

# SHIFTING THE PARADIGM OF INDONESIA-JAPAN LABOUR MIGRATION COOPERATION

VOICES OF RETURNED MIGRANTS ON PRE-DEPARTURE  
PROCESSES UNDER THE ECONOMIC PARTNERSHIP AGREEMENT  
AND THE TECHNICAL INTERN TRAINING PROGRAM



**Authors:**

Avyanthi Azis  
Ridwan Wahyudi  
Yoga Prasetyo  
Daniel Awigra  
Mariko Hayashi

**Editor:**

Mariko Hayashi

**HRWG**

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Cooperation: Voices of Returned Migrant Workers on Pre-Departure  
Processes under EPA and TITP**

**Authors:** Avyanthi Azis  
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Mariko Hayashi

**Editor:** Mariko Hayashi

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**Human Rights Working Group (HRWG) Indonesia**

Yarnati Building, Room 207D, Proklamasi Street, No. 44

Menteng, Central Jakarta, Indonesia 10320

Phone: 021-3902579, 021-29922459, Fax: 021-2902579

e-mail: [hrwg.indonesia@gmail.com](mailto:hrwg.indonesia@gmail.com)

Facebook: <https://www.facebook.com/HRWG.Indonesia>

Twitter: @HRWG\_Indonesia

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# TABLE OF CONTENTS

Abbreviations .....	iv
Acknowledgements .....	vi
Foreword .....	viii
Editor's Note .....	xi
 <b>Chapter 1:</b> Introduction - Call for Japan-Indonesia Labour Migration beyond Economic and Security Cooperation .....	 1
<b>Chapter 2:</b> Building Literature from Origin-country Perspectives.....	15
<b>Chapter 3:</b> The Pre-departure Process of Nurses and Care Workers' Migration under the Indonesia-Japan Economic Partnership Program (IJEPA) .....	29
<b>Chapter 4:</b> The Pre-departure Process of Indonesian Migrants under the Technical Intern Training Program (TITP) .....	43
<b>Chapter 5:</b> Conclusion -Shifting the Paradigm and Ways Forward .....	60
Appendices.....	67
About Authors and Editor .....	71
About HRWG.....	73

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# ABBREVIATIONS

<b>AICHR</b>	ASEAN Intergovernmental Commission on Human Rights
<b>AMS</b>	ASEAN Member States
<b>AO</b>	accepting organization
<b>ASEAN</b>	Association of Southeast Asian Nations
<b>BLKLN</b>	Overseas Work Training Center (Balai Latihan Kerja Luar Negeri)
<b>BNP2TKI</b>	National Board for the Placement and Protection of Indonesian Migrant Workers (Badan Nasional Penempatan dan Perlindungan Tenaga Kerja Indonesia)
<b>BP3TKI</b>	Indonesian Workers Placement and Protection Service Center (Balai Pelayanan Penempatan dan Perlindungan Tenaga Kerja Indonesia)
<b>EPA</b>	economic partnership agreement
<b>FGD</b>	focus group discussion
<b>GCM</b>	Global Compact for Safe, Orderly and Regular Migration
<b>G-to-G</b>	government-to-government
<b>ICCPR</b>	International Convention on Civil and Political Rights
<b>ICMW</b>	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
<b>IJEPA</b>	Indonesia-Japan Economic Partnership Agreement
<b>ILO</b>	International Labour Organization



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We would like to extend our appreciation to 39 colleagues from 12 countries, who participated in the “Cross-Regional and Co-Creation Workshop in Developing a Joint Regional Advocacy Platform on the Rights of Migrants in East and Southeast Asia” held in Bangkok 17-19 July 2019. Especially H.E. Amara Pongsiapich, H.E. Erick Paulsen, H.E. Yuyun Wahyuningrum; the Thai, Malaysian, and Indonesian



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Representatives to the ASEAN Intergovernmental Commission on Human Rights (AICHR) for their active engagement on this issue during the event. Thank you for active contribution made by the civil society representatives from East Asia; Nobuki Fujimoto from Hurights Osaka, Wako Asato from Kyoto University, Jotaro Kato, Seonyong Seo from Yonsei University, Yongsup Jung from Migrant Workers Supporters Group Korea, Lenon Yoh Dah Wong from Serve People Association Taipei, Cyntia Abdon Tellez from Mission for Migrant Workers Hong Kong, Cecile Montenegro from Batis AWARE, Nami Yokogi and Fumiko Okamoto from the SPF. And we also thank representatives from this region; Ellen Sana from Migrant Forum Asia, Kel Ramos Suarez from University of Philippines, John Maung from Agency from Basic Community Myanmar, La Ring from Freedom House Myanmar, Sinapan Samydorai from Task Force ASEAN Migrant Workers, Sovicet Ieng from LSCW Cambodia, Huong Ngo from Center for Development and Integration Vietnam, Preeda from Solidarity Center Thailand, Chontica from HRDF Thailand, Nanchanok from Thomas Reuters Foundation Thailand, Nattawut Kasem from EJF Thailand, Risca Dwi from APWLD, John Samuel from Forum Asia, Su Shern and Xieh Wei from Project Liber8 Malaysia, Damar Juniarto from SAFENET, Adeline from ANU, Fachrul Razi from MKM Brunei and Anna Olsen from ILO for their knowledge and insights.

This study is dedicated to all migrant workers who work under the TITP and the EPA schemes both in Indonesia and many other origin countries as well as to the Indonesian and Japanese governments. To end, we would like to thank everyone who helps HRWG to keep working on transforming human rights values into reality.

**Muhammad Hafiz**

Executive Director of the Human Rights Working Group - Indonesia's  
NGO Coalition for International Human Rights Advocacy

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# FOREWORD

**T**he first step was taken in winter 2018 in Japan. After a study visit on labour migration governance was conducted by the Sasakawa Peace Foundation (SPF) under its “International Labour Migration and Roles of Civil Society in Asia” project, we discussed an idea to work on an initiative to develop a cross-regional joint platform for better connections, understandings and cooperation on issues of migration between East and Southeast Asia. In the following year, a number of relevant actors across regions came together to discuss the initiative.

The “Cross-Regional and Co-creation Workshop in Developing a Joint Regional Advocacy Platform on the Rights of Migrants in East and Southeast Asia” was held as a milestone in Bangkok, on 17-19 July 2019. It was attended by 39 participants from 12 countries including the Thai, Malaysian, and Indonesian representatives to the ASEAN Intergovernmental Commission on Human Rights (AICHR), migrant workers, academics, prominent civil society activists and students. This process brought urgency and hope to share a joint vision in order for relevant actors in the two regions to work together on protection and promotion of migrant workers’ rights. After three days of intense and constructive discussions, we agreed on a joint vision to build a society where human rights of migrants and their families are upheld, respected, protected and fulfilled regardless of their administrative/immigration statuses in East and Southeast Asia. Research based advocacy work on pre-departure programs was discussed as one of the initial activities recommended by the forum.

Approximately one third of migrant workers originated from ASEAN member states (AMS) work within Southeast Asia, however, in

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recent years migrant workers from the region are in higher demand in rapidly aging societies of East Asian countries than ever before. The interdependence on migrant labour between countries and the regions is on the rise. Population ageing, increasing women's economic participation, economic-growth and development are the trends of driving factors of migration. In this situation, a cross-regional platform for dialogue and cooperation between these two regions is becoming increasingly important.

One of the roots of the problems faced by migrant workers and members of their families is the fact that migrant workers have been governed by policies made upon strong national interests. East and Southeast Asian regions are not exceptions to the global trend of rising sectarian populism and nationalism. Migrants are seen as "others", often becoming scapegoats, and discriminated against. Right at the moment of bringing this book to completion, in the middle of the covid-19 pandemic, many countries are turning their backs on vulnerable migrant workers, and even blaming them for the spread of the disease, instead of providing the support they need. The negative impacts of immigration are more often talked about than significant contributions that migrant workers make.

We hope that this study on pre-departure processes of Indonesian migrant workers to Japan, looked at from the perspective of the sending country, will become a pioneer of the further research-based advocacy work between not only the countries of origin and destination, but also across the regions even within multilateral frameworks such as the ASEAN Plus Three.

This book "Shifting the Paradigm of Indonesia-Japan Labour Migration Cooperation" will never be in your hand without the tireless works done by all young and talented researchers and the editor who traced and investigated many sources from both Japan and Indonesia. The findings and the dedication made by everyone who participated in this research have brought us optimism that the initiative of cross-regional advocacy on the pre-departure process will make an impact.

This study is one of the outcomes of the collaborative work made

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by many of our friends and colleagues through participatory processes, especially from migrant workers themselves. For us, it is one small step in the infinite journey to establish a movement in which voices of migrants are collected, heard and reflected in regional/national decision-making mechanisms to make a better region to live in.

*Jakarta, 17 March 2020*

**Daniel Awigra**

Deputy Director of the Human Rights Working Group - Indonesia's  
NGO Coalition for International Human Rights Advocacy

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## EDITOR'S NOTE

**T**his book is written by four main authors who are experts of migrant workers' rights as grass-roots practitioners, researchers/academics, and national/international advocates of Indonesia. Benefitting from their expertise, knowledge and strong networks with migrant workers' communities and related stakeholders, this study reveals some real pictures of the pre-departure process taken by Indonesian migrant workers who work in Japan as nurses, care workers under the EPA, and as workers of other occupational groups under the TITP.

As an editor, I respect each author's own writing style while maintaining consistency and coherence as much as possible. The literature review, which draws on the existing academic literature and official reports, uses the APA referencing style unlike other chapters that are more based on primary research and use the footnote referencing style. The term "Supervising Organization" is officially used for Japanese non-profit organizations such as business cooperatives and societies of commerce and industry that accept technical intern trainees to work at their affiliated enterprises (implementing organizations or "employers"). However, this book instead uses the term "Accepting Organization (AO)", which is more commonly used in the local context of Indonesia. Other English translations of Japanese and Indonesian technical and legal terms as well as proper nouns are in reference to official documents provided by the Indonesian and Japanese governments as much as possible if they are available, otherwise translated by the authors or myself. Especially Japanese terms and information taken from references written in Japanese language are reviewed on my responsibility. The

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list of abbreviations and footnotes will help readers to better understand the use of terms and abbreviations that can be sometimes different in English, Indonesian and Japanese languages. Conversion rates of IDR 14,000 to US\$ 1 and JPY 110 to US\$ 1 are used in all chapters to provide a better understanding of prices mentioned in this book.

This study sheds light on the pre-departure process, where prospective migrant workers are recruited, placed, and trained for their future work in Japan. Little about the real practices and situations of the pre-departure process is known, especially to the receiving country, despite its shared responsibility with the sending country to make sure the process is adequate and protecting the rights of prospective migrant workers prior to their arrival. As a Japanese citizen, I strongly believe that this study should reach stakeholders of both Japan and Indonesia and become a resource for constructive dialogue and cooperation between the two countries. We hope that this book will contribute to creating better environments and systems, in which the rights of migrant workers are fully respected and protected so that they can realize their full potential to achieve their goals while contributing to the receiving society.

**Mariko Hayashi**

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## CHAPTER 1

# INTRODUCTION: CALL FOR JAPAN-INDONESIA LABOUR MIGRATION BEYOND ECONOMIC AND SECURITY COOPERATION

**Daniel Awigra**

**T**his study assesses the pre-departure processes of Indonesian workers migrating to Japan under the Technical Intern Training Program (TITP) and care workers and nurses under the Indonesia-Japan Economic Partnership Agreement (IJEPA) drawing from stories of returnees. Throughout this study, the terms “trainees” and “migrant workers” are used interchangeably when discussing migrants under the TITP. This is to acknowledge the governments’ consideration of technical intern trainees as “trainees” as stated by the existing laws and regulations. However, findings of this study suggest that they are treated as workers during the recruitment, deployment and employment in both countries of origin and destination. Despite the acknowledgement of some positive contributions of both the TITP and the IJEPA schemes, especially to the economic development for both countries, these migration processes to Japan remain precarious in many ways.

The study shows experiences of migrants being made vulnerable, exploited and abused during the pre-departure processes, leading to

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their feeling of ‘needed yet unwanted’<sup>1</sup> or ‘not needed or wanted’<sup>2</sup> in the destination country. Findings from our study show that unfair practices are systematically carried out during recruitment, placement and training processes prior to their departure under these schemes. While human rights violations happen by commission and omission in almost all processes of migration, this study focuses on the initial stage.

There are criticisms towards human rights violations in the implementation of the TITP in Japan, including unpaid and low wages below the minimum standard, long working hours, forced repatriation, verbal, sexual, and physical abuse that sometimes result in runaways etc. In August 2014, the United Nations (UN) Human Rights Committee’s concluding observation on the International Convention on Civil and Political Rights (ICCPR) strongly recommended that the Japanese government consider replacing the current program with a new scheme that focuses on capacity building rather than recruiting low-paid labour. The committee also recommended, while the program is in place, increasing the number of on-site inspections, establishing an independent mechanism and investigating, prosecuting and sanctioning labour trafficking cases and other violations.<sup>3</sup>

Compared with studies and reports on migrant workers’ situations in Japan, there are limited studies that assess the process of migration

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1 The term ‘needed-yet-unwanted’ was first used to depict the changing nature of Haitian immigration (Wooding and Mosely, 2004), depicting the process where there is a demand for labour from countries with certain stages of development and the ‘unwanted’ flows of labour from other countries through its discriminatory labour migration policies.

2 Quoted in chapter 4.

3 United Nations Human Rights Committee, “Concluding observations on the sixth periodic report of Japan”, <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRICAqhKb7yhsuBJT%2Fi29ui%2Fb4lh9%2FUIJO9nQa93Boy0croOoLTDvEPGY0kpztyF26TNPPD6smh3p9YJ5KgXGu0vYZb1NM8mpET5PRv%2FLCx0HP6sZ3QjgcWl>



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to Japan from the perspectives of countries of origin. The main issues of overcharging, debt bondage, exploitation, and social cost of labour migration remain in place, and how effectively those schemes have achieved these workers' goals after repatriation is still questionable. In countries of origin, exploitations and abuse start from the recruitment process, and continue during preparation and training programs, and placement or deployment without effective inspections or regulations. Especially, the lack of regulations to set cost structures of fees charged to prospective migrant workers poses certain problems. It is common for prospective Indonesian migrant workers to pay staggering fees of IDR 30,000,000 to 80,000,000 (approx. US\$ 2,143 to 5,714) during their recruitment processes.<sup>4</sup> The value of this study is its trial to untangle "the game" played by multiple stakeholders leaving migrant workers vulnerable.

