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Dynamics of Foreign Workers from China in Indonesia: Guaranteeing Rights and Strengthening Legal Justice¹

Yosua Saut Marulitua Gultom²

Abstract

The dynamics of the Asia Pacific are mainly influenced by China's economic rise, which has a significant impact on bilateral relations with Indonesia. China's economic revival, supported by economic transformation and control of strategic sectors, has made it a global economic power. Indonesia as the de facto leader of ASEAN has historical ties with China, which are further strengthened through strategic partnerships. Large investments from China within the framework of the Belt and Road Initiative (BRI) have triggered an increase in the flow of Chinese foreign workers in Indonesia. This, while supporting economic growth, also raises concerns regarding competition with the domestic workforce and social justice. Using a descriptive qualitative approach, this research tries to describe the dynamics of Chinese foreign workers in Indonesia by focusing on the role of the DPR RI as a supervisory and regulatory institution in dealing with this issue. The importance of strengthening the capacity of domestic workers to compete with foreign workers, transferring useful knowledge, and regulations that protect labor rights, especially in the face of international competition, is the main essence of why special attention is needed in handling the impact of the presence of foreign workers. Strengthening immigration controls is also crucial to avoid potential violations and create a fair situation for domestic and foreign workers. Data harmonization between government agencies and cooperation with China are necessary to achieve a conducive and mutually beneficial situation for both parties. It is hoped that this research can contribute to thinking and policy direction in managing the impact of the presence of foreign workers in Indonesia.

Keywords: China; Indonesia; Foreign Workers; People's Representative Council

Introduction

The Asia Pacific is a dynamic region. This Asia Pacific dynamic is strongly influenced by the rise of the Chinese economy. China is a country that has successfully developed its economy. The economic rise of the bamboo curtain country can be observed from its economic growth that reached double digits in the 1990s and maintained an astonishing growth rate of 7% to 14%. China's explosive economic growth has now made it 'the rising superpower' in the global economy.

This progress was achieved thanks to China's transformation to participate in market liberalization. China is also capitalizing on all its potential. China's greatest potential, which surpasses all other countries in the world, is the availability of abundant human resources with a population of 1.2 billion

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at the beginning of the 21st century. This population availability was utilized very efficiently by the Chinese government by hiring cheap labor so as to attract foreign investment, especially western countries such as the United States at that time. Not stopping there, China also controls strategic sectors, diaspora imports, oil geopolitics, and research development to ensure its national sovereignty (Qomara, 2015).

After growing rapidly, China began to expand its influence in international relations, especially ASEAN. ASEAN's relationship with China began in 1991. Qian Qichen, the Foreign Minister of the People's Republic of China at that time expressed his interest in establishing a deeper relationship with ASEAN at the 24th ASEAN Ministerial Meeting. This relationship continued with the establishment of the ASEAN-China free trade area, known as ACFTA. The establishment of ACFTA in 2000 became the fulcrum of trade relations between the two sides. The relationship continued to strengthen until since 2009, China became ASEAN's largest trading partner (ASEAN, n.d.).

As the de facto leader of ASEAN, Indonesia itself has had a long relationship with China, even before the formation of ASEAN itself. Since the beginning of independence, Indonesia's relationship with China has been dynamic. The relationship has experienced ups and downs due to Indonesia's domestic political situation (Utomo, 2017; Laksmana & Alexandra, 2022). The bilateral relationship between Indonesia and China was strengthened when the two countries formed a strategic partnership to build a broad relationship through the signing of the Joint Declaration between the Republic of Indonesia and the People's Republic of China on Strategic Partnership which was directly signed by the two Heads of State in 2005. This is because there is a Chinese perception that Indonesia is a “friendly” country to China's interests compared to other countries in the region that China considers confrontational (Siregar, 2016). As a result, China's current national policy prioritizes better cooperation by disbursing investment funds for development in Indonesia.

However, as the saying goes 'there is no free lunch', China's investment is no different. The influx of Chinese foreign workers has created concerns about the fairness of the domestic workforce, which is feared to be eroded by the influx of foreign workers. This is not without basis, considering that 52,973 of the 111,537 foreign workers in Indonesia are from China (Data Indonesia.id, 2023). Realizing this, this paper will try to describe the dynamics of Chinese foreign workers on conditions in Indonesia as well as look at the role of the DPR RI as a legislative body in carrying out its supervisory function over government immigration policies in handling foreign workers, especially from China, as a check and balances mechanism and ensuring conducive cooperation between the two countries.

