

Maximising the Indonesian Demographic Bonus in Tapping the Benefits of a Single Market and Production Base in the ASEAN Economic Community

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Abstract

This article aims to provide insight into the benefits of the single market and production base of the ASEAN Economic Community (AEC) and examines how Indonesian policies and regulations can contribute to boosting the competitiveness of its demographic bonus in the AEC trade liberalization. The AEC aims to establish economic integration in the region, basically trade liberalization for sectors including goods, services, investment, capital, and skilled labourers. This trade liberalization was predicted to generate millions of jobs - high, medium and low skilled jobs - in the region over the next decade. This has become both a challenge and opportunity for the ASEAN Member States (AMS) to enhance their labour forces' competitiveness by which they can acquire the maximum benefit of the AEC. The study is doctrinal legal research that utilized the statute and conceptual approaches in analysing AEC agreements and policies as well as Indonesian regulations and policies including legal materials from articles in journals, bulletins and others on the topic of ASEAN trade liberalisation. This article argues that Indonesia must reform its educational system and human resources policies and create innovative strategies that enhance the competitiveness of its demographic bonus as a potential Indonesian productive labour force. Otherwise, Indonesia will mainly become a market of ASEAN free trade liberalization.

Keywords: AEC, Indonesia, skilled labour, AFAS, ATISA

I. INTRODUCTION

ASEAN has established the ASEAN Community comprised of three communities, the ASEAN Political Security Community (APSC), the ASEAN Economic Community (AEC), and the ASEAN Socio-Cultural Community (ASCC). These three pillars are inter-related and equally important for ASEAN. According to the International Labour Organization (ILO) and the Asian Development Bank (ADB) reports of 2014, the AEC, which established economic integration in the region, could generate 14 million additional jobs across ASEAN Member States

(AMS), and within 15 years, the demand for high-skilled employment will peak.¹ Such demand would create new job opportunities for millions of people in the region. Thus, individual AMS nationals receive the real benefits of the formation of the AEC, including Indonesians. This economic integration will create new employment opportunities for people in the region within next decade. However, the challenge remains to ensure that this opportunity is inclusive for the AMS, and prosperity is shared among the 600 million people in the region.

The report showed that by 2025 the total employment under the AEC scenario will increase in six AMS (Cambodia, Indonesia, Lao People's Democratic Republic, Philippines, Thailand and Viet Nam), of which Indonesia will gain an additional 1.9 million jobs or only 1.3 percent of total employment. This number is smaller than the additional jobs in Viet Nam where the additional jobs will account for 9.5 percent of total employment. Such differences have occurred because all of these calculations are based on the degree of economic and labour market dependence on international trade, and the impact of trade measures namely the elimination of trade barriers in the ASEAN region.² The prospect of additional jobs created by AEC economic integration calls for labour market policies as well as carefully monitoring and reform of the existing regulations on education to improve the quality of workforces in each AMS, including Indonesia. In this context, this article examines the free flow of skilled labour in ASEAN, and Indonesian policies governing its labour force in facing the ASEAN trade liberalization, namely whether Indonesia has adequate regulations and policies to enhance the competitiveness of its labour force, the majority of which is young productive generation.

This study is doctrinal or non-empirical research or normative legal research composing a descriptive and detailed analysis of legal rules found in primary sources such as statutes or regulations. In this sense, this study is based on secondary data that can be found in existing materials such as books, doctrines, regulations, legal theories, articles, official documents, reports, statutes, and journals.³ This study analyses existing international provisions, ASEAN agreements and policies on the single market and production base in particular free-flow of skilled labour and labour market as well as Indonesian regulations and the government policies on human resources and national labour provisions concerning the demographic bonus related to the ASEAN economic integration. The secondary data that had been used in this study is comprised of primary, secondary, and tertiary legal materials. The primary legal materials are authoritative legal documents such as legislation,

¹ International Labour Organization and Asian Development Bank, "ASEAN Community 2015: Managing Integration for Better Jobs and Shared Prosperity, Avoiding the Middle-Income Trap in Indonesia through a More Inclusive Labour Market and Deeper ASEAN Integration, Indonesia Country Brief" (Bangkok), accessed February 11, 2021, https://www.ilo.org/asia/publications/WCMS_300672/lang-en/index.htm.

² *Ibid*

³ Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2005), 141.

judicial decisions, agreements, and regulations. The secondary legal materials are all of materials explaining the primary legal materials such as articles, academic publications, scholarly comments, bulletins, reports, databases, and official websites. The tertiary legal materials are information and rationalizations of all the legal material, such as legal dictionaries. The process of this research consisted of four steps to set up the proposition, collect the data or subject materials on AEC and related issues, analyse the collected data, then finalize the research questions with a conclusion and suggestions.

II. THE ASEAN SINGLE MARKET AND PRODUCTION BASE.

The ASEAN Vision was launched to connect ASEAN people and business and foster growth, culture and welfare.⁴ In addition, the purpose of ASEAN Vision 2020 was to forge a better future for the Southeast Asian region, strengthen the links between countries, people and business, and enhance the region's prosperity.⁵ ASEAN has evolved over the last two decades, as it has a broadened and deepened its scope of cooperation. ASEAN has also moved from economic cooperation into economic integration in pursuing further goals of ASEAN to be a competitive region in an increasingly globalized world. The AEC has led to the transition of ASEAN economic cooperation to economic integration. ASEAN economic integration agreements are primarily based on AMS commitments prescribed in ASEAN instruments that are not legally binding.⁶ The AEC is based on four pillars, and one of them is to turn ASEAN into a single market and production base with the ultimate goal improving the well-being of every ASEAN citizen.⁷ In the context of economic integration, article 1 (5) of the ASEAN Charter states that one of ASEAN's general goals is:

to create a single market and production base which is stable, prosperous, highly competitive and economically integrated with effective facilitation for trade and investment in which there is free flow of goods, services and investment; facilitated movement of businesspersons, professionals, talent and labour; and freer flow of capital.⁸

Importantly, the creation of an ASEAN single market and production base can be achieved by providing effective facilitation of free movement of goods, services, investment, capital, and skilled labour. The ASEAN single market means that ten ASEAN countries are regarded as one country, an integrated and single

⁴ ASEAN, "ASEAN Vision 2020" (1997).