The TITP was created in 1993 with the purpose of international cooperation through the transfer of 'Japan's advanced skills'. According to Nobuki Fujimoto of Asia-Pacific Human Rights Information Center (Hurights Osaka), however in reality, small and medium sized companies experiencing labour shortages use the program as a means to secure labour<sup>5</sup>, while Nawawi also argued that the benefit of this scheme for Japan was to secure low-wage labour<sup>6</sup>.

Meanwhile, the Economic Partnership Agreement (EPA) between Indonesia and Japan was signed in 2007, and migration of Indonesian workers was aimed at improving the human resources of Indonesia as it is embodied in Japan and Indonesia's commitment to the economic partnership, in particular the movement of natural persons or

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4 This information was shared by one participant during the FGD on November 2, 2019, in Bandung.

5 This information has been quoted during Fujimoto's presentation on Current Situation of Foreign Workers in Japan at Hurights Osaka, November 26, 2018.

6 Nawawi. (2010), Working in Japan as a Trainee: the Reality of Indonesian Trainees under Japan's Industrial Training and Technical Internship Program. Jurnal Kependudukan Indonesia, Vol. 5, No. 2: 29-52

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manpower. Regulating labour migration under the EPA has normalized the notion that migrant workers are tradable commodities. In the human rights landscape, it is degrading.

According to the information from the Ministry of Health, Labour and Welfare released on January 21, 2020, there were 51,337 Indonesian working in Japan and 32,480 of them worked under the TITP in October 2019. In total, there were 383,978 migrant workers under the TITP out of all 1,658,804 foreign workers in Japan in October 2017.<sup>7</sup> The fact is that many foreign workers in Japan have statuses as students, trainees or spouses and family members, and they do not appear as “foreign workers” in some statistics. Majority of them come from China, Korea, Philippines, Vietnam, Nepal, Indonesia and Brazil, but of course there are also many other nationals.

In December 2019, the Ministry of Manpower of Indonesia in cooperation with International Manpower Development Organization Japan (IM Japan), a Japanese public interest incorporated foundation, agreed to continue the deployment of workers under the TITP and even to increase the number of Indonesian technical intern trainees. The Ministry has already been preparing new training facilities for the prospective migrant workers under the TITP. Ida Fauziyah, Indonesian Minister of Manpower, said the two parties have agreed that Indonesia will deploy 5,000 more technical intern trainees each year during the next two to three years.<sup>8</sup> According to the Organization for Technical Intern Training (OTIT), the Indonesian Ministry of Manpower has informed that there are 222 sending organizations (SOs) licensed to

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7 Ministry of Health, Labour and Welfare, “List of notifications of employment situation of foreigners (as of the end of October 2019)” (「外国人雇用状況」の届出状況表一覧 (令和元年10月末現在) ) <https://www.mhlw.go.jp/content/11655000/000590311.pdf>

8 Antaranews.com, “Indonesia-IM Japan agreed to increase the number of apprentices to Japan” (Indonesia-IM Japan sepakat perbanyak peserta magang ke Jepang), December 2, 2019. <https://www.antaranews.com/berita/1190223/indonesia-im-japan-sepakat-perbanyak-peserta-magang-ke-jepang>

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deploy Indonesian migrant workers to Japan as of March 2020.<sup>9</sup>

Majority of workers under the TITP are recruited and placed through private SOs and private accepting organizations (AOs)<sup>10</sup>, hence through the Private-to-Private (P-to-P) scheme. However, there is also another system in which workers are recruited and sent by the Indonesian government through the Overseas Work Training Centers (BLKLN<sup>11</sup>) and accepted by IM Japan, the only AO directly appointed by the Japanese government. This report calls this corridor Government-to-Government (G-to-G) TITP scheme. On the other hand, all nurses and caregivers under the EPA migrate through the G-to-G scheme, coordinated solely by the National Board for the Placement and Protection of Indonesian Migrant Workers (BNP2TKI<sup>12</sup>) and Japan International Cooperation of Welfare Services (JICWELS), appointed by the Japanese government.

## **Migration Driven by Demographic Changes**

A century ago, Japan was a sending country of migrant workers mainly to Latin American countries and Pacific islands. Majority of them worked as farmers on sugarcane plantations or factory workers. Heritage of this history is preserved nicely at the Japan Overseas Migration Museum in Yokohama. Today, Japan's economy is the third largest in the world behind the United States and China. It grew at an annualized rate of 1.8 % in the second quarter of 2019. The figure exceeded economists' expectations, which had been tempered by slowing global demand.<sup>13</sup>

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9 OTIT "Full List of Approved Sending Organization of Indonesia", <https://www.otit.go.jp/files/user/200221-6.pdf>

10 Officially called "Supervising Organization". The use of the term AO is explained in the editor's note.

11 *Balai Latihan Kerja Luar Negeri* (BLKLN).

12 *Badan Nasional Penempatan dan Perlindungan Tenaga Kerja Indonesia* (BNP2TKI). In Japanese documents, "National Board" or the abbreviation "NBPPIW" are often used.

13 The New York Times "Japan Posts Surprising Growth, but Economic Threats Loom",

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Rapid postwar economic development saw substantial rural-to-urban migration in Japan, where cities expanded considerably. New immigration levels remained low as domestic migration and the postwar baby boom provided an adequate supply of labour. By the early 1980s, Japan had become highly urbanized, with around 60% of its residents living in densely populated regions. As a result, it experienced labour shortages particularly in the so-called 3-D jobs (dirty, demanding and dangerous), which were deemed unappealing due to their monotonous and low-pay nature. The gap in the labour market made Japan a more attractive destination to new immigrants<sup>14</sup>.

In December 2019, the number of foreign residents in Japan was approximately 2.73 million, and it accounted for about two percent of the whole population. The number of foreign residents in Japan has almost consistently increased after WWII. Although the number temporarily dropped due to the global economic crisis in 2008 and the Great East Japan Earthquake in 2011, it has again begun to grow significantly since 2013.<sup>15</sup>

Japan has been dealing with significant demographic changes due to low birth rates and the ageing population. This demographic trend underlines the urgency of the migration issue. With approximately 28 percent of its population over the age of 65, Japan's ageing rate is one of the fastest rates in the world, and the old-age dependency ratio (OADR) stands out as the highest.<sup>16</sup> These swift demographic changes have brought challenges for the survival of various industries in Japan.

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August 8, 2019, <https://www.nytimes.com/2019/08/08/business/japan-economy.html>

14 Green D., "As Its Population Ages, Japan Quietly Turns to Immigration", Migration Policy Institute, March 28, 2017, <https://www.migrationpolicy.org/article/its-population-ages-japan-quietly-turns-immigration>

15 The Japan Times, "Is Japan becoming a country of immigration?", June 26th 2019, <https://www.japantimes.co.jp/opinion/2019/06/26/commentary/japan-commentary/japan-becoming-country-immigration/#.XkAP1zH7RPY>

16 United Nations, Department of Economic and Social Affairs, Population Division (2019). *World Population Ageing 2019* (ST/ESA/SER.A/397).

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Due to the ageing population, Japan has been facing subsequent increases in costs for social welfare such as health-care and pension, while the proportion of citizens in the labour force decreases. With these challenges, immigration has become one of the solutions to Japan's ageing society. To overcome these issues, the Japanese government reformed the Immigration Control and Refugee Recognition Act, which was enacted in December 2018 and took effect in April 2019. A newly created visa status was designed to admit foreign workers with certain skills or knowledge to make up for a serious domestic workforce shortage. Through this amendment, Japan aims to bring around 340,000 migrant workers into the country under the new scheme called 'Specified Skilled Workers' (SSW) in the next five years. The Indonesian government is willing to deploy 70,000 skilled migrant workers for the said target.<sup>17</sup>

Under the new scheme, foreign workers are expected to fill the workforce gaps in 14 specific industries; care-work/nursing (60,000 workers), building cleaning management (37,000 workers), machine parts and tooling (21,500 workers), industrial machinery (5,250 workers), electric, electronics and information (4,700 workers), construction (40,000 workers), shipbuilding and ship machinery (13,000 workers), aviation (2,200 people), automobile repair and maintenance (7,000 workers), accommodation/hospitality (22,000 workers), agriculture (36,500 workers), fishery and aquaculture (9,000 workers), manufacture of food and beverages (34,000 workers), and food service industry (53,000 workers).<sup>18</sup>

Indonesia signed the SSW scheme as soon as it took effect in April 2019. By January 2020, employment visas under this scheme had

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17 Tempo.com, "Indonesia Eyeing on Exporting Skilled Migrant Workers to Japan", June 25, 2019, <https://en.tempo.co/read/1218218/indonesia-eyeing-on-exporting-skilled-migrant-workers-to-japan>

18 Ministry of Justice Immigration Bureau (Japan), "Accepting Foreign Human Resources under the New Scheme", (新たな外国人材の受入れについて), <https://www.mhlw.go.jp/content/12000000/000488894.pdf>

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been issued to 219 individuals from Vietnam (93), Indonesia (33), the Philippines (27), Thailand (23), China (17), Myanmar (16), Cambodia (4), Taiwan (2), and other countries (4). The manufacturing, raw materials and construction sectors received most of the workers<sup>19</sup>.

However, the enactment of the law has stirred controversy as critics considered the process of the amendment too hasty without careful consideration and the new legislation as a continuation of the existing systems that come with considerable problems including low-wage, long working hours, lack of training provided, and workers' limited Japanese language skills. At the end of 2018, Mainichi Shimbun newspaper reported that Japan's Ministry of Justice, responding to demands made by the opposition parties, decided to investigate details of the 69 deaths of TITP workers resulted from workplace accidents and suicide between 2015 and 2017.<sup>20</sup>

Despite the new scheme, the TITP and the EPA schemes for nurses and care workers continue to be kept in place, and many issues of their human rights situations remain unsolved. As Japan opens its door to more migrant workers, issues of the long existing schemes must be addressed again and improved in order to avoid repeating the tragedies and producing more victims.

Keizo Yamawaki, a professor at the School of Global Japanese Studies of Meiji University, in his article on The Japan Times, pointed out that as developed countries compete to attract foreign workers, Japan needs to create a system to build an intercultural society by learning from the efforts and measures that other countries have established over the years. To a question whether Japan is moving

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19 This data was given by the Director of Placement and Protection Indonesian Overseas Workers, Ministry of Manpower, on January 29, 2020.

20 MainichiShimbun, "69 foreign technical intern trainees died in 3 years from 2015 to 2017: Immigration director did not know how" (外国人技能実習生69人が死亡 2015～17年の3年間 入管局長は経緯把握せず) <https://mainichi.jp/articles/20181206/k00/00m/010/232000c?fbclid=IwAR0C0yn08yWpFe5xDPOvyrN1Dt-ME0HJisWz33IBBOKM0OZnsdCMYD7YdCLw>

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toward being a country of immigration, he answered “Yes, but very cautiously.”<sup>21</sup>

### **About This Study**

This research utilizes both primary and secondary data. The primary data was gathered from in-depth interviews, focus group discussions (FGDs) and field observations. Returned migrant workers were the main informants. Field observations were conducted in several places involving the pre-departure process including training centers and recruitment agency offices. All names of informants and training centers mentioned in this report have been changed to protect their privacy and security.

HRWG<sup>22</sup> conducted an FGD on “Fair Recruitment Initiative for Interns (technical intern trainees) and Caregivers” on November 2, 2019, in Bandung. Two separate sessions were held inviting returned nurses, care workers and technical intern trainees. The meeting was aimed at identifying the issues, actors and how the policies were implemented in the fields.

Meanwhile, the secondary data was collected from relevant governmental and non-governmental agencies and civil society organizations working directly or indirectly on issues of migrant workers. A literature review was conducted drawing on a number of existing literature to identify relevant data, theories and gaps on this subject such as a limitation of studies focusing on the perspective of countries of origin as well as lack of consideration of regionalism.

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21 Yamawaki K., “Is Japan becoming a country of immigration?”, The Japan Times, June 26th 2019, <https://www.japantimes.co.jp/opinion/2019/06/26/commentary/japan-commentary/japan-becoming-country-immigration/#.XjOqomgzblU>

22 HRWG is a network of more than 48 non-governmental organizations working on promoting human rights in Indonesia. It was established in 2003 by NGOs sharing similar interests seeking a platform to coordinate and lead international human rights advocacy efforts. HRWG’s main objective is to seek and ensure government accountability to its constitutional obligations and international human rights commitments.

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Both quantitative and qualitative data were used for this research. The quantitative data allows us to see the 'big picture' of the phenomenon, while the qualitative data details the real-life experience of returned migrant workers and intricacies of the issues that speak to a broader context.

This study intentionally tries to develop literature with the perspective of a country of origin that contributes to address some specific aspects of human rights violations against migrant workers. Drawing on existing literature, chapter two provides an analysis of the history and context of the development of Japanese immigration policies, and its impact on migrants and their home countries. It also identifies literature gaps that this study tries to fill. Findings from the primary research on the pre-departure experiences of nurses and care workers under the EPA and other occupational workers under the TITP are examined and analyzed in chapter three and chapter four.

The findings of the research show us some basic and critical, yet very difficult to capture, practices in pre-departure processes such as the ways in which recruitment is conducted and common practices of overcharging come into play. It also brings some answers to such questions as; what is the cost structure of placement fees, and for what purposes do prospective migrants have to pay such large amounts of money?; who are complicit in this 'migration industry'<sup>23</sup>?; how are these systems perpetuated and by whom?; which policies come to govern the systems, and why are they not effective in eradicating unfair practices?

This study looks at both private and public actors; practices carried out by private agencies, training centers, individual brokers and employers, as well as the role of the governments, related ministries and agencies; the ways in which the governments appoint some ministry-related organizations and/or private institutions to

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23 Hernandez-Leon R. (2005) and Sorensen N.N. Gammeltoft-Hansen T. (2013); [https://www.diplomatie.gouv.fr/IMG/pdf/migrationindustry\\_mexico.pdf](https://www.diplomatie.gouv.fr/IMG/pdf/migrationindustry_mexico.pdf)



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implement recruitment, placement and training, as well as accepting them in the destination country.

### **Strengthening Cooperation**

This study reveals the lived experiences of migrant workers during pre-departure processes, and how a lack of right-based approaches has had an impact on their experiences. It can be a reference and a source for constructive discussion for the improvement of the bilateral cooperation between Indonesia and Japan, or even within multilateral frameworks such as the ASEAN Plus Three (Japan, China and South Korea).

