, Carter et al. (2004) argue that policy entrepreneurs have become important players. “The institution (Congress) and its members are, at the least, potentially influential in US foreign policy” (Carter et al. 2004: 279).

### **1.1.4 Placement of Policy Entrepreneurs**

One may question the specific location of policy entrepreneurs, whether they are based in, or should come from, specific policy communities, such as governments, legislative bodies, or universities. Policy entrepreneurs can come from any of these institutions, or even as individuals who work by themselves. It does not really matter where they come from. As Kingdon (2003: 180) argues, “the placement of entrepreneurs is nearly irrelevant”. Thus, policy entrepreneurs can belong to the government or remain external to government as part of the epistemic community or other interest groups. Nevertheless, just like business entrepreneurs, policy entrepreneurs may expect a future return after investing their resources. That return may

be in the form of “policies of which they approve, satisfaction from participation, or even personal aggrandizement in the form of job security or career promotion” (Kingdon 2003: 123).

As previously mentioned, policy entrepreneurs are political actors or advocates who want to secure the approval and implementation of policy agendas. They may work within government or outside of it. In relation to policy entrepreneurs who work inside of government, Kingdon (2003: 21-44) suggests that they are political actors who come from the administrative/executive branch (i.e. president/head of government, staff, or political appointees), civil servants, and legislative bodies (congress/parliament/house of representatives). Other policy entrepreneurs who work outside of government include interest groups (academics, researchers, and consultants), media, elections-related participants, and public opinion (Kingdon 2003: 45-70).

In regard to how policy entrepreneurs inside the government, or the government itself as an institution, can play role in making change, it is worth mentioning the finding on German vocational training. Thelen and Busemeyer (2008: 23) find out that the role of the government in German vocational training has changed from brokering and facilitating to initiating and reforming, and this change is due to “deterioration of collectivism in favour of segmentalism” of the government system. What they mean as collectivist system and segmentalist system is if the former require “much more encompassing organisation and coordination”, the latter “based more on the production of” institution-specific skills (Thelen and Busemeyer 2008: 7).

It is, however, not that simple to differentiate whether particular policy entrepreneurs belong to the government or not. “[The] line between inside and outside of government is exceedingly difficult to draw” (Kingdon 2003: 45). For example, interest groups lobby and are lobbied by government; some researchers can have close relationships with government, and even receive payments when they work as consultants. Yet it is still important to make such a differentiation, since the two lines have different authorities. As argued by Kingdon (2003: 45),

the distinction between policy entrepreneurs from inside and outside government retains an important meaning. People who hold positions in government have formal authority, a status that the outsiders do not enjoy.

For that reason, Kingdon (2003) suggests that we can identify two distinct groupings: a visible cluster of actors and a hidden cluster. According to him:

The visible cluster—those participants who receive a lot of press and public attention – includes the president and his high-level appointees, prominent members of Congress, the media, and such elections-related actors as political parties and campaigns. The relatively hidden cluster includes such specialists as academics and researchers, career bureaucrats, congressional staffers, and administration appointees below the top level. Interest groups travel between the two clusters, with some of their activities very public and others hardly visible at all (Kingdon 2003: 68).

These groupings, and the categorisation of inside and outside government as previously discussed, will help us determine the placement and relative influence of policy entrepreneurs. Knowing the placement of policy entrepreneurs will indeed inform us on how they play their role in influencing the making of policy.

### **1.1.5 Important Skills and Qualities of Policy Entrepreneurs**

One may question the qualities, or even the characteristics, of policy entrepreneurs who can generate considerable success in the context of public policy. In that regard, Kingdon (2003) puts forward arguments that the qualities which contribute to the success of the policy entrepreneur in realising their ideas as policy fall into three categories.

First, they are a person “who has some claim to a hearing” (Kingdon 2003: 180) i.e., rather than merely possessing a desire to be heard, they are capable of ensuring that they are heard. What Kingdon means here is that there are scores of people who want to influence policy making processes, yet among those people only some who have a claim to a hearing can make it happen. This claim to a hearing can have one of three sources: (1) expertise; (2) an ability to

speak for others, such as a leader of a powerful interest group; and (3) an authoritative decision-making position, such as the president or chairman of a congressional committee (Kingdon 2003: 180).

Second, they are “known for [their] political connections or negotiating skills” (Kingdon 2003: 181). This type of person combines technical expertise with political resources, since this combination creates more influence than if they were applied separately. In explaining this, Kingdon (2003) uses an example of someone like Wilbur Cohen (1913-1987) from the United States, a policy entrepreneur in social security and health insurance. As noted by Livingston (2008: 138), Cohen was a central figure for many of the US Social Security program’s most significant changes. Berkowitz (1995: xv) notes that the details of the life of Cohen illuminate the politics of social security in the US and particularly under the administrations of Kennedy and Johnson. Berkowitz (1995: 316) notes further:

Throughout his life Cohen maintained a rhythm in which he alternated between contemplative research and active political tasks. Often he would perform background research, help to pass a law, and then write an essay reflecting on the experience.

On the political influence that Cohen had, Berkowitz (1995: 316) argues that, had Cohen not transformed the political side of his persona, he would have been comfortable to stay in the bureaucracy and continue working as the head of the research and statistics division of the Social Security office. With all his achievements as a policy entrepreneur, Wilbur Cohen received great appreciation, including his labelling as “Mr. Social Security” by President John F. Kennedy (Livingston 2008: 138).

Third and, according to Kingdon (2003), probably the most important category, policy entrepreneurs must be persistent. Most of these actors who have some claim to a hearing “spend a great deal of time giving talks, writing position papers, sending letters to important people, drafting bills, testifying before congressional committees and [the] executive branch of commissions, and having lunch, all with the aim of pushing their ideas in whatever way and

forum might further the cause” (Kingdon 2003: 181). Kingdon adds that persistence alone will not be adequate. Yet if persistence is combined with other qualities, it will make a huge difference.

## **1.2 The Links between Foreign and Domestic Policy**

Prior to examining further the scholarly works on Indonesia’s foreign policy, this section briefly introduces the study of foreign policy and, more particularly, its definition; the linkages of international and domestic politics; and the Foreign Policy Analysis (FPA) theory. It is important to highlight the linkages between international and domestic politics since the thesis examines a case that exists in domestic politics and has an impact on Indonesia’s foreign policy. It is also important to get more insights into FPA theory since the theory puts an emphasis on an actor or actors, including non-state actors, in the making of foreign policy.

### **1.2.1 Definition**

There are various definitions of foreign policy. Hill (2003: 3) defines it as “the sum of official external relations conducted by an independent actor (usually a state) in international relations”. What Hill means by ‘an independent actor’ may include the European Union and the Association of Southeast Asian Nations (ASEAN). External relations are considered ‘official’ when they include outputs from all the structures of government of the state or enterprise while being parsimonious to the huge number of international transactions. Policy is the ‘sum’ of the official external relations because, otherwise, all specific actions could be interpreted as a separate foreign policy.

The definition of foreign policy as suggested by Hill seems to cover all important aspects of foreign policy-making, such as the actor and its activities in international relations. Yet it

narrowly defines the actor as a state, even though there are important exceptions: international or regional organisations such as the European Union and ASEAN. What is missing from Hill's definition is the idea that actors of foreign policy these days are not solely dominated by the state. Some scholars have examined the role non-state actors play in international relations, such as international nongovernmental organisations (NGOs), multinational enterprises (Fogarty 2013: 1), organised armed groups (Angeli 2010), and international institutions and regimes (Milner 2009).

If the definition by Hill above puts emphasis on government or an official body or bodies of a state, Hermann (1978: 34) takes a broader approach that includes individuals or groups of individuals, as he defines foreign policy as "the discrete purposeful action that results from the political level decision of an individual or group of individuals [...] It is not the decision, but a product of the decision." From this definition, Hermann suggests that the actors of foreign policy-making do not necessarily come from a state/government or any formal institution. They can be any individual or a group of individuals who can influence or make decisions at the political level. Furthermore, foreign policy is not about the decision but is more about the product of the decision. Arguably, it focuses more on process, such as how the 'product' is made, who makes it, and why it is made.

This thesis supports the definition offered by Hermann since, as argued previously, the actors of foreign policy are numerous and they can come from the domestic level or the international arena. Yet some may question what the contents of foreign policy are and how they are implemented. In that regard, Herman suggests that there is a distinction between foreign policy and foreign policy behaviour. He explains:

Foreign policy consists of the development and conscious pursuit of some preferred goal or goals of an actor through the selective use of foreign policy behaviour. Foreign policy behaviour is purposeful action resulting from the implementation of a political-level decision to act so as to attempt to influence attitudes, beliefs, and/or actions of one or more other actors where entities external to the political jurisdiction of the decision



makers are either (1) the subject of the influence attempt or (2) the channel through which a message is conveyed to domestic individuals or collectivities (Herman 1983: 274-5).

This explanation implies that the contents of foreign policy are a preferred goal or goals. When it goes to the question of how these contents are implemented, then it falls into ‘foreign policy behaviour’. Herman (1983: 275) further explains that what he means by ‘a political-level decision’ in foreign policy behaviour is a choice made by individuals who hold the authority to use the resources of the government, ruling party, corporation, or other international entity. This explanation makes a stronger argument that there are various actors in foreign policy-making, an argument used in examining the case in this thesis.

### **1.2.2 Linkages between International and Domestic Politics**

This thesis argues that the study of foreign policy has linkages to the study of public policy, which is usually considered as inside the domestic process. Smith et al. (2012: 4) suggest that “in concept, foreign policy links into much of the literature of public policy, with the notable difference that its targets are (usually) actors outside the domestic process”. This thesis will examine the targets of the actors or policy entrepreneurs inside the domestic process since it investigates what and how they influence foreign policy-making in the domestic political arena.

On the linkages between domestic and international politics in the study of foreign policy, the thesis argues that they interact and sometimes even determine each other. Rosenau (1969, see also Rosenau 1971) is often regarded as the first scholar to propose the ‘linkage theory’, arguing that there are linkages between domestic and international politics (Elisabetta 2013).

Rosenau (1969: 45) writes:

Our approach to the phenomena bounded by the overlap of national and international systems is strictly an empirical one. We wish to identify and analyse those recurrent sequences of behaviour that originate on one side of the boundary [...] became linked to phenomena on the other side in the process of unfolding [...] Hence we will use a linkage

as our basic unit of analysis, defining it as a recurrent sequence of behaviour that originates in one system and is reacted to in another.

Rosenau's argument deepens our understanding that domestic and international politics are linked and they can influence one another. Yet Rosenau (1969: 8) acknowledges that there are shortcomings to the theory of linkage and the most basic reason is the lack of communication between the specialists in comparative and national politics on one side and the specialists who focus on international politics on the other. "Each group is trapped, as it were, in its own conceptual jail and, like all prisoners, its members rarely get a glimpse at the life of those incarcerated elsewhere" (Rosenau 1969: 8).

While Rosenau is the scholar who introduced the concept of linkage between domestic and international politics, it is Putnam (1988) who highlights the linkages between international relations and domestic politics. Putnam (1988: 428) argues that "it is fruitless to debate whether domestic politics really determine international relations, or the reverse" because the answers to these questions are "both, sometimes". Using the concept of 'two-level games' as a metaphor for domestic and international interactions, Putnam suggests that the state-centric literature is an uncertain foundation in developing theories on how domestic and international politics interact (Putnam 1988: 433). This argument is supported by Dosch (2006: 45) who argues that the domestic constituencies often pressure the government so that their favoured policies can be adopted.

Nevertheless, the arguments of Putnam on 'two-level games' do not elaborate the impact of domestic factors in the making of foreign policy, particularly with regard to the differences of governmental regime types. As suggested by Dosch (2006: 46), there are two types of governmental regimes as such: the statist/non-democratic and the pluralist/democratic. In statist/non-democratic systems, foreign policy-making often ignores societal interests and even opposition. In the pluralist/democratic system, foreign policy choices are connected to the

perceived effect on the political standing of the decision-maker in his or her constituency. As argued by Dosch (2006: 46), “The degree of pressure on decision-makers seems to vary greatly according to the overall structure in which foreign policy making is embedded”. Put simply, if we locate the newly democratised Indonesia in context, foreign policy makers in the country will often face strong pressure.

### **1.2.3 Drawing on Foreign Policy Analysis (FPA) Theory to Help Explain Policy Changes**

Another useful analytical tool in analysing the behaviour of policy entrepreneurs is foreign policy analysis (FPA) theory, which is characterised by an actor-specific focus (Hudson 2005: 1). As this thesis argues that there are non-state actors in the making of foreign policy, it is useful to apply this theory in explaining the behaviour of policy entrepreneurs in Indonesia’s foreign policy as the actors or a group of actors who have played roles in determining the policy.

The FPA theory focuses on how different actors in international systems conduct their relations. As Alden and Aran (2012: 1) put it:

At the heart of the field is an investigation into decision making, the individual decision makers, processes and conditions that affect foreign policy and the outcomes of these decisions. By adopting this approach, FPA is necessarily concerned not only with the actors involved in the state’s formal decision-making apparatus, but also with the variety of sub-national sources of influence upon state foreign policy.

From this definition, it is clear that FPA theory emphasises the decision-making process and, more particularly, the behaviour of the actors that affect foreign policy decisions. Even though the theory highlights the importance of state as a foreign policy primary actor, it also focuses on other, non-state actors who influence the foreign policy making process.

Some of the scholars who are regarded as the founders of FPA theory, according to Hudson (2012: 13), are Richard C. Snyder, H.W. Bruck, and Burton Sapin. These scholars argue:

We have defined international politics as processes of state interaction at the governmental level. However, there are non-governmental factors and relationships which must be taken into account by any system of analysis, and there are obviously non-governmental effects of state action. Domestic politics, the non-human environment, cross-cultural and social relationships are important in this connection (Snyder et al. 1962: 203).

From this argument, it is more obvious that, from the beginning, FPA theory has acknowledged the factors of non-state actors. The theory not only takes into account the factor of domestic politics but also the dynamics within societies as they are regarded as important.

Based on the definition, as well as the argument as written above, this thesis argues that FPA theory is useful in explaining the behaviour of the foreign policy making process, especially since it emphasises the roles of human decision makers, whether they act individually or in groups. This is in line with the argument of this thesis that there exist policy entrepreneurs – a group of political actors – in foreign policy making. As suggested by Hudson (2005: 1), “all that occurs between nations and across nations is grounded in *human decision makers acting singly or in groups*”. In her much earlier work, Hudson (1995: 210) also suggests that from its inception, FPA has taken into account the examination of how foreign policy decisions are made and has assumed that the source of much behaviour and most change in international politics is human beings, whether they act individually or in collectivities”. From these views, one aspect that can be underlined is the ‘human decision makers’, whether they work individually or in groups. Thus, the centre of analysis of foreign policy under FPA theory falls into the human aspect, the aspect that will be the focus of this thesis.

### 1.3 Understanding Indonesia's Foreign Policy Trajectories

There are various scholarly perspectives analysing Indonesia's foreign policy. Works from a historical perspective tend to examine Indonesia's foreign policy based on time-specific, or the *periodisation of governmental regimes*, such as the period of President Sukarno, 1945-1967 (see, for example, Agung 1973, Leifer 1983, Hein 1986), the period of President Suharto, 1967-1998 (Leifer 1983, Sukma 1995), and the period of the post-Suharto regimes, from 1998 up to the period of President Susilo Bambang Yudhoyono (SBY) (Anwar 2010). Other thematic works focus more on *specific issues*. They examine, for example, *konfrontasi* (confrontation, Sukarno's anti-Malaysia vitriol in 1963-66 period) (Mackie 1974, Clark and Pietsch 2014), the views of foreign policy leaders on aid and independence (Weinstein 1976), ASEAN (Anwar 1994, Caballero-Anthony 2005, Clark 2011, Clark and Pietsch 2012), or Indonesia's bilateral relations (Sukma 1999, Liow, J.C. 2004, Novotny 2010, Clark and Pietsch 2014).

Outside of those scholarly works written in English, there exists a useful body of literature in Indonesian language that examine Indonesia's foreign policy, such as on the periodisation of governmental regimes (Wuryandari et al. 2008). Another important piece of writing that should not be missed is the 'work' of the first vice-president Mohammad Hatta (1976) entitled *Mendayung Antara Dua Karang* (Rowing Between Two Reefs). The work, or policy speech, to be more precise, laid down the principle of Indonesia's foreign policy, namely 'independent and active' (*politik luar negeri bebas aktif*).

This section examines some of the above-mentioned works, critically engages with their strengths and weaknesses, and seeks to find out whether there are particular references or analyses concerning the role of policy entrepreneurs in Indonesia's foreign policy.

### 1.3.1 The Periodisation of Governmental Regimes

Prior to examining the work based on the periodisation of Indonesia's foreign policy, it is important to begin with the work of Hatta (1976) as this is usually referenced when discussing policy in such an approach. The work, or to be more accurate the speech, of Hatta before the Komite Nasional Indonesia Pusat (KNIP – Central Indonesian National Committee) in 1948, is an important reference on how the 'independent and active' principle emerged for the first time. Hatta's speech, and his further explanation, demonstrated his determination on Indonesia's foreign policy (pp. 49-50).

In his speech, the then Vice-President Hatta revealed that the People's Democratic Front (FDR) of the Indonesian Communist Party reversed its support to the Renville Agreement signed on 17 January 1948 (the agreement between Indonesia and the Netherlands on a ceasefire, facilitated by the United States, Australia, and Belgium; see DFAT 2014) even though, previously, FDR fully supported the Agreement. Hatta observed that the dramatic shift occurred due to the conflict of international politics between the US and Russia (p. 17). He then questioned KNIP, whether the nation should stand on the side of Russia or America. In the words of Hatta: "*Apakah tak ada pendirian yang lain harus kita ambil dalam mengejar cita-cita kita?*" (Is not there any other stand that we can take in the pursuit of our ideals?) (p. 17). Hatta further stated:

The Government is of the view that the stand that we must adopt is that we shall not be an object of the conflict of international politics; we however shall remain the subject who reserves the right to define our own stand, reserves the right to struggle for our own goal, which is the independence for the whole Indonesia (p. 18, translated).

This part of the speech later became the principle plank of Indonesia's foreign policy, 'independent and active'. One may wonder in which part of the speech Hatta used the phrase '*bebas dan aktif*' as he did not specifically mention it in the speech. Yet the word 'active'

appeared later when Hatta wrote an article published in the prominent Foreign Affairs magazine (1953):

The Indonesian Government is of opinion that the position to be taken is that Indonesia should not be a passive party in the area of international politics but that it should be an active agent entitled to decide its own standpoint.

It appears that the word 'independent' was redefined by Prime Minister Wilopo, who assumed office in May 1952, in the following speech:

When the Government stated that its conduct of foreign affairs would be in an "independent" manner, the underlying idea was to make it clear that, in face of the fact that there are two opposed trends in international circles which have given rise to two blocs—the Western bloc with the United States and its allies, and the Eastern bloc with its adherents—the Republic of Indonesia has decided to adopt an independent attitude (Hatta 1953).

Elaboration of the 'independent and active' principle may be found in the work of Agung (1973) as it examines the conduct of Indonesia's foreign policy under the Sukarno regime (1945-1967). More than that, the work also presents a great account of Indonesia's foreign policy toward the Dutch and the countries in the region, such as China, India and Malaysia. As an example, Agung writes:

[T]he Chinese government continued to cultivate a particular relationship with Indonesia, and later, after President Sukarno proclaimed his new political system of guided democracy, the Chinese strategy received a most welcome boost as the Indonesian president embarked enthusiastically upon an aggressive, militant foreign policy of anti-imperialism and anti-colonialism (pp. 413-4).

The work is useful for those who seek a detailed description. However, it is over-descriptive as it emphasises the historical facts rather than providing an analytical account of Indonesia's foreign policy. Furthermore, as he was imprisoned by the Sukarno administration for almost five years, Agung tends to be negative in his judgment toward Sukarno's foreign policy (see p. 543).

Arguably, one of the best known accounts of Indonesia's foreign policy under the Sukarno and Suharto regimes is the work of Leifer (1983) that investigates thoroughly the

policy from 1945 up to early 1980s. This work describes and analyses how the policy took its initial form, the ‘seeds of foreign policy’, by securing international recognition. As argued by Leifer, “The demand for *de facto* recognition and the exclusion of the Dutch forces constituted the initial negotiating position” (p. 6). This work also explains the emergence of the ‘independent and active’ principle. Interestingly, Leifer suggests even though the principle “has exercised an abiding influence on successive Indonesian governments” (p. xvii), Sukarno disregarded it during the Guided Democracy period (1959-1965), as his foreign policy direction was more aligned to the Soviet Union and China (pp. 68-74). As the Sukarno era ended in 1967, after the failed Communist coup in 1965, this principle shifted to be ‘moderate’ when Indonesia was led by Suharto. In principle, the policy under Suharto “reinstated a former course rather than pursuing a novel one” (p. 111). The work is arguably one of the most widely cited references of Indonesia’s foreign policy, as it covers many aspects. Yet Leifer offers little discussion on various important domestic events, such as the transition period to Suharto’s leadership.

The gap in the work of Leifer is filled out by the work of Sukma (1995) as it investigates the development of Indonesia’s foreign policy from 1945 to the early 1990s. Sukma suggests that Indonesia’s foreign policy is best understood if it is divided into three evolutionary phases (p. 305). The first is the ‘Indonesia’s independence struggle’ (1945-1957), during which the focus of foreign policy was to get international recognition (p. 306). The second phase is ‘the radicalisation of foreign policy’ (1957-1967), particularly when Indonesian politics entered into a new era in 1959 when Sukarno introduced a Guided Democracy, “which paved the way for his political ascendancy” (p. 309). Sukarno later radicalised internal policies, which led to a parallel radicalisation of foreign policy. In this phase, Sukarno carried out “a series of anti-colonialism measures”, notably winning sovereignty over Irian Jaya in 1962 and opposing the creation of the Malaysia Federation (p. 310). On the former, Sukarno was applauded. The latter



brought about his fall in 1967. This brought Indonesia to the third phase, 'the New Order' led by Suharto. In this phase, foreign policy changed. Suharto, for example, immediately terminated *konfrontasi* and subsequently normalised relations with Malaysia. The work of Sukma (1995) is useful in providing the history of Indonesia's foreign policy. However, it lacks description and analyses on the period of Liberal Democracy (1950-57) and leaves one wondering about notable events during this period, such as the 1955 Asian-African conference.

Last but not least, the work of Wuryandari et al. (2008) is another useful reference as it covers the history of Indonesia's foreign policy over a longer time-span, 1945-2007, from the years of Sukarno to Susilo Bambang Yudhoyono (SBY). The work argues that Indonesia's foreign policy making and implementation during those years has been influenced most by domestic politics (p. 20), even though each president had his or her own style. One of the most useful features of this work is the table summarising the whole periods of Indonesia's foreign policy and the underlying domestic factors, as follows:

Table 1.1 Comparison of Domestic Factors in Indonesia's Foreign Policy (1945-2007)

No	Indicator	OLD ORDER REGIME			NEW ORDER REGIME		POST-NEW ORDER ERA			
		Early Independence Period - Sovereignty Recognition	Parliamentary Democracy	Guided Democracy	1966-1982	1983-1997	BJ Habibie	Abdurrahman Wahid	Megawati Soekarnoputri	Susilo Bambang Yudhoyono
1	Domestic conditions: - economy - security - politics	- Nation-state formation building - Deteriorating economy			Consolidation of economics, politics, and security	Political stability and social-economic achievements	Instability of politics and security - Economic crisis - Democratisation			Relatively stable macro economy, politics and security
		The ups and downs of parliaments		Relatively stable politics	- Prioritising sectoral development			Vertical and horizontal conflicts		
		The coups by Indonesian Communist Party (PKI)	- 'Politik Aliran' & constitutional debates - Regional coups	- The coups by PKI - Political stability	- Political and security stability - Authoritarianism, nepotism, and 'pemasangan'			Terrorism		
2	Modality	Strong nationalism			- Anticommunism - Economic development achievement - Political stability		Positive image from the democratisation realities: - Development in many domestic institutions for democracy - Freedom of press - Respects to human rights - Transparent executive and legislative elections			
3	Structure and Process in Policy Making	Parliament heavy			Suharto		In general there had been a balance between Executive and Legislative, yet in a number of cases the Executive was more instrumental			
			Sukarno		- ABRI - Technocrat	- Golkar (ABRI, technocrat) - Islam				
4	Actors: - Policy makers - Policy implementer	Sukarno Syahrir Hatta	Parliament and Sukarno	Sukarno	Suharto		State actor (legislative and executive), particularly since Wahid era the non-state actors started to play more roles			
					- ABRI - Technocrat	- Golkar				

5	Foreign Policy Main Agenda	Sovereignty recognition		World recognition as an alternative leader	Inviting foreign investment and became more active regionally and internationally	Recovering economy and guarding democracy			
							Maintaining the national unity		
6	Dominant Domestic Issues	- Dutch aggression - Diplomacy on territorial integrity	- Diplomacy for West Irian - Regional coups - The ups and downs of parliaments - 'Politik aliran'	- Politics of balance between military and communist - Neoliberalism and Imperialism) - New Emerging Forces vs Old Establishment Forces	Political stability, economic development, and anticommunism		- Economic crisis - Democratisation		
					Simplifying political parties, mono loyalty of bureauracy	Single principle ( <i>asas tunggal</i> )	Separatism and horizontal conflict		
								Terrorism	
7	Styles	Active		Low profile Accommod ative	High profile	No profile			
			High profile						
	Patterns	'Rowing between two reefs'	Friction between rightist and leftist powers	Tend to be 'leftist'	Fuzzy				
						'Hitting all the reefs'		'Charting all the oceans'	

Source: Wuryandari et al. (2008: 241-2)

The table presented by Wuryandari et al (2008) is useful as it synthesises important aspects that some other scholars have already examined, such as the agenda, the actors, and the presidents' leadership styles. Even though scholars may have further debates on concepts, such as the notion of 'no profile' in the post-New Order era, in general, the table succeeds in reflecting the domestic politics dynamics of Indonesia's foreign policy under the three periods examined. What is lacking in this work is the minimal elaboration on the roles of non-state actors (NSAs), more particularly in the post-New Order era. Even though the chapter written by Mashad (2008: 201-3) suggests that NSAs become influential actors and have 'extraordinary roles' from the beginning of the Wahid presidency in 1999, it does not explain much of this phenomena.

### **1.3.2 Specific Issues in Indonesia's Foreign Policy**

There are numerous works under the category of specific issues. On *Konfrontasi*, the work of Mackie (1974) is a very comprehensive account as it provides a detailed investigation of the domestic political situations in both countries (see p. 111, 333). Mackie suggests that the causes of confrontation were "complex and heterogeneous" (p. 3), "far more complex than" the Sukarno factor (p. 1), and the open break between the two countries in September 1963 "had far reaching consequences in Indonesian politics, consequences which proved to be irreversible until the coup of October 1965" (p. 10). Mackie argues that there are three theories that can interpret the confrontation, namely "expansionist, diversionist, and ideological", yet none can explain the event satisfactorily by itself, as all three "must be invoked to account for particular parts of the story" (pp. 326-33). Mackie, however, suggests that ideological theory is persuasive, as the ideology of Sukarno was "undeniably revolutionary in its implications" (p. 330). While the heterogeneous theoretical suggestions of Mackie explains how confrontation developed sound sensible, his work does not provide much discussion on the theories

themselves. Thus, those who seek more theoretical elaboration on the rationale behind confrontation will not find it in Mackie's account. This is, however, a minor criticism in the great contribution Mackie has made to the literature of Indonesia's foreign policy.

Another work based on the specific-issue category is the work of Weinstein (1976) that investigates the perceptions of foreign policy elites under the Sukarno and Suharto regimes concerning 'the hard choices between independence and reliance on foreign support'. Weinstein argues, on the one hand, "the Indonesian leaders' sharp awareness of their country's weakness [...] dictates a foreign policy directed toward securing from abroad the funds and expertise needed to bring about economic development" (p. 29). On the other hand, the elites had perceptions that the international order was exploitative and the big powers were threats to the country's independence (p. 354). Weinstein compared the two contrasting views by providing the bulk of data after interviewing Indonesia's so-called 'foreign policy elite'. The work is useful in underlining the important issue of the linkage between domestic politics and foreign policy, one of the central themes of this thesis. The method of work—interviewing the elite or decision makers—has inspired other scholars, such as Anwar (1994) and Novotny (2010). This method, however, has been losing its influence, similar to what has occurred in the study of American foreign policy-making (Hastedt: 317).

The work of Anwar (1994) is useful as it is a comprehensive study of 'Indonesia in ASEAN', another popular issue of Indonesia's foreign policy. The work is useful as it describes and analyses how Indonesia behaves toward ASEAN. Furthermore, Anwar also highlights, albeit still minimally, the roles played by non-state actors (NSAs) in the making of foreign policy. Anwar suggests that some of the NSAs are, among others, NGOs, private business communities, intellectuals, and politicians (pp. 241-275). On NGOs, for example, Anwar suggests that the most important one is LP3ES, a private social and economic research institute. She argues, "The institute has been involved in a range of activities [...] The activities of the

LP3ES included joint training with NGOs in other ASEAN countries” (p. 261). On intellectuals or individuals, Anwar suggests there were figures, such as the journalist Mochtar Lubis, who had campaigned actively for the government to be more involved in ASEAN cooperation, and an economist attached to the Jakarta-based Center for Strategic and International Studies (CSIS), Djisman Simandjuntak, who consistently wrote that “intra-ASEAN trade could become a real alternative to international trade” (pp. 255-270). The work of Anwar is relevant to the focus of this thesis, which is the role of policy entrepreneurs in Indonesia’s foreign policy. The NSAs, to some extent, could be regarded as policy entrepreneurs who promote ideas as policy preferences. Yet Anwar does not specifically examine further what these ideas were or, more particularly, how the NSAs promoted them.

The role of NSAs and in particular the NGOs, especially after the wave of democratisation following the fall of Suharto in 1998, has indeed shifted much in comparison to the previous order. Non-governmental organisations in the contemporary Indonesia push the government for reform, demand policy changes, and even get involved in decision making. One area that they begin their involvement is foreign policy-making. The statement of former foreign minister Hassan Wirajuda in 2008 may best represent this situation:

Since Reformasi (*reform era*, added), we have to take into account the checks and balances, as we have a vibrant civil society and media, and more and more actors getting interested in foreign policy issues (...) We can not operate like we were in the past, we have to reach out to people, the government t no longer has a monopoly on foreign policy. Non-State Actors can be a pressure as much as a contribution and this is why we must talk to them and find a way of reaching all the groups (Alles 2016: 135).

Back to the context of ‘Indonesia in ASEAN’, the work of Caballero-Anthony (2005) is also useful since it investigates the role of NSAs within ASEAN, suggesting that through the ASEAN Regional Forum (ARF), “ASEAN has opened the doors for non-state actors” (p. 157). This phenomena is notable since ASEAN has often been observed as “a highly state-centric organisation and [...] has not allowed NSAs to be part of the processes involved” (p. 157).

Caballero-Anthony argues that NSAs consist of “think-tanks, academics, and members of the ‘unofficial’ policy community” (158). She uses the case of ASEAN Institutes of Strategic and International Studies (ASEAN-ISIS), a regional NGO that consists of think-tanks, in proving her argument. She suggests that, prior to the formal establishment of ASEAN-ISIS in 1988, since 1984 Jusuf Wanandi of the CSIS had initiated several regional meetings that involved the heads, experts, and scholars of the think-tanks (p. 161). Later, ASEAN-ISIS expanded the issues concerned and became more instrumental by providing “policy inputs on various issues that affected the region for the consideration of the decision-makers in ASEAN” (p. 161). The work is useful as one can learn how an NSA from Indonesia, the CSIS, has been instrumental in the establishment of ASEAN-ISIS as well as its later activism. Nonetheless, the work lacks detail on how the ideas within ASEAN-ISIS are promoted. It does not elaborate how the NSAs such as Jusuf Wanandi promoted their ideas. The work merely focuses on the role of the NSAs as institutions rather than as individuals, something contrary to what much of the literature of policy entrepreneurship has suggested.

Another account of ‘Indonesia in ASEAN’ is the work of Clark and Pietsch (2012). The work brings a perspective on how Indonesia’s embrace of democratisation has generated a perception within the country that the European Union (EU) model is superior to the present ASEAN. Highlighting some strong calls from academia (particularly the think tank CSIS) that Indonesia needs to embrace a ‘post-ASEAN’ foreign policy, the authors argue, however, that Indonesia has not been fully committed to such a policy (p. 45). On the proposed ‘post-ASEAN’ foreign policy (see Sukma 2009), Clark and Pietsch suggest that the idea of a ‘post-ASEAN’ foreign policy, and other proposals for a new regional body, have received underwhelming responses in Indonesia (p. 59). What Indonesia is more interested in is the “prospect of increasing regionalization with states outside the ASEAN region” (p. 58). The work is useful for those who seek further understanding of the linkages between Indonesia’s

democratisation and the country's behaviour toward ASEAN. However, it offers little discussion on the role of think-tanks such as CSIS in contributing to Indonesia's foreign policy, though the role of think-tanks has been known in the policy entrepreneurship scholarship. As argued by Stone and Garnett (1998: 16), the scholars and executives of think-tanks often act as policy entrepreneurs.

After investigating Indonesia's foreign policy with regard to a specific issue such as ASEAN, it is worth examining Indonesia's bilateral relations with other countries. In that regard, the work of Sukma (1999) deserves attention as it provides a comprehensive investigation of Indonesia's relations with China. The work itself focuses on the timespan between Indonesia's decision to cut ties in 1967 and the normalisations of relations in 1990. Sukma suggests that Indonesia's effort to establish diplomatic ties with China in 1950 was due to Indonesia's interest in gaining recognition (p. 20). When the abortive coup by Indonesia's Communist Party on 30 September 1965 resulted in the collapse of the party in late 1965, the power of ABRI (Indonesia's Armed Forces) rose and this phenomenon led to the breakdown of diplomatic relations between the two countries. It was only after 23 years that Indonesia finally resumed relations with China. Sukma suggests that, in that long time span, there had been pros and cons debated within the Suharto government whether Indonesia should or should not normalise its diplomatic ties (pp. 98, 204). Sukma concludes by arguing that "the question of diplomatic ties with China for Indonesia has been, at least, as much a matter of domestic politics as of foreign policy" (p. 200). The work proves the argument that foreign policy must take into account the domestic context, something that this thesis supports. Interestingly, Sukma does not use the popular theory of 'linkage politics' introduced by Rosenau (1969), using instead the theory of 'regime legitimacy', something considered by scholars to be "vague and unhelpful" (Cribb 2002: 544).



Another account that focusses on 'Indonesia's bilateral relations' is the work of Novotny (2010). The main argument of this work is that foreign policy has been shaped by the perceptions of individual policy makers rather than the notion of 'national interests'. Novotny argues, "'national interests' and 'national security' are inherently ambiguous concepts with a great variety of meanings which are substantially shaped by the way individual policy makers see the world around them" (p. 90). In the case of Indonesia and, more particularly, on the elite perceptions of the United States and China, he argues that "foreign policy decision-making largely remains the prerogative of a relatively small elite group of people" (p. 90). In the case of Indonesia's relations with the US, Novotny suggests that "the elite's attitude towards the US has traditionally been ambivalent and full of mixed feelings" described as 'love-hate' (p. 160). Whereas in the case of Indonesia's relations with China, he suggests that the Indonesian leaders' current attitudes are best described "as purely 'pragmatic'" (p. 229). Novotny concludes by suggesting that the Indonesian elite "perceive both the United States and China as the two most potent state-based external factors with the potential to endanger Indonesia's national interests and security" (p. 346). The work of Novotny is an interesting application of the balance-of-threat theory, a theory that is based "on the assumption that any assessment of power by the elite responsible for a state's foreign policy entails subjective consideration" (p. 39). Nonetheless, the work is too narrow in its approach since it only takes into account the perceptions of leaders or elites in Indonesia's foreign policy. As argued early in this chapter, with Indonesia's embrace of democratisation, foreign policy making in the country has to consider a number of NSAs to analyse. They range from, among others, NGOs, epistemic community to business players.

Another account of Indonesia's bilateral relations is the work of Clark and Pietsch (2014), examining Indonesia-Malaysia relations. Unlike many other similar accounts that mostly focusing on states as actors, a dominant approach in International Relations scholarship, this

work is unique as it applies an anthropological approach. Thus, the actors examined in this account vary, from the Indonesian-American model Manohara with her ‘Manodrama’ that fuelled a heat in the bilateral relations, language and mythology, cultural heritage, and even museums. One may wonder on the pertinence of museums in examining the two countries’ relations, yet the work shows a mountain of evidence that museums can be related to many aspects, more particularly cultural heritage, an aspect that often creates a bilateral conundrum. As the authors argue in the chapter concerning Museums, “In its broadest sense, the contrasting attitudes toward cultural heritage are representative of the differing politics of the two nations” (p. 92).

In regard to labour migration, Chapter 7 of the work offers an examination of Indonesian labour migration to Malaysia. The chapter examines many aspects of the migration, from its history, the negative images of Indonesian labourers, to the issue of protection. Concerning protection, for example, the authors argue, “Some migrant workers believe that they have arrived in Malaysia legally, only to find that their passports were forged by unscrupulous private recruitment agencies, rendering them illegal and without any protections at all” (p. 172). In general, the examination of labour migration provides a picture of the complexity of this issue, though one may wonder why the examination is rather brief despite it being of the central themes of this work.

Despite the work on Indonesia’s foreign policy, as referred to above, most do not examine the factors of groups of actors or policy entrepreneurs who influence or play more active roles in the making of foreign policy. Anwar (2010: 127) has actually introduced the matter as follows:

After difficult early years of transition, [...] relative normalcy and political stability seemed to have been restored by 2004 as Indonesia succeeded in holding its first direct presidential election. The newly democratic Indonesia recognises freedoms of expression and association as key principles, giving rise to a vibrant and increasingly critical civil society, free-wheeling media, and numerous political parties. These fundamental changes

in Indonesia's political landscape have led to a re-structuring of relations between the state and society. One of the key areas affected by these political changes is in the making and implementation of Indonesian foreign policy, which during the previous era had been the prerogative solely of the predominant executive.

Yet Anwar (2010) does not elaborate further on the factor of groups of actors, or the policy entrepreneurs, in Indonesia's foreign policy-making, even though she has already made an interesting point on the rise of 'vibrant and critical civil society'. She, in fact, chooses to focus more on institutional powers, such as the Dewan Perwakilan Rakyat (DPR – the House of Representative) and Indonesia's foreign policy agenda towards ASEAN, leaving the explanation on the role of civil society in lacuna.

Perhaps this lacuna, to some extent, has been filled out by the work of Yazid (2013) which focuses on the important role NGOs play in Indonesia's domestic and foreign policies. The work investigates the activism of Indonesia's labour migration NGOs, with a focus on women migrant workers who are mostly domestic workers (p. 17). Yazid selects two NGOs, Women's Solidarity for Human Rights (SP) and Migrant Care, examining their behaviour in the context of Law No. 39/2004 on the Placement and Protection of Indonesian Workers Overseas and the 2006 MoU between Indonesia and Malaysia on the Recruitment and Placement of Indonesian Domestic Workers (p. 17-18). On the issue of how the NGOs influence domestic and foreign policies, Yazid suggests that the passing of the law "may not have completely met their expectations, but most NGOs admit that it is better to have a law than no law at all" (p. 167). On the 2006 MoU between Indonesia and Malaysia, Yazid argues, "[Here] decision-making is commonly limited to government representatives, with no room for the presence of outsiders, even to observe the process" (p. 197). This, therefore, explains why, after the signing of the MoU, the NGOs lodged strong complaints (p. 222).

The work of Yazid is useful for this thesis as it has relevance to the study of policy entrepreneurship in Indonesia's foreign policy. The finding that the NGOs were caught by

surprise in the signing of the MoU, and later lodged strong protests, demonstrates how important it is to consider NSAs in foreign policy-making. What is lacking in this work is that it does not cover the ratification by Indonesia of the 1990 United Nations Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, a foreign policy argued in this thesis as significant. This thesis, however, will build and expand on Yazid's work.

## **Conclusion**

This chapter begins with an examination of the conceptual framework of policy entrepreneurship in foreign policy and further examines its linkage to Indonesia's domestic and foreign policy concerns. The chapter demonstrates that the foreign policy community has witnessed a gradual development of policy entrepreneurship. It also demonstrates that the interest of policy entrepreneurs is not intellectual but policy preference, which they hope to take into the policy-making process. On the question of whether the concept of policy entrepreneurship is relevant to studies of public policy or domestic politics, the chapter shows that it has a strong relevance, since domestic politics and foreign policy cannot be separated.

The term 'policy entrepreneur' itself, defined as political actors who promote policy ideas, was borrowed from economics but applied to political science. In regard to the placement of policy entrepreneurs, they may come from any form of institution, or even act as individuals who work by themselves. On the role of policy entrepreneurs in the public policy process, the chapter argues that they can play a key role in identifying policy problems and indicating appropriate policy responses. Some of the common activities of policy entrepreneurs in promoting their ideas include identifying problems, networking in policy circles, shaping the terms of policy debates, and building coalitions to support policy change. Following Kingdon,

the characteristics of policy entrepreneurs who can generate considerable success perform three important roles. First, they have some claim to a 'hearing'. Second, they are known for their political connections or negotiating skills. Third, and arguably the most important factor, they must be persistent.

On the selection of Indonesia's foreign policy as the primary focus of this thesis, scholars demonstrate that the notion of policy entrepreneurship activism has existed since the New Order period. Furthermore, with Indonesia's embrace of democratisation after the fall of the Suharto regime, this activism gradually developed, especially due to the rise of a vibrant and critical civil society and free-wheeling media. The NGOs, think-tanks, and academia are some of the elements of civil society that have become more instrumental in the making of Indonesia's foreign policy. Nevertheless, the chapter demonstrates there are only a few scholarly works on the role of policy entrepreneurs in Indonesia's foreign policy. With that in mind, this thesis aims to fill this gap.