⁵ *Ibid.*

⁶ Koesrianti, "Pembentukan Asean Economic Community (AEC) 2015: Integrasi Ekonomi Berdasarkan Komitmen Tanpa Sanksi," *Law Review* 13, no. 2 (2013): 187–208, 202.

⁷ ASEAN, "ASEAN Economic Community Blueprint" (2008).

⁸ ASEAN, "ASEAN Charter" (2008).

investment destination. In this sense, investors will have a broader market of 600 million people, rather than ten fragmented economies, or only ranging from five million people (as Singapore) to a maximum of 271 million (Indonesia). In addition, the ASEAN region as a single production base will allow foreign investors to tap complementary product and services in the region, establish their industry network and contribute to the global supply chain. The businesses can cut production costs because the ASEAN region will provide access to raw materials, production inputs, services, labour, and capital regardless which country they will choose to settle their operations.

Trade in services in ASEAN involves trans-border movement of workers within the ASEAN region. Mobility of skilled labour within ASEAN is promoted through so-called Mutual Recognition Arrangements (MRAs) of professional services. MRAs form another important component of ASEAN cooperation in trade in services, since MRAs are enabling tools, allowing mutual recognition of qualifications of professional service suppliers by AMS to facilitate mobility of professional service providers in the region.

Investors and corporations are particularly anticipating ASEAN economic integration with the hope of exploiting opportunities to expand and consolidate their business operations in the region. The ASEAN region is a speculative region in terms of foreign direct investment (FDI). Indeed, ASEAN economic integration has addressed and enhanced the legal framework on the free flow of investment. In terms of free flow of investment, ASEAN has agreed on the ASEAN Comprehensive Investment Agreement/ACIA. ACIA is ASEAN's main economic instrument for realizing a free and open investment regime in relation to the realization of regional economic integration in ASEAN, which aims to create a liberal, facilitative, transparent, and competitive investment environment across ASEAN.

In addition, the timeline for specific commitments and most favoured nation (MFN) exemption lists contains provisions identified by individual countries in specific sectors for certain categories of service providers. Singapore has allowed for the presence of unskilled or semi-skilled natural persons coming from traditional sources of supply as an exception to the MFN scheme. Despite several rounds of negotiations and the conclusion of commitment packages, AMS have not moved much beyond the initial WTO/GATS outcomes. Commitments on Mode 4, namely the free movement of workers, are primarily linked to investment, and they are viewed as only facilitating the movement of professionals, managers, and skilled labour in the intra-corporate transferee category.⁹

⁹ Borirak Deunden Nikom and Supunnavadee Jotdumrong, "ASEAN Trade in Services," in *The ASEAN Economic Community: A Work in Progress*, ed. Sanchita Basu Das et al. (Singapore: Institute of Southeast Asian Studies, 2013), 95.

Bear in mind that AMS liberalized the services trade through the GATS which provided a comprehensive legal framework covering 161 services across twelve sectors – telecom, maritime, finance, energy, business, education, environment, and logistics. In this sense, GATS cover both horizontal and sectoral commitments. Matsushita, et.al., have identified that the barriers to trade in services are regulatory,¹⁰ namely subject to domestic regulations. Therefore, Yean and Das¹¹ postulated that the agenda for liberalization under GATS was not too ambitious. The main aim was to establish a legal framework to cover rules and practices of the service trade.¹² In this context, the Member States have chosen, based on their economic policies, the service sectors that they wish to liberalize or to maintain limitations in specific subsectors.¹³

According to the IMF report on the World Economic Outlook of 2019, ASEAN annual average aggregate GDP growth was 5.2 percent in 2018.¹⁴ This rate is higher than the global economic growth rate, which stood at only 3.1 percent.¹⁵ This growth has boosted the region's living standards; 83 million workers moved out of poverty into the middle class. The region has one of the world's highest foreign investment inflow – attracted to its workforce of 300 million, growing consumer markets, and expanding infrastructure.¹⁶ Indeed, this region is one of the world's most dynamic, as it has achieved strong economic performance since 2007 due in large part to the abundance of workers.¹⁷

III. ASEAN FREE FLOW OF SKILLED LABOUR

The free flow of skilled labour in the region is the result of a long process that has required strong cooperation and integration among AMS to effectively facilitate trade and investment, but this cannot come to fruition without the existence of free movement of labour. Therefore, participation of AMS in liberalizing their professionals in the region is highly relevant. Having said that, AMS have no choice other than to work together through the establishment of AEC 2025, because

¹⁰ Mitsuo Matsushita et al., *The World Trade Organization: Law, Practice, and Policy* (Oxford: Oxford University Press, 2015), 615.

¹¹ Tham Siew Yean and Sanchita Basu Das, "Introduction," in *Services Liberalization in ASEAN*, ed. Tham Siew Yean and Sanchita Basu Das (Singapore: Yusof Ishak Institute/ISEAS, 2018), 1–41, 11.

¹² Tham Siew Yean, "FDI Liberalization in Malaysia's Logistics Services," in *Services Liberalization in ASEAN*, ed. Tham Siew Yean and Sanchita Basu Das (Singapore: Cambridge University Press, 2018), 77–109, 78.

¹³ Rupa Chanda, "GATS and Its Implications for Developing Countries: Key Issues and Concerns" (Geneva, 2002).

¹⁴ IMF, "World Economic Outlook: Global Prospects and Policies," accessed March 11, 2021, <https://www.imf.org/en/Publications/WEO>.

