

Seeing Migration like a State: A Case of Deported Undocumented Migrant Workers from Indonesia¹

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Illegality has long been a major feature in Indonesia's labour migration. The corridor linking the country with Malaysia is particularly rife with this phenomenon. Since colonial times, migrants from the island of Flores have plied the route both to East and West Malaysia in search for better livelihoods and adventure (Mantra 2000). Much of this movement now falls under the frameworks of immigration regimes and international laws. As a result the long established casual migration inevitably collides with the legal regimes, producing a wide array of responses from outright resistance, negotiations and reluctant compliance, oscillating between legality and illegality in the process.

A crucial element in the collision is the desire of the state, both in Malaysia and Indonesia, to bring the cross-border movement of people under its control. The underlying logic that informs this desire is overwhelmingly economic, given the income and employment gaps between the two neighbouring countries. Malaysia's economy depends heavily on foreign labour which made up at least 25 per cent of the total labour force (Kanapathy 2008), while Indonesia suffers from chronic unemployment and low wages. Labour migration between the two countries offers real opportunities to address these issues, and the prospect of mutual benefits encourages the two governments to adopt the measures accordingly. Surely at times treatment of migrants becomes a sticking point and spills into the political arena such as the deportation of around 400,000 Indonesian migrants in 2002 (Ford 2006), but most of the time the labour migration is organised as a mutually benefitting business.

A modern state-craft that is poised to bring about social order is well captured in James Scott's *Seeing Like A State* (1998). This book highlights how modern nation-states are inherently equipped with the vision, capacity, determination and tools to introduce large scale social engineering on society that is often perceived as a chaotic entity separate from the state. "Society became an object that the state might manage and transform with a view toward perfecting it." (Scott 1998, 92) The improvement of all members of society is a central purpose of the modern state, in addition to the classic state function of taxation, conscription and prevention of rebellion. As with other similar efforts at theorising the ambition of the modern state for social ordering before him (Bauman 1991), though, Scott points out the flip side of the ambitious state. Social engineering is necessarily schematic and limited; it objectifies and portrays an image of society according to its needs such as urban planning, industrial production, settlement or land ownership. This simplified picture or map feeds into the plan for control and interventions, and in the process it often ignores essential features of any functioning social order. Little wonder, therefore, that such efforts often fall short of their objectives, and in some cases yielded disastrous results as the tragedies cited in Scott's book.

Labour migration policies are a case in point here. Their underlying economic logic paints a schematic picture of labour supply and demand that is vexed in the language of national interests such as economic growth and border control (Ford, Lyons et al. 2012). As such the policies often ignore the complexities involved in the reproduction and cross-border mobilisation of labour, especially when it ends in failures such as in cases of deportation. Each year tens of thousands Indonesian migrant workers are deported and the prospect of deportation is quite high among the one million or so Indonesians reportedly working in Malaysia without proper documents (*Kompas* 17 Dec 2014).

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Following the forced repatriation from Malaysia of 12 migrant workers from Raburia village in Ende district, Flores, Indonesia, this paper seeks to describe and discuss how the experience of deportation is shaped by shifting legal regimes in Malaysia and Indonesia, by the state administrative and bureaucratic capacity in Jakarta and in the far-flung home province, as well as by migrants' multiple vulnerabilities. Arrested and punished as criminals in Malaysia, they were deported back to Indonesia and received the treatment of "*Pekerja Migran Bermasalah*" or migrant workers with problems. Under this legal term, they were treated not as criminals but as victims or failed migrants that need help and guidance. How does the labour migration regime handle undocumented migrants? To what extent is the state inadequate to respond to failed labour migration? How did the returnees perceive their deportation? The fieldwork took place in two periods, June and November 2016, and it is part of a project to understand the phenomenon of repatriation funded by the migration network of the Jesuit Conference of Asia Pacific (JCAP).

Modern Statecraft in Controlling Migration

For Malaysia and Indonesia, necessities dictate the management of migrant workers. Although labour importation started in colonial times, Malaysia's reliance on foreign labour became more acute after the start of export-industrialisation drive in the early 1980s, which triggered massive urbanisation at the expense of the agricultural sector. In-migration at this stage was perceived only as a temporary solution to "sustain labour market demand and to maintain Malaysia as a favourable site to foreign investors" (Devadason and Meng 2014, 22).