## Chapter 2

### **Patterns of Labour Migration from Indonesia: from the Colonial Era to the Post-Colonial Period**

The phenomenon of Indonesian labour migration is not new. Indonesians have travelled to many parts of the world from the pre-colonial period up to the present time.<sup>4</sup> As Martinez and Vickers (2012: 112) argue, “The peoples who are now Indonesians have been linked into regional and global systems for a very long time”. The factors causing migration in the pre-colonial period were different than in the present day, where migration is driven mostly by economic factors. Loveband (2009: 3) has observed, “The vast majority of [international] migrants [in the contemporary world] originate from the low income nations of ‘the South’”. In pre-colonial times, migration was driven by trade, maritime movement and other factors. As Martinez and Vickers (2012: 112) point out, there were many factors that influenced the migration of Indonesians in the colonial period, but trade and maritime movement were often linked to one another.

As the case selected for this research is Indonesia’s ratification of the CMW and more broadly in the context of labour migration, it is important to begin by investigating its recent history.<sup>5</sup> This chapter will examine the history of Indonesian labour migration based on the

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<sup>4</sup> The terms ‘Indonesia’ and ‘Indonesian’ are used loosely in this chapter as they were first coined by British geographer James Richardson Logan in the mid-nineteenth century during the colonial period (Brown 2003: 2). In the pre-colonial period, the use of those terms was uncommon as there was no specific legal identity imposed on individuals in the region of Southeast Asia at that time. As argued by Andaya (2010: 13), “Precolonial Southeast Asia was not subject to international conventions confining individuals within a fixed space and imposing on them a specific legal identity. Ethnic identity was a fluid concept, and the decision to adopt one or more ethnicities was the privilege of the individual”.

<sup>5</sup> Indonesia’s history in labour migration is often examined by scholars in two periods: the colonial period under the foreign powers (1511 to 17 August 1945), and the post-colonial period (often divided between an initial transition of independence to 1970 and then a more democratic period after 1970).

periods initially of the colonial and then post-colonial administrations. The beginning of colonial period is in the early sixteenth century as Indonesia was colonised by a western colonial power, Portugal, for the first time in 1511. The colonial period covers the time from 1511 up to 1945. 1945 marks the end of the colonisation period in Indonesia as the country proclaimed its independence on 17 August 1945. Another section will be on the Post-Colonial Period, which will examine history of Indonesian labour migration from the declaration of independence in 1945 up to 2015.

## **2.1 Colonial Period (1511 – 1945)**

Studies of the history of Indonesian labour migration during the colonial period (1511-1945) can be divided into two time spans: pre-1870 and post-1870. Pre-1870, the focus is on the coming of European colonial powers: the Portuguese, the British and, more particularly, the Dutch. Thus, many scholarly works reveal how the colonial powers imposed economic policies that can be associated with labour migration. Some of the works investigating the post-1870 period discuss Indonesian labour migration in depth.

The rationale for demarcating the two periods in this way is that in 1870 the Dutch-imposed Cultivation System finally came to an end, bringing a new era where Indonesian labour started to move ‘officially’ to other parts of the world. With these introductory notes, this section will be divided into two sub-sections: pre-1870 and post-1870.

### **2.1.1 Pre-1870**

The pre-1870 era of the Colonial period stretches back to the early sixteenth century when Indonesia was first colonised by the Portuguese. In those times, Portuguese traders sailed to Asia in search of the well-known spices of the region. These traders travelled south down the west coast of Africa, round the Cape of Good Hope, and charted the Indian Ocean up to India.

In 1512, Portuguese traders reached Maluku Island where they established a base on the Island of Ambon. Once in the region, the traders eventually shifted their efforts from collecting spices to securing a monopoly on the trade and also converting the locals to Catholicism. From that moment, things changed. Brown (2003: 33) points out, “The Portuguese presence had a significant impact on the dispersion of both trade and traders around the archipelago”.

After being colonised by the Portuguese for almost a century, Indonesia fell to the Dutch. The Dutch arrived in Ambon in 1596, easily ousting the Portuguese. They then established the later well-known VOC (*the Vereenigde Oos-Indische Compagnie* – the United East India Company) on 20 March 1602.

The establishment of VOC in Indonesia eventually revived the old practice of the slave trade that can be associated with forced labour, a practice that had actually begun in the fifteenth century during the Malacca era. Hugo (2006: 61) has argued:

VOC were entirely mercantilist in their aim to extract the maximum in the way of saleable export crops with the minimum expenditure of their resources. The traditional aristocracy was installed as regents and became the medium through which the people of Priangan were forced to grow coffee.

The initial intention of VOC in Indonesia itself was not the imposition of a slave trade but to become a trading empire. Yet, due to stiff competition with other European powers, the VOC needed more manpower. Due to the difficulties in meeting the labour demand, the VOC then turned to Asian and African slaves (Welie 2008: 159).

The dominance of the VOC reached its peak in the last half of the eighteenth century. However, in 1799, it went into bankruptcy and later collapsed altogether. After the collapse of the VOC, its administration was handed over to the Dutch government. In 1806, the Dutch fell to Napoleon Bonaparte of France and he subsequently placed his brother Louis Napoleon on the Dutch throne (Ricklefs 2001: 145). Louis then installed Herman Daendels as the Governor-General of the Indies.



From this point, there was a change of policy regarding forced labour. Initially, as noted by Brown (2003: 74), Daendels was against such a policy. Nonetheless, due to the naval blockade of the Indies by the British as a consequence of the Napoleonic War, Daendels had to prevent an invasion, particularly of Java. This meant he had to change his views, pushing more people into forced labour.

At the end of the Napoleonic War in 1816, the British handed Indonesia back to the Netherlands. In 1824, Britain and the Netherlands reached an agreement, namely the Treaty of London, in which they made a clear dividing line between their interests in Southeast Asia, running through the Straits of Melaka. In this agreement, most of the areas that Indonesia currently enjoys were handed to the Dutch, whereas the British took over Malaysia and Singapore (Brown 2003: 81).

The Dutch, however, faced financial difficulties due to two significant wars they conducted during this time: the Java War (1825-1830) and the Paderi War in Padang (1821-1838). Despite winning both these wars, the Dutch suffered heavy financial losses. Brown (2003: 83) observes, “Both the Java and Paderi Wars cost the Dutch dearly, in personnel and in resources”. Because of this, as pointed out by Ricklefs (2001: 156), the Dutch again turned to Indonesia as a source of revenue, introducing the Cultivation System in 1830.

The Cultivation System, as observed by Brown (2003: 84), required villages “to set aside one-fifth of their rice fields for the production of a crop nominated by the government, and suitable for the European market”. The System achieved huge financial success for the Dutch but had great adverse impact on Indonesian peasants.

The establishment of the Cultivation System had in fact resulted, again, in a system of forced labour that affected many people. “Between 1836 and 1860, on average approximately 60 to 75 per cent of all Javanese peasant households were forced to work in cultivation services” (Termorshuizen 2008: 266).

Later, some of this forced labour rebelled against the Cultivation System, some suffering physically and even dying. It is difficult to estimate the total number of Javanese workers who were involved the System, though the suggested number in 1850 was between eight and eleven million (Termorshuizen 2008: 267). In the 1840s and 1850s, the crisis deepened and resulted in a high death toll, which caused public outrage in the Netherlands. Some of the Dutch population, particularly those coming from industrial and capitalist classes who actually benefited from the System, demanded its abolition. The reason was, however, not necessarily humanitarian. As argued by Brown (2003: 88), members of these classes “wanted to see the elimination of state capitalism and its replacement with private enterprise”.

The Cultivation System was finally ended in 1870 when the Netherlands passed the Sugar Law, reforming the colonial sugar industry. The end of the Cultivation System also saw the end of the forced labour system.

Hence, the history of Indonesian labour migration under colonial governments, more particularly the Dutch, was dominated by the narratives of a forced labour system. From the beginning of its occupation until 1870, the Dutch continued to impose the system and it was only interrupted during the brief period of British rule. This system certainly created a humanitarian disaster for Indonesian labour, many suffering physically and even dying. This brought about attempts to rebel, resulting in high death tolls in the 1840s and 1850s.

It was because of these death tolls that some in the Dutch population became outraged and later demanded the abolition of the Cultivation System. The enactment of the Sugar Law in 1870 finally ended this dreadful system of forced labour, shifting the policies on labour and labour migration to more humane policies, such as those introduced in the beginning of the twentieth century.

### 2.1.2 Post-1870

1870 is considered by scholars to be significant for labour migration in Indonesia and the region. This is not only due to the law reform in the Netherlands but also because of changes happening throughout Southeast Asia. Kaur (2006: 23-4) observed:

In the second half of the nineteenth century, industrialisation and economic growth in Europe and the expansion of the international economy resulted in European political and economic advances in Southeast Asia [...] This process, which began around 1850, climaxed between 1870 and 1914.

In the period 1870-1900, Indonesia, in particular, witnessed a substantial flow of private capital from the Netherlands. It was primarily due to the enactment of the Agrarian Law of 1870, which regulated that the only people who could own land in Indonesia were Indonesians, foreign private entrepreneurs could only rent the land (Brown 2003: 89). Yet, due to the severe economic depression in Java in 1883-85, most of the private companies collapsed. Wages and working conditions declined and the welfare of the Javanese was declining in general.

Responding to this severe economic depression, the Dutch turned to another source of revenue: tobacco. In developing tobacco plantations, the Dutch needed three elements: land, labour and capital (Brown 2003: 92). In regulating the labourers, the Dutch colonial government enacted the 1880 Coolie Ordinance, which worked very much in favour of employers and placed a heavy burden on the workers with its Penal Sanction. This Coolie Ordinance, however, brought colonial Indonesia into another system of labour and labour migration, so-called 'indentured labour'.

Indentured labour was actually not new in the nineteenth century.<sup>6</sup> The practice had been carried out by many European migrants in the three hundred years prior to the nineteenth century. During those times, indentured labour travelled to other parts of the world, working

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<sup>6</sup> By definition, as suggested by Carter (1992: 229), "Indenture has generally been defined as an economically-induced migration combined with coercive contractual obligations". The nature of contracts imposed on indentured labour is normally that they had to work for a certain period, particularly until their debts to the employers were paid off. According to Kaur (2004: 44), "The indentured worker was bound by a contract to serve for a specified period – usually three years – until the debt incurred by him was paid off to his employer".

for specific duration, and paid off their debts to their employer. Once they finished paying the debts, they were free to choose what to do next (Termorshuizen 2008: 261).

The recruitment of Indonesian indentured labour was centred in Java and the first recruits were sent to Sumatra. Later, Javanese indentured labour was sent to Surinam, replacing the streams of labour from British India and China. The rationale in choosing Javanese labour was due to economic and ethical reasons (Termorshuizen 2008: 279).

In implementing the indentured labour system in Indonesia, the Dutch imposed a legal framework, namely the Coolie Ordinances, in 1880. Houben (1999: 15), however, argues that the Coolie Ordinance was imbalanced against the protection of the labour. This was mainly due to the existence of a penal clause (*poenale sanctie*). This ordinance was later criticised in the Netherlands and, finally, it was withdrawn in 1931.

The indentured labour system under the 1880 Coolie Ordinance not only affected Indonesian labour in that country but also caused the migration of some labour to other parts of the world. Hugo (1993: 37) noted:

Significant number of contract workers were sent abroad especially to the Malay Peninsula and Surinam, but also to New Caledonia, Siam (Thailand), British North Borneo (Sabah), Sarawak, Cochin China (Vietnam) and even Australia”.

Labour migration scholars generally agree that, under the 1880 Coolie Ordinance, Indonesian contract labour was first sent to Surinam in South America in 1890 (Termorshuizen 2008: 279). Due to the warm welcome given to Indonesian indentured labour in Surinam, more and more workers were sent to this Dutch colony. The sending of labour to Surinam continued until 1939, involving almost 33,000 Javanese (Allen: 204). The sending of indentured labour stopped in 1931 due to the abolition of the 1880 Coolie Ordinance. Thus, between 1931 and 1939, migrant workers sent to Surinam were either free labourers, colonists, or a mixture of both (Termorshuizen 2008: 299).

The migration of Indonesian indentured labour in the late nineteenth and early twentieth centuries was not just to far away parts of the world such as Surinam. The flow of migrant labour to neighbouring Malaysia also increased.

As was the case in Surinam, Indonesian indentured labour in Malaysia also received a warm welcome. One reason that Indonesian labour was in demand was the commonality of culture and religion, which meant they could easily mix with the local Malays (Kaur 2005: 9). The living and working conditions of Javanese workers in Malaysia in the early twentieth century were good. Not only were contracts based on a specific regulation but the workers also enjoyed protective measures against possible maltreatment (Kaur 2005: 9).

The Dutch government, however, repealed the 1909 Netherlands Indian Labour Protection Enactment in 1932 and, subsequently, the sending of Indonesian indentured labour was terminated. Indonesian labour migration continued under the free recruitment system but it did not proceed well. Later, the Dutch government attempted to import more Javanese but this was brought to an end by the Japanese occupation (Kaur 2005: 11).

During World War II (1939-1945), Japan occupied Indonesia from 1942, overthrowing the Netherlands. Under Japanese rule, Indonesians were sent abroad and forced to work on Japanese projects (*romusha*). The Japanese occupation of Indonesia, albeit short term, had a huge impact on Indonesian migration. As pointed out by Hugo (2006: 66), “The short Japanese occupation period was one in which there was significant forced migration”. This migration, which was associated with forced labour, was catastrophic for Indonesia. According to Brown (2003: 146-7), “[*Romusha*] brought hardship and suffering to tens of thousands of people”.

The *Romusha* system could even be regarded as bringing Indonesian labour migration back to the old practice of slavery that had occurred centuries before. Worse, the *Romusha* labourers frequently failed to return to Indonesia. Based on his fieldwork in West Java in 1973,

of around 100 young men taken as *Romusha* labourers, Hugo (2006: 67) finds, “None of [them] returned at the end of the war”.

The United States dropped atomic bombs on Hiroshima and Nagasaki on 6 and 9 August 1945 respectively. These great catastrophes in Japan brought an opportunity to the already resentful Indonesians to declare independence, on 17 August 1945. This independence shifted the country from a colonial to a post-colonial era.

## **2.2 Post-Colonial Period**

This section argues that labour migration in the post-colonial Indonesia differs from that in the pre- and colonial eras particularly in terms of the factors that have shaped it. The main factors are both national policy and foreign governmental policy. In earlier times, factors such as trade, maritime movement, and the policies of colonial governments were more dominant.

For the purpose of simplicity, this section will be divided by decade, except for the first part (1945-1959). This section is therefore divided into seven sub-sections. The first sub-section will examine the period from 1945-1959. One of the important developments in this period was the establishment of the Ministry of Labour. The second sub-section, the 1960s, will investigate how developments in neighbouring states, particularly Malaysia, affected Indonesian labour migration. The third sub-section, the 1970s, will discuss the phenomenon of increasing Indonesian migrant labour as a result of both internal and external factors. The fourth sub-section, the 1980s, will examine the initial involvement of the private sector in the labour migration industry, the first official sending of Indonesian labour to Middle East, and the emergence of irregular migrant labour. The fifth sub-section, 1990s, will investigate the regularisation policy implemented by Malaysia in response to the influx of irregular migrants. This section will also investigate how Indonesia embraced the new political system, *reformasi* (reform), a shift from an authoritarian system to a full-fledged democracy.

The sixth sub-section, the 2000s, will highlight labour migration policies launched by the Indonesian government and the high-profile Nunukan humanitarian crisis. The seventh sub-section, the 2010s, will examine numerous recent developments, particularly the issue of the protection of migrant labour rights.

Out of the seven sub-sections, sub-sections 6 and 7 will briefly touch on activism of NGO members – the policy entrepreneurs – who influenced the making of Indonesia’s foreign policy, the central theme of this thesis. The foreign policy in this context is the ratification of the 1990 United Nations Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW).

### **2.2.1 1945-1959**

This sub-section examines issues of labour migration in the newly independent Indonesia. It also examines the migration of Indonesian workers to Malaysia after Malaysia achieved its independence in 1957.

After Sukarno and Mohammad Hatta declared Indonesia’s independence on 17 August 1945, the country subsequently experienced a period of power transition from colonial rule to independence as well as a state-building process. Given the central theme of this chapter, from 1945-1959 there was limited movement of Indonesian labour to other countries. Unlike the period of Japanese rule (1942-1945) where there was substantial movement of Indonesian labour because of the *romusha* system, in the early period of post-colonial migration was limited (Hugo 2004: 34).

The issue of labour became a focus of the government when Indonesia established the Kementerian Perburuhan (Ministry of Labour) on 3 July 1947. This establishment is considered historical (Azmy 2012: 42, BNP2TKI 2011). As written in the website of Badan Nasional

Penempatan dan Perlindungan Tenaga Kerja Indonesia (BNP2TKI – National Agency for the Placement and Protection of Indonesian Migrant Workers):

The date of 3 July 1947 became historical for the Ministry of Labour in Indonesia's independence era. Through the Governmental Decree No. 3 of 1947, Indonesia finally had an institution managing labour issues: the Ministry of Labour (BNP2TKI 2011).

The establishment of the Ministry of Labour did not, however, automatically correspond to the mass mobility of Indonesian labour wanting to work overseas. In the 1950s there was still limited migration of Indonesian labour to other countries. It was not a phenomenon exclusive to Indonesia, as other countries in Southeast Asia faced a similar situation. Hugo (2004: 30) observes, “In the 1950s [...] there was very limited migration in and out of the countries of the [Southeast Asian] region”.

Despite limited migration, there was still movement of Indonesians to what is currently known as Malaysia from the late 1950s to the early 1960s after Malaysia achieved independence from the British in 1957. This was a political decision, as the Malaysian government hoped migration from Indonesia would provide a balance to the population of settlers from China and India. Liow (2003: 46), for example, argued:

Later in the 1950s and early 1960s, Indonesian migration into Malaya was also encouraged by the Malaysian Government for political reasons, as their easy integration into the Malay community allowed Malays to maintain a numerical edge in the population over the Chinese and Indians.

Indonesian migration to Malaysia in this period went relatively uninterrupted. As observed by Liow (2003: 46), Indonesian immigrants “were ‘silently welcomed’ by the Malays”. Similar to the situation during the Colonial period as discussed earlier in this chapter, some of the reasons for this continued migration were issues of race and ethnicity. “[Indonesian] immigrants were perceived as *bangsa serumpun* (of the same racial stock) who would eventually assimilate with the local *bumiputera* (indigenous person, literally ‘sons of the soil’)” (Liow 2003: 46).



This sub-section demonstrates that from 1945-1959 there was limited labour migration as such. There was mobility from Indonesia to Malaysia as the Malaysian government encouraged more Indonesian immigrants to settle in this country for the purpose of maintaining Malay dominance over the Chinese and Indian populations. This policy continued throughout the 1960s. This will be discussed further in the following section.

### **2.2.2 The 1960s**

This sub-section investigates, among other things, the regime change from Sukarno to Suharto and the racial riot in Malaysia. This section also investigates whether this event contributed to increased labour migration from Indonesia to Malaysia.

As was in the 1950s, in the early 1960s there was limited Indonesian migration to other parts of the world, which was a common phenomenon in Southeast Asia at the time (Hugo 2004: 30). Yet the change of regime from Sukarno to Suharto in 1967 brought significant changes in terms of national policies, including on labour migration. The Suharto government, according to Azmy (2012: 43-4), aimed for more aggressive economic development policies, which left out the agricultural sector. As a result, many farmers lost their jobs. The government then developed an economic policy based on cheap labour in order to attract foreign investment and sent labour overseas. Notably, in 1969 the Indonesian government implemented *Rencana Pembangunan Lima Tahun (Repelita) Pertama* (The First Five Year Plan), 1969-1974, and the movements of Indonesian labour to other countries was officially recorded from this year on.

In the regional context, Indonesian labour migration gained more impetus after Malaysia experienced racial riots in the late 1960s. This was in line with the policy introduced in Malaysia in the late 1950s of giving preference to Indonesian immigrants. Liow (2003: 46) argues, “The political motivation for the encouragement of Indonesian immigration gained greater urgency after the 13 May 1969 racial riots in Malaysia”. The riots, which occurred after

Malaysia held a federal election in May 1969, forced the government to assess its state identity, which later generated policies toward Malay dominance in the country. One of the policies was the New Economic Policy (NEP). Jomo (2004: 2) observes that this policy was made after the riot as one of several efforts by Malaysia to achieve national unity. The NEP will be discussed further in the following section.

Thus, it can be argued that after the 13 May 1969 riot, further immigration from Indonesia was viewed by the Malaysian government as a buffer against the increased dominance of Malaysian Chinese. It was indeed a politically motivated policy, which was to limit the number of one nation-ethnicity, the Chinese, in relation to another, the Malays. As observed by Liow (2003: 46), “Many among the Malaysian leadership saw that close relations with Jakarta worked as an effective buffer to the increasing dominance of the ethnic Chinese community in Malaysia at the time”.

This section demonstrates that one notable development in the 1960s was the national policy concerning labour migration, which the Indonesian government implemented for the first time as *Repelita* I in 1969. One important aspect of *Repelita* was that the migration of Indonesian labour was recorded officially. Another notable development was what occurred, again, in Malaysia after the 13 May 1969 riot. This riot pushed the Malaysian government to implement the New Economic Policy, a policy that drove further Indonesian labour migration to Malaysia in the 1970s onwards.

### **2.2.3 The 1970s**

This sub-section discusses the New Economic Policy (NEP) of Malaysia, the initial movement of Indonesian migrant workers to Singapore, and the policy implemented by Indonesia in encouraging more workers to work overseas. All these phenomena had arguably contributed to the increasing trend of Indonesia labour working overseas.

As discussed earlier, from 1945-59 and during the 1960s, there was limited migration, let alone labour migration, from Indonesia. Some scholars suggest that it was in the 1970s that there was a significant increase in the movement of labour out of Indonesia (Azmy 2012, Hugo 2004, Kaur 2006). One of the reasons for this phenomenon was the change in economic policies in Indonesia's neighbouring countries, particularly Malaysia. These changes had an impact on Indonesian labour migration. Kaur (2005: 7) argues that in this period Malaysia implemented an export-oriented industrialisation policy based on low-cost labour-intensive export manufacturers.

This export-oriented industrialisation strategy was implemented in Malaysia in 1970 under the so-called New Economic Policy (NEP). This policy, as suggested by Jomo (2004: 1), aimed to reduce poverty and to restructure society to eliminate the identification of race with economic function for the purpose of creating conditions of national unity. Since its implementation, Malaysia experienced fast economic growth as well as poverty reduction. Jomo (2004: 1) observes, "Since then, poverty in Malaysia had decreased tremendously".

The NEP had indeed transformed Malaysia and brought about rapid economic growth. At the same time, it created a problem with labour shortages (Garcés-Mascareñas 2012: 54). Confronted with this problem, Malaysia again turned to Indonesia, still with the rationale that Indonesian labour came from a similar cultural background. Kaur (2005: 7-8) observes:

The old pattern of reliance on cheap labour associated with market competitiveness re-emerged, and with it a dependence on foreign labour. Since then about a quarter of Malaysia's workforce has consisted of migrant labour. The largest percentage of this migrant labour force has comprised Indonesians, consistent with the Malaysian government's policy of recruiting people from a similar racial stock.

It was also in the 1970s that the Malaysian government initiated a liberal policy on migrant labour recruitment. Kaur (2005: 24) observes, "[In the phase of] 1970-80, government followed a liberal policy towards foreign worker recruitment". This liberalisation forced

employers to either hire Indonesians who resided in Malaysia or directly hire labour from Indonesia through private brokers.

Beside the movement to Malaysia, Indonesian labour also began moving to Singapore in the 1970s. In the early period of this city-state's development, most migrant labour came from Malaysia. From the late 1970s, labour from other countries, including Indonesia, began working in Singapore. Piper (2005: 2) notes, "Malaysia has historically represented a 'traditional source country' for migrant labour in Singapore, but since 1978 flows have ebbed due to Malaysia's own economic development". As Malaysia also experienced shortages of workers due to its developmental needs, Singapore was forced to turn to workers from other countries. The so-called 'non-traditional source countries', such as Bangladesh, India, Indonesia, Sri Lanka, the Philippines, and Thailand, had been considered for the purpose of overcoming persistent labour shortages (Piper 2005: 2).

Another reason for the increase in Indonesian labour migration during this period was an internal factor, encouragement from the Indonesian government itself. As argued by Sinaga (2012: 61), it was from 1979 that the government actively promoted the sending of Indonesian workers overseas and these active interventions had contributed significantly to the rising trend of Indonesian labour migration. Some of the active interventions of government were reflected in the creation of government-to-government programs (Azmy (2012: 44).

This sub-section demonstrates that the 1970s witnessed a significant increase of Indonesian labour migration, particularly to Malaysia. This increase was shaped by two factors, external (foreign governmental policy) and internal (national policy). On the external factor, Malaysia's export-oriented strategy (NEP) had a significant impact as this policy had created labour shortages in Malaysia. This then forced the Malaysian government to turn to Indonesia with an increased demand for labour. On the internal factor, the active interventions of the

Indonesian government, including creating government-to-government programs, also pushed for more migration of Indonesian labour.

#### **2.2.4 The 1980s**

This sub-section examines the increase in Indonesian labour migration, the official recruitment of workers to Middle East, and the emerging association of Indonesian workers in Malaysia as *pendatang haram* (irregular migrants).

During the 1980s, there was a further increase in Indonesian labour migration. Similar to what had happened in the 1970s, the increase in the 1980s was shaped by both internal and external factors. It was in this period that, besides managing labour migration itself, the Indonesian government involved the private sector in the management process, particularly in the recruitment phase (Sinaga 2012: 61). This policy was implemented by the establishment of an association of companies that provided services in recruiting Indonesian migrant labour, the so-called Asosiasi Perusahaan Jasa Tenaga Kerja Indonesia (APJATI – Association of Companies for Indonesian Migrant Workers). Later in the *Repelita IV* (1984-1989), the government for the first time identified Indonesian labour migration as a national program (Sinaga 2012: 61).

These policies, alongside those previously launched by the government (the internal factor), caused the rate of Indonesian labour migration in the 1980s to increase significantly (see Table 2.1 below). Beside these policies, another reason driving the increase was the external factor, in this case, fast economic development in the Middle East. As observed by Adi (2003: 131), “[The increase in the Middle East] was related to the large scale development of infrastructure and industry in Middle Eastern countries which required massive numbers of workers”.

Figure 2.1 Number of Indonesian Overseas Workers, 1969-2002

Year	Male	Female	Total
Five Year Planning Periods			
I : 1969-74	---	---	5,624
II : 1974-79	12,235	3,817	16,052
III : 1979-84	41,410	55,000	96,410
IV : 1984-89	93,527	198,735	292,262
V : 1989-94	209,962	442,310	652,272
VI : 1994-97*	310,372	503,980	814,352
VI : 1999-2002	383,496	972,198	1,355,694

\* The data for 1998 is not available

Sources: Adi 2003: 132, Azmy 2012: 63

Although mobility had occurred for centuries due to the *Hajj* (Pilgrimage to Mecca), it was in 1983 that the official sending of Indonesian labour to the Middle East began. Silvey (2006: 28) notes it was in that year that the Indonesian government for the first time allowed Middle Eastern countries to formally recruit Indonesians to work overseas. The government registered 47,000 contract workers for Saudi Arabia alone.

Other neighbouring countries, such as Malaysia and Singapore, also became more important receiving countries for Indonesian labour. Soeprobo and Wiyono (2004: 119) observe that since the 1980s, Malaysia, Singapore and Saudi Arabia have become the main destinations of Indonesian migrant workers. The rise in migration to Malaysia was caused by several factors, particularly the legalisation of foreign worker recruitment. Kaur (2005: 24), for example, observes that during 1981-88 foreign worker recruitment in Malaysia was legalised, an official channel was established, and bilateral agreements were signed with sending countries.

The implementation of foreign labour recruitment policy in Malaysia established official cooperation with Indonesia, and the two sides established a committee and signed a bilateral agreement in 1982 and 1984, respectively. Kaur (2005: 24-25) noted:

In 1982 a Committee for the Recruitment of Foreign Workers was established and in 1984 the Malaysian government signed a bilateral agreement, known as the Medan Agreement, with the Indonesian government for the government-to-government regulated supply of Indonesian workers for the plantation and domestic work sectors.

One of the results of this recruitment policy was that Malaysia began to employ more domestic labour in the late 1980s. The primary reason of this was increased female participation in the Malaysian workforce. Garcés-Mascareñas (2012: 55) argued that up to the late 1980s, economic development drew Malaysian women into the workforce and this increased female participation brought a heightened demand for foreign domestic workers. This demand then resulted in the increasing numbers of women workers in Malaysia compared with men. As World Bank (2008: 18) puts it, “In the 1980s, female migrant outflow, especially as domestic helpers, began to increase significantly and outnumber male migrant”.

#### **2.2.4.1 Irregular Indonesian Migrant Labour**

Another important phenomenon occurring in Malaysia in the 1980s was the increasing popularity of the term ‘*pendatang haram*’ (irregular migrants), which was later changed to the more politically correct as ‘*pendatang tanpa izin*’ (PATI – migrants without permission) (Clark and Pietsch 2014: 170-171). In the common terminology used by international organisations (IOs), IOs such as the International Organization for Migration (IOM) label this phenomenon ‘irregular migration’ (International Organization for Migration 2010: 17).

On the use of the terms *pendatang haram* or PATI, Garcés-Mascareñas (2012: 63) observes that at first they referred to the ‘boat people’ refugees from Vietnam who arrived in Malaysia in the late 1970s. However, in the following decade, these terms were almost synonymous with illegal Indonesian migrants.

In an effort to better manage labour migration, Malaysia and Indonesia established an agreement in 1984, the Agreement on Supply of Workers between the Republic of Indonesia and Malaysia (the Medan Agreement). The Agreement, however, was regarded to have failed in curbing the PATI. As observed by Kassim (2007: 58), “In spite of [the Medan Agreement], aliens continued to enter the country clandestinely”. As a result, in January 1989 the Malaysian government launched a policy of regularising illegal migrants.

The implementation of the regularisation policy was targeted toward Indonesian labour in the plantation sector. Through this policy, employers of Indonesian labour were asked to register their irregular labour and have them regularised within six months (Kassim 2007: 58). However, the first implementation of this policy was unsuccessful due to minimum cooperation from employers. “Many employers ignored the regularisation exercise, feeling safe in their belief that the government lacked effective mechanisms to enforce the directives” (Kassim 2007: 58-9). Implementation of the policy was then postponed until mid-1991.

Hence the 1980s witnessed increased migration of Indonesian labour. It was also in this period that Indonesian labour began to be employed in Middle Eastern countries such as Saudi Arabia. One of the factors driving this migration was the involvement of the private sector in the recruitment of labour. Another factor was development in the Middle East, which experienced fast economic growth and therefore needed more labour for its infrastructure and industrial development.

The 1980s also witnessed a new phenomenon: irregular Indonesian migrants in Malaysia. Thus, in the late 1980s, the Malaysian government launched a policy of regularising the illegals, targeting mainly Indonesian labour. At its initial implementation, the policy did not succeed due to lack of cooperation from employers. Implementation of the policy was then postponed until the 1990s. Later this policy had a significant impact on Indonesian labour as,



for the first time, they faced deportation. This topic will be discussed further in the following section.

### **2.2.5 The 1990s**

This sub-section investigates, among other things, the continued implementation of Malaysia's regularisation policy for the purpose of halting irregular immigration and the first deportations of irregular migrants. This sub-section also investigates the reform era and the regime changes in Indonesia and whether these changes brought significant reform to Indonesian labour migration.

In the early 1990s the Malaysian government continued the regularisation policy for the purpose of curbing illegal immigration. As previously discussed, the policy was mainly intended against Indonesian migrant workers who dominated the labour force and were viewed as a threat to the local workforce (Garcés-Mascareñas 2012: 62). This policy itself was triggered by economic recession in Malaysia (Kaur (2005: 25).

This led to a more stringent policy implemented in Malaysia, which was the freezing of labour importation in 1989. At the same time, the Malaysian government continued the policy of regularising migrant labour, the majority of which were Indonesians. Kaur (2005: 25) observes, "Concurrently, a programme to legalise/regularise the status of Indonesian migrants was implemented". In the late 1990s, the rate of regularisation of Indonesian labour was high. As noted by Garcés-Mascareñas (2012: 58), most regularised migrants came from Indonesia, which accounted for 88.1%.

Another phase of Malaysia's policy on labour importation was implemented in 1997. According to Kaur (2005: 25), it was the financial and economic crisis of 1997-8 that marked a change in state policy toward foreign labour recruitment. In this context, Malaysia made efforts to control irregular migrants, such as introducing an amnesty programme that permitted

illegal labour to leave without penalty and enforcing a work-permit system based on offshore recruitment. Further, Malaysia categorised its migrant labour more rigidly and strengthened its legislative and police action against irregular migration. It also established detention camps to hold irregular migrant workers.

### **2.2.5.1 Deportation of Indonesian Migrant Labour**

The problem of irregular migrant labour in Malaysia has often been linked to the Malaysian government's deportation policy. Even though the policy was not necessarily implemented on a regular basis, it caused negative impacts and even humanitarian crises, particularly for labour from Indonesia.

Initiated in 1991 through a comprehensive work permit policy, Malaysia immediately launched the very first deportation campaign, which was to find and send undocumented or irregular migrant workers out of Malaysia. Garcés-Mascreñas (2012: 93) suggests that “the ideological thrust of this first deportation campaign was to ‘clear the country of illegals’ before embarking on the new labour policy.” To enforce this policy, the Malaysian government imposed two types of activity, namely *Ops Nyah I* and *Ops Nyah II* (*‘Ops Nyah’* literally means Operation Get Rid). *Ops Nyah I* aimed to prevent unauthorised landings along Malaysia's coastline; *Ops Nyah II* targeted undocumented migrants by raiding worksites and settlements. Under this deportation policy, many Indonesians were repatriated. Rudnick (2009: 70), for example, notes, “By 1999, almost 350,000 migrants had been repatriated. An additional 188,000 left voluntarily and about 1,450,000 had come forward under legalisation programmes”. Indonesian labour was indeed the most impacted by the policy as their number reached more than 70 percent of those considered illegal. As noted by Kassim (2000: 102), under the *Ops Nyah I* and *Ops Nyah II* in 1992 and 1996, more than 70 percent of the irregular foreign workers were from Indonesia.

Indonesia was hit hard by the Asian financial crisis in the late 1990s. This crisis triggered the fall of the long-held authoritarian regime of President Suharto on 21 May 1998, which subsequently brought the Vice President Habibie to the presidential seat. Indonesia thus entered the *reformasi* (reform) era. Habibie, however, did not undertake much reform of Indonesian labour migration policy. At that time, as argued by Brown (2003: 231-4), he had to focus on managing the economic crisis and political instability. If there were to be policies made under Habibie's administration, there were two regulations concerning the placement of migrant workers and social insurance. These policies, according to Azmy (2012: 51), focused only on managerial and operational matters and paid little attention to the issue of protection.

Later in 1999 Habibie was replaced by Abdurrahman Wahid. Though his presidential term was as short as Habibie's, Wahid released several notable policies concerning Indonesian labour migration. Some of those policies were the ratification of major conventions of the International Labour Organisation such as the Convention No. 138 on Minimum Labour Age, Convention No. 111 on Discrimination in Jobs, and the making of Law No. 37 of 1999 on Foreign Relations. Law No. 37 obliges the Indonesian government to protect Indonesian citizens including migrant workers abroad "regardless of whether they have initiated the case or are a defendant to a case" (ILO 2006: 23).

This sub-section shows that Indonesian labour migration in the 1990s was much affected by the renewed implementation of Malaysia's regularisation policy. This took place in the early 1990s through the so-called *Ops Nyah*. Further fuelled by the Asian economic crisis, by the end of 1990s this policy had repatriated almost 350,000 migrants, the majority of them Indonesians. Internally, Indonesia also experienced a reform era, which brought a transition from the political system of authoritarianism to democracy. This brought changes in the 2000s, which they will be discussed in the following section.

### 2.2.6 The 2000s

This sub-section examines, among others thing, the labour migration policies generated by subsequent administrations of Wahid, Megawati, and SBY. This sub-section also closely examines the Nunukan humanitarian crisis, a major event that transformed Indonesia’s domestic and foreign policies. The Nunukan crisis and other events occurring in this period forced the government to pay closer attention to the protection of Indonesian migrant workers.

From 1999 to 2001 Indonesia was led by President Abdurrahman Wahid. As a former socio-religious leader as well as a human rights activist, Wahid paid attention to the issue of labour rights. Robinson (2009: 114), for example, notes that it was under Wahid’s presidency that Indonesia enacted Law No. 21 in 2000 regarding Workers Unions and since then there had been “steady growth in independent labour unions and federations”. Table 3.2 below demonstrates that, shortly after Wahid took the presidency, his government made several notable policies.

*Table 2.2 Selected Government Major Policies on Migrant Workers prior to Law No. 39/2004 (1970-2004)*

Administration	National Policies
<p>Suharto (1966-1998)</p>	<p>The Decree of Minister of Manpower 4/1970            The Joint Decision of Ministers of Transportation, Manpower, Transmigration, and Cooperative No. KM 136/S/PHB and No. Kep-59/MEN/1977            Priority program in economic plan in the Fourth Five Year Development Plan (1984-1989)            The sixth of seven basic policy priorities of Indonesia’s Sixth Five Year Plan (1994-1999)            The Regulation of Minister of Manpower 2/1994 on the Placement of Migrant Workers in Foreign Countries            The 1997 National Law on Labour            Medan Agreement, 1984 on official channels for migrant workers            Exchange of Note for Informal Sector, 30 January 1996 (domestic helper)            Note of Agreement for formal sector, 1 August 1998</p>
<p>Habibie (1998-1999)</p>	<p>Presidential Regulation 29/1999 on the Establishment of Coordinating Agency for the Placement of Migrant Workers<sup>7</sup></p>

<sup>7</sup> This regulation in the work of Sinaga (2012: 63) is put as one of the products of Wahid’s administration. The fact is that the regulation is the product of Habibie’s administration (see, for instance, Hukum Online 1999).

Wahid (1999-2001)	The 1999 State Guidelines ( <i>Garis-Garis Besar Haluan Negara</i> ) Law 20/1999 on the Ratification of ILO Convention no 138 on Minimum Labour Age Law 21/1999 on the Ratification of ILO Convention no 111 on Discrimination in Jobs Law 37/1999 on Foreign Relations, Article 18 The Regulation of Minister of Manpower and Transmigration 172/2001 on Technical Team on Indonesian Labour Return
Megawati (2001-2004)	The Regulation of Minister of Manpower and Transmigration 104A/2002 The Presidential Decree 36/2002 on the Ratification of ILO Convention no 88 on service agency for migrant workers placement Indonesia-Malaysia Memorandum of Understanding to provide more safeguards in recruitment and repatriation of migrant workers, May 2004

Source: Sinaga 2012: 63

The presidency of Wahid lasted until 2001 and he was replaced by his Vice President, Megawati Soekarnoputri. In terms of labour migration, Megawati's administration issued a number of notable policies, including Indonesia's ratification of the ILO Convention concerning migrant worker placement. It was also under her administration that the government established Direktorat Perlindungan WNI dan Badan Hukum Indonesia (the Directorate of Protection of Indonesian Citizens and Legal Entities) under Indonesia's Ministry of Foreign Affairs. Azmy (2012: 52) argues that this body was established for the purpose of strengthening the protection of Indonesian migrant labour.

#### **2.2.6.1 Mass Deportation – the Nunukan Humanitarian Crisis**

A major critical event in Megawati's presidency was the mass deportation of Indonesian workers from Malaysia to Nunukan, East Kalimantan, in 2002. Scholars (Azmy 2012, Clark and Pietsch 2014, Ford 2005, Tirtosudarmo 2004) view this mass deportation as a humanitarian crisis.

The Nunukan crisis began with the deportation of Indonesian labour in Malaysia in the 1990s, following the regularisation policy implemented by the Malaysian government. Later

in 2002, the Malaysian government launched major operations against illegal migrants and this subsequently created a severe humanitarian crisis for many Indonesian migrant workers and their families. The numbers of Indonesians deported were huge. According to Ford (2006: 228), the Malaysian authorities through Immigration Act No. 1154 of 1 August 2002 deported almost 400,000 Indonesians to Sumatra's Belawan, Batam and Dumai and Kalimantan's Pontianak and Nunukan. It was on Nunukan Island, located in the north-eastern part of Kalimantan, that the crisis occurred. Ford (2006: 228), for example, observes, "The sudden influx of deportees to Nunukan, a small island [...] with a permanent population of just under 40,000 people caused a humanitarian crisis".

As of 15 September 2002, it was reported that, 71 Indonesian migrant workers had died (*Liputan 6* 2002). The main cause of the deaths, as observed by Tirtosudarmo (2004: 325), was inadequate medical facilities and made worse by the government response which was too late.

The Nunukan crisis drove Indonesian NGOs to push President Megawati and her administration more urgent action in handling the issue of Indonesian migrant labour protection. As argued by Ford (2006: 240):

NGOs dealing with migrant labour played an important role in bringing the Nunukan crisis to the central government's attention and in eventually forcing the government to take steps to begin to address the situation in Nunukan and other transit locations.

However, as the NGOs – particularly those allying themselves in Jaringan Relawan Kemanusiaan (Humanitarian Volunteers Network) such as Solidaritas Perempuan, Koalisi Perempuan Indonesia, and Kopbumi – considered Megawati's government did not respond adequately to the crisis, they immediately filed a citizen lawsuit against the government in September 2002 (Ford 2006: 240).

Some of the critical points in the lawsuit, as described in *Hukum Online* (2002) were, first, President Megawati and her central government were deemed to have reacted very slowly in responding to the emergency, resulting in the deaths of tens of migrant labour. Second, the

NGOs accused the President as the head of government of failing to protect Indonesian migrant labour in Malaysia. Third, the President was accused of not carrying out the principle of good governance.