The joint statement of the 10th ASEAN Plus Three Labour Ministers' Meeting in Kuala Lumpur 2018 declared the commitments to strengthening multilateral cooperation in labour sectors and learning from one another in the promotion of sustainable jobs and skills in the region. Two activities within this framework were conducted in 2018, namely (i) the Seminar on Migrant Workers' Contribution to an East Asia Economic Community Perspectives from ASEAN Plus Three at National and Regional Level in Siem Reap, Cambodia; and (ii) the Conference on Sharing Best Practices on Harnessing Industry Involvement in Development of Higher Level Qualifications in Manila.<sup>24</sup> Under this ASEAN Plus Three framework, the commitment has been made to promote quality of life and competitiveness of labour in the workforce that engages in safe and decent work as well as adequate social security. The agreement was also made to support the attainment of the ASEAN Community Vision 2025 in terms of labour cooperation.<sup>25</sup>

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24 ASEAN, "Overview of ASEAN Plus Three Cooperation", [https://asean.org/storage/2016/01/Overview-of-APT-Cooperation-Jul-2019\\_For-Web\\_Rev.pdf](https://asean.org/storage/2016/01/Overview-of-APT-Cooperation-Jul-2019_For-Web_Rev.pdf)

25 Joint Statement: The Tenth ASEAN Plus Three Labour Ministers Meeting (ALMM+3), November 29th 2018, Kuala Lumpur, Malaysia, <https://asean.org/storage/2018/11/Endorsed-Joint-Statement-of-the-10th-ALMM-3.pdf>

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Looking back at the existing cooperation under the Bali Process<sup>26</sup> on People Smuggling, Trafficking in Persons and Related Transnational Crime, Asia-Pacific countries such as Indonesia, Australia, Japan, South Korea, and ASEAN countries have also shared a security approach to combat trafficking. On the other hand, the EPA and the TITP, in reality, are rather economic cooperations. Now, there is a need to call for international cooperation on migration beyond security and economic focus by adding human rights to its basis.

During the FGD, one participant proposed that not only an operational change, but shifting the paradigm was very important. Unfortunately, the Indonesian government has not been able to (re-) negotiate for the protection of its nationals working in the destination country. The common way of Indonesian officials' thinking is that it is already good enough if many unemployed people are able to land jobs abroad and make remittances. Another common attitude is to regard sending low-wage workers as part of a trade deal. In addition, the government has not developed any comprehensive strategy to prepare for the reintegration of returned migrants as skilled workers in Indonesia. Drawing on the findings of its own research, this study suggests the importance of a paradigm shift, in which labour migration from Indonesia is to be dealt with a more human rights-based approach rather than security and/or economic cooperation.

There are a number of relevant and useful international and regional instruments to be referred for more rights-based approaches by both Indonesia and Japan. Indonesia is a state party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW), and at ASEAN regional level, it also has a cooperative mechanism of 2017 ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers. Although Japan is not a state party to ICMW like many other receiving countries - and it is needless to say that the efforts to advocate

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26 The Bali Process, <https://www.baliprocess.net/>

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Japanese government to ratify the convention must continue -, Japan is a state party to International Labour Organization (ILO) conventions No. 181 (1997) on Private Employment Agencies and No. 96 (1949) on Fee-Charging Employment Agencies. These conventions lay down that member states shall prohibit or tightly regulate fee-charging practices of employment agencies. However, Japan has not been able to address practices of overseas employment agencies charging workers, who will be working in Japan, while they are still in sending countries. As a result, in reality, many migrant workers pay large sums of fees to employment agencies in order to find employment in Japanese companies. For Indonesia, it is a serious challenge for the Law No. 18/2017 on Protection of Indonesian Migrant Workers and its following derivations to specify the government's mandate to protect migrant workers' rights in line with instruments such as ICMW and 2017 ASEAN Consensus. It is also worth noting the fact that the implementation of the TITP has been specifically governed by Minister Manpower Regulation No. 8/2008 on the Permission of Internship Abroad, and that technical intern trainees are not included as "migrant workers" to be protected under the Law No.18/2017.

The model for governing migrant workers under the TITP and the EPA is merely servicing national interests of Japan that has arisen from labour shortages in some specific sectors due to the ageing population, while addressing concerns that the labour market for Japanese workers must be protected. This national interest-based regime of migration governance will not be sustainable if there is no human rights consideration for workers to be placed in the foundation of such cooperation. When the rights of workers are fulfilled, there will be more potential for them to be able to learn skills and practice their profession in higher standards, which will be beneficial to Japanese employers, customers, and eventually more contribution to the Japanese economy and society will be made.

This research needs to be followed by another research looking at the post-arrival processes in Japan. Problems occurring in receiving

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countries are often rooted in flawed pre-departure processes such as recruitment and training. Ineffective pre-departure process is often resulted from a lack of right-based approaches during the negotiation and agreement between the sending and the receiving countries as well as during the implementation and monitoring of labour migration schemes.

With a counterpart research on post-arrival situation, we will be able to even better understand the linkages between processes in countries of origin and destination; such as the ways in which networks among different actors across borders have impacts on human rights situations of migrant workers, and how the issues faced by the migrants upon arrival in Japan and reintegration process after their return to Indonesia are related to the pre-departure process.

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## CHAPTER 2

# BUILDING LITERATURE FROM ORIGIN-COUNTRY PERSPECTIVES

**Avyanthi Azis**

**T**he year 2008 marked a demographic turning point in Japan, as population decline was officially on the records (Akashi 2014). The pronouncement bore significant meaning as Japan's postwar fertility decline was the earliest to occur in the non-Western world, and was on the greatest magnitude among all industrialized countries (Ogawa 2011).

From the business perspective, anxiety about the ageing population centers on long-term labour shortage and how this would lead to the eventual collapse of the Japanese economy. Population ageing further brings to the fore public concerns regarding financial pressures on the social security system, including old-age pension schemes and medical programs, and how these would shift considerable costs onto families (Akashi 2014, Ogawa 2011). Japanese households are increasingly finding themselves in need of caregivers for senior members of their families. Another consequence of this development concerns the high labour force participation rate among the elderly (Ogawa, Lee and Matsukura, 2005)—Japan stands out in its labour force participation rates for men and women aged 65 and over (Ogawa 2011). Of the various considerations about the social implications that might arise from population ageing, the most urgent one has been on how migration would factor in as a solution to the country's rapidly ageing and shrinking workforce (Akashi 2014).

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Conventional wisdom on Japan's stance on immigration has focused on depiction of its extremely restrictive policies (Castles, Haas, and Miller 2013; Tsuda 2003), describing Japan as being a "non-immigration", "closed immigration country" or a "negative case"—emphasizing the desire to keep Japan as a mono-ethnic nation. With the central argument that Japan's immigration policies are "more complicated than the image conjured up by the epithet closed immigration country" (Komine 2018), a more recent body of work has emerged to provide a more nuanced understanding of Japan's immigration policies. They contend that *de facto* Japan has allowed for the entry of low-wage foreign workers, while continuing to dodge the question of integration. Despite continuing tendency to avoid the term "*imin*" (immigrant) in public and official discourse (Roberts 2012), Japan has in fact actively mediated the entry of low-skilled foreign workers, and creatively work around the unresolved, fundamental problem that derives from the gap between strict immigration policies and the economy's structural dependence on migrant labour (Oishi 1995).

Postwar Japan first saw an increasing influx of foreign workers (documented or otherwise) in the late 1980s. The first wave featured mostly female entertainers, but male workers quickly overtook them in number. Several developments factored into this, however, most importantly, this was the result of the economic policies that the Japanese government adopted following the 1985 Plaza Accord, which led to a bubble economy and labour shortages, and eventually prompted the entry of migrant labour (Tai 2009). Yen's appreciation rendered working in Japan attractive to foreign workers; and despite the official policy of not admitting low-skilled foreign workers, they began to flow in anyway, to take up menial jobs—the so-called 3K or 3D jobs, *kitsui* (demanding), *kitanai* (dirty) and *kiken* (dangerous)—shunned by Japanese citizens.

### ***Nikkei-jin* & TITP**

Throughout the last decades, low-wage foreign workers are coming to Japan through the "front", "side" and "back doors"—(the latter to

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denote undocumented migrants, see Kondo 2002). More scholars are drawing attention to how this categorization of migrants, based on their “desirability” (Tian 2018), has featured in Japan’s immigration policies since the 1990s. The two major channels, respectively representing the “front door” and “side door”, are: (1) the preferential visas for the *Nikkei-jin*, or descendants of Japanese emigrants mainly to South America, and (2) the TITP, a guest worker program designed to facilitate transfer of Japanese technical knowledge and skills.

With regard to the former, in 1988, the Cabinet came to a decision that was to define the principles of Japan’s immigration policy for the next two decades. While retaining the long-established rule to prohibit entry of unskilled workers, it adopted promotion of the entry of highly skilled professionals, particularly those in the information technology sector. The Ministry of Labour confirmed this position in the Basic Plan for Employment Policy. Integrating this decision was the 1990 revision of the Immigration Control and Refugee Recognition Law, under which, among others, a special visa category called *teijūsha*, or “long-term resident” was established for immigrants who could prove their Japanese descent (up to the third generation), providing them with unlimited employment rights in a manner similar to permanent residents.

While there is a general impression that the *nikkei-jins* topped the hierarchy of foreign workers and held more favorable positions compared to those from other countries, studies have shown them to be subject to social exclusion as *gaijin*, or foreigners, by native Japanese workers (Tsuda 2003). Their second-class status in the labour market meant that they were particularly vulnerable to cyclical unemployment during economic downturns (Tian 2019, 9). As they were eligible to receive welfare and other forms of state support, this in turn, incurred a high cost on the Japanese government—eventually, they came to the conclude that the *nikkei-jins*’ ethnic return migration was counter-productive, and a 2006 Ministry of Justice report explicitly stated the program as a failure (Tian 2019, 10).

In April 1993, the Japanese government also made reforms intended

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to consolidate various small and scattered internship and training visa programs which dated back from the 1950s. Targeting young and unskilled workers from neighboring countries, the large-scale TITP was designed as a “skills training” program. It is conceptualized as an extension of the conventional training; trainees can only proceed to the program after completing off-the-job and on-the-job training, and passing a skill examination (Oishi 1995). The most notable characteristic of the TITP is that the technical intern trainees receive a formal employment contract, whereby they are officially defined as workers, and thus receive the same legal protection applicable to Japanese workers. The TITP program involves complex intermediation in both sending and receiving ends—compared to the *Nikkei-jin* visa regime, it has far more restrictive terms, allowing participants to stay only for a maximum of five years, previously three years until 2017, where they are subject to annual review by the Japan International Training Cooperation Organization (JITCO). The trainee visa is further held on condition of continual employment by designated companies, they are not allowed to apply for other positions or change employers. They are also barred from family reunification.

In official discourse, technical intern trainees are classified as part of Japan’s overseas development assistance program, aiming at the objective of transferring Japanese technology and expertise to less-developed neighboring countries (Ogawa 2011). However, critics have expressed skepticism of this representation of the TITP as a “charitable system”, claiming that the real motive for admitting foreign trainees is to exploit their cheap labour. In many cases, companies only hand out limited stipends to trainees, and in practice, trainees are vulnerable to unscrupulous practices.

Comparing the evolution of the *nikkei-jin* and the TITP over the years, Tian (2018) observes that Japan is increasingly showing more preference for the latter. Accordingly, Japanese policymakers, through an institutional learning process, have shown more pragmatism in their solution to the country’s labour deficit. Rather than highlighting ancestral linkage and spending efforts on ethnic return programs,



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Japan, as a “developmental migration state” now focuses on attracting migrants from Northeast and Southeast Asia—with little to no pre-existing ties to Japan—who are governed as circular and temporary labour (Tian 2018).

### **Nurse and Certified Caregiver Migration**

In addition to the two popular programs above, starting in the mid-2000s, Japan also rolled out schemes that directly relate to the ageing population problem, i.e. those that facilitate the migration of foreign healthcare workers. Compared to other receiving societies, Japan has taken more precaution in utilizing migration to address severe labour shortage in the healthcare sector (Ford & Kawashima 2016). It is also of important note that Japan has chosen to deal with flows of migration through trade negotiations—treating them not with labour or immigration policies, but rather as a form of trade in services through EPAs (Ford & Kawashima 2016).

Between 2006 and 2011, Japan signed a number of EPAs with South and Southeast Asian countries. The Japan–Philippines Economic Partnership Agreement (JPEPA) was signed in 2006 following two years of negotiation, allowing for the deployment of 400 nurses and 600 caregivers from the Philippines to Japan. The IJEPA, signed between Indonesia and Japan in 2007, constitutes a bilateral investment and trade agreement, which fosters trade liberalization. The agreement established trade diversification, and its Annex 10 allows Indonesian candidates for nurses and certified caregivers to enter into personal employment contracts with public or privately-owned healthcare and nursing facilities in Japan. The IJEPA initially allotted 200 candidate slots for nurses and 300 for care workers to be deployed to Japan, with an initial entry period of one year which can be extended for up to three years for nurses and four years for care workers, provided that the candidate pursues a course of training (including Japanese language) and steps toward qualifying as a registered Japanese nurse (看護師, kangoshi) or a certified care worker (介護福祉士, kaigofukushishi).

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The cross-border recruitment process for nurse and care worker candidates includes a 6-month pre-departure training program in Indonesia. Upon arrival in Japan, they further undergo another 6-month of language training. Upon completion, Indonesian nurses and care workers work as assistants at host institutions until they pass the Japanese national qualification exams, same as the ones required for Japanese candidates. This requirement poses the most difficult challenge for Indonesian candidates, as their pass rates in the *kangoshi* and *kaigofukushishi* exams are notoriously low. Nurse candidates can take the test for a maximum of three times—if they are unable to pass after three trials, they must return home after their 3-year contract ends. Similar arrangements apply to certified care workers. According to Japan International Cooperation of Welfare Services' (JICWELS) 2014 data, since the beginning of the program up to that record year, 71 nurses and 121 care workers from Indonesia had passed the exams, which meant the passing rate was 18.11% for nurses and 24.2% for care workers.

The low passing rates of nurse candidates and certified care worker candidates have invited criticisms from both Indonesia and Japan. It is important to note that the requirement to pass the exams reflects resistance from professional groups to the entry of foreign workers. The Japanese Nursing Association (*Nihon kango kyōkai*) and its political arm, the Japan Nursing Federation (*Nihon kango renmei*), in particular, voiced a strong opposition due to the potential effects on the domestic labour market, citing “deterioration of the working conditions and the undermining of the professionalism of Japanese nurses” (Ogawa 2012, 577). Both are known for their strong links to the Nursing Division of the Ministry of Health, Labour and Welfare's Health Policy Bureau (*Kōsei rōdōshō iseikyoku kangoka*) (Akashi 2014, 182). The national exam requirement is a product of their condition for allowing foreign healthcare workers during the EPA negotiations.

