THE CHALLENGES OF INTERNATIONAL LABOUR ORGANIZATION (ILO) IN PROTECTING INDONESIAN DOMESTIC MIGRANT WORKERS IN MALAYSIA
(2008 – 2012)

An Undergraduate Thesis
Submitted to the Faculty of Social and Political Sciences
In Partial Fulfillment of the Requirements for
Bachelor of Arts (B.A.) in International Relations

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2014
DECLARATION OF ORIGINALITY

This thesis entitled:

THE CHALLENGES OF INTERNATIONAL LABOUR ORGANIZATION (ILO) IN PROTECTING INDONESIAN DOMESTIC MIGRANT WORKERS IN MALAYSIA 2008 – 2012

1. Is my original work proposed to fulfill one of requirements to obtain undergraduate degree in State Islamic University (UIN) Syarif Hidayatullah Jakarta.

2. All Source used in this thesis I have attached according to the rules applied in State Islamic University (UIN) Syarif Hidayatullah Jakarta.

3. If this thesis afterwards found not as my original work or recognized as plagiarize from other's work, I agree to take all the responsibilities and academic penalties applied by State Islamic University (UIN) Syarif Hidayatullah Jakarta.

Jakarta, April 2014

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THESIS

THE CHALLENGES OF INTERNATIONAL LABOUR ORGANIZATION (ILO) IN PROTECTING INDONESIAN DOMESTIC MIGRANT WORKERS IN MALAYSIA (2008 – 2012)

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This thesis elaborates the challenges of International Labour Organization (ILO) in Protecting Indonesian Domestic Migrant Workers in Malaysia, from 2008 to 2011. To analyze this research, the author used International Organization theory by Clive Archer and Human Security theory. This research uses qualitative method which form the descriptive data.

Based on document about ILO’s project which titled ‘Combating Forced Labour and Trafficking of Indonesian Migrant Workers, phase II’ which conducted from 2008 to 2012, ILO used four strategic objectives such as advocacy of policy and legislation framework; awareness-raising; assistance and services; economic empowerment; to capacity building and documentation and improvement of information dissemination system to reach the main goal from this project.

However, from intensive research, this research at least found four challenges that have been faced by the ILO since this project was begun in 2008. The first challenge is because Indonesia and Malaysia still have not ratify ILO Convention No.189. The second challenge is the low public awareness about the position of domestic workers as workers. The third challenge is the limited budget of Indonesia’s government, and the last one is technical challenges in project services and research and documentation.

**Keywords:** Challenges, ILO, Domestic Workers, Indonesia, Malaysia
PREFACE

All praise be to Allah as the Creator of mankind with His superiorities so this thesis can be finished well. Shalawat and Salam to our Prophet Muhammad SAW who has brought us from the darkness into the lightness.

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With all modesty the author ask forgiveness for mistakes written in this research. Critics and comments will be received to improve abilities in the next research. Hopefully this thesis can be useful for those who need it and academic enrichment.

MIKE MARTALETA
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CHAPTER I: INTRODUCTION

A. Research Background

Diplomatic relations between Indonesia and Malaysia has been established since Malaysia became an independent state in 1957.\(^1\) One of the diplomatic relations between Indonesia and Malaysia is in social and people’s welfare sector. It is proved by many migrant labours who are sent to Malaysia. According to the Malaysian Ministry of Human Resources, in 2009 there are approximately 2,109,954 migrant workers worked in Malaysia, 50 percent are Indonesian labour migrants, indicating the high scale of Indonesian labour migration to Malaysia.\(^2\)

From 2012 to 2013, Malaysia has surpassed Saudi Arabia as the top ranked country to employ Indonesian workers in the world.\(^3\)

The majority of labour migrants in Malaysia are lower-skilled or semi-skilled, and primarily occupy jobs that are dangerous, dirty and demeaning as known as “3D” jobs, this condition happened in sectors such as manufacturing, agriculture, construction and domestic work. In 2005, agriculture sector was in the first major force of work, there were 310,000 (25.5%), then followed by domestic services sector with 167,000 (13%) and construction sector with 153,000 (12%).

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\(^1\)Tentang KBRI, provide on [http://www.kbrikualalumpur.org/index.php/tentang-kbri/tentang-kbri](http://www.kbrikualalumpur.org/index.php/tentang-kbri/tentang-kbri), article accessed on December 23, 2013, 17.57pm


sectors which were 294,000 (24.2%), constructions 220,000 (18.1%), manufactures 200,000 (16.5%) and services 100,000 (8.2%).

On the other hand, employment sector in Malaysia tends to be divided by gender. According to International Organization for Migration (IOM), male Indonesian migrant workers work primarily in the agriculture and construction sectors, while female migrant workers are mainly employed in the domestic and services sectors. As the female migrant workers are majority work in domestic sectors, they are often subjected to harsh treatment, including withholding of wages and verbal and physical abuse. Domestic workers are especially vulnerable as they are not protected by Malaysian labour laws and are often isolated from other workers as they are keep to the household of their employers.

In this research, the Indonesian Domestic Migrant Workers in Malaysia is chosen as research object. This is because Malaysia is a country which employs the largest labour workers, in particular women, as domestic workers arose than other countries. As explained, from 2012 to now, Malaysia surpass Saudi Arabia as the top ranked country to employs Indonesia workers in the world and majority (over 50%) of Indonesian workers in Malaysia are women workers.

According to the ILO, the domestic workers themselves often work over time, have poor remuneration, and little access to social protection. They are often isolated by their employer and many of them keep insisting to stay as domestic

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4Group Researchers, *migrasi tenaga kerja* 41.
5Group Researchers, *migrasi tenaga kerja* 41.
6Briefing Jurnalis, *Catatan Akhir Tahun.*
workers due to the imperative to earn income. Many, though not all, come from poor household who come from rural communities, where education and skills development are limited, difficult to have a job and they only have few employment opportunities and choices.\(^7\)

Domestic workers are vulnerable population group who are at risk of exploitation and abuses. In the sending areas of the Indonesian migrant and domestic workers, many exploitative practices continue to exist in all stage of the migration cycles and prior to departure during the migration. Policies and practices regarding migrant workers are yet to adequately protect migrant domestic workers against trafficking and forced labour practices in the main destination countries in Asia, such as Malaysia.\(^8\)

Those serious problems of domestic workers in the workplace have received attention by many actors. For example, non-governmental organizations (NGO’s), society foundation, government foundation, international organization, and also local communities. One of organizations which concerned to labor issue is International Labor Organization (ILO). ILO is an international organization and part of the United Nation (UN) which concerns on the labor aspect in international world.

Promoting social justice and internationally recognized human and labor rights are part of ILO mandates. The founding mission of the ILO is the labor


peace which is essential to prosperity. 9 The aims of ILO is ensuring the basic security needs of working women and men by bringing together governments, employers and workers to set labor standards, develop policies and devise programs. 10

Regarding domestic workers cases, the ILO Jakarta has a project which is named “Combating Forced Labour and Trafficking of Indonesian Migrant workers, Phase II”. This project is part of the ILO responses particularly to address the vulnerabilities and risks faced by migrant workers, and more specifically the migrant domestic workers who are at risk of forced labor and human trafficking. The Project is an extension of the ILO Project “Combating Forced Labour and Trafficking of Indonesia Migrant Workers, Phase I”, implemented from September 2006 to October 2008. It was built on Relationship of the previous project period, particularly in sending areas in Indonesia and in destination countries such as Malaysia. 11

The Project also contributes to one of the ILO Decent Work Country Programme for Indonesia (DWCP) priority objectives to “Stop Exploitation at Work”, where it specifically includes combating forced labour and trafficking of migrant domestic workers. This objective has also been reflected in the United Nation Development Assistance Framework (UNDAF) for Indonesia, and the

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10International Labor Organization, How the ILO works?.

11ILO, Final Report, 1.
Indonesian national development frameworks have also provided the basis for the ILO to undertake programmatic actions in this area.\textsuperscript{12}

In order to properly address and reduce Indonesia migrant and domestic workers’ vulnerability to forced labour and trafficking, a number of targeted activities have been planned and designed for the four-year period from November 2008 to March 2012, with objectives as follow:\textsuperscript{13}

1. Reducing the vulnerability of migrant domestic workers in becoming victims of human trafficking and forced labour by increasing public awareness, conducting targeted advocacy and undertaking technical cooperation to influence the adoption and implementation of policies and legal measures for the protection of migrant domestic workers.

2. Providing protection services, comprehensive services, reintegration services for the migrant domestic workers who have been victims of human trafficking and forced labor,

3. Building the capacity of government officials and other key stakeholders to increase their effectiveness in the abolition of forced labor and trafficking of migrant domestic workers.\textsuperscript{14}

To achieve this target, especially in helping the ILO in addressing Indonesian domestic migrant workers in Malaysia, this project has several key partners that will assist in solving the problems of domestic workers. Some of them are Ministry of Manpower and Transmigration, National Agency for Protection and Placement of Indonesian Migrant Workers (BNP2TKI), Malaysia Trade Union Congress (MTUC), Migrant workers’ unions and other migrants workers and domestic workers’ organizations in Indonesia and Malaysia, and

\textsuperscript{12}ILO, Final Report, 1.
\textsuperscript{13}ILO, Final Report, 2.
\textsuperscript{14}ILO, Final Report, 2.
Trade union confederations, and NGOs concerned with domestic workers, migrant workers, labour forced and trafficking.\textsuperscript{15}

For the past four years, the project has been working to address the specific needs and concern of Indonesian migrant domestic workers throughout the migration process, before departure and while they are in the destination countries including Malaysia. So that is why through this project, the research try to seek deeply what are the challenges faced by ILO in protecting Indonesian domestic migrant workers cases in Malaysia from 2008 to 2012.

B. Research Question

This thesis aims to analyze the challenges of ILO in addressing violation of Indonesian domestic migrant workers in Malaysia from 2009 to 2013. Therefore, to accommodate this objective, this thesis has designed a research question to be used as the main guidance in doing this research, which is as following:

- What are the challenges faced by International Labour Organization (ILO) in Protecting Indonesian Domestic Migrant Workers in Malaysia 2008 – 2012?

This question becomes the main guidance to designing this research. In this regard, the construction of the research will line the efforts of answering question.

C. Objective

\textsuperscript{15} ILO, Project Brief: Combating Forced Labour and Trafficking of Indonesian Migrant Workers, Phase II, 2.
Based on various steps of the ILO to handle the violence to Indonesian domestic migrant workers issues, this research aims to see the works of ILO in addressing Indonesian domestic migrant workers cases in Malaysia. This research is also trying to see the challenges which is faced by ILO in protecting Indonesian domestic migrant workers who work in Malaysia.

Hopefully, by doing this research the author can contribute to the development of the social science, particularly in the area of Indonesian domestic migrant workers in Malaysia. In this regard, this thesis intends to give a perspective on ILO in addressing domestic women workers cases in Malaysia and through the works of ILO, this thesis try to see the challenges which faced ILO in protecting Indonesia Domestic Migrant workers in Malaysia.

D. Literature Review

There are some researchers who analyzed about Indonesian migrant workers in Malaysia. One of them is Shinta Oktalia’s research in 2011. The title of her research is “Permasalahan TKI Informal di Malaysia Terhadap Hubungan Bilateral Indonesia dan Malaysia Periode 2004-2009”. Oktalia analyzed Indonesia’s informal workers in Malaysia relation between Indonesia and Malaysia. She tried to see how far the cases of Indonesian informal workers influence bilateral relation between Indonesia and Malaysia. She found the facts that the case of informal workers did not give negative impact toward relation between Indonesia and Malaysia. This is proved by Memorandum of

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Understanding (MoU) in labors aspect and final destination of moratorium which is made by Indonesia and Malaysia.