Over the years it became clear that the demand for foreign workers were anything but temporary. Migrants were attracted to crossing the border, often without proper documents, by the promise of employment and the often relaxed attitude to illegality. In fact, there was a ready secondary job market for irregular workers. In addition, a tacit recognition of the heavy reliance on foreign labour was often on display in policy reversals every time a crackdown on irregular migrants was implemented (Kanapathy 2008).

Such cases of policy reversals are actually symptoms of divided outlooks of state institutions towards migrant workers. The Malaysian Ministry of Human Rights and other related ministries recognise the importance of foreign labour to the economy. On the other hand, the Ministry of Home Affairs sees migrant workers as a security issue that has to be responded with increased surveillance and reduction in numbers. To illustrate, in 2001 the Malaysian Prime Minister called undocumented migrant workers a major threat to national security and introduced caning and deportation of undocumented workers a year afterwards (Devadason and Meng 2014). Depending on the state of the economy, the management of migrant labour seems to shift from casual attitude to increased control, from blind recruitment to deportation, and vice versa.

Across the border, in the early 1980s when the oil bonanza had ended, the Indonesian government initiated labour outmigration policies "to mitigate the unemployment problem, to increase skills and working experience abroad and to improve the foreign exchange position" (Cremer 1988, 78). Indonesia joined a growing group of developing countries with labour surplus such as the Philippines, India, Bangladesh and Pakistan which integrated overseas employment into their national development strategies (Chin 1997). The Law no. 39 of 2004 on the protection and placement of Indonesian overseas workers dedicates much of its provision to the placement or industrial element rather than to the protection. Indeed, over time migrant workers' contribution to the national economy increased steadily, amounting now to US\$8.55 billion in remittance which is equivalent to around one per cent of the country's GDP (World Bank 2015). In government parlance, this fact is glorified in a matching epithet calling migrant workers "*pahlawan devisa*" or heroes of foreign exchange.

Such narratives of success are often accompanied by reports on the hardship and abuses suffered by overseas Indonesian workers. Reports from the early period of labour migration painted a gloomy picture. Workers suffered from “very long working hours, sometimes from dawn to after midnight, payments below the amount stated in the contract, delays in payment, berating and beating, and in the worst cases, sexual abuse and rape” (Cremer 1988, 81-82). A report on Indonesian plantation workers in Sabah described their conditions as “bonded labour...a modern kind of slavery” (Li 2009, 77).

Public outcries and pressures from civil society groups bore fruit with the ratification of the UN Convention 1990 on the protection of the rights of migrant workers and their families in 2012. Five years into this landmark, however, there has been no significant step in integrating the convention into meaningful legal provisions. A bill that aims to revise the existing law on migrant workers’ protection and placement has been in deliberation ever since and the progress is really slow. The various drafts of the bill in circulation suggest that labour migration is still very much a contest between business profitability and efficiency on the one hand and measures to provide some sort of protection on the other.

These shifts in government policies and narratives help dictate the experience of migrant workers. State policies prescribe appropriate treatments for migrants in various situations and inform the reactions of people around them, but they often ignore the agency of the migrants and risk falling short of the intended objectives.

Functioning Labour Migration

The 12 returnees from Raburia in Ende began their ordeal when the van they travelled on was stopped by police in the middle of the night on the road in Kampung Gajah area in Perak sometime in September 2015. Up to that point they had been working as a group under the same employer in a construction site. In that fateful evening, they were being transported to a new site to work on the next morning. Upon discovering the lack of documents, the police immediately detained them along with the Malaysian driver, who was then released shortly afterwards.

Despite hailing from the same village and being caught as a group, these 12 actually did not come to Malaysia at the same time. Xaverius was a veteran migrant who had been in and out of Malaysia four times in total over the course of 20 years. He was never in possession of proper documents throughout those periods but his luck ran out that night. Alongside him were Filarius and Heribertus, who had been in Malaysia before when he was only 12 years old. The others varied between one and six months in terms of their stay in Malaysia prior to the arrest.

These men had known each other, being neighbours and even relatives in the same village. In fact it is quite common for them to bring friends and relatives to Malaysia to work in the same place. The employer often encourages and facilitates the workers to bring their fellow villagers to the same workplace. The veteran Xaverius brought his neighbour with him when going back to Malaysia for the second time. Heribertus followed his uncle to work in a plantation back in 2011. The village network or indeed the network of people from the same district shapes the migration process in a way that has become convenient to both migrants and their employers. The migrants do not need to find job orders while the employers can access the pool of labour from a distance. Furthermore, this informal channel ensures cheaper costs for both the employers, who circumvent the requirements for work permits, and the prospective workers who do not need to go through lengthy and bribery-ridden placement bureaucracies. On top of this, they do not have to go to Jakarta where most of the formal overseas placement procedures take place.