Overall, detractors have pointed to several shortcomings of the EPA. The trade policy approach of the program is a central problem for scholars like Ford and Kawashima (2016), who warn that by avoiding

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immigration and labour market reforms in favor of trade agreements such as IJEPA, Japan normalizes views of migrant workers as a tradable commodity. Vogt (2018) criticizes the recruitment system, which she considers as designed to fail as it is fashioned in a way that renders it not enticing to stakeholders involved, notably the potential employers and the migrants themselves. Firstly, she faults this to a lack of political consensus to enable the health-caregiver migration and absence of political will to implement it. Ogawa (2012) echoes this observation, pointing to how professional organizations shape the migratory framework to protect the domestic market. Secondly, the recruitment system also falters because it fails to consider the administrative locus of responsibility for eldercare in Japan, which lies with subnational entities such as local governments and civil society actors. That the bulk of caregiving programs goes to large hospitals and nursing homes clearly indicates a mismatch with actual needs at the local community level.

Differing significantly from most existing studies, Efendi *et al's* (2015) criticisms center on the perspective of Indonesia. Among the issues that they highlight is how the IJEPA “represents a misalignment of trade and economic priorities with national health workforce development and health systems sustainability objectives.” They further note that although the intended purpose is bringing mutual benefits through improving healthcare workers’ employment opportunities and enabling their capacity building through training, it has not materialized at the operational level. In their view, IJEPA has failed to realize the transfer of knowledge and skills. Finally, they identify a misalignment between the IJEPA and World Health Organization (WHO) Global Code of Practice on the International Recruitment of Health Personnel, which under Article 3.5. stipulates that “international recruitment of health personnel should be conducted in accordance with the principles of transparency, fairness, and promotion of sustainability of health systems in developing countries.” While the Indonesian Ministry of Health issued Decree No. 47 in 2012 to address the management of nurse migration in reference

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to the WHO Code, the IJEPA, like most of its bilateral and regional agreements relating to healthcare worker migration, preceded the adoption of the WHO Code in May 2010.

Efendi *et al* (2015) also bring attention to how the G-to-G mechanism for recruiting and employing nurses is costly in terms of time and resources, especially for Indonesia. They note that 50% of the IJEPA nurse candidates underwent training in public nursing schools in Indonesia, which means that Indonesian taxpayers' money and public resources financed their migration to other countries. On the Japanese side, recruitment of Indonesian nurse candidates also incurs costs, including the high expenditures that the government and host facilities/employers have to spend to implement the program. A study by Tsubota *et al* (2015) estimates the total economic cost for hiring EPA migrant nurses for the 3-year contract period was JPY 12,900,000 (approx. US\$ 117,273) per head—a caveat is nevertheless introduced, that there is no comparison to determine if this constitutes a lower cost than recruiting and training domestic Japanese nurses.

The migration of care workers under the EPA involved several ministries within the Japanese government, including the Ministry of Foreign Affairs, the Ministry of Economy Trade and Industries, the Ministry of Finance, and the Ministry of Health, Labour and Welfare (Ogawa 2012, 576). As with the nurse migration, studies also find that in the case of certified care workers, the cost to employ them is too high—the Japanese government cannot afford to continue bearing the expenses, while at the same time care facilities are overwhelmed with the national exam preparations (Ogawa 2012). Further compounding the situation of the caregivers is the ambiguity in how the Japanese society defines care work, which is seen as between skilled and unskilled in nature (Ogawa 2012).

## **Literature Gap**

From reviewing the literature, we conclude that as often occurs in migration studies, existing research has predominantly looked at the TTIP and the EPA nurse/certified care worker programs from the

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perspective of Japan as the receiving country. Much less is understood from the perspective of Indonesia as a sending country, which is why further understanding the flows from this lens is necessary.

Of the literature we have surveyed, only Efendi *et al* (2015) have explicitly discussed some pre-departure aspects, especially of the EPA nurse migration. They take issues with the lack of transparency and fairness in their recruitment, contending that ethical recruitment should be a core principle to guide (re-)negotiation of the IJEPA or any other future agreements similar to it. This would include imparting better information about the program and how it has performed so far, and opening up genuine discussions about labour rights, salaries or other remunerations, potential cultural problems, including discriminatory and racialized practices. Monitoring and evaluation by both governments and related stakeholders are also key for improvement. Through this research, we seek to contribute more to the budding literature, especially through the rights-based approach, and delineate in more detail the processes and (potential) rights violations that occur at the pre-deployment stage.

Another aspect which has not received much scrutiny in the pre-departure stage is the question of the cost structure of placement fees and its components. In the Indonesian context, part of the difficulty with understanding the cost structure has to do with the opaque recruitment, and the general reluctance of private recruitment agencies to openly discuss their business models. Nevertheless, excessive charging, a problem considered to be rampant in the recruitment of migrant workers through the P-to-P scheme, is also found in the G-to-G scheme, and is subject to further exploration. Beyond the pre-deployment stage, the sending country perspective also covers aspects relating to reintegration. We seek to build our findings on similar research by Kurniati *et al* (2017), who shed light on the de-skilling experiences of nurse returnees and how they struggle with re-entering the nursing profession or must find other non-nursing occupations as a result of the struggle.

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## **Incorporating Rights-based Framework**

At the regional level, while not legally-binding, the 2017 ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers includes provisions to ensure fair treatment, which the document defines as just and reasonable treatment applied to migrant workers in the workplace with respect to working conditions, safety, and access to recourse in the event of employment subject to the prevailing national laws, regulations and policies of the Receiving State. In the context of cross-regional migration, which the cases of Indonesian TTIP workers, nurses and care workers under the EPA deployment present, a limitation lies in how no inter-regional rights-based framework are currently in place to protect the rights of these workers. This presents a crucial gap in migration governance.

Nevertheless, international organizations have increasingly introduced rights-based framework and measures to ensure fair recruitment of migrant workers. In recent years, UN agencies have focused on fair recruitment of migrant workers, with concerns about fees and related costs being a priority in the eradication of trafficking in persons, and varied modes of exploitation of migrant workers such as bonded labour.

As the ILO (2018) has outlined, recruitment fees and related costs:

“...refer to any or all fees, charges, expenses or financial obligations incurred in the recruitment process in order for workers to secure employment, regardless of the manner, timing or location of their imposition or collection, and whether they are deducted from wages, paid back in wages or benefit concessions, remitted in connection with recruitment, or collected by an employer or a third party, including but not limited to agents, labour recruiters, staffing firms, subsidiaries/affiliates of the employer and any agent or employee of such entities.”

ILO (2019) further guides that:

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“When initiated by an employer, labour recruiter or an agent acting on behalf of those parties; required to secure access to employment or placement; or imposed during the recruitment process, the following costs should be considered related to the recruitment process:

- i. Medical costs: payments for medical examinations, tests or vaccinations;
- ii. Insurance costs: costs to insure the lives, health and safety of workers, including enrollment in migrant welfare funds;
- iii. Costs for skills and qualification tests: costs to verify workers’ language proficiency and level of skills and qualifications, as well as for location-specific credentialing, certification or licensing;
- iv. Costs for training and orientation: expenses for required trainings, including on-site job orientation and pre-departure or post-arrival orientation of newly recruited workers;
- v. Equipment costs: costs for tools, uniforms, safety gear, and other equipment needed to perform assigned work safely and effectively;
- vi. Travel and lodging costs: expenses incurred for travel, lodging and subsistence within or across national borders in the recruitment process, including for training, interviews, consular appointments, relocation, and return or repatriation;
- vii. Administrative costs: application and service fees that are required for the sole purpose of fulfilling the recruitment process. These could include fees for representation and services aimed at preparing, obtaining or legalizing workers’ employment contracts, identity documents, passports, visas, background checks, security and exit clearances, banking services, and work and residence permits.”

The International Organization for Migration (IOM), has also built ethical recruitment standards as articulated through the International Recruitment Integrity System (IRIS). IRIS is a global initiative designed to promote ethical international recruitment, and sets a benchmark for ethical recruitment (the IRIS Standard). This standard is a product

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of extensive consultation with stakeholders and experts, and is based on international human rights instruments and labour standards such as the UN Guiding Principles on Business and Human Rights, Dhaka Principles for Migration with Dignity, as well as best practices from the recruitment industry. It is also designed as a practical tool and guidance to enable labour recruiters and employers to integrate ethical recruitment principles into their systems, procedures, codes of conduct and initiatives.

Principle 1 of the IRIS Standard, which is the Prohibition of Recruitment Fees and Related Costs to Migrant Workers, includes the following criteria:

1. The labour recruiter has a policy commitment prohibiting the charging of recruitment fees and related costs to migrant workers, irrespective of where or how they are recruited.
2. Recruitment fees and related costs are not borne by the migrant workers.
3. The labour recruiter informs job seekers during the recruitment process that they do not bear any costs of recruitment.

IRIS' central feature is the introduction of the "employer pays" principle. In the context of East and Southeast Asia, the employer pays principle was actually dominant in the past (Goh 2018). Migration scholars have elaborated on how in the 1970s and 1980s, employers had usually paid for recruitment, or brokerage fees to secure much-needed labour. This changed in the 1990s as subsequent increase of labour supply led to competition among sending countries, as well as between agencies in destination countries. This resulted in coverage of costs to be shifted to workers as a way to reduce fees to a minimum for employers (Jones & Findlay, 1998; Huang & Yeoh 2015; Rahman 2015). This is the urgent situation, which rights-based frameworks seek to remedy, and protect migrant workers against.



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## CHAPTER 3

# THE PRE-DEPARTURE PROCESS OF NURSES AND CARE WORKERS' MIGRATION UNDER THE INDONESIA-JAPAN ECONOMIC PARTNERSHIP AGREEMENT (IJEPA)

**Yoga Prasetyo**

**T**his chapter aims to shed light on an increasingly globalized care sector in which migrant workers from a poorer country (Indonesia) provide care in a wealthier, rapidly ageing country (Japan) under the IJEPA. It also attempts to spell out the ways in which transnational networks of private employment agencies run parallel to the formal G-to-G scheme, under which Indonesian nurse and care worker candidates<sup>27</sup> are deployed to work in Japan. This study is a result of two-month ethnographic research involving in-depth interviews and FGDs with returned nurse and care worker candidates from diverse batches, gender groups and ethnic backgrounds, as well as other key informants (Appendix 1).

Indonesia sent its first batch of nurse and care worker candidates-- numbering 208 people in total-- in 2008, just a year after the economic agreement was duly signed on August 10th, 2007 between the then President of Indonesia, Mr. Susilo Bambang Yudhoyono, and Prime Minister of Japan, Mr. Shinzo Abe during his first and brief term in the

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27 These nurses and care workers are recognized as workers only after they pass the national examination. Until then, they are only considered as '*candidates*' or trainees.

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top position. This, however, was not the first agreement of its kind; in the preceding year, 2006, the Japanese and Philippine governments entered into a similar EPA to further enhance their economic cooperation, and on October 31st, 2011, the Vietnamese government followed in the footsteps. Between 2008 and 2019, under the bilateral agreement, Japan brought in a total of 2,783 Indonesian nurse and care worker candidates<sup>28</sup>, who were stationed in hospitals and care facilities across Japan under the guidance of senior '*kangoshi*' (nurses) or '*kaigofukushishi*' (care workers).

It is worthy of attention that the IJEPa does not portray the acceptance of nurse and care worker candidates as a rather significant agenda in the agreement itself. In fact, this matter is only briefly alluded to in Chapter 7 Article 96 regarding 'Sub-committee on Movement of Natural Persons' without bearing any mention of the term 'nurse and care worker' altogether. More information on this is only provided in Section 6 of Annex 10 regarding 'Specific Commitments for the Movement of Natural Persons', which also enumerates the movements of intra-corporate transferees, investors, professionals, business people in public and private sectors, and short-term business visitors<sup>29</sup>. As such, the migration of nurse and care worker candidates is arguably not the main concern of the IJEPa.

Scholars are divided in their views regarding this matter. Some argue that the Philippine and Indonesian governments demanded the acceptance of their nurses and care workers, and that the insertion of this provision was agreed upon by Japan so as not to imperil the economic agreement negotiations, rather than to fill the labour shortages in the nursing or care sectors in Japan. This view is underpinned by the fact that over the first two years, Japan had only

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28 Badan Nasional Penempatan dan Perlindungan Tenaga Kerja Indonesia. *Data Penempatan Nurse dan Careworker Program G-to-G Jepang Tahun 2008-2019*. 2019. Jakarta:BNP2TKI.

29 Agreement between Japan and the Republic of Indonesia for an Economic Partnership. Accessible at <https://www.mofa.go.jp/region/asia-paci/indonesia/epa0708/index.html>

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received less than 1,000 nurse and care worker candidates from Indonesia and the Philippines combined under the EPAs.<sup>30</sup> Still, other experts opine that Japan has been in dire need of manpower in health and care sectors, and additionally more and more nurses renounce their employment because of the demanding work responsibilities and relatively low pay. However, Japan still decides to take some measures to avert any harmful effects on its domestic labour market by setting low acceptance rates of foreign nurse and care worker *candidates*. This begs the question: if they are considered as mere *candidates* rather than professional workers, why, then, is the Japanese government concerned about the harmful effects of their increasing presence on the domestic labour market?

Indeed, confusion arises from the employment status of these Indonesian nurses and care workers in Japan, and it deserves more careful observation. The EPA governs that applicants of this program, and the requirement for care worker candidates is to have graduated from a Bachelor's or Diploma III program from an Indonesian higher educational institution and have been qualified as certified care workers with necessary skills by the Indonesian government. The requirement for nurse candidates is to have had two-year work experience as registered nurses in Indonesia in addition to relevant certifications. The Japanese laws, however, recognize these Indonesia-registered nurses and care workers as mere 'candidates' or internees despite the professional skills that allow them to function as regular workers. A full recognition of their employment status is granted only upon successful national examination in Japan. Such non-recognition of their status is bound to have some ramifications, for instance, unfair remuneration as compared to their local counterparts. The confusion over their status can also be seen through the appointment of

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30 Ohno S. (2012)., "Southeast Asian Nurses and Caregiving Workers Transcending the National Boundaries: An Overview of Indonesian and Filipino Workers in Japan and Abroad", *Southeast Asian Studies*. Vol. 49 No. 4 pg. 541-569. Center for Southeast Asian Studies, Kyoto University.

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BNP2TKI<sup>31</sup>, a national body working under the direct supervision of the President, as a coordinating body in Indonesia, instead of the Directorate of Internship Development of the Ministry of Manpower, which is mandated to make necessary arrangements for the sending of Indonesian technical intern trainees. On the other hand, JICWELS, a public interest incorporated association, is appointed by Japanese Ministry of Health, Labour and Welfare as the solo coordinating organization for EPA placement operation of the Japanese side. Migration of nurse and care worker candidates under the IJEPA is, therefore, coordinated solely by BNP2TKI and JICWELS.