In the same context, Tjipto Subadi also analyzed about Indonesian migrant worker in Malaysia. The title of his research is “The Indonesian Workers in Malaysia, a Case Study: The Female Worker from Central Java with Phenomenology Approach”. This research aims to examine the main causes of female workers in Malaysia from Central Java, Subadi used a phenomenology qualitative approach with a social paradigm definition of micro analysis. From his research, he found the facts that the main causes of torturing against female workers were a miscommunication, low competency, cultural difference, feudalism behavior, bad institutional structure and difference in act.

In the same perspective, Salita Romarin also analyzed the role of ILO in addressing domestic and local migrant workers in 2008-2011. The title of her research is “Peran ILO di Indonesia dalam Perlindungan Pekerja Rumah Tangga Migran dan Lokal Tahun 2008-2011”. This research has a purpose to describe ILO’s role in Indonesia in protecting migrant and local domestic worker in Indonesia from 2008 until 2011. Romarin analyzed every activities which was done by ILO in Indonesia to protect domestic workers. She found that ILO used five strategic objectives and this study eventually concluded that the role and functions of ILO as an international organization can be seen through this project. On the other hand, this project also showed its’ success by the emergence of initiatives from various project partners for example Indonesian Government.

\[17\] Tjipto, Subadi, “The Indonesian Workers in Malaysia, a Case Study: The Female Worker from Central Java with Fenomenology Approach.” Geography Forum 24 (December 2012): 155-172.
already placed the drafting of National Domestic Worker Bill and Amendment of Law number 39/2004 about Placement and Protection of Migrant Workers in their National Legislation Program, the raising of awareness about domestic workers’ plight through national media, and strengthening of various organizations of workers and society to help the protection process of domestic workers in Indonesia.  

In this regard, both literatures by Oktalia and Subadi have analyzed the issue of Indonesian migrant workers in Malaysia. However, they did not cover the issues which become focus on domestic workers cases, Oktalia is focused on bilateral relation of Indonesia and Malaysia and Subadi only focused on female workers from central Java. Therefore, this thesis focuses on domestic workers to fill the gap of both researchers. On the other hand, Romarin analyzed the role of ILO toward migrant and local domestic workers, but she didn’t research what were the challenges of the ILO itself in protecting the domestic workers, Romarin focused more on the Indonesia domestic worker in local area, while this thesis will focus on the case of domestic migrant workers in Malaysia. Therefore, this thesis is proposed as an alternative to the perspective on this issue. Hopefully, this research can contribute to the development of the analysis on the issue by filling the gap provided amongst established studies.

E. Theoretical Framework

International Organization

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18Salita Romarin, Peran ILO di Indonesia dalam perlindungan Pekerja Rumah Tangga Migran dan Lokal Tahun 2008-2011, Department of International Relations, Faculty of Social and Political Science, Bandung: Parahyangan Catholic University, 2013, 7.
As an engineer or contractor requires a blueprint for the construction of building, so does an International Relation (IR) scholar. She/he requires a theoretical framework for the evaluation of matters pertaining to the world political system. The study of International Organizations (IO) cannot be accomplished without ascertaining how the concept fits into the discipline of IR, especially in evaluating the ILO’s roles as an IO. At issue is how the role of ILOs has unfolded in the IR discourse. So that is why, this thesis will use the concept of International Organization which is based on Clive Archer’s framework of analysis.

According to Clive Archer, International organization is “a formal structure which is formed through an agreement among its members (state and/or non-state), from two or more sovereign state to get same interest within its members.”19 Based on this concept, the ILO strives to encourage the of social dialogue among its tripartite constituents by helping the government, workers and employers to create conducive environment for employment and decent work for all, such as through the adjustment of labour regulations or frameworks with the changing economic and social needs, as well as to improve the governance of employment.

International organization was created by state. It takes a role to overcome the problems which cannot be handled by one country. For example making international minimum standards, making norms which can be accepted internationally, making cooperation through meeting, and also following

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cooperation as technical activities. Based on this concept, ILO has a role to overcome problems which cannot be handled alone by one state. In this research, the issue of domestic migrant workers in Malaysia is a serious problem. Indonesia and Malaysia need the other actor to handle these problems so that violence against workers in the domestic sector cases can be solved. Indonesia needs standardization which is recognized internationally. Therefore, researcher is trying to seek, how far ILO has contributed to address Indonesian domestic migrant workers in Malaysia.

**Human Security**

The concept of human security emerged as an intellectual device in the early 1990s. This concept brought together these disparate considerations of individual protection, rights, and welfare and as an instrument of advocacy in international society. The emergence of this concept reflected that in the post-Cold War period, traditional threats rooted from military actions were becoming less and less relevant to the situation of international system. This made the international actors notice the emergence of the non-traditional threats as the consequence of the ending of the Cold War.

According to the *Report*, human security means that people can get the guarantee that their freedom to choose things for their own personal development will always be available for them and that they are free from any personal threats

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such as hunger, disease, and repression. In short, it means the freedom from fear and the freedom from want. In this regard, this concept of security is valid for individuals.

In addition, according to report of commission on Human Security, 2003, human security means:

“Safety for people from both violent and non-violent threats. It is a condition or state of being characterized by freedom from pervasive threats to people’s rights, their safety, or even their lives. From a foreign policy perspective, human security is perhaps best understood as a shift in perspective or orientation. It is an alternative way of seeing the world, taking people as its point of reference, rather than focusing exclusively on the security of territory or governments.” [Text was taken from S. Neil MacFarlane and Yuen Foong Khong, Human Security and the UN, a critical history, UN Intellectual History Project Series: 2006, 11]

Furthermore, human security is considered in seven categories:

1. Economic security, which means that humans are free to have jobs to secure their basic income

2. Food security, which means that humans are free to collect and consume their food

3. Health security, which means that humans are free to get healthy

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25This research focuses on the personal security, as this categories is in line with the main topic of this research. The personal security allows this research to the practice of violence and abuses toward the domestic workers.
4. Environmental security, which means that humans are free to get protection from the lack of access to clean water, deforestation, salinization, air pollution, or natural disasters.

5. Personal security, which means that humans are protected from threats of various kinds of violence by states and other groups.

6. Community security, which means that humans are protected from any ethnic clashes or oppressive practices in traditional communities, and

7. Political security, which means the protection of human rights and democratization.

There are several crimes which are considered violation toward the human security. One of them is the domestic workers, which is seen as a violation toward human rights. Domestic worker is the actor in one of community, so based on this theory, domestic workers are part of personal who should be protected, which means that humans are protected from threats of various kinds of violence by states and other groups. The domestic workers themselves become one of the main variables in this research.

F. Research Methods

This research uses qualitative method which forms the descriptive data. By using qualitative method, it will make this thesis easier to explore the research. Descriptive method itself is a method which aims to describe and present the phenomenon by collecting data and analyzing them in order to find out the
relations between each variable of the phenomenon. In this regard, this thesis uses this method to determine the challenges which is faced by ILO in protecting Indonesia domestic migrant workers in Malaysia.

The data collection process involves both primary and secondary data. In this regard, there are some data which are collected from library research which are related to the issue. The library research will be conducted from ILO’s Library in its office in Jakarta, Women’s Journal Foundations, the main library of the Jakarta State Islamic University, and the library of faculty Social and political Science of the Jakarta State Islamic University. From these libraries, the thesis will start to seek some books, journals, thesis and articles which are related to the topic of this research.

Besides secondary data, interview is also needed in qualitative method. Interview is one of the wide ways which is used by many people to spread their research. The interview will be carried out to ask some questions for several informants who are related to the issues. It will be conducted from the Executive Director of ILO Office in central Jakarta, he is Peter Van Rooij, and from the Project Officer of Combating Forced Labour and Trafficking of Indonesia Migrant Workers, Phase II, is Albert Bonasahat.

G. Tentative Outline

CHAPTER I : INTRODUCTION

A. Research Background

B. Research Question

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CHAPTER II : THE PROBLEMS OF INDONESIAN DOMESTIC MIGRANT WORKERS IN MALAYSIA

A. The General Condition of Indonesia Domestic Migrant Workers Cases in Malaysia
   1. Exploitative Practices
   2. Excessive Workload
   3. Psychological, Physical, and Sexual Abuse

CHAPTER III : ILO’S EFFORTS TO ADDRESS INDONESIAN DOMESTIC MIGRANT WORKERS CASES IN MALAYSIA FROM 2008 TO 2012

A. ILO’s Efforts to Protect Indonesian Domestic Migrant Workers Cases in Malaysia
   1. Advocacy and Technical Cooperation
   2. Awareness Raising
   3. Capacity Building
   4. Technical Strategies
      a. Direct Assistance and Service Provision in strengthening capacity of national and local stakeholders
      b. Targeted Research and Documentation

CHAPTER IV : THE CHALLENGES OF INTERNATIONAL LABOUR ORGANIZATION IN PROTECTING INDONESIA’S DOMESTIC WORKERS IN MALAYSIA FROM 2008 TO 2012

1. Indonesia and Malaysia still have not ratify ILO Convention No.189
2. Low Public Awareness
3. Limited Budget & Training
4. Technical Challenges
   a. The Challenges of ILO in direct Assistance and Service Provision in strengthening capacity of national and local stakeholders
   b. The Challenges of ILO in researching the data collection and dissemination systems

CHAPTER V : CONCLUSION
CHAPTER II

THE PROBLEMS OF INDONESIAN DOMESTIC MIGRANT WORKERS IN MALAYSIA FROM 2008 TO 2012

The word of ‘domestic’ usually shows the activities which is done by the domestic workers in employer’s house. There is not specific definition of domestic workers because the international instrument does not regulate domestic workers yet. But according to the ILO\(^{28}\) in the meeting of expert in 1951 defined that a domestic worker as “wage-earner working in a [private] house hold, under whatever method and period of remuneration, who may be employed by one or by several employers who receive no pecuniary gain. Although the ILO has tried to define the meaning of domestic workers, the role of domestic workers are still not recognized as worker officially.

According to Peter Van Rooij, the main problems of domestic workers is about their identity in the law’s view. They are workers, but they are not recognized as workers officially and because their position is not as workers, they are not protected under the law specifically.\(^{29}\) That is why that the lack of legal protections and labor standards, combined with isolated workplaces, gender and racial discrimination, language barriers, and other vulnerability factors may cause or contribute to adverse health outcomes among domestic workers as well as health risks for both their care-recipients and society in general.

\(^{28}\) Asha, Moving Towards Decent Work, 9.
\(^{29}\) Interviewing with Peter Van Rooij, the Director of the ILO co-Jakarta on February, 17, 2014, at ILO Office Jakarta.
Based on the data from the ILO, a number of domestic workers in the world in 2012 at least 53 million.\textsuperscript{30} Most of them are risk of exploitation and abuse. They are often work long hours, have poor remuneration, and little access to social protection. Their isolation and vulnerability as workers is made more complex by their invisibility in private homes and their dependence on the good will of their employers. Many of them have limited access to education and skills development and they should survive with few employment opportunities and choices.\textsuperscript{31} Moreover, more than half of all domestic workers have no statutory limitation of their weekly working hours, two of five domestic workers are not paid based on minimum wage, and more than a third have no rights to take maternity leave. From a human rights and gender equality perspective, this is unacceptable.\textsuperscript{32}

A. The General Condition of Indonesia Domestic Migrant Workers Cases in Malaysia

Over the past 40 years, majority of migrant workers in Malaysia are from Indonesia and Philippine. They were moving to Malaysia in three major waves. First was from 1970 to 1980, when the immigration of Malaysian was limited, the migrant workers mostly work in the sector of plantation or agriculture, then followed by the manufacturing and service sectors. The second was in the late 1980, migrant workers were work in manufacturing and services sector increasingly and the third was in 1991 to 1992, Malaysia made new immigration


\textsuperscript{31}ILO, Domestic Workers across the World, v.