¹⁵ "Global Economy to Expand by 3.1 Percent in 2018, Slower Growth Seen Ahead," World Bank, 2018.

¹⁶ International Labour Organization and Asian Development Bank, "ASEAN Community 2015: Managing Integration for Better Jobs and Shared Prosperity, Avoiding the Middle-Income Trap in Indonesia through a More Inclusive Labour Market and Deeper ASEAN Integration, Indonesia Country Brief", xi.

¹⁷ International Labor Organization, "Tripartite Action to Enhance the Contribution of Labor Migration to Growth and Development in ASEAN (Triangle II)," accessed March 11, 2021, https://www.ilo.org/asia/projects/WCMS_428584/lang-en/index.htm.

ASEAN connectivity helps AMS to become stronger, safer, and better prepared for the future.

At the regional level, in the context of the free flow of skilled labour, the AMS have concluded some agreements. Three important agreements are: (1) MRAs which recognize reciprocal education, experience, licenses, or certifications obtained in one of the AMS; (2) streamlined visa and employment regulations for professionals and skilled labourers engaged in cross-border trade and investment; and (3) enhanced cooperation among universities in the ASEAN region to increase the mobility of students and staff.¹⁸

The free movement of skilled labourers provided in the MRAs has not yet covered all professions, as they are currently limited to eight groups of occupations. MRAs on Skilled Labourers by 2015 (AEC 2015) are cover as follow:

1. ASEAN Mutual Recognition Arrangement on Engineering Services (Kuala Lumpur, 9 December 2005)
2. ASEAN Mutual Recognition Arrangement on Nursing Services (Cebu, Philippines, 8 December 2006)
3. ASEAN Mutual Recognition Arrangement on Architectural Services (Singapore, 19 November 2007)
4. ASEAN Framework Arrangement for Mutual Recognition of Surveying Qualifications (Singapore, 19 November 2007)
5. ASEAN Mutual Recognition Arrangement Framework on Accountancy Services (Cha-am, Thailand, 26 February 2009)
6. ASEAN Mutual Recognition Arrangement on Dental Practitioners (Cha-am, Thailand, 26 February 2009)
7. ASEAN Mutual Recognition Arrangement on Medical Practitioners (Cha-am, Thailand, 26 February 2009)
8. ASEAN Mutual Recognition Arrangement on Tourism Professionals (Bangkok, Thailand, 9 November 2012)
9. ASEAN Agreement on Movement of Natural Persons (MNP) (19 November 2012) – Business visitors, intra-corporate transferees, contractual service suppliers

Under the AEC scheme for a free flow of skilled labourers, workers require the fulfilment of the MRAs based on national and ASEAN Qualification Frameworks (AQFs) under temporary work permits and visas.¹⁹ Thus, the mobility

¹⁸ Heri Sudarmanto and Sumarna F. Abudurahman, "Indonesia & AEC: Free Flow of Skilled Labor," *Indonesia – Investments*, January 2016.

¹⁹ Guntur Sugiyarto and Dovelyn Rannyeig Agunias, "A'Freer' Flow of Skilled Labour within ASEAN: Aspiration, Opportunities, and Challenges in 2015 and Beyond," *Issues in Brief: A Joint Series of the IOM Regional Office for Asia and the Pacific and*

of skilled labourers in ASEAN began with MRAs that would allow practitioners in eight professions to practice in other AMS through mutual recognition of their qualifications and, when appropriate, through the implementation of AQFs. In 2015, the ASEAN free flow of skilled labourers' scheme hit an important milestone, as there was the full participation of all of the AMS in MRAs, with the additions of Cambodia and Brunei Darussalam in April 2012 and January 2013, respectively.

Furthermore, the goal of achieving a free flow of skilled labour and professionals under the AEC has brought a series of reforms envisioned to enable member states to meet these liberalization targets as provided in the AEC Blueprint 2025. ASEAN remains committed to further adding and deepening service integration within the region. ASEAN's integration into global supply chains in services has enhanced AMS competitiveness in services, providing a mandate for implementing the ASEAN Trade in Services Agreement (ATISA) as the legal instrument for further integration of service sectors in the region. ASEAN Economic Ministers signed ATISA on 7 October 2020. Article 37 of ATISA stated that the Agreement shall enter into force 180 days after execution of the Agreement, making it effective in April 2021, with a condition that all AMS shall complete their internal procedures for entry into force of this Agreement. In a case where a Member State is unable to arrange its internal procedures, it shall notify the Secretary-General of ASEAN in writing. In this context, the rights, and obligations of such a concerned Member State shall commence on the date on which the Member State notifies the completion of its internal procedures.

The agreement affirms ASEAN's commitment to free and open trade and regional economic integration, against the present multifaceted challenges of trade tensions, the global pandemic, and economic uncertainties (ASEAN, "ASEAN signs trade in services," 2020). Compared to AFAS, ATISA is more comprehensive as it expands the integration of the services sectors. Aside from this, ATISA also provides explicit timelines for AMS to transition their AFAS schedules into the Schedules of non-conforming measures under the ATISA, which shall represent a level of trade liberalisation equal to, or greater than, the level of trade liberalisation committed to under their AFAS Packages.²⁰

An economic community is an essential phase in ASEAN regional economic integration, in particular, shifting regional economic integration from trade to investment and finance. In this context, ASEAN economic integration has covered not only trade and investment links but also human resource development

the Migration Policy Institute, no. 11 (2014): 1–12, <https://www.migrationpolicy.org/research/freer-flow-skilled-labour-within-asean-aspirations-opportunities-and-challenges-2015>.

²⁰ ASEAN Secretariat, "ASEAN Integration in Services, 2021, Appendix 2: Some Basic Concepts and Terms in Trade in Services" (2021), <https://asean.org/storage/ASEAN-Integration-in-Services-2021.01-Final.pdf>, 70.

and financial convergence.²¹ In achieving the aims of the AEC, the AMS should implement the blueprint for a comprehensive regional economic integration that moves the real economic trade to financial integration; such integration requires the free movement of skilled labour.