### **Transnationalization of Care**

The pre-departure processes of the first and second batches were described as 'hasty' and 'haphazard' by some informants of this research<sup>32</sup>. For instance, the Japanese language course was crammed into a three-day crash course taught by strictly Japanese-speaking instructors who barely knew any tidbits of Indonesian or English. As a result, candidates did not acquire the necessary working knowledge of the Japanese language. Some informants shared that they were only able to greet and thank people when they arrived in Japan. In addition, candidates were left with more or less three hours to read through their work contract and sign it. Detailed information regarding their work responsibilities and work culture was nonexistent, and this added up to their surprise upon placement in their respective care and health facilities.

Another notable issue experienced by many of our informants is the differing categorization of certain illnesses in Indonesia and Japan. For instance, the care worker informants recounted that during their university years, they learned that dementia falls under the

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31 National Board for the Placement and Protection of Indonesian Migrant Workers. In Japanese documents, "National Board" or the abbreviation "NBPPIW" are often used.

32 Based on a focus group discussion with returned nurse and care worker candidates from batch 1 and 2 in Bandung on November 2, 2020.

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category of mental illnesses in Indonesia, and therefore people with dementia are treated at mental health facilities. In Japan, however, dementia is seen as a common condition that accompanies ageing processes, and thus people with dementia are often treated at regular elderly care facilities.

Old narratives of labour migration also emerged during the interviews--that these people were propelled to move beyond their national borders in order to earn a more decent living elsewhere for themselves and members of their families, as can be seen from the excerpts below.

*"I studied nursing because people said I would have more opportunities. I graduated last year and went straight to apply for this program. My older sister is now employed as a care worker in Japan, and my younger sister is in a nursing school. I guess you can make a living for yourself as a nurse in Indonesia, but I want to help my younger sister pay her school fees and save up for my future." (Yeni, personal interview, 2019<sup>33</sup>)*

*"I switched from a Bachelor's to a Diploma in Nursing because people said the latter would help me land a job more quickly. My parents spent a fortune to put me through school; they paid a whopping IDR 16,000,000 (approx. US\$ 1143) at the start and IDR 4,000,000 (approx. US\$ 286) each semester. I would also have to ask more for occasional practice that would cost me anywhere between 6,000,000 and 12,000,000 (approx. US\$ 429 and 857) for each. Yet after graduating, I only made a meagre IDR 700,000 (approx. US\$ 50) as a nurse monthly. Some of my lecturers owned cars, so I thought to myself that they must have plenty of money. Later I learned that they had worked as nurses in Japan, so I decided to tread the same path." (Sari, personal interview, 2019<sup>34</sup>)*

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33 All names of people in this paper are pseudonyms. This excerpt was taken from an interview carried out in December 2019.

34 This excerpt was quoted from a personal interview in 2019.

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The excerpts above illustrate that the migration of Indonesian nurses and care workers is not induced by the scarcity of jobs at home. In fact, Indonesia is currently facing labour shortages in the nursing sector with the present ratio of 10 nurses for every 10,000 people. This figure is still far from the standard set by the WHO, in which there should be 18 nurses for every 10,000 people.<sup>35</sup> Rather, this migration is fueled by the general lack of appreciation for nursing work manifested in the meagre earnings. For example, Sari invested abundant resources in obtaining her Diploma education, yet she did not make commensurate income as a nurse in Indonesia to recover the costs. To Yeni, employment in Japan came across as a lucrative career option because appreciation of the Japanese yen and higher salary meant that she would earn far more than the amount that she would make for the same job in Indonesia.

Besides, the excerpts above also help to elucidate the common modes of information-sharing among prospective nurses and care workers. Yeni's elder sister has beaten the path for her to tread, and Yeni is making her younger sister follow in her footsteps too. Meanwhile, Sari learned about employment under the IJEPa from her lecturers, who had previously worked as nurses (*kangoshi*) and care workers (*kaigofukushishi*) in Japan themselves. Throughout the interviews undertaken in this study, returned nurses and care workers from various batches revealed that information about migration under the EPA tended to circulate around the immediate social circles of returnees. Applicants predominantly come from North Sumatra and Javanese provinces.

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35 *Indonesia kekurangan tenaga perawat*. Accessed on Sunday, February 9, 2020 from <https://www.kabarbisnis.com/read/2890087/indonesia-kekurangan-tenaga-perawat>



**Figure 1.1**  
**Placement of Indonesian Nurse and Care Workers under IJEPA**  
**Scheme between 2008 and 2019**

Year	Nurse		Care workers		Total
	Male	Female	Male	Female	
2008	30	74	48	56	208
2009	27	146	33	156	362
2010	5	34	25	52	116
2011	11	36	14	44	105
2012	6	23	23	49	101
2013	12	36	42	66	156
2014	18	23	39	107	187
2015	30	36	77	135	278
2016	17	29	74	159	279
2017	7	22	94	201	324
2018	11	20	110	188	329
2019	15	23	100	200	338
<b>Male/female</b>	<b>189</b>	<b>502</b>	<b>679</b>	<b>1,413</b>	<b>2,783</b>
<b>Total</b>	<b>691</b>		<b>2,092</b>		<b>2,783</b>

*Source: Badan Nasional Penempatan dan Perlindungan Tenaga Kerja Indonesia*

The year 2009 saw a steep increase in the deployment of Indonesian nurse and care worker candidates to Japan, but these numbers plummeted following the introduction of more stringent requirements by the Japanese government in 2010. These involved two-year work experience for nurse candidates and a Bachelor's or Diploma in nursing or health-related academic fields for care worker candidates. The new requirements reshaped the demographics of the applicants

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as those without health-related degrees were no longer eligible to apply.

Informants shared that during the language training, they were provided with nutritious food, clean lodging and a daily allowance of US\$10, which is quite a handsome amount of money to them. However, they described the whole application process as lengthy. Online applications are typically accepted from February 1st to May 31st every year, during which applicants are required to be physically present at a selected Indonesian Workers Placement and Protection Service Center (BP3TKI<sup>36</sup>), which is a local office of the BNP2TKI, to verify their documents. Successful applicants will then undergo other stages of selection, including nursing, psychological and medical tests. This series of tests are followed by two separate interviews. The first interview is set to take place at a hall, whereby representatives from Japanese hospitals and care facilities interact, as well as exchange and gather information from applicants. At this point, applicants will also collect as much information about their prospective employers as possible and take note of their institutional codes. These codes will be used for the matching process later. The other interview, conducted in a different room between applicants and JICWELS representatives, is done in Indonesian language with the help of an interpreter. Each interview is filmed, and the recordings will be disseminated to all potential employers in Japan for their consideration. Afterwards, applicants begin the so-called matching process, in which they are to select 10 potential employers in order of preference. Similarly, the institutions will also select applicants. Those who match with their chosen institutions will proceed to the last stage of the selection process, which is a six-month Japanese language training administered by the Japan Foundation. Nearing the end of the training, applicants must take the last medical checkup and a Japanese language test equivalent to Japanese Language Proficiency Test (JLPT) N4 level. The costs of placement are detailed below.

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36 *Balai Pelayanan Penempatan dan Perlindungan Tenaga Kerja Indonesia (BP3TKI)*

### Placement Costs under IJEPA as of 2019 (per person)

Items	Paid by the governments	Paid by applicants IDR (approx. US\$)
Round-trip flights	Japanese Government	n/a
Visa application	Japanese Government	n/a
6-month Japanese language training, accommodation and meals	Japanese Government	n/a
Daily allowance of US\$ 10 during the 6-month language training	Japanese Government	n/a
Written test to gauge nursing skills (by Health Ministry)	Indonesian Government	n/a
Pre-departure orientation (By BNP2TKI)	Indonesian Government	n/a
Psychological test	—	250,000 (18)
Medical check-up I *to be reimbursed upon successful application	—	1,000,000 (71)
Medical check-up II *to be reimbursed upon successful application	—	500,000 (357)
Sputum test I	—	400,000 (29)
Sputum test II *to be reimbursed upon successful application	—	400,000 (29)

BPJS Ketenagakerjaan (insurance) for a care worker candidate	—	532,000 (38)
BPJS Ketenagakerjaan (insurance) for a nurse candidate	—	694,000 (50)
Total cost *subject to reimbursement	<b>Care worker candidate</b>	<b>3,082,000 (220)</b>
	<b>Nurse candidate</b>	<b>3,244,000 (232)</b>

Source: Badan Nasional Penempatan dan Perlindungan Tenaga Kerja Indonesia

This sum might appear insignificant, but the actual costs could be much higher than the figures as far as the ‘hidden costs’ during the pre-selection process are concerned. For instance, BNP2TKI makes the submission of a medical report mandatory as part of the administrative process; this item alone costs IDR 1,800,000 (approx. US\$ 129). In addition, since 2019, priority has been given to applicants who have a certificate of JLPT level N5, for which applicants spend anywhere between IDR 5,000,000 and 30,000,000 (approx. US\$ 357 and 2,143) on language classes depending on the training centers. The problem with this policy is that no regulations have been enacted to develop a standardized Japanese language course curriculum, certify Japanese language instructors or set a price ceiling for training. It also heightens the involvement of the private sector (training centers) by creating more business opportunities for training centers, and it does not always appoint credible language institutions as training providers. As a result, course fees greatly vary from one training center to the other, and so does the quality. It has become a common practice to package language training with lodging and meals and offer such packages at unreasonably high prices. In practice, these Japanese language courses are often taught by returned migrants instead of

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certified Japanese language instructors.

Another issue that came to the fore during the interviews was that applicants were not well-informed of the difference between 'kangoshi' and 'kaigofukushishi' due to insufficient job descriptions. One informant recounted:

*"I was not aware. I thought the difference was only that a kangoshi works at a hospital and a kaigofukushishi works at an elderly care facility. I chose the latter because of the more relaxed requirement. I knew what the work entailed just after the interviews. It was too late, so I took the plunge anyway,"* (Amang, personal interview, 2019).

Indeed, the job announcement put out on the website for the initial online applications only covers such information as specific and general requirements, application procedures, deadlines, places of application, placement costs, and downloadable documents. No information regarding job responsibilities or core functions is found on the page.

### **Informalizing Formal Channels**

The Gt-to-G scheme of labour migration is widely regarded as a much safer route than the other existing schemes because it is heavily regulated and falls under heightened control of the governments of Indonesia and Japan. Even so, this scheme is by no means devoid of informal arrangements as we shall see in the story of Yani, a returnee from the eighth batch who has found employment in Mitra, the organization that 'recruited' her directly (and in fact, subtly) from her nursing school.

Yani spent three years obtaining a Diploma III from a private nursing school in Yogyakarta. During her last year, the school put together promotional events in collaboration with Mitra to attract potential graduates to work in Japan. Mitra additionally assigned a language instructor to teach Japanese language lessons to the students in the school over the weekends. Upon graduation, Yani and some of her

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colleagues were offered a full scholarship by Mitra to undertake an eight-month intensive Japanese language training in Jakarta, which was tailored toward preparing the scholarship recipients for employment in Japan under the IJEP. Before commencing the term, however, she was made to sign a contract stating that withdrawal from the training would be subjected to the reimbursement of all of the costs incurred throughout the training. Yani recounted that besides learning Japanese language, the trainees were also inculcated with effective communication skills for care work, cultural awareness and Japanese work ethics; *"These are the qualities that set us apart from the crowd of regular applicants,"* she contended. Mitra provided these trainees with necessary directions in preparing for their job applications under the IJEP.

While the Jakarta branch of Mitra recruits nurse and care worker candidates, its Tokyo counterpart works to prospect for potential employers/member institutions -- including hospitals and care facilities across Japan -- by promising quality manpower that is well-suited for Japanese contexts. This might be particularly appealing to potential employers because the insufficient training on Japanese culture and work ethics during pre-departure orientations means that regular candidates will have tougher times adjusting to a new environment and a set of Japanese work attitudes. One informant asserted:

*"Pre-departure orientations only center around immigration matters and financial management. It does not paint a clear picture of what our jobs would entail or what the workplaces would look like. I was completely baffled when I arrived in Japan because things were far from what I had imagined,"* (Amang, personal interview, 2019).

A prominent finding from the interview with a Mitra's employee in regards to the involvement of these organizations both in Indonesia and Japan is that they follow along with the formal scheme and exploit the loopholes in the matching process. Mitra develops certain

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symbols or codes by which representatives from hospitals and care facilities are able to identify the candidates that have received training from Mitra. Likewise, certain attributes are displayed by particular hospitals and care facilities to mark their Mitra membership and enable candidates to pinpoint them. This system of recognition increases the likelihood of matching, thus hurting the chances of non-Mitra candidates to match with their chosen institutions.

It is worth noting that what lies beneath this unfair recruitment practice is a complex network of actors involving school alumni, sending and accepting organizations, Japanese employers, nursing schools, and sometimes individual teachers. Some of the arrangements between sending organizations and nursing schools are formalized into a regular school program, such as the Japanese language courses sponsored by Mitra as shown in Yeni's story. Others hint at a rather loose and informal relation;

*"One of my lecturers suggested that I go to that training center if I wish to learn the Japanese language for work," (Ita, personal interview, 2019).*

## **Reintegration System**

In 2014, the Government of Indonesia adopted Law No. 28/2014 regarding Nursing. This new law contains some provisions that govern the issuance of Letter of Registration (commonly abbreviated as STR), without which nurses are prohibited to perform medical practices. The STR is subject to renewal after a valid period of five years, and nurses must accumulate a total of 25 SKP (unit of credit) as a prerequisite for STR renewal. This, however, is not an easy task as each year spent working in Japan is equivalent to only 1 SKP. Thus, at the expiry of their employment, Indonesian nurses and care workers will have only gathered 4 SKP. To obtain the remaining 21 SKP, returnees ought to participate in various seminars and workshops, each weighing around 1 or 2 SKP. This is not to mention that they have to spend anywhere between hundreds of thousands and millions of

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rupiah to participate in a single workshop or seminar.

As a result of this flawed system, many returnees are unable to put their skills into practice and are increasingly compelled to make a major career shift, taking on jobs that are completely unrelated to the health or nursing sector, such as Japanese language trainers and factory workers. On rare occasions, BNP2TKI organizes job fairs to facilitate the absorption of returned manpower into various Japanese companies operating in Indonesia. Nevertheless, this initiative does not tackle the root problem and only serves to guard the Agency against accusations of negligence.