\textsuperscript{32}ILO, Domestic Workers across the World, 1.
policy because of a large influx of regular and irregular migrants which included a levy on the employment of foreign workers. In an effort to legalize irregular migrant in the domestic, construction, agriculture, manufacturing and services sectors, an amnesty program was also enacted during this period.33

In 2012, there are approximately 350,000 migrant domestic workers in Malaysia, and over 80 percent of them are Indonesian.34 In the same year, Malaysia was also ranked as the first employs the Indonesian workers which the majority (over 50%) are female workers. Even Saudi Arabia from a long time as the first countries employs Indonesian worker, now it has been replaced by Malaysia.35

The table below is the research data from National Agency for Placement and Protection of Indonesian Migrant Workers (BNP2TKI) which will show that Malaysia is the first ranked country to employ Indonesian domestic migrant workers in 2012.

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33Group Researchers, Migrasi Tenaga Kerja, 39.
35Briefing Jurnalis, Catatan Akhir Tahun.
Table II.A. 20 Largest Indonesian Workers Placement by the State in 2012 to September

<table>
<thead>
<tr>
<th>NO.</th>
<th>NEGARA PENEMPATAN</th>
<th>JUMLAH</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>MALAYSIA</td>
<td>94.064</td>
</tr>
<tr>
<td>2</td>
<td>TAIWAN</td>
<td>59.367</td>
</tr>
<tr>
<td>3</td>
<td>HONGKONG</td>
<td>36.135</td>
</tr>
<tr>
<td>4</td>
<td>SINGAPURA</td>
<td>32.394</td>
</tr>
<tr>
<td>5</td>
<td>SAUDI ARABIA</td>
<td>27.859</td>
</tr>
<tr>
<td>6</td>
<td>UNITED EMIRATE ARAB (UEA)</td>
<td>24.986</td>
</tr>
<tr>
<td>7</td>
<td>QATAR</td>
<td>14.889</td>
</tr>
<tr>
<td>8</td>
<td>AMERIKA SERIKAT (US)</td>
<td>11.391</td>
</tr>
<tr>
<td>9</td>
<td>KOREA SELATAN</td>
<td>11.303</td>
</tr>
<tr>
<td>10</td>
<td>BRUNAI DARUSSALAM</td>
<td>9.823</td>
</tr>
<tr>
<td>11</td>
<td>OMAN</td>
<td>6.247</td>
</tr>
<tr>
<td>12</td>
<td>BAHRAIN</td>
<td>4.725</td>
</tr>
<tr>
<td>13</td>
<td>ITALIA</td>
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<tr>
<td>14</td>
<td>JEPANG</td>
<td>2.724</td>
</tr>
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<td>15</td>
<td>KUWAIT</td>
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</tr>
<tr>
<td>16</td>
<td>CHINA</td>
<td>1.496</td>
</tr>
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<td>17</td>
<td>SPANYOL</td>
<td>1.405</td>
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<td>18</td>
<td>AFRIKA SELATAN</td>
<td>1.008</td>
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<tr>
<td>19</td>
<td>TURKI</td>
<td>967</td>
</tr>
<tr>
<td>20</td>
<td>ALJAZAIR</td>
<td>881</td>
</tr>
</tbody>
</table>

Data Resource: Pusat Penelitian Pengembangan dan Informasi (PUSLITFO BNP2TKI)
Based on the data of the ILO from 2008-2012, domestic workers around South East Asia, including Malaysia, are risk with exploitation and abuses. In 2010, there are 2066 discrimination and violation toward women labor in Malaysia, majority of them are Indonesian domestic workers. In addition, Indonesia Migrant Workers has been insulted by Malaysia in 2012 regarding “Indonesia Maid on Sale” cases. It shows that Indonesian Migrant workers is not different with goods in the market.

According to Hulling, there are three kinds of exploitation toward domestic workers at workplace including Indonesian domestic workers in Malaysia. The first is the problem of working time, the second is about the wages of domestic workers and reason for low pay, and the third is about the maternity protection which are risk gotten psychological, physical, and sexual Abuse.

1. Excessive Workload

In the beginning of this chapter has explained that domestic workers are not recognized as workers legally and this condition make the domestic workers do not have a specific rules about what should they do as domestic workers and also they do not have specific time how long they should work. Therefore domestic workers do many activities in their job field because they has never signed an employment contract. That is why they should guarantee that the house

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36ILO, Final Report, 1.
39Alice Hulling, Domestic Workers in Malaysia: Hidden Victims of Abuse and Force Labor, 643.
is keep clean, cooking for all family members of the house, washing, ironing, and even they should teach the children, managing and caring the babies.

One of the domestic workers who have overload work is Rita. This thesis took experience of Rita as domestic workers from the research of Dewi Anggraeni. Dewi said that,

“Rita came to Kuala Lumpur in the middle of 2004 to be a domestic worker. Her work necessitates her to getting up at five in the morning, because she has to prepare breakfast for the family, which means her employer, her employer’s husband, and their five children. After that she has to clean the house, pick up the dirty clothes and wash them, and make sure the youngest child gets to school in time. In the afternoon she has to do ironing, and after that preparing for dinner. She works overload and only have a few time to take a rest in a day. Besides that, her employer never withholds her salary. Rita feels trapped, however, because her employer keeps her passport, so she cannot leave.”

[The text was taken from Dewi Anggraeni, Dreamseekers: Indonesian Women as Domestic Workers in Asia, International Labour Organization, 2006, 143]

This is one of proves that domestic workers work overload because there is not a specific rules which can protect them from abuse. Besides they should work overload, they also work full time for one household.

In many countries (including Malaysia) there is not set maximum number of hours that a domestic employee can be required to work, and even when limits are established, they often substantially exceed the limits for other occupations.41

So that is why we can see that domestic workers generally work every day of the week without any time off.

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40Dewi Anggraeni, Dreamseekers: Indonesian Women as Domestic Workers in Asia, International Labour Organization, 2006, 143.
41ILO, Domestic Workers across the World, 56.
Indonesian domestic workers in Malaysia typically work 65.9 hours per week or sixteen or even eighteen hours a day.\textsuperscript{42} Besides that, women migrant domestic workers are not only required to work long hours, but they also should be expected to complete the work. Usually they workloads because they should preparing three meals a day, cleaning every surface of the house, cleaning the cars, washing the household’s clothing, and looking after any children or elderly family members. According to Human Rights Watch study in 2004 found that most of the workers’ employment contracts allowed them one day off each week. In addition, some of them confessed that they don’t received any extra payment for working a full seven days each week.\textsuperscript{43}

2. Exploitative Practices

Despite the hard work and long hours, the pay for domestic workers globally is quite low. Sometimes this is because the host country does not have a set minimum wage or because that minimum wage does not apply to domestic workers. It is also common for employers simply not to pay the contracted amount to their domestic workers.

According to an Malaysian Trades Union Congress (MTUC) survey on 510 domestic workers’ (mainly Indonesians and Filipinos) wages and working conditions, 26.4% complained that they did not get their wages and 7.8% complained that they were physically and verbally abused. 90% reported that they were not given a day off, while the remaining 10% who got a day off were not allowed to leave their homes. In some cases, they were only allowed two days in a

\textsuperscript{42}ILO, Domestic Workers across the World, 56.
\textsuperscript{43} Alice Hulling, Domestic Workers, 645.
Furthermore, 53% were required to work more than 16 hours a day. This also included domestic workers being sent to various places to work. Despite a significant rise in wage levels, 61% have reported that their monthly wages are now paid into their bank account.\textsuperscript{44}

In Malaysia, there is not set minimum number of wages that a domestic employee can be required to work. In 2012, the going rates for Indonesian domestic workers in Malaysia are between MR400 to MR700.\textsuperscript{45} Even in “Indonesia Maid on Sale” cases in Malaysia, the employee offers the domestic workers with 40% discount so that the cost of Indonesian domestic workers were only MR3500 per month.\textsuperscript{46} These rates are basically market driven, based on the perceived levels of the helpers’ skills, and the amounts employers are prepared to pay. In addition, because domestic workers are not covered by the country’s employment law makes no clear job description and the accompanying entitlements of them.\textsuperscript{47}

Besides the problem of wages, domestic workers also often face limitations of their mobility and communication. To some extent this is inevitable due to the nature of these women’s work within a private home, and it is certainly exacerbated by their excessive workloads. But in many cases, employers go still further and confine domestic workers to their houses.

\textsuperscript{44}International Trade Union, 2012 Annual Survey of Violations of Trade Union Rights – Malaysia Confederation, provided on http://www.refworld.org/docid/4fd8893ac.html, article accessed on April 11, 2014, 8.45pm.
\textsuperscript{46}Sali Susiana, “Perlindungan Tenaga Kerja”, 9-12.
\textsuperscript{47}Dewi Anggraeni, Dreamseekers, 130.
or apartment buildings, even locking them inside when the employers leave home. This can be extremely traumatic for these women and can even have a psychological impact on them as they fear fire or some other emergency happening while they are trapped inside their employer’s home with no means of escape.48

3. Psychological, Physical, and Sexual Abuse

Based on the data from the ILO, more than 80 per cent of all domestic workers are women.49 When they work in private homes, domestic workers are at risk in getting exploitation and abuse. Some of them are abused even killed by their employers. As data said on June 5, 2011, Indonesian domestic worker, Ms Isti Komariyah, died at the University Malaya Medical Centre. She had not been paid any salary since she began work for a couple at Taman Sea Petaling Jaya in December 2008. Police classified the case as murder and detained her employers in connection with her death.50

In 2009, Migrant Care, an Indonesian NGO, reported that 1,018 of the country’s migrant workers died abroad and that most of these cases happened in Malaysia and Saudi Arabia, as two largest markets for Indonesian laborers and domestic workers in particular. In addition, approximately there are fifty cases of abuse which is reported annually among the 300,000 Indonesian domestic workers in Malaysia, but the Indonesian government claims that the number of women who face mistreatment and violence in domestic employment is actually closer to 1,000 a year. According to Hulling, the

48 Alice Hulling, Domestic Workers, 648.
49 ILO, Domestic Workers across the World, 85.
50 International Trade Union, Annual Survey.
domestic workers are getting violent physical abuse range from instances of isolated kicks or punches to beatings resulting in loss of consciousness and/or hospitalization, and they are often triggered by workers’ “mistakes.” In addition, most of the more minor physical assaults and some of the more severe beatings are untreated, unreported and unprosecuted.51

According to Hulling, beatings are not the only type of physical abuse that are gotten by Indonesian domestic workers while working in Malaysian households, but also they can be exposed to get health and safety risks through their work when employers require them to use strong cleaning supplies without providing them with the appropriate protections. In other cases, domestic workers only have a few food from employers, and have a limit time to have a sleep. Even some of them are forced to sleep in uncomfortable and degrading places, such as a staircase or a bathroom floor.52

In addition, Hulling said that

“Domestic workers are also extremely vulnerable to sexual harassment and rape. This can range from verbal harassment to unwanted touching and fondling to repeated rape. Hygiene and health issues can consequently arise in these cases, as sexually assaulted domestic workers generally cannot see a health care provider until they leave their workplace, and often they do not feel they can leave until they have at least earned enough to pay their recruitment fees and other debts. Even if abused women do get to see a doctor, an ILO report found that in Malaysia, migrant workers tend to pay double the amount that nationals are charged for the same procedure and often do not receive the same level of care. Furthermore, these women often do not believe that they have anyone to whom they can turn for help. Many are punished or fired for having “affairs” if they tell the wife about the sexual assault or if she finds out in some other way. Overall,

51 Alice Hulling, Domestic Workers, 650.
52 Alice Hulling, Domestic Workers, 650.
women migrating to perform domestic work are extremely vulnerable; one ILO study found that half of all foreign domestic workers suffered from verbal and/or physical (including sexual) abuse.\textsuperscript{53}[text are taken from Alice Hulling, *Domestic Workers in Malaysia: Hidden Victims of Abuse and Force Labor*, 650]

It is proved that most of domestic workers are risk in getting sexual harassment rape because the work in private homes that people cannot see their activities at home.