ASEAN has continued the deepening of existing integration, including skilled labour movement, by agreeing on strategic measures provided in the AEC Blueprint 2025, which reflect ASEAN's commitment to complete the remaining integration measures under the preceding blueprint. The arrangements aim to facilitate the temporary cross-border movement of natural persons and business interests engaged in the trade in goods, services, and investment. Strategic measures include the expansion and deepening of commitments under the MNP agreement, and when appropriate, the reduction, if not standardization, of documentation requirements.²² Key actions in this regard include reviewing and enhancing the commitments under the MNP within the agreed targets and timelines and reviewing existing documentation requirements under the MRAs, AQRFs and the ASEAN Agreement on MNP for possible enhancement and streamlining where appropriate and necessary.²³ The strategic measures are referred to in the Strategic Action Plan for Services 2016 – 2025 and under the auspices of the Coordinating Committee on Services.

With respect to the types of workers who are involved in the mobility of labour in ASEAN, the characterization of movement of migrant workers can mainly be differentiated into two types of workers: skilled workers (including professionals, technicians, IT experts, etc.) and unskilled labourers. These two groups are treated differently in the receiving countries, and indeed they contribute to different labour market segments.

According to Sugiyarto and Agunias,²⁴ three key challenges facing the implementation of agreements and frameworks on ASEAN free flow of skilled labourers remains difficult: (1) Domestic policies and regulations are difficult to adapt to meet the provisions of the MRAs; (2) There is little political or public support to drive the process; (3) The migration process requires regional cooperation and action along with the mutual recognition of qualifications and experience. The ILO and ADB 2014 joint study predicted that the establishment of AEC would increase demand for high-skill, medium-skill and low-skill employment between 2010 and 2025 by an additional 55.7 percent, 26.1 percent and 3.2 percent, respectively.²⁵

²¹ ASEAN, "ASEAN Economic Community Blueprint 2025 on Facilitating Movement of Skilled Labour and Business Visitors" (2015), 6-7.

²² ASEAN, ASEAN Economic Community Blueprint, par.A.5, point. 20.

²³ ASEAN, "ASEAN Economic Community 2025 Consolidated Strategic Action Plan" (2018).

²⁴ Sugiyarto and Agunias, "A'Freer' Flow of Skilled Labour within ASEAN: Aspiration, Opportunities, and Challenges in 2015 and Beyond."

²⁵ International Labour Organization and Asian Development Bank, "ASEAN Community 2015: Managing Integration

This joint study predicted that the implementation of the AEC, on a broader scale, would generate up to 14 million additional jobs.²⁶ The prediction was based on the calculation of a single market and production base of the integrated economic region of the AEC, which started at the end of 2015.

IV. INDONESIAN MIGRANT WORKERS: THE DESTINATION COUNTRIES AND TYPES OF WORK

The free flow of skilled labour under the AEC scheme will certainly encourage people in the region to move to pursue better jobs in other AMS. Migration is a significant driver of economic growth and poverty reduction in both countries of origin –, e.g., contributing to employment, livelihoods, and remittance flows – and countries of destination –, e.g., contributing to private sector growth and economic stability. In this context, Indonesia has an annual remittance from Indonesian Migrant Workers (IMWs). For example, in 2016, the remittance was US \$8.9 billion²⁷ due to approximately 3.5 million IMWs who sent their money back home to Indonesia, with the largest number, 1.9 million, working in Malaysia. The Middle East, with the second largest number, accounted for US\$1.1 billion, while from ASEAN region accounted for only US\$ 873 million.²⁸ The contribution of IMWs to the Indonesian economy is large (these workers are among the country's top foreign exchange earners), and they contribute directly to improving people's lives and significantly reducing the poverty rate. Indeed, IMWs' remittances provide a vital source of finance and foreign exchange for households and governments, notwithstanding that the lives of migrant workers are often harsh and isolated.

The number of migrant workers is expected to continue to increase because migration offers significant opportunities for development not only to Indonesia as the sending state but also to receiving countries such as Malaysia and Singapore. These two AMS are the largest receiving states for migrants from the ASEAN region. As receiving states, Malaysia and Singapore rely on migrant workers to reduce labour shortages. It can be said that migrants are more prepared to take on low paid, or low skilled jobs, and this is what has been done by many IMWs. Main job types of IMWs are maid/babysitter (32%), farm worker (19%), construction worker (18%), factory worker (8%), caregiver for elderly (6%), store/hospitality staff (4%), driver (2%) and cruise ship crew (0,5%).²⁹

for Better Jobs and Shared Prosperity, Avoiding the Middle-Income Trap in Indonesia through a More Inclusive Labour Market and Deeper ASEAN Integration, Indonesia Country Brief.”

²⁶ Andreyka Natalegawa, “ILO Warns Indonesia to Invest in Skilled Labor or Lose Out,” *Jakarta Globe*, July 2015.

²⁷ Yuli Yanna Fauzie, “Bank Dunia: Remitansi TKI Tembus Rp. 118 Triliun,” *CNN Indonesia*, November 2017.

²⁸ Handaru Purnomo, “TKI Sang ‘Pahlawan Devisa’ Kirim Uang Rp. 38 T Di Q3 2018,” *CNBCIndonesia*, January 2019.

²⁹ World Bank, “Indonesia Report, Indonesia's Global Workers, Juggling Opportunities & Risks,” n.d., <https://documents1.worldbank.org/curated/en/946351511861382947/pdf/121691-Indonesias-Global-Workers-Juggling-Opportunities-Risks.pdf>, 10.

More than nine million Indonesians have become migrant workers (documented and undocumented) equivalent to almost seven percent of Indonesia’s total labour force.³⁰ They migrate to other countries to live and work. In 2016, most IMWs lived and worked in foreign countries such as, Malaysia (55%), Saudi Arabia (13%), Hongkong SAR (6%), Chinese Taipei (10%), Singapore (5%).³¹ Some of them were working in the ASEAN countries (Table 1).