The same network facilitates the return of these migrants. Their extensive knowledge of the migration route and control over relevant officials on both sides of the border help ensure

a smooth journey back. No wonder this typical chain migration thrives in Flores and the rest of Nusa Tenggara Timur Province, in spite of aggressive recruitment drives by private agencies in the official migration procedure.

In fact this migratory movement takes place on the back of the long tradition of migration to Malaysia by people from Flores. Traditional migration of seafaring communities to and from Malaysia had taken place long before the colonial era. The British introduced a new kind of migration when they imported foreign workers for the growing economy. Some of these workers settled and became citizens of the independent Malaysia (Mantra 2000). These same networks of migrants often acted as sponsors and helped to facilitate the arrival of more migrant workers, including from Indonesia, when there were demands in subsequent periods. The influx of migrants from Flores in particular became greater after the introduction of large scale agricultural estates and timber industry in the 1950s (Tirtosudarmo 2015, 217). Combining traditional kinship networks and trans-border mobility, over time the Florenese established a vast network of labour migration with outposts in many places along the routes that connect Flores and Malaysia. In fact, given the extent of the network that has now straddled the border between Indonesia and Malaysia in places like East and West Kalimantan and the Riau islands, one scholar suggests that the Florenese have constituted an embryonic transnational community (Tirtosudarmo 2015, xxxv).

The arrest by the Malaysian authorities interrupted this otherwise functioning labour relation. All of a sudden they entered into the realm of the official and were treated as criminals. In truth, though, arrests by authorities do not always spell the end of their Malaysian employment. After all, the presence of millions of undocumented migrant workers in Malaysia would not be possible without some degree of complicity on the part of the authorities. Some scholars even suggest that the Malaysian policies on in-migration are deliberately designed to leave a grey area which can be exploited to fulfil the continuous demand for migrant workers (Devadason and Meng 2014). In the field, migrants confide that arrests have been used sometimes as a way to solicit bribery. In many cases, the payment of around RM 200, which is equivalent to a week's salary, would secure their quick release. Xaverius confessed that he and his friends actually tried to offer some money to the policemen that night. Unfortunately for them, the check point was being supervised by a high ranking officer, and in such a case the policemen on duty did not take bribes. Indeed many migrant workers continuously oscillate between legality and illegality almost on a daily basis.

This time, though, the arrest brought them to the police detention in Sri Iskandar. After staying there for three weeks, the group was taken to a prison in Taiping where they were taken to court. They were found guilty and sentenced to six month imprisonment. To serve the sentence, the authorities moved them to yet another prison in Tapah. Life in prison was obviously hard. Their money was taken away and food was far from nice. Having served two thirds of their sentence in Tapah prison, the group was then deported to Indonesia.

The Construction of Victimhood in Indonesia

Once they set foot on Indonesian soil, the social protection regime kicked in. It is interesting to notice that although these migrants had clearly broken the laws on migrant worker placement and immigration, they were not treated as criminals, unlike when in Malaysia. Instead, the Indonesian government considered them more as victims who need assistance. Stories of ill-fated migrant workers who fall victim to various forms of harm both in Indonesia and abroad appear almost on a weekly basis in the press. In many instances the government is almost always blamed for not doing enough to protect these poor people. This overwhelming moral support for migrant workers leaves few options to the government; prosecuting them would only make things worse as far as the government is concerned. However, the notion of victim here does not necessarily qualify the returnees to seek redress in the Indonesian justice system

either. In the case of undocumented migrants, they have no legal documents as a basis to obtain remedy through the system to start with. In fact, even in cases of documented returnees, most migrant workers are reluctant to access justice at all because the country's system "presents many challenges...particularly for poorer segments of society." (Farbenblum, Taylor-Nicholson et al. 2013, 37). Their multiple vulnerabilities – poverty, low levels of education, little formal work experience – render the barriers to justice even greater.