Interestingly, even though this was the first time in Indonesia's legal system such a lawsuit was brought, and there were debates concerning its legal standing, the court accepted it. The claimants also demanded the government establish a bilateral agreement with Malaysia on the placement and protection of migrant labour and urged the Indonesian government to sign and ratify the CMW (*Hukum Online* 2003, Yazid 2013: 107).

In short, the Nunukan crisis had brought changes to Indonesia's national laws and international agreements. As noted by Ford (2006: 241), "New bilateral and multilateral negotiations were also undertaken after the Nunukan crisis". Later, on 22 September 2004, Indonesia signed the CMW and on 18 October 2004 President Megawati enacted Law No. 39 of 2004 on the Placement and Protection of Indonesian Migrant Workers.

#### **2.2.6.2 Labour Migration Policies under SBY Administration**

In 2004, Megawati was replaced by Susilo Bambang Yudhoyono (SBY). One of his tasks as the new president was to implement Law No. 39 of 2004. The early years of SBY's presidency were also marked by the case of Nirmala Bonat, an Indonesian female labourer who was severely tortured by her Malaysian employer. According to Anggraeni (2006: 133), Bonat was abused by beating, burning and scalding. Due to this case, according to Azmy (2012: 57), Indonesian people demanded the government improve the protection of Indonesian overseas workers.

During his presidency in 2004-2009, as noted by Azmy (2012: 58, 89-90), SBY generated numerous policies on the protection of Indonesian migrant labour. Table 3.5. below shows some of those policies.

Table 2.3 The Policies of Migrant Labour Protection under SBY Administration, 2004-2009

Number	Policy
1	Presidential Regulation ( <i>Perpres</i> ) No. 81 Year 2006 regarding the Establishment of BNP2TKI ( <i>Badan Nasional Penempatan dan Perlindungan Tenaga Kerja Indonesia</i> – the National Agency for Placement and Protection of Indonesian Migrant Workers)
2	Presidential Instruction ( <i>Inpres</i> ) No. 6 Year 2006 regarding Reform Policy of Placement and Protection of Indonesian Migrant Workers.  Note: This <i>Inpres</i> was made by President SBY after listening to the complaints of Indonesian migrant labour in Malaysia and Qatar.
3	Presidential Decree ( <i>Keppres</i> ) No. 02 Year 2007 regarding Establishment of BNP2TKI with Jumhur Hidayat as the first Head of Agency
4	Regulation of Minister of Foreign Affairs ( <i>Permenlu</i> ) No. 4 Year 2008 regarding Citizen Services at Indonesia’s Foreign Missions

Sources: Azmy (2012: 89-90); Human Rights Working Group (2011: 11)

Of all the policies generated during SBY’s presidency in 2004-9, the establishment of BNP2TKI is considered a breakthrough. Sinaga (2012: 94) argued, “... the establishment of BNP2TKI [has] been regarded as a breakthrough in solving the deadlocked system of protection of Indonesian migrant workers”. In practice, however, BNP2TKI is considered not to have performed its roles as expected. Sinaga (2012: 94) observed:

Rather than the establishment of a protection system, it only justifies the complicated system of workers recruitment and placement into a higher legal instrument and a more coordinated agency [...] The significant portion given to the placement system has made it still possible and easier for private agencies to abuse their power in reaping profits both legally and illegally.

This negative assessment of the real work of BNP2TKI is similar to what has been observed by Azmy (2012: 89), who suggests that, in practice, BNP2TKI has worsened the situation for potential migrant labour as it created two channels of recruitment, namely the Ministry of Manpower and Transmigration and BNP2TKI, and there is no clear division of work and responsibilities between the two institutions.



Besides the policies within the national government, SBY's administration also made a number of bilateral agreements (memorandums of understanding - MoU) with several countries that regulate Indonesian labour migration. Up to December 2006, according to World Bank (2008: 10), Indonesia had signed seven MoUs with migrant-receiving countries such as the Republic of Korea, Malaysia, Taiwan, Kuwait, Jordan, and Japan. These MoUs were mainly concerned with:

- Designation of the agencies responsible for recruiting, selecting, and sending of Indonesian workers and their counterpart in the migration-recipient country.
- Definition of quotas, recruitment requirements, procedure and mechanism, and job-seekers in each country.
- Definition of the terms of the labour contracts such as the maximum duration

(World Bank 2008: 10).

This sub-section demonstrates that, under the presidency of Abdurrahman Wahid, in the early 2000s there were further policies launched in Indonesia concerning migrant labour rights. When Megawati took over the presidency in 2002, Indonesia experienced more problems with labour migration, including the high-profile and severe Nunukan humanitarian crisis. While this case occurred because of regularisation and deportation policies implemented in Malaysia, the Megawati government was accused of being slow to respond, driving several concerned NGOs to file a lawsuit against the government. This action then forced the government to enact legislation on the placement of labour and the protection of workers' rights, as well as to sign the CMW.

When Megawati was replaced by SBY in 2004, Indonesia implemented more labour migration policies. One notable policy was the establishment of BNP2TKI. This was considered, on one hand, as historical since the body was designed to solve the deadlocked system of the labour rights protection. On the other hand, the body has thus far been considered to have not performed its roles as expected as there is no clear division of work with the ministry dealing with manpower.

### **2.2.7 The 2010s**

This sub-section examines several important developments concerning Indonesian migrant labour, particularly the protection of workers' rights. One notable issue was the high-profile case of abuse against an Indonesian maid in Hong Kong, a case that drew international attention. Another important development was Indonesia's ratification of the CMW. Last but not least, this section also briefly examines Indonesia's foreign policy on labour migration under the Jokowi administration.

#### **2.2.7.1 A High Profile Case in Hong Kong**

Hong Kong (China) is arguably the least problematic location for Indonesian migrant labour to work. Cases of exploitation and abuse, such as torture and physical violence, have been rarely exposed by the media in comparison to other countries, particularly Malaysia and Saudi Arabia. A report of BNP2TKI (2012c) shows that, between January and May 2012, it was Saudi Arabia that headed the list when counting the number of Indonesian migrant workers facing problems, with 776 cases, whereas Malaysia ranked second with 252 cases. With regard to Hong Kong, it counted 'only' 2 cases.<sup>8</sup>

On one hand, this situation – a less problematic place or a better working environment for migrant labour – may causally be linked to the strong Employment Ordinance covering the rights and protection of foreign domestic helpers implemented in the Hong Kong Special Administrative Region (SAR), China. Further, it has been reported that Indonesian domestic labour, along with labour from other countries, has been entitled to permanent residency status, a unique privilege when compared to migrant domestic labour in other countries. This

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<sup>8</sup> This report is developed by the BNP2TKI based on facsimiles sent by Indonesian embassies and consulates in 15 receiving countries of Indonesian migrant workers within the above-mentioned period (BNP2TKI 2012c).

opportunity is based on the decision of the Hong Kong district court that, due to its attempt to abolish discrimination, foreign domestic workers be allowed to become permanent residents (*Asia Pulse* 2011).

On the other hand, Hong Kong is not free from international criticism concerning its working environment for migrant labour. The torture of Indonesian female worker Erwiana Sulistyaningsih by her employer was just another high-profile case that outraged Indonesia and the world. Soon after the case was exposed, *Time Magazine* named Erwiana as one of the top 100 most influential people for her bravery in revealing the torture story, which later pushed Hong Kong to improve its law to better protect foreign domestic workers (*Australia Network News* 2014, *Targeted News Service* 2014). President SBY stated how dismayed and concerned he was when hearing about the case (*Republika* 2014). He further stated that Hong Kong (China) was in fact one the best countries when it comes to management of foreign labour, therefore he was very surprised to learn about such a case (*Viva News* 2014).

On Erwiana case, after a series of court proceedings, the Hong Kong's employer was finally found guilty of 18 charges and in February 2015 she was sentenced to six years in prison. The court suggested that, in order to prevent repetition of such cases, domestic labour should not be forced to live-in. The *Wall Street Journal* (2015) reports, "In delivering the sentence, District Court Judge Amanda Woodcock said the abusive conduct could be prevented if domestic helpers weren't forced to live with their employers, as Hong Kong law requires".

#### **2.2.7.2 Moratorium of Sending the Domestic Workers**

Destination countries where many Indonesian migrant workers have faced problems are Saudi Arabia and Malaysia. It is one of the reasons that Indonesia implemented a presidential decree on the moratorium of domestic workers between 1 August 2011 and December 2012 (KBRI Riyadh 2013). The moratorium itself, as discussed in the Introduction, was enforced by

Indonesia as a result of the beheading of Ruyati binti Satubi, a case that created uproar among the Indonesian public as well as uneasy bilateral relations between Indonesia and Saudi Arabia. Soon after this case was made public, Indonesia implemented a moratorium. Reciprocally, Saudi Arabia responded by temporarily terminating the issuing of visas for migrant labour from Indonesia and the Philippines as of 2 July 2011.

Yet the case pushed the two governments to work closely together and they finally signed a MoU on the protection of Indonesian migrant labour on 19 February 2014. The Indonesian Minister of Manpower and Transmigration, Muhaimin Iskandar, viewed this agreement as a milestone for the protection of Indonesian labour in Saudi Arabia since “this was the very first time both governments had agreed to prioritise their protection” (*The Jakarta Post* 2014a).

The MoU, however, still raises concerns from civil society. Wahyu Susilo, in his capacity as the executive director of the International NGO Forum on Indonesian Development (INFID), states that one important thing that was missed from the MoU is the *Kafala* system. “The most important thing is whether this bilateral agreement can replace the discriminative *kafala* system implemented in Saudi Arabia, otherwise it will not lead anywhere” (*The Jakarta Post* 2014a).<sup>9</sup>

### **2.2.7.3 Ratification of the CMW**

Another important event in the 2010s was Indonesia’s ratification of the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW). On the date of the ratification, 12 April 2012, concerned members of parliament (DPR) and Indonesia’s NGOs expressed their feeling of relief and satisfaction. Rieke Diah Pitaloka, a member of Commission IX of the DPR (2009-2014) who was also a

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<sup>9</sup> The *Kafala* system is a sponsorship system that requires the migrant’s work permit to be tied to the employer and expires with the contract. The system makes migrant workers vulnerable to forced labour and slavery (Scully 2010).

well-known figure in migrant labour protection, stated, “It was not easy. It was almost for 13 years that we struggled for it, finally we ratified this Convention” (*Koran Tempo* 2012).

Indonesia had actually signed the CMW in 2004, a foreign policy decision on labour migration made after several concerned NGOs lodged a strong demand following the Nunukan humanitarian crisis in 2002. Nonetheless, after the signing, the ratification process was extremely slow. It was only from the early 2010s that the interdepartmental processes toward ratification moved significantly. The processes were initiated officially through a technical meeting on 15 April 2011 concerning the follow up of the CMW ratification. The interdepartmental meetings went further, from preparing the academic manuscript, the draft law, and the ratification explanation of the CMW to the Establishment of the Inter-Ministerial Committee for the Drafting of Law on the Ratification of CMW.

These processes gained momentum when Irgan C. Mahfiz, speaking on behalf of the Chairman of Commission IX of the DPR, stated in a final remark on 12 April 2012, “The agreement of the General Assembly of the DPR today is a proof that Indonesia acknowledges and respects human rights and basic freedom of human beings as the embedded and inseparable rights” (Mahfiz 2013).

One obvious fact arising from the CMW ratification was that Indonesian policy entrepreneurs had contributed much to the process. These policy entrepreneurs, particularly individuals from NGOs such as Solidaritas Perempuan (Solidarity for Women), Human Rights Working Group (HRWG), Peduli Buruh Migran (Care for Migrant Workers), Serikat Buruh Migran Indonesia (Indonesian Migrant Workers Union), Lembaga Bantuan Hukum (Legal Aid Foundation) of Jakarta Chapter, spread the campaigning news, collaborated, and even formed alliances in order to strengthen their campaigns and movements in urging the relevant state institutions to ratify the CMW. We shall examine this in more depth in the following chapters.

#### **2.2.7.4. Indonesia's Labour Migration Policy under the Jokowi Administration**

Another important development in the 2010s is the new foreign policy concerning labour migration. On 20 October 2014, Joko Widodo (popularly known as Jokowi), replaced SBY who had led Indonesia from 2004 to 2014. Subsequently, Indonesia's policy on labour migration entered a new era as the government made it as one of three core issues of Indonesia's foreign policy. Indonesia's Foreign Minister, Retno L.P. Marsudi, in her annual foreign policy statement, stated:

Indonesia will only agree to send migrant workers if the country of destination has national legislation that guarantees the protection of foreign migrant workers, or if Indonesia has a bilateral agreement with the destination country, which guarantees the protection of Indonesian migrant workers (*Channel News Asia* 2015).

Prior to this statement, both Jokowi and Retno demonstrated their priorities on the issue of migrant labour protection. Jokowi, for example, undertook the so-called '*e-blusukan*' (conducting video calling to listen to the people directly) with representatives of migrant labour. As reported by *The Jakarta Post* (2014), "[Through] '*e-blusukan*', the President conversed virtually with representatives of migrant workers from eight countries and made some crucial decisions to ease problems faced by Indonesians working overseas". In that meeting, President Jokowi, who was accompanied by the Minister for Foreign Affairs and the Minister for Manpower, listened to the complaints and suggestions of migrant labour, such as high-cost placement fees and the working hours of Indonesian embassies (*The Jakarta Post* 2014b).

Nonetheless, the heavy focus of Indonesia's foreign policy on, among other things, labour migration also received criticism. It is not so much criticism of the policy itself but rather critical thoughts about whether Indonesia would abandon its international roles, something that this country had demonstrated under the SBY presidency (*The Jakarta Globe* 2014b).

Responding to such criticism, Retno stated that, even though under the Jokowi administration Indonesia puts greater priority on promoting and protecting Indonesia's domestic interests, Indonesia would still play an active role internationally. *Channel News Asia* (2015) reports, "Despite the heavy emphasis on promoting and protecting Indonesia's domestic interests, Ms Retno assured that Indonesia will continue to play an active role in the region and the world". We shall examine this issue further in Chapter 4.

This sub-section demonstrates that in the 2010s Indonesia saw numerous important developments, such as the high-profile abuse case against an Indonesian maid in Hong Kong and the ratification to the 1990 CMW. On the abuse case, after a wave of criticisms from Indonesia and the world, the employer was finally found guilty with 18 charges and was sentenced to six years in prison. The judge who handled the case also suggested there needed to be a change in Hong Kong law concerning the requirement of domestic helpers to live with their employers. On CMW ratification, after a long period of activism, Indonesian policy entrepreneurs were finally successful in pushing the government and the parliament to ratify the convention.

Last but not least, the 2010s represent a new era of foreign policy concerning labour migration protection as the Jokowi administration made it one of three core issues of Indonesia's foreign policy. Thus far, President Jokowi and the Minister for Foreign Affairs have demonstrated their good faith concerning this policy. Yet it has received criticism, not because its value has been underestimated, but rather the inclination of Indonesia to abandon its international roles.

## **Conclusion**

This chapter has demonstrated in the beginning of the colonial period in the early sixteenth century, the Portuguese only intended to search for well-known spices and spread Catholicism.

When the Dutch colonised Indonesia in the late sixteenth century, Indonesians were forced into slavery and the slave trade through forced migration and forced labour. The Dutch policy was slightly interrupted when the British took over Indonesia in 1811. When the British handed Indonesia back to the Dutch, the system of forced labour resumed under the Cultivation System. The narratives of Indonesian labour migration pre-1870 were dominated by systems of forced labour.

Post-1870, the Dutch colonial government introduced the 1880 Coolie Ordinance. This Ordinance brought Indonesia into the so-called 'indentured labour' system. At first, the implementation of the system was harsh, though by the early twentieth century it had improved. Post-1870 also witnessed, officially, the first group of Indonesian migrant workers, when 94 Indonesians were transported to Surinam to work on plantations. Labour migration continued until 1931 under the indentured labour system and from this year onwards, labour was sent under the free recruitment system.

Labour migration was interrupted by the Japanese occupation in 1942-1945. Despite occupying Indonesia only for a short time, the *Romusha* (forced labour) system used by the Japanese resulted in catastrophe for Indonesian labour, including significant forced migration. Indonesia finally ended the bitter and notorious experiences of colonialism when the nation proclaimed its independence on 17 August 1945, entering a new era of labour migration.

The history of Indonesian labour migration in the post-colonial period demonstrates that every decade is distinct. This is related to either domestic factors, such as policies of national government, or international developments, such as foreign labour policy implemented in neighbouring countries.

From 1945-1959, Indonesian labour migration was limited as the country still faced revolutionary upheavals after the independence declaration. One notable development was the establishment of the Kementerian Perburuhan (Ministry of Labour) in 1947, showing the



government's concern about the issues of labour at that time. On labour migration, there was still mobility in terms of European repatriations. Indonesian immigrants also moved to Malaysia due to the policy of the Malaysian government that encouraged this migration for maintaining population dominance over the Chinese and Indians. This policy continued in the 1960s, bringing more Indonesian migrants to Malaysia.

In the 1970s, Indonesia experienced a significant increase in labour migration, particularly to Malaysia. One factor causing this was external, where migration was driven by the policy implemented by a foreign government, Malaysia's implementation of the NEP. Another factor was internal, where the national government undertook active interventions on labour migration. One of these was the creation of government-to-government programs, a policy that further drove migration. The 1980s saw, for the first time, the official sending of Indonesian migrant labour to Saudi Arabia. Additionally, there was also a new phenomenon of irregular migration of Indonesian labour to Malaysia. Even though the term 'irregular migrant' was, initially, aimed at Vietnamese workers, later it was associated with Indonesians. Due to this, the Malaysian government launched a policy of regularising illegals, a policy that continued until the 1990s, and brought another negative consequence for Indonesian migrant labour: deportation.

In the 1990s, Indonesian migrant labour was greatly affected by the regularisation policy of Malaysia, which later included deportation. Through the policy called *Ops Nyah*, many Indonesian migrant workers in Malaysia were repatriated. This policy received more impetus when Malaysia and the Southeast Asian region faced an economic crisis in the late 1990s. In the 2000s, Indonesia was further exposed to the problems of labour migration. Special attention was given to the Nunukan humanitarian crisis as more than 70 migrant workers died. This crisis drove Indonesian NGOs to push for more protection of Indonesian migrant labour, resulting in

the enactment of legislation on the protection of labour as well as the signing of the 1990 UN Convention that promotes labour rights.

In the 2010s, there were a number of developments in Indonesian labour migration. Among these was the high-profile case of abuse against an Indonesian maid in Hong Kong. This case drew international attention, including *Time Magazine*, naming the maid, Erwiana Sulistyaningsih, as one of the top 100 most influential people. It was also in the 2010s that Indonesia finally ratified the 1990 Convention that, theoretically, would force the country to implement more rights protection for migrant labour. This ratification was driven by policy entrepreneurs, which will be examined further in the following chapters. Another important development in this period was the new focus of the Indonesian government under President Jokowi, namely making the protection of Indonesian migrant workers one of the core agendas of the country's foreign policy. Both Jokowi and the Minister for Foreign Affairs have shown their support for this new focus through their actions.

## **Chapter 3**

### **Indonesia's Foreign Policy on Labour Migration**

Under Indonesia's democratic governance, labour migration has become an important part of the government's foreign policy agenda. Labour migration policy and, in particular, the protection of Indonesian migrant labour has become a crucial part of the foreign policy core agenda of the Joko Widodo administration, which provides evidence of that importance. For example, in the 2015 Annual Press Statement of the Minister of Foreign Affairs, Minister Retno L.P. Marsudi stated that Indonesia's foreign policy in the next five years would prioritise, first, guarding Indonesia's sovereignty; second, improving the protection of Indonesian citizens and legal entities; and third, enhancing economic diplomacy (Marsudi 2015).

The foreign policy agenda of labour migration and the protection of Indonesian migrant labour also existed under previous democratic governments. During the administration of President Susilo Bambang Yudhoyono (SBY) (2004-2014), labour migration and the protection of Indonesian labour was an important part of the agenda, even though it was not identified as one of the core issues in the early days of SBY administration as it has been under Jokowi. During the SBY administration, Indonesia signed a number of memorandums of understanding (MoUs) and declarations. It was also under the SBY administration that the government launched the so-called 'grand strategy' for the protection of Indonesian citizens overseas.

Similarly, the foreign policy agenda of labour migration and the protection of Indonesian labour under the administration of President Megawati Soekarnoputri (2001-2004) was also considered to be of importance. Not only did this administration have to face the high-profile

Nunukan humanitarian crisis that occurred in 2002, it was also in this year that the Ministry of Foreign Affairs established the Directorate for the Protection of Indonesian Citizens and Legal Entities, a second-echelon unit under the Ministry, highlighting the importance placed on this issue. The Foreign Minister Dr. Hassan Wirajuda, in his 2003 Annual Press Statement, point number 137, stated that this governmental unit was established for the purpose of providing and improving the protection for Indonesian citizens overseas (KBRI Canberra 2003).

Under the administration of President Abdurrahman Wahid (1999-2001), the foreign policy agenda of labour migration and the protection of migrant labour were also prominent, its significance being recognised for the first time. In 1999, responding to the growing salience of this issue, Indonesia enacted Law No. 37 of 1999 concerning Foreign Relations. In Chapter V, Article 18 of this Law, it is stipulated that “the protection for Indonesian citizens has become the centre of attention for the purpose of providing protection, including for Indonesian labour who work overseas”. This law was enacted to satisfy local demands for action.

Prior to 1999, but particularly under the administration of President Suharto (1967 – 1998) as President Habibie only ruled for a short transition period (1998 – 1999), there were policies on labour migration, such as the inclusion of the program of sending Indonesian labour overseas in the *Rencana Pembangunan Lima Tahun (Repelita) Pertama* (The First Five Year Plan), 1969-1974. Also, in 1970, there was the establishment of a government unit at the Kementerian Tenaga Kerja (Ministry of Labour) called *Pusat Antar Kerja Antar Negara* (Centre for Overseas Employment) that facilitated the movement of Indonesian labour overseas.

Significantly, prior to Suharto’s presidency, or under the administration of President Sukarno (1945 – 1966), there is no concrete historical evidence of the establishment a specific policy, let alone a foreign policy, on labour migration. As indicated in Chapter 2, Indonesian labour migration at that time was driven more by the host policies of Malaysia.

This chapter will examine Indonesia's foreign policy on labour migration under the administrations of President Suharto (1967 – 1998), President Abdurrahman Wahid (1999 – 2001), President Megawati (2001 – 2004), President SBY (2004 – 2014), and President Joko Widodo (2014-2015).<sup>10</sup> This chapter will also discuss the emergence of policy entrepreneurs in Indonesia's foreign policy on labour migration. The enactment of Law No. 39 of 2004, the signing the 2006 MoU with Malaysia as well as other related foreign policy decisions, and the ratification of the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW), are some examples of how policy entrepreneurs have influenced policy-makings, with regard to both domestic and foreign policy.

The chapter is divided into five sections analytically examining labour migration policies made under successive administrations that were responding to democratic pressures. In the first section, focussing on the Suharto era, the chapter will examine the specific programmes included in each *Repelita*. In the second section, focussing on the Abdurrahman Wahid era, the chapter will investigate, inter alia, Law No. 37 on Foreign Relations and a number of foreign policy decisions relating to labour migration, such as the ratification of ILO conventions. In the third section, focussing on the Megawati Soekarnoputri era, the chapter will examine the establishment of the Directorate of the Protection of Indonesian Citizens and Legal Entities and the Enactment of Law No. 39 of 2004. In the fourth section, focussing on the SBY era, the chapter will investigate several decisions, such as moratorium policy and the grand design of the protection policy. In the fifth section, focussing on the Joko Widodo era, the chapter will examine the elite statements as well as initial government decisions concerning Indonesia's foreign policy on labour migration and the protection of migrant labour.

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<sup>10</sup> At the time of writing, the Jokowi administration was only in its second year, so this examination of its policies regarding labour migration is limited.

### **3.1 The Suharto Government – a Period of Transition**

The official policy on the sending of Indonesian migrant labour was initiated for the first time by the Suharto administration. As observed by Setyawati (2013: 268), “The Indonesian labour export policy began in the Suharto era from the late 1960s to the mid-1990s, with the intention of generating economic growth from workers’ remittances”. The first policy was established in 1969 when the Suharto government included labour migration in the *Repelita I*, 1969 – 1974. It was from this year that the movement of Indonesian migrant labour was officially monitored and recorded.

Implementation of this policy was carried out by the then *Departemen Tenaga Kerja, Transmigrasi dan Koperasi* (Depnakertrans - Department of Manpower, Transmigration and Cooperative Units). Established in the transition period 1966-1969, it replaced the Kementerian Perburuhan created under the Sukarno administration (Kementerian Tenaga Kerja dan Transmigrasi 2003). The Depnakertrans took as an important policy Regulation No. 4 of 1970 that prohibited the recruitment of migrant labour without a permit and placed further conditions on recruitment (Setyawati 2013: 269). Another notable element in this policy was the establishment of the *Pusat AKAN* (Centre for Overseas Employment) in 1970.

Under the Suharto administration, there were few foreign policy decisions in the form of international agreements. Table 3.1 below lists related agreements made by Indonesia either with international organisations or other countries.

*Table 3.1* Agreements between the Government of Indonesia with International Organisations and with other Countries during the Suharto Administration

No	Title of the Agreements	Place and Date of Signing	Entry into Force
1	Agreement between the Government of the Republic of Indonesia and the International Labour Organization (ILO) regarding the Establishment of the ILO-Office in Jakarta	Jakarta, 21 May 1970	21 May 1970
2	Agreement on Supply of Workers between the Republic of Indonesia and Malaysia	Medan, 12 May 1984	12 May 1984
3	Memorandum of Agreement on Recruitment of Indonesian Workers between the Government of the Republic of Indonesia and the Government of the Kingdom of Malaysia	Jakarta, 15 December 1993	15 December 1993

Source: Kementerian Luar Negeri (2015)

It is evident that the Suharto administration did not pay much attention to foreign policy concerning labour migration as it committed to only a few agreements. Even when it signed agreements with other countries, in this case with Malaysia, it focused more on the management of supply and did not touch on domestically sensitive issues such as protection. For example, the very first agreement between Indonesia and Malaysia in 1984 addressed the establishment of official channels in the recruitment of Indonesian labour, particularly those who had previously been regarded as illegal. As observed by Weiss (2010: 178), “[The 1984 Agreement] established official channels for recruiting Indonesian workers, previously all undocumented”. Similarly, the agreement in 1993 focused on how the two countries could cooperate in the supply of migrant labour. The Preamble of the agreement reads, “Desiring to strengthen their existing relationship and to assist each other in the promotion of economic and technical co-operation between the two nations, particularly in the provision of workers” (Kementerian Luar Negeri 1993).

The focus on the supply of migrant labour in Indonesia's foreign policy under Suharto was its initial priority as it was explicitly reflected in the bilateral agreement. The policy was publicly stated in the *Garis-Garis Besar Haluan Negara* (GBHN - *State Guidelines*) of the *Repelita V*, 1989-1994. According to Azmy (2012: 48), this GBHN viewed Indonesian labour migration as, among other things, reducing unemployment, which was seen as a threat to national stability if not managed, and increasing the inflow of foreign currency. However, another view argues that this labour migration was not necessarily solely in Indonesia's interest but also Malaysia's. According to Irewati (2003: 36), the demand from Malaysia also played an essential role, and this demand side had existed since the Dutch colonial era.

### **3.2 The Abdurrahman Wahid Government – an Important Interlude**

Abdurrahman Wahid became the fourth Indonesian president in 1999. Soon after taking office, Wahid undertook a number of reform initiatives. One essential policy decision made under the administration was written in the GBHN (State Guidelines) 1999-2004. The GBHN read:

Developing a comprehensive and integrated policy of manpower, and improving the quantity and quality of overseas labour placement by paying attention to the competence, protection and defending of migrant labour, managed with an integrated system and to prevent the exploitation of labour (Irewati 2003: 35).

With this GBHN, the administration moved quickly and, in the same year, enacted Law No. 37 of 1999 concerning Foreign Relations. Matters concerning the protection of Indonesian citizens, including migrant labour, are stipulated in Chapter V of the Law, particularly Articles 18 to 23 (See Table 3.2 below). Essentially, the articles of Law No. 37 of 1999 emphasised that the Wahid government shall protect the interests of, and provide protection and legal assistance to, Indonesian citizens overseas, including migrant labour.



Table 3.2 Law No. 37 of 1999 on Foreign Relations, Chapter V (The Protection of Indonesian Citizens)

- Article 18 states that: a) the Indonesian Government protects the interests of all Indonesian nationals and legal entities abroad; b) the protection is given in accordance to International Law and Convention.
- Article 19 states that: a) the Indonesian Government should promote unity and harmony among Indonesian citizens abroad; and b) it is the duty of the government to provide protection and legal assistance to Indonesian citizens and legal entities abroad in accordance to International Law and Convention.
- Article 20: In case of conflicts that involve Indonesian nationals or its legal entities abroad, the Indonesian Foreign Office is obliged to resolve it first through deliberation and in accordance to the law.
- Article 21: In case of threats that endanger Indonesian nationals abroad, the Indonesian Foreign Office is obliged to give protection and assistance, as well as a safe place to stay, and exert all efforts to repatriate them. Repatriation expenses are to be borne by the state.
- Article 22: In cases of war or termination of diplomatic relations with a certain country, a Minister or a designated official appointed by the President coordinates efforts to secure and protect national interest, including Indonesian citizens.
- Article 23: The implementation of the regulation stated in Article 21 and 22 is carried out through cooperation with local government or other countries or related international organization.

Source: Kementerian Luar Negeri (2009)

In terms of foreign policy decisions on labour migration in the form of international agreements, the Wahid administration did not produce much beside the ratifications of ILO conventions No. 138 on Minimum Labour Age and No. 111 on Discrimination in Jobs. Yet the administration, through Presidential Decree No. 109 of 2001, made a breakthrough decision by establishing Direktorat Perlindungan Warga Negara Indonesia dan Badan Hukum Indonesia (the Directorate of Protection of Indonesian Citizens and Legal Entities, herein after referred as ‘the directorate’) under the Kementerian Luar Negeri (Kemenlu – Ministry of Foreign Affairs).<sup>11</sup> Azmy (2012: 52) observed that the purpose of the establishment of this body was to strengthen the protection of Indonesian migrant labour.

As a second-echelon government division under the Kemenlu, the directorate performed a number of functions, such as policy formulation and implementation; negotiating protection measures with other countries; and formulating standards, norms, guidance, criteria, and procedures of protection. The directorate consisted of four sub-directorates, dealing with

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<sup>11</sup> Even though the decision to establish was made in 2001, the establishment of the Directorate took place in 2002 under the Megawati administration. The establishment also took place when the Minister for Foreign Affairs under the Megawati administration, Dr. Hassan Wirajuda, undertook bureaucratic reform in the Ministry (*Tabloid Diplomasi* 2009).

protection in foreign countries, protection in Indonesia, consular monitoring, and social assistance and repatriation. On the protection of Indonesian citizens in foreign countries, the directorate provided numerous services, including among others: legal assistance on civil and criminal law and the handling of problems of citizens or migrant labour (*Tabloid Diplomasi* 2009).

### **3.3 The Megawati Soekarnoputri Government – Moving Towards a More Institutional Response**

One of the important policies concerning labour migration made under the Megawati administration was Ministerial Decree No. 104A/2002 on the Placement of Indonesian Migrant Labour. In the context of addressing the issue of migrant labour placement, the decree was comprehensive. It covered many aspects, such as legal bases, roles of state, and a long list of clauses concerning the roles and responsibilities of *perusahaan jasa tenaga kerja Indonesia* (PTJKI – the migrant labour service providing companies). Some aspects worth mentioning were on the penalties faced by the PJTKI if they failed to follow the requirements of migrant labour placement.

The decree had indeed highlighted the issue of migrant labour protection. Yet it was still very minimal, stipulated in just four of the Articles: 58, 59, 60 and 61. Furthermore, the responsibility to protect Indonesian migrant labour mostly fell on the shoulders of PJTKI and not the government. As stipulated in Article 60, the government played a role in providing protection, yet this role could only be carried out by cooperating with a body of PJTKI representatives called *Lembaga Perlindungan TKI* (the Agency for the Protection of Indonesian Migrant Labour). The Article states: “Indonesia’s Foreign Mission in cooperation with the Agency for the Protection of Indonesian Migrant Labour shall take data and monitor the

migrant labour whereabouts to help in the protection and legal assistance in its accredited territory” (Kementerian Tenaga Kerja dan Transmigrasi 2002).

Nonetheless, one notable part of this decree was that it recognised the vulnerability of uncontracted labour in the domestic sector. As observed by Setyawati (2013: 269), the Kemenakertrans passed the decree “which set the platform for the early recognition of ‘vulnerable workers’, which refers to those who work in the domestic sector without contracts”. As stipulated in Article 29 (1) of the decree, PJTKI were obliged to have: (a) placement cooperation agreements; (b) job orders/demand letters on behalf of the PJTKI; (c) working contracts; and (d) placement agreements with the migrant workers. Furthermore, failing to meet this requirement would cause the PJTKI to lose their licence (Kementerian Tenaga Kerja dan Transmigrasi 2002).

In terms of agreements with foreign countries, the Megawati administration negotiated three, namely with the Philippines, Malaysia, and the Republic of Korea (see Table 3.3 below). The substance of the 2004 MoU with Malaysia was essentially similar to previous agreements signed in 1984 and 1993, in that it focused on the sending of Indonesian migrant labour to Malaysia. Interestingly, the 2004 MoU did not single out any clauses concerning the protection of Indonesian migrant labour despite this being stipulated, though still minimum, in the Decree of Indonesian Minister for Manpower and Transmigration No. 104A/2002, as discussed above. What is of more interest is this MoU was signed after the establishment of the directorate for the protection of Indonesian citizens and legal entities under the Ministry of Foreign Affairs in 2002. It demonstrates that the Megawati administration did not do its utmost to uphold the policy of rights protection when making agreement with other countries.

*Table 3.3* Agreements between the Government of Indonesia with other Countries within the period of Megawati Administration

No	Title of the Agreements	Place and Date of Signing	Entry into Force
1	Memorandum of Understanding between the Department of Manpower and Transmigration of the Republic of Indonesia and the Department of Labor and Employment of the Republic of the Philippines concerning Migrant Workers	Jakarta, 18 January 2003	Not yet ratified
2	Memorandum of Understanding on the Recruitment of Indonesian Workers between the Government of the Republic of Indonesia and the Government of Malaysia	Jakarta, 10 May 2004	10 August 2004
3	Memorandum of Understanding between the Department of Manpower and Transmigration of the Republic of Indonesia and the Ministry of Labor of the Republic of Korea on the Sending of Indonesian Workers to the Republic of Korea	Seoul, 13 July 2004	13 July 2004

Source: Kementerian Luar Negeri (2015)

Another notable development during the Megawati administration was the enactment on 29 September 2004 of Law No. 39 of 2004 concerning the Placement and Protection of Indonesian Migrant Workers. As discussed in Chapter 2, this law was enacted mainly due to pressures by the so-called policy entrepreneurs from civil society groups who criticised President Megawati and her government as failing to protect Indonesian migrant labour, particularly after what occurred in Nunukan, East Kalimantan in 2002, which activists and scholars viewed as a humanitarian crisis. Yazid (2013: 81) observed,

The government has [...] become more responsive to [...] unfortunate events experienced by migrant workers and to pressures such as those from civil society groups, including NGOs. In 2002, after the crisis in Nunukan, there was increased pressure on the government to work on a law concerning migrant workers. Law No. 39/2004 on the Placement and Protection of Indonesian Workers Overseas was eventually passed in October 2004.

Law No. 39 of 2004 was initiated by members of the Dewan Perwakilan Rakyat (DPR – Indonesia's House of Representatives). Sinaga (2012: 64) notes, “In 2004, 31 members of the House of Representatives signed and oversaw the initiation of the drafting process of Law 39/2004”. Though initiated by members of the House, most of the substantive materials of the Law were supplied by the Indonesian government. “The government also proposed a draft in which the Ministry of Manpower and Transmigration provided most of the technical input” (Sinaga 2012: 64).

The government and the DPR were anxious to enact the Law before their terms of office ended and rushed it through, with just two weeks from initiation to enactment. As noted by Sinaga (2012: 67), “The Bill was adopted after a quick two-week deliberation, a few days before President Megawati completed her presidency, and just a day before parliament ended (1999-2004)”. Consequently, since most of the substantive content was supplied by the government, the Law took much of its wording from Ministerial Decree No. 104A/2002, with its focus on private recruitment companies rather than the protection of Indonesian migrant labour. Sinaga (2012: 67) argues, “The bulk of the law’s provisions derived from the Minister of Manpower Regulation Decree 104/A/2002 whose contents favoured private companies”.

Since the enactment of the Law, scholars and activists have viewed it as falling short of providing protection for Indonesian migrant labour. This is mainly because of the overall 109 clauses stipulated in the law, only 9 were concerned with actual protection. Furthermore, it was not clear which organisation or institution held responsibility for the protection of migrant labour rights. As observed by Farbenblum et al (2013: 60), “The law [no. 39 of 2004] does not identify the party or parties responsible for fulfilling and enforcing any of these rights”. Thus, this law has been regarded as far from adequate in providing protection for Indonesian migrant labour. The reason for this poor legislation, according to Azmy (2012: 55), was the exclusion of migrant workers and their representatives from the policy-making process.

To make the situation worse, rather than simplifying the process of the placement of workers in jobs in foreign countries, Law No. 39 of 2004 created unforeseen consequences. One of these was the increased potential for a worker to be considered illegal. Farbenblum et al (2013: 60) have argued, “The law establishes serious consequences for migrant workers if they do not uphold their obligations, namely that the worker will be considered ‘illegal’ and potentially unable to obtain redress”.

In short, Law No. 39 of 2004 has been viewed by scholars and activists as ineffective as it generated more problems than it solved in its attempt to create a better system of protection for Indonesian migrant labour. Sinaga (2012: 93) put it aptly, “[The Law] has been ineffective and only resulted in the more commercial roles of private companies, less protection provisions and sanctions, and contradictions with other Indonesian legal instruments”.

Law No. 39 of 2004, however, formed the basis for the succeeding government, the SBY administration, to undertake a reform of placement and protection policies, including the establishment of BNP2TKI. This will be discussed further in the following section.<sup>12</sup>

### **3.4 The Susilo Bambang Yudhoyono Government – Gradually Coming to Accept the Need for a Moratorium**

President Susilo Bambang Yudhoyono (SBY) began his term of office in October 2004. Early in his presidency, SBY was confronted with a high-profile case: the abuse of Nirmala Bonat who worked as a domestic helper in Malaysia. The case first came to public attention in mid-May 2004 when President Megawati was still in office. As the court proceedings took years, a verdict was not reached until 2008, and Nirmala’s employer, Yim Pek Ha, was sentenced to 18 years in prison. President SBY was reported to have taken a personal interest in Nirmala Bonat

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<sup>12</sup> Another notable development under the Megawati administration was the signing of the CMW on 22 September 2004. This issue will be examined further in Chapter 4.

and applauded the court's decision. As reported by the *New Straits Times* (2008), "Indonesian President Susilo Bambang Yudhoyono [...] welcomed the court's decision against her employer, saying justice had been done".

The SBY administration was in power for two five-year periods and this section will examine some of its notable domestic and foreign policies, such as Presidential Instruction No. 6 of 2006, the 2006 MoU with Malaysia, the Moratorium on sending migrant labour to Saudi Arabia, the ratification of the CMW, and the launch of the grand design of the protection policy of Indonesian labour overseas.

### **3.4.1 Presidential Instruction No. 6 of 2006**

In terms of labour migration and the protection of migrant labour rights, the SBY administration implemented numerous policies. One notable policy was the reform of the placement and protection system, with reference to existing law. According to Setyawati (2013: 269), the administration advanced the previous regulation framework, more particularly Law No. 39 of 2004, "by issuing a Presidential Instruction No. 6/2006 on Reforming the System of Placement and Protection of Indonesian Migrant Workers". This Instruction brought a number of measures in the protection of labour when working overseas. There were two points of protection, namely advocacy and legal defence for migrant labour and the strengthening of Indonesian mission functions to protect labour. This gave more authority to Indonesia's Minister for Foreign Affairs, particularly in terms of labour protection. As stated in the Instruction, the focal point of these roles is the Minister (Kementerian Pendayagunaan Aparatur Negara 2006).

Presidential Instruction No. 6 of 2006 also mandated the establishment of BNP2TKI. BNP2TKI's main responsibility is the placement of migrant labour, previously managed by the Kemenakertrans (see the Table 3.4 below).

Table 3.4 The Historical Background of the Establishment of BNP2TKI

The Indonesian government, cq. the Ministry of Manpower, Transmigration and Cooperatives, began the sending of migrant labour in 1970 through a program called AKAN. This program was carried out by a section at a fourth-echelon level, reporting directly to the first-echelon Director General for Development and Deployment. In 1986, the Directorate General was merged with the Directorate General of Development and Protection, changing its name to the Directorate General for Development and Placement. Due to this merger, the AKAN section was promoted to a second-echelon level and renamed as '*Pusat AKAN*' or Centre for Overseas Employment. In 1994, *Pusat AKAN* was dissolved and its role taken over by another second-echelon level, the Directorate of Export of Migrant Workers Services. In 1999, the Directorate was renamed the Directorate of Placement of Workers Overseas.

In 1999, the government established *Badan Koordinasi Penempatan Tenaga Kerja Indonesia* (BKPTKI – the Coordinating Agency for the Placement of Indonesian Migrant Workers) with members coming from nine related institutions. In 2001, the Directorate General for Development and Placement was dissolved and replaced by the Directorate General for Placement and Protection of Workers Overseas. When Law No. 39 of 2004 was enacted, Article 94 (1) and (2) mandated the establishment of BNP2TKI. The Presidential Instruction in 2006 detailed the establishment of BNP2TKI. The agency began its work in 2007 when its first head was appointed. With the existence of BNP2TKI, all matters concerning placement and protection of migrant labour was put under the authority of BNP2TKI, coordinated with the MoMT, yet responsible directly to the President. With the existence of BNP2TKI, the Directorate General of Placement and Protection under the Ministry was dissolved as its functions were shifted to BNP2TKI.