Table 1:
IMWs in Foreign Countries (in thousands)

| Destination country | 2014 | 2015 | 2016 | 2017 | 2018 |
|---------------------|-------|-------|-------|-------|-------|
| Malaysia | 1.935 | 1.881 | 1.876 | 1.876 | 1.902 |
| Singapore | 135 | 120 | 106 | 99 | 98 |
| Brunei Darussalam | 37 | 35 | 32 | 31 | 31 |
| Others | 3 | 1 | 0 | 0 | 0 |
| Total (ASEAN) | 2.109 | 2.038 | 2.004 | 2.031 | 2.031 |

Source: BI and BNP2TKI, 2019 (data selected ASEAN countries)

The total number of Indonesian citizens who have worked in foreign countries all over the world is greater than three million. For example, in 2018, the number of IMWs in total was 3,650,000 slightly increasing to 3,669,000 in the first quarter of 2019. Of that number, more than 2 million workers are intra-ASEAN migrant workers, with the highest numbers residing in Malaysia, at 1.9 million workers (Table 2). Malaysia has become the top destination for IMWs because of the similarity of language, lenient working visa requirements, and the role of the ‘middleman’ in the migration process.³²

V. THE INDONESIAN WORK FORCE AND GOVERNMENT POLICIES

In 2015, some 128.30 million Indonesians were part of the national labour force, or 69.50 percent of the total population of 252.7 million.³³ This high number presents the labour force as an asset of national development. However, Indonesia faces several problems, including low-skilled workers, limited job opportunities, and a high unemployment rate. Of the total labour force, some 56.65 million (or 44.15 percent) have only an elementary school education, and 23.12 million (or

³⁰ World Bank, 11.

³¹ World Bank, 13.

³² Koesianti, “An Overview of Indonesia’s Protection on Women Migrant Workers,” in *Asian Yearbook of International Law, Volume 18 (2012)*, vol. 18 (Brill | Nijhoff, 2018), 38–64, https://doi.org/10.1163/9789004379732_003, 40.

³³ Guntur Witjaksono, “Menuju Instrument ASEAN Untuk Perlindungan Tenaga Kerja Migran,” in *Forum Group Discussion on the Protection IMWs: Legal Issues* (Bandung, 2015).

18.02 percent) have completed junior high school.³⁴ The rest are divided into two categories – senior high school and university educated, with a total of 34.53 and 10.56 percent, respectively.³⁵ Thus, 62.17 percent of Indonesia’s labour force comes from low-level educations (elementary and junior high school).

The huge number of low-educated labourers justifies the government focusing serious attention on its work force. It is apparent that the Indonesian work force can only meet the low-skilled level that was predicted to cover only 3.2 percent of the job creation of the AEC. The rest of the labour force (senior high school and university level) should be increased, particularly in the eight areas of skilled labour covered in the AEC scheme. It is crucial for Indonesia to meet labour market demand at the national and regional levels, allowing Indonesia to not only overcome gaps in its supply of demanded labour but also move up the “skills ladder” and address skills gaps by reforming its education and training systems. In addition, Indonesia must emphasize the continued importance of ensuring quality standards in basic education and training. Eventually, Indonesia’s workforce will be able to compete with their competitors from other AMS.

The total number of foreign migrant workers who come from other AMS in Indonesia was quite low; there were only 10,458 workers compared to the number of IMWs in other AMS (Table 2).³⁶ Due to the very small number, the existence of foreign workers from other AMS currently has no effect on the labour market in Indonesia. Thus, the Indonesian labour market so far remains functional. This does not mean that in the near futures Indonesia will become a destination country from migrant workers of ASEAN people due to the administrative privileged provided by ASEAN schemes. It also important to note that the total number of foreign workers as of December 2018 was only 95,335 people.³⁷ This number is higher than the previous year which was only 85,974 foreign workers in Indonesia. This number was small compared to the total Indonesian population.

Of this number, the workers who came from ASEAN region was very small or only around ten thousand people. Of this number, workers mostly came from China (32,000), Japan (13,897), Korea (9,686), India (6,895) and Malaysia (4,667). Foreign workers have filled jobs that cannot be filled by Indonesian manpower. The foreign workers have come to Indonesia because there were numerous investment projects justifying the need for their contribution which is also the arbitrary right of the companies employing foreign workers. In addition, the government has been eager to improve the investment climate of Indonesia by pushing for more foreign

³⁴ *Ibid.*

³⁵ *Ibid.*

³⁶ *Ibid.*

³⁷ Number of Foreign Workers Only Around 95,000: Manpower Ministry, *Tempo.co*, 13 January 2019, <https://en.tempco.co/read/1164387/number-of-foreign-workers-only-around-95000-manpower-ministry>.

direct investment (FDI). Presidential Regulation No.20/2018 on the Use of Foreign Workers in Indonesia also showed that there will be more foreign workers coming into Indonesia as this regulation has simplified the permit application process for the foreign workers.³⁸

Table 2
IMWs and Foreign Migrant Workers (ASEAN)

| No | AMS | Population | Indonesian MW | Foreign MW in Indonesia |
|-----|-------------|-------------|---------------|-------------------------|
| 1. | Brunei D | 417.542 | 72.000 | 6 |
| 2. | Cambodia | 15.520.000 | 1.100 | 2 |
| 3. | Laos | 6.640.000 | 220 | 0 |
| 4. | Malaysia | 30.720.000 | 1.881.000 | 4.000 |
| 5. | Myanmar | 52.400.000 | 200 | 98 |
| 6. | Philippines | 101.700.000 | 9.800 | 2.670 |
| 7. | Singapore | 5.535.000 | 112.000 | 1.300 |
| 8. | Thailand | 68.660.000 | 3.200 | 2.300 |
| 9. | Vietnam | 93.570.000 | 330 | 82 |
| 10. | Total | | 2.079.850 | 10.458 |

Source: Witjaksono (2015) and BI (2018)³⁹

(Note: number of population year 2018)

National economic development requires inputs such as natural wealth, human resources, technology and innovation. In this context, as the fourth-largest populated country, with a demographic bonus that includes a huge number of youths in the productive workforce, Indonesia should be able to utilize its manpower advantage to enhance its natural resources for the prosperity of the people by applying technology and innovation leading to foreign direct investment (FDI) in Indonesia.