The Existence of Foreign Workers in Indonesia

To meet the needs of the national labor market, especially in filling the void of expertise and competence in certain fields that cannot be covered by Indonesian workers, foreign workers can be employed in Indonesia as long as they are in employment relationships for certain positions and certain times. Employing foreign workers can be done by any party in accordance with the provisions except individual employers. Every employer who employs foreign workers must have a written permit from the minister or a designated official except for representatives of foreign countries who use foreign workers as diplomatic and consular employees (Kemenkumham, n.d.).

The issue of foreign workers in Indonesia is a crucial one. This is because foreign workers have a wide social impact, both in the industrial and economic fields. The presence of foreign workers in Indonesia is often perceived as a threat to Indonesian workers (TKI) or domestic workers. Foreign workers who come to Indonesia spread to all regions and into various fields ranging from unskilled labor to skilled labor. What makes this issue crucial in Indonesia is the high unemployment rate, which can create social jealousy from migrant workers towards foreign workers. This is evidenced by the rampant demonstrations of migrant workers who reject the presence of foreign workers in various regions (Abduh, 2020).

On the other hand, the state also has the responsibility to accommodate the presence of foreign workers in Indonesia to be free from human rights violations such as forced labor, slavery practices or similar mechanisms, trafficking, debt bondage and forced marriage. Through Law No. 13 of 2003 concerning Manpower, the Government can be considered to have accommodated well regarding equal treatment and opportunities in employment relations (Djazuli, 2020). Therefore, it is necessary for the government to prepare Indonesian workers who are able to compete in the international arena. The era of globalization has encouraged countries to compete and form regional economic cooperation. ACFTA in this case can be seen as a product of this competition and cooperation.

Investment and the Chinese Foreign Worker Question in Indonesia

During President Joko Widodo's administration, there was a tendency to strengthen relations with China, especially in trade and investment. This has encouraged massive investment from China. It is reported that in the 2015-2021 period, China has poured funds amounting to 15.1 billion US dollars or the equivalent of 226.5 trillion rupiah. The investment disbursed by China in this fantastic amount is in the form of infrastructure development, in line with China's main project, the Belt and Road Initiative (BRI) (Republika, 2023).

China's investment in the framework of the BRI program and Indonesia's vision as the World Maritime Axis (PMD) was successfully synergized comprehensively by both parties through the MoU between Indonesia and China in 2018 on cooperation in joint promotion of development ideas brought by both parties. Article 2 explains that the areas of cooperation include (Indonesian MoFA, 2018b):

1. The Parties will regularly communicate their development strategies, plans, and policies to enhance coordination at the policy level.
2. The Parties will cooperate and exchange on infrastructure connectivity in areas of mutual interest such as roads, railways, bridges, civil aviation, ports, tourist resorts, industrial parks, science parks, and energy, etc. to further enhance the connectivity of various facilities.
3. The Parties will actively explore the possibility of expanding two-way investment and two-way trade, further enhancing investment, trade and industrial cooperation. Furthermore, the Parties will explore ways and methods to promote substantive mutually beneficial cooperation to strengthen trade connectivity. The Parties will encourage their business circles to establish industrial parks and economic and trade cooperation zones.
4. The Parties will encourage their respective financial institutions to provide financing support and financial services for production capacity, investment and trade cooperation.
5. In order to strengthen the bonds of people-to-people relations, the Parties will promote people-to-people exchanges, further develop twin city networks and cooperation in the fields of cultural education, health, tourism, and public welfare to strengthen the public opinion base in favor of bilateral cooperation. The Parties will enhance exchanges and cooperation between local governments, media, think tanks, and youth, and continue to promote development cooperation related to public welfare.

This MoU is a strategic pillar that oversees economic, trade and development investment cooperation between Indonesia and China that has previously been implemented, such as the MoU for the construction of the Jakarta-Bandung High Speed Train, other development developments throughout Indonesia, and infrastructure financing cooperation (Indonesian MoFA, 2017; 2018a).

Along with the cooperation and the strengthening of investment flows from China to Indonesia, the flow of Chinese labor to Indonesia has also strengthened. As previously mentioned in this paper, the

number of Chinese foreign workers coming to Indonesia has increased in line with the increasing number of investments made by China. This increase in the number of foreign workers raises concerns about competition with domestic labor, as well as fairness mechanisms for both parties.

Basically, the consequences of the entry of foreign companies from China by bringing in foreign workers have a clear legal basis. In Law No. 25/2007 on Capital Investment, it is allowed to employ foreign workers within the limits set by laws and regulations. In this case, the ministerial regulation stipulates personnel sections and certain positions or expertise, as well as managerial positions that are not available to Indonesian workers who are capable of doing so. However, the problem that occurs in Indonesia is the lack of selection of the types of workers who continue to arrive massively and in waves. Moreover, there is a large influx of foreign workers, especially from China, who fill the slots of menial jobs that should be done by Indonesian workers.