Source: BNP2TKI 2011

After the establishment BNP2TKI, the Kemenakertrans then focused on formulating regulations. In reality, however, this division of work was difficult to manage. As observed by Yazid (2013: 89), “Different interpretations of what should be the responsibility and authority of each institution generated overlapping actions, which led to tensions between the two institutions”. Furthermore, despite the intent to reform and create a better system of Indonesian migrant protection, BNP2TKI was criticised for its lack of effectiveness in performing tasks due to the vagueness and ambiguity of its structure and roles. Sinaga (2012: 94) has argued, “[The function of BNP2TKI] is not clearly defined, its structure is vague, and its roles are ambiguous”.

In responding to Presidential Instruction No. 6 of 2006, the Kemenlu issued Regulation No. 4 of 2008. Setyawati (2013: 269) suggested, “[The Regulation] was designed to assist Indonesian nationals abroad through close cooperation between consulate offices in host countries and the BNP2TKI”. The main mandate of this Regulation was the establishment of a



citizen service in 18 Indonesian foreign missions. The Regulation aimed to create improved services as well as stronger protection for Indonesian labour while overseas, particularly in terms of technical assistance (Sinaga 2012: 196).

### **3.4.2. The 2006 MoU with Malaysia**

Indonesia signed another MoU with Malaysia in 2006 concerning the recruitment and placement of Indonesian domestic labour. This MoU, however, was still viewed as giving weak protection to Indonesian migrant labour and was regarded as only duplicating problems created by the previous MoU. As argued by Sinaga (2012: 201), “The 2006 MoU [...] repeats the same problem as the 2004 MoU”. One of the weak points of the 2006 MoU, according to Azmy (2012: 57), was the section on the responsibilities of employers that gave them authority to hold workers’ passports. Appendix A, on the Responsibilities of the Employer (point xii), states:

The Employer shall be responsible for the safe keeping of the Domestic Worker’s passport and to surrender such passport to the Indonesian Mission in the event of abscondment or death of the Domestic Workers (Kementerian Luar Negeri 2006).

This point, as argued by Azmy (2012: 169), greatly disturbed Indonesian migrant workers since access to their passports was a vital need. It was vital because if during the working contract period there occurred a dispute between the worker and the employer resulting in the worker deciding to leave the employer, without their passport the worker would be listed as undocumented or illegal labour. This situation left workers vulnerable to violent treatment from employers.

Another weak point of the 2006 MoU was its inability to use Malaysia's labour laws for the benefit of Indonesian migrant labour. According to Sinaga (2012: 201), “The 2006 MoU failed to secure the application of Malaysia’s labour laws to migrant domestic workers”. Additionally, the MoU was not able to impose a responsibility on employers to repatriate workers when abuse took place. “[The 2006 MoU also failed] to allocate responsibility for the

repatriation of migrant domestic workers who are abused by their employers” (Sinaga 2012: 201).

With all these weaknesses, the 2006 MoU with Malaysia came in for wide criticism, particularly from NGOs. Yazid (2013: 218) observed, “In May 2006, immediately after the MoU was signed, SBMI, Kopbumi, and GPPBM produced a critical note on the MoU entitled *Rejecting the Package of Modern Slavery*”.<sup>13</sup> The NGOs’ assessment of the MoU was, among other things, it did not uphold the rights of migrant domestic labour, it legitimised the trading of migrant labour, and it even enabled modern slavery. It has been claimed by Yazid (2013: 225) that these weaknesses were caused by the limited involvement of NGOs in the policy-making process.

Subsequently as pressure on the government mounted, in June 2009, Indonesia made a notable foreign policy decision by implementing a moratorium on the sending of domestic labour specifically to Malaysia. According to Clark and Pietsch (2014: 172), this decision was made by the Indonesian government as there had been many well-publicised cases of abuse. Additionally, as observed by Yazid (2013: 223), the moratorium was implemented after popular protests from the public and in particular migrant workers’ advocates. The advocates then used the moratorium to push the Indonesian government to pressurise Malaysia to revise the 2006 MoU. As a result, Indonesia and Malaysia began negotiations to revise the MoU in August 2009.

It is empirically clear that migrant workers’ advocates played important roles both in the Malaysian moratorium and in the 2006 MoU revision negotiations. As argued by Nesadurai (2013: 104), “The Indonesian government could not ignore bottom-up emotional appeals from

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<sup>13</sup> SBMI stands for *Serikat Buruh Migran Indonesia* (the Federation of Indonesian Migration), Kopbumi stands for *Konsorsium Pembela Buruh Migran Indonesia* (the Consortium for the Defence of Indonesian Migrant Labour), and GPPBM stands for *Gerakan Perempuan untuk Perlindungan Buruh Migran* (the Women’s Movement for the Protection of Migrant Labour).

the public and other significant actors, including politicians and NGOs”. It can also be perceived that the advocates demonstrated part of the work of policy entrepreneurs who played roles in policy decisions. As discussed in Chapter 1, policy entrepreneurs are “advocates for proposals or for prominence of an idea” (Kingdon 2003: 122).

As negotiations to revise the 2006 MoU began in August 2009, Indonesia and Malaysia negotiated numerous detailed aspects in the MoU, such as the cost structures, minimum wages, and the holding of passports (Yazid 2013: 223, Azmy 2012: 59). One of the difficult issues to resolve was the structure of transportation and recruitment costs (Sinaga 2012: 201). In that context, Indonesia held a position that cost structure should be adjustable based on the prevailing costs in host nations (Yazid 2013: 223). Finally, after a series of negotiations, the two countries agreed the amendment of the MoU under an agreement called the 2011 Protocol Amending the 2006 MoU (See Table 3.5).

*Table 3.5* Agreements between the Government of Indonesia with other Countries within the period of SBY Administration

No	Title of the Agreements	Place and Date of Signing	Entry into Force
1	Memorandum of Understanding between the Government of the Republic of Indonesia and the Government of Malaysia on the Recruitment and Placement of Indonesian Domestic Workers	Bali, 13 May 2006	15 June 2006
2	Arrangement between Ministry of Manpower and Transmigration of the Republic of Indonesia and Department of Education, Employment and Workplace Relations of the Government of the Commonwealth of Australia concerning Labour and Social Protection	Canberra, 4 June 2009	4 June 2009
3	Memorandum of Understanding between the Government of the Republic of Indonesia represented by Ministry of Manpower and Transmigration and the Government of the Hashemite Kingdom of Jordan represented by Ministry of Labour on the Placement and Protection of Indonesian Domestic Workers	Bali, 27 June 2009	27 June 2009
4	Memorandum of Understanding between the Government of the Republic of Indonesia and the Government of the Republic of Turkey on Labour Development	Ankara, 29 June 2010	29 June 2010
5	Protocol Amending the Memorandum of Understanding between the Government of the Republic of Indonesia and the Government of Malaysia on the Recruitment and Placement of Indonesia Domestic Workers	Bandung, 30 May 2011	20 October 2011
6	Memorandum of Understanding between the Government of the Republic of Indonesia and the Government of New Zealand on Labour Cooperation	Jakarta, 17 April 2012	17 April 2012

Source: Kementerian Luar Negeri (2015)

The completion of the negotiations between Indonesia and Malaysia in May 2011 brought an end to the moratorium implemented unilaterally by Indonesia in June 2009. Sinaga

(2012: 202) reflected: “The amended MoU leads to the revocation of the moratorium [...] previously applied by the Indonesian government since June 2009”. The completion also meant that Indonesian domestic workers could again travel to Malaysia for work (Clark and Pietsch 2014: 172-3).

Examining the process of adopting MOUs and the related foreign policy decisions implemented by the SBY administration afterwards, it became obvious that policy entrepreneurs, particularly NGOs, had not been closely involved or not pushed hard to be involved in the negotiating processes and therefore missed the opportunity to influence the contents of the MoU in 2006. They did, however, play a role in pressuring the Indonesian government to implement the moratorium in 2009 as well as demanding the government revise the MoU. These efforts came to some fruition when both states finally agreed to sign the 2011 Protocol amending the 2006 MoU that later restarted the movement of Indonesian domestic labour to Malaysia.

### **3.4.3 The Saudi Arabia Moratorium to Protect ‘Economic Heroes’**

President SBY in his second term came to pay attention to the issue of labour migration, particularly with respect to worker protection. In a speech at the 100<sup>th</sup> International Labour Conference in Geneva, 14 June 2011, the President stated:

[Migrant workers] are important players in this new era of social justice. We cannot ignore their contributions to the global labour market, as well as to the economies of their home countries. We in Indonesia call these migrant workers “economic heroes” (*pahlawan devisa*), due to their hard work and selfless devotion to the welfare of their family back home (International Labour Organization 2011).

Furthermore, SBY highlighted the importance of the protection of Indonesian migrant labour by developing cooperation with migrant-receiving countries. He continued in the speech, “We have developed arrangements with host countries, to ensure that their rights are

respected and protected, including their rights to minimum wage and days-off' (International Labour Organization 2011).

This speech drew appreciation from across the community and community organisations. President SBY even received a standing ovation after delivering the speech.

Andre Omer, SBY's interpreter at that time, wrote:

President Yudhoyono received a standing ovation after his delivery at the 100th session of the International Labour Conference. Juan Somavia, Director General of the ILO conveyed his deep appreciation to the President for [...] his leadership role in promoting the global labour and employment agenda especially in combatting the crisis and forging a new global economic framework (Omer 2011).

Nonetheless, just four days after SBY delivered his speech, the Indonesian maid Ruyati binti Satubi (mentioned in the Introduction) was beheaded in Saudi Arabia. To make the case worse, the beheading was carried out without notification to the Indonesian government. This beheading raised criticism from Indonesian civil society with advocates now arguing that SBY's speech was shameful and worthless (*The Jakarta Post* 2011). This beheading without notification led some Indonesian MPs to urge the government to declare a specific moratorium on the sending of migrant labour, this time to Saudi Arabia and the Middle East in general (*BBC* 2011).

In responding to Indonesia's criticism, the Saudis issued an explanation to the Task Force on the Protection of Indonesian Migrant Workers, led by the former Minister of Religious Affairs, Maftuh Basyuni, who met the Saudi Arabia's Deputy Minister of Domestic Affairs, Dr. Ahmad Muhammad Al-Sakim on 20 July 2011. A press release from the Indonesia's Consulate General in Jeddah (Kementerian Luar Negeri 2011) noted the explanation of the Saudi authorities as follows:

The Deputy Minister of Domestic Affairs explained how the execution of a death sentence is not informed to anyone except the heirs of the victim and the convict [...] Such secrecy is maintained as it considers a number of factors, such as security, psychology and society.

The Saudis argued that the failure to inform the Indonesian government was due to the secrecy policy followed by their authorities. This policy applied to all Saudi citizens and including migrant labour. As further noted by the Indonesia's Consulate General in Saudi Arabia:

The secrecy of the execution applies for all citizens including Saudi Arabian citizens. These are the reasons why the time of execution for the Indonesian Citizen, Ruyati binti Satubi, was not informed to anyone, including the Indonesian Representative (Kementerian Luar Negeri 2011).

The beheading without notification of Ruyati had created uproar in Indonesia. Shortly after the beheading took place, there were numerous calls demanding the Indonesian government show their displeasure to the Saudi government. Hikmahanto Juwana, an international law professor from the University of Indonesia, demanded the Indonesian government take firm measures toward the Saudi government. Juwana, as reported by *The Jakarta Post* (2011), urged the government "to stop sending workers there or to take diplomatic actions, ranging from recalling its ambassador to the kingdom to scaling down its representation there".

Following these calls, the SBY administration took the policy decision, namely to impose a moratorium on the sending of Indonesian migrant labour to Saudi Arabia. *CNN* (2011) reported that the Indonesian government decided to impose the moratorium effective from August 1, 2011, "until an Indonesian-Saudi memorandum of understanding on the protection of migrant workers is signed and a bilateral joint task force is established".

In response to the moratorium policy implemented by Indonesia, the Saudi government temporarily terminated the issuing of visas for Indonesian migrant labour. At the same time, the two governments worked closely and finally reached an agreement on the MoU on the protection of Indonesian migrant labour on 19 February 2014. As already discussed in Chapter 2, this agreement has been regarded as historical as it was the first time the two governments agreed to make the protection of migrant labour a priority.

#### **3.4.4 The Ratification of the CMW**

Another notable and important foreign policy decision made during the SBY administration was Indonesia's ratification of the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) on 12 April 2012. This notable decision to ratify took as long as 22 years in gestation. After the CMW was adopted unanimously in the United Nations General Assembly in December 1990, it took 14 years before Indonesia finally signed it, after strong demands from civil society groups in the aftermath of the Nunukan humanitarian crisis in 2002.

The demands for the CMW to be first signed and then ratified came as part of the citizen lawsuit submitted by civil society groups in the Indonesian Court in Central Jakarta on 24 January 2003 (*Hukum Online* 2003). The civil society groups that submitted the lawsuit worked in an alliance called Tim Advokasi Tragedi Nunukan (TATN – the Advocating Team of Nunukan Tragedy). The groups belonging to the TATN were, among others, Yayasan Lembaga Bantuan Hukum Indonesia (YLBHI – the Foundation of Indonesian Aid Institute), Solidaritas Perempuan (SP – Solidarity for Women), and Kopbumi (*Hukum Online* 2002, 2003).

It took another eight years after signing for Indonesia to finally ratify the CMW. Again, this foreign policy decision was driven largely by civil society groups, who this thesis argues carried out the roles of policy entrepreneurs. This will be discussed in more detail in Chapter 4.

#### **3.4.5 The Grand Design of the Protection of Indonesian Citizens Overseas**

Another notable foreign policy decision taken by the SBY administration was the launch of a policy paper in 2012 by the Minister for Foreign Affairs, Dr. Marty Natalegawa entitled '*Grand Design Perlindungan Warga Negara Indonesia di Luar Negeri*' (the Grand Design of the



Protection of Indonesian Citizens Overseas) (Kementerian Luar Negeri 2012). The purpose of this proposal was, among other things, to guide the implementation of policy on the protection of Indonesian citizens overseas; to map the roles and functions of other stakeholders such as the government, private sectors, and civil society; to implement standardisation in the protection of Indonesian citizens that could be referred by Indonesian overseas missions and the relevant government institutions at the national and regional level; and to push for a paradigm change in the management of issues emerging from international migration by upholding human rights and development (Kementerian Luar Negeri 2012: 2-3).

The policy paper emphasised that the government should carry out its endeavours on three levels: bilateral, regional, and multilateral (Kementerian Luar Negeri 2012: 11-12). At the bilateral level, the paper stated that the government had already signed a number of agreements, namely with the United Arab Emirates, Japan, Kuwait, Republic of Korea, Lebanon, Malaysia, Qatar, Jordan, Timor Leste, Australia, and Brunei Darussalam. In the future, the government planned to renegotiate existing agreements as well as signing more agreements. At the regional level, the government argued it has been and would continue to be active in relevant forums, among others ASEAN and the Global Forum on Migration and Development. At the multilateral level, the government had ratified the CMW. It also planned to ratify the ILO Convention 189 concerning Decent Work for Domestic Workers.

As the policy paper emphasised, it also set out the levels of protection that the Indonesian government could provide: preventive action, early detection, and immediate response (Kementerian Luar Negeri 2012: 13-14). Preventive action included, among other things, improving national legislation, capacity building, and establishing a database system integrated between the national government/institutions and Indonesian overseas missions. The planned database would consist of relevant information such as citizens' identities, immigration

documents, migrant labour cases, identities of migrant workers being placed, and black-listed migrant labour service-providers.

With regard to this grand design, the then Indonesian Foreign Minister Marty Natalegawa stated in the 2013 Annual Press Statement on Foreign Policy that his Ministry had made the three stages of protection part of the foreign policy agenda. Natalagewa said, “In line to our commitment, the Ministry of Foreign Affairs had already made the grand design of protection of Indonesian citizens overseas. The strengthening of preventive action, early detection, and protection become the main agenda” (*VOA Indonesia* 2013).

The grand design of the protection of Indonesian citizen overseas received appreciation, including from the Chairman of Commission I of DPR, Mahfudz Siddiq. *VOA Indonesia* (2013) reported that Siddiq conveyed his appreciation to the hard work of the government in providing protection to Indonesian citizens [through the grand design]. At the same time, he also suggested that the government should add to the number of personnel at Indonesian diplomatic and consular offices abroad, particularly staff with mastery of legal and employment-related matters. The adding of these personnel, according to Siddiq, could optimise the legal protection of Indonesian citizens facing problems in foreign countries (*VOA Indonesia* 2013).

### **3.5 The Joko Widodo Government – Still Grappling to Implement a Comprehensive Policy**

Indonesia’s foreign policy on labour migration under the Jokowi Widodo (popularly known as ‘Jokowi’) administration gained new importance, alongside guarding Indonesia’s sovereignty and enhancing economic diplomacy. The focus of Indonesia’s foreign policy under this administration was on providing protection for Indonesian migrants. In her 2015 Annual Press Statement, the Foreign Minister, Retno L.P. Marsudi stated that Indonesia’s diplomacy and

foreign policy must be able to provide protection and security for Indonesian citizens and legal entities overseas (Marsudi 2015).

This new foreign policy direction was in line with the ‘pro-people’ image Jokowi had been trying to project for his administration. At the same time, Jokowi was also seen to be correcting the elitist approach of his predecessor, President SBY. Parameswaran (2015) argues:

[The new foreign policy direction is] in line with Jokowi’s ‘firm, dignified, down to earth, pro-people’ foreign policy which aims to secure the needs of the Indonesian people first and foremost – a welcome correction, some argue, to the overly elitist and internationalist worldview of his predecessor Susilo Bambang Yudhoyono. Retno as well as Jokowi’s advisers have also been repeating these priorities since October last year, and they have already begun work on them.

From the outset, the Jokowi administration gave priority to the issue of protection for migrant labour, promising workers better treatment from the recruitment phase to returning home. The Minister for Manpower and Transmigration, Hanif Dhakiri, pledged “to ensure that all Indonesian migrant workers receive proper protection from when they are recruited to when they return home” (*Jakarta Globe* 2014c). Dhakiri also promised to take tough measures against the bad practices of migrant labour agencies and officials in his ministry. He stated, “I will not tolerate anyone playing dirty, be it the agencies or the staff in my ministry” (*Jakarta Globe* 2014c).

Foreign minister Marsudi stated that the protection of citizens, which included migrant labour, would be continually improved (Marsudi 2015). She emphasised that Indonesia would only cooperate in sending migrant labour provided that (i) the receiving countries have national laws that regulate the protection of foreign migrant labour; and/or (ii) Indonesia has signed bilateral agreements with the receiving countries that uphold the protection of Indonesian migrant labour.

Marsudi also affirmed the commitment to protect Indonesian migrant labour in the ASEAN region, including by driving the creation of the ASEAN legal instrument. It is reported that Indonesia’s Foreign Ministry has been pushing hard to have a legally binding instrument

that can protect Indonesian migrant labour in the region. The Director of ASEAN Functional Cooperation of the Ministry, George Lantu, stated, “We are pushing so that the documents can be used as a framework whenever there is a dispute [regarding the fate and welfare of Indonesian migrant workers] in the future” (*Asia One* 2015).

The main concern with this instrument is whether it will be legally binding or not. This concern has emerged as some countries, including Indonesia, interpret the word ‘instrument’ as an international agreement, whereas other countries, mostly labour-receiving states, interpret the word as merely a guideline, which is not legally binding. For the Human Rights Working Group (HRWG), an absence of a legally binding instrument will only lead to an absence of responsibility for ASEAN countries. Yuyun Wahyuningrum of HRWG stated, “If it's not legally binding then there's no sense of responsibility [among ASEAN countries]” (*Asia One* 2015).

Besides all the national, bilateral, and regional policies and legal framework that the Jokowi administration is pursuing, other policies that the administration has undertaken or plans to implement are: cooperating with the Ministry of Communication and Information and with five cellular service companies to provide hotline numbers of nearby Indonesian missions to Indonesians who travel overseas; and integrating a database of Indonesian citizens overseas with the database of Indonesian migrant labour operated by BNP2TKI (Marsudi 2015).

### **3.5.1 Criticism toward the Current Foreign Policy Direction**

The new focus of Indonesia’s foreign policy under the Jokowi administration on the protection of migrant labour was generally positively received. Vatikiotis (2014) commented, “There is also appreciation for the new directions he is setting for policy: [...] laying out a foreign policy that better serves people's welfare and economic interests”.

The new focus, however, also received criticism, particularly on the critical question of whether Indonesia is shifting its direction toward abandoning its international roles. *Jakarta Globe* (2014b) writes, “The new focus on the protection of Indonesian migrant workers abroad, while welcomed as a positive change, has prompted questions as to whether the country is abandoning its international roles”.

The international roles played by the SBY administration had indeed led to more positive views of Indonesia. According to Piccone and Yusman (2014), “Much credit should be given to his administration for guiding Indonesia to economic prosperity and international prominence in the last ten years”. Examples of this international prominence include Indonesia’s leadership in ASEAN, a closer cooperation with Australia, China, and India, the promotion of international norms of democracy through the Bali Democracy Forum (BDF), actively participating in the G20 summits, and playing a leadership role in the UN High Level Panel on the Post-2015 MDGs Development Agenda. Piccone and Yusman (2014) argue, “SBY has taken Indonesia a great distance toward a special seat at the global table”.

The above-mentioned ‘special seat’ in international diplomacy under the SBY administration was likely to be discontinued as Indonesia’s foreign policy direction under the Jokowi administration shifts. Connelly (2014), for example, argues, “[Jokowi’s] inexperience in foreign affairs suggest that his presidency will lead to less clearly defined positions on specific foreign policy issues, less Indonesian leadership in foreign affairs”. The emphasis placed by the Jokowi administration on, among other things, the migrant labour issue is evidence of this shift. As an analyst stated, “We must pay attention to the fate of Indonesian workers overseas. But it doesn’t mean that it should make up the largest portion of our foreign policy” (*Jakarta Globe* 2014b).

### 3.5.2. Facing the Existing Challenges

This chapter argues that the Widodo administration has not yet addressed the root of the problems faced by Indonesian migrant labour nor proposed substantive solutions.

MoUs with receiving countries and the existence of an informative database provide little guarantee that Indonesian migrant workers will not face problems or become illegal. The problem does not necessarily fall on, or stem from, the workers themselves. It is much more complex, from the corrupt practices of public officials to cumbersome working procedures. As argued by Adi (2003: 162), “Indonesia has to give more attention to [...] curbing the corruption of public officials, streamlining government procedures and requirements, and adopting a more proactive policy to curb illegal practices”.

MoUs with host countries will not solve the problem of illegality as they are not designed to cover undocumented labour. Taking as an example the 2006 MoU with Malaysia, the 2011 Protocol amending the MoU does not refer to any issues concerning undocumented labour and therefore it cannot be used if there are cases of abuse involving undocumented labour. The database may be useful for monitoring the movement of Indonesians to other countries. Yet it can only be used as data provision rather than a protection policy itself. Having a legally binding instrument to protect the rights of undocumented labour within the ASEAN region may sound like a promising policy but there is no guarantee such a bold move will be made in the near future.

Interestingly, the Jokowi administration has neglected the use of the CMW as a powerful policy tool<sup>14</sup>, either through demanding other labour-receiving countries accede to it, or at least

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<sup>14</sup> The CMW has indeed addressed the issue of undocumented migrant labour. The Preamble to the CMW reads, “*Considering* that workers who are non-documented or in an irregular situation are frequently employed under less favourable conditions of work than other workers and that certain employers find this an inducement to seek such labour in order to reap the benefits of unfair competition” (Kementerian Luar Negeri 2013: 72). There are certainly differences in the legitimacy of documented and undocumented labour, yet the CMW underlines that undocumented workers must be afforded their fundamental human rights. As stated by the UNESCO (2005), the CMW “recognises that legal migrants have the legitimacy to claim more rights than undocumented migrants, but it stresses that undocumented migrants must see their fundamental human rights respected, like all human beings”.

in revising national legislation, particularly Law No 39 of 2004, by harmonising it with the CMW. The plan to revise the Law had actually been stated in the Grand Design of the Protection of Indonesian Citizens Overseas (Kementerian Luar Negeri 2012: 15). Yet the Minister of Foreign Affairs did not mention this matter, particularly in relation to the CMW, in her 2015 press statement. As for the Minister for Manpower and Transmigration, in late 2014 he stated that his Ministry was developing a grand design concerning the placement and protection of Indonesian migrant labour, to be implemented in early 2015, and the plan to revise Law No. 39 of 2004 (*MetroTVNews* 2014). However, up to the time of writing of this thesis, neither the promised grand design nor the initial stage in revising the Law have materialised.

With the absence of a comprehensive policy addressing major problems faced by Indonesian migrant labour, it is understandable that criticism keeps occurring towards the Jokowi administration. Migrant Care, for example, gave a '*rapor merah*' (literally means 'red report' or a negative score in an evaluation report) to the Minister for Manpower and the Minister for Foreign Affairs. Anis Hidayah, the coordinator of Migrant Care, states that the protection of Indonesian migrant labour has been explicitly mentioned in the 'Nawacita' (the vision and mission of President Jokowi) with the keywords 'the state is present', yet this big idea has not been reflected in the government plan for the period 2015-2019 (Migrant Care 2015).

## **Conclusion**

The foreign policy priorities of successive Indonesian governments have differed from one regime to the next, gradually improving protection of migrant workers in foreign countries as the issue rose in salience in the domestic sphere, with an exception of the Jokowi government in its early years.

The Suharto government made few foreign and domestic policy decisions on labour migration. This was due to the transitional nature of the government that prioritised economic development. In the context of labour migration, it focused more on workers' remittances rather than the protection dimension. What caused the government to behave as it did was mostly due to the domestic situation at those time. As Weinstein (1976) has argued, Indonesia's policies during the Suharto government were more inclined to securing funds from abroad.

In regard to policy changes, the government however developed the initial foundation of labour migration policy by including it into the *Repelita* and proceeded further in the following years. The government also established two agreements with Malaysia, a major receiving country for Indonesian labour, concerning cooperation on labour migration. However, the policies made and implemented by the administration mostly dealt with the supply of labour migration, or the commercial side of it.

It was not that clear whether the policy entrepreneurs on labour migration issues were active in the period of this administration. Yet, as Indonesia under Suharto was generally seen as an undemocratic government, it is difficult to imagine that such potential entrepreneurs had much influence. Borrowing the suggestion by Dosch (2006: 46) that in the non-democratic governmental regime the policy-making often denies societal interests and even opposition, I would argue that the policy entrepreneurs in this period had not yet existed, let alone played roles in policy-making.

The Wahid government, despite being in power for a relatively short time, made several notable foreign and domestic policy decisions on labour migration. Furthermore, unlike the preceding government, the Wahid government introduced the rights protection in labour migration policies. The enactment of Law No. 37 of 1999 on Foreign Relations, that included a long list of clauses concerning rights protection, and the establishment in the Kemenlu a work unit that specifically deals with the protection of Indonesian citizen overseas, prove that the



government made important foreign policy decisions on labour migration and, more particularly, the protection of the rights of Indonesian migrant labour.

There are at least two explanations that can be made concerning the behaviour of Indonesia's foreign and domestic policies under the Wahid government. First, the country's governmental regime shifted dramatically from undemocratic to democratic. As has been argued by Anwar (2010), the newly democratic Indonesia gave rise to, among others, a vibrant and increasingly critical civil society. Wahid had to take these developments into account.

Second, Wahid as a decision-maker personally contributed in the policy-making itself. Given his former work prior becoming the country's president was a human rights activist, it certainly influenced how he thought and acted as a president. Not only he had paid more attention to human rights, he should have also given more opportunities to civil society actors to be more active in doing their advocacy. Thus, Wahid's personal traits played important roles. This reminds us to what has been argued by Hudson (2005) that the dynamics between nations and across nations have a ground in human decision makers whether acting as an individual or groups. Wahid as a president was a proof.

Nonetheless, due to the short period of the administration, we can only call it an 'interlude' toward the more institutionalised policies under the next government. Yet it was still an important phase of the salience of labour migration policies in the country. At the very least, it has given foundation for human and particularly workers' rights as well as opportunities for civil society to play more active advocacy roles for policy change.

The Megawati government adopted several policies on Indonesian labour migration. The policies, however, were seen by civil society to have neglected the protection dimension toward Indonesian migrant labour. A notable policy was the enactment of Law No. 39 in 2004, even though the law was made more due to an external factor: the Nunukan humanitarian crisis. The enactment of the law clearly demonstrated that civil society groups had relatively been

successful in pushing the administration, by using the Nunukan case, to establish a legal framework to protect the rights of migrant labour.

Beside the notion of success as referred above, what needs to be underlined is that the policy entrepreneurs were also considered to have failed in guarding the progress of the law from the stages of deliberation to enactment, resulting in poor legislation that provided limited norms on the protection of Indonesian migrant labour. What may explain to this failure was an absence of qualities and characteristics of successful entrepreneurs. To be able to succeed as policy entrepreneurs, as suggested by Kingdon (2003), they must have claim to a 'hearing', are skilful negotiators, and, lastly, are persistent. This failure was, however, still understandable due to the circumstances at those time. The decision of Megawati government to enact the law was made in a brief consultative process, particularly in just few months prior to the termination of her presidency.

In contrast to the Megawati government, the making of labour migration policies within the SBY government has demonstrated clear evidence on the influential role of policy entrepreneurs in policy change as well as the obvious linkage between foreign and domestic policies. As discussed earlier in Introduction and Chapter 1, these are among the primary propositions that this thesis attempted to test. The relevant section in this chapter shows that during its ten years in power, the SBY government made a number of notable and important policy decisions concerning labour migration.

Among other things, the SBY government, through Presidential Instruction No. 6 of 2006, established BNP2TKI, a defining government body dealing with the placement and protection of Indonesian migrant labour. It is true that the body still needs to prove its effectiveness particularly in terms of the provision of protection. Yet its establishment has shown a linkage between SBY's personal attachment and labour migration issue, particularly when there were high-profile cases such as the abuse of Nirmala Bonat.

Another notable decision was the 2006 MoU with Malaysia concerning the recruitment and placement of Indonesian domestic labour. This MoU was considered weak as it merely duplicated the 2004 MoU and policy entrepreneurs had been excluded from the policy-making process. As a result, they criticised the MoU and urged the government to revise it. These attempts came to fruition in 2009 when the Indonesian government implemented a moratorium on the sending of migrant labour to Malaysia. Later in 2011, the two countries finally signed the Protocol amending the 2006 MoU.

The decisions on 2006 MoU, the 2009 moratorium, and the 2011 protocol signing demonstrated that the policy entrepreneurs from civil society had conducted more active advocacy roles that subsequently bringing successes. As described, the 2006 MoU was regarded by the policy entrepreneurs weak, moving them to do a substantive advocacy by producing a critical note toward the MoU. As a result, the SBY government unilaterally imposed the 2009 moratorium. This success reminds us to of the conclusion argued by Mintrom (1997) that policy entrepreneurs can play a key role in identifying policy problems that attract the attention of decision makers. Furthermore, the follow up by both governments of Indonesia and Malaysia to sign the 2011 Protocol amending the 2006 MoU showed the strong linkage between foreign and domestic policies. Borrowing the metaphor put forward by Rosenau (1969: 8), the two governments were ‘trapped’ and therefore forced to sign the protocol in order to move further with migrant labour supply and demand.

The moratorium on sending migrant labour to Saudi Arabia was indeed another notable policy under the SBY government that prove the strong linkage between foreign and domestic policies. This policy also demonstrated that the government has gradually come to accept the need for a moratorium mainly to accommodate domestic concerns. At first, the government implemented it in 2009 for Malaysia. Latter, the policy was implemented in Saudi Arabia after its government beheaded Ruyati binti Satubi without notification. What remains to be

questioned is whether there have been any substantive legislative progress in both countries as domestic pressures in Indonesia is rather different than the ones in Malaysia or Saudi Arabia.

Another important decision under the SBY government was the release of the Grand Design policy to protect Indonesian citizens overseas. This Grand Design was made for the purpose of providing three stages of protection, namely preventive action, early detection, and immediate response. The Grand Design received appreciation from the Indonesian public. Interestingly, there were no records indicating that the grand design was made due to external pressures such as from civil society. The policy should have, therefore, come from the government itself and more particularly the Ministry of Foreign Affairs (MFA). In other words, the change came from the institution. In explaining this, we may refer to what Thelen and Busemeyer (2008) have argued concerning institutional change, that the role of a government has somewhat changed from brokering and facilitating to initiating and reforming. In the Grand Design case, we can claim the MFA has shifted its role to become an initiator and reformer.

Last but not least, the Jokowi government has made a change to Indonesia's foreign policy direction by giving greater symbolic emphasis to the issue of Indonesian migrant labour protection. President Jokowi, the Minister for Foreign Affairs, and the Minister for Manpower have all given some attention to this issue, at least through their policy statements to the media. The Minister for Foreign Affairs even promised to pursue a legally binding instrument that can ensure the rights protection of Indonesian migrant labour.

Nonetheless, there has also been criticism toward the administration. Civil society viewed that what the government has done thus far were mostly giving statements, or symbolic gestures, rather than a comprehensive policy to address major problems. Worse, the government has not shown any interest to harmonise the already ratified CMW into Indonesia's legal regimes on the protection of migrant workers. Though the most simple and realistic way

is by revising the Law No. 39 of 2004, the law that was perceived by policy entrepreneurs to be weak and ineffective.

To this end, I would argue that the criticisms toward the Jokowi government may have been caused by the more tempered behaviour of policy entrepreneurs themselves. They might have been in euphoria with the presidency of Jokowi, a president that emerged from an ordinary class. Furthermore, the Minister of Labour himself had once declared that his mother was previously a migrant worker. Because of these, the policy entrepreneurs might have thought that the Jokowi government would have been more inclined toward labour protection. In other words, they have subordinated their public activism on this issue and instead lent support to the administration.

The perceptions of policy entrepreneurs could be misguided since they might not have considered that Jokowi was previously a businessman. To a large extent, as a former businessman, he would still think as a businessman or, at the very least, listen more to the interest of labour migration industry. Yet, as demonstrated in Chapter 2, we can claim that the recruiting industry has not paid much attention on the issue of labour migration protection. What it prefers to focus on is the commercial side of labour migration or, more specifically, sending as many as possible the labour overseas. This phenomena is indeed a challenge for the policy entrepreneurs. If they let Jokowi government proceeds as it has been, most probably they will see more a reverse set of policy rather than a comprehensive one.

In general Indonesia's foreign (and domestic) policy decisions on labour migration from the governments of Suharto to Jokowi have demonstrated incremental patterns in slow improvements in policy changes to protect migrant workers in foreign countries. Over a long period from the 1960s to the early 2010s, the policies get more salient particularly in the domestic level. The policy entrepreneurs have indeed played roles, especially when Indonesia shifted to become a democratic country in late 1990s. Further, they might have reached one of

their peak policy cycles when the country ratified the CMW. Yet challenges remain within the Jokowi government as it mostly shows symbolic gestures than gearing towards an expected comprehensive policy. This may become another topic for further research.

## **Chapter 4**

### **The UN Convention on Migrant Workers: Who Drove Its International Campaigns for Ratification, and How?**

As the central theme of this thesis is the role of policy entrepreneurs in the ratification by Indonesia of the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW), it is important to examine the Convention in some detail. There are some pertinent questions to be asked. What factors drove the emergence of the CMW? What international events contributed to the making of the Convention? Why did it take as long as ten years to negotiate? Why was there no ratification in the early years after adoption?

Further, as this thesis primarily argues that policy entrepreneurs, particularly civil society actors such as NGOs, played a key role in the ratification of Indonesia to the CMW in 2012, it argues that civil society actors at the international and regional levels had been playing such a role long before. Their involvement was in the stages of ratification campaigns, the negotiations, and even in introducing the idea of the importance of CMW in the international arena. Thus, the role of civil society actors at the international, regional, and domestic levels is also important and should be examined as they can provide more insight into the primary investigation of this thesis.

This chapter will therefore examine the historical background of the CMW, its contents, its obstacles and challenges at the international level, and the role of international NGOs pre and post 1990. This chapter will also briefly examine the ratification by Indonesia of the Convention on 12 April 2012.

## 4.1 Historical Background of the CMW

This section examines the historical background of the 1990 CMW including its relation to the migrant workers' norms managed by the ILO and the international environment at the time the ideas for the CMW emerged. There are three international norms that presently govern the issue of migrant labour rights: the Convention concerning Migration for Employment (ILO Convention 97, adopted in 1949), the Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers (ILO Convention 143, adopted in 1975), and the CMW, adopted in 1990. The first two Conventions were the products of the ILO, a multilateral organisation that applied a tripartite system that involved governments, unions of employers, and unions of workers in negotiations. The second Convention (CMW) was the product of the United Nations, whose members, unlike the ILO, are governments. The rationale for bringing the latest migrant workers' international norms to the UN was mainly the reluctance of governments to deal with other parties such as unions of workers and employers. According to Pecoud & Guchteneire (2006: 246), UN member countries were reluctant to leave migration issues to the ILO due to the tripartism of the organisation, in which it grants unions "too important a role for many governments"

Because of this, a number of developing countries initiated a campaign for a UN convention that dealt with the rights of migrant labour. The germ of this idea emerged in 1975 when the UN Economic and Social Council (ECOSOC) produced a report titled *Exploitation of Labour through Illicit and Clandestine Trafficking* (United Nations General Assembly 1972). This report, according to Hune and Niessen (1991: 132), drew the world's attention to the insecure position of migrant labour.

Later, through the General Assembly Resolution 34/172 of December 1979, the UN agreed to establish an Open-ended Working Group to discuss and draft a new international



convention for the protection of migrant workers (OHCHR 2005: 2). The draft was proposed by Algeria, Mexico, Pakistan, Turkey, Yugoslavia, Barbados, and Egypt (Battistella 2009: 55). The Working Group was initially chaired by Ambassador Gonzales de Leon of Mexico, at that time a developing country as well as a major labour-sending country in its region. Nonetheless, the initial attempt by developing countries to speed up the work on the draft convention was not successful due to rejection by western European countries as it was considered to legalise irregular migration (Battistella 2009: 55).

Yet, when an informal group called MESCA (a group of seven Mediterranean and Scandinavian countries namely Finland, Greece, Italy, Norway, Portugal, Spain and Sweden) got involved and brought their national norms into the proposed international treaty, the drafting process moved on. Battistella (2009: 55) observes that the draft Convention was “fundamentally a European text”. While working closely amongst themselves at the drafting stage, the MESCA countries often invited other countries such as France, India and Yugoslavia to take part in the discussion. The group also succeeded in involving the ILO in the drafting process, even though developing countries succeeded in downplaying the organisation’s role (Hune and Niessen 1991: 134).

Another factor that drove countries to continue work further on the CMW was the high concern for the vulnerability of women migrant workers and whether their presence in other countries was legal or illegal. More specifically, the emergence of the rights that women migrant workers deserve was highlighted during the ‘decade for women’, a movement declared by the United Nations. Hune (1991) observes that there are several driving ‘women factors’ that have contributed to the movement of the CMW, more particularly when there were linked with the United Nations Decade for Women, 1976-1985.

Of these so-called ‘women factors’, the first was their emergence as migrant workers often linked to abuse and exploitation. According to Basch and Lerner (1986), as quoted from

Hune (1991: 803), it was the Forum of NGOs and migrant women organisations that brought this concern into international public awareness. The second factor was the holding of three key international conferences that related to the UN Decade for Women. The conferences were held in Mexico City in 1975, the Copenhagen Meeting in 1980, and the Nairobi Meeting in 1985. According to Hune (1991: 803), these three conferences served as a basis for “examining the specific situation of migrant women today and their needs”. The third factor was the push by international NGOs. An NGO Forum was held in parallel with the Nairobi Meeting in 1985 at which the NGOs highlighted the vulnerability of migrant women. These driving factors, as argued by Hune (1991: 807), reinforced the need for universal standards for the protection of migrant workers.

## **4.2 The Negotiation and Contents of the CMW**

This section examines how the CMW was negotiated, the actors involved in the negotiation, and the role of international NGOs in the negotiation. The section also examines the contents of the convention.

### **4.2.1 The Protracted Negotiations**

The Open-Ended Working Group tasked to negotiate the CMW met for the first time on 8 October 1980 (Battistella 2009: 55). The procedural rule adopted by the UN Working Group was that each article would be agreed on by consensus. Therefore, as in many multilateral negotiations, the wording of each article was reached through a series of compromises. In general, the main debates and negotiations occurred between labour sending countries and labour receiving countries. If the former tended to demand greater protection, the latter were mindful of the consequences of these demands on the cost and feasibility of compliance (Hune and Niessen 1991: 134).

The greatest difficulty in the drafting process was how to develop articles that at least met minimum standards but, at the same time, would be acceptable to a majority of nations for the sake of future ratification. As a result, countries that already had national legislation covering migrant labour rights had to exert extra efforts to ensure the CMW draft accorded with their existing legislation. Compromises were made. Some of the articles concerning rights were set as optional rather than mandatory in order to create flexibility for states to adjust to standards above the minimum set by the draft Convention (Hune and Niessen 1991: 134). After ten years of negotiation, the UN General Assembly finally adopted the CMW on 18 December 1990.

The fact that they took as long as ten years suggests there were uneasy processes during the negotiations. In essence, there were two types of negotiated drafts: the first and the second draft readings (Battistella 2009: 54-58). The first draft had actually been completed in 1984 and by this time there were only 19 articles unresolved, indicating that completion should not take much longer. Yet it took another six years to complete the second draft. According to Lönnroth (1991), there were various factors that caused these lengthy negotiations. These included the high turnover of the delegates, the open-endedness of the Working Group, and the vested interests of the states. Concerning the vested interest of the states, Battistella (2009: 56) pointed out that while the first draft presented a general tone favouring the protection of migrants, the second draft was more “an expression of the interests of governments”. It was the interests of governments that prolonged the negotiations.