The establishment of AEC in 2015, particularly, the agreement on the free flow of skilled labour put pressured in the national labour market, as there could be a lot of foreign skilled workers from the AMS live and work in Indonesia. This concern assumes that Indonesian work force have not ready yet to compete with their competitors from other AMS. Of the total skilled labour in Indonesia, only five percent has been certified.⁴⁰ Considering that a significant benefit can be gained from the establishment of the AEC is high-skilled labour mobility, Indonesia should also invest in its higher education. Manpower in Indonesia in the priority eight professions must meet certain qualifications to compete regionally and globally. In

³⁸ Indonesia – Investments, New Regulation makes it easier for foreigners to work in Indonesia, Indonesia Investments, 6 April 2018, see <https://www.indonesia-investments.com/news/todays-headlines/new-regulation-makes-it-easier-for-foreigners-to-work-in-indonesia/item8713>

³⁹ Statistik Ekonomi Keuangan Indonesia, https://www.bi.go.id/seki/tabel/TABEL5_30.pdf

⁴⁰ Aditya Himawan, “Ancaman Terbesar MEA Bagi Indonesia Terkait Kesiapan Pekerja,” *Suara.Com*, January 2016.

addition, considering that the number of foreign migrant workers in Indonesia who come from other AMS is quite small, or far less than the number of Indonesian workers who work in other AMS, the statement that the labour market in Indonesia is under threat from ASEAN migrant workers is *de minimus*.

VI. INDONESIAN DEMOGRAPHIC BONUS

A majority of IMWs work in informal sectors in roles such as domestic workers, caregivers, workers, operators, and plantation workers.⁴¹ Many IMWs who work in the ASEAN region, in particular Malaysia, are unskilled labourers that compete for the small portion of job opportunities created by the AEC, only 3.2 percent of the total. Thus, Indonesia, more precisely the Indonesian people, cannot reap maximal AEC beneficial economic advantages. For many Indonesian people, ASEAN is merely about ten countries that have come together to establish an organization and a six hundred million population of ASEAN. In this regard, new spaces must be opened for them to experience ASEAN as a people-centred association and be part of the process.

A comprehensive policy from the government is needed to enhance the potential Indonesian labour force, as it is predicted that Indonesia will have a demography bonus; in other words, from a demographic perspective, Indonesia has a large potential for productivity. The Indonesian demographic bonus is estimated to peak in 2020–2030, when those at a productive age (15 – 65 years) will account for approximately 70 percent of the population, and the rest (30 percent) will comprise unproductive population groups – below 14 years and above 65 years of age. In 2020, as is shown in Table 3, the percentage of the productive population (15 – 64 years old) is 70,72%.⁴² This demographic distribution offers a significant challenge for Indonesia; the country must constructively manage its labour force bonus of an abundance of its population in their productive years in a positive and innovative way.

Table 3
Indonesian population structure (gender and age)

| Age group | Percentage | Male | Female | Total (M&F) |
|-------------|------------|-----------|-----------|-------------|
| 0-14 years | 24.56 | 34.038,8 | 32.323,9 | 66.362,7 |
| 15-24 years | 16.65 | 23.127,9 | 21.867,0 | 44.994,9 |
| 25-54 years | 43.99 | 59.989,2 | 58.894,4 | 118.883,6 |
| 55-64 years | 8.63 | 11.638 | 11.692,3 | 23.330,3 |
| 65 and over | 6.16 | 7.868,1 | 8.764,5 | 16.632,6 |
| Total | 100.000 | 136.661,9 | 133.542,0 | 270.203,9 |

Source. BPS, 2020

⁴¹ Mega Putra Ratya, “Sepanjang 2017, Ada 148.285 TKI Ditempatkan Di Luar Negeri,” *DetikNews*, September 2017.

⁴² Badan Pusat Statistik (BPS) or Central Bureau of Statistics, Hasil Sensus Penduduk 2020 (Indonesian Population Census 2020) see at, <https://www.bps.go.id/pressrelease/2021/01/21/1854/basil-sensus-penduduk-2020.html>

In addition, by switching the national labour market policy to one more ASEAN market-oriented than nationally oriented, Indonesia will be able to reap greater benefits from AEC labour integration, allowing the Indonesian workforce to obtain better jobs and simultaneously share prosperity with the Indonesian people. In this respect, the Indonesian government should quickly respond and identify any actions to take advantage of this huge provisional opportunity opened by the AEC labour integration. In other words, the Indonesian national labour market should be strategically managed to keep pace with the regional economic arrangements.

VII. LIBERALIZATION OF LABOUR IN ASEAN: OPPORTUNITIES AND CHALLENGES FOR INDONESIAN WORKERS

The implementation of the AEC, based on a study by ADB and ILO, are projected to create an additional 1.9 million jobs in Indonesia. It is also predicted that Indonesia's labour market will continue to expand after the establishment of the AEC. In general, movement of regulated professionals in the region is not easy due to the differences in varying legal schemes, education systems, and quality standards as well as professional associations' reluctance to embrace foreign labour. To overcome and address these difficulties, ASEAN has undertaken two key initiatives, namely, the adoption of MRAs and the AQF. Between 2005 and 2015, the AMS signed eight MRAs – for engineering, nursing, architecture, medicine, dentistry, tourism, surveying, and accounting. Each MRA aims to facilitate mobility within ASEAN (including the exchange of information and the enhancement of cooperation on mutual recognition of qualifications), to promote the adoption of best practices in standards and qualifications and to provide opportunities for capacity-building and training. The AEC Blueprint 2025 emphasizes the need for “the movement of businesspersons, skilled labour and talent” as a key element for achieving greater economic integration in the region.