\textsuperscript{53} Alice Hulling, *Domestic Workers*, 650.
CHAPTER III

ILO’S EFFORTS TO PROTECT INDONESIAN DOMESTIC MIGRANT WORKERS IN MALAYSIA FROM 2008 TO 2012

The International Labour Organization (ILO) was created in 1919 as part of the Treaty of Versailles to reflect the belief that universal and lasting peace can be accomplished only if it is based on social justice.\textsuperscript{54} The International Labour Organization (ILO) as a part of the United Nations agency, devoted to advance opportunities for women and man to obtain decent and productive work in conditions of freedom, equity, security and human dignity. Its main aims are to promote rights work, encourage decent employment, enhance social protection and strengthen dialogue in handling work related issues.\textsuperscript{55}

A universal organization, in nineteenth century of Europe and North America, the ILO has its roots in the social matrix. When the Industrial Revolution happened in this region, the economic development was raising rapidly. But this economic raising was paid by the price of intolerable human suffering and social unrest. The idea of international labour legislation arose due to protecting the workers as a result of ethical and economic concerns over the human cost of the Industrial Revolution.\textsuperscript{56}

\textsuperscript{54}ILO. Origins and History, provide on http://www.ilo.org/global/about-the-ilo/history/lang--en/index.htm, article accessed on December 30, 2013, 01.50pm.
\textsuperscript{55}International Labour Organization, ILO Works in Indonesia 2012 Results, Jakarta Office, ILO, 2013, 6.
In 19th century, Robert Owen of Wales, Jerome Blanqui and Daniel Legrand of France, among others, brought the need for international cooperation in setting labor standards to international prominence to address the problems caused by the industrialization of Europe. The reasons articulated for the necessity of cooperation were both benevolent and economic. They thought that cooperation was necessary to eradicate poverty and injustice, not just to protect workers, but also to prevent the social unrest which make these conditions could engender.57

Because of the emergence of this case, International cooperation was necessary to provide the nation from a competitive disadvantage which is due to the higher standards. And finally on April 11, 1919, the formation of the International Labour Organization was become the concerns of the society as an affiliated agency of the League of Nations. The original ILO Constitution was drafted as Part XIII of the Treaty of Versailles. After the creation of the United Nations, the ILO became the first specialized agency to be affiliated with the UN in 1946.58

As an Organization, ILO was established by interests of some actors with different motivation which are still interconnected. They are governments, employers and trade unions. The initial motivation in establishing the ILO was humanitarian. The condition of workers, more and more numerous and exploited with no consideration for their health, their family lives and their advancement,

58 ILO, What it is, What It Does, 4.
was less and less acceptable. This preoccupation appears clearly in the Preamble of the Constitution of the ILO, where it is stated, ‘conditions of labour exist involving...injustice, hardship and privation to large numbers of people.’ The second motivation was political. Without an improvement in their condition, the workers, whose numbers were ever increasing as a result of industrialization, would create social unrest, even revolution. The Preamble notes that injustice produces “unrest so great that the peace and harmony of the world are imperiled.”

The third motivation was economic. Because of its inevitable effect on the cost of production, any industry or country adopting social reform would find itself at a disadvantage vis-à-vis its competitors. The Preamble states that “the failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries.”

These arguments were written into the preamble to the 1919 Constitution, which opens with the affirmation that “universal and lasting peace can be established only if it is based on social justice.” These ideals were further clarified in the Declaration of Philadelphia, in 1944. They remain truer than ever in today’s age of globalization, and still provide the ideological basis for the ILO.

59 ILO: What it is, What It Does, 4.
60 ILO: What it is, What It Does, 4.
61 ILO: What it is, What It Does, 4.
62 ILO: What it is, What It Does, 4.
As an International Organization, ILO have a work to make the standardization in addressing labour cases, including domestic workers. One of the agenda of ILO is the International Labour Conference (ILC) as the agenda of all members of ILO to discuss about the labour cases. The members will meet together in this ILC to talk about the cases of labour and looking the solution of the problems. This solution will be formed as Convention. The contents of the convention is a kind of rules and some standardization to address the cases of labour which has been agreed by all tripartite constituent.

However based on concept in International Relation, an International Organization have a limit in giving solution to the states. The IO cannot forced the state since the state do not ratified the agreement yet. The ILO, as an IO is also have a limitation. The convention which was created by tripartite constituent cannot be forced to a state including the ILO’s member states since the state do not ratified the convention yet. That is why the ILO should have the programs to promote the convention to make the state would like to ratified the convention.

Regarding the cases of domestic workers, the ILO have a new international instrument which has been planned since 2008 in the 301st meeting Geneva. In this meeting, the Governing Body of ILO responded favorably to the call of the international trade union movement to put the issue of domestic

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63The International Labour Organization (ILO) is the only tripartite U.N. agency with government, employer, and worker representatives. This tripartite structure makes the ILO a unique forum in which the governments and the social partners of the economy of its Member States can freely and openly debate and elaborate labour standards and policies.

workers agenda of the 99th International Labour Conference (ILC) in 2010. One of the objectives in this 99th ILC is to make a new international standards that will officially recognize domestic worker as worker and regulate the rights and duties of household workers and employers. This conference create a resolution which was adopted on June 16, 2010 to have the agenda in the 100th ILC which is going to talk about Decent Work for Domestic Workers.

As its 100th Session in June 2011, the International Labour Conference adopted the Convention concerning decent work for domestic workers, and a recommendation supplementing it. This is the first time that the ILO has formulated international labour standards dedicated to this particular group of workers. The new instruments, also referred to as the Domestic Workers Convention No.189 and Recommendation No.201, are a strong recognition of the economic and social value of domestic work a call for action to address the existing exclusions of domestic workers from labour and social protection.

A. ILO’s Efforts to Protect Indonesian Domestic Migrant Workers Cases in Malaysia

In carrying out its role, the ILO has the permanent secretariat of the International Labour Organization in Geneva. It is the focal point for International Labour Organization’s overall activities, which it prepares under the scrutiny of the Governing Body and under the leadership of the Director-General. The Office

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67 ILO, *Decent Work for Domestic Workers*. 
employs some 2,700 officials from over 150 nations at its headquarters in Geneva.\textsuperscript{68}

There are 40 field offices around the world which work in technical cooperation programmes and projects including Indonesia.\textsuperscript{69} The field office in Indonesia which is called as the ILO Office Co-Jakarta is standing in Menara Thamrin, 22nd floor Jl. M.H. Thamrin Kav. 3 Jakarta. One of the roles of this office is working in technical cooperation programmes and project which cover all the labour cases in Indonesia, including the cases which faced domestic migrant workers in local and migrant area.\textsuperscript{70}

Regarding the cases of domestic workers in Indonesia, although the protection of migrant workers has been identified as a priority in successive National Development plans of Indonesia, the government structures and capacities are yet to be in a sufficient position to effectively protect the Indonesia migrant and domestic workers who are vulnerable risk of exploitation and abuse. In the sending areas, Indonesian migrant and domestic workers get many exploitative practices during the migration and while they are in the destination country including Malaysia. Policies and practices regarding migrant workers are yet to adequately protect migrant domestic workers against trafficking and forced

\textsuperscript{68}ILO, \textit{International Labour Office}, provide on \url{http://www.ilo.org/global/about-the-ilo/who-we-are/international-labour-office/lang--en/index.htm}, article accessed on March 14, 2014, 8.53am

\textsuperscript{69}ILO, \textit{International Labour Office}.

\textsuperscript{70}Interviewing Peter Van Rooij, the Director of ILO Office Co-Jakarta, on February 17, 2014, 01.00pm.
labour practices, in the main destination countries in Asia, such as Malaysia, Singapore and Hong Kong, as well as in the Middle East.\textsuperscript{71}

Therefore, to address the cases of Indonesian Domestic Workers, the ILO create a project which is only focus on Indonesian domestic workers. The name of this project is “Combating Forced Labour and Trafficking of Indonesian Migrant Workers (CFLTIMW), Phase II”. This project is part of the ILO response particularly to address the vulnerabilities and risks faced by migrant workers, and more specifically the migrant domestic workers who are at risk of forced labor and human trafficking. The Project is an extension of the ILO Project “Combating Forced Labour and Trafficking of Indonesia Migrant Workers, Phase I”, Implemented from September 2006 to October 2008. It was built on Relationship of the previous project period, particularly in destination countries such as Malaysia, Singapore, Hong Kong, and Middle East countries.

The Project also contributes to one of the ILO Decent Work Country Programme for Indonesia (DWCP) priority objectives to “Stop Exploitation at Work” , which is specifically includes Combating forced labour and trafficking of migrant domestic workers. This objective has also been reflected in the United Nation Development Assistance Framework (UNDAF) for Indonesia, and the Indonesian national development frameworks have also provided the basis for the ILO to undertake programmatic actions in this area. In order to properly address and reduce Indonesia migrant and domestic workers’ vulnerability to forced

\textsuperscript{71}ILO, \textit{Final Report}, 1.
labour and trafficking, a number of targeted activities have been planned and design for the four year period from November 2008 to March 2012.

Regarding the Indonesian domestic migrant workers in Malaysia, after having the discussion with Albert Y. Bonasahat as the Project Officer of CFLTIMW phase II, this thesis found that the way of ILO to protect the Indonesia domestic workers in Malaysia is by promoting the Convention 189 (C.189) to Indonesia and Malaysia, so that if Indonesia and Malaysia adopted this Convention, the domestic workers will have the law about their rights and obligation.72

The ILO Convention No. 189 is kind of new instrument to protect domestic workers which has been created by the member states of the ILO through the 100th International Labour Conference. According to the ILO, the Convention No.189 means,

the result of preparations which started in March 2008 and involved extended research into national law and practice regarding domestic work and consultations and discussions among the ILO’s tripartite constituents, namely representatives of government and employers’ and workers’ organizations. This new instrument was finished on June 2011. Then while this publication presents the content of Convention No.189, practical tools and resources that provide further guidance on implementation are available as well. [text was taken from ILO, C189 at a glance, 2011, 2]

Therefore as general, this project aims to contribute to the eradication of discrimination and exploitation of Indonesian migrant workers in Indonesia and selected main receiving countries in South-East Asia, including Malaysia. To

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72Interviewing Peter Van Rooij, the Director of ILO Office Co-Jakarta, on February 17, 2014, 01.00pm.
achieve this objective, an integrated approach is applied to comprehensively address both causes and impact of forced labour and trafficking in domestic workers. Concrete actions that have been identified are:

1. **Advocacy and Technical Cooperation**

   In this effort, the project has a role to support the advocacy and technical cooperation to strengthen the policy and legal framework for the protection of domestic workers. The ILO need the project partners to draft and strengthen bilateral agreements, national legislation, local ordinances, administrative regulations and practices, codes of ethics and model contracts. This is so important because most countries are yet to having the labour laws and social protection to protecting domestic workers. Besides that, the project technically supports and facilitates national tripartite and stakeholder debate and involvement in the ILO international standards-setting process for domestic workers 2008-2011. 

   After the debate among tripartite finished in 2011, this project support the tripartite from Indonesia and Malaysia in attending the 100th International Labour Conference (ILC) in Geneva. The ILC is kind of the ILO works to make the international standard for domestic workers which would be attended by the member states including, Indonesia and Malaysia. Then finally in this conference, the ILO produced the Convention of ILO No.189 as the consideration for all member states, including Indonesia and Malaysia to adopt this Convention.

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Regarding the cases of Indonesian domestic migrant workers in Malaysia, this conference is one of the other ways to the ILO in protecting the Indonesia domestic migrant workers in the world including Malaysia. By creating this meeting, the ILO have chance to make Indonesia and Malaysia believe that domestic workers cases is a serious problem which should be protected. So that the ILO can give the chance to Indonesia and Malaysia to sign and ratify this Convention. So that Indonesia and Malaysia have a standardization to protecting the domestic workers under the law.74

2. Awareness Raising

The ILO has interacted with some partners in governments, unions and employers, and also NGOs friends. Regarding the domestic workers cases, the ILO see that there is a paradigm or way of thinking stand for a long time to their mind that they thought the person who helped them in their home are not as workers.75 Therefore, the project supports awareness-raising activities in order to sensitize relevant stakeholders to safe migration and recognition of workers in the domestic sector.76

Regarding the cases of Indonesian domestic Migrant Workers in Malaysia, the project support awareness raising is not only to the Indonesia people, but also to the Malaysian people. Because this project has a partnership in several countries in South East Asia including Indonesia and Malaysia.