Grange and D’Auchamp (2009: 71-74) have argued that the involvement of NGOs during the drafting process was minimal. The primary reason of this was the political context and the evolution of the human rights movement at that time. During the 1970s when the CMW was negotiated, existing international human rights NGOs spent most of their efforts on civil

and political rights or on combating apartheid. The issue of migrant workers was not considered a pressing global priority.

The number of international human rights NGOs was also a factor leading to minimal participation in the CMW negotiations. Grange and D'Auchamp (2009: 72-73) noted that, in comparison to the current situation where there are more than 3,000 NGOs holding ECOSOC consultative status that enables them to participate in many UN activities, in the 1980s when the negotiation of the CMW took place, their number was less than 300. To make matters worse, only a few of them engaged directly with the migrant labour issue. NGOs also lacked funding which prevented them from mobilising a migrants' rights movement at the international level.

If international NGOs could not participate much in the CMW negotiations due to various reasons as above, the lack of participation by national and regional NGOs should not be surprising. According to Grange and D'Auchamp (2009: 73), the reason for this was that ECOSOC consultative status for national and regional NGOs was only available from the 1990s onwards. Another reason was the minimal pressures from national and regional NGOs themselves. The main proponent countries for the convention, such as Algeria, Egypt, and Mexico, did not have active civil societies. Even the human rights NGOs in the MESCA countries at the time were still non-existent, weak, or did not view the protection of migrant workers as important.

#### **4.2.2 The Specific Contents of the Convention**

The CMW consists of 9 Parts with an overall 93 Articles. Part I starts with Scope and Definitions. The term 'migrant worker' is defined as "a migrant worker who retains his or her habitual residence in a neighbouring State to which he or she normally returns every day or at least once a week" (Office of the United Nations High Commissioner for Human Rights

2014a). In general, this Part consists of a list of concepts and informs a detailed scope such as categories of people who are *not* covered in the Convention (Article 3). Those people are, among other things: persons employed by international organisations; persons sent by a state who work in development programmes; persons enjoying residential status as investors; refugees and stateless persons; students and trainees; and seafarers and migrants who work on offshore installations but are not permitted to enjoy residential status.

Part II emphasises the non-discriminatory nature toward migrant workers who can enjoy the rights provided in the convention. This Part, the shortest among the other parts, rules that the state parties to the CMW must respect the rights of all migrant workers and members of their families “without any distinction of any kind such as to sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status” (Office of the United Nations High Commissioner for Human Rights 2014a).

Part III details the aspect of human rights that all migrant workers and members of their families shall enjoy. It stipulates, *inter alia*, freedom of movement (Article 8), protection from torture, inhuman treatment, and forced labour (Article 9 – 11), freedom of thought, religion and expression (Article 12 – 13), protection from violence, physical injury and intimidation (Article 16), protection provided by consular or diplomatic authorities (Article 16 and 23), equal rights as nationals of the state concerned before the courts and tribunals (Article 18), protection from collective expulsion in which each case shall be investigated and decided on an individual basis (Article 22), protection of remuneration and other conditions of work and other terms of employment (Article 25), treatment of social security similarly enjoyed by nationals as long as requirements within applicable legislation are fulfilled (Article 27), medical care when urgently required (Article 28), rights of a migrant worker’s child to a name, to registration of birth, and to a nationality (Article 29), basic right to education of a migrant

worker's child (Article 30), cultural rights (Article 31), and the right to transfer earnings and savings (Article 32).

Part IV lists the rights of migrant workers and members of their families who are specifically documented or in a regular situation. It stipulates, among other things, the right to receive all information on conditions in receiving countries (Article 37), temporary absence (Article 38), the right to form associations and trade unions (Article 40), the right to take part in public affairs, to vote and to be elected at elections of their state of origin (Article 41), political rights (Article 41), equality of treatment in certain aspects with the nationals of receiving countries (Article 43), protection of the unity of families (Article 44), exemption from import and export duties and taxes (Article 46), the right to seek alternative employment (Article 51), freedom from expulsion (Article 56).

Part V deals with the particular categories of migrant workers and members of their families. The particular categories specified in this part are, *inter alia*, frontier workers (Article 58), seasonal workers (Article 59), itinerant workers (Article 60), project-tied workers (Article 61), and self-employed workers (Article 63).

Part VI is concerned with the promotion of sound, equitable, humane and lawful conditions in connection with international migration of workers and members of their families. It obliges the state parties to, among other things: consult and cooperate with one another with regard to the promotion of sound, equitable and humane conditions (Article 64); maintain relevant services concerning international migration (Article 65); cooperate in the management of the orderly return of migrant workers and members of their families to their states of origin (Article 67); collaborate in preventing and eliminating illegal movement and irregular employment of migrant workers (Article 68); take measures on the irregular situation of migrant workers and ensure the situation is fixed (Article 69); take measures not less than enjoyed by nationals to be in line with the standards of fitness, safety, health and principles of

human dignity (Article 70); and facilitate the repatriation to the sending country of the bodies of deceased migrant workers or members of their families.

Part VII deals with how the CMW is applied. It informs important measures such as: the establishment of a Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, which consists of fourteen experts with integrity, impartiality and acknowledged competence in the areas relevant to the Convention (Article 72[1]); the election procedure for Committee members and the duration of their work (Article 72[3-5]); the facilities, privileges and immunities of the experts (Article 72[9]); submission of a report on legislative, judicial, administrative and other measures (Article 73); the examination of a report of each state party by the Committee (Article 74); the possible involvement of UN specialised agencies and other intergovernmental organisations in the work of the Committee (Article 74); the management of the Committee's rules and procedures, election of officers, meetings (Article 75); the rules if a state party claims that another party does not fulfil its obligation as stipulated in the Convention (Article 76); and the competence of the Committee to receive and consider claims of a state party on the violation of the rights of its citizens (Article 77).

Part VIII outlines the general provisions of the CMW. It includes, among other things, the CMW shall not affect the right of each state party to establish the admission criteria of migrant workers and members of their families (Article 79); the encouragement not to renounce the rights of migrant workers and members of their families (Article 82); the obligation of each state party to have an effective remedy if these rights are violated (Article 83); and the obligation of each state party to implement the provisions of the CMW. Finally, Part IX lists the final provisions. It contains, *inter alia*: the procedure for signing and ratification (Article 85); the period of entry into force (Article 87); the possible denunciation of the Convention by any state party (Article 89); possible amendments to the Convention after five years of entry

into force (Article 90); and dispute settlement processes between two or more states parties, either through negotiation, arbitration or the International Court of Justice.

### **4.3 Challenges of and Obstacles to Ratification**

As the preceding section demonstrates, the adoption of the CMW in 1990 was not without its challenges. The same applies to the situation in the years immediately after its adoption, with considerable time passing before it came into force in 2003. Guchteneire and Pecoud (2004: 1) observe that it took 13 years for the CMW to enter into force, which was an unusually long period of time. It was also acknowledged that many countries were reluctant to sign the CMW, let alone ratified it. As an example, up to June 2015 there were still less than 50 ratifications (United Nations Treaty Collection 2015). This is in line to what has been argued by Ruhs (2012: 1281) that the CMW is the least ratified treaty among all major treaties of human rights norms.<sup>15</sup>

Interestingly, as shown on Table 4.1 below, none of the countries actively involved in the negotiation or drafting process, particularly those belong to the MESCA-group, have ratified the CMW. Scholars call this situation the ‘lack of success’ of the CMW since “not one major migrant receiving state is among the parties to the Convention” (MacDonald and Cholewisnki 2007: 9).

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<sup>15</sup> The major human rights treaties are: the 1965 International Convention on the Elimination of All Forms of Racial Discrimination; the 1966 International Covenant on Civil and Political Rights (ICCPR); the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR); the 1979 Convention on the Elimination of All Forms of Discrimination against Women; 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and the 1989 Convention on the Rights of the Child.



*Table 4.1* Status of the Ratifications toward International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families

Entry into force : 1 July 2003, in accordance with article 87(1)

Registration : 1 July 2003, No. 39481

Status : Signatories: 38, Parties: 48

Text : United Nations, Treaty Series, vol. 2220, p. 3; Doc. A/RES/45/158

Note : The Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, was adopted by Resolution 45/1581 of 18 December 1990 at the forty-fifth session of the General Assembly of the United Nations. The Convention is open for signature by all States in accordance with its article 86 (1)

<b>Participant</b>	<b>Signature, Succession to signature(d)</b>	<b>Ratification, Accession(a), Succession(d)</b>
Albania		5 Jun 2007 a
Algeria		21 Apr 2005 a
Argentina	10 Aug 2004	23 Feb 2007
Armenia	26 Sep 2013	
Azerbaijan		11 Jan 1999 a
Bangladesh	7 Oct 1998	24 Aug 2011
Belize		14 Nov 2001 a
Benin	15 Sep 2005	
Bolivia (Plurinational State of)		16 Oct 2000 a
Bosnia and Herzegovina		13 Dec 1996 a
Burkina Faso	16 Nov 2001	26 Nov 2003
Cabo Verde		16 Sep 1997 a
Cambodia	27 Sep 2004	
Cameroon	15 Dec 2009	
Chad	26 Sep 2012	

Chile	24 Sep 1993	21 Mar 2005
Colombia		24 May 1995 a
Comoros	22 Sep 2000	
Congo	29 Sep 2008	
Ecuador		5 Feb 2002 a
Egypt		19 Feb 1993 a
El Salvador	13 Sep 2002	14 Mar 2003
Gabon	15 Dec 2004	
Ghana	7 Sep 2000	7 Sep 2000
Guatemala	7 Sep 2000	14 Mar 2003
Guinea		7 Sep 2000 a
Guinea-Bissau	12 Sep 2000	
Guyana	15 Sep 2005	7 Jul 2010
Haiti	5 Dec 2013	
Honduras		9 Aug 2005 a
Indonesia	22 Sep 2004	31 May 2012
Jamaica	25 Sep 2008	25 Sep 2008
Kyrgyzstan		29 Sep 2003 a
Lesotho	24 Sep 2004	16 Sep 2005
Liberia	22 Sep 2004	
Libya		18 Jun 2004 a
Madagascar	24 Sep 2014	13 May 2015
Mali		5 Jun 2003 a
Mauritania		22 Jan 2007 a
Mexico	22 May 1991	8 Mar 1999
Montenegro <sup>2</sup>	23 Oct 2006 d	
Morocco	15 Aug 1991	21 Jun 1993
Mozambique	15 Mar 2012	19 Aug 2013

Nicaragua		26 Oct 2005 a
Niger		18 Mar 2009 a
Nigeria		27 Jul 2009 a
Palau	20 Sep 2011	
Paraguay	13 Sep 2000	23 Sep 2008
Peru	22 Sep 2004	14 Sep 2005
Philippines	15 Nov 1993	5 Jul 1995
Rwanda		15 Dec 2008 a
Sao Tome and Principe	6 Sep 2000	
Senegal		9 Jun 1999 a
Serbia	11 Nov 2004	
Seychelles		15 Dec 1994 a
Sierra Leone	15 Sep 2000	
Sri Lanka		11 Mar 1996 a
St. Vincent and the Grenadines		29 Oct 2010 a
Syrian Arab Republic		2 Jun 2005 a
Tajikistan	7 Sep 2000	8 Jan 2002
Timor-Leste		30 Jan 2004 a
Togo	15 Nov 2001	
Turkey	13 Jan 1999	27 Sep 2004
Uganda		14 Nov 1995 a
Uruguay		15 Feb 2001 a
Venezuela (Bolivarian Republic of)	4 Oct 2011	

Source: United Nations Treaty Collection 2014

The low rate of ratification drove the United Nations Educational, Scientific and Cultural Organization (UNESCO) to carry out a project in the early 2000s investigating the obstacles and challenges faced by countries in ratifying the CMW. Based on regional investigations, the organisation tasked scholars to undertake studies in several countries

examining the obstacles to CMW ratification and the social and political impacts if ratification took place (United Nations Educational, Scientific and Cultural Organization 2014).

These studies found that the main common obstacles were the lack of promotion, awareness, and understanding of the CMW in many countries (Ruhs 2012: 1282). For example, in the Asia-Pacific, Piper and Iredale (2003: 6) observe that labour-sending countries had not investigated article by article the legal implications of becoming parties to the Convention. There was also a problem with human resources in government bodies, which were either under-staffed or had minimal expertise in the fields of international law and human rights. Furthermore, there were strong combined interests of recruitment agencies, employers, and government officials who were against the granting of rights to migrant workers. As for the receiving countries such as New Zealand, Malaysia, Singapore, Japan, and Korea, problems mostly related to immigration policies, political systems and perceptions of human rights (Piper and Iredale 2003: 7).

In Africa, Adekokun (2003: 25) argued that the problems of migrant workers are mostly related to the rights of undocumented workers. Undocumented migrant workers were not fully protected due to their illegal status. As for documented migrant workers, even though there were ECOWAS Protocols that applied basic instrumental rights, workers might not be fully protected from abuse and exploitation especially when working in the private sector.

The pertinent obstacles to the ratification of the CMW were political, legal and economic. Politically, ratification might not be seen as a strategic move due to local challenges that relate to labour issues. Legally, the implications of ratification would have to be analysed to ensure that the CMW will not conflict with existing provisions on the rights of migrant workers and their families. Economically, there were huge financial implications particularly concerning the training of personnel who control the border, the provision of more entry ports and on various other important structures when the CMW is implemented. Due to these factors,

it was recommended that more effort should be made in explaining the importance of ratification. Adekokun (2003: 5) argued that the strategies for ratification were the creation of awareness, sensitisation, and advocacy on the values of ratification.

In Eastern Europe and Central Asia, Patzwaldt (2004: 9-12) observed that there were at least three types of obstacles to the ratification of the CMW: knowledge and problem-solving deficits within the administration; nation building; and social problems. On knowledge and problem-solving deficits, most countries in the region considered migration as a topic of low priority in the political and public domain. The most important factors causing this situation were the social and economic changes and crises that force governments to focus more on macroeconomic reforms and consolidation of political institutions. On the nation building obstacle, the region faced a number of challenges since reforms took place. Problems embedded in political democratisation emerged, such as the rights of citizenship, ethnicity and nationalism. With regard to problems concerning institutions, there were issues such as ethnic mobilisation, decentralisation and regional fragmentation of power resources that formed the new national framework. On the obstacle of social problems, there were biased perceptions of the status of migrant workers. On one hand, the region encouraged its population to migrate to other countries for the purpose of easing social tension and reducing domestic unemployment. On the other hand, migrant workers were perceived to gain the benefits of better income opportunities and therefore did not require or warrant protection.

MacDonald and Cholewinski (2007) stated that there were generally three categories of obstacles behind the non-ratification in the European Economic Community (EEC, which consists of 27 member states of the European Union and Liechtenstein, Iceland and Norway). The first category was legal obstacles. In this category, the core problem was the 'misconception' about the ratification of the CMW. In this regard, there had been common claims that the CMW would limit the sovereign rights of states in border control. Furthermore,

there was also the fear that the CMW would provide the right of family reunion to all migrant workers, which obliges the countries to meet the right in each territory of a state. The second category was financial or administrative obstacles. In general, this category was not considered as highly significant, even though some countries such as Poland or Norway did not have much experience with immigration. The exception was France, which considered the financial provisions of the CMW a major obstacle, such as the Article 47 that required appropriate measures to facilitate the remittances transferred by migrants to their home countries. The third category was political obstacles. This category was considered the real obstacle toward the ratification of the CMW. Hence, these obstacles were not merely related to the core problem of 'misconception'. There is a need for in-depth analysis to ensure further acceptance.

Based on these three categories of obstacles, MacDonald and Cholewinski (2007: 16-17) recommended that the EEC should, among other things, focus on efforts to ensure the CMW is a significant factor in developing legislation on migration; pay urgent attention to the ongoing drafting process of the EU General Framework Directive on the rights of regular migrants; focus on promoting ratification of the CMW in major labour receiving countries such as the UK and France with an expectation that they will show leadership in the region; encourage further participation and collaboration of major migrant and human rights NGOs calling for ratification; carry out or commission further studies or comparative analysis to create awareness not only of the content of the CMW but also the implications of its ratification; and develop a synthesis and synopsis of the CMW on a single page and make it available in all official languages of the EEC.

In short, based on the commissioned reports, Guchteneire and Pecoud (2004: 1-2) argued that the major source of difficulty in the ratification of the CMW derives from social changes – the factors of economic, politics, and security – in the world between the 1970s

(when the CMW started to be developed) and the 1990s (when the UN General Assembly adopted the Convention).

#### **4.4 The Role of International NGOs in Promoting the CMW**

This section examines the roles of human rights and migrant worker NGOs in promoting the ratification of the CMW. It is argued that NGOs, both at international and regional levels, played key roles in this endeavour.

International civil society groups, most particularly NGOs, were certainly influential with regard to campaigns for CMW ratification. Scholars (Guchteneire and Pecoud 2009, Grange and D'Auchamp 2009) have argued that NGOs played key roles, especially after the adoption of the CMW in 1990 through campaigns calling for states to ratify it. Grange and D'Auchamp (2009: 70) observed:

[...] there was civil society involvement directly after the adoption of the Convention [...] Since the early to mid 1990s, a small-scale but steadily growing group of NGOs has mobilised awareness-raising initiatives and a global ratification campaign. There have been calls for ratification in all regions, and sustained NGO advocacy for the human rights of migrants and towards ratification exist in some thirty countries in Asia, Europe, Latin America, the Middle East and North America, and to a lesser extent in Africa.

This is in line with the observation of Plaetevoet (2008) in which he acknowledged the mobilisation for ratification undertaken by NGOs across the globe. For example, in North America, NGOs established a platform that gathered together numerous organisations such as the Immigrant Workers' Centre, PINAY (a migrant workers group from the Philippines), and two other group coalitions that support agricultural labour and migrant labour. In the US, around 100 organisations belonging to the National Network on Immigrant and Refugee Rights released a statement calling for the ratification of the CMW.

In Southeast Asia, unions, migrant labour associations and migrant rights NGOs jointly worked in the Task Force on ASEAN Migrant Workers (TF-AMW), calling upon members of ASEAN to ratify the Convention. In its official statement, the Task Force urged the ASEAN

member states to “immediately ratify [...] the UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families” (Task Force on ASEAN Migrant Workers 2009: 53). The ratification by Indonesia had even been hoped for in 2007 when TF-AMW in its statement on 12 May 2007 demanded the Indonesian government ratify the CMW by that year (Task Force on ASEAN Migrant Workers 2009: 54).

The Task Force on ASEAN Migrant Workers consisted of trade unions, NGOs focusing on human rights and migrant rights, and association of migrant workers in Southeast Asia (Task Force on ASEAN Migrant Workers 2015). In this Task Force, Indonesia was represented by the Human Rights Working Group (HRWG) which was a coalition of Indonesian NGOs that provided human rights advocacy (Hivos 2014). The TF-AMW, according to Chavez (2015: 10), was a transnational social movement established to specifically deal with the ASEAN Committee on Migrant Workers and the making of an ASEAN instrument for the protection of migrant workers. From the official statement of TF-AMW it is clear that the ASEAN movement, which consists of national and regional groups in ASEAN countries, made solid demands for CMW ratification. It can be argued that this regional movement was influenced by national NGOs over the importance of CMW ratification.

The active participation of international NGOs began in 1994 when they became involved in campaigns for the ratification of the CMW. As observed by Grange and D'Auchamp (2009: 80), a critical turning point in raising awareness of human rights violations of migrant workers was the 1994 submission of the Preliminary Report to the CHR (UN Commission on Human Rights) by Radhika Coomaraswamy, the Special Rapporteur on Violence against Women, its Causes and Consequences. The Report cited a range of human rights violations against migrant workers submitted by international NGOs, more particularly the Human Rights Watch - Women's Rights Project and Asia Watch. Later, the Report drove the making of the United Nations resolution entitled 'Violence against women migrant



workers' (C.H.R. res. 1997/13) which was agreed unanimously. The resolution shows how the Commission on Human Rights is concerned "by the continuing reports of grave abuses and acts of violence committed against the persons of women migrant workers by some employers in some host countries" (Human Rights Library 1997a). The Commission, through Article 7 of the resolution, therefore encourages "States to consider signing and ratifying or acceding to the [CMW]".

Resolution 1997/13 of the Commission of Human Rights was echoed by another resolution pushing for more substantive work under the Commission. As stated at the C.H.R. res. 1997/15 entitled 'Migrants and human rights' (Human Rights Library 1997b), the Commission established a working group of five intergovernmental experts with a mandate to gather all relevant information from governments, NGOs and any other relevant sources on the obstacles to the effective and full protection of the human rights of migrants. The NGOs, as observed by Grange and D'Auchamp (2009: 80), welcomed the establishment of this working group (later known as IGWG – the Intergovernmental Working Group of Experts on the Human Rights of Migrants) and recommended the group make full use of the definitions and standards of human rights protection as stipulated in the CMW. As a result, the IGWG came up with a recommendation on the need to have a mandate for a Special Rapporteur on the Human Rights of Migrants, which was finally approved in 1999.<sup>16</sup> The NGOs also participated actively at the IGWG meetings, including by having meetings with the IGOs, later presenting an idea to have a global campaign for CMW ratification. Grange and D'Auchamp (2009: 81) observe that it was the informal meetings between NGOs and IGOs on the sidelines of IGWG

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<sup>16</sup> Some of the main functions embedded within the mandate are: (a) to examine ways and means to overcome the obstacles existing to the full and effective protection of the human rights of migrants, recognising the particular vulnerability of women, children and those undocumented or in an irregular situation; and (b) to request and receive information from all relevant sources, including migrants themselves, on violations of the human rights of migrants and their families (OHCHR 2014b);

meetings that “paved the way for the creation of the Steering Committee of the Global Campaign for Ratification of the Convention.”<sup>17</sup>

The creation of a mandate for the Special Rapporteur on the Human Rights of Migrants in 1999 drove the NGOs to work more determinedly. Grange and D’Auchamp (2009: 81) observe that the NGOs provided the Special Rapporteur with a wealth of information for the purpose of assisting the mandate’s monitoring and reporting role. The NGOs worked closely with the first mandate holder, Gabriela Rodriguez Pizarro, including during her visits to a number of countries. The NGOs also provided the Special Rapporteur with records of human rights violations towards migrant workers, as proven in the lengthy annual reports of the Rapporteur to the CHR entitled ‘Communications sent to governments and replies received’ (United Nations General Assembly 2009).

Nonetheless, the mandate of the Special Rapporteur since its establishment in 1999 was considered to be weak as the CMW had yet to enter into force. This situation forced the NGOs to focus more on campaigning for ratification and to continue participating actively at world conferences and summits. “NGOs organised seminars, held press briefings and distributed material on the CMW at parallel events and actively participated in the drafting of outcome documents” (Grange and D’Auchamp 2009: 83). The involvement of NGOs at world conferences also opened ways for their work to have greater impact. By attending world conferences<sup>18</sup>, NGOs developed broad regional and international networks and at the same time

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<sup>17</sup> The Steering Committee of the Global Campaign for Ratification of the Convention on Rights of Migrants includes December 18, HRW, the ICMC, the ICFTU, the ILO, the International Movement against All Forms of Discrimination and Racism, the IMO, MFA, MRI, the OHCHR, Public Services International (PSI), UNESCO, Women’s International League for Peace and Freedom and the World Council of Churches (WCC) (Grange and D’Auchamps 2009).

<sup>18</sup> The ‘building block’ of NGOs at world conferences began at the 1994 International Conference on Population and Development (ICPD) in Cairo, continued in 1995 at the World Summit on Social Development in Copenhagen and the 4<sup>th</sup> World Conference on Women in Beijing in 1995, and was further continued at the 2001 World Conference Against Racism, Racial Discrimination, Xenophobia, and Related Intolerance (WCAR) in Durban (Graham and D’Auchamp 2009). The very first alliance of NGOs was established in September 1994 at the ICPD. The alliance was called the International Migrants Rights Watch Committee, later known as Migrants Rights International (MRI) (Gencianos 2004).

publicised and monitored the implementation of action-oriented recommendations emerging from these conferences. They have also held governments accountable for their public declarations and commitments made at world conferences.

Another important stage of NGO collaborative work happened in 1998 when they, together with international governmental organisations (IGOs), established the Steering Committee of the Global Campaign for Ratification. Soon after its establishment, the Committee published “Achieving Dignity: a Campaigner’s Handbook for the Migrants Rights Convention” (Migrants Rights International 1998), a comprehensive publication on how to campaign for the CMW’s ratification. Available in English, French, and Spanish, the publication was regarded as one of the first popular materials and guiding tools in promoting the CMW (Gencianos 2004: 149). Furthermore, the hybridism between NGOs and IGOs that formed the Steering Committee also gave the movement a high profile (Grange and D’Auchamp 2009: 84). Beside its activities being commended by the UN Secretary General, the Steering Committee was considered to have played a role in the increase in ratifications between 1998 and the entry into force in 2003. As observed by Grange and D’Auchamp (2009: 84), “Only nine states had ratified the CMW in the eight years since its adoption by the General Assembly in 1990. Over the five years following the creation of the Steering Committee in 1998, eleven states ratified”.

The Steering Committee of the Global Campaign for Ratification had indeed done much to achieve its goals. Gencianos (2004: 148) describes that members of the Committee met regularly every month to exchange updates of the work of individual organisations against the CMW, to identify strategies for campaigning, such as organising events, letter-writing campaigns, and supporting each other’s initiatives. The Steering Committee also maintained a website ([www.migrantsrights.org](http://www.migrantsrights.org)) where it provided useful and relevant information and updates on global campaign activities.

Nonetheless, despite the hard work in creating awareness and promoting the importance of ratifying the CMW, there have been challenges that the NGOs have had to face. With their limited resources, they faced challenges from recruitment agencies, employers, and government officials who were against granting rights to foreign workers. Piper (2004: 84) suggested, “Combined interests which go against granting rights to foreign workers constitute a huge force that are not easily counteracted by NGOs”. After the CMW came into force in 2003, NGOs have been exposed to the challenges presented by many governments unwilling to ratify the Convention. Governments often argued that the fact it took ten years to draft the CMW shows how divisive was the issue (Grange and D’Auchamp 2009: 75). Some of the arguments put forward by governments since the adoption of the CMW have been, first, that the convention was impractical and unrealisable as an international standard because it is over ambitious and too detailed; second, the CMW was irrelevant because no host states have shown their willingness to adopt it; and third, the convention was essentially ‘dead’ given the slow progress of ratification (Taran 2001).

Despite all the challenges faced in creating awareness and promoting the importance of ratifying the CMW, the NGOs contribution in persuading states to ratify has been seen as an important element in the policy process. Grange and D’Auchamp (2009: 89) argued that the ratification decision was generally a result of multiple factors among which the continuous interventions by NGOs were important elements. Both scholars indeed acknowledge that documenting the impact of campaigning activities was difficult, yet it was important to mention that the growing number of campaigns for ratification ran in parallel with an increase in ratification, particularly since the Convention entered into force in 2003. It took 13 years for the CMW to have its first twenty ratifications, yet the number has doubled only six year after the entry into force. This development indicates the important role the NGOs have played in actively campaigning for ratification. Their commitment post 2003 can be considered as a new

phase in their advocacy and monitoring activities, which eventually led to the convention being finally listed in official UN documents and ratification at the UNGA and more particularly becoming one of the core international human rights treaties (Grande and D'Auchamp 2009: 89).

#### **4.5 Indonesia's Ratification of the CMW**

This section will briefly introduce the role of Indonesian NGOs and their members – labelled as policy entrepreneurs – in the signing and more particularly the ratification by Indonesia of the Convention. One can question whether these policy entrepreneurs played a key role or not in the ratification. In that regard, the statement of Marty Natalegawa the then Minister of Foreign Affairs on the date of ratification (12 April 2012) before the DPR (Indonesian House of Representatives) should prove the case. On that occasion, Natalegawa (2013) stated (in an unofficial English translation):

Our highest appreciation also goes to the societal organisations and the national human rights institutions to have worked hard concertedly together with the Government in pushing for the ratification of the convention.

The role of the policy entrepreneurs in the ratification by Indonesia of the 1990 CMW is indeed notable. As discussed in Chapter 2, in 1997, prior to Indonesia signing the CMW in 2004, around 100 NGOs established an alliance called Konsorsium Pembela Buruh Migran (Kopbumi – the Consortium for the Defence of Migrant Labour) with a view to responding to the draft Manpower Law No. 25 of 1997. At this time, Kopbumi considered the draft to have excluded the issue of migrant labour (Ford 2004: 109, Yazid 2008: 10). Thus, members of Kopbumi undertook their work individually at grassroots levels but authorised the consortium office to conduct an advocacy campaign on their behalf (Ford 2005: 20). Kopbumi also conducted campaigns on the importance of Indonesia's ratification of the CMW. Further, the

group drafted a national bill modelled after the CMW and used the Philippines' 1995 Migrant Workers Act as a benchmark. As documented by Yazid (2013: 107-8):

*Kopbumi* conducted activities such as advocating policy, giving legal assistance, conducting training, gathering data, and campaigning for a national law on the protection of migrant workers and the ratification of the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

The demands of *Kopbumi* and other NGOs on the government to adopt the CMW bore fruit when Indonesia finally signed in 2004. As discussed in Chapter 2, *Kopbumi* and other NGOs filed a citizen lawsuit against the government in September 2002. Moreover, another primary purpose of *Kopbumi* was the demand for a national law protecting the rights of Indonesian migrant labour. This demand was also met when the Megawati administration enacted Law No. 39 of 2004 on the Placement and Protection of Indonesian Migrant Labour.

Since its birth in 1997, *Kopbumi* has been highly regarded and yet its prominence declined after the enactment of Law No. 39 of 2004. Scholars (Yazid 2013: 108, Ford 2005: 20) observe that there were various reasons for *Kopbumi*'s decline: some of the prominent activists left; it began to work like a standard NGO, such as seeking funding and expanding its activities beyond its mandate which was to focus on the campaign for migrant labour law; it considered itself to have achieved the main mandate, the passing of the Law, though at a later stage the group criticised it<sup>19</sup>; and the group was seen to no longer have its mandate as a network of NGOs campaigning for the national law.

Nonetheless, after Indonesia signed the CMW in 2004, a number of civil society organisations continued to play active roles in campaigning for Indonesia's ratification. One of these organisations was the Komisi Nasional Perempuan (Komnas Perempuan – National Commission on Women). On 24 July 2006 Komnas Perempuan organised an event entitled

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<sup>19</sup> Some of the criticisms of *Kopbumi* are, among others, the Law No. 39 of 2004 favours mostly economic or business dimension and tends to treat humans as commodities; the Law pays less attention to the protection dimension; the Law discriminates against undocumented migrant workers; the Law undervalues migrant workers with low education levels; and the Law does not accord with national and international norms of human rights and migrant rights (Seknas *Kopbumi* 2005: 45-47).

“National Consultation of Indonesian NGOs and Komnas Perempuan with the United Nations Special Rapporteur on the Human Rights of Migrants”. Komnas Perempuan, in collaboration with the Human Rights Working Group (HRWG) and the Gerakan Perempuan untuk Perlindungan Buruh Migran (GPPBM – Women’s Movement for the Protection of Migrant Workers), organised this nationwide meeting for the purpose of “sharing information between Indonesian NGOs and the UN Special Rapporteur on the Human Rights of Migrants” (Komnas Perempuan 2006: 72).

At that event, Komnas Perempuan and other relevant Indonesian NGOs presented their research and findings on the current state of Indonesian migrant workers to the UN Special Rapporteur on the Human Rights of Migrants, Prof. Jorge A. Bustamante. More specifically, Komnas Perempuan presented its findings on the vulnerability of Indonesian women migrant workers, particularly domestic workers. In concluding the National Consultation, Bustamante stated that there was always high demand for migrant workers and therefore suggested “an increase in activities by pro-migrant worker countries to expose the susceptibility of migrant workers at the national level as well as in the countries where migrant workers work” (Komnas Perempuan 2006: 14).

Pressures from Indonesian civil society, and more particularly the NGOs, on the government and the DPR on the urgency of ratification reached its height in the early 2010s when the NGOs formed an alliance. Ali Akbar Tanjung of HRWG reveals that around two years prior to the ratification by Indonesia, the concerned NGOs established a movement or an alliance called Aliansi Rakyat untuk Ratifikasi Konvensi 1990 (ARRAK 90 – The Peoples’ Alliance for the Ratification of the 1990 Convention) (Tanjung 2013, pers.comm., 11 October). Co-coordinated by himself and Thaufiek Zulbahary of Solidaritas Perempuan (Solidarity for Women) and having a secretariat at the HRWG, Tanjung observes that ARRAK 90 had done much to highlight the importance of Indonesia ratifying the CMW. The alliance realised that a

huge stumbling block was how to make the relevant stakeholders aware, and convinced, of the importance of ratification. This was because minimal campaigns had been conducted to inform stakeholders of the importance of ratifying the CMW and the importance and substance of this step.

Ali Akbar Tanjung further explains that ARRAK 90 formulated a position paper on the importance of ratifying of the CMW and ran ‘road shows’ to relevant stakeholders (2013, pers.comm., 11 October). Press releases were used as a broader targeted media strategy to inform all stakeholders of the content and implications of ratification. An important targeted stakeholder was the Kemenlu (Ministry of Foreign Affairs) as it was regarded as the frontline government ministry responsible for ratification. Tanjung states that while the implementing agency, namely the Kemenakertrans (Ministry of Manpower and Transmigration) was still sceptical and even refused the ratification, Kemenlu had raised hopes of eventual success.

From the author’s interviews with Tanjung of HRWG and Yura of Solidaritas Perempuan, there are several civil society groups and their members who were involved actively in ARRAK 90. These groups are, among others, Solidaritas Perempuan, Human Rights Working Group (HRWG), Peduli Buruh Migran (PBM), Serikat Buruh Migran Indonesia (SBMI), and Lembaga Bantuan Hukum (LBH) Jakarta. The detailed activism, or policy entrepreneurship, carried out by these groups and their members will be examined in detail in Chapter 5 and 6.

## **Conclusion**

This chapter demonstrates that three crucial phases involved in the adoption of the CMW (the pre-negotiation, the negotiation, and the ratification campaigns) in a very long process. In analysing these phases, it is important to note that the process has evolved involving several parties, particularly the major international, regional, and national NGOs. Further, the activism



and concerns of the international NGOs indicate that they must have played a role prior to UN member countries negotiating the CMW in 1980. The international NGOs, borrowing from Mintrom (1997), have played the role of policy entrepreneurship in terms of, among others, identifying policy problems that raise the attention of policy makers.

It is true that the United Nations and governments mainly in developing countries played the key roles, such as by producing the report and preparing the draft convention respectively. Hence, the role of international NGOs should be taken into account in bringing awareness of the importance of migrant worker issues. The NGOs played important roles especially by exposing to an international community the vulnerable situation of female migrants.

Ultimately, the present form of the CMW was agreed after a long protracted process. From the initial negotiations to the adoption of the CMW in 1990, it took the UN member states at least ten years, longer if the period when the idea first emerged was taken into account. Developed countries have indeed contributed to the development of the convention, proven by observation by scholars that the CMW text was basically a European text. It is therefore interesting that developed countries let the convention be adopted but have not themselves ratified it. The initial analysis shows that this is due to the competing interests of labour sending countries and labour receiving countries. This analysis may relate to what have happened in the stage of the ratification campaigns as there have been opposing views from labour migration industries. In the case of Indonesia, the recruiting agents have more interest in the commercial side rather than an increased protection of migrant labour. This will be discussed later in Chapters 5 and 6.

Empirically, the historical record indicates that the number of ratifications of the CMW has been low particularly in the years immediately following its adoption in 1990. Scholars observe that there have been various reasons for this, but generally they are due to political,

legal, and economic obstacles or reluctances. Nonetheless, the number of ratifications multiplied in the 2000s onwards. In the 1990s only 12 countries ratified the CMW; in the 2000s up to the writing time of this thesis (2015), almost 50 countries ratified it. In this context, NGOs at international, regional, and national levels have played key roles.

On the roles played by the NGOs, my analysis is that their activism of the NGOs have been through an incremental process. They began with minimal contribution and, as their capacity grew, they conducted more active advocacy roles in any levels or whenever the windows of opportunity opened up. The NGOs, for examples, submitted reports on human rights violations against migrant workers, participated actively at the Intergovernmental Working Group of Experts on the Human Rights of Migrants; mobilised awareness raising and global ratification campaigns; and advocated on migrants' human rights with the aim of CMW ratification in different regions of the world. Putting policy entrepreneurship into perspective, I claim that all these activisms are in line with one of the characteristics of successful policy entrepreneurs as discussed in Chapter 1.

Another important issue to analyse is the coalition-building of the policy entrepreneurs. From this chapter, it transpired that regional and international NGOs established coalitions or blocs for the purpose of strengthening their campaigns for CMW ratification both regionally and internationally. This indicates that the NGOs realised that they should work in groups in order to exert influence and have a more convincing voice. This evidence reflects what has been argued by Mintrom et al (2014) that policy entrepreneurs understand the importance of working in groups or teams.

The determination of international NGOs operating on the global stage was also remarkable. This can be matched to what has been argued by Kingdon (2003: 181) that successful policy entrepreneurs must be persistent, including when they faced challenges such as lacked of funding and the combined interests against CMW ratification. Had the NGOs given

up their attempts in influencing UN member states, the multiplication of ratification from the 2000s onwards might not have been achieved.

As the subject of this chapter is the ratification by Indonesia of the CMW in 2012, one may question whether there was any direct linkage between the ratification and the activism of international NGOs, particularly if the focus turns to the role of Indonesian NGOs. Bringing in the ‘linkage theory’ as discussed in Chapter 1, that there are linkages between domestic and international politics, I claim that the answer to such question is affirmative. As mentioned in Chapter 3, Indonesian human rights and migrant workers NGOs played an important role after 2002 in demanding the Indonesian government adopt the CMW, which finally forced the administration at the time to sign it in 2004.

For researchers, it is indeed challenging to prove any direct linkage between the activism of international NGOs and the signing by Indonesia of the CMW in 2004. Nonetheless, the linkages between international NGOs with their Indonesian counterparts were more obvious after Indonesia signed the CMW. It is shown particularly through the establishment of a movement of NGOs in ASEAN, namely the TF-AMW, which has been demanding the Indonesian government ratify the CMW since 2007.

In the national context I claim that the Indonesian NGOs, particularly those focusing on human rights and migrant rights, played important public roles of policy entrepreneurship in spurring Indonesia’s ratification of the CMW. As discussed in Chapter 1, policy entrepreneurs are the political actors who work for the promotion of policy ideas (Mintrom 1997: 739) or advocates for prominence of an idea (Kingdon 2003: 122). The main concern of these domestic-based NGOs that Indonesia should ratify the CMW, proves the case. Essentially, their primary objective was ratification by Indonesia.

The policy entrepreneurs came mainly from civil society NGOs, even though one or two government officials also played roles in facilitating the formal processes toward

ratification. The location of policy entrepreneurs who are not from the government actually accords with the definition by Roberts and King (1991), as political actors who, from outside formal government positions, introduce and help implement new ideas into public practice. Yet the actual location of policy entrepreneurs does not really matter. As argued by Kingdon (2003), the placement of policy entrepreneurs is almost irrelevant. Therefore, NGOs and their members can also be labelled as policy entrepreneurs as long as they play a role in promoting policy ideas or advocating for the prominence of an idea.

The activism carried out by Indonesian NGOs further proves the case that they have demonstrated policy entrepreneurship. As illustrated in this chapter, the NGOs organised conferences, submitted reports on the vulnerability of Indonesian migrant workers to the UN Special Rapporteur, and established a movement or an alliance called ARRAK 90 that certainly contributed to the CMW ratification by Indonesia in 2012. With regard to establishing a national movement, this is in fact similar to regional (the TF-AMW) and international ones (The Steering Committee of the Global Campaign for Ratification of the Convention). Similar to the earlier analysis in this chapter concerning international NGOs, Indonesian NGOs and their members are indeed policy entrepreneurs who realised the importance of working in teams. The next two chapters will examine in detail the many roles of these policy entrepreneurs.

## **Chapter 5**

### **Assessing the Influence of Policy Entrepreneurs: Identifying the Key Actors and Examining Their Views and Proposals**

As discussed in Chapter 4, there are a number of Non-Governmental Organisations (NGOs) that have played a key role in the ratification by Indonesia of the 1990 International Convention on the Rights of Migrant Workers and Members of Their Families (CMW). The role played by these NGOs and their members was to shift Indonesia's foreign policy on the question of ratification.

In examining the role of key policy entrepreneurs who successfully pushed for this policy shift, it is necessary to first and foremost identify who they are and which NGOs they come from. Other important things to examine are the policy entrepreneurs' ideas, proposals, work, resources, and so on. All of these aspects will be examined based on the proposition stated in Introduction of this thesis: that policy entrepreneurs are successful if: (1) their ideas or policy proposals constitute cogent proposals; (2) they base their proposals on normative principles/orient to values; and (3) their ideas are promoted with persistence.

This chapter is divided into four sections. The first section identifies the NGOs and their key members. The second section identifies other policy entrepreneurs from the Dewan Perwakilan Rakyat (DPR – Indonesia's House of Representatives) as well as the government. The third and fourth sections examine the views and proposals of the policy entrepreneurs regarding the significance of ratification by Indonesia. Examining the views and proposals is an important initial step as they can reveal the main ideas of those who played the role of policy entrepreneur.

## **5.1 Policy Entrepreneurs from NGOs**

As briefly examined in Chapter 4, several NGOs and their members played a key role in Indonesia's ratification of the CMW, particularly those actively involved in an alliance called ARRAK 90. The NGOs are Solidaritas Perempuan, Human Rights Working Group (HRWG), Peduli Buruh Migran (PBM), Serikat Buruh Migran Indonesia (SBMI), Lembaga Bantuan Hukum (LBH) Jakarta, and Migrant Care. With the notable exceptions of SP and LBH, all were established in the twenty-first century. I used information from the media as well as insights from the NGO activists themselves to identify key members.