The 2014 ADB and ILO joint study also predicted that the implementation of the AEC would generate up to 14 million additional jobs, improving the livelihoods of the 600 million women and men in the region. This improvement will drive growth and prosperity in AMS, while leaving the challenge of ensuring that growth is inclusive, and prosperity is shared among AMS' people. According to the joint study, demand for high-skill employment under the AEC will increase by an additional 55.7 percent in the 2010 to 2025 period, compared with an increase of 26.1 percent for medium-skill employment and a contraction of demand of 3.2 percent for low-skilled jobs.

From this prediction, it is apparent that the largest part of the AEC (scheme for freer movement of labour) will consist of high-skilled jobs (55.7%). In this context, due to the characteristics of the Indonesian workforce, which mostly consists of

unskilled labour, Indonesia will likely not receive much benefit from this scheme. To obtain a greater benefit from the ASEAN labour liberalization, Indonesia must have a strong commitment to the development of human resources as their main priority. Indonesian may learn from Singapore's best practices in boosting its national economy growth. Singapore made a strategic shift to the services sector in the mid-1980s. In 2010, Singapore pursued a structural adjustment by establishing a ten-year programme to boost its productivity growth to two up to three percent per annum, from around one percent during the 2000s.⁴³ Singapore has achieved this target "by curbing the growth of low-skilled labour supply, encouraging capital deepening and increasing automation."⁴⁴ Programmes were put in place to help the local workforce develop new skills according to new growth areas.

Considering the tight competition in the labour market at the national and international levels, the Indonesian government has encouraged all education stakeholders to renew their educational orientation and become demand-drivers for innovative programmes such as providing wider access to the young productive generation to vocational studies. In the last decade, the government has added vocational studies at several universities that previously did not have such study programmes. The government is aware that industrial development requires many resources, including competent human resources to boost national productivity and competitiveness. Recently, the Indonesian demographic pattern has shown that Indonesia's working age population is growing at a relatively fast rate while the total population is growing at a relatively slow rate.⁴⁵ As a result, a large Indonesian population group (around 125 million) is under the age of thirty. This population group constitutes as a potential Indonesian productive and creative young generation which can take role as the engine of national economy in boosting the national economic development.

In addition, the government also must improve the Indonesian Human Capital Index (HCI). Human capital –the knowledge, skills, and health that people accumulate throughout their lives – is key to Indonesia's future. In 2020, the Index score of Indonesian Human Capital is 0.54.⁴⁶ Although this score is higher than the previous index, 0.53 in 2018, it regarded as low score as it means that a child born in Indonesia today will only be 54 percent as productive as she or he could be under the benchmark of complete education and full health. Furthermore, based on this index, the expected average years of school in Indonesia is 12.4 years, meaning a child can be expected to complete of school by her/his 18th birthday who starts

⁴³ "Economic Strategies Committee," 2020.

⁴⁴ Sanchita Basu Das and Evelyn Peiqi Ooi Widjaja, "Chapter 5: Service Sector Liberalization in Singapore: Case of the Logistic Sector," in *Services Liberalization in ASEAN*, ed. Tham Siew Yean and Sanchita Basu Das (Singapore: Yusof Ishak Institute/ISEAS, 2018), 149–80.

⁴⁵ Indonesia – Investments, "Population of Indonesia," n.d.

⁴⁶ World Bank, "The Human Capital Index 2020: Update, Human Capital in the Time of Covid-19," Indonesia HCI 2020, n.d.

school at age 4. Indonesia is an early adopter of the HCI, a global effort to accelerate more and better investments in people for greater equity and economic growth.⁴⁷ HCI components consist of the probability of life to age five years (survival), quality and quantity of education, and health including stunting issues which are major parts of measuring the future of labour productivity of children born in present time. The slight increase of the Indonesian HCI can be attributed to efforts made by the government of Indonesia in improving the quality of human resources, particularly related to education, health, and the millennial generation is in the right track which can be continued for the better future labour productivity.

In addition, to provide greater access to a university education for the younger generation, the government provides scholarships called *Bidikmisi* for those brilliant students who come from poor families. The programme covered up to 130,000 students in 2019, which represents a significant increase, as it previously (year 2018) only covered 85,000 students.⁴⁸ This scholarship, which started in 2010, also covers undergraduate students from all provinces of Indonesia, from Aceh to Papua. In this context, Indonesia's demographic bonus will be human capital and will have a positive impact in helping enhance the national economy if this very rare opportunity is managed properly and in a timely manner. In other words, the government must put sound economic policies in place and be able to implement a development policy. This bonus is a golden opportunity for Indonesia to truly reap the benefits of the AEC and ensure that the policies are implemented through a rigid agenda and targeted programmes.

The negative impacts of the demographic bonus, on the other hand, include a high unemployment rate and a wide gap between the supply of and demand for labour that needs an appropriate solution, among others. Indonesia in this case can reform its higher educational system to create high-quality human resources by widening educational access and relevancy and enhancing the quality of higher education. If Indonesian manpower, that is, the productive group population (15 – 64 years), can be utilized as a potential asset together with the AEC agreements, the growth of population in Indonesia may not become a burden. Therefore, AMS participation in liberalizing their professionals in the region is highly relevant. To support the AEC agenda, AMS should also liberalize the professions to fulfil job-creation demand due to the single market and production base in the region.