74Interviewing Alber Y. Bonasahat, Project Officers of CFLTIMW Project, Phase II, on February 17, 2014, 02.00pm at ILO Officeen Co-Jakarta.
75Interviewing Alber Y. Bonasahat.
76ILO, Project Brief, 2.
In Indonesia, the ILO has BNP2TKI, Migrant Care and NGOs which concerned to domestic workers cases, through these organizations, the ILO support them in campaigning the ratification on ILO Convention No.189 as the solution to solve the domestic workers problems. These organization has done awareness raising to the public regarding the identity of the domestic workers who should be protected from abuses. Besides that, the ILO also have cooperation with scholars especially some artists who care to the labors cases, such as, Fendy Sahinatua and Rieke Diah Pitaloka. They did cooperation with Indonesian migrant workers union to have an action in campaigning the ILO Convention 189 as the solution to protecting the Indonesian domestic workers through seminar, print media, and radio.77

In Malaysia, this project has partner, it is the Malaysian Trade Union Congress (MTUC) to assist and advocate for migrant workers and migrant domestic workers rights through national consultation and conferences, direct assistance through help desks and hotlines, and training for services provider and legal practitioners.78

MTUC as the one of the key partner of the ILO in this project has support the decent work for the domestic workers in Malaysia. The MTUC for domestic workers is devoting a great deal of energy to help domestic workers to awareness raising including to Indonesia domestic workers who work in Malaysia. MTUC inform domestic workers about their rights. In October 2010, MTUC held a

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77 Interviewing Alber Y. Bonasahat.
78 ILO, Project Brief; 5.
workshop bringing together 45 Indonesian domestic workers who had been given a day off during a Muslim festival. MTUC used role play and dialogues to educate them about their rights, about the do's and don'ts in Malaysia, and how to handle problems they may have with an employer, etc. Two months later, MTUC brought together another 35 Indonesian domestic workers, but this time the meeting was held on the premises of a placement agency and was also attended by their employers, the labour attaché from the Indonesian embassy and five other embassy officials. There were many exchanges between the different groups. The domestic workers were really eager to meet the labour attaché from their embassy and asked him countless questions; he was also happy to be able to talk to them and to their employers. MTUC want to expand on this type of education and training in the future.79

To raising public awareness, from the beginning (making process of the ILO C189) to 2012, MTUC distributes pamphlets on specific topics: the definition of decent work, the utility of an ILO Convention on domestic work, etc. MTUC distributes them at taxi ranks, bus stations, at our workshops, conferences and meetings, and publish them in the daily papers so that both employers and domestic workers see them, and put them in the letters the union sends out, leave them at the embassies, etc. 80

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80 Samuel Grumiau, Spotlight Interview.
MTUC also hold postcard mailing campaigns. The latest campaign was about the demand for one day off a week for domestic workers, which was secured through a memorandum of understanding signed between Indonesia and Malaysia, but it will keep on campaigning until this right is guaranteed by law. Every month, MTUC also present the project for domestic workers at training courses on labour relations. It is important, because trade unionists also employ migrant domestic workers.81

3. Capacity Building

The stakeholders that have a mandate of ensuring protection for migrant workers and domestic workers often face capacity shortfalls. The project therefore aims to strengthen the organizational capacity of governmental institutions at national and local levels, and strengthen migrant and domestic workers’ organizations in terms of outreach activities as well as alliance-building with trade unions and other organizations that support the cause of domestic and migrant workers.82

As a result of ongoing technical assistance, particularly to build the capacity of foreign services officials and labour attaches of the Indonesian Ministry of Foreign Affairs, the project has contributed in strengthening their ability, especially to provide a more effective protection of migrant domestic workers throughout the migration process. Throughout its implementing period,

81Samuel Grumiau, Spotlight Interview.  
82ILO, Project Brief, 2.
the project has supported training for 40 junior level foreign services officials and 11 master trainers, 25 mid-level foreign services officials, 13 senior-level.

In Indonesia, from the beginning, the project has technically supported its national and community level counterparts to develop and implement Training of Trainers (ToT), and step-down modules on para-legal and psychological counselling and referral services in order to facilitate delivery of sufficient and adequate for migrant workers.

In Malaysia, this project also did activities for establishing para-legal and psychological counselling and referral services in the destination countries, included Malaysia of technical support for the Ministry of Foreign Affairs (MoFA) to train foreign officials on the provision of psychosocial counselling and assistance to migrant workers with psychological and medical problems. Additionally, the project continued to encourage and train partners in Malaysia (MTUC) to offer and maintain para-legal, psychological counselling and referral services alongside their help desk and lines services and shelters.

4. Technical Strategies

a. Direct Assistance and Service Provision in strengthening capacity of national and local stakeholders

This strategy is one of the ILO in raising awareness to the stakeholder so that stakeholder can help the ILO to campaign and advocate on behalf of migrant workers. The project has provided technical and financial support for Start &

83ILO, Final Report, 8.
84ILO, Final Report, 8.
Improve Your Business (SYIB) to build the national and local stakeholders capacities in improving the delivery of entrepreneurship training to Indonesia migrant workers as well as the development and implementation of Start & Improve Your Business (SIYB) across Indonesian sending areas, and also to build the capacity of returned migrant workers and their families in entrepreneurship in eight provinces.\(^{86}\)

Moreover, the project has also supported 1) Small business associations training for organizations to build capacity on how to established business associations with micro-entrepreneurs under their services; 2) Training on financial education for migrant workers in their respective sending areas; 3) Food processing and hygiene training at community level for strengthening the livelihood services for migrant workers; 4) Fruit processing in sending communities to build capacities of involved organizations in providing technical training on fruit processing to migrant workers in Indonesian sending communities, and, 5) Productivity and community development training to capacitate the training of facilitators from the Ministry of Manpower (on rural employment).\(^{87}\)

So that the ILO hopes the project can support through various technical cooperation with national and local stakeholders for developing and implementing SIYB trainings, the project can contribute to strengthen stakeholders’ capacity to provide reintegration and economic government services to migrant workers and

\(^{86}\) ILO, Final Report, 30. 
\(^{87}\) ILO, Final Report, 31.
their families in the sending communities. In a broader term, the project can contribute to improve the protection and reduce the vulnerability of migrant workers and their families from forced labour and trafficking, by providing them with capacity to alternative means of income-generation.

In 2009, to support livelihoods development in sending communities in Indonesia through financial education, entrepreneurship development, production skills trainings, cooperative trainings and provision of micro-finance, the ILO has given Training of Trainers for local stakeholder organizations in some 75 sending districts in 13 provinces of Indonesia, including Aceh, North and South Sumatra, Lampung, Riau, West, Centra and East Java, and West Nusa Tenggara.\textsuperscript{88}

In Malaysia, the ILO did capacity building for the trade union UNI-MLC in organizing and providing assistance to migrant workers: Support to UNI-MLC, which collaborates with migrant workers’ associations in Malaysia, for the development of a training program for organizing and assisting migrant workers, and setting up help desks in branch offices. Support was given for the training curriculum, training materials, one TOT and one supervised step-down training by the UNI-MLC Master Trainers.\textsuperscript{89}

Technical support was done by the ILO in 2009 for the MTUC (Malaysian Trade Union Congress), on organizing and providing assistance to migrant workers: MTUC requested technical assistance to develop a proper training programme for organizing and assisting migrant workers, and setting up help

\textsuperscript{88}\textit{ILO, Project Brief}, 7.
\textsuperscript{89}\textit{ILO, Project Brief}, 7.
desks in branch offices. The project supported the training of members in branch offices to organize migrant domestic workers, establish help desks and provided needed services.90

b. Targeted Research and Documentation

The ILO realize that Convention No.189 is needed to adopt by the state to protect the domestic workers. One of the ways of the ILO in increasing public awareness by doing research and documentation about the condition of domestic workers. This research can also be used by the ILO as basic consideration of the ILO in giving solution and to see how far the problems of domestic workers was going on. Besides that, this data can be shared to the society as a tool to increasing public awareness to protecting the domestic workers.

Since the project of CFLTIMW phase II run, there are 11 research and documentations which has been published to the public regarding domestic workers cases for use in advocacy, awareness-raising and capacity building activities.91 They are:

2. Domestic Workers in Southeast Asia.
3. Legal Comparative Analysis of the Placement and protection System for Migrant Domestic Workers in 4 Destination Countries.

90ILO, Project Brief, 7.
91 ILO, Project Brief, 8.

5. Legal In-Depth Review of Indonesian Recruitment & Placement System.


7. Migrant Domestic Workers Treatment and Work Conditions in Hong-Kong – Data Survey and Report.


11. The Lives of Indonesian Migrant Domestic Workers (photo-journalistic Publication).

After knowing the ILO’s efforts in protecting Indonesian domestic migrant worker in Malaysia through these four strategies, this thesis found in the end of this project, that the Indonesia and Malaysia still have not ratified the Convention 189 yet. This thesis see that this project still have not been successes in promoting this convention which finally made the ILO cannot protect Indonesian domestic workers in Malaysia through this convention. So that is why this thesis need to see deeply, what are the challenges which are faced by the ILO which will be discussed in chapter four.
Combating Forced Labour and Trafficking of Indonesia Migrant Workers (CFLTIMW) Phase II was designed in integrated manner to address migrant workers cases from Indonesia. The primary focus of the project has been on migrant domestic workers. The project has focused on what happens to them and the support required for them in Malaysia as receiving countries. The project also recognizes synergies with the situations of Indonesian migrant domestic workers in Gulf Countries, who in a wider sense are also expected to be beneficiaries. The project has been managed through the ILO Jakarta Office in conjunction with Indonesian Government agencies involved in the areas of migrant workers, and with NGO and trade union partners in Indonesia, Singapore, Malaysia and Hong Kong.

For the past four years (2008-2012), the Project has been working to address the specific needs and concern of Indonesian migrant domestic workers throughout the migration process, before departure and while they are in the destination countries. Some of the actions and output of the project has been resulted in some strengthened and improved protection for Indonesian migrant workers in Malaysia, as well as in the project destination countries. The Project continues to actively contribute towards more effective Labour migration system.

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92ILO, Final Report, 2.
93ILO, Final Report, 2.
at the national, provincial and local level in Indonesia, as well as to improve the labour migration management system in the project targeted destination countries.\(^{94}\)

However, although some of the actions and output of the Project has been successful resulted in some strengthened and improved protection for Indonesian migrant workers in Indonesia, this project still doesn’t get the main target yet in protecting Indonesia domestic migrant workers in Malaysia. So in this chapter, from some books and articles and also from interviews with Peter Van Rooij as the Director of ILO Office Co-Jakarta and Albert Y. Bonasahat as the Project Officer of Combating Forced Labour and Trafficking of Indonesia Migrant Workers Phase II, this thesis will explain the challenges which is faced by the ILO in addressing the Indonesian Domestic Migrant Workers in Malaysia from 2008 to 2012.

As this thesis explained in the Chapter 3, the ILO have four strategies in addressing Indonesian domestic workers. From these strategies, this thesis found some challenges that have been faced by ILO since this project was begun in 2008. They are:

A. Indonesia and Malaysia still have not ratify ILO Convention No.189

This thesis has explained in chapter three that the ILO Convention No.189 is one of the ILO strategies in protecting domestic migrant workers in the world, including Indonesia and Malaysia, because this convention provided the international standard which can be adopted by all member state to ensure the effective protecting of human rights of all domestic workers. Domestic workers will be recognized as a ‘workers’ legally if the country adopted this Convention. Besides that, they will have a clear regulation for example to ensure that domestic workers enjoy effective protection against all forms of abuse, harassment and violence, they will have a clear working time, minimum wages and many others.