### **5.1.1 Solidaritas Perempuan (Solidarity for Women)**

Solidaritas Perempuan (SP) was established on 10 December 1990 and as of February 2012 had 777 members comprising grass root community members, activists, academics, and students (Solidaritas Perempuan 2014a). SP is regarded as the first migrant worker NGO in Indonesia (Ford 2005: 19). The main activities of SP are advocating for the rights of women who work overseas as domestic workers and building a movement on broader women's rights in Indonesia (Rinaldo 2013: 24). The highest decision-making authority of SP is *Kongres* (Congress) (Solidaritas Perempuan 2014c). Besides *Kongres*, there are other decision-making mechanisms at lower levels, namely: (1) the National Meeting of Community Board, (2) the Community Forum, and (3) the Consultative Meeting of Members. All these structural bodies have made SP a highly regarded organisation. As argued by Yazid (2013: 113), "As an organization, SP is well-established". The key person with regard to SP's policy entrepreneurship toward CMW ratification is Dinda Nuurannisaa Yura from the SP's division of Trafficking and Migration.

### **5.1.2 Human Rights Working Group (HRWG)**

The official name of the Human Rights Working Group (HRWG) is Indonesia's NGO Coalition for International Human Rights Advocacy (Hivos 2014). HRWG was established on 23 February 2003 in Jakarta by several human rights organisations. The HRWG's structure comprises the General Assembly of Indonesian Human Rights NGOs and the Working Group (SEACA 2007). The General Assembly is the highest decision-making body of human rights NGOs from local to national levels. The HRWG has a prominent status within the human rights community in Indonesia, including through its appointment by the government to represent Indonesia at the ASEAN Intergovernmental Commission on Human Rights (AICHR). The first representative of HRWG, who at the time of writing served as Indonesia's commissioner at the AICHR, was Rafendi Djamin (World Movement 2011). In relation to HRWG's policy entrepreneurship toward Indonesia's ratification of the CMW, the key person is Ali Akbar Tanjung, who at that time served as the UN Program Manager.

### **5.1.3 Peduli Buruh Migran (Care for Migrant Workers)**

Peduli Buruh Migran (PBM) was founded on 20 May 2008 by returning female migrant workers, driven by the worst health conditions suffered by migrant labour, both physical and mental. Unlike the other migrant labour organisations, which are relatively well established, PBM has only a simple 'secretariat' and a treatment house located in East Jakarta. PBM is active in providing training to returning migrant workers, albeit in simple forms. As the author observed, training includes cooking, sewing, and other practical skills that can be used by former migrant workers for their next job or for entrepreneurial endeavours. The PBM has three board members, prominent figures in human rights work who supervise the work of the committee (the executive body). The committee is currently led by Ms. Lily Pujiati. The PBM

and particularly Pujiati have played an active role in publicising the importance of Indonesia's ratification of the CMW, either through public seminars or media campaigns.

#### **5.1.4 Serikat Buruh Migran Indonesia (Indonesian Migrant Labour Union)**

Serikat Buruh Migran Indonesia (SBMI) was established on 25 February 2003 by 12 migrant labour organisations in East Java Province and serves as an organisation union for migrant workers and their families (SBMI 2014a). Structurally the SBMI has three levels: a national committee (DPN - National Executive Board); regional committees (DPW - Regional Executive Board); and local committees (DPC - Local Executive Committee) (SBMI 2014b). Most of their committee members are activists who used to work as migrant labour in Hong Kong, Taiwan, Saudi Arabia, and even the United States. Albeit running a relatively simple secretariat office in South Jakarta, SBMI is well known due to its wide network throughout Indonesia. As observed by Ford (2005: 15), "SBMI is perhaps the most widely-recognized network of migrant labour organizations in Indonesia today." With regard to SBMI's policy entrepreneurship toward Indonesia's CMW ratification, the key people are Hariyanto and Ridwan Wahyudi, who have served at SBMI as Advocacy Coordinator and Program Officer respectively.

#### **5.1.5 Lembaga Bantuan Hukum Jakarta (Jakarta Legal Aid Institute)**

Lembaga Bantuan Hukum (LBH) Jakarta was established in 1970 with the initial purpose of providing legal assistance to the poor in defending their rights, particularly those who are marginalised, cut off from work, or the victims of human rights abuses (LBH Jakarta 2014a). The idea for establishing LBH Jakarta emerged when the then young lawyer, Adnan Buyung Nasution, presented a paper at the 3<sup>rd</sup> Congress of Peradin (Persatuan Advokat Indonesia – Indonesian Advocates Union) in 1969 (Saptono 2012: 1). The paper received a warm welcome



by the high profile figures attending the Congress. A year later, on 28 October, the Peradin agreed to establish LBH Jakarta, analogous with the historic date of ‘Indonesia’s Youth Vow’ (Saleh 2012: xiv). Despite some stumbles during its early establishment, LBH Jakarta continues to exist and is currently regarded as an influential legal aid institution in Indonesia. Lev (2000: 283) argues that besides existing for many years and having served thousands of clients in Indonesia, LBH Jakarta has had “remarkable influence on Indonesian political discourse for so small an organization”. In relation to the policy entrepreneurship of LBH Jakarta toward Indonesia’s CMW ratification, the key person is Resta Hutabarat, who serves as advocate.

#### **5.1.6 Migrant Care**

Migrant Care, or Perhimpunan Indonesia untuk Buruh Migran Berdaulat (Indonesian Association for Sovereign Migrant Labour), is widely recognised in Indonesia as one of the most active NGOs paying attention to and defending the rights of migrant labour. As argued by Silvey (2014: 91), “[Migrant Care is] among the most active NGOs working on long-term on behalf of overseas workers”. Migrant Care was established on 22 June 2004. Though a relatively young organisation like many of the key NGOs, it has a national and international reputation (Yazid 2008: 5). Migrant Care has a board of two people and an executive director assisted by a finance manager, a program manager, and administrative staff. In the context of the CMW ratification, Wahyu Susilo, the policy analyst as well as the chair of board, reveals that he himself had been active in campaigning for the ratification, particularly when he served at the Kopbumi.<sup>20</sup> Yet as an organisation, Migrant Care is considered by other policy entrepreneurs to work mostly by itself and even separated from ARRAK 90.<sup>21</sup>

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<sup>20</sup> Susilo 2013, pers.comm., 18 July.

<sup>21</sup> Personal communications with Tanjung 2013, 10 November; Wahyudi 2013, 13 November; Pudjiati 2013, 5 December.

## **5.2 The Policy Entrepreneurs in the DPR and Government**

Other policy entrepreneurs who deserve acknowledgement in their attempts to push for Indonesia's CMW ratification are a number of prominent members of parliament (DPR) and a few key government officials. Based on the author's media observation as well as suggestions made by NGO activists, the policy entrepreneurs from the DPR are Rieke Diah Pitaloka of Partai Demokrasi Indonesia Perjuangan (PDIP – Indonesian Democratic Party of Struggle), Nova Riyanti Yusuf of Partai Demokrat (Democrat Party), and a member of Partai Persatuan Pembangunan (PPP - United Development Party) who did not wish her name to be mentioned. One obvious thing is that all of them are members of the Commission IX of DPR, a commission that deals with, among other things, the migrant labour issue.

As for policy entrepreneurs coming from the government, two figures often mentioned by NGO activists are Muhammad Anshor and Acep Somantri. At the time of writing, these two were mid-career officials at the Kemenlu (Ministry of Foreign Affairs) who deal with human rights issues.

### **5.2.1 Nova Riyanti Yusuf (Democrat Party)**

Nova Riyanti Yusuf was elected as an MP in 2009 and served on Commission IX covering issues such as health and migrant labour (Yusuf 2014). The posts she held at the DPR were, among others, Deputy Chairwoman of Commission IX, and Member of *Badan Musyawarah*, a committee responsible for deliberation before an agenda is scheduled in the parliamentary General Assembly. Yusuf is greatly interested in the issue of Indonesian migrant labour protection, as evidenced by her active role as the Deputy Chairwoman of the Special Committee on the Protection of Indonesian Migrant Labour Bill in the period of October 2012 to 2014.

### **5.2.2 Rieke Diah Pitaloka (Democratic Party of Struggle)**

Rieke Diah Pitaloka was an Indonesian MP from 2009-2014 through the Partai Demokrasi Indonesia Perjuangan (PDIP – Indonesia’s Democratic Party of Struggle). As an MP, she was known to be critical of the government, especially on the issue of labour rights. She was appointed ILO migrant labour goodwill ambassador on 18 December 2007. On that day, she called on the government to ratify the CMW (*Antara* 2007). As an MP, Pitaloka served at the Commission IX. Her statements on labour rights have often been quoted by the media, making her a popular DPR politician. *The Jakarta Post* (2010) wrote, “In her fight for labourers — to whom she has chosen to fight for in the House, Rieke, who’s also an activist, admits things have never been smooth. Labour issues, she says, are still far from her Commission’s attention”.

### **5.2.3 Acep Somantri (Mid-career official, Kemenlu)**

Acep Somantri is a mid-career official at the Kemenlu and, at the time of interview on 11 October 2013, served as the Deputy Director for Economic, Socio-Cultural and Development Rights, the Directorate of Human Rights and Humanitarian Affairs. Somantri is one of two government officials mentioned by NGO activists who have contributed much to Indonesia’s ratification of the CMW.<sup>22</sup> According to Tanjung, Acep Somantri contributed a lot to ratification, particularly in raising awareness and convincing other governmental stakeholders of the importance of Indonesia ratification of the Convention<sup>23</sup>. In an interview with the author, Somantri confirmed his involvement by stating that he followed up closely any intergovernmental processes toward ratification of CMW<sup>24</sup>.

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<sup>22</sup> Tanjung 2013, pers.comm., 11 October; Yura 2013, pers.comm., 19 September.

<sup>23</sup> Tanjung 2013, pers.comm., 11 October.

<sup>24</sup> Somantri 2013, pers. comm., 28 October.

The following table (Table 5.1) was the chronology of processes within the Indonesian government in pursuing the ratification of the Convention. The activities began on 15 April 2011 as it was the date when the inter-ministerial technical meeting took place to follow up the ratification process. As explained later, the meeting was carried out after Somantri took a more active role particularly after he joined the Directorate Human Rights and Humanitarian Affairs of the Ministry of Foreign Affairs.

*Table 5.1* The Chronology of Intergovernmental Processes in Indonesia toward the Ratification of the International Convention of the Protection of the Rights of All Migrant Workers and Members of Their Families, 2011 – 2013

<b>DATE</b>	<b>ACTIVITIES</b>	<b>NOTE</b>
15 April 2011	The inter-ministerial technical meeting (IMTM) discussed a follow up on the ratification process	
26-27 April 2011	IMTM discussed and started to prepare the Academic Manuscript, the Draft Law, and the Ratification Explanation of the Migrant Workers Convention	
10 June 2011	Minister of Foreign Affairs requested from the President of Indonesia the Initiative Permission ( <i>Ijin Prakarsa</i> ) for the preparation of Draft Law on the Ratification	
23 June 2011	IMTM discussed the revision of the Convention's official translation	
15-16 July 2011	IMTM discussed the Academic Manuscript, the Draft Law, and the Ratification Explanation	
25 July 2011	The President of Indonesia granted the Initiative Permission for the Drafting of Law on the Ratification	
4 August 2011	Minister of Foreign Affairs sent requests to relevant ministers/heads of state institutions concerning the establishment of the Inter-Ministerial Committee (IMC) for the Drafting of Law on Ratification	
14 September 2011	Minister of Foreign Affairs endorsed the establishment of IMC	A Decree of Minister of Foreign Affairs No. 09/B/KP/IX/ 2011/01
29-30 September 2011	IMTM discussed the revision of the Academic Manuscript, the Draft Law, and the Ratification Explanation	

18 October 2011	The Meeting of IMC discussed the Academic Manuscript, the Draft Law on the Ratification	
November 2011	IMC conducted consultation and coordination for the revision of the final draft of the Academic Manuscript and the Draft Law on the Ratification and confirmed that the ratification would be carried out without reservation.	
22 November 2011	Minister of Foreign Affairs sent a letter to Minister of Law and Human Rights regarding the requests for harmonisation, finalisation, and solidifying ( <i>pemantapan</i> ) the concepts of Draft Law on the Ratification of Migrant Workers Convention	
13 December 2011	The meeting on harmonisation, finalisation, and solidifying the concepts of the Draft Law	
22 December 2011	Minister of Law and Human Rights sent a letter to Minister of Foreign Affairs on the result of the Harmonisation, Finalisation, and Solidifying on the Concepts of the Draft Law	
23 December 2011	Minister of Foreign Affairs sent a request to the President of Indonesia to grant a Presidential Decree ( <i>Amanat</i> ) for further discussing the ratification at the DPR	
11 January 2012	Minister of State Secretary sent a letter to Ministers of Foreign Affairs, of Law and Human Rights, and of Manpower and Transmigration concerning the request to give signature of endorsement on the Draft Law	
7 February 2012	President of Indonesia sent a letter to the Chairman of the DPR regarding the Draft Law to be discussed at the meeting of the House for endorsement/adoption purpose	
7 February 2012	Minister of State Secretary sent a letter to the relevant Ministers on the appointment of Ministers who would represent the President at the DPR to discuss the Draft Law	
3 April 2012	The DPR sent a letter to Minister of Foreign Affairs on the invitation to attend the Working Meeting of Commission IX regarding the First Level Discussion on the Draft Law	
9 April 2012	The Working Meeting of the Commission IX with the relevant Ministers took place. The Meeting endorsed the Draft Law to be further discussed at the Second Level Discussion of the Plenary Meeting ( <i>Rapat Paripurna</i> ) of the DPR	
10 April 2012	The DPR sent a letter to the relevant Ministers to attend the Plenary Meeting regarding the Discussion of Second Level (Decision-Making stage) on the Draft Law	

12 April 2012	The Plenary Meeting of the DPR, attended by 324 members of the House, decided to endorse the Draft Law to be the Law.	
17 April 2012	Minister of Foreign Affairs sent a report to the President regarding the endorsement of the DPR on the Draft Law	
20 April 2012	The Chairman of the DPR sent a letter to the President regarding the endorsement of the DPR	Letter No. LG.02.04/04117/DPR RI/IV/2012
24 April 2012	Based on the instruction of the President of Indonesia, the State Secretary sent a request to the relevant Ministers to give their signature endorsing the Law	
28 April 2012	The relevant Ministers signed the Law	
2 May 2012	The Law on the Ratification of Migrant Workers Convention was endorsed by the President of Indonesia and was enacted by Minister of Law and Human Rights through Law No. 6 Year 2012 on the Ratification of Migrant Workers Convention ( <i>Lembaran Negara RI Tahun 2012 Nomor 115</i> )	
22 May 2012	Minister of Foreign Affairs signed the Instrument of Ratification of the Migrant Workers Convention to be deposited at the UN Secretary General through the Indonesian Permanent Mission in New York.	
31 May 2012	The Indonesian Permanent Mission in New York deposited with the UN Secretary General the Instrument of Ratification	
8 June 2012	The UN Secretary General sent a letter of receipt and declared that the Migrant Workers Convention will be effective in Indonesia starting from 1 September 2012	Letter No. LA41TR/2012/IV-13/Indonesia/1
4-6 September 2013	The Indonesian Ministry of Law and Human Rights held a coordination meeting on the implementation of the Migrant Workers Convention	

Source: Kementerian Luar Negeri 2013

Based on the table above, it is clear that significant intergovernmental processes toward Indonesia's ratification of the CMW in 2012 occurred in the last twelve months. Initiated at the technical meeting on 15 April 2011 concerning the follow up of CMW ratification, the intergovernmental meetings proceeded further, from preparing the academic manuscript, the draft law, and the ratification explanation to the establishment of the Inter-Ministerial Committee for the Drafting of Law on the Ratification. This momentum culminated when Irgan

C. Mahfiz, speaking on behalf of the Chairman of Commission IX of the DPR, gave a final statement at the Second Level deliberation on 12 April 2012. Mahfiz (2013) stated in the House:

As one of the largest sending countries of migrant workers, Indonesia needs a better protection system for its migrant workers.

The agreement of the General Assembly of DPR today is proof that Indonesia acknowledges and respects human rights.

Besides, through the ratification of the Migrant Workers Convention by Indonesia, it is hoped to strengthen the legal foundation of national policies in improving the system of protection, respect, and compliance to the rights of workers, particularly the rights of all migrant workers and members of their families that meet the norms of human rights.

All the policy entrepreneurs identified in Sections 5.1 and 5.2 are the experts or authoritative persons from the relevant organisations. Or, borrowing from Kingdon (2003: 180), they are the persons who have some claim to a ‘hearing’. Members of DPR such as Pitaloka and Yusuf are indeed the authoritative decision-makers as they sit on the body dealing with migrant worker issues. An official such as Somantri should have an ability to speak for others as he coordinated the intergovernmental meetings with other stakeholders. The role of a government officials like Somantri is also important as he or she can become a key ally of policy entrepreneurs from outside the government. As argued by Roberts and King (1991: 162), “Strategically placed insiders within the bureaucracy would be important allies.”

It does not matter much whether policy entrepreneurs are in the government or outside government. As argued by Kingdon (2003: 180), “The placement of entrepreneurs is nearly irrelevant, anyway, to understanding their activities or their successes.” Yet, although the placement of policy entrepreneurs is irrelevant, those who are labelled as policy entrepreneurs in this case study are certainly from relevant activist organisations. Organisations such as HRWG and Solidaritas Perempuan have the capacity and relevant expertise in the area of human rights and migrant workers’ rights. Organisations such as LBH Jakarta and SBMI are known to have wide networks with other NGOs in terms of defending human rights and migrant

workers' rights. The members of DPR who pay high attention to this issue belong to Commission IX, a body at the DPR that deals with, among other things, migrant worker issues.

There might be questions why I did not use Paul A. Sabatier's Advocacy Coalition Network in identifying and explaining the actors who had been instrumental in bringing a change of Indonesia's foreign policy, namely the ratification of CMW. Advocacy Coalition Network (ACN) is a theoretical framework introduced by Sabatier (1988), arguing that a policy change is best analysed through this framework, particularly if the change occurred in a long time span.

Sabatier (1988) argues that a policy change is often determined by a number of actors within the "political subsystem" that create a kind of coalitions addressing particular subject matters. This political subsystem is defined as an "interaction of actors from different institutions interested in a policy area" (Sabatier 1988: 131). Sabatier (1988: 141) further argues that, occasionally, within the dynamics of the political system, there exist "policy brokers" those who mediate conflicting parties. These brokers can be elected officials, researchers, and journalists.

There are indeed merits in the ACN if it is applied for the purpose of analysing the change of Indonesia's foreign policy toward CMW, from the non-ratification to the ratification. More particularly, the policy change occurred for a long time period: from adoption at the UN in 1990, the signing of Indonesia in 1994, and the ratification in 2012. Yet the ACN does not consider individuals as instrumental. Whereas from the initial identification as described in this section, the individuals – the policy entrepreneurs – believed that there were their own peers who collaborated with one another pursuing their shared goals. Put differently, borrowing from Mintrom and Norman (2009: 657), "Policy entrepreneurship is not treated explicitly within the [ACN] framework."



To sum up, while the CAN has a merit, I argue that it is not suitable to be applied in analysing the subject matter of this thesis, which is the role of policy entrepreneurs in Indonesia's foreign policy from the non-ratification to the ratification of CWM.

### **5.3 The Views of the Policy Entrepreneurs**

Prior to examining the activism of policy entrepreneurs, it is important to examine their ideas or views they prosecuted in the policy process. As discussed in Chapter 1, the main thing that policy entrepreneurs promote or advocate for are policy ideas or the prominence of an idea (Mintrom 1997: 739, Kingdon 2003: 122).

The views of policy entrepreneurs on the necessity for Indonesia to ratify the CMW vary. In general, such views can be divided into three main arguments. First, as a major labour-sending country, Indonesia must ratify the CMW as this international legal instrument will provide greater protection for Indonesians working overseas. Second, the ratification of the CMW is an international obligation for Indonesia. Third, the CMW can fill gaps in the national laws.

#### **5.3.1 CMW will provide greater protection**

The view that the CMW would provide greater protection for Indonesian migrant workers was voiced by, among others, Dinda Nuurannisaa Yura of Solidaritas Perempuan (SP). She argued that Indonesia was a country with a huge number of migrant workers.<sup>25</sup> Thus, when labour migration was to be discussed, it would involve many countries and an international standard was consequently needed. In the words of Yura:

Indonesia is a country with a huge number of migrant workers. When we talk about migration, it involves many countries. Thus, there was a need of an international

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<sup>25</sup> Yura 2013, pers. comm., 19 September.

standard. At that time [in Indonesia] there were no such comprehensive policy protecting migrant workers.<sup>26</sup>

Yura's views are similar to the views of Hariyanto, the Advocacy Coordinator of Serikat Buruh Migran Indonesia (SBMI – the Federation of Indonesian Migrant Workers). The latter argued that the CMW stipulated the rights of migrant workers and their families<sup>27</sup>. He further argued that this view emerged not only due to his observation or analysis as an activist, but because of a personal experience as a former migrant worker. According to Hariyanto:

The CMW deals with the rights of migrant workers and their families. We experienced it. There were only few rights we could enjoy as migrant workers. Based on this, we were determined to push for Indonesia's ratification [of the CMW].<sup>28</sup>

The lack of protection of Indonesian migrant workers was often caused by their weak position. Ridwan Wahyudi, the Program Officer of the SBMI, revealed that the information he received prior to his departure as a migrant worker was not clear<sup>29</sup>. All documents were prepared by the sponsoring companies. In his case, he worked in South Korea, firstly in a car-battery company. After three months, he was fired or out of contract without any clear reasons and ended up as a farmer. Wahyudi tried to fight for his rights but did not succeed. He decided that he wanted to go back to Indonesia and asked the Indonesian Embassy to assist him. He also asked the sponsoring company to pay his wages, yet they never paid him.

Policy entrepreneurs, particularly those who used to work as migrant workers, believe the lack of protection was caused by, among other things, the absence of the right to information. Wahyudi argues that Indonesian migrant workers do not enjoy this right.<sup>30</sup>

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<sup>26</sup> “Indonesia merupakan negara dengan buruh migran sangat besar. Ketika berbicara migrasi, melibatkan banyak negara. Jadi diperlukan standar internasional. Saat itu, belum ada kebijakan komprehensif yang melindungi buruh migran” (Yura 2013, pers.comm., 19 September).

<sup>27</sup> Hariyanto, 2013, pers. comm., 13 November.

<sup>28</sup> “Karena di situ [Konvensi Buruh Migran] menyangkut tentang hak-hak buruh migran dan keluarganya. Kami merasakan sendiri, hanya secuil hak-hak buruh migran yang kita dapatkan. Atas dorongan itulah kita bertekad untuk ratifikasi” (Hariyanto 2013, pers. comm., 13 November).

<sup>29</sup> Wahyudi 2013, pers. comm., 13 November.

<sup>30</sup> Wahyudi 2013, pers. comm., 13 November.

Information such as placement costs, the work, and the contract are not easy to understand. In the words of Wahyudi:

The information we received from the sponsoring companies was not clear. All documents were made by them.

I worked in a factory of car batteries. However, three months later I was out of contract and eventually worked as a farmer. I was then fired without any clear reason.

I wanted to go home and asked the Indonesian Embassy in Seoul to return me home. I asked for my salaries but they were never given to me. I then asked the money from the sponsoring company. It was at that time I began to know the activist friends of SBMI.

This is the kind of information rights that migrant workers cannot access. The information on the cost of placement, the work, the contract was very difficult to understand.<sup>31</sup>

The problems revealed by the policy entrepreneurs, such as the lack of protection, information and the rights migrant workers deserve, are all addressed in the CMW (OHCHR 2014). This informed the views held by the policy entrepreneurs on why Indonesia should ratify the CMW. The Convention would provide a much better and more comprehensive legal framework for the protection of these rights. These views are logical due to an absence of a comprehensive policy on migrant labour protection in Indonesia. As examined in Chapters 2 and 3, prior to the ratification in 2012 such a policy did not exist in Indonesia.

### 5.3.2 CMW ratification as an international obligation

Another argument for the necessity for Indonesia to ratify the CWM is that it is part of the country's international obligations. Wahyu Susilo of Migrant Care argued that as one of the

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<sup>31</sup> “Informasi yang selama ini kita peroleh dari sponsor kurang begitu jelas. Dokumen-dokumen dibuat oleh sponsor.

*Saya bekerja di pabrik aki [baterai mobil]. Namun tiga bulan kemudian menjadi petani, out of contract. Saya kemudian diberhentikan kerja sepihak tanpa alasan.*

*Saya ingin pulang, meminta bantuan KBRI untuk dipulangkan. Saya meminta uang gaji tetapi tidak pernah diberikan. Saya kemudian menuntut uang kepada sponsor. Saat itulah kemudian saya mengenal kawan-kawan SBMI.*

*Hak-hak informasi seperti inilah yang tertutup bagi buruh migran. Info tentang biaya penempatan, pekerjaan, kontrak sangat tidak mudah dipahami” (Wahyudi 2013, pers. comm., 13 November).*

major labour-sending countries, Indonesia must have such an international legal instrument.<sup>32</sup> He also believes that if Indonesia ratified and implemented the CMW, this would certainly equip and boost the performance of the country's diplomacy.

This view is in line with that held by at least two members of the DPR. Nova Riyanti Yusuf of the DPR argued that by ratifying the CMW, Indonesia would have the backing of international law.<sup>33</sup> Another member who does not want her name to be revealed also argued that through ratification Indonesia's bargaining power would be improved.<sup>34</sup> She believed that the receiving countries would see Indonesia's goodwill in protecting migrant workers. In return, she hoped that they also provide protection to Indonesian migrant workers.

Interestingly, this view was also held by the Kementerian Tenaga Kerja dan Transmigrasi (Kemenakertrans - Ministry of Manpower and Transmigration of Indonesia), even though the Ministry was known to have shown little interest or previously had even rejected the proposed policy of ratification. An official of the Kemenakertrans, who wished to remain nameless, revealed:

The CMW ratification increases Indonesia's bargaining power. From the viewpoint of Indonesia's foreign policy, ratification is needed because by having acceded to the CMW the bargaining power of Indonesia will become stronger.<sup>35</sup>

It has become empirically apparent that the policy entrepreneurs share the view that ratifying the CMW is a crucial part of Indonesia's international obligation. The pertinent reasons for this views include that ratification will boost Indonesia's international credibility and will also strengthen her negotiating power when dealing with other countries. Indeed, as examined in Chapter 2 and 3, policies affecting Indonesian migrant labour were generally

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<sup>32</sup> Susilo 2013, pers.comm., 18 July.

<sup>33</sup> Yusuf 2013, pers.comm., 18 September.

<sup>34</sup> Anonymous 2013, pers.comm., 17 October.

<sup>35</sup> “[Ratifikasi CMW menjadikan] bargaining power [Indonesia] di dunia semakin tinggi. Dari sisi politik luar negeri, ratifikasi sangat diperlukan karena mempunyai arti bahwa posisi tawar Indonesia menjadi kuat” (Anonymous 2013, pers.comm., 23 October).

determined by the interests of the receiving states. In the case of Malaysia, for example, the bilateral agreements with Indonesia mostly supported its interests rather than Indonesia's. Through the ratification of the CMW, policy entrepreneurs expected Indonesia to have more bargaining power when negotiating and concluding agreements with other countries.

### **5.3.3. Ratification of CMW will fill the gap of national laws**

A further reason held by policy entrepreneurs arguing that Indonesia must ratify the CMW was because the national law cannot reach or protect migrant workers. Resta Hutabarat of the Lembaga Bantuan Hukum Jakarta (LBH Jakarta – the Legal Aid Institute, Jakarta Chapter) argued that ratification provided a legal framework for migrant worker protection that the Law No. 39 of 2004 does not provide, as it was more heavily weighted on the side of commerce.<sup>36</sup>

Similarly, Ali Akbar Tanjung of the Human Rights Working Group (HRWG) argued that ratification would fill the gap in national laws, as Indonesia has not enacted national law that provided comprehensive protection for its migrant workers.<sup>37</sup> According to Tanjung:

There are no Indonesian laws that can reach its citizens overseas or migrant workers except the CMW. Thus, the CMW is highly important in providing protection for Indonesian workers overseas, even though the receiving countries have not ratified it. Malaysia, for example, [even though it has not acceded to the CMW], it still must respect the international standards of human rights.<sup>38</sup>

The above view is in line with the view of a member of DPR who does not want her name to be mentioned. The member claimed that by ratifying the CMW, Indonesia has provided legal protection to its migrant workers.<sup>39</sup> Nonetheless, this member had a different view from Tanjung who argued that the non-ratifying countries would also provide protection as required

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<sup>36</sup> Hutabarat 2013, pers.comm., 28 November.

<sup>37</sup> Tanjung 2013, pers.comm., 11 October.

<sup>38</sup> “*Tidak ada hukum nasional yang bisa menjangkau WNI/TKI kita di luar negeri kecuali Konvensi 1990. Jadi Konvensi ini sangat penting untuk memproteksi buruh migran Indonesia di luar negeri, sekalipun negara tersebut belum meratifikasi. Malaysia, misalnya, harus tetap menghormati standar-standar hak asasi manusia internasional*” (Tanjung 2013, pers.comm., 11 October).

<sup>39</sup> Anonymous 2013, pers.comm., 17 October.

by the CMW. By contrast, the DPR member argued that the legal protection would only be provided indirectly.

The view that ratification by Indonesia will not matter if the receiving states do not undertake the same policy was held by the official of the Kemenakertrans. The official argued that ratification did not provide much protection for Indonesian migrant workers.<sup>40</sup> She further argued that what matters most was the strengthening of internal affairs, particularly national legislation and capacity building.

The unwillingness of the Kemenakertrans to ratify the CMW was confirmed by the official of the Kementerian Luar Negeri (Kemenlu - Ministry of Foreign Affairs). Acep Somantri of the Kemenlu stated that from the beginning the Kemenakertrans were resistant to the proposed policy of CMW ratification.<sup>41</sup> Somantri shared his observation on the said matter:

I joined the Directorate of Human Rights of Kemenlu in June 2010 and attended a meeting at the Kemenkumham in late 2010 to discuss the process of CMW ratification.

From the beginning, the Kemenakertrans had been resistant toward ratification. I was not really aware of their reasons.

In the meeting, I challenged its officials to reveal their reasons for rejection. My suspicion was that the rejection existed due to the inappropriate translation of the CMW provisions into Indonesian language and later it was proven. I then gave a recommendation to my Director of Human Rights that Kemenlu should take this process by firstly translating the CMW with a correct and proper Indonesian translation.<sup>42</sup>

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<sup>40</sup> Anonymous 2013, pers.comm., 23 October.

<sup>41</sup> Somantri 2013, pers.comm., 28 October.

<sup>42</sup> “*Saya masuk Direktorat Hak Asasi Manusia (HAM) Kemenlu pada bulan Juni 2010 dan diundang rapat di Kementerian Hukum dan HAM (Kemenkumham) akhir 2010 membahas proses ratifikasi Konvensi. Dari awal, Kemenakertrans resisten terhadap ratifikasi. Saya tidak begitu tahu alasan mereka saat itu.*

*Ketika rapat tersebut, saya menantang Kemenakertrans untuk menyebutkan alasan mereka. Kecurigaan kami adalah karena tidak tepatnya terjemahan pasal-pasal Konvensi dan hal itu terbukti ketika mereka mempersoalkan beberapa pasal. Saya kemudian mengusulkan kepada Direktur HAM agar Kemenlu mengambil proses ini. Kita coba dengan terjemahkan terlebih dahulu Konvensi ini dengan Bahasa Indonesia yang baik dan benar” (Somantri 2013, pers.comm., 28 October).*

Later in the process toward CMW ratification, Somantri believed that the meetings facilitated by the Kemenlu made significant progress.<sup>43</sup> The chronology of this progress was summarised in the Table 5.1 in this chapter.

Based on all the views discussed in this section, policy entrepreneurs had solid views on the necessity for Indonesia to ratify the CMW. The view that the CMW would provide greater protection was indeed logical in the context of Indonesia as a country with a huge number of migrant workers. The argument that ratification would fill gaps in national laws had a solid grounding as existing laws had not provided comprehensive protection.

One may argue that the ratification of the CMW was not a totally new policy idea emanating from Indonesian policy entrepreneurs. Yet this should not be an issue. The important thing for this analysis is whether policy entrepreneurs have exchanged and promoted their idea or ideas. As argued by Robert and King (1991: 159), policy entrepreneurs are those who have “traded in ideas, whether the invention of wholly new policy ideas or the brokering of others’ ideas”.

Further, all of the views or ideas examined in this section have contributed toward Indonesia’s foreign policy in the field of human rights. This is in line with what has been argued by Goldstein and Keohane: “ideas are often important determinants of government policy” (1993: 3). Nonetheless, mere ideas are certainly not adequate. They must be crafted into proposals. This will be examined in the following section.

#### **5.4 The Policy Proposals of the Key Policy Entrepreneurs**

The proposals from key Indonesian policy entrepreneurs calling for CMW ratification emerged in a number of forms and situations. Even though their proposals and activism became more intensified in the last two years prior to ratification in 2012, their views and proposals can

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<sup>43</sup> Somantri 2013, pers.comm., 28 October.

actually be dated to 2004 when Indonesia enacted Law No. 39 of 2004 on the Placement and Protection of Indonesian Migrant Workers. Even before that, the call for ratification had already emerged. Susilo of Migrant Care, for example, stated that he started to be active on the issue of migrant workers in 1995.<sup>44</sup> Prior to this, his colleagues from NGOs who worked in women's rights protection had also been active. According to him, at that time NGO activists were already pushing for CMW ratification. The first translation of the CMW was not undertaken by the government but the Solidaritas Perempuan (SP).

This section will show that there were two main proposals calling for CMW ratification. The first was proposing the CMW as an agenda item at the *Rencana Aksi Nasional Hak Asasi Manusia* (RANHAM - National Action Plan for the Promotion and Protection of Human Rights in Indonesia) 2004-09 and, second, the establishment ARRAK 90, a short form of Aliansi Rakyat untuk Ratifikasi Konvensi 1990 (the People's Alliance for the Ratification of the 1990 Convention). This section will examine whether the proposals being presented contain normative principles or not.

#### **5.4.1 Proposal 1: National Action Plan on Human Rights**

The *Rencana Aksi Nasional Hak Asasi Manusia* (often referred as RANHAM) is Indonesia's five-year plan to improve human rights standards in the country. The first time Indonesia established and implemented RANHAM was in 1998. Herbert (2008: 475) points out that RANHAM I was an attempt by the government of the time to raise Indonesia's human rights profile as well as provide a basis for improved coordination among relevant stakeholders.

With relation to the CMW, the proposal for ratification emerged and was included in RANHAM II that ran from 2004-2009. The reason for this inclusion was the perception among

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<sup>44</sup> Susilo 2013, pers.comm., 18 July.



policy entrepreneurs that Law No. 39 of 2004 was unsatisfactory. Hutabarat of LBH Jakarta recalled:

In 2003 the Nunukan tragedy occurred, 12 people died including babies. At those times, LBH was more inclined to sue the government. Yet we realised that there was no legal instrument available.

It then became a turning point on the necessity to have a legal framework, an act for the protection of migrant workers. Thus the Law No. 39 came out, pushed by the civil society.

Unfortunately, due to the political processes [in reaching agreement for the law] and the interests of private sectors, the Law turned to be minimalist in terms of protection. We considered the Law as a failure.

We then carried out reflections and finally agreed to utilise the human rights instruments. Finally, we put [the proposal for CMW ratification] into the RANHAM.<sup>45</sup>

This is similar to the view of Susilo who argued that the milestone for ratification was the involvement of civil society organisations (CSOs) in the making of RANHAM in 2004.<sup>46</sup> At that time, the CSOs pushed for ratification of the CMW. The inclusion of CMW ratification into RANHAM did not necessarily mean that the process was smooth. It was only in 2010 that things moved further ahead. According to Somantri of Kemenlu, the process had actually begun in 2004 but was interrupted.<sup>47</sup> He, unfortunately, did not elaborate on this.

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<sup>45</sup> “Pada tahun 2003 ada tragedy Nunukan, 12 orang meninggal termasuk bayi. Waktu itu LBH ingin menggugat Pemerintah dan baru menyadari tidak ada perangkat hukumnya.

*Ini menjadi turning point perlunya legal framework, yaitu UU buruh migran. Munculah UU No. 39 yang didorong masyarakat sipil.*

*Namun proses politik, termasuk kepentingan swasta, membuat UU tersebut minim perlindungan. [UU tersebut] dianggap gagal.*

*Kita refleksi, dan akhirnya sepakat untuk gunakan instrument HAM, kemudian masukkan ke dalam RANHAM” (Hutabarat 2013, pers.comm., 28 November).*

<sup>46</sup> Susilo 2013, pers.comm., 18 July.

<sup>47</sup> Somantri 2013, pers.comm., 28 October.

### 5.4.2 Proposal 2: ARRAK 90

Around two years prior to the CMW ratification in 2012, there was massive activism from policy entrepreneurs who established and worked through an alliance called ARRAK 90. Though this activism was in the form of an alliance for a movement, the alliance can be regarded as a proposal from policy entrepreneurs who wished to see a fast and tangible result of the call for ratification. Yura of SP observed:

There was a people's alliance for the ratification of CMW, coordinated by the SP. The members were HRWG, LBH Jakarta, Kopbumi, and so forth.

ARRAK 90 had specific goals. It carried out press conferences, demonstrative actions before the DPR and the governmental ministries, and even made collaboration with the University of New South Wales (UNSW). The UNSW also came out with a study [supporting the ratification].<sup>48</sup>

ARRAK 90 was coordinated by the SP and had a secretariat at the HRWG.<sup>49</sup> According to Tanjung of HRWG, ARRAK 90 was established in 2010 by himself and other activist colleagues and the alliance was coordinated by Mr Taufik Zulfahary, a Head of Division of the SP.<sup>50</sup> The pertinent challenge faced by ARRAK 90 upon its establishment was how to change the policy position of key stakeholders, particularly the Kemenakertrans. Tanjung

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<sup>48</sup> “Ada juga Aliansi Rakyat untuk Ratifikasi Konvensi Migran 1990 (ARRAK 90) yang dikoordinatori oleh Solidaritas Perempuan (SP). Anggotanya: HRWG, LBH Jakarta, Kopbumi, dan lain-lain.

*ARRAK ini sangat spesifik kegiatannya. Cara-caranya: konferensi pers, aksi ke DPR, ke kementerian, kerjasama dengan UNSW [University of New South Wales]. UNWS juga membuat kajiannya” (Yura 2013, pers.comm., 19 September).*

<sup>49</sup> As an alliance of movement, ARRAK 90 did not, however, have a formal organisational style. It worked and spread the message to the public through each of its members by using conventional and social media. The members of ARRAK 90 were Asosiasi Tenaga Kerja Indonesia (ATKI – the Association for Indonesian Workers), Ardanary Institute, Gerakan Perempuan untuk Perlindungan Buruh Migran (GPPBM – the Women Movement for the Protection of Migrant Workers), Human Rights Working Group (HRWG), Institute for National and Democratic Studies (INDIES), IWORK, LBH Apik Jakarta, LBH Jakarta, Komisi Keadilan Perdamaian dan Pastoral Migran Perantau-KWI (Church Group), Peduli Buruh Migran (Caring for Migrant Workers), Serikat Buruh Migran Indonesia (SBMI – the Federation of Indonesian Migrant Workers), Solidaritas Buruh Migran Karawang (SBMK – the Federation of Indonesian Migrant Workers in Karawang), Solidaritas Buruh Migran Cianjur (SBMC - the Federation of Indonesian Migrant Workers in Cianjur), Kelompok Perempuan untuk Keadilan Buruh (KPKB – the Women Group for Labour Justice), Solidaritas Perempuan (Solidarity for Women), Solidaritas Perempuan Komunitas Jabotabek (Solidarity for Women of the Communities in Jakarta, Bogor Tangerang, and Bekasi), Perkumpulan Praxis (Praxis Community), FSPSI Reformasi (the Reformed FSPSI), Yayasan Genta Surabaya (Genta Foundation of Surabaya), and Trade Union Rights Centres (TURC) (Peduli Buruh Migran 2009).

<sup>50</sup> Tanjung 2013, pers.comm., 11 October.

further observed that the biggest challenge was how to convince key stakeholders so that they could realise the importance for Indonesia in ratifying the CMW. The rejection by the Indonesian government [the Kemenakertrans] was due to the lack of awareness raising over the contents and substance of the CMW.<sup>51</sup>

In addressing the obstacles to the CMW ratification proposal, ARRAK 90 and particularly the HRWG, produced a working paper. According to Tanjung, the HRWG produced a working paper on why ratification was important.<sup>52</sup> The paper (HRWG 2010: 9) was basically intended to respond to the main arguments held by the government (Kemenakertrans) which argued, among other things:

First, because none of the migrant-receiving countries such as Malaysia and Saudi Arabia have ratified the CMW, the ratification will not change the lives of Indonesian migrant workers in those countries;

Second, if Indonesia ratified the CMW, Indonesia should therefore provide equal rights to foreign workers in the country, whereas in economic terms the country's situations still cannot meet such demands; and

Third, if Indonesia ratified the CMW, the government is cautious that there will be more foreign workers coming to Indonesia to work, because they will have the freedom to form a union, insurance, lawyer facilities, and social care. In other words, the ratification will not automatically protect the lives of Indonesian migrant workers.<sup>53</sup>

The response to the above arguments in the HRWG working paper is summarised in Table 5.2 below,

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<sup>51</sup> Tanjung 2013, pers.comm., 11 October.

<sup>52</sup> Tanjung 2013, pers.comm., 11 October.