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## CHAPTER 4

# THE PRE-DEPARTURE PROCESS OF INDONESIAN MIGRANTS UNDER THE TECHNICAL INTERN TRAINING PROGRAM (TITP)

**Ridwan Wahyudi & Mariko Hayashi**

*“Saya bisa berangkat ke Jepang saja sudah syukur, karena banyak yang tertipu. / I am just grateful that I could go to Japan, because so many people were deceived by recruiters.”*

*(Wisanggeni - former intern, 2019)*

Japan's TITP began in 1993 as a way to consolidate various small and scattered internship and training visa programs which dated back from the 1950s. Targeting young workers from neighboring countries, the large-scale TITP was designed as a “skill-training” program to transfer Japan's knowledge, technology, skills and expertise to developing countries through technical intern trainees. However, for many years, a number of critics have claimed that the TITP in fact is designed to benefit Japan more by using the cheap labour of technical intern trainees to fill Japan's labour shortages.<sup>37</sup>

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37 Nawawi. 2010. Working in Japan as a Trainee: the Reality of Indonesian Trainees under Japan's Industrial Training and Technical Internship Program. Jurnal Kependudukan Indonesia, Vol. 5, No. 2: 29-52.

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In the same year as the TITP began, Indonesia-Japan cooperation on the TITP was officially agreed upon by the Directorate General of Training and Productivity Development of the Indonesian Ministry of Manpower and the Japan International Training Cooperation Organization (JITCO), which was an incorporated foundation at the time and later became a public interest incorporated foundation under the jurisdiction of the Cabinet Office in 2012. Since then, under the TITP, a large number of young Indonesian people have been placed as technical intern trainees in various sectors, such as the manufacturing in electronics, construction materials, automotive, food and beverage, agriculture, fishery, and service sectors.

The TITP is implemented through two systems; Government-to-Government (G-to-G) and Private-to-Private (P-to-P). In the former, IM Japan is appointed by the Japanese government as an AO to receive Indonesian technical intern trainees, who are placed by the Indonesian government through BLKLNs operating as SOs. Placements that involved private LPKs and small and medium enterprises in Japan had been around even before the current TITP scheme was launched. Following in its footsteps, the latter, the P-to-P scheme, has continued as the TITP between private organizations since 1993. Despite the fact that the TITP has been in place for almost three decades, studies on the practices of P-to-P placement in sending countries are harder to find than those on the G-to-G scheme, and the real practices of both G-to-G and P-to-P TITP on the ground remain very complex and invisible.

A number of unfair recruitment practices in Indonesia have been repeatedly reported, involving various actors who rake in profits from technical intern trainees by manipulating data, scamming placement fees and corrupting government officials in order to cheat on the quota of technical intern trainees for placement. In order to achieve the primary purpose of this study, which is to explore pre-departure processes of Indonesian migrant workers to Japan, this chapter focuses on the TITP with a twofold objective. The first is to identify unfair recruitment practices in pre-departure processes, and the

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second is to ascertain the implications and consequences of the institutional system, policies and procedures on technical intern trainees migrating from Indonesia to Japan.

### **Legal Frameworks and Actors**

The Indonesian government refers to Law No. 13/2003 concerning Manpower in implementing the TITP, and the program is regulated by Ministry of Manpower Regulation No. 8/2008 concerning Overseas Internship Programs. Protection of trainees for overseas internships programs does not comply with the instrument of Law No.18/2017 concerning the Protection of Indonesian Migrant Workers, or the previous Law No.39/2004 concerning the Placement and Protection of Indonesian Overseas Workers since these laws exclude students and people under training. However, the placement of technical intern trainees follows the same mechanism with the placement of overseas workers as stated in Ministry of Manpower Regulation No. 39/2016 on Workers' Placement. Therefore, in practice, they are considered and treated as workers during the placement process under this regulation. A lack of legal framework to cover the whole migration process of technical intern trainees leaves them in precarious positions.

The placement of Indonesian technical intern trainees to Japan involved not only state actors but also private actors, namely:

1. Indonesian Ministry of Manpower and the Offices of Manpower at the provincial level and the district level;
2. IM Japan appointed by the Japanese governments as an AO implementing the G-to-G TITP;
3. BLKLN managed by the Indonesian government as SOs implementing the G-to-G TITP;
4. Private SOs and LPKs implementing the P-to-P TITP;
5. AOs receiving technical intern trainees under the P-to-P TITIP (in much fewer cases, employers directly accept technical

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- intern trainees)<sup>38</sup>;
6. JITCO;
  7. OTIT;

Informants of this research include former and prospective technical intern trainees under the G-to-G and the P-to-P TITP. Other stakeholders such as Indonesian government officers at the local and national level also took part in this study. Those who worked in the nursing and care work sectors are not included in this chapter. Details of the informants who took part in in-depth interviews are listed in Appendix 2.

### **Rules and the Implementation of Placement Fees and their Cost Structure**

Both the central government and the local governments at the provincial and district/city level work concurrently in the implementation of the TITP. For example, licenses of private LPKs are registered, issued and renewed at the district/city government level. However, LPKs are required to receive permission from the central government in order to gain a legal status to deploy technical intern trainees to Japan as SOs.

A lack of supervision by the government in the recruitment process raises the risk for technical interns to bear costs beyond the necessity and capability. The Ministry of Manpower regulation No. 8/2008 on Internship Abroad allows to charge candidates fees for internship placement abroad based on agreements between interns and internship organizers in Indonesia such as LPKs, private companies, educational institutions, which are approved by the Directorate General of Training and Productivity Development, Ministry of

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38 As of the end of 2018, 97.2% of technical intern trainees are employed through AO, and 2.8% directly by employers. JITCO, “外国人技能実習制度とは”, <https://www.jitco.or.jp/ja/regulation/>

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Manpower.<sup>39</sup> In addition, Article 21 of this regulation (the Ministry of Manpower No.8/2008) also mentions the revocation of licenses as a sanction for internship organizers charging interns fees outside of the agreed terms. Meanwhile, the government does not set any ceiling or a clear cost structure of fees, which interns or trainees may have to pay to private agencies including SOs and AOs.

However, the article 20 paragraph (1) of the Ministry of Manpower Law No.8/2008 governs only the TITP under the G-to-G scheme. Fees charged to technical intern trainees under the G-to-G scheme prior to departure range from IDR 7,000,000 to 8,000,000 (approx. US\$ 500 to 571). Under the G-to-G scheme, components of the cost charged prospective technical intern trainees are limited to the followings:

1. medical check-up fees;
2. passport application fees;
3. transportation costs from home to BLKLN;
4. social security contribution; and
5. training fees for private LPKs before participating in the selection process by AOs and/or employers, and other living expenses during the training.

However, these limitations under the provisions do not apply to the TITP through the P-to-P scheme, which comes without official policies to set any restriction on placement fees. For the P-to-P TITP scheme, the cost of internship placement fees is determined based on agreements between technical intern trainees and their internship organizers. For this scheme, there is almost no government intervention or supervision to manage the recruitment process. One informant from the Indonesian government stated that permissions are given to SOs as long as the placement fees were within the market price. However, the costs of placement vary from one SO to another, and it is actually difficult to determine an appropriate price. In addition to the placement fees, as discussed in the later part of this chapter,

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39 Article 9 the Ministry of Manpower regulation No. 8 /2008 on internship abroad.

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technical intern trainees are often charged extra fees for services such as arranging required documents.

The cost of internship placement to Japan through the P-to-P scheme is miscellaneous, and in some cases, the fee could reach as high as IDR 80,000,000 (approx. US\$ 5,714).<sup>40</sup> The placement fee and related costs charged to a prospective technical intern trainee often depends on his/her negotiation with the internship organizers without government supervision.

### **Profit-Making Intermediaries and Hidden Costs**

Technical intern trainees, both under the G-to-G and P-to-P schemes, must comply with the requirements before undergoing the recruitment process. Preparing physically and mentally is often seen as important because many jobs under the TITP involve manual labour. Some former technical intern trainees also emphasize that it is necessary to become used to the work culture of Japanese people, such as observing discipline in the workplace.<sup>41</sup> These necessary preparations are usually done during training at private LPKs. Most prospective technical intern trainees take training courses at private LPKs before participating in the selection process with SOs. The types of training provided to prospective technical intern trainees at private LPKs include Japanese language training and experience-sharing with former technical intern trainees, and these usually last for three to six months. Learning social and cultural contexts as well as relevant laws and regulations in Japan is only done informally through exchanges with former technical intern trainees who share their experiences to the prospective ones. The governments do not provide any materials to be referred to or used in order to inform prospective technical intern trainees about social and cultural contexts, relevant laws and regulations of Japan prior to their departure. The duration of training varies as each private LPK is allowed to develop its own

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40 Interview with Bagong.

41 Interview with Antasena.

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syllabus and curriculum, and they are not standardized. There are also no standards in measuring the progress or achievements of training participants.

Licenses to establish and operate private LPKs are granted by the Offices of Manpower at the district/city level.<sup>42</sup> The regulation of the Ministry of Manpower No. 34/2016 stipulates accreditation of LPKs by the Institution for Accreditation of Job Training Centers (LA-LPK<sup>43</sup>). It states that development of the accreditation system for LPKs, its implementation and international cooperation should be carried out by LA-LPK under the responsibility of the Ministry of Manpower.<sup>44</sup> In practice, however, this provision has not been effective at the local level.

Private LPKs often charge prospective technical intern trainees registration fees before taking part in training. The price typically ranges from IDR 100,000 to 500,000 (approx. US\$ 7 to 36) per candidate. Fees for three to six month Japanese language training usually range from IDR 5,000,000 to 19,000,000<sup>45</sup> (approx. US\$ 357 to 1,358). Some private LPKs impose a more generous rule requiring the payment of total tuition fees after the prospective technical intern trainee is accepted by an SO through a selection process to continue to the next placement process.<sup>46</sup> However, other private LPKs apply a rule stipulating that tuition fees must be paid regardless of acceptance by SOs.

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42 See article 3, the Ministry of Manpower regulation No. 17/ 2016 on the mechanism of licensing and registration for private training center.

43 *Lembaga Akreditasi Lembaga Pelatihan Kerja* (LA-LPK).

44 See article 3 paragraph (1) the Ministry of Manpower regulation No. 17/2016 on the mechanism of licensing and registration for private training center.

45 A fee of equivalent to US\$1,364 was paid for a three-month language training by one informant. See the table of cost structure in this chapter and appendix 3.

46 Interview with Antasena.

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### **Box 1: Payments to a Private LPK**

Nakula, who hoped to go to Japan as a technical intern trainee, learned about LPK Bejo from his brother's friend, who had lived in Japan before. Nakula started studying at LPK Bejo in January or February 2019 (forgot the exact date). The requirements to learn at LPK Bejo are to have a general high school graduate certificate and an intention to work abroad. When registering to LPK Bejo, he paid IDR 100,000 (approx. US\$ 7) for a textbook. When Nakula passed the selection process and was accepted by an SO in June 2019, he paid an extra IDR 6,900,000 (approx. US\$ 492). Therefore, he paid the total of IDR 7,000,000 (approx. US\$ 500) all together. From February to June, Nakula studied Japanese language at LPK Bejo, which also assisted him in the placement process. When Nakula was accepted by SO Bidadari, he was asked to pay IDR 36,000,000 (approx. US\$ 2,571) as a placement fee by LPK Bejo. LPK Bejo confiscated the original copy of his educational certificate as a guarantee for the payment.

The majority of private LPKs are managed by former technical intern trainees who previously worked in Japan and have returned to Indonesia. Private LPK managers actively seek information on internship training vacancies from internship organizers and SOs for candidates undertaking training at their own LPKs. When their candidates match vacancies held by an SO, the private LPK charges placement fees to the candidates. This practice is commonly seen under the P-to-P scheme. Often, there is no explanation on the detailed breakdown of fees to be paid by candidates. The practice is carried out as if jobs in Japan were commodities to be sold to candidates, even though they are labeled as "internship training". Some private LPKs also seek technical internship training vacancies directly from AOs, if they have personal connections with relevant stakeholders in Japan. In order to establish trust and good relationships to be given vacancies directly by AOs, private LPKs



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often provide “entertainment” to AO staff. Our informant from a private LPK stated that he brought Japanese clients from an AO to Bali and provided entertainment to host them. Private LPKs spend large amounts of money to entertain Japanese AO officers, and these costs are covered by using overcharged fees paid by their candidates.<sup>47</sup> Similar practices by Vietnamese training centers and SOs were reported in the study conducted by Sunai.<sup>48</sup>

Private LPKs are legally given permissions to operate as training institutions, but not as recruitment agencies unless they obtain SO licences. Therefore, the practices of private LPKs without SO statuses involving placement of technical intern trainees are a breach of law. In addition, multiple unscrupulous and unfair practices are carried out by private LPKs involving recruitment and placement, for example, obtaining passports for candidates by bribing immigration officials. Application for a technical intern trainee’s passport must be submitted with a recommendation document from the Manpower Office on the basis that a placement contract has been signed by the prospective technical intern trainee and his/her SO. However, this requirement cannot be fulfilled by a private LPK that does not have a legal status as an SO. In order to overcome this, LPKs often pay immigration officers bribes of IDR 1,200,000 to 3,000,000 (approx. US\$ 86 to 214), so they will be able to apply for candidates’ passports without meeting the requirement to submit recommendation documents. Abuse of the system by private LPKs also occurs in placing technical intern trainees into the fishing industry. Some private LPKs bribe officers and harbourmasters to ask them to issue seamen’s books for their candidates without undertaking certified basic safety training by an accredited institution as required.<sup>49</sup>

The restriction to limit the quota of technical intern trainees for the G-to-G scheme imposed by the governments leads to competition

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47 Interview with Antasena.

48 Sunai N. (2019) “奴隷労働—ベトナム人技能実習生の実態”, Kadensha: Tokyo.

49 Interview with Arjuna.

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among private LPKs to deploy their own candidates through such a corridor. For example, the quota for the G-to-G TITP participants from Yogyakarta province is only 250 individuals.<sup>50</sup> According to some informants, there have been cases in which private LPKs bribe government officials directly or through intermediaries in order to secure places for the G-to-G TITP to be given to their own candidates.<sup>51</sup> It is commonly considered that costs of bribery, mostly covered by prospective technical intern trainees, are worth the money because technical intern trainees under the G-to-G scheme usually land jobs with “more” decent working conditions, and they are also often placed in larger and more reputable companies in Japan.