However, when the ILO has been completed the Convention No. 189 in the 100\textsuperscript{th} Conference, there are some countries which do not ratify this convention including Indonesia and Malaysia. The abstain of Indonesia and Malaysia in ratifying the Convention No.189 make the ILO difficult to protect the domestic workers including Indonesian Domestic migrant workers in Malaysia.

Indonesia and Malaysia has different reason why they don’t ratify this convention yet. In the beginning actually Indonesia voted in favor of the Domestic Workers Convention. Indonesia supports for the Convention is therefore in line with their ongoing to protect their migrant domestic workers.\textsuperscript{95} President Susilo Bambang Yudhoyono, in expressing his country’s support for the Domestic Workers Convention (ILO, 2011c). Anis Hidayah as a director of Migrant Care

has also supported Indonesia to ratify ILO 189. Through migrant care, Anis conducted the campaign and took the action in order to urge the government to immediately ratify the ILO convention 189.96

But the reasons why Indonesia still do not ratify this convention is because Indonesia still need a time to have a dialogue to the society and also waiting to the other countries adopting this convention. Muhaiminin Iskandar as Indonesian Manpower and Transmigration Minister stated that adoption of ILO Convention 189 are like two sides of a coin. Because, on the one side, the government must improve and develop measures for better protection for migrant workers and domestic workers. While on the other hand, the government needs to encourage migrant destination countries to adopt the convention.97

Different with Indonesia, Malaysia in the beginning has not support this convention. Malaysia, which is home to an estimated 350,000 migrant domestic workers, abstained from voting on the Domestic Workers Convention. It argued that domestic work is not ‘ordinary employment’ and therefore a legally binding treaty would compromise the rights of householders and create unrealistic obligations for employers.98

This reality has been one of a big challenges to the ILO in protecting Indonesia domestic migrant workers in Malaysia. Because both Countries do not

98Dorong Ratifikasi Konvensi ILO.
still ratify the Convention No. 189. Because the regulation to protect domestic migrant workers which has been created by the ILO still cannot implemented in Indonesia and Malaysia. Indonesia domestic migrant workers in Malaysia will not get their rights as a workers because they are not recognized as ‘ordinary workers’, they do not have a specific working time, a minimum wages and they are risk in abused and harassment.

Therefore, Bonasahat as the project officer of this project stated that since Indonesia and Malaysia did not ratify this convention, ILO will still difficult to protect the domestic workers, including Indonesia domestic migrant workers in Malaysia.99 Then MTUC as the partner of the ILO in CFLTIMW phase II, stated that since the convention is not adopted by Malaysia and Indonesia yet. It will not established an international yardstick of basic standards concerning decent work for domestic workers including Indonesia domestic migrant workers in Malaysia and could not be the basis for adopting changing national laws.100

Bonasahat also explained that Indonesia and Malaysia should see the advantages of ratification on this convention like what have been done by Philippines as the second country which has been ratify this convention. Because after Philippine ratify this convention, the domestic workers get their rights as an ordinary workers101 Catherine Legados-Parado as Department of Labour and Employment, Republic of The Philippines said that the Philippine recognized the

99Interviewing Alber Y. Bonasahat, Project Officers of CFLTIMW Project, Phase II, on February 17, 2014, 02.00pm at ILO Office Co-Jakarta.
100Samuel Grumiau, Spotlight Interview.
101Seminar dengan tema, “Menuju Ratifikasi Konvensi ILO 189 tentang Kerja Layak bagi Pekerja Rumah Tangga” di Gedung Kementerian Tenaga Kerja dan Transmigrasi (Kemnakertrans), Wednesday, on February 12, 2014.
importance of domestic workers, but they are not protected. He added after Philippine adopted this convention, Philippines domestic workers get the legal protection of the state. His salary has certain standards as with workers in other places such as in the company and they will also have a clear regulation to protect their rights.102

However, although Philippine has become a good sample for the other countries, it still doesn’t influence the Indonesia and Malaysia to ratify the convention No.189. This thesis analyze that Indonesia and Malaysia still do not ratify the convention is because they have different reasons with Philippines. For example in the public awareness, Philippine has realized about the needs of law to protect the domestic workers, so that Philippine has been easy in adopting this convention. But this is different with Indonesia and Malaysia, Indonesia has support the convention from the beginning, but because of the public awareness in Indonesia is still low, Indonesia still need time to discuss more about the ratification of adopting the ILO Convention No.189. On the other hand, if the government of Indonesia adopting this convention, while the awareness of the society is still low, it will create misunderstanding between employers and the domestic workers themselves. Different with Indonesia, Malaysia has a high demand for Indonesian labour migrant and highly dependent on their contribution to its development and industrialization.103 So this thesis analyze that economically, if Malaysia ratify this convention, Malaysia should pay the

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103Group researcher, Migrasi Tenaga Kerja, 41.
domestic workers based on the national standardization which will be estimated more expensive than before. It will difficult to Malaysia to adopting this Convention because of economic factor. Therefore, Indonesia and Malaysia don’t still ratify the convention yet.

On the other hand, since Indonesia and Malaysia don’t ratify this Convention. The domestic workers will not have their rights as a human and they will always not be recognized as workers though they did a work. The domestic workers, especially Indonesia domestic migrant workers in Malaysia will be risked by the exploitation and abuse which has been explained in chapter two.

B. Low Public Awareness

By seeing the fact that Indonesia and Malaysia still do not ratify the ILO Convention No.189, it shows that the ILO still do not success in giving awareness to Indonesia and Malaysia regarding the domestic workers cases completely. As a project officer of this project, Bonasahat, explained about the main challenges which faced the ILO in addressing the domestic workers cases. The main challenges which faced the ILO is in influencing the public view about the identity of the domestic workers itself. Not all the people including government, society, intellectual and even the human rights activist recognized that the domestic workers are workers officially. 104 Peter Van Rooij as the Director of ILO Office Co-Jakarta was invited to University of Indonesia, he asked the students 3 question, first question he asked ‘do you think domestic workers are

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104 Interviewing Alber Y. Bonasahat, Project Officers of CFLTIMW Project, Phase II, on February 17, 2014, 02:00pm at ILO Officen Co-Jakarta.
working?’ then 60% of the students said ‘yes’ and 40% said ‘no’. His second question was ‘do you think domestic workers are workers?’ then only 40% said ‘yes’ and 60% said ‘no’, than his third question was ‘do you think domestic workers should get the minimum wages?’ than only 20% said ‘yes’, and 80% said ‘no’.105

This thesis explained in chapter three that ILO has done many activities to increasing the public awareness about the rights of domestic workers in Indonesia and Malaysia. However it still do not give a big expectation to make Indonesia and Malaysia ratify the convention. In Malaysia, the low awareness is not only come from the society but also the government. By seeing abstain of Malaysia in giving a vote in the 100th ILC has shown us that Malaysia has not been aware about the rights of domestic workers. As Malaysia stated on the 100th ILC that domestic workers is not ‘ordinary employment’. That is why since the awareness on domestic rights is low, Indonesia and Malaysia will also difficult to adopt the ILO Convention No.189. So that is why to make them believe the domestic workers are workers is kind of the biggest challenges for the ILO.106

The fact that people are still not aware of the rights of domestic workers, the ILO has tried to analyze the reason why people still do not agree to admit a housekeeper as workers. However the ILO didn’t get the specific reason why they are still not agree. Some consideration from Peter Van Rooij is because of a

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105 Interviewing Peter Van Rooij, Director of ILO Office Co-Jakarta, II, on February 17, 2014, 01.00pm at ILO Office Co-Jakarta.
106 Interviewing Alber Y. Bonasahat, Project Officers of CFLTIMW Project, Phase II, on February 17, 2014, 02.00pm at ILO Office Co-Jakarta.
culture and some consideration from Bonasahat is because of the people interest. According to Peter, Culture means that the society still argued that the domestic worker is only a people who help activities in cleaning and managing the house. On the other hand, there are many peoples who still don’t realize about the rights of domestic workers as a part of human. When peter was invited by the students of Indonesia University, he didn’t believe that there are 60% of the students think the domestic workers are not workers. Peter as the representative of also didn’t understand why they think that the domestic workers are workers when the fact that the domestic workers almost work overload in a day.

Then according to Bonasahat, people interest means that there are some peoples do not want to give the wages of their domestic worker based on minimum standard. So that is why we can find some human rights activist who struggle the rights of human but not struggle to the domestic workers to have their rights to be recognized as a worker. Bona though that sometime when the people have thought about their wallet, the people will do anything to save the money well although they should lost their idealism in protecting the rights of the other human. Therefore, because this unclear reason from the people, it will also be a big challenges for the ILO to increasing the public awareness toward the rights of domestic workers.

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107 Interviewing Peter Van Rooij, Director of ILO Office Co-Jakarta, II, on February 17, 2014, 01.00pm at ILO Office Co-Jakarta.

108 Interviewing Peter Van Rooij, Director of ILO Office Co-Jakarta, II, on February 17, 2014, 01.00pm at ILO Office Co-Jakarta.

109 Interviewing Alber Y. Bonasahat, Project Officers of CFLTIMW Project, Phase II, on February 17, 2014, 02.00pm at ILO Office Co-Jakarta.
C. Limited Budget & Training

There are several challenges discovered this program which come since this program was implemented. They are:  

First, limited of Indonesian government (particularly local government) budget availability to have Pre-Departure training. The majority of local governments only allocate budget for socialization, which is less comprehensive in terms of introducing safe migration messages to the community. Regarding the budget, this thesis did not found the specific data about the number of budget which still needed by the government because Bonasahat as project officer also said that this is a difficult thing to the government in informing the details to the public, the government was only said the limited budget as general, not specific one.

Second, introducing a Pre-Departure training for recruitment agencies (PPTKIS) has been particularly challenging, as most of them have a tendency to decrease the minimum required hours regulated by the government. Adding more sessions regarding protection issues would be an additional positive investment for recruitment agencies.

Third, is in the destination countries, the ILO get the challenge when their giving accessibility in post-arrival services for migrant workers, particularly domestic workers. Because the majority of the involved agencies have no background in entrepreneurial services delivery. As a result, the project had to

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provide additional supports and resources to further build their capacity. Although the success in achieving sustainability continues to emerge (where trained institutions continue to provide training by using their own funding), involved organizations still support at improving their capacity, as well as in getting a better access to banking and financial assistances to sustain the training program.

As for the sustainability of the training, it can be seen from the fact that involved organizations have started to conduct trainings independently without project funding. Following the success in conducting the trainings, results from the project monitoring activity showed that: 1) 160% of trained organizations actively promoted the program to other agencies, (both government agencies and NGOs); 2) within two years after the training, 75% of the trainers proactively provided entrepreneurship technical support (trainings, business consultation) to their communities, by utilizing their respective organizational funding, as well as linking it with other sources, and 3) the government (MoMT) has demonstrated a strong interest to implement TREE modules and in requesting the project to provide training for their training personal.\textsuperscript{111}

Following the initial technical and/or financial support MTUC, organization is now able to conduct all activities using their own independent budget. Moreover, they continue to actively advocate for the migrant workers’ rights and improve their protection. The impact indicator of this particular support can be seen from the mobilization of MTUC to work also with other countries in the region to establish MoUs and improved services. But the existence of limited

\textsuperscript{111}ILO, Final Report, 25.
human and financial resources continue to be a challenge to sustain the approach intervention.\textsuperscript{112}

D. Technical Challenges

1. The Challenges of ILO in direct Assistance and Service Provision in strengthening capacity of national and local stakeholders

This thesis has explained in chapter 3 that this strategy is one of the ILO in raising awareness to the stakeholder to campaign and advocate on behalf of migrant workers and to raise awareness on migrant workers problems and protection needs. This program is important to the ILO in guarantee domestic migrant workers in getting protection in destination countries, including in Malaysia. so that is why the ILO did some technical activities which is not only in Indonesia but also in Malaysia.

