

# **INDONESIAN AND MALAYSIAN LABOR LAW COMPARATIVE STUDY IN ENHANCING THE COMPETITIVENESS OF WORKERS IN THE FRAMEWORK OF THE ASEAN ECONOMIC COMMUNITY**

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**Abstract:** The Employment conditions have various labor problems ranging from wage policies, working time, occupational safety and health, social security and maternity protection, equality of opportunity and non-discrimination, and freedom of association, to the lack of employment opportunities and the increasing unemployment rate. Within the framework of the MEA, Indonesia and Malaysia need to develop labor institutions through the development of human resources in preparing competent workers according to the directives of the AEC blueprint. HR development can be carried out in accordance with the rule of law by preparing the workforce of each country at the ASEAN level. MEA facilitates the movement of skilled workers to be accepted in ASEAN member countries and the flow (in and out) of labor between ASEAN member countries is very open, for that there will be competition between countries in skilled labor.

**Keywords:** Internationalization MSMEs Networking Welfare.

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## INTRODUCTION

The ASEAN Economic Community (AEC) has characteristics as a market and production base in the ASEAN region with the aim of being more dynamic and competitive, having equal development, and supporting economic integration in the ASEAN region and regions outside ASEAN. In line with the ASEAN Community Vision 2025 in the 3 pillars of ASEAN cooperation, namely;

1. ASEAN Political Security Community 2025: a rules-based, community-oriented, and community-centred one; a resilient community, in a peaceful, safe and stable area; and a community with institutional institutions.
2. ASEAN Economic Community 2025: a highly integrated and cohesive, competitive, innovative and dynamic economy; increased connectivity and sectoral cooperation; and resilient, inclusive, community-oriented, and people-centred ASEAN.
3. ASEAN Socio-Cultural Community: including communities that value a high quality of life, equal access to opportunities for all and protect human rights; sustainable communities that support social development and environmental protection through effective mechanisms; a dynamic and harmonious society aware of and proud of its identity, culture and heritage; resilient communities with

enhanced communities and capabilities to adapt and respond to social and economic vulnerabilities, disasters, climate change and emerging threats and challenges;

The ratification on ASEAN *Trade in Goods Agreement* (ATIGA), ASEAN *Framework Agreement on Services* (AFAS), dan ASEAN *Comprehensive Investment Agreement* (ACIA) to ensure an integrated flow of goods, services and investment in the ASEAN region. In addition, ASEAN also has an agreement on a Mutual Recognition Arrangement (MRA) which aims to facilitate the transfer of skilled workers which so far has focused on 8 (eight) professions, namely technicians, nurses, architects, tourism professionals, accountants, doctors and doctors. tooth. These 8 (eight) professions are the focus of employment in AEC 2025, so Indonesian professional workers will have enormous opportunities to work in international standard companies spread across all ASEAN member countries, for this reason it is necessary to improve the quality of experts and increase human resources. competitiveness through increasing the competence of the workforce which has an impact on improving the quality and quality of products.

Employment is fundamental in the implementation of AEC 2025, According to data released by the World Economic Forum in the Global Competitiveness Report 2019–2020,

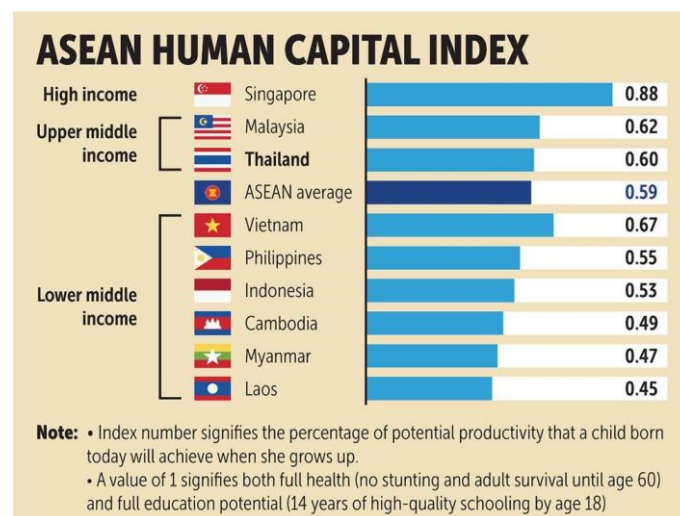
Negara	2018	2019
Singapura	2	1
Malaysia	25	27
Thailand	38	40
<b>Indonesia</b>	<b>45</b>	<b>50</b>
Brunei Darussalam	62	56
Filipina	54	64
Vietnam	77	67
Kamboja	110	106
Laos	112	113