Most private LPKs make profits from fees paid by prospective technical intern trainees for their placement and other services. They often operate their own profit-making businesses providing accommodations and meals for training participants for extra fees. Profits increase when the LPKs act as intermediaries to facilitate documentation and job seeking. This is more common especially in the P-to-P scheme, where LPKs charge extra fees for services such as arranging passport applications, medical checks and seamen’s books. According to a respondent who is a prospective technical intern trainee, the placement to a job in the agricultural sector costs him a total of IDR 36,000,000 (approx. US\$ 2,571).<sup>52</sup> From such an amount, private LPKs make a profit of IDR 10,000,000 (approx. US\$ 714) per technical intern trainee.<sup>53</sup> Placement fees vary depending on the sector. The placement fees required for jobs in the medium-sized enterprises in the manufacturing sector are said to be the most expensive compared with those in other sectors, such as fisheries, agriculture, and small enterprises.<sup>54</sup>

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50 Interview with Kresna.

51 Interview with Antasena and Bagong.

52 interview with Sadewa.

53 Interview with Antasena.

54 Interview with Bisma and his associate.

The following table shows an example of fees collected from a prospective technical intern trainee for placement in the agricultural sector. This information is taken from an actual memorandum signed by the technical intern trainee and his SO (Appendix 3):

Cost Component	IDR	JPY	US\$
Pre-Departure Training	5,000,000		357
Pe-Departure Medical Check-Up	1,000,000		71
Document arrangement	6,650,000		475
Passport arrangement	950,000		68
Meals for 3-month	5,400,000		386
Airfare	7,000,000		500
Language Training for 3 months		150,000	1,364
Accommodation for 2 months		80,000	727
<b>Total</b>			<b>3,948</b>

In this example, the prospective technical intern trainee has paid fees equivalent to US\$ 3,948 at least as recorded in the official document. The cost components differ case by case. The significant components of the cost are for arranging documents and a passport. The cost for an official passport is IDR 355,000 (approx. US\$ 25). However, the fee can go up to as high as IDR 3,000,000 (approx. US\$ 214) if an applicant requires corrections or updates of his/her personal information including biometric data. This informant was not given any detailed itemization to explain what kind of documents needed to be arranged, resulting in such high costs. The government has not enacted any policies to regulate and monitor the fees charged to intern trainees by SOs and LPKs.

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## **Inadequate Training Contracts and Loans**

The number of registered SOs in Indonesia stood at 222 as of March 2020.<sup>55</sup> The function of an SO is to facilitate the preparation and deployment of prospective technical intern trainees to Japan. Preparation facilitated by an SO includes capacity building and skill-up training, especially language skills and introduction to workplace culture and activities in Japan.

### **Box 2: Training at an SO linked with a LPK**

Nakula went to LPK Jaya in Bogor together with 15 other students from LPK Bejo. LPK Jaya is the counterpart training center of SO Bidadari. A total of 42 students took part in training at LPK Jaya including those from LPK Bejo. According to SO Bidadari, training at LPK Jaya would involve weekly field training. However, in reality there was no field training until the end of the training period. There was only one field visit to SO Bidadari's bean field, where participants only took photos without any practical training.

During the three month training at LPK Jaya, students were divided into two classes; class A consisted of 20 students and class B of 22 students. In these classes at LPK Jaya, the students learned Japanese language using the same textbook as the one already used at LPK Bejo. Class A had completed all chapters while in class B had completed only 20 chapters of the total 25 chapters in the textbook for the JLPT N5 examination. Japanese classes started at 9am and continued until 4pm everyday (Monday to Friday). Every Saturday, an examination was held to assess students' understanding of what had been taught during the week. Besides, morning exercise activities were also held daily. LPK Jaya provided a dormitory to the students.

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55 OTIT "Full List of Approved Sending Organization of Indonesia", <https://www.otit.go.jp/files/user/200221-6.pdf>

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While the training was held, LPK Jaya also recruited technical intern trainee candidates. All students in LPK Jaya are given scholarships under the condition that they must improve their Japanese language skills, otherwise they were to be sent home. Once students were accepted by any SOs, they were asked to pay a training fee of IDR 7,000,000 (approx. US\$ 500) to LKP Jaya.

Training centers run by SOs usually implement training with structured modules and schedule, and evaluate progress of prospective technical intern trainees on a regular basis.<sup>56</sup> Native Japanese teachers and trainers are often placed in private SOs as well as BLKLN run by the government. Students also study 25 chapters of a commonly used basic Japanese language textbook to equip them with language skills of the N5 level. Since LPKs often “copy and paste” training modules of SOs, there are cases where students end up being given the same training twice. As seen in the case above in Box 2, some training centres do not provide adequate practical field training. In addition, according to the testimony given by an informant, one BLKLN in Bekasi was recalled not to be hygienic as animals and insects scattered around its facilities, and adequate and nutritious food was provided only when Japanese instructors were present.<sup>57</sup>

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56 Interview with Bagong.

57 Interview with Bisma associate.

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### **Box 3: Unclear Contracts and Placement Fees**

The prospective technical intern trainee from LPK Jaya was asked to sign three documents. One of them stated the cost for departure to Japan to be a total value of IDR 32,000,000 (approx. US\$ 2,286), and it was the only document written in Indonesian language, while the other two documents he was also instructed to sign were written in Japanese. At the time of signing these contracts, staffer of SO Bidadari said that they would provide the Indonesian translation, but in reality, they did not.

Although SO Bidadari had initially told him that the total placement fee was IDR 25,000,000 (approx. US\$ 1,786), the contract stated IDR 32,000,000 (approx. US\$ 2,286) instead. No details on itemized costs were available. The staffer of the SO Bidadari also had promised to send copies of the contracts through Whatsapp, but no copy was sent to him. One of the contracts he had to sign at the SO was an agreement between him and his prospective company in Japan, not with the SO, but the signing process was carried out by SO Bidadari.

Overcharging has been a common practice, and technical intern trainees of the first batch of SO Bidadari paid IDR 15,000,000 (approx. US\$ 1,071) even though they were initially informed that the fees would amount to only IDR 5,000,000 (approx. US\$ 357). An explanation given to them was that IDR 10,000,000 (approx. US\$ 714) was a translation fee for relevant documents, and IDR 5,000,000 (US\$ 357) was a commission that goes to SO Bidadari.

Technical intern trainees under both the G-to-G and P-to-P schemes sign several contracts and memoranda with their SOs and employers and/or AOs in Japan. These documents state the rights and obligations of the parties, job descriptions and conditions including monthly fees for insurance, accommodation and utilities such as water, electricity and heating to be deducted from their salary, and fees paid by

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prospective technical intern trainees to LPKs and SOs. They are drafted by SOs and employers/AOs, and in most cases prospective technical intern trainees are not given any opportunities to negotiate over the terms and conditions of their contracts. Another significant issue is that there is a lack of transparency, as there are cases in which prospective technical intern trainees are given contracts that are written only in Japanese language and they are not given any explanation or translation in Indonesian language.<sup>58</sup> The OTIT provides standard templates of contracts and other documents with Indonesian translation to be referred to by SOs and employers/AOs<sup>59</sup>. However, in reality these are not always used (Box 3 and Appendix 4). There is a reported case in which the signing of contracts was facilitated by an SO before the trainees attended further training, even though these documents were to be signed by technical intern trainees and their employers.<sup>60</sup>

Since placement often costs prospective technical intern trainees, particularly those under the P-to-P scheme, large sums of money, some SOs provide them with consumer credit services to connect them with affiliated financial institutions or cooperatives.<sup>61</sup> To use these conventional consumer loans, borrowers are required to provide a collateral, for example a land certificate. These credit schemes offered through SOs are different from the People's Business Credit (KUR) program, which the Indonesian government introduced for migrant workers in 2010. The KUR is subsidized by the government and its interest rate is kept minimum. Without these benefits, interest rates of the consumer loans linked to SOs are usually much higher. Therefore, technical intern trainees who do not have enough funds to pay placement fees may take loans from consumer credit companies linked to their SOs, leaving themselves heavily in debt.

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58 Interview with Antasena and Bagong.

59 様式, OTIT, <https://www.otit.go.jp/youshiki/>

60 Interview with Antasena.

61 Interview with Bagong and Antasena.

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## **Impacts of the Unfair and Inadequate Pre-departure Process**

During the research, informants provided information about the situations they had faced during their time as technical intern trainees in Japan. Although this chapter focuses on the pre-departure process of Indonesian technical intern trainees, this section will show a few examples of how the unfair and inadequate practices in the process impacted them while in Japan and after their return to Indonesia.

Technical intern trainees who had not been given enough practical work training and information about socio-cultural contexts and relevant laws and regulation in Japan faced more challenges after their arrival. One informant who worked in the fishing industry faced a lot of confusion as occupational safety and health management measures taken in Japan were very different from what he had known in Indonesia.<sup>62</sup> Without a good understanding of cultural and social contexts of Japan, some technical intern trainees found it difficult to interact and socialize with local residents, and sometimes felt that their presence in Japan was not needed or wanted.<sup>63</sup> It is also because of the little public understanding of the TITP among local communities, as Piyadasara and Da Silva's (2017) study also showed that technical intern trainees are unlikely to enjoy interaction with local residents due to the lack of public awareness of their existence.<sup>64</sup>

One informant who worked in Japan under the G-to-G TITIP for three years received typical JPY 150,000 (approx. US\$ 1,364) per month every year. Another informant who worked in the fishery sector under the P-to-P scheme faced monthly salary deduction of JPY 75,000 (approx. US\$ 682) in the first year, and JPY 65,000 (approx. US\$ 591) in the second and third year. Hourly wage standards are different depending on the prefecture, and those who were placed in

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62 Interview with Wisanggeni.

63 Interview with Antasena.

64 Piyadasara and Saliya De Silva. 2017. Workforce Development with Japanese Technical Intern Training Program in Asia: Opportunities and Challenges. <https://core.ac.uk/download/pdf/84996795.pdf>



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less populated regions often earn less than those who were placed in urban areas. Some technical intern trainees, who had signed contracts with small enterprises or self-employed individual employers that provide only daily or hourly wages instead of a monthly wage, had to take a few days off a week when their businesses were off season or struggling financially. With only two or three working days in a week, they struggled to save money. The high fees they had paid prior to their departure left many technical intern trainees with difficulties as many of them were already in debt to cover placement fees.<sup>65</sup>

Finally, most technical intern trainees had been given little information about how to protect themselves during their employment in Japan. Nikkei Asian Review (2018)<sup>66</sup> reported that an increasing number of foreign workers, not only full-time workers but also part-time workers and technical intern trainees, joined trade unions in Japan in 2018. There are inter-company unions for employers of small enterprises based on employment sectors and also trade unions for foreign workers in Japan. Despite these positive developments, the majority of Indonesian technical intern trainees are not yet able to benefit from this kind of opportunity. During the pre-departure process, prospective technical intern trainees were not given information about their rights and opportunities to organize or to join movements to improve their employment conditions, or how to seek help when they face problems.<sup>67</sup>

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65 Interview with Abimanyu.

66 Nikkei Asian Review, 2018, Japan's foreign workers increasingly join labor unions, <https://asia.nikkei.com/Spotlight/Japan-immigration/Japan-s-foreign-workers-increasingly-join-labor-unions>

67 Interview with Bisma.

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## CHAPTER 5

# CONCLUSION: SHIFTING THE PARADIGM AND WAYS FORWARD

**Daniel Awigra & Mariko Hayashi**

**F**or a few decades, migrant workers under the TITP and the EPAs have contributed largely to the Japanese society and the economy. For the Japanese society, their existence has already become essential. Some of the workers have also gained useful experiences, financial mobility and skills while establishing good networks with Japanese businesses and other stakeholders that contributed to their success after completing their placement terms. However, issues around human rights and labour rights abuse such as exploitation and poor working conditions faced by many workers under the TITP and the EPAs have drawn attention repeatedly, while Japan took a drastic change in its immigration policy in April 2019 to make a large increase in the number of migrant workers with the prospect of allowing them to stay in Japan for longer periods. These issues and rights abuse occur in every stage of the labour migration process.

Problems occurring in receiving countries are often rooted in flawed pre-departure processes, mainly during recruitment, preparation, training and deployment, or even before, as the ways in which these migration schemes are designed are problematic. The ineffective pre-departure process often results from a lack of right-based approaches during the preparation and negotiation for agreements between the sending and the receiving countries as well

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as during the implementation and monitoring of labour migration schemes.

Through research and investigation conducted by collecting and analyzing information from both the official sources and testimony of those experienced and witnessed the actual practices in place during the pre-departure processes of Indonesian migrant workers to Japan under the EPA and the TITP schemes, this study has successfully developed literature that narrows the gap in the existing studies. It also brought some answers to questions such as; what is the cost structure of the placement fees and for what purposes do prospective migrants have to pay large sums of money?; who are complicit in this migration industry?; how have these systems been perpetuated and by whom?; which policies come to govern these systems and why are they not effective in eradicating unfair practices? This study has found some structural issues from the field research examined in the previous chapters.

*First*, both the EPA and the TITP are receiving country-oriented, temporary labour migration programs. By looking at the concept, policy designs and governance of the EPA and the TITP schemes, it is clear that the interests and needs of Japan, which have arisen from labour shortage in some specific sectors due to the ageing population, center in these schemes. At the same time, they address concerns of local lobby groups that the labour market for Japanese workers must be protected. This labour market distortion results in strict requirements and restrictions of working conditions of migrant workers, who consequently often face de-skilling, as seen in the case of nurses and care workers under the EPA in chapter three. It is a very important task for the government of Japan to carefully assess 'labour and skill shortages', while designing the scheme.<sup>68</sup> In the whole processes of the selection of job opportunities available to workers under these two schemes and the recruitment including job-matching, selection of candidates and their training, with

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68 Ruhs, M., (2013), *The Price of Rights*, Princeton University Press: Princeton and Oxford.

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consideration of all parties involved, strong interests of the destination country can be seen through.

*Second*, the ways in which the Indonesian government has been implementing these migrant labour cooperation schemes have to be reconsidered. The Indonesian government has been rather satisfying the interests of Japan, and it has failed to perform its duty to provide protection and fulfill the rights of prospective migrant workers by ensuring safe, effective and regular procedures in the pre-departure process. In comparison between the G-to-G and P-to-P TITP and the EPA schemes, our research shows that the more actively the governments involve, the better protection is provided. The worst cases are more likely to be found in the P-to-P TITP.

The absence of regulations in determining the cost structure of placement fees, protection mechanisms, and effective implementation of recruitment and placement inspections has become the root cause of structural problems in the pre-departure processes. Tragically, as seen in chapter four, under the P-to-P TITP scheme, extremely large sums of money are commonly paid by the prospective technical intern trainees, leaving them in vulnerable situations. Many existing studies from around the world have already shown that migrant workers heavily in debt are more likely to go underground in search of better paid jobs or with intentions to overstay because they are not able to save enough money to pay back debts.<sup>69</sup> This is not certainly a result both governments hope for.