Due to the nature of jobs expansion in the region, which includes the 'production base' sector, the market will open for both skilled and unskilled labour. Raw materials need production processes, manual or automated, including assembly processes in which they eventually become final products; in this context, all these processes need labourers, either skilled or unskilled. Thus, ASEAN economic integration requires free movement of skilled and unskilled labourers; it will become

⁴⁷ World Bank, "Indonesia Human Capital Knowledge Series," n.d.

⁴⁸ Dhita Seftiawan, "Mendongkrak Prestasi, Kuota Mahasiswa Penerima Bidikmisi 2019 Ditambah," *Pikiran Rakyat*, January 2019.

a significant challenge for the under-educated Indonesian labour force to access these job opportunities. Indonesia will have a big chance to get the opportunities provided by the AEC. In addition, the trade liberalization of the AEC would have given benefits for all the AMS, for all ASEAN people. In this sense, ASEAN will fulfil its objective of establishing a region that a resilient, inclusive, people-oriented, people centred ASEAN rather than mainly focus on government-led collaboration in political, security and economic issues.

The launching of the ASEAN single market and production base has created employment in some AMS, such as Singapore, Thailand, Malaysia, the Philippines, and Indonesia. These AMS form a major base and the regional hub for the production networks of manufacturing production and export of machinery and parts from China, Japan, and South Korea. Indeed, trade and investment liberalization and facilitation programmes in ASEAN have resulted in added valued, with ASEAN becoming a competitive region for investment that has attracted MNCs to establish operation in different ASEAN locations.

The employment of foreign workers who have expertise in particular jobs often bring new knowledge and technology, new management skills, and new ideas that lead not only to the distribution of earnings, as the local workers can absorb the knowledge and skills that lift up their salary but also to efficient allocation of the labour market. In other words, there will be a transfer of knowledge that can eventually help Indonesia upgrade its industrial structure to upper-middle- or high-income levels. The free flow of labour will simultaneously lead to a better provision of skilled services in the host country because of skills upgrading and a competitive price in various sectors. In this regard, the government has included technology transfer in most of the international labour agreements. For example, foreign (ASEAN) accountants, auditors or legal consultants who work in Indonesia must fulfil the general conditions, including the following: 1) Appoint a local worker as an assistant to the foreign worker for the purpose of technology and skills transfer; 2) Provide education and training; 3) Have education and/or work experience of at least five years; 4) Transfer his/her skills to an Indonesian worker; 5) Communicate in Indonesian. Moreover, there is a quota – one foreigner to three Indonesians. Thus, Indonesian labourers are protected and not affected by the ASEAN labour liberalization. Indonesian labourers can acquire new experiences from skilled labourers' movement in ASEAN. The migration of workers can enhance the productivity of labour as economic returns to labour. The average migrant is much more economically productive in the host country than in the country of origin – many times more productive. The world economy is approximately three trillion dollars per year more productive than it would be if today's migrants had not migrated.⁴⁹

⁴⁹ Michael A. Clemens, "UN Department of Economic and Social Affairs, Migration Is a Form of Development: The Need for Innovation to Regulate Migration for Mutual Benefit," n.d.

VIII. CONCLUSION

Under the ASEAN liberalization of labour scheme, the movement of skilled labourers from one ASEAN member country to another is free from any restrictions. The AMS have agreed on eight Mutual Recognition Arrangements (MRAs) and some ASEAN Qualification Frameworks (AQFs) as legal instruments of ASEAN in facilitating the free flow of skilled labour. Post the establishment of AEC, the demand for high-skilled labourers is forecasted to increase and its number is higher than other type of labourers (middle and low skilled labour). Many foreign professionals from other ASEAN Member States (AMS) may work and deliver their services in Indonesia. Indonesia can maximize this potential benefit from the economic integration unless it may be just as a market for foreign labourers.

Contrary to public opinion on the AEC trade liberalization of labour, the free flow of labourers in ASEAN is not full free movement of labour at all. Regardless of the type of worker, skilled or unskilled labourers must face border barrier requirements when entering the other AMS. Having considered the structure of the workforce in Indonesia, i.e., it consists of primarily low-skilled labour, Indonesia should have comprehensive education and training policies to prepare its workers to be professional workers who are able to compete regionally. Indonesia must have innovative employment policies and a robust strategy towards high-quality jobs so that the Indonesian labour force is able to compete in the labour market in the ASEAN region. Indeed, Indonesia should protect and support its workers, as the AEC economic integration does not address movement of low-skilled labourers.

After all, the ASEAN labour market still demands unskilled labour to meet an employment demand related to the single market and production base scheme that is moving the ASEAN into the global market. Nevertheless, reaping the potential benefits of the economic integration free movement of labourers in the region, will depend on policies to manage this ASEAN transformation. In the Indonesian case, feasible employment policies for high-quality jobs are a critical point.

The free flow of skilled labour in the AEC scheme has led to scepticism about a potential massive inflow of foreign workers into Indonesia that would further cause tight inequality competition in the Indonesian domestic labour market. Currently, for a skilled-labourer scheme, Indonesia can only focus on eight professions prescribed under the AEC scheme and seek methods to boost the Indonesian workforce's productivity and skills. Failure to respond to the changes in labour demand in the AEC will have a significantly negative effect on the national economy. It may increase inequality and worsen existing labour market deficits such as vulnerable and informal employment and working poverty; in the worst case, Indonesia might become a market for ASEAN labourers.

On the one hand, the AEC will bring improvements to the livelihoods of the Indonesian population, however, Indonesia must be ready to address the challenges

that come with it. In this respect, Indonesia must invest in developing its young population's marketable skills, especially its demographic bonus, to be in a better economic position to take advantage of the AEC. Since the AEC is a process, Indonesia can maximize its currently large supply of low-skilled labour in the competitive sectors of the AEC, such as manufacturing and services in the region. By putting in place robust innovation and by improving policies in its labour sector to reflect more ASEAN-friendly approaches, Indonesia can maximize its demographic strength as the potential workforce moves towards becoming high-quality productive labourers that will raise the living standards of Indonesian labourers.

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