The massive influx certainly has a negative impact. Indirectly, it will exclude domestic workers who should be prioritized by the state. Apart from being a cause of social jealousy, horizontal conflicts between foreign and domestic workers can become a time bomb for the community. Even in the clashes in Central Sulawesi, conflict friction has occurred due to differences in culture, language, and differences in income set by the company (CNN Indonesia, 2023a). This needs to be used by the government as a reflection to strengthen regulations related to the entry of foreign workers in Indonesia so as not to raise negative sentiments that the government gives privileges to foreign workers from China (CNN Indonesia, 2023b).

There needs to be an effort from the government to deal with this. The government needs to strengthen the capacity of domestic workers to be able to compete with foreign workers. By creating a balanced working environment between domestic and foreign workers, and at the same time, encouraging beneficial knowledge transfer schemes, it will create a conducive win-win situation for both domestic and foreign workers. On knowledge transfer, the government needs to emphasize this at the level of bilateral cooperation with China to ensure that there is a real effort to strengthen the capacity and quality of Indonesian domestic workers. This is to emphasize to the government that the presence of foreign workers in Indonesia is to optimally empower the domestic workforce. In addition to capacity building, the government must also ensure that there are regulations that protect and oversee the rights of domestic and foreign workers, including their rights to competition and its limitations.

Strengthening Supervision of Foreign Workers

The large number of foreign workers in Indonesia needs to be balanced with strong immigration supervision. This is because there is potential for immigration violations from foreign nationals (WNA). Indonesia has Law No. 6/2011 on Immigration which regulates overstay, entry not through Immigration Checkpoints (TPI), failure to show passport when asked by officers, and misuse of immigration stay permit. In this law, Indonesia has regulated that violators can be subject to fines, deportation, up to a maximum sentence of 5 years. Affirming this, the DPR has also proposed to the government to immediately form a task force to monitor foreign workers by involving various elements, such as immigration, police, the Ministry of Tourism and others.

In addition, the difference in data information on the number of foreign workers used by the Ministry of Law and Human Rights and the Ministry of Manpower in 2017 also needs to be highlighted again in strengthening supervision and guaranteeing human rights against foreign workers (Sindonews, 2017). It is necessary to strengthen an integrated system between government agencies so that basic problems such as differences in the number of foreign workers can be eliminated. Therefore, strengthening the integrated system between agencies also encourages Indonesia to carry out digital transformation in the field of immigration so as to create ease of access, efficiency and effectiveness.

By law, the Directorate General. Immigration does have the authority to monitor and take action against foreigners, but implementation in the field may be different. This is due to the capabilities of human resources and facilities of DG. Immigration is outnumbered compared to the inflow (Jazuli, 2018). The DPR, in this case, also needs to pay special attention to encouraging budget increases in the field of immigration control. Given the establishment of the PORA (Foreigner Oversight) Team under the Ministry of Law and Human Rights, in the author's opinion, the DPR also needs to emphasize a more comprehensive institutional strengthening. This needs to be strengthened through cooperation and training with relevant supervisory agencies. In addition, there is also a need for encouragement to establish regulations at both the national and local levels so that establishments such as the PORA Team can be formed permanently so that they can freely carry out supervision without being hampered by administrative restrictions given that the current mechanism is the delegation of relevant agencies (Immigration, n.d.).

Conclusion

The use of foreign workers is a logical consequence of the entry of countries, such as Indonesia, into the globalization system considering that when countries conduct international cooperation (both

bilateral and multilateral), these countries will implicitly lend some of their authority to the international system and comply with international law. The presence of Chinese foreign workers in Indonesia, which is closely related to increased Chinese investment, has had a significant impact. While Chinese investment has supported Indonesia's economic growth, issues arise regarding competition with domestic labor, fairness mechanisms, and effective supervision. To address these challenges, there is a need to strengthen the capacity of domestic workers, encourage beneficial knowledge transfer, and improve supervision and vetting of foreign workers. Cooperation with China and stricter regulations are also needed to effectively manage the impact of foreign workers in a mutually beneficial manner. In addition, there is a need to focus on strengthening immigration supervision, including monitoring and prosecuting violations by foreign workers, and harmonizing data between government agencies. All of these will help create a conducive and fair situation for both domestic and foreign workers in Indonesia. In this paper, the author recognizes the lack of research, especially in the aspect of primary data sources available so that this research still seems distant to the problem of supervision of foreign workers in Indonesia. Therefore, for future research, the author suggests research that is nuanced with direct dialog with stakeholders.

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