<sup>53</sup> *“Pertama, karena negara tujuan penempatan pekerja migran tidak ada yang meratifikasi Konvensi, seperti Malaysia dan Arab Saudi, sehingga ratifikasi justru tidak akan mempengaruhi nasib para pekerja migran Indonesia di negara-negara tersebut.*

*Kedua, alasan lain yang juga sering disebutkan oleh Pemerintah adalah ketika Indonesia meratifikasi Konvensi Pekerja Migran, maka Indonesia harus memberikan hak setara terhadap pekerja asing yang datang ke Indonesia, sementara secara ekonomi kondisi Indonesia saat ini belum mengizinkan.*

*Ketiga, ketika Indonesia meratifikasi Konvensi, Pemerintah khawatir hal ini justru akan memperbanyak pekerja asing yang masuk ke wilayah Indonesia untuk menjadi pekerja, karena para pekerja akan diberikan kebebasan berserikat, asuransi, fasilitas pengacara, dan jaminan sosial. Dengan perkataan lain, dengan meratifikasi Konvensi ini, tidak serta-merta akan melindungi nasib pekerja migran Indonesia”.*

Table 5.2 The Responses of HRWG to the arguments of Kemenakertrans

	<b>General Responses</b>	<b>International Mandate</b>	<b>National Mandate</b>	<b>ASEAN Mandate</b>
R E S P O N S E S	Indonesia must be proactive in carrying out efforts to enhance the protection of its migrant workers;  A ‘passive strategy’ does not work as Indonesia cannot push other countries such as Malaysia if Indonesia has not done so.	The 71 <sup>st</sup> Meeting of the Committee on the Elimination of Racial Discrimination (CERD), 2007, states, “The Committee encourages the State party to envisage ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.”	Article 27 (2) of the 1945 Constitution (Amended) stipulates, “Every citizen shall have the right to work and to a living befitting human beings.”	ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers, signed on 13 January 2007 in Cebu, the Philippines.
	By 2010, 43 countries had ratified the CMW, and they never have issues and are being disadvantaged.	The 40 <sup>th</sup> Meeting of the Committee Against Torture (CAT) states, “The Committee is also concerned at reported cases of ill-treatment of migrant workers, especially women, reportedly abused by Indonesian recruiting companies, which often place them in situations that impair the enjoyment of their human rights while abroad, including debt bondage, forced labour and other ill-treatment, including sexual abuse.”  The CAT also pays attention to the Indonesian government to consider ratifying one of the major human rights agreements, namely the CMW.	Article 28D (2) of the 1945 Constitution (Amended) stipulates, “Every person shall have the right to live and to defend his/her life and living.”	In the last three years, the ASEAN Committee on Migrant Workers and Instrument Drafting Team have conducted a series of meetings. This process, however, faced a deadlock due to the refusal of Malaysia to recognise and protect the rights of undocumented (irregular) migrant workers.
	Bilateral MoUs with receiving countries are inadequate since there are no standards or protection principles in national policies.	The Committee of the Convention to Eliminate All Forms of Discrimination Against Women (CEDAW) states, “The Committee notes that States’ adherence to the seven major international human rights instruments enhances the enjoyment by women of their human rights and fundamental freedoms in all aspects of life. Therefore, the Committee encourages the Government of Indonesia to ratify the treaty to which it is not yet a party, namely, the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.”	Article 28G (1) of the 1945 Constitution (Amended) stipulates, “Every person shall have the right to protect him/herself, his/her family, honor, dignity and property under his/her control, and shall have the right to feel secure and be protected from the threat of fear to do, or not to do something which	Indonesia is expected to boost its diplomacy against the refusal of Malaysia on the issue of undocumented migrant workers. Not only because there are many Indonesian workers there who are undocumented, but it is also mandated in the CMW. Therefore, it is

			constitutes a human right.”	pertinent for Indonesia to ratify the CMW.
	The right to form a union is a universal human right, thus it should not worry the government. Further, it should not worry the foreign workers either since their number in Indonesia is relatively small.	The United Nations Special Rapporteur for the Rights of Migrant Workers, Mr. Jorge Bustamante, despite all the concerns of the Government of Indonesia, has requested the Government to ratify the CMW as it will improve migrant workers’ protection and prevent illegal practices and problems of migrant workers becoming public.	Article 28G (2) of the 1945 Constitution (Amended) stipulates, “Every person shall have the right to be free from torture or treatment degrading human dignity and shall have the right to obtain political asylum from another country.”	
	Article 15 of the CMW acknowledges the rights of foreign workers in Indonesia to own a property or properties. In the context of Indonesia, this worry can be responded by the Act No 5 year 1990 concerning Basic Regulations of Land Rights, which states that foreign nationals cannot own a property or properties in Indonesia.	Prior to competing for membership of the Human Rights Council in 2007, the Government of Indonesia made a voluntary commitment to the United Nations that it would continue the ratification efforts of the human rights international conventions as listed in the RANHAM 2004-2009. As the CMW has been made a priority in the RANHAM, thus the Government is responsible to meet its commitment.	Article 29 of the Act No 39 of 1999 stipulates, “Everyone has the right to protection of the individual, his family, opinion, honor, dignity, and rights.”	
			The Presidential Decree No 40 of 2004 on the RANHAM 2004-2009, which has listed the CMW as one of the priorities for international legal instrument ratification.	

Source: HRWG (2010: 9-27)

The rejection by Kemenakertrans did not only appear as a policy within the government. In 2008 the Ministry released a public campaign refusing the ratification. Tanjung observed

that the Kemenakertrans produced an advertisement, campaigning that it refused CMW ratification.<sup>54</sup> The Ministry even hired Professor Juwono Sudarsono, a prominent International Relations scholar of the University of Indonesia, to support its campaign.

The release of the advertisement deeply disappointed the policy entrepreneurs. Hutabarat stated that at that time she and other policy entrepreneurs were very disappointed with the Minister for Manpower and Transmigration who produced the advertisement.<sup>55</sup> They felt that the Ministry was uncooperative. Yet, the advertisement also triggered a more active response from civil society. Responding to this advertisement, Hutabarat and other NGOs' colleagues then started to cooperate with the Kemenlu. Hutabarat observed that at the beginning, cooperation was quite difficult. Yet she further believed that the situation changed in 2010 when the LBH and ARRAK 90 filed a citizen lawsuit suing the president, the DPR, the Kemenakertrans, and the Kemenlu. The lawsuit was eventually rejected by the court. Yet Hutabarat believes that it exposed the court, the public, and particularly the defendants, to the importance of ratification.<sup>56</sup>

#### **5.4.3 The normative principles in the proposal**

As presented in the Introduction, this thesis argues that policy entrepreneurs can achieve success to the extent that their policy proposal contains normative principles likely to be more accepted. The discussion below will demonstrate whether the ideas or proposal of the policy entrepreneurs contain normative principles.

The recognition of the CMW as a major human rights treaty has indeed demonstrated that it contains normative principles or values, namely human rights. Battistella (2009: 47)

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<sup>54</sup> Tanjung 2013, pers.comm., 11 October.

<sup>55</sup> Hutabarat 2013, pers.comm., 28 November.

<sup>56</sup> Hutabarat 2013, pers.comm., 28 November.

pointed out, “the [CMW] is one of the seven human rights instruments of the international community”. Therefore, the CMW has been acknowledged an integral part of human rights that all individuals, including migrant workers, shall enjoy. Further, as argued by Guchteneire and Pecoud (2009: 6), “By definition, human rights protect all individuals, regardless of their status. [...] In principle, migrants enjoy the protection of international human rights law”.

In the context of Indonesia, the inclusion of the CMW ratification agenda as one of the main priorities of RANHAM II (2004-2009) further emphasises the close linkages between the CMW and human rights.

Furthermore, based on the interviews with policy entrepreneurs, the research finds that generally they believe their idea or proposal calling on the government to ratify the CMW had normative principles or values. A policy entrepreneur member of the DPR pointed out that, in general, the CMW contains the principle of protection.<sup>57</sup>

The close proximity between general human rights widely supported across the Indonesian community and migrant workers’ protection is also emphasised by another policy entrepreneur. According to Yura of SP:

The normative principles are, among others, we observe that the government treats the migrant workers more as commodities and remittances targets. We do not want that paradigm. In Southeast Asia, those phenomena are called forced migration.

[For us] the main principle is protection. We want the country to treat the migrant workers as humans, just like any other Indonesian citizens whose rights shall be protected.<sup>58</sup>

Another value contained in the proposal for CMW ratification is the attachment of civil society to marginal groups such as migrant workers. Hutabarat argued that the proposal of

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<sup>57</sup> Anonymous 2013, pers.comm., 17 October.

<sup>58</sup> “Untuk nilai-nilai prinsipil, kita mengamati bahwa Pemerintah lebih melihat buruh migran sebagai komoditas dan target remitansi. Kita tidak ingin paradigma tersebut. Di Asia Tenggara, itu lebih kepada forced migration.

[Bagi kita] prinsip utamanya: perlindungan. Kita ingin negara melihat buruh migran sebagai manusia, sebagai warga negara yang memiliki hak-hak yang harus dilindungi” (Yura 2013, pers.comm., 19 September).

CMW ratification has a moral value that civil society is strongly supportive and attached to marginal groups.<sup>59</sup>

Indeed the attachment of civil society to the CMW was empirically strong, not only in Indonesia but internationally. As observed by Grange and D'Auchamp (2009: 70), "There was civil society involvement directly after the adoption of the Convention [at the UNGA in 1990], including that of some international NGOs, among which were faith-based and women's organisations".

Based on the above discussion, it is obvious that the call for CMW ratification from policy entrepreneurs came out of two types of strong proposal: first, as one of the agendas of RANHAM II and, second, through ARRAK 90. The inclusion into RANHAM II can be regarded as a strategic achievement as it consequently made CMW ratification an obligation of the government and the DPR. The challenge was when ratification would take place. Thus, when the ratification proposal was promoted through the alliance ARRAK 90, it created a further impetus and a sense of urgency for the government and the DPR.

The activism of policy entrepreneur members of ARRAK 90 was even more vigorous as they sued the DPR and the government in 2010. As described above, one of the driving factors of this lawsuit was the opposition campaign carried out by the government (Kemenakertrans) at that time that produced an advertisement rejecting the ratification. It suggests therefore that policy entrepreneurs were creative in pushing for their proposal, especially when they had to move against a powerful authority. As argued by Mintrom et al. (2014: 425), policy entrepreneurs "often face powerful forces working against them and they must be creative about working within binding constraints".

With regard to the content of the proposal, the policy entrepreneurs believe that the call for CMW ratification contained normative or moral values, particularly human rights values.

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<sup>59</sup> Hutabarat 2013, pers.comm., 28 November.



The involvement of human rights organisations as well as the inclusion of the CMW as a human rights treaty provides strong evidence that the ratification proposal contains normative or moral values. Accordingly, they conform the initial propositions of this thesis that, in order to be successful, the proposal put forward by policy entrepreneurs should contain normative principles or orient to values.

## **Conclusion**

There are a number of actors who have played a key role in Indonesia's ratification of the CMW. The actors, or policy entrepreneurs, came from both outside and inside government. Those from outside government are experts and/or activists in NGOs dealing with human rights and migrant workers' rights. Those inside government are the members of Commission IX of DPR and the officials of government (Kemenlu, in particular).

The research demonstrates that policy entrepreneurs have strong ideas or views on the importance of CMW ratification for Indonesia. Their views vary, from the belief that the CMW can provide comprehensive protection for migrant workers to the possibility of the Convention filling gaps in national laws.

The proposals from policy entrepreneurs were transmitted through two forms, RANHAM II and ARRAK 90. RANHAM is a governmental agenda carried out to raise Indonesia's human rights profile. ARRAK 90 is an alliance of CSOs established to push the government to take action faster. Furthermore, as the policy entrepreneurs faced opposing forces from the government (Kemenakertrans), they became even more active, shown by their decision to file a lawsuit against the government and the DPR.

Last but not least, one of the success factors of policy entrepreneurs was that their proposals contain normative principles or values. In this context, the proposals are strongly

attached to human rights values. Although this factor is not the only or a major success factor, it must have contributed to this significant policy shift.

Chapter 6 will examine other activism of the policy entrepreneurs that has contributed to the policy shift. These factors are, among others, the work, resources, motivations, and success factors involved in influencing the shift.

## **Chapter 6**

# **Assessing the Success of Policy Entrepreneurs: Examining the Work, Resources, Motivations and Success Factors of the Policy Entrepreneurs**

This chapter will examine the work, resources, motivations, and success factors of the policy entrepreneurs identified in Chapter 5 in promoting the ratification policy. Examining all of these is important for the purpose of answering the questions raised in this thesis, especially on how and why the policy entrepreneurs succeeded in their endeavours.

This chapter is divided into four sections. The first and second sections investigate the work done and the resources used by policy entrepreneurs in reaching their goals. The findings in these two sections will answer one of the primary questions of this thesis: what attempts have policy entrepreneurs made to ensure that their policy proposals are adopted? The third section examines the motivations of policy entrepreneurs in carrying out their activism, and the fourth section examines the success factors of their policy entrepreneurship. The findings in these last two sections will answer one of the main questions of this thesis as stated in the Introduction, particularly on why policy entrepreneurs are successful in promoting their ideas.

### **6.1 The Work of Policy Entrepreneurs**

The work of policy entrepreneurs in urging the government and DPR to ratify the CMW was varied. As discussed in Chapters 2 and 3, policy entrepreneurs had worked since the 2002

Nunukan humanitarian crisis, which eventually forced the Megawati government to enact Law No. 39 as well as sign the CMW, both in 2004. Nonetheless, policy entrepreneurs were not satisfied with Law No. 39 of 2004 as they considered it weak in terms of actual protection. Thus, they urged the government and the DPR to ratify the CMW. The early work, however, was carried out individually by each policy entrepreneur or civil society group. It was only from 2009 that they worked together through an alliance called ARRAK 90 that eventually gave more of a push to the call for CMW ratification. Based on this, in essence the work of the policy entrepreneurs can be divided into two categories: that done pre-ARRAK 90 and the work of ARRAK 90.

### **6.1.1 Pre-ARRAK 90 – Policy Entrepreneurs Worked as a Loose Coalition**

The work of policy entrepreneurs before the establishment of ARRAK 90 consisted of their activism between 2003 and 2009. The work itself, if compared to the work after the establishment of ARRAK 90, was basically similar. The main difference was that if after the establishment of ARRAK 90 the work were better organised, the work done prior to that was unorganised. According to Tanjung of HRWG (Human Rights Working Group):

The work before ARRAK 90 was in actual fact quite similar [to the alliance], they were merely rather unorganised. There were actually many organisations (civil society organisations – CSOs) with a similar goal [of ratification] but they did not have the same ‘rhythms’. In general their activities were similar.<sup>60</sup>

One example of the work of policy entrepreneurs prior to ARRAK 90 was the translation of the CMW from English into the Indonesian language. According to Yura, Solidaritas Perempuan was the first NGO to translate the CMW.<sup>61</sup> Yet, the decision to produce an official translation emerged only in late 2010 when the Kementerian Luar Negeri (Kemenlu – Ministry

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<sup>60</sup> “Yang dilakukan sebelum ARRAK sebetulnya sama saja, hanya tidak terorganised dengan rapih. Hal ini dikarenakan banyak lembaga yang punya tujuan yang sama tapi ‘langgam’-nya tidak seirama. Aktivasnya secara umum sama” (Tanjung 2013, pers.comm., 11 October)

<sup>61</sup> Yura 2013, pers.comm., 19 September.

of Foreign Affairs), after many consultations with the CSOs, took the lead in the ratification process.<sup>62</sup> Accordingly, the official translation did not come out until after ARRAK 90 was established.

Policy entrepreneurs prior to ARRAK 90 had indeed carried a good deal of preparatory lobbying work. Besides translating the text of the CMW, they produced legal drafts, academic papers, and other support material. Yet CMW ratification was not achieved prior to the establishment of ARRAK 90 in 2009.

There could be various reasons for the failure of policy entrepreneurs prior to ARRAK 90. One could be the political environment at the time in comparison with the early 2010s. As stated by Susilo:

As a matter of fact, at that time the migrant labour activists had already produced and conveyed legal drafting, academic materials and so forth. Yet at that time the legislative process (in the DPR) was not as transparent as it is now.<sup>63</sup>

It can be argued, on the one hand, that the failure to achieve ratification was due to external causes. On the other hand, there could be internal factors that also caused the failure. One reason could be that the preference of each policy entrepreneur or civil society organisation was to work individually rather than in an alliance. According to Yura:

From the perspective of policy entrepreneurs, sometimes there were inter-institutional competitiveness, they wanted to exist, and so forth. It was also because of donor funding et cetera. The voice of policy entrepreneurs could only be unified when ARRAK emerged.<sup>64</sup>

Other reasons for the failure of policy entrepreneurs pre-ARRAK 90 were the lack of focus and inadequate contacts with members of DPR. Yura states, “A number of civil society

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<sup>62</sup> Tanjung 2013, pers.comm., 11 October.

<sup>63</sup> “*Sebenarnya para aktivis buruh sudah memberikan legal drafting, naskah akademik, dan lain-lain. Namun pada saat itu proses legislasi belum sebanding sekarang*” (Susilo 2013, pers.comm., 18 July).

<sup>64</sup> “*Kalau dari sisi policy entrepreneurs, kadang-kadang ada ego antar institusi, ingin eksis, dan lain-lain, menyangkut donor dan seterusnya. Suara para policy entrepreneurs baru menyatu ketika ada ARRAK*” (Yura 2013, pers.comm., 19 September).

organisations lacked the focus [in campaigning for CMW ratification]”.<sup>65</sup> Another factor was the inadequate contact [between the policy entrepreneurs] with the members of DPR.

With regard to external factors, to some extent, government officials contributed to the failure of policy entrepreneurs. As an example, the change of relevant officials at the Kemenlu (Ministry of Foreign Affairs) was believed to have contributed to the shift in foreign policy. In the words of Tanjung:

At the Kemenlu, prior to when Mr. Anshor [the then Director of Human Rights] took up his directorial position, the position of Kemenlu was still similar to the position of Kemenakertrans. The official at the Sub-Directorate of Economy [of the Directorate of Human Rights, Ministry of Foreign Affairs] at that time refused the ratification. Thus, the structural changes in governmental ministries also influenced the ratification policy.<sup>66</sup>

Somantri of Kemenlu confirmed this statement. He revealed that an important official at the Kemenlu, the then Director of Protection of Indonesian Citizens and Legal Institutions Overseas, rejected the ratification policy.<sup>67</sup> According to Somantri:

Sometimes there were views that Indonesia did not need ratification because even the migrant-receiving countries had not ratified. This view even came out from the then Director of Protection of Indonesian Citizens and Legal Institutions Overseas. Yet we explained to those who rejected the proposal that ratification would be Indonesia’s bargaining chip in demanding other countries to follow suit.<sup>68</sup>

A policy entrepreneur from an NGO also confirmed the above statement that the shifting of views in the government played a crucial role in the ratification policy. In that regard, she believed that one of the failure factors in the pre-ARRAK 90 period was the government’s

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<sup>65</sup> “Sejumlah organisasi kurang fokus. Kekurangan lainnya adalah minimnya komunikasi dengan pihak DPR” (Yura 2013, pers.comm., 19 September).

<sup>66</sup> “Di Kementerian Luar Negeri, sebelum Pak Anshor, posisi mereka sama dengan Kementerian Tenaga Kerja dan Transmigrasi. Pejabat di Sub-Direktorat Ekonomi Direktorat HAM saat itu menolak ratifikasi. Jadi, perubahan struktur di kementerian juga memengaruhi [kebijakan ratifikasi]” (Tanjung 2013, pers.comm., 11 October)

<sup>67</sup> Somantri 2013, pers.comm., 28 October.

<sup>68</sup> “Kadang juga ada pandangan bahwa tidak perlu ratifikasi karena toh negara-negara penerima tidak meratifikasi. Pandangan ini salah satunya berasal dari Direktur Perlindungan Warga Negara Indonesia dan Badan Hukum Indonesia. Namun kemudian dijelaskan bahwa ratifikasi ini adalah ‘bargaining chip’ RI untuk mendorong negara lain meratifikasi” (Somantri 2013, pers.comm., 28 October).

tough stance. Hutabarat states, “The main problem that caused Indonesia to not ratify at that time was because of the government. The bureaucratic process was incredibly complex”.<sup>69</sup>

### **6.1.2 The Work of ARRAK 90 – Towards a More Coordinated Coalition**

The work of policy entrepreneurs from NGOs became more organised and better coordinated after the establishment of ARRAK 90 in 2009. Despite its informality as a movement, the alliance introduced a division of labour. As observed by Tanjung, soon after the establishment of ARRAK 90, the alliance developed a strategic plan, action plans, a policy of quick response, and a distribution of lobbying tasks.<sup>70</sup>

The policy entrepreneurship work of ARRAK 90 can generally be divided into three types of activities: substantive advocacy, demonstrative campaigns, and lobbying. On substantive advocacy work, some of the policy entrepreneurs or civil society organisations (CSOs) that were part of ARRAK 90 produced position papers, which chiefly argued the importance of CMW ratification. For example, according to Tanjung, his organisation, HRWG, produced a working paper on the necessity for Indonesia to ratify the CMW titled *Ratifikasi! Konvensi Perlindungan Hak Semua Buruh Migran dan Anggota Keluarga: Belajar dari Meksiko* (Ratify! The Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families: Learning from Mexico).<sup>71</sup> Tanjung further stated that the paper was then brought to several institutions, particularly to the relevant government stakeholders and news media.

The paper itself was comprehensive. It covered, among other things, the problems faced by Indonesian migrant workers, the urgency for CMW ratification, and laid out the arguments

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<sup>69</sup> “Masalah utama [mengapa Indonesia ratifikasi belum meratifikasi] ada di pemerintah. Proses di dalam birokrasi yang sangat alot” (Hutabarat 2013, pers.comm., 24 November).

<sup>70</sup> Tanjung 2013, pers.comm., 11 October.

<sup>71</sup> Tanjung 2013, pers.comm., 11 October.

on the necessity for Indonesia to ratify the CMW. The paper also provided a case study for the purpose of providing stronger arguments. Using Mexico as a role-model example of both a receiving and sending country that ratified the CMW in 1999, the paper argued that Mexico not only considered migrant workers important in terms of economic benefit, but the country also provided more protection for its own migrant workers (HRWG 2010: 34).

Other substantive activities of ARRAK 90 included holding press conferences and sending press statements to news media.<sup>72</sup> When organising press conferences or releasing press statements, ARRAK 90 usually chose significant moments, for example, the release of a press statement in conjunction with International Migrant Day, 18 December, in 2010. On that day, ARRAK 90 issued a press release entitled *Indonesia Masuk dalam Sistem Perbudakan Global (Indonesia Enters the Global Slavery System)*. In that article, ARRAK 90 urged and demanded the government and DPR to take concrete measures to eliminate the slavery of migrant workers by ratifying the CMW (*BatamToday* 2010).

Some of the policy entrepreneur members of ARRAK 90 also produced popular writings to influence public opinion. Pudjiati of Peduli Buruh Migran (PBM – Caring for Migrant Workers), for example, wrote an article titled ‘*Bersama Kita Desak Ratifikasi Konvensi Migran Tahun 1990*’ (Together We Urge for the Ratification of the 1990 Migrant Convention) arguing that the government was being inconsistent (Pudjiati 2010). Pudjiati wrote:

The Government of Indonesia has signed the 1990 Convention on the Protection of Migrant Workers and Members of Their Families in 2004, yet until now there has been no follow up. In fact, the government, with various illogical excuses, gives the impression that it is not serious about immediately ratifying the Convention.<sup>73</sup>

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<sup>72</sup> Yura 2013, pers.comm., 19 September.

<sup>73</sup> “Pemerintah Indonesia telah menandatangani Konvensi Migran tahun 1990 tentang Perlindungan Hak-Hak Buruh Migran dan Keluarganya pada tahun 2004, namun hingga kini tidak ada tindak lanjutnya bahkan terkesan tidak serius untuk segera meratifikasi dengan berbagai alasan yang tidak masuk akal” (Pudjiati 2010).



Pudjiati argued that ARRAK 90 always made efforts to persuade the government and the DPR to ratify the CMW in a peaceful and professional manner.<sup>74</sup> She further argued that ARRAK 90 believed campaigning through debate was better than popular protest or civil disobedience. In that regard, according to Pudjiati, ARRAK 90 was always known for its non-violent actions.<sup>75</sup>

ARRAK 90 also collaborated with a foreign institution namely the Diplomacy Training Program, an institution affiliated with the University of New South Wales (UNSW) in Australia, as stated by Yura.<sup>76</sup> This is confirmed by a 2014 report of a program affiliated with the UNSW. Through the Diplomacy Training Program (DTP), organised by the Faculty of Law of the UNSW and a regional NGO called Migrant Forum Asia, ARRAK 90 is one of the alumni alliance groups that received support such as capacity building training and the relevant training materials (Diplomacy Training Program 2014: 29). The DTP, however, did not claim it was its program that brought Indonesia to ratify the CMW. It argued only that its alumni contributed to the ratification. As written in the report, “Two countries in the region, Indonesia and Bangladesh (locations of DTP courses), have ratified the 1990 Convention and DTP alumni were involved in leading the ratification campaigns in both countries” (Diplomacy Training Program 2014: 6).

With regard to demonstrative campaigns, ARRAK 90 carried out a number of campaigns through demonstrations. Yura observes that ARRAK 90 held demonstrations on the premises of DPR and other relevant ministries.<sup>77</sup> The demonstrations by ARRAK 90 were not, however, carried out without careful planning as most were organised in conjunction with particular dates

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<sup>74</sup> Pudjiati 2013, pers.comm., 5 December.

<sup>75</sup> Pudjiati 2013, pers.comm., 5 December.

<sup>76</sup> Yura 2013, pers.comm., 19 September.

<sup>77</sup> Yura 2013, pers.comm., 19 September.

celebrated in Indonesia or internationally. According to Tanjung, ARRAK 90 organised demonstrations in conjunction with public events.<sup>78</sup>

One example of demonstrative action by ARRAK 90 was organised in conjunction with the celebration of ‘*Hari Kartini*’ (Kartini Day) that falls every 21 April, which celebrates the date of birth of Raden Ajeng Kartini, an early women’s rights activist in Indonesia and whose name, as argued by Cote (2008: 1), has “travelled beyond Indonesia and holds a celebrated place in the history of international feminism”. With a report titled *Hari Kartini, Demonstran Geruduk Bundaran HI (The Day of Kartini, Demonstrators Attacked the Hotel Indonesia Square)*, *Okezone* reported:

Dozens of demonstrators from the Alliance to Ratify the Convention on Migrant Workers (ARRAK 90) held a demonstration at the Hotel Indonesia Square to commemorate Kartini Day.

“From all Indonesian migrant workers, 76 percent of them are women who experience abuse and exploitation,” said the coordinator, Lily Pudjiati, in her oration.

“We also demand public accesses in getting information concerning migrant workers. Besides that, the government should also involve civil society and migrant workers in public policy review processes on migrant workers.”

The demonstrators from ARRAK 90 also displayed a huge banner stating ‘Protect Indonesian migrant workers with the Migrant Convention’. A number of police officers were on hand during this peaceful action.<sup>79</sup>

Another type of demonstration frequently carried out by ARRAK 90 was in conjunction with International Migrant Day, which falls every 18 December. For example, on 18 December 2010, ARRAK 90 organised another demonstration in front of the State Palace. Together with

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<sup>78</sup> Tanjung 2013, pers.comm., 11 October.

<sup>79</sup> “Puluhan demonstran dari LSM Aliansi Rakyat untuk Ratifikasi Konvensi Migran (ARRAK 90) menggelar unjuk rasa di Bundaran Hotel Indonesia untuk memperingati Hari Kartini.

‘Dari seluruh buruh migran, terdapat 76 persen perempuan yang mengalami penindasan dan eksploitasi,’ ujar Koordinator LSM ARRAK 90 Lily Pudjiati, dalam orasinya, Rabu (21/4/2010).

‘Kami juga meminta ada akses bagi masyarakat dalam memperoleh informasi dalam hal buruh migran. Selain itu, pemerintah juga harus melibatkan masyarakat sipil dan buruh migran dalam proses pengkajian kebijakan terkait buruh migran,’ tukasnya.

Massa ARRAK 90 juga membentangkan spanduk bertuliskan ‘Lindungi TKI dengan Konvensi Migran’. Sejumlah aparat nampak bersiaga mengawal aksi tertib ini” (*Okezone* 2010).

other alliances such as Front Perjuangan Rakyat (FPR - People's Struggle Front) and Komite Aksi PRT (the Action Committee for Domestic Workers), ARRAK 90 held a demonstration and a long march from Hotel Indonesia Square to the State Palace. In that demonstration, media reported that Tanjung, on behalf of ARRAK 90, gave a speech arguing that as one of the major labour-sending countries Indonesia still did not have a legal policy protecting the human rights of workers (*Media Indonesia* 2010).

Besides making speeches, ARRAK 90 also often made theatrical gestures during demonstrations. At the demonstration on 18 December 2010, for example, a photo published by the *Media Indonesia* daily (2010) shows several activists from Serikat Buruh Migran (the Federation of Migrant Workers, one of the civil society organisations member of ARRAK 90) locked in chains and carrying a heavy model of the Earth. Below the photo, *Media Indonesia* wrote:

Eliminate Slavery: Activists from Serikat Buruh Migran carried out theatrical actions when commemorating International Migrant Day 2010 in Jakarta yesterday. They demanded the government and DPR take concrete action in eliminating the slavery of domestic workers.<sup>80</sup>

Concerning theatrical actions<sup>81</sup>, members of ARRAK 90 confirmed that this was an important element in their campaign strategies. Some of the policy entrepreneurs even believed that these theatrical actions contributed to Indonesia's decision to ratify the CMW. Hutabarat, for example, argued that one of the interesting things about the CMW ratification campaign was the informal political process, such as theatrical dramas produced by ARRAK 90 in the court.<sup>82</sup> She stated that it was true that the legal complaints were rejected, but she believed that

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<sup>80</sup> "Hapuskan Perbudakan: Aktivis yang tergabung dalam Serikat Buruh Migran melakukan aksi teatrikal saat memperingati Hari Buruh Migran Internasional 2010 di Jakarta, kemarin. Mereka menuntut pemerintah dan DPR segera mengambil langkah nyata menghapuskan perbudakan pembantu rumah tangga" (*Media Indonesia* 2010).

<sup>81</sup> On the role of theatrical actions or performance in Indonesian politics, see Heryanto (2010). Writing in the context of how entertainment influences elections in Indonesia, Heryanto argues, "Recent studies on elections and popular culture in Indonesia have highlighted the role of performers in party politics and the growing interest of professional politicians in singing or dancing in public" (2010: 191).

<sup>82</sup> Hutabarat 2013, pers.comm., 28 November.

ARRAK 90 made the courts, the public, and particularly the defendants far more aware on the issues. She even believed that informal political process such as the theatrical dramas contributed to the ratification. As she claimed, “It is proven, after those activities [theatrical actions], the CMW was finally ratified”.<sup>83</sup>

Besides the substantive advocacy and demonstrative aspects of their work, ARRAK 90 was also involved in lobbying. Most of the policy entrepreneurs from the alliance who were interviewed confirm that the alliance actively lobbied the government and the DPR.<sup>84</sup>

ARRAK 90 prioritised lobbying the government ahead of the DPR. The reason was because it was the government, more particularly the Kemenakertrans, who opposed the CMW ratification proposal. Tanjung stated that ARRAK 90 first brought its position paper to the Kemenakertrans, Kemenlu and Wantimpres [Dewan Pertimbangan Presiden – Advisory Council for the President].<sup>85</sup> He further stated that in the beginning the proposal was not warmly welcomed. Yet, because the ‘front institution’ [*ujung tombak*] was Kemenlu, ARRAK 90 actively held meetings with members of its staff, particularly its Director of Human Rights. The Kemenlu later produced an official translation of the CMW and this translation was disseminated to other ministries.<sup>86</sup> In the words of Somantri of Kemenlu:

We tried by translating the CMW texts into formal Indonesian. At a meeting on 15 April 2011, we invited language experts from the Centre of Language so that the Kemenakertrans would not feel they were being lectured at. One example was on an article concerning ‘property’. In the translation by Kemenakertrans, it reads as allowing foreign workers in Indonesia to have property such as a house and land. Whereas when it was translated correctly, it should read as we [the destination country] are not allowed to be arbitrary in taking the property rights of others.<sup>87</sup>

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<sup>83</sup> “*Terbukti, setelah berbagai kegiatan tersebut [drama teatrikal], akhirnya Konvensi diratifikasi*” (Hutabarat 2013, pers.comm., 28 November).

<sup>84</sup> Personal communications with Yura 2013, 19 September; Tanjung 2013, 11 October; Hadi 2013, 13 November; Hutabarat 2013, 28 November; and Pudjiati 2013, 5 December.

<sup>85</sup> Tanjung 2013, pers.comm., 11 October.

<sup>86</sup> Tanjung 2013, pers.comm., 11 October.

<sup>87</sup> “*Kita coba dengan terjemahkan dulu Konvensi ini dengan Bahasa Indonesia yang baik dan benar. Pada Rapat pertama, 15 April 2011, kita undang ahli bahasa dari Pusat Bahasa, tujuannya agar Kemenakertrans tidak merasa digurui. Sebagai contoh, pasal mengenai properti. Dalam terjemahan Kemenakertrans, mereka boleh*

The role of the Kemenlu officials and their work in supporting ARRAK 90 was indeed significant. Yura also held similar views that officials of the Kemenlu provided a lot of assistance.<sup>88</sup>

Nonetheless, even though the collaboration between ARRAK 90 and the Kemenlu was quite intensive, it did not imply the alliance did not need to actively lobby the Kemenakertrans. The Ministry was also being lobbied intensively by members of ARRAK 90, particularly when opportunities for influence were opened. Pudjiati revealed:

I often went to the Kemenakertrans [for various migrant worker issues]. [When I met the Minister], I conveyed the message to him on the necessity for Indonesia to ratify the CMW. We [ARRAK 90] often carried out personal lobbying as well as personal visits.<sup>89</sup>

Tanjung stated that after ARRAK 90 received the green light from the government, they then lobbied the DPR.<sup>90</sup> They also organised a number of public discussions on DPR premises. The lobbying of the DPR itself was intensive. Yura observed that ARRAK 90 lobbied the DPR many times, both by paying visits or carrying out campaigns.<sup>91</sup> They organised public discussions, inviting migrant workers, NGOs, the Kemenlu, members of the DPR, and the National Commission for Human Rights, though the primary target was DPR members. The DPR members targeted were, in general, those who belonged to Commission IX, a sub-structure at the DPR overseeing issues such as migrant labour. They were, *inter alia*, Rieke Dyah Pitaloka, Nova Riyanti Yusuf, and Okky Asokwati.

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*memiliki properti. Yang mereka maksudkan: rumah, tanah. Padahal setelah diterjemahkan dengan benar, artinya adalah kita tidak boleh sewenang-wenang mengambil hak miliknya*" (Somantri 2013, pers.comm., 28 October).

<sup>88</sup> Yura 2013, pers.comm., 19 September.

<sup>89</sup> "Kalau saya sering ke Kemenakertrans. [Jika saya bertemu Menakertrans], saya memberikan pesan kepada Pak Menteri untuk segera meratifikasi. Kami sering melakukan lobi pribadi, juga audiensi pribadi" (Pudjiati 2013, pers.comm., 5 December).

<sup>90</sup> Tanjung 2013, pers.comm., 11 October.

<sup>91</sup> Yura 2013, pers.comm., 19 September.

Besides lobbying the government and the DPR, ARRAK 90 also lobbied the news media.<sup>92</sup> The alliance regarded this as one of its obligations in disseminating the call for CMW ratification. In the words of Pudjiati:

We also visited the media such as *Kompas*, *Metro TV*, and *Tempo*. There was a kind of obligation for the members of ARRAK 90 that wherever we had chances to talk, we should insert the message on the importance of CMW ratification.<sup>93</sup>

In summary, the work of the policy entrepreneurs can be seen to fall into two distinct periods: pre-ARRAK 90 (2003-2009) and ARRAK 90 (2009-2012). In essence the forms of campaigns were similar but became much more intensified after the policy entrepreneurs established the alliance.

The work carried out pre-ARRAK 90 was deemed to be relatively unsuccessful due to both external and internal factors. Of the external factors, there was the political environment at that time and resistance from the bureaucracy. Of the internal factors, the policy entrepreneurs from NGOs unanimously believe that it was their method of working individually rather than in alliance that led to their lack of success.

Indeed, the work of policy entrepreneurs transformed significantly when ARRAK 90 was established in 2009. Through this alliance, they carried out at least three types of activities: substantive advocacy, demonstrative campaigns, and lobbying. On the substantive activities, they produced position papers, generated publications, and sold their ideas through the media. This is in line with the arguments of scholars that policy entrepreneurs stress the importance of creating a body of evidence to present a compelling case for policy change and subsequently employ a range of dissemination mechanisms (see, for instance, Mintrom et al. 2014: 430, Roberts and King 1991: 160). These campaigns had certainly given further influence toward

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<sup>92</sup> Pudjiati 2013, pers.comm., 5 December.

<sup>93</sup> “*Kami juga datang ke media-media seperti Kompas, Metro TV, Tempo, radio. Ada semacam kewajiban bagi anggota ARRAK bahwa dimanapun mereka bicara, mereka harus menyisipkan pesan mengenai pentingnya ratifikasi*” (Pudjiati 2013, pers.comm., 5 December).

the relevant decision makers. At the very least, through a compelling body of evidence, the campaigns gave the decision makers more awareness on the importance of ratification.

Concerning demonstrative activities, ARRAK 90 carried out a series of campaigns. The campaigns were carefully planned as many, if not all, of them were organised in conjunction with public events, such as Kartini Day and International Migrant Day. These kinds of demonstrative activity were certainly organised for the purpose of getting the attention of the general public and government and keeping the momentum of those events. This is in line with what has been argued by Roberts and King (1991: 161), “A growing list of activities and an increasing number of supporters and interested parties made it imperative to keep the attention focussed and keep the momentum going.”

ARRAK 90 lobbied all the relevant institutions, such as the government, the DPR, and even the advisory body to Indonesian president, Wantimpres (Advisory Council to the President). One may question whether the latter institution was worth lobbying as it could not make any binding decisions only offer recommendations. It can be argued, however, that the body had the power to influence the president as well as the relevant ministers on the importance of ratification. Furthermore, the decision of ARRAK 90 to lobby Wantimpres can also be seen as part of the alliance’s strategy to achieve greater diversity among supporters. As argued by Mintrom et al (2014: 435), in order to win a policy change, policy entrepreneurs “must create strong coalitions of diverse supporters”. The lobbying activities of the policy entrepreneurs also used the moments, borrowing a term coined by Kingdon (2003: 166), when the ‘policy windows’ were open. For example, one policy entrepreneur sometimes used opportunities to discuss the CMW ratification proposal with the Minister for Manpower and Transmigration, one of the most authoritative persons in making decisions on this matter, whenever she met the minister.

## 6.2 The Resources

Scholars (see, for instance, Roberts and King 1991; Kingdon 2003, Mintrom et al. 2014) have generally argued that policy entrepreneurs have to spend resources in order to achieve their goals. In the context of Indonesia's foreign policy to ratify the CMW, most of the policy entrepreneurs interviewed in this research confirm that they spent or made full use of their resources in promoting their call for CMW ratification.<sup>94</sup> From these interviews, the resources spent can be divided into two categories: financial as well as ideas and skills.

### 6.2.1 Financial Resources

Financial resources, or simply money, are the most tangible resources spent by the policy entrepreneurs in supporting their activities, such as conducting research, organising seminars, and lobbying. Yusuf of DPR (Dewan Perwakilan Rakyat - House of Representative) stated that the main resource commitment she made was money.<sup>95</sup> Yusuf, however, did not elaborate on how she spent money for the purposes of CMW ratification.

Other policy entrepreneurs also confirmed that there were financial resources spent that were channelled through their organisations. Yura of Solidaritas Perempuan (SP), for example, stated that her organisation spent a lot.<sup>96</sup> She further stated that the reason for this spending was because SP focused on ratification.

Policy entrepreneurs did everything they could to generate resources including financial ones. According to Pudjiati:

We certainly did anything we could. We also collected money, allocated time and other activities so that the Convention could be ratified. Our movement is pure, from our hearts.

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<sup>94</sup> Personal communications with Yusuf 2013, 18 September; Yura 2013, 19 September; Tanjung 2013, 11 October; Anonymous 2013, 17 October; Hadi 2013, 13 November; Hutabarat 2013, 28 November; and Pudjiati 2013, 5 December.

<sup>95</sup> Yusuf 2013, pers.comm., 18 September.

<sup>96</sup> Yura 2013, pers.comm., 19 September.



Almost all members were willing to struggle to make it happen. We fought like this for years on end.<sup>97</sup>

NGOs and the policy entrepreneurs used their financial resources in support of campaign actions and other relevant needs. According to Tanjung of HRWG (Human Rights Working Group), his organisation and others in ARRAK 90 collected and used money for demonstrative actions and other activities.<sup>98</sup> Interestingly, they never asked for financial support from any third party institutions. In the words of Tanjung, “One uniqueness of ARRAK 90, we never sent any funding proposal to sponsors”.<sup>99</sup> They were keen to uphold their own integrity and not be beholden to anyone.

### 6.2.2 Ideas and Skills

Ideas are the non-tangible resources most frequently expended by policy entrepreneurs writing or speaking on the issues concerned. Yusuf stated that she wrote popular articles, such as through her weekly columns in *Koran Sindo*.<sup>100</sup> Similarly, another DPR member stated that whenever she was interviewed, she always tried to make comments critical of the government, including on the necessity to ratify the Convention.<sup>101</sup> She believed that the more DPR members who spoke through the media, the more they would bring about a policy change. She argued that the parliament should always push the government. Furthermore, she also sometimes spoke in front of prospective Indonesian migrant workers when asked by Kemenakertrans (Ministry of Manpower and Transmigration).