Although this project has been running well to increasing the awareness of national and local stakeholder but the ILO is only get 70% of the involved organization which have already adopted SIYB into their regular programming/activities. It is because of some challenges of limited access, along with procedural difficulties to financials support/capital, particularly form the commercial banks, and the lack of access to technical knowledge (such as food processing, motorbike workshop, fish cultivation, etc.) are some of the challenges

\textsuperscript{112}ILO, Final Report, 27.
in sustaining the intervention. More integrated linkages/referral with other stakeholders within the community still needed.\textsuperscript{113}

2. The Challenges of ILO in researching the data collection and dissemination systems

In the chapter 3, this thesis has explained that there are 11 research and documentation that has been published by the ILO for use in advocacy, awareness-raising and capacity building activities.\textsuperscript{114} But based on the final report of Combating Forced Labour and Trafficking of Indonesia Migrant Workers Phase II, the ILO still didn’t get maximum result due to some challenges, such as like the limitation of time, resource, and the agency or consultant to fulfill the tasks according to planned has made the ILO difficult to gain the maximum result. In addition, because of the difficulties experienced by many respondents were not willing to talk about their experiences, this also become some kinds of the challenges of the ILO in running its work.\textsuperscript{115}

\textsuperscript{114}ILO, \textit{Project Brief}, 8.
\textsuperscript{115}ILO, \textit{Final Report}, 33.
CHAPTER V
CONCLUSION

In this chapter, this thesis will conclude the result of the research question. The research question is ‘What are the challenges faced by International Labour Organization (ILO) in Protecting Indonesian Domestic Migrant Workers in Malaysia 2008 – 2012?’, after analyzing the document of the ILO regarding the project ‘Combating Forced Labour and trafficking of Indonesian Migrant Domestic Workers, Phase II’, this thesis aware of the fact that ILO as an international organization have a role in protecting Indonesian domestic migrant workers in Malaysia through this project.

ILO have four strategies in protecting Indonesian domestic migrant workers in Malaysia through this project. First is by supporting advocacy and technical cooperation to strengthen the policy and legal framework for the protection of domestic workers so that Indonesia and Malaysia can adopt the Convention No.189 as a basis standard to protecting domestic workers. Second is by raising the awareness to the Indonesia and Malaysian society that the domestic workers should be recognized as workers officially. Third is by strengthening the organizational capacity of governmental institutions at national and local levels, and strengthen migrant and domestic workers’ organizations in terms of outreach activities as well as alliance-building with trade unions and other organizations that support the cause of domestic and migrant workers. Fourth is by providing technical assistance for capacity building of foreign services officials and labour
attaches of the Indonesian Ministry of Foreign Affairs, especially to facilitate more effective protection of migrant domestic workers.

However, this thesis found some challenges which are faced the ILO in protecting domestic workers through this project. There are four challenges that facing ILO in protecting Indonesia domestic migrant workers in Malaysia from 2008 to 2012. They are:

First, in the 100th meeting of International Labour Conference in 2011 and event until 2013, Indonesia and Malaysia did not ratify the Convention No.189. It has made the ILO difficult to protect Indonesian Domestic migrant workers in Malaysia, because the regulation to protect domestic migrant workers which has been created by the ILO cannot be implemented in Indonesia and Malaysia. Therefore Indonesia domestic migrant workers in Malaysia still don’t get their rights as a workers because they are not recognized as ‘ordinary workers’, they do not have a specific working time, a minimum wages and they are risk in abused and harassment.

Second, public awareness about the identity of the domestic workers itself is still low. There are still many people including government, society, intellectual and even the human rights activist recognized that the domestic workers are not as workers officially. The ILO still do not success in giving awareness to Indonesia and Malaysia regarding the domestic workers cases completely. As Malaysia stated on the 100th ILC that domestic workers is not ‘ordinary employment’. That is why since the awareness on domestic rights is low, Indonesia and Malaysia will
also difficult to adopt the ILO Convention No. 189. So that is why to make them believe the domestic workers are workers is kind of the biggest challenges for the ILO.

Third, limited government (particularly local government) budget availability to have Pre-Departure training. The majority of local governments only allocate budget for socialization, which is less comprehensive in terms of introducing safe migration messages to the community.

Fourth, in technical challenges, the stakeholders’ commitment to improve the protection of migrant workers (especially female domestic workers) is still lacking. Limitation of time, resource, and the agency or consultant to fulfill the tasks according to planned has made the ILO difficult to gain the maximum result.
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Seminar dengan tema,"Menuju Ratifikasi Konvensi ILO 189 tentang Kerja Layak bagi Pekerja Rumah Tangga" di Gedung Kementerian Tenaga Kerja dan Transmigrasi (Kemnakertrans), Wednesday, on February 12, 2014.

Q: Regarding the ILO Convention 189, whether it will be a big challenges for the ILO in solving the problems of domestic migrant workers, if Malaysia and Indonesia has not ratified ILO C189 yet?

A: Absolutely yes, well it’s also a challenges for the country that does not ratify, because what we try to do is to help country, but like I said that maybe the country they don’t ratify but they support the content, so that’s ok. We prefer the ratification but the most important thing that is the domestic workers get same like other workers. I don’t know what’s your opinion on this, I was invited to University of Indonesia, I asked the students 3 questions, my first question was ‘do you think PRT are working?’ than 60% said yes and 40% said no, I don’t
what 40% are thinking, are they thinking? I don’t understand when they say PRT are not working. Than my second questions was ‘do you think PRT are workers?’ because workers and working is not necessarily same. It can be officially workers and work but sometimes they as workers are not recognized as workers officially, then ‘hampir 40% said yes, than the third question was ‘do you think PRT should get the UMR?’ then hampir 20% said yes, and 80% said no. So because officially PRT are still recognized as workers, that’s why we have Convention 189 to promote the countries that the PRT are workers official but still they have to decide whether the will ratify or no.

Q: I read some data from ILO talking about the activities of ILO with its partner especially its partner in Malaysia, one of them is MTUC. I want to know ‘is there any problems in coordination with the partners in Malaysia?’

A: Yes, its correct, so the new project that’s going to work in Malaysia corridor, we have a coordination with the partners, but they are more focus on the employers in factories not at home.

Q: So whether it one of the challenges ILO got in Malaysia in addressing the cases of Indonesia domestic migrant workers in Malaysia?

A: So this is interesting, but I can only talk about Indonesia, if you want to talk about Malaysia, you should talk to the ILO in Bangkok, because they are responsible to the labour in Malaysia, of course I know what happen in Malaysia, if you talk later with Bona, Bona will give you more information about that. Formally ILO Jakarta is responsible to the Indonesia as well and not for
Malaysia, so our Office in Bangkok is responsible for the numbers of countries including Malaysia. You can ask Bona later, he expert in this issue and you can get more information from him. But if Bona doesn’t have it maybe you can send the questions by email and then I can send it to the colleague in Bangkok, so u can get more detail. I only can talk about Indonesia in more general. More general if the countries are not interested with the triangle, providing their support to the convention. It will be more as the challenges for us because Indonesia is a member of the ILO, we are here for Indonesia, so Indonesia doesn’t support some points so this is challenges for us, now we do have always do by ILO constitution responsibility to promote the convention.
Q: Strategi apa yg di lakukan ILO dalam menyelesaikan masalam PRT? Khusunya juga bagi pekerja migrant.

Q: itu dari 2006?


Q: Semua total ada tiga fase ya pak?

A: Dari 2012 yang lalu, dari 2012 Maret itu kemudian sampai dengan sekarang itu ada satu project lagi yang kita kerjakan yang juga tetap dalam isu pekerja migrant, tetapi dia lebih dalam lingkup yang lebih luas, yaitu regional, ASEAN. Itulah yang ASEAN Triangle proyek.

Di kesemua fase itu, baik mulai dari 2004 sampai sekarang, itu isu pekerja rumah tangga tetap menjadi yang kita kerjakan, apalagi dengan sekarang ada koferensi 189, tentu saja ILO masih punya pekerjaan seterusnya untuk bagaimana mempromosikan ratifikasi dari konferensi ini misalnya kelak, sejak 2009 ini kita melakukan upaya-upaya supaya akhirnya ada konferensi ILO ke 100 tentang pekerja rumah tangga, karena itu juga bukan hal yang mudah untuk meyakinkan, didapatnya dukungan dari negara-negara anggota ILO, tripartite, untuk mendukung konvensi. Nah jadi, kalau kamu bilang bahwa melalui program-program itulah ILO juga bekerja pada isu pekerja rumah tangga ya benar, karena bagaimana pun ILO juga biasanya ILO yang di field office itu akan bergantung pada ketersediaan dari dukungan, biasanya negara anggota dalam bentuk project-project yang ada di lapangan. Itulah mulai tadi dari Inggris 2004-2006, 2006-2012 melalui Norwegia, dan sekarang dari Kanada.

Q: Jadi sekarang masih berlanjut melalui Project ASEAN triangle?

Q: Bisa dishare sedikit terkait apa tantangan dan hambatan yang sudah dilalui ILO untuk menyelesaikan permasalahan itu khususnya di Indonesia dalam project ILO 2006 – 2008?

A: kalau kita berbicara tentang pekerja rumah tangga yang paling menantang yang menjadi challenges utama adalah bagaimana mempengaruhi cara berpikir publik tentang pekerja rumah tangga itu sendiri. Nah, kita punya pengalaman yang paling nyata itu adalah ketika kita berupaya mendorong adopsi standar internasional tentang perlindungan pekerja rumah tangga yang kemudian disepakati dalam wujud konferensi 189. Nah, dari proses kita berinteraksi dengan mitra-mitra ILO, baik itu pemerintah, serikat pekerja maupun pengusaha dan teman-teman LSM, kita melihat bahwa ada paradigma atau cara berpikir yang memang sekian lama itu ada dalam pikiran orang, bahwa yang namanya seseorang yang membantu pekerjaan rumah terus kita kasih uang yang biasanya seadanya di rumah-rumah kita itu, yang kita kenal di sini dengan Si Mbok, Si Mbak, apalah segala macam, itu bukan pekerjaan. Nah, mengganti paradigma berpikir bahwa mereka adalah pekerja, adalah tantangan yang paling besar. Mereka itu bukan pembantu, itu merupakan tantangan yang paling besar, dan sampai dengan sekarang pun terlepas dari perkembangan yang sudah ada hal tersebut memang masih menjadi, atau
masih kita temui dalam diskusi-diskusi kita, yang tetap saja ada orang yang menganggap bahwa, ya mereka bukan pekerja. Tapi kalau, bahkan kalau kita bicara tentang PRT selaku pekerja, mungkin Mike juga akan surprise kalau menemukan bahkan seorang aktivis yang mungkin dikenal dalam isu-isu HAM, isu-isu feminist, dia mungkin akan juga bisa menyatakan keberatannya tentang pembantu itu pekerja.

Q: apa yang menyebabkan mereka (aktivis tersebut) tidak setuju bahwa pembantu juga merupakan pekerja?

A: Ya, mungkin mereka berpikir pragmatis bahwa yang terpikir oleh dia secara langsung adalah berapa dia harus gaji pembantunya. Dan itu akan langsung membuat dia, oh “okay, wait a minute, hmm saya gak bisa mendukung ini.” Kalau orang sudah berpikir tentang dompetnya sendiri memang akan cenderung, dia mau aktivis mau bukan, dia akan berpikir panjang. Sama dengan beberapa, di awal-awal, bahkan kalangan serikat pekerja seperti yang tadi juga disampaikan Pak Peter juga gak langsung “okay, kita dukung,” karena mereka juga pengguna dari jasa PRT. Orang-orang di pemerintahan yang seharusnya menjadi kepanjangan tangan negara untuk melindungi hak pekerja rumah tangga, juga akan berpikir 1000 kali, ketika mereka berpikir seperti itu, karena mereka kan juga terpikir adalah bagaimana mereka kemudian memperlakukan PRT mereka sendiri di rumah, jadi ada semacam kebingungan mereka sendiri ketika mereka harus menempatkan, “saya aktivis perburuhan, tapi saya juga pengguna jasa, lalu bagaimana ini?” kayak gitu-gitu. Padahal seharusnya tidak begitu karena bagaimana pun mereka adalah pekerja. Apa yang membedakan mereka dari yang
lain? Kan gak ada. Secara prinsip kalau Mike lihat Undang-undang Ketenaga kerjaan juga kan, hubungan antara majikan dan pekerja rumah tangga, itu mencerminkan adanya pekerjaan, adanya upah, dan itu adalah unsur-unsur yang kemudian membentuk sebuah hubungan industry yang, bahwa ada seseorang yang digaji untuk melakukan pekerjaan tertentu, dan itu pekerja kalau menurut undang-undang ini juga sebenarnya, dalam konteks undang-undang, Jadi, itu yang saya kira terbesar, tantangan terbesarnya itu, mind set orang, membalik bahwa ini itu pekerja, bukan sekedar pembantu, itu yang berat.