The legal and administrative frameworks in which the Indonesian government implements both the EPA and the TITP also leave workers under these schemes in precarious positions. The confusion over the status of nurse and care worker candidates under the EPA are seen through the appointment of BNP2TKI, a national body working under the direct supervision of the President, as a coordinating body in Indonesia, instead of the Ministry of Manpower. On the other hand, technical intern trainees are not covered by the Law No.18/2017

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69 Ibid

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concerning the protection of Indonesian migrant workers (Article 4.2 [b]). The Indonesia government does not have a structured and systematic pre-departure program for the TITP scheme, and any officially standardized guidance for technical intern trainees do not exist. The continuing exclusion of those who migrate under these two schemes from frameworks for 'migrant workers' is unacceptable, considering the fact that they are treated as workers in practice.

*Third*, the human rights violation, abuse, and exploitation along with unfair recruitment have been committed mainly by the private organizations licensed by the governments. The Indonesian government keeps its eyes closed while overcharging and unfair recruitment practices are at play. Cases of corruption between the private actors and government officials were reported in chapter four. Even in the EPA scheme, which is governed by both the Indonesian and the Japanese governments, we saw cases of unfair recruitment in chapter three. Unfair recruitment practices within the EPA scheme involve a complex network of actors such as nursing schools, school alumni and teachers, sending and accepting institutions and Japanese employers. Some of the arrangements between sending institutions and nursing schools are formalized into regular school programs, such as Japanese language courses.

To conclude this study, we need to review the initial objective of the labour migration cooperation between the two countries. It is officially stated that these migration schemes are international cooperation programs to transfer 'Japan's advanced skills'. However, even before these programs start in Japan, prospective migrant workers face unfair practices, exploitation and abuse. Instead of protecting its citizens as mandated by the Constitution, the Indonesian government has been ignoring irresponsible practices by private actors of the migration industry. It means that the Indonesia government has been indirectly facilitating the exploitation of workers migrating to Japan by maintaining the partnership under the EPA and the TITP, and even committing to increase the number of Indonesian nationals to go to Japan as technical intern trainees and

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newly established SSWs.

The paradigm to rely on sending many low-wage workers to higher-income countries as part of a trade deal in order to achieve economic development of the sending country is already obsolete. In addition, the Indonesian government has not developed any comprehensive strategy to reintegrate returned migrants as skilled workers. The paradigm must be shifted by adding human rights as the basis of cooperation with the receiving country. The voices of returned migrant workers heard in this study helped us to assess impacts of the pre-departure process on human rights of workers under the EPA and the TITP. This study makes some recommendations to the Indonesian government as ways forward.

*First*, the Indonesian government should work on developing fair recruitment guidelines to govern all relevant stakeholders of both the EPA and the TITP, especially the role of the private sectors such as training centers or SOs for the TITP. It is also essential to implement sufficient inspections to monitor the recruitment, training and deployment processes on a regular basis involving all stakeholders. The development and reinforcement of provisions to regulate placement fees and their cost structures are urgent. A new guideline developed by the ILO on fair recruitment,<sup>70</sup> the IOM's ethical recruitment standards as articulated through the International Recruitment Integrity System (IRIS), and some agenda under the Global Compact for Safe, Orderly and Regular Migration (GCM)<sup>71</sup> can be used as references to identify gaps between norms and practices currently in place.

*Second*, the Indonesian government should renegotiate with the Japanese government to recognize the qualifications given to Indonesian nurses and certified care workers to avoid de-skilling, and

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70 ILO, "General principles and operational guidelines for fair recruitment" [https://www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---migrant/documents/publication/wcms\\_536263.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/publication/wcms_536263.pdf)

71 <https://www.iom.int/global-compact-migration>

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also develop reintegration programs to allow them to return as skilled professionals. It is understandable that some rules and practices in nursing and professional care-taking are different between the two countries, and extra training and study are needed before and during the initial period when Indonesian workers enter the new environments, considering the nature of the professions to treat the vulnerable patients and elderly. However, it is necessary to ensure that nurses and care workers improve their professions while in Japan as stated in the IJEPA, and not to allow situations where they lose their skills because they are not allowed to perform professional tasks. In addition, this study found that many nurses and care workers, who held Indonesian licences to practice as nurses, ended up in completely irrelevant jobs after their return home as they were not able to earn enough credits to renew their licenses while in Japan. This result does not meet with the main purpose of the bilateral cooperation, and should be immediately reviewed.

*Third*, the Indonesian government should put a moratorium on the deployment of workers under the TITP and re-negotiate with the Japanese government in order to develop, not only to improve the current system, a joint program with a greater focus on protection and fulfillment of rights of migrant workers and members of their families. It is a crucial step in order to meet both interests; in benefitting migrant workers and in achieving sustainable economic development in both countries. The Indonesian government has an important homework to develop a legal framework to protect those who are participating in training schemes abroad, or include them in the Law No. 18/2017 concerning the protection of Indonesian migrant workers. This research shows that the Ministry of Manpower Regulation No. 8/2008 on internship programs abroad has failed to protect prospective technical intern trainees from the practice of overcharging, rights abuse, and exploitation.

*Fourth*, a standardized Japanese language training curriculum for those preparing for placement under the EPA and the TITP at training centers and Japanese language institutions should be developed.

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This study has seen many problems relating to the absence of a standardized Japanese language course curriculum, certification requirements for Japanese language instructors or a price ceiling for training fees. This also heightens the involvement of the private sector as there are increasing business opportunities for training centers, and they do not always appoint credible language institutions as training providers. As a result, course fees greatly vary from one training center to the other, and so does the quality.

Despite these findings, analysis and recommendations this study has made, the issues found are still only the tip of an iceberg. This research needs to be followed by another study looking at the post-arrival processes and migrant workers' situations in Japan in line with the findings and analysis of this research. By doing so, we will be able to better understand the linkages between processes in the countries of origin and destination such as the ways in which networks among different actors across borders affect migrant workers as well as impacts of the pre-departure process on other stages of migration.

We believe bilateral agreements and cooperation between countries from East and Southeast Asia can foster greater cross-regional coherence. To conclude, we hope that this study, as an example of bringing voices of workers who have migrated from one region to another, will encourage the development of better cross-regional cooperation on migration beyond security and economic agenda.



## APPENDICES

### Appendix 1: List of Informants for Chapter 3

*\*Names of individuals have been changed to protect their privacy.*

No.	Name (all names are pseu- donyms)	Batch	Gender	Education	Origin	Category	Marital Status when migrating
1	Ita	13	Female	Diploma III	Indramayu, West Java	Careworker	Single
2	Yeni	13	Female	Diploma III	Cirebon, West Java	Careworker	Single
3	Yani	7	Female	Diploma III	Salatiga, Central Java	Careworker	Single
4	Sari	8	Female	Diploma III	Medan, North Sumatera	Careworker	Single
5	Amang	7	Male	Diploma III	Malang, East Java	Careworker	Single
6	Tari	1	Female	Diploma III	Medan, North Sumatera	Careworker	Single
7	Rani	1	Female	Diploma III	Medan, North Sumatera	Careworker	Single
8	Ida	2	Female	Bachelor's in English	Tulunga- gung, East Java	Careworker	Single
9	Evi	2	Female	Diploma III	Cimahi, West Java	Careworker	Single
10	Vivi	2	Female	Diploma III	Cirebon, West Java	Careworker	Single
11	Ils	2	Female	Diploma III	Bekasi, West Java	Careworker	Single

12	Nur	2	Female	Diploma III	Bandung, West Java	Careworker	Single
13	Okta	2	Female	Diploma III	Karawang, West Java	Careworker	Single

## Appendix 2: List of Informants for Chapter 4

*\*Names of individuals and organizations have been changed to protect their privacy.*

No	Informant (Pseudonym)	Location	Occupation
1	Antasena	Central Java	Former intern (G-to-G) 2009 - 2012, currently managing private LPK/SO Bejo
2	Bagong	Central Java	Former intern (G-to-G) 2006 - 2009, currently managing private LPK Ambyar
3	Bisma and his associate	Yogyakarta	Former intern (G-to-G) 2014 - 2017, currently managing private LPK Membo
4	Kresna	Yogyakarta	The officer of the Office of Manpower, Yogyakarta special administrative province
5	Nakula	Yogyakarta	Candidate technical intern trainee to Japan under the P-to-P scheme in the agricultural sector
6	Sadewa	Yogyakarta	Candidate technical intern trainee to Japan under the P-to-P scheme in the agricultural sector
7	Arjuna	Central Java	Former G-to-G technical intern trainee in the fisheries sector and managing an LPK
8	Wisanggeni	Yogyakarta	Former P-to-P technical intern trainee in the fisheries sector 2014-2017
9	Karno	Jakarta	The officer of the Ministry of Manpower
10	Abimanyu	Japan	Undocumented migrant workers in Japan

### Appendix 3: Memorandum of Fees paid by a Technical Intern Trainee

[illegible]

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※ 以上のほかは、当社就業規則による。

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## ABOUT AUTHORS AND EDITOR

**Avyanthi Azis** is a lecturer at the Department of International Relations, University of Indonesia, where she teaches in the areas of globalization, development and migration. Her main research centers on Indonesia's labor outmigration. She currently focuses on the recruitment process, and the trafficking experiences of Indonesian migrant fishermen. She holds an MS in Foreign Service from Georgetown University.

**Ridwan Wahyudi** is a migrant rights activist and also a member of the Union of Indonesian Migrant Workers (Serikat Buruh Migran Indonesia/SBMI). His concern on labour migration issues reflects his own experience as a survivor of poor migration management in Indonesia. His focus of advocacy spans from the upstreaming (village-district) level until the downstreaming level (destination countries) of migrant workers. He is currently a program manager for migrant workers resource center (pusat sumber daya buruh migran) that has been developed by Institute for Education Development, Social, Religious, and Cultural Studies (INFEST). He holds an MSc in Development Science from the National University of Malaysia.

**Yoga Prasetyo** is a strong proponent of migrants' rights. While doing his undergraduate study at University of Indonesia, Yoga was awarded a scholarship to study religious pluralism and democracy in the United States. He was granted another scholarship to study migration and diaspora at National University of Singapore (NUS), during which he co-founded Voice of Singapore's Invisible Hands, a project seeking to raise migrant workers' voices through literary writings. Yoga has drawn much inspiration from his mother, a migrant domestic worker

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in Singapore, and he is currently working to help put in place better protection mechanisms for migrant workers in ASEAN region.

**Daniel Awigra** is a human rights activist and currently serves as the Deputy Director of the HRWG. Recently, he has led multi-stakeholders policy dialogues on the implementation of the ASEAN Consensus on the protection of migrant workers' rights in all ASEAN member states. He also initiated the establishment of the Coalition for the Abolition of the Death Penalty in ASEAN (CADPA) and leads the campaign. He has been the International Advocacy Presidium of Jaringan Buruh Migran (Migrant Workers Network) since 2015. He co-founded the Journalist Association for Diversity (SEJUK) in 2008. He holds an MSc in International Relations from the University of Indonesia.

**Mariko Hayashi** is an independent researcher and the Director of Southeast and East Asian Centre CIC based in London. She previously served as the Program Officer of the Sasakawa Peace Foundation specialising in Asia-Pacific. Her work focuses on migrants' rights and community/policy advocacy with strong interests in human rights, minority groups, freedom of expression, media and journalism. She is a co-founder of Waltham Forest Migrant Action. She holds an MSc in Global Migration from UCL, University of London, and recently completed the course 'International Labour Migration: Economics, Ethics and Politics' from the Department of Continuing Education, University of Oxford.

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## **ABOUT HUMAN RIGHTS WORKING GROUP (HRWG)**

HRWG is a network of more than 48 non-governmental organizations working on promoting human rights in Indonesia. It was established in 2000 by NGOs sharing similar interests and seeking a platform to coordinate and lead international advocacy efforts. HRWG's main objective is to promote government accountability on constitutional obligations and international standards to respect, promote, protect, and fulfill human rights at home by maximizing available human rights mechanisms at different levels.

HRWG has drawn upon its role as a regional actor to further the mission of increasing the effectiveness of human rights advocacy work at the United Nations, Association of Southeast Asian Nations (ASEAN), and Organizations of Islamic Cooperation (OIC) with the following objectives:

- a. impact-oriented to ensure that international advocacy has an impact at the domestic level by working in coordination with human rights defenders and relevant stakeholders, both at the national and international levels;
- b. cultivating networks and coalitions in bringing and supporting national issues to the national and international arenas;
- c. capacity building to create a pool of experts, trainers, and human rights defenders from civil society to carry out the work on human rights advocacy;
- d. monitoring and knowledge building by monitoring Southeast Asian countries' foreign policy on human rights.







"The Indonesian Government has always emphasized protection measures as an essential aspect of any bilateral agreement on the placement of migrant workers, including the migrants who work under the Indonesia-Japan Economic Partnership Agreement (IJEPA). This book provides important insights into the departure processes of Indonesian migrant workers who take up employment as nurses and caregivers in Japan, as well as prospective trainees under the Technical Intern Training Program (TITP). To me personally, the publication of this book is an important undertaking as it captures and uncovers the bigger picture of migration processes through a different lens. The book can be used by policy-makers as a reference in enacting better policies for the protection of Indonesian migrant workers and technical intern trainees."

**Eva Trisiana**, Director of Placement and Protection of Overseas Workers, Indonesian Ministry of Manpower

"Migratory processes are determined and shaped by a broad range of conditions in sending and receiving countries, and in the relationships between them. This book has eloquently explained the various problems of different conditions in Indonesia as a sending country and Japan as a receiving country under the EPA and the TITP schemes. I congratulate a very dedicated HRWG team who has been working very hard to come up with the critical analysis on the implication of IJEPA to the life of migrant workers and their families and provide some recommendations with human rights-based approach cooperation on migration. It is indeed a significant contribution to the knowledge on migration management in Asia and therefore, I recommend everyone to read this book."

**Yuyun Wahyuningrum**, Representative of Indonesia to the ASEAN Intergovernmental Commission on Human Rights (AICHR), 2019-2021

"The study offers rich information on the experience of Indonesian returned migrants from Japan and highlights the importance of rights-based approach to implement ethical migration. I hope this will be a benchmark in revising Japan's migration policy to be more transparent and responsible towards our Asian neighbors."

**Reiko Ogawa**, Professor, Graduate School of Social Sciences, Chiba University, Japan

"It is rather mistaken to think that the Government-to-Government scheme of labor migration is completely safe. In fact, prospective migrant workers are vulnerable to a string of rights violations along the migratory processes, some of which have been well captured in this book. I recommend this book to prospective migrant workers wishing to seek employment in Japan and others interested in this matter."

**Rani**, former Indonesian care worker candidate in Japan.



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