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<sup>97</sup> “Kita memang mengupayakan segala cara. Kita juga mengumpulkan uang, menyisihkan waktu dan lain-lain agar Konvensi tersebut dapat gol [diratifikasi]. Gerakan kita semuanya bersifat murni, dari hati nurani. Hampir semua anggota mau berjuang supaya itu [terwujud]. Dan hal ini diperjuangkan bertahun-tahun” (Pudjiati 2013, pers.comm., 5 December).

<sup>98</sup> Tanjung 2013, pers.comm., 11/10/2013.

<sup>99</sup> “Uniknya untuk ARRAK, tidak ada proposal kepada sponsor” (Tanjung 2013, pers.comm., 11/10/2013).

<sup>100</sup> Yusuf 2013, pers.comm., 18 September.

<sup>101</sup> Anonymous 2013, pers.comm., 17 October.

Using their ideas, policy entrepreneurs conveyed their views to the public, particularly through the mass media. Whenever they had chances to talk before the media, they used these opportunities to bring up their preferred policy. A DPR member, for example, used such an opportunity when she attended a regional event.<sup>102</sup> Thus, her message was not only intended for the government of Indonesia but also of the governments of the Southeast Asian region more generally. According to this DPR member:

When we attended a conference in Brunei Darussalam (AIPA – ASEAN InterParliamentary Assembly, in early 2010s), I was interviewed by a local newspaper *The Brunei Times*. I then stated to the media that it was necessary for labour-destination countries to ratify the CMW. The reason is, if the ASEAN Economic Community would be implemented in 2015, it would be strange if those countries had not done so.<sup>103</sup>

Another form of resource spent by the policy entrepreneurs was their skills, such as producing campaigns through social media. Some of the policy entrepreneurs even broadcast the demonstrative actions through live streaming and, later, the events were uploaded to the popular You Tube channel. Hadi stated they made full use of their intellectual resources.<sup>104</sup> Among other things, they created social media and organised live streaming broadcasts of various events that would later be uploaded to You Tube. They believed that campaigning through social media can reach both the decision makers and the migrant workers themselves. Hadi claimed the broadcast and the recorded videos had been watched by thousands of Indonesian migrant workers.

In summary, in order to achieve their goals, policy entrepreneurs expended a diverse range of resources, partly financial as well as their ideas and skills. On financial resources, or simply money, the policy entrepreneurs drew either from their own or their organisations'

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<sup>102</sup> Anonymous 2013, pers.comm., 17 October.

<sup>103</sup> “Ketika kami lakukan konferensi di Brunei (AIPA: ASEAN InterParliamentary Assembly), saya diwawancarai oleh koran *The Brunei Times*. Saya katakan negara-negara penerima pekerja migran perlu meratifikasi Konvensi. Karena ketika ASEAN Community diberlakukan pada tahun 2015, sangat aneh jika Konvensi tersebut belum diratifikasi oleh Komunitas ASEAN” (Anonymous 2013, pers.comm., 17 October).

<sup>104</sup> Hadi 2013, pers.comm., 13 November.

budgets. Interestingly, in the case of ARRAK 90, most of its activities did not depend on outside sponsorship.

The policy entrepreneurs made full use of ideas and skills in whatever opportunities they had. They used their ideas to write and speak to the media, including foreign media. They also used their skills to produce multimedia content that promoted their campaign activities. Of this kind of resources, one may relate to what Mintrom et al (2014: 436) argue that policy entrepreneurs apply their skills as communicators to great effect.

Additionally, the resources spent by the policy entrepreneurs as discussed above are in line to what has been defined by Kingdon. He argues, “[Policy entrepreneurs] are advocates who are willing to invest their resources – time, energy, reputation, money – to promote a position for anticipated future gain” (Kingdon 2003: 179). This anticipated future gain, and the motivations of policy entrepreneurs, will be discussed in the following section.

### **6.3 The Motivational Success**

This section examines the motivations and persistence that drove the policy entrepreneurs in pursuing their goals. Based on interviews, the motivations that brought policy entrepreneurs to call for CMW ratification were, among others, their concerns about the problems faced by women and marginal groups. These motivations emerged due to personal concerns or particular events such as Indonesian women migrant workers facing death penalties. In the words of Yura:

At first I was interested with the women issue and later studied about the women trafficking. From there I learned about the CMW. I used to work as a journalist, then I learned about the CMW, through SP. At that time I wrote a lot about migrant workers issue. Then I realised just writing was not enough. I finally joined an NGO.

My purpose at that time was more for migrant workers. At Solidaritas Perempuan (SP), I felt useful, and realised that it had been focusing on the ratification. At SP, I often meet migrant workers. I have become more exposed to the cases of women migrant workers, including the death penalty of Rosita, an Indonesian woman migrant worker

in the United Arab Emirates. That case was my departure moment to be totally focussed on the issue of migrant workers.<sup>105</sup>

A DPR member revealed that because her main concern was migrant women, she paid attention fully to the issue of women's empowerment, as most overseas Indonesian migrant workers were women.<sup>106</sup> One policy entrepreneur argued that it was due to idealism that people were on the side of marginal groups. According to Hutabarat, "It is the idealism. There should be people who take sides with the poor. There should be empowerment so that the women migrant workers can be self-sufficient".<sup>107</sup>

Another motivation for policy entrepreneurs in fighting for their cause was their own unfortunate experience as migrant workers themselves. Pudjiati revealed her motivation was her personal experience subjected to inhumane treatment in the placement country and that she had not received any protection from her own country.<sup>108</sup> Such bad experiences caused her to work to her utmost ability (*mati-matian*) in ARRAK 90. Pudjiati shared her sad story:

In 2000 I went to Taiwan. Prior to my departure, we were accommodated in a PPKTIS (*Pelaksana Penempatan TKI Swasta* – a Private Company for the Placement of Indonesian Migrant Workers) for six months. I was once asked to be naked so that they could check whether I was handicapped or not. Later, our health was checked. In the accommodation, we were not allowed to communicate with others outside.

At the times, we did not know how to be migrant workers safely. I was brought by a middleman. All documents had been prepared. My name and address were fraudulent. I was flown to Taiwan.

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<sup>105</sup> "Saya awalnya tertarik dengan isu perempuan. Namun ada saran agar saya juga mempelajari isu trafficking. Dari situ saya mulai tertarik. Dulu saya juga wartawan, kemudian saya belajar mengenai Konvensi 90, lewat SP. Saat itu saya banyak membuat tulisan tentang isu ini. Sampai titik tertentu, saya cuma hanya bisa menulis. Akhirnya saya kemudian putuskan pindah ke NGO.

Tujuan saya waktu itu lebih untuk kerja kepada buruh migran. Ke SP, match, dan tahu kalau mereka sedang fokus dengan ratifikasi. Kemudian, di SP, saya sering bertemu dengan buruh migran. Jadi semakin banyak tahu kasus-kasus mereka. Kasus Teh Rosita yang diancam hukuman mati di UEA. Itu menjadi titik tolak untuk saya total di isu buruh migran" (Yura 2013, pers.comm., 19 September).

<sup>106</sup> Anonymous 2013, pers.comm., 17 October 2013.

<sup>107</sup> "Idealisme. Harus ada orang-orang yang berpihak kepada masyarakat miskin. Penting adanya empowering agar mereka bisa mandiri" (Hutabarat 2013, pers.comm., 28 November).

<sup>108</sup> Pudjiati 2013, pers.comm., 5 December.

In Taiwan, I found out that my agent was illegal, they did not have a licence. The agreement was that I would work in a hospital, but I was asked to work in a plantation. I refused. My agent then asked me to pay the debt, so I had to work at that plantation

Later, the agent sold me to a café to do a cleaning job. There I was tricked again, ended up to accompany customers. I refused, which brought me to a more inhumane work, which was to clean up floors wearing only underwear. I had to sleep near trash bins and eat the left-over food.

Few days later, I fought. This led to me being sold to another agency. I had to work a massage therapist. I fought back, which caused me to receive a lot of physical beatings. The agency then sent me back to the previous agency. My debt grew.

My passport was held by the supervisor. One day we broke the passport holding cube, ran away and reported to police. But at the police office I was charged with a crime. I had to spend 10 months in jail.

From the jail, I contacted Indonesia's Trade Representative in Taiwan. But I only received harsh words, that this was my own mistake by going to Taiwan. I was even insulted, labelled as the 'waste of society'.

In jail we received better treatment. We could work. The officers also taught us how to go on hunger strike. I was finally deported home. But the money from my work was taken by the agency.

The worse experience was when we arrived in Indonesia. At the Terminal 3 [of Indonesia's Soekarno-Hatta International Airport], we were gathered like terrorists, approached by agents in Indonesia. My friends were even asked to pay IDR 6 million.<sup>109</sup>

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<sup>109</sup> "Saya berangkat tahun 2000 ke Taiwan. Sebelumnya ditampung di PPKTIS 6 bulan. Kita pernah disuruh telanjang, dilihat punya cacat atau tidak. Kemudian ada cek kesehatan. Di penampungan kita tidak boleh berkomunikasi.

Dulu daya tidak tahu cara bermigrasi yang aman. Saya dibawa calo. Semua dokumen saya sudah dibuatkan. Nama dan alamat palsu. Kemudian saya diterbangkan ke Taiwan.

Di Taiwan, ternyata agen saya gelap (ilegal), tidak ada ijin dari Pemerintah Taiwan. Perjanjiannya, saya bekerja di rumah sakit. Saya ternyata diminta bekerja di perkebunan. Saya tidak mau. Agen saya bilang saya harus bayar hutang. Jadi dipaksa bekerja di kebun.

Oleh agensi saya dijual ke salah satu kafe untuk bersih-bersih meja. Di sanapun saya dibohongi, diminta menemani tamu. Saya tolak, dan akhirnya dipekerjakan secara tidak manusiawi. Saya harus membersihkan lantai pakai pakaian dalam. Tidur juga harus dekat tong sampah. Makan pun yang sisa-sisa.

Itu bertahan beberapa hari. Saya berontak. Akhirnya saya dijual ke agensi lain. Saya dipaksa bekerja di panti pijat. Saya pun melawan, sehingga sering dipukul.

Saya kemudian dikembalikan ke agensi awal. Hutang saya menumpuk. Di sana buka berankas dan ambil paspor, lari dan lapor polisi. Di sana saya justru dituduh kriminal mencuri paspor. Kemudian dikenakan hukuman 10 bulan penjara.

Dari penjara, saya menghubungi Kantor Dagang Indonesia (KDI), justru dimaki-maki, salah sendiri kenapa ke Taiwan. Saya justru dihina, dibilang sampah masyarakat.

Saya dipenjara 10 bulan. Namun justru di penjara kita dihargai. Dan di sana kita bekerja. Sama sipir diajarkan untuk mogok makan. Akhirnya dideportasi. Tapi uang hasil kerja diambil oleh agensi.

Stories like this demonstrate that the policy entrepreneurs who struggled for CMW ratification had strong personal motivations, not because of financial or any other rewards but mostly due to their strong emotional response to the issue. This motivation underscored their persistence. Their actions were taken because of personal bitter experiences as migrant workers themselves.

It may be challenging to prove that there is a cause-effect relationship between the motivations of policy entrepreneurs as intending change agents and their success in making a policy change. Yet scholars have already indicated that policy entrepreneurs with grounded idealism and strong motivations will likely do much to make change happen. This underlines the reason why policy entrepreneurs need to have a normative basis for their idealism for change, especially in areas including human rights. As argued by Mintrom and Norman (2009: 649), “Highly motivated individuals or small teams can do much to draw attention to policy problems, present innovative policy solutions, build coalitions of supporters, and secure legislative action”.

One may question whether the motivation of policy entrepreneurs are always idealistic, such as the above examples, or if there are other motives, such as financial gain or even political power. While this question is pertinent, in essence, policy entrepreneurs aim for the interest of a larger group, at least in terms of how they frame their motivations (Verduijn (2014: 189).

## **6.4 The Success Factors**

This section examines the primary factors governing the success of policy entrepreneurs in pushing the government and the DPR to ratify the CMW. This examination is based on the

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*Lebih buruk lagi ketika tiba di Indonesia. Di terminal 3 kita digiring seperti teroris, didatangi agen-agen Indonesia. Teman-teman ditagih 6 juta” (Pudjiati 2013, pers.comm., 5 December).*

policy entrepreneurs' self-assessments or assessments of their actions through the alliance (ARRAK 90). In that context, success factors varied. Based on the interviews with policy entrepreneurs, there were at least two factors identified: coalition and persistence.

#### 6.4.1 The Importance of Coalition-Building

Most of the policy entrepreneurs interviewed for this research agreed that one of the crucial factors that helped them achieve success was coalition-building. Collaboration, either through ARRAK 90 or with other policy entrepreneurs in the government and the DPR, has proven to be effective in achieving their goals. Yusuf argued that whatever their initiatives in the DPR, if they could not convince and collaborate with others, they would not achieve their outcomes.<sup>110</sup> She believed that while individuals were important it would be personal arrogance to think that they alone created the conditions for policy change. She argued that individuals did not have the ability to do everything on their own.

Yusuf also emphasised that working as a group, or in this context through a coalition, was actually a crucial part of Indonesian culture called '*gotong royong*' (working together). She argued:

Whatever our initiative is, if we cannot convince others, work with others, our initiative will not go through. Personal arrogance should not take place. Bullshit. It is because we do not have all expertise in all areas.

It is important to make the conveyance of personal initiative a tradition. In the United States, it is already a culture. In Indonesia, there is such a rule [in the DPR], yet the tradition has not grown. Hopefully from 2014 [when the DPR members of the 2014-2019 period assume their duties] there will be more of such initiatives.

An idea cannot be fought alone. Indonesia is still deeply embedded with the '*gotong-royong*' (helping each other out) culture.<sup>111</sup>

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<sup>110</sup> Yusuf 2013, pers.comm., 18 September.

<sup>111</sup> "Apapun itu inisiatif kita, jika kita tidak bisa meyakinkan pihak lain, bekerjasama dengan pihak lain, maka hal ini tidak bisa jalan. Arogansi pribadi tidak boleh. Bullshit. Karena kita tidak punya kemampuan dalam semua hal.

*Penting dibudayakan penyampaian inisiatif pribadi. Di Amerika Serikat, ini sudah budaya. Di Indonesia, sudah ada di tatibnya [tata tertib DPR], tapi belum menjamur. Mudah-mudahan mulai 2014 semakin banyak.*

The commitment of the groups or individuals participating in the coalition was also an important factor. Tanjung observed that at ARRAK 90 there were several civil society organisations committed to staying in the alliance.<sup>112</sup> This argument was similar to the view of Somantri) who observed that the organisations were solid and their support was very important, particularly when the process was brought to the DPR.<sup>113</sup> This observation is also similar to the view held by a policy entrepreneur member of the DPR. According to her, “We members of the DPR would not be as influential on the government if we were not supported by the extra-parliamentary powers such as NGOs”.<sup>114</sup>

On the importance of the work of a coalition or team, one policy entrepreneur made a metaphor of the work of farmers, stating that success with CMW ratification was not the result of her work alone but the work of many. According to Hutabarat:

This is not merely my personal success. We were just like farmers: some cultivated the land, some others sowed the seeds and applied the fertilisers, and we just reaped the harvest. This is the achievement of civil society who consistently demanded the government.

Civil society has social intelligence, thus their innovation emerges. In general, they have social intelligence with rich experiences in working within organisation. It is due to their young ages, not more than 35 years old, bravery, and not having sub-organisation relations.<sup>115</sup>

To conclude this sub-section, the Indonesian policy entrepreneurs understand and highly value the importance of coalition. Not only do they underline that working in coalition opens

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*Ide tidak bisa diperjuangkan sendiri. Indonesia masih kental budaya gotong royong”* (Yusuf 2013, pers.comm., 18 September).

<sup>112</sup> Tanjung 2013, pers.comm., 11 October.

<sup>113</sup> Somantri 2013, pers.comm., 28 October.

<sup>114</sup> “*Anggota DPR tidak akan kuat desakannya kepada pemerintah jika tidak dibantu kekuatan-kekuatan extra-parliament seperti LSM*” (Anonymous 2013, pers.comm., 17 October).

<sup>115</sup> “*Ini bukan semata keberhasilan saya. Ini seperti petani, ada yang menggarap tanah, ada yang memberi pupuk, dan kita tinggal menuai. Ini keberhasilan masyarakat sipil yang konsisten menuntut pemerintah.*

*[Masyarakat sipil memiliki] kecerdasan sosial, sehingga inovasinya muncul. Secara umum mereka punya kecerdasan tersebut dengan intelektual dan pengalaman berorganisasi. Karena usia mereka relatif muda, tidak lebih dari 35 tahun, berani, tidak ada hubungan sub-organisasi”* (Hutabarat 2013, pers.comm., 28 November).



more possibilities for them to achieve their goals, they also stress that it was the coalition that succeeded and not the achievement of individuals.

#### 6.4.2 Persistence

Another factor that brought the policy entrepreneurs to finally witness the CMW ratification was their persistence. Persistence in carrying out their work or activism was achieved through ARRAK 90, collaborating with others, or sometimes working individually.

In the context of ARRAK 90, the persistence of its members played a key role in their success. According to Tanjung, “In ARRAK 90, several organisations were steadfastly determined for the ratification”.<sup>116</sup> Other policy entrepreneurs even stated that the final result of CMW ratification was due to the emergence of a ‘fighting spirit’ (*semangat juang*), a phrase similar in meaning to persistence or determination. Hariyanto, Wahyudi, and Hadi of SBMI unanimously agreed that:

It was because of fighting spirit. Our motto was ‘fight or be abused’. Because based on our social analysis, many our migrant workers friends have been abused.<sup>117</sup>

Success in the application of the persistence factor can be attributed to consistency in pursuing the primary goal. Hutabarat argued that CMW ratification was the achievement of civil society that was consistent in demanding the government and the DPR shift their stance in favour of ratification.<sup>118</sup> Tanjung similarly argued that ARRAK 90 could not turn back from the ratification goal as the alliance believed that through ratification Indonesia would have a stronger legal standing internationally.<sup>119</sup> Another aspect of persistence was stamina. As argued

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<sup>116</sup> “*Di ARRAK, beberapa lembaga tetap committed/determined untuk ratifikasi*” (Tanjung 2013, pers.comm., 11 October).

<sup>117</sup> “*Kami memiliki semangat juang atau perlawanan yang kuat. Moto SBMI adalah ‘lawan atau tertindas’. Kita buat analisa sosial, teman-teman memang banyak yang tertindas*” (personal communications with Hariyanto 2013, 13 November; Wahyudi 2013, 13 November; and Hadi 2013, 13 November).

<sup>118</sup> Hutabarat 2013, pers.comm., 28 November.

<sup>119</sup> Tanjung 2013, pers.comm., 11 October.

by Hutabarat, “*Masyarakat sipil punya stamina yang sangat panjang*” (Civil society had enduring stamina).<sup>120</sup>

On the examples of the persistence of ARRAK 90, one may observe the continuous work carried out by the policy entrepreneurs within the alliance. As argued by Pudjiati, ARRAK 90 continuously pushed their demand through writing, conducting studies, and so forth, which later made the government listen.<sup>121</sup> The alliance also paid visits to the government and the DPR. Last but not least, ARRAK 90 also organised a number of events.

This section demonstrates that the coalition factor played a crucial role in the policy entrepreneurs’ success. This is in line with an argument put forward by scholars that policy entrepreneurs are usually more effective if they are team players (Mintrom et al. 2014) and their real strength “comes through their ability to work effectively with others” (Mintrom and Norman 2009: 653). As discussed above, the call for ratification emerged in 2003. But it was only within the last two or three years prior to the ratification in 2012 that the activism of policy entrepreneurs reached its height. This was indeed triggered by the formation and work of the coalition ARRAK 90.

Persistence played perhaps the most significant role in the success of policy entrepreneurs. One may wonder how persistence is defined and whether the activism of policy entrepreneurs in the context of Indonesia’s CWM ratification could be regarded principally as persistence. In that regard, it is worth underlining what Kingdon (2003: 181) explained about the meaning of persistence,

Successful entrepreneurs are persistent [...] Most of these people spend a great deal of time giving talks, writing position papers, sending letters to important people, drafting bills, testifying before congressional committees and executive branch commissions, and having lunch, all with the aim of pushing their ideas in whatever way and forum might further the cause.

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<sup>120</sup> Hutabarat 2013, pers.comm., 28 November.

<sup>121</sup> Pudjiati 2013, pers.comm., 5 December.

If we closely examine the work of policy entrepreneurs for Indonesia's ratification to the CMW, it becomes obvious that what they did and how they did it fully meet the criteria of persistence as argued by Kingdon. To cite relevant examples, they gave talks regularly whenever they had the chance, they constantly produced position papers, they wrote extensively to influence public opinion, they actively organised public campaigns to attract attention in their cause, and they lobbied key people and organisations. All of this was done repeatedly and continuously over a dedicated period of time.

The willingness of policy entrepreneurs to carry out the above activism over many years can also be regarded as a demonstration of their persistence. As discussed previously, though the policy entrepreneurs intensified their work in the last two to three years prior to ratification in 2012, in reality they commenced their struggle in earnest in 2003. Hypothetically, had the policy entrepreneurs not been persistent, CMW ratification might not have been achieved up to the present date.

## **Conclusion**

This chapter has examined foreign policy entrepreneurship in Indonesia in the context of the country's ratification to the CMW, particularly in terms of work, resources, motivations, and success factors. This examination is important as it can illuminate how and why the policy entrepreneurs achieve success in making a policy change.

There were two periods of work: pre-ARRAK 90 (2003-2009) and ARRAK 90 (2009-2012). The difference between these two is that pre-ARRAK 90 the work was mostly carried out individually; after the formation of the coalition work was much more organised and coordinated. The findings in this chapter are that it was the work under ARRAK 90 that changed Indonesia's foreign policy from non-ratification to ratification.

There were two types of resources spent and used by policy entrepreneurs: financial as well as ideas and skills. Financial resources were spent either individually or through organisations policy entrepreneurs belonged to. Full use was made of ideas and skills for the purpose of promoting CMW ratification.

Concerning the motivations of policy entrepreneurs, the findings are that they were often bitter personal experiences either when dealing with migrant worker issues or being migrant workers themselves. Being migrant workers who were abused was a strong motivation, proven by the narrative from a policy entrepreneur who had a terrible experience while working in Taiwan.

Last but not least, policy entrepreneurs generally believe that there were two factors determining their success: coalition and persistence. On coalition, the emergence of ARRAK 90 in 2009 significantly transformed the work of policy entrepreneurs. Through the coalition, they carried out continuous activities in terms of substantive work, demonstrations, and lobbying. On persistence, what the policy entrepreneurs did and how they did it demonstrate how persistent they were. In this context, policy entrepreneurs produced working papers, gave talks, wrote extensively to influence public opinion, and even conducted various demonstrations for the purpose of getting public and the government attention. All of this entrepreneurship was carried out tirelessly. Had the policy entrepreneurs not been persistent in their policy entrepreneurship, Indonesia might still be a non-ratifying country to the CMW at the present time.

## **Chapter 7**

### **Conclusion – the Growing Significance of Policy Entrepreneurs in Policy Change**

This thesis addresses primarily the questions of how and why key policy entrepreneurs became successful in promoting their ideas and changing policy. In examining this, the thesis uses the case of Indonesia's policy on the protection of migrant workers, particularly on its ratification of the 1990 United Nations Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW). There are three questions that this thesis examines: (1) To what extent were policy entrepreneurs important in shaping or playing roles in Indonesia's policy on the protection of its migrant workers and who were the main actors? (2) How did these policy entrepreneurs attempt to ensure that their policy proposals were adopted or their ideas heard? and (3) Why were policy entrepreneurs successful in promoting their ideas?

As discussed in the Introduction, the protection of migrant workers became a pressing issue in the context of Indonesia's foreign policy and regional relations. This can be seen from the decision of Indonesia's Ministry of Foreign Affairs (Kemenlu) in 2002 to establish a special directorate to address the issue, namely the Directorate for the Protection of Indonesian Citizens and Legal Agencies. Nonetheless, since the establishment of this directorate, the initial protection policy was still viewed domestically as poor since there were many numerous high-profile cases involving Indonesian migrant workers suffering from numerous forms of mistreatment and even capital punishment. Recent policy developments, however, have been viewed more positively as improvements. This is demonstrated by Indonesia's decision to

ratify the CMW in 2012. With regard to this decision, the initial findings showed that there were at least two categories of policy entrepreneurs: civil society organizations or NGOs who worked under the umbrella movement Aliansi Rakyat untuk Ratifikasi Konvensi 1990 (ARRAK 90 - People's Alliance for the Ratification of 1990 Convention) and several members of the Dewan Perwakilan Rakyat (DPR – Indonesia's House of Representatives).

The thesis has attempted to test the propositions that policy entrepreneurs are typically successful if they advocate cogent policy proposals that are based on convincing normative principles and are vigorously promoted with persistence. In testing these propositions through examining the central questions of the thesis, I have applied a qualitative methodology combined with the case study method.

In conclusion, the discussion now needs to turn to the broader theoretical issue of what explains policy change in the Indonesian case of the increasing recognition and international protection of migrant workers. Policy change did not come about by itself as though some inevitable mechanism march of history. Policy change came about through a protracted institutional process spurred by coalition and activism to influence policy outcomes. It came about because of a rich combination of factors that enabled key actors to prosecute ideas for change in a receptive context. These factors included the growing salience of the issue concerning the protection of Indonesia's migrant workers working in risky or dangerous circumstances in overseas labour market often with poor condition and little protection.

The issue of migrant worker protection affected the Indonesian community greatly and heightened concerns among civil society groups for better protection for the migrant labour overseas (and to comfort the state of mind of affected families). Migrant labour protection was closely linked to the growing interest in human rights. Factors also included the important contextual link between domestic community concerns (and domestic political/altitudinal dynamics) and the formal stances on foreign policy taken by the Indonesian government.

As Indonesia gradually democratised and liberalized its political system in the post-Independence period, the importance of public pressure on government (and presidential) decision-making to respond to community concerns grew gradually. Democratisation was an important precondition that enabled local ‘champions’ to frame issues, advocate cogent ideas for change to improve protection, and pressure the ‘system’ to act when it otherwise might have been avoided the issue or continued to regard it as too complex to solve. Other factors included the exponential growth in NGOs and community activist groups who were prepared to champion the issues related to protection. These bodies provided the crucibles for policy entrepreneurs to emerge and gain notoriety for themselves and their campaigns.

### **7.1 Policy Entrepreneurs, Indonesia’s Foreign Policy, and the Iterative Linkage between Domestic and Foreign Policies**

In Chapter 1, I examined the literature of policy entrepreneurship and Indonesia’s foreign policy as well as the linkage between domestic and foreign policies. I begin with an argument that policy entrepreneurs have become an important dimension in foreign policy. The concept of policy entrepreneurship itself has been developed by scholars in the broad theoretical framework of domestic public policy. In short, policy entrepreneurs are political actors who promote policy ideas and in order to be successful in promoting the ideas, they must work in coalition and carry out their advocacy for change with persistence.

In regard to changes in foreign policy or policies, I have regarded these as discrete purposeful decisions or actions authorized by or at the political level but influenced by individuals or group of individuals, inside or outside the state. This definition suggests that the actors of foreign policy-making do not necessarily come from a state/government or any formal institution; they can also come from civil society organizations. Further, I also use an analytical tool namely foreign policy analysis (FPA) theory, a tool that is actor-specific rather than state-

specific. The thesis demonstrates that this theory is useful in explaining foreign policy making processes, particularly the role and behaviour of human decision makers whether they act as individuals or in groups.

The literature on Indonesia's foreign policy that I examine in this thesis shows that there have been important direct linkages between domestic and foreign policies, be they on the periodization of governmental regimes or the thematic issues of Indonesia's foreign policy on which scholars have focused. What has not been much appreciated or explained are the roles of non-state actors (NSAs) and more particularly the NGOs that play important roles in policy changes. Those actors, I argue, are the real policy entrepreneurs.

## **7.2 The Forces of Democratisation that Opened Up Windows for Civil Society in Policy Change**

In the thesis I have argued that labour migration in post-colonial Indonesia differs from that in the pre-colonial and colonial eras particularly in regard to the factors that have determined the migration. In post-colonial Indonesia, the democratisation that effectively began only in late 1990s can be regarded as a special era stimulating particularly with the rise of a vibrant civil society.

From 1945-1959, under Sukarno government, Indonesian labour migration was limited as the country still faced revolutionary upheavals after the independence declaration. Some Indonesian labour, however, still moved to Malaysia due to the policy of the Malaysian government that encouraged Indonesian labour migration, aiming to maintain population dominance against the Chinese and Indians. The pattern of migration in this period was more externally-driven responding to overseas demand.

Indonesian labour migration policies shifted significantly with the regime change from Sukarno to Suharto in 1967. Under the Suharto administration, the government created an



economic policy based on cheap labour for the purpose of attracting foreign investment and sending more labour overseas to earn income for Indonesia. Later in 1969, the government implemented *Rencana Pembangunan Lima Tahun (Repelita) Pertama* (The First Five Year Plan), 1969-1974, and proceeded further in later years. Another significant development was what occurred in Malaysia after the 13 May 1969 riot. As this riot drove the Malaysian government to implement the New Economic Policy, more Indonesian labour moved to Malaysia – a phenomenon that continued into the 1970s. The pattern of migration in this period was that it was driven both by internal and external factors. Further, it emphasised the notion on the linkage between domestic and foreign policies.

In the 1970s, Indonesia experienced a significant increase in overseas labour migration, once more particularly to Malaysia. But now the pattern of labour migration was driven by a balance of both internal and external factors. These were principally: the facilitative governmental policies of foreign nations, where migration was encouraged by policies implemented by Malaysian authorities; and national domestic policies of the Indonesian governments, where these governments undertook active interventions on labour migration through, among others, the government-to-government programs on the sending of Indonesian labour overseas. These continued in the 1980s and it was in this period that Indonesia for the first time dispatched labour to Saudi Arabia.

To explain the pattern of overseas labour migration in the 1970s and 1980s it should be recognized that the policies made by the government of Indonesia were heavily influenced by the policies of other host countries. As described in Chapter 2, Indonesia adjusted its policies in sending its labour overseas based on the policies implemented by host foreign nations, particularly Malaysia and Saudi Arabia. Domestically the government considered migrant labour principally as crucial sources of external revenues (remittance incomes); and indeed Indonesia's economic dependence on foreign countries was becoming most obvious and

pressing. The government of Indonesia adjusted its policies based on the dynamics of demand in foreign nations to ensure the outflow of labour migration would not be interrupted. Any such interruption would in turn create another series of problems domestically adding to the surplus of labour that were without jobs in the local economy.

The degree to which Indonesia tried to influence the subsequent policies of foreign governments is evidenced in the 1990s. By then Indonesian labour was greatly affected by Malaysia's regularization policy. Because of this policy, many Indonesian workers were repatriated. Indonesia was also embracing the era of democratisation from 1998 after being hit by a crisis that brought the fall of authoritarian regime Suharto. From this point of time, more particularly from 1999 when the former human rights activist Abdurrahman Wahid became President, Indonesia experienced an open political system where there emerged influential civil society actors and groups that could legally advocate for preferred outcomes and demonstrate their criticisms without fear or reprisal. The liberalization that came with democratisation, combined with the sympathetic Wahid presidency, were hugely important factors that created the pre-conditions for the emergence of policy entrepreneurs seeking policy change in Indonesia's responsibilities to its overseas workers.

Hence, from 1998-99 the crucial change that reoriented the policy domain was the rise of influential NGOs based in the civil society who campaigned for better conditions for migrant workers. Nonetheless, this embryonic activism on its own by NGOs was necessary but not sufficient to effect further substantial changes. The salience of the issue of migrant worker protection had to be underscored through external tragedies and specific crises. This was evidenced when we turn to explain the policy changes in the period of the 2000s especially under the Megawati government.

### **7.3 Protection Policy was More Symbolism than the Actual Protection**

The pattern of labour migration policies shifted slightly in the 2000s particularly after Megawati became president in 2001. Unlike Wahid who had a keen interest in human rights issues, Megawati seemed noticeably less interested in these matters. Special attention was directed in this thesis to the Nunukan humanitarian crisis as more than 70 Indonesian migrant workers died. This Nunukan crisis resulted in the deportation of almost 400,000 Indonesian workers from Malaysia. This crisis then drove Indonesian NGOs to push the Megawati government to act more urgently in enhancing the protection of Indonesian migrant labour, a push that resulted in the enactment of Law No. 39 of 2004 on the protection of labour as well as the signing of the CMW in 2004.

Both the enactment of the Law No. 39 as well as the signing of CMW did not necessarily demonstrate that Megawati cared personally about migrant labour but was mostly due to the influential roles played by the NGOs, who can be regarded as the policy entrepreneurs in their early initiatives. The enactment of the law, for example, was viewed by scholars and activists as falling short of providing protection for Indonesian migrant labour. The main reason for this was that out of the 109 clauses stipulated in the law, only 9 deal with protection.

With hindsight Megawati actions could be regarded more as symbolic acts than a substantive or comprehensive policy for migrant labour protection. What may explain to this assessment may relate to her personality and personal style. As mentioned earlier, Megawati was less interested in human rights issues, let alone in the protection of Indonesian migrant labour. Even though she often claimed herself to be representing ‘wong cilik’ (literally means ‘little person’ or low class people in Indonesian society), in reality it was difficult to establish prove that she was actually close to such people, including migrant workers. When Megawati and her administration enacted the Law No. 39 as well as signed the CMW in 2004, these acts

were merely attempts to show the public that they cared. In short, it was more symbolism rather than the actual protection itself. Megawati's stance also indicates that particular foreign policy positions were often determined by key individuals in the decision-making process. This affirms the argument put forward in Chapter 1 particularly in regard to the Foreign Policy Analysis (FPA) theory, a theory that emphasizes on the role of individuals in foreign policy decision-making.

#### **7.4 When the Policy Entrepreneurs Fully Seized the Policy Initiative**

President SBY replaced Megawati in 2004. The SBY government made numerous notable foreign policy decisions. The first policy was the Presidential Instruction No. 6 of 2006 on Reforming the System of Placement and Protection of Indonesian Migrant Workers. This instruction put in place a number of important measures to protect Indonesians working overseas as well as mandating the establishment of BNP2TKI.

Another policy was made in 2006, which was a MoU with Malaysia concerning the recruitment and placement of Indonesian domestic labour. This MoU was, however, still regarded as providing only limited labour protection and therefore received wide criticism, particularly from NGOs. In 2009 the administration announced further policy change by unilaterally imposing a moratorium on the sending of domestic labour to Malaysia due to many well-publicised cases of abuse. The moratorium forced Indonesia and Malaysia to revise the 2006 MoU and the two countries finally agreed a Protocol in 2011 amending the MoU. Another policy made was a moratorium on sending workers to Saudi Arabia after the beheading of Ruyati binti Satubi.

President SBY, who was reported to have paid serious attention to the issue of migrant labour protection, opened up more windows for policy entrepreneurs to play advocacy roles actively. It is one of the reasons that, under the SBY government, the policy entrepreneurs on

labour migration grew more solid. Encouraged by the emerging democratization of society, the policy entrepreneurs now had more scope and capacity to carry out their advocacy which culminated in the rising momentum generated to push Indonesia to ratify the CMW in 2012.

Indonesia's ratification of the CMW in 2012 was a substantial policy change that, theoretically, would force the country to implement more rights protection of migrant labour. One obvious fact arising from the CMW ratification was that Indonesian policy entrepreneurs had contributed much to the processes, a central theme that this thesis examined.

Under the SBY government, the policy entrepreneurs seized the initiatives that resulted in several notable agreements and more particularly the ratification of Indonesia to the CMW. There are at least two factors that explain why the policy entrepreneurs in this period seized the initiative: an accommodative president and a conducive socio-political environment. Borrowing Kingdon (2003), these two factors were the 'open windows' that enabled the policy entrepreneurs to seize the opportunities.

As explored in Chapter 3, President SBY as an accommodative president had a keen interest in the issue of migrant labour. He paid significant personal attention to a number of high-profile cases affecting migrant labour and which later led to policy responses directly affected by such cases. These circumstances brought more room for the policy entrepreneurs to effect policy change, particularly by influencing the government on what they should do toward the issue of migrant labour protection.

On the factor of conducive socio-political environment, the SBY government encouraged the growing liberalization and democratization of civil society as Indonesia embraced a reform era from the year 1998 onwards. Starting with the Wahid government, the democratisation further flourished in the era of SBY government. This came as a bigger opportunity for the policy entrepreneurs as they could play more roles through their activism and later influence the policy-making process.

These two factors existed for a relatively long period as SBY presided Indonesia for ten years. These made the policy advocacy rooms for the policy entrepreneurs were wide open. These also made possible for the policy entrepreneurs seize the initiatives for policy changes.

### **7.5 Increased Collaboration to Intensify the Pressure for Change**

Chapter 5 examines the CMW by addressing several questions: What factors drove the emergence of the convention? What international events contributed to its making? Why did it take as long as ten years to negotiate? Why was there no ratification in the early years after adoption? These questions will help explain the patterns of decision taken, particularly on how the policy entrepreneurs at the international, regional, and national levels, increase their collaboration for the purpose of intensifying the pressure for change.

Concerning the question why there was no initial ratification in the early years after its adoption, studies show that there was a lack of promotion, awareness, and understanding of the CMW in many UN member countries. There was also a lack of human resources in governmental bodies, and combined interests of recruitment agencies, employers, and government officials who were not in favour of the granting of migrant worker rights. These problems were made more difficult due to immigration policies, political systems and perceptions of human rights in migrant receiving countries.

The above situation brought impetus to international and regional civil society actors, mainly NGOs, to carry out more active campaigns. Thus, from the early to mid-1990s, NGOs mobilized awareness training programs and a campaign for global ratification. They also called on other regional NGOs to join their activism. The international and regional NGOs continued their campaigns and continue to be active at world conferences and summits. Despite all challenges they faced, their contributions were considered an important element in the ratification of the CMW. The campaigns bore fruit when there was a significant increase in

ratifications, from only 12 in the 1990s to almost 50 by 2015. Indonesia's ratification of the CMW was indeed the result of NGOs' activism. In brief the policy entrepreneurs had played a crucial role in shifting Indonesia's foreign policy, from non-ratification to ratification.

The above narrative helps explain the processes through which important decisions concerning the CMW were taken. There was an incremental process which increased the awareness of the main NGOs about the need to increase collaboration to intensify pressure for change. They realized concerted effort was required to affect policy changes. What may explain the sometimes long duration needed to make policy changes in many countries can be traced back to the challenges faced by several actors, particularly the NGOs and the governments. For the governments, the obvious reason for a reluctance to act was mainly the lack of awareness on the importance of the CMW. As for the NGOs, the main challenges they faced were the resources and persistence in doing their activism particularly at international level. The strategy of NGOs, be they at international, regional and national level to increase collaboration and later intensify pressure eventually brought a relative success, particularly in increasing the number of ratifying countries to the CMW.

## **7.6 Future Challenge: the Need to Move from Awareness-Making and Symbolic Policy Pronouncements to Effective Implementation and Enforcement**

In general, the thesis has demonstrated that Indonesian policy entrepreneurs achieved their goals in improving policy protection for migrant workers. The thesis, for example, has shown that the policy entrepreneurs had strong ideas or views on the importance of ratification for Indonesia. The work of the policy entrepreneurs – the substantive advocacy, demonstrative campaigns, and lobbying – were carried out through a coalition called ARRAK 90 that brought to a success in Indonesia's ratification to the CMW.

The policy entrepreneurs believe that there were two factors that provided important bases for them to succeed: coalition and persistence. I demonstrated this belief in Chapter 6. The policy entrepreneurs believe that the emergence of ARRAK 90 in 2009 significantly transformed their work. Through this flourishing coalition, all policy entrepreneurs undertook continuous activities in terms of substantive advocacy, demonstrative campaigns, and lobbying. The policy entrepreneurs also believe that what they did and how they did it demonstrates persistence. All these factors, particularly coalition building and persistence, answer the primary question of this thesis: how and why policy entrepreneurs were successful in promoting their policy proposals. The thesis has demonstrated that the analysis of foreign policy can benefit from utilizing the concept of policy entrepreneurs.

Nonetheless, one may wonder on what and how would be the future policy trajectories in the coming years or decades after Indonesia's ratification to the CMW? Has not the Jokowi government treated the ratification as important as the SBY government did? Does it show that the policy entrepreneurs still need to do more entrepreneurship particularly in terms of implementation and enforcement of the already ratified CMW?

What may explain to this situation is that the policy entrepreneurs in general were still focused on policy formulation, addressing mainly the lack of awareness. Yet it is understandable with the following reasons: first, Indonesia's democratisation is still relatively young; second, the policies of Indonesia's governments still depend heavily on who leads the country. In other words, the civil society still needs to empower themselves so that they can play more significant roles in many aspects of the country; third, challenges in the form of combined interests of industries and other government officials may remain the same.

Therefore, the future challenges of the policy entrepreneurs will be on how to make the CMW and other relevant policies to be more effective in their implementation. What the policy entrepreneurs need to do next is reorienting their activism, from awareness-making to



enforcement. It would be interesting how Indonesia will implement and enforce the CMW and other related laws in the next five to ten years after from the 2016 onwards. This can be other topics for future research.

## Appendix

### List of Interview Questions

1. Why do you think this case is important for Indonesia?
2. What were the policy proposals which you were making in regard to the ratification of CMW? Did they include alternatives to the existing policy frameworks? Did they consist of normative principles or orient to values and was sufficient explanatory information included?
3. What specific work had you undertaken in promoting your policy proposals?
4. Did you make full use of your resources – time, energy, reputation, money – in promoting the ideas/proposals?
5. Did you lobby your political connections/the legislature/key governmental decision makers in order to secure adoption of/hearing for your policy proposals?
6. Why do you think you have been successful in promoting this policy? Can you identify other policy entrepreneurs who have helped to secure adoption of the policy proposals?
7. What were your motivations in promoting such policy proposals?
8. Is there any further information that you think is relevant to this study?

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