Q: apakah ada tantang lain selain perubahan main set berpikir masyarakat?

A: Kalau yang lain itu lebih pada teknis ya, teknis bagaimana kemudian kita, misalnya mengatur, okay misalnya undang-undangnya seperti apa, lalu mengatur jam kerja seperti apa, itu kan semua hal-hal teknis. Dan ini jauh lebih mudah sebenarnya dengan sebuah percakapan yang intensif, tapi mengubah cara berpikir, nah ini yang, makanya ILO melalui project yang kemaren itu juga kita banyak melakukan kampanye-kampanye public. Kita bekerja sama dengan, biasanya dengan tokoh-tokoh, selebriti, yang punya perhatian terhadap pekerja migrant atau pekerja rumah tangga. Dulu itu, meskipun mereka lebih besar dalam konteks pembela pekerja migrant, tetapi karena pekerja migrant Indonesia kelompok terbesarnya adalah kelompok pekerja rumah tangga, maka mereka juga aktif dalam memberikan edukasi-edukasi kepada masyarakat, melalui kampanye-kampanye mereka di publik, seperti Nini Karlina, alm. Fendy Sahinatua, Rieke Diah Pitaloka, itu mereka bekerja sama dengan serikat buruh migrant Indonesia,
untuk kemudian mereka keliling misalnya, mengadakan perjalanan-perjalanan kampanye di radio, project yang kemarin ini juga pernah melakukan.

Q: melalui radio apa saja?

A: He em, iya, beberapa radio di Jakarta, Female Radio, melalui cara itu kita berupaya untuk coba untuk mengubah cara pandang ini.

Q: kalau yang saya baca di final report project tahun 2008-2012 di surat Waktu itu sempat ada masalah tidak adanya transparansi dari pemerintah saat rencana amandemen undang-undang No. 39 tahun 2004, bisa dijelaskan lebih detail gak?

A: Itu transparansi dalam konteks apa ya?

Q: Yaitu dalam konteks, mengamandemen, kan Indonesia katanya mau ini ya, sebenarnya Indonesia diawal kan mau meratifikasi, mensupport ya, konferensi 189, dan mau mengamandemen, tapi di undang-undang no. 39 tahun 2004.

A: Oke tentang pekerja migran. Oh..ya dulu kan sempat mejadi berita publik dulu, bahwa hubungan antara kemenakertrans dengan BNP soal siapa melakukan apa itu gak sinkron, jadi, sering mereka, dan itu banyak di berita-berita sebenarnya, bukan dari kami tapi dari banyak berita yang menggambarkan adanya friksi di antara dua lembaga itu, kementrian dan badan BNP2TKI itu. Ya, persoalan utamanya adalah siapa melakukan apa, saya kira itu. Sekarang sih sudah jauh lebih baik meskipun mungkin masih ada kerikil-kerikilnya, tapi dibandingkan dengan awal, ya itu sudah ada progress.
Q: Apakah ini menjadi salah satu hambatan ILO, karena pas saya lihat hasilnya itu jadi memperlambat proses ILO untuk, apa ya, mendesak pemerintah agar *ratifying*.

A: Kira-kira kata mendesak juga gak bisa diapakai, karena ILO juga gak bisa mendesak siapa pun, tidak ada negara anggota yang bisa didesak oleh ILO. Kalau kita mempromosikan itu benar, dan kita melakukannya pada semua negara anggota kita, dan kalau persoalan hubungan antara kemenakertrans dengan BNP2TKI saya kira sebagaimana dengan hal yang lain, mungkin ada hambatannya juga. Tapi mungkin yang lebih merasakannya adalah bagaimana pengelolaan migran di Indonesia. Kalau urusannya dengan ILO saya kira gak terlalu signifikan juga, tapi yang berdampak serius saya kira adalah bagaimana kemudian pemerintah dalam hal pengelolaan, penanganan pekerja migran di Indonesia ke luar negeri, sebab ketika dua lembaga ini ada friksi di antara mereka, ya sangat wajar kalau kemudian ada dampak bagaimana kemudian mengelola migrasi pekerja Indonesia.

Q: apakah ada masalah dalam koordinasi dengan partner?

A: Sejauh ini enggak ya, artinya, bahwa dinamikanya cukup tinggi, karena bagaimana pun kita harus berurusan dengan tiga kelompok, pemerintah, serikat pekerja dan organisasi pengusaha yang tidak selalu sejalan, tentu saja itu menimbulkan situasi dimana dinamikanya turun naik, tetapi itu merupakan hal yang wajar saja di organisasi yang situasi kerjanya mengharuskan kita untuk delanguage kalau kita hanya berurusan dengan pemerintah saja, atau organisasi
pengusaha saja, atau serikat pekerja saja, tentu saja itu jauh lebih mudah. Kita akan punya peluang untuk disetujui lebih besar, itu kan, tapi ILO ini uniknya justru di segala isu ketenaga kerjaan, bukan Cuma soal ini, kita harus berurusan dan berinteraksi dengan tiga kelompok tersebut yang bisa sangat, secara diametral berbeda. Contoh saja Konferensi 189, yang kalau Mike lihat Konferensi 189 dilahirkan di tahun 2011 dengan mendapat dukungan yang sangat besar dari negara-negara anggota ILO, dari Tripartite-nya. Nah, tapi kan penghitungan suara satu-satu tuh dari tiap negara, dan kalau Mike lihat notulensi penghitungan suara dari Indonesia, maka kita akan dapatkan informasi bahwa pemerintah Indonesia mendukung lahirnya konferensi, serikat pekerja mendukung adanya konferensi, organisasi pengusaha dalam hal ini LAPINDO menolak adanya konferensi. Mereka hanya mendukung rekomendasi. Ya, well, dua aja udah punya pikiran bisa beda-beda, apalagi tiga.

Q: Nah untuk final data notulensi ini kita bisa dapata dimana?

A: Ya di website, cek aja, kalau cek langsung ke issue domestic worker, kalau masuk ke issue one hundred workers tahun 2011 itu nanti ada pilihan lainnya tentang apa yang terjadi disana

Q: Karena dalam penelitian saya adalah focus ke PRT Indonesia di Malaysia, adakah challenges yg dihadapi ILO dalam menyelesaikan permalahan tersebut?

A: Yaa..kalau jadi gini kita harus mundur sejenak untuk memastikan kami bagaiman cara kerja ILO. Bukan hanya kontek Malaysia tetapi dalam konteks semua hal. Yang berhubungan dengan penciptaan standar Internasional dalam hal

Nah terus apa yang dilakukan oleh kantor ILO dilapangan di negara-negara anggota seperti kantor ini misalnya kantor ini lebih banyak mendaptkan dukungan-dukungan teknis bagaimana negara-negara anggota ILO bisa melakukan hal-hal membentuk kebijakan, membentuk praktik-praktik di negarannya masing-masing yang berkesesuaian dengan standar ILO. Nah biasanya bantuan teknis itu akan muncul melalui program-program yang ada sehingga yang dilakukan kantor ini melalui projek-projek yg kemarin thn 2008 sampai taun itu...yahh lebih banyak bagaiman membantu mitra Indonesia untuk melaksanakan sesuai dengan standar yang ada ketenaga kerjaan perburuhan yang diberlakukan pada pekerja rumah tangga, nah pekerja rumah tangganya ini bisa dimana saja. Bisa dalam konteks mereka bekerja di Indonesia atau mereka yang berkerja sebagai migran gitu.
Nah, jadi kalau secara gampangnya, secara sederhana, memang apa namanya yang berurusan dengan *punishment* atau pengukuran standar semua Geneva. Yang berurusan bagaimana mengajak Indonesia untuk melakukan membentuk kebijakan dan segala macam itu sesuai dengan standar tersebut itu urusannya di Jakarta di Bangkok, Manila. Nah, seperti itu jadi itu bedanya diantara dua hal itu.

Nah kalau pertanyaanyaannya kemudian apa yang dilakukan ILO dalam konteks PRT di Malaysia yaa itu juga sama dalam konteks standar dalam standar untuk pekerja migran misalnya ILO punya standar. ILO Konvensi 97, 143 itu semua kan konvensi-konvensi tentang pekerja migran nahn yang dilakukan ILO adalah melakukan promosi-promosi yang juga termasuk juga melakukan pengawasan bagaimana juga negara-negara anggota termasuk Malaysia melakukan tindakan-tindakan didalam negrinya harusnya berkesesuaian dengan konvensi tersebut. Pertama Konvensi 97 itu kan di ratifikasi oleh Malaysia negara baru bagian Sabah, yaa berbeda.

Nah, sedangkan dalam konteks apa yang bisa dilakukan ILO dalam konteks bantuan teknisnya ya melalui program itu ya salah satunya dilakukan bahwa program yg dari Norwegia periode dari 2008 sampai 2012 kemarin atau 2010 kemaren itu .. ee ada beberapa aktivitas yang ada dalam lingkup isu pekerja rumah tangga migran yang juga kita lakukan dengan mitra di Malaysia. (MTUC, kemudian semacam ada Komnas HAM-nya Malaysia kemudian ada beberapa organisasi lainnya kemudian yang kita berkerja sama dan melakukan beberapa aktivitas baik melalui bara association misalnya nah melalui hal-hal itulah kita lakukan. Ee apanamanya kerjasama kita.
Kalau lingkup seperti yang sekarang misalnya ada namanya program JMS Triangle seperti saya bekerja sekarang ASEAN Triangle. GMS Triangle itu level nasional. Satu level nasional yg disasar melalui JMS Triangle ILO. Itu adalah Malaysia juga dalam isu pekerja migran. Salah satu yg dipekerjakan dalam pekerja rumah tangga migran jadi kalau bicara tentang apa ILO lakukan dia pasti kan selalu berhubungan dengan projek karena itu modal terpenting ketika bicara tentang standar, pengawasannya maka itu yg dilakukan oleh Geneva.

Q: Aktivitasnya sama dengan mitra yg ada di. Kalau projek ini kan misalkan ILC lebih pada promosi, konfensi untuk melihat perkembangannya di masing-masing negara nah yang untuk fokus projek ini kan salah satunya ada beberapa patner di negara lain untuk melihat pekerja migran di beberapa negara khususnya di malaysia aktivitas apa aja yg.. ?

A: Oke saya kira untuk aktivitasnya hampir sama yaa lima-lima selalu dimanapun lima itu jadi kita berurusan dengan kebijakan, kita berusaha mempengaruhi kebijakan-kebijakan yang ada di negara-negara itu, kita juga berurusan bagaimana advokasi-advokasi, kita berurusan dengan kampanye-kampanye.

iya semua hal apa yang dilakukan ILO melalui patner. Tidak ada yang langsung melalui ILO kecuali Geneva. dalam hal misalnya standar tapi dalam konteks apa..kantor di tiap negara itu selalu berurusan dengan patner kita juga mengembangkan dengan segala macam publikasi juga atau directly melalui mitra itu kita semua bik itu diIndonesia, baik itu kalo cangkupan program yang kemarin kan ada di Indonesia, Singapura, Malaysia dan Hong kong. Jadi semua lini itu kita