The stated wish to go home quickly and the state provision of protection come together under the framework of "*Pekerja Migran Bermasalah*" or migrant workers with problems. The Decree of the Minister of Social Welfare no. 22/2013 defines "*Tenaga Kerja Indonesia Bermasalah*" or Indonesian migrant workers with problems as "Indonesian overseas migrant workers who have no work permits, legal documents, and/or who work in violation of their work permits, has encountered problems in terms of violence, exploitation, deportation, neglect, social disharmony, inability for self-adjustment." The decree also stipulates that the Ministry of Social Welfare is responsible to repatriate the returnees from the point of arrival to Indonesia to their home province where regional governments take over the process and bring them to their home districts and eventually villages.

The group arrived in Tanjung Balai and was immediately taken to a shelter run by the Ministry of Social Welfare, known as *Rumah Perlindungan dan Trauma Center* or RPTC. They stayed for 10 days in this facility with limited freedom. The shelter authorities banned them from going out but did not avail them with activities either. It was a long ten days doing nothing. Afterwards they were taken to Jakarta by boat, arriving at Tanjung Priok port.

Upon arrival, the authorities gave each of them Rp 250,000 as a pocket money and they were immediately taken to the RPTC run by the Ministry of Social Welfare. The institution was started in 2004 in Kemayoran area in Central Jakarta, occupying a property belonging to the Jakarta provincial government. In 2008 it moved to a much bigger facility in East Jakarta until today. The move was partly facilitated by the increasing trend in the number of PMB. In 2013, there were 763 returnee migrants out of 1,303 individuals who received help in the shelter. In 2014 the figure was 935 out of 1,571. By June 2015 the figure was already 769 out of 1,264. (Kemensos 2015, p.35).

The role of RPTC as outlined in the Decree of Ministry of Social Welfare no. 102/2007 is actually quite comprehensive. It doubles as a crisis centre which gathers information and runs advocacy programmes, and as a trauma centre which offers healthcare, psycho-social rehabilitations and trauma healing. This is on top of the duties to provide food, temporary accommodation, and clothing. The shelter is also supposed to prepare the returnees for reintegration with their families and communities, in collaboration with regional governments. Related to the latter, the staff at RPTC are tasked with home visits to the families of the returnees to prepare them before the family reunion. In particular they are to look out for signs of rejection by the families and communities in cases of rape and unwanted pregnancy.

However, an internal review commissioned by the Ministry in 2015 criticised the centres for falling short of the responsibilities entrusted to this institution in general (Husmiati, Widodo et al. 2015). In terms of resources RPTCs operate on a very small budget and each institution only employs one or two civil servants who work as the coordinator and secretary, assisted basically by volunteers. The review mentions how the RPTC in Bambu Apus Jakarta struggles with the financial burden of having to feed and repatriate the increasing number of returnee migrants. High medication bills for serious cases of illness or injury stretch the meagre budget even further. The recently established national health insurance scheme turns out to be useless as it requires identity documents which is precisely what the undocumented migrants are lacking.

The twelve men from Raburia luckily did not have serious physical or mental problems and therefore it was mostly boredom that troubled them while in the shelter. Indeed, the range

of services as stipulated by the regulation take place intermittently, only if the volunteers and facilities are available. Once a volunteer organised a cooking lesson for a group of female returnees and she had to bring all the basic equipments from home because they were not available in the shelter. Even after she had left all the equipments in the shelter, the next week when she came for another lesson she found that they all disappeared. Sports facilities are available although limited to volleyball and football and the pitch is uneven. Spiritual or pastoral services are available when the centre invites local ulemas or pastors.

Overall the Raburia returnees spent about a week in RPTC Bambu Apus. On 13 February 2016 they were taken to the Tanjung Priok port to board KM Umsini that would take them to Maumere in Flores. No staff from the RPTC or from any government agency accompanied them in the boat trip. Alongside them was another returnee from Manggarai, an eastern district in the same island of Flores. They were given tickets, some money and an official cover letter to be handed over to the *Dinas Sosial* or the Office of Social Welfare in Maumere. The boat took four days to reach the destination. The idea was that once they got off the boat they were supposed to go to the *Dinas* and reported the arrival and received assistance. They did arrive safely but it was late in the evening and the office of the *Dinas* was obviously closed. Although aware of the instructions from Jakarta, “We simply wanted to get home as soon as possible. We could not be bothered to wait until dawn to access the *Dinas*,” said Xaverius who acted as the *de facto* leader of the group. Maumere is about four hours away by car to their home village. Being closer to the final destination, the twelve men decided to let the sole returnee from Manggarai, which is around 12 hours away from Maumere, bring the cover letter from the RPTC in Jakarta with him just in case. At this point, they then used what remained of the pocket money and mobilised their kinship network, yet again, to take them home. A combination of a minivan and motorbike rides organised by their relatives safely brought them back.

The repatriation procedure stipulates that once returnees arrive in the provincial port, the local government agencies will take over from the Ministry and bring them to the home village. In reality, no one in the *Dinas* in Maumere, nor in Ende was aware of the Raburia returnees. “I have double-checked. We do not know anything about the deported migrants from Raburia,” confided Romanus Tato, the head of the department of social security and assistance of the *Dinas Sosial* in Ende. Similarly, Yoseva Dewi, the head of the department of labour placement and empowerment of the *Dinas Tenaga Kerja* or Labour Agency in Ende knew nothing of it.

This lack of coordination is often blamed on the decentralisation policy that started in 2001 as part of the political reform following the demise of the New Order regime. Decentralisation is supposed to encourage greater public participation in development by transferring some of the powers from Jakarta to the regions. It is a means of improving public services, reducing inefficiency and corruption, and deepening democracy (Manor 1999; Dasgupta and Beard 2007). Under this policy, local governments could reorganise departmental offices and reallocate the resources according to their priorities. This often makes governmental coordination across various levels complicated. Messages from Jakarta do not necessarily find willing partners in the regions. The lack of coordination is acutely exposed in the repatriation of migrants as the process involves various agencies at all levels of governance.

The Ministry of Social Welfare and the related *dinas* in the regions are part of a special task force or *satgas* in its Indonesian acronym that is responsible to facilitate the safe return of deported migrants. Apart from this ministry, the other members of the *satgas* are from the Coordinating Ministry of People’s Welfare, the Ministry of Home Affairs, the Ministry of Law and Human Rights, the Ministry of Labour and Transmigration, the Ministry of Health, the Ministry of Women’s Empowerment and Child Protection, the National Agency for Protection

and Placement of Indonesian Migrant Workers (BNP2TKI).² In reality, though, only officials from the Ministry of Social Welfare, the Ministry of Labour and Transmigration, and BNP2TKI and their related agencies are present in the field. And that is not always as a team, especially in the regions (Husmiati, Widodo et al. 2015, 60). On various occasions, officials from these agencies complained about the lack of collaboration and the culture of blame shifting among these different institutions.

Even if the willingness to serve the vulnerable is present, the financial resources prevent the agencies to act swiftly. For 2015 Romanus Tato's office in Ende, which is tasked with helping returning migrants, only had a budget of Rp 82 million (US\$ 6,300), while Yoseva Dewi's budget for 2016 was Rp 88 million. Little wonder that they did very little in terms of protections.

Conclusion

The labour migration route that connects Indonesia and Malaysia brings together two different migration processes, i.e. the state-sponsored one and the traditional or casual one. Over the years the state has tried to rein in the irregular migration both at the sending and receiving ends, but it pays little consideration to the complexities of its reproduction and the vulnerabilities associated with rural population from Indonesia's outer provinces. Deportation offers a glimpse of how that process takes place.

The Indonesian and Malaysian governments never fully recognise the way incentives and traditions work to perpetuate irregular or undocumented migration. Both insist on working within the legal frameworks which serve primarily their national interests. Undocumented migrants are obviously a violation of this regime, but their criminalization tells more about the state's inability to come up with comprehensive policies more than anything else. Deportation that follows the criminalization provides a convenient solution to the state's own contradictions between the heavy reliance on foreign labour and the narrative of national security.

When the deported migrants arrive back to Indonesia, they are turned into victims and treated accordingly. This victimization gives little regard to the agency of the migrants themselves. They are never properly listened to and constantly treated as objects of the state's patchy protection regime. To make it worse, mechanisms for redress are not even part of the repatriation processes. The deported migrants interviewed here did not consider themselves victims; they fully understood the risks and consequences of migrating without documents. After all, some of them were veterans of several periods of migration and some of them immediately thought about going back to Malaysia once they were home.

Both criminalization and victimization only serve to underline the stagnant labour migration regimes. The migrants themselves do not make centre stage and the policies offer little innovation if any. It will remain the case unless migrants and their concerns form a meaningful building block in labour migration policies.

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² Under the Presidential Decree no. 106 of 2004, this task force is called the Coordination Team for the Repatriation of Indonesian Migrant Workers with Problems and Their Families or TK-PTKIB in its Indonesian acronym. This legislation has been replaced by the more generic Presidential Regulation no. 45 of 2013, which does not significantly change the substance of the old law.

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