Sumber: The Global Competitiveness Report 2019 KJ/ONES

Gambar 3. ASEAN Global Competitive Index 2020

In the ASEAN region, Indonesia's competitiveness ranking is still lower than Singapore's in the first position, Malaysia in the 27th position, and Thailand in the 40th

position. Indonesia's position is still above Brunei Darussalam, the Philippines, Vietnam, Cambodia and Laos.



Source: World Bank

BKPgraphics

Gambar 4. ASEAN HCI/IPM

The Central Statistics Agency (BPS) recorded the Human Development Index (HDI) as an indicator of Indonesia's human capital level in 2019 of 71.92, higher than the 2018 HDI which was 71.39, but compared to other ASEAN countries, Indonesia's Human Capital position is still lower than Singapore, Malaysia, Brunei Darussalam, and Thailand. Human

Development Index/HDI, Indonesia is ranked 6th in ASEAN and 111th in the world from 189 countries, in ASEAN Indonesia is in the middle rank in this case Indonesia is still lagging behind Singapore, Brunei Darussalam, Malaysia, Thailand, and the Philippines.

Compared to Singapore, Brunei, and Malaysia, for the four indicators consisting

of four main indicators, namely; Life Expectancy, Expected Years of Schooling, Average Length of Schooling, and per capita expenditure adjusted for Purchasing Power Parity (PPP). Indonesia is almost superior in all aspects compared to the Philippines except in terms of average length of education, while compared to Thailand, Indonesia excels in RLS (Average Length of Schooling). There are 12 pillars that serve as productivity references, namely institutions, infrastructure, macroeconomic environment, health and basic education, higher education and training, goods market efficiency, labor market efficiency, financial market development, technological readiness, market size, business sophistication and innovation.

## Literature Review

### The State of Law and Welfare

According to Esping-Anderson (1999), the welfare state basically refers to the active role of the state in managing and organizing the economy which includes the responsibility of the state to ensure the availability of basic welfare services at a certain level for its citizens. In general, a country can be classified as a welfare state if it has four main pillars, namely: (1) social citizenship; (2) full democracy; (3) modern industrial relations systems; and (4) rights to education and the expansion of modern mass education systems. These four pillars are possible in a welfare state because the state treats the implementation of social policies as the granting of social rights to its citizens. These social rights are guaranteed like property rights, cannot be violated (inviolable), and are granted on the

basis of citizenship (citizenship) and not on the basis of performance or class.

The welfare state according to Esping-Anderson et al (2002) refers to an ideal model of development that is focused on improving welfare through giving the state a more important role in providing universal and comprehensive social services to its citizens. In the UK, the concept of the welfare state is understood as an alternative to "The Poor Law" which often creates stigma, because it is only intended to provide assistance to poor people. Unlike the system in The Poor Law, the welfare state is focused on implementing an institutionalized social protection system for everyone as a reflection of the existence of citizenship rights, in vice versa, as the state obligations. The welfare state is aimed at providing social services for the entire population – parents and children, men and women, rich and poor, at its best. It seeks to integrate the source system and organize the service network that can maintain and improve the welfare of citizens in a fair and sustainable manner.

### Liberalization and Regionalism Theory

Adam Smith (in Stiglitz, 2000) views that economic development as a process of economic growth and economic development by utilizing market mechanisms. An economy will grow and develop if the market mechanism works well and perfectly. The conditions needed to achieve economic growth are investment and specialization which are controlled through market mechanisms. The government's role is only to make the market mechanism work well. Therefore,

efforts that must be made by the government are maintaining security, law enforcement, and providing public goods. In terms of the growth process of production, Adam Smith put forward 3 (three) main elements, namely as follows:

1. Human resources, namely the increase in population;
2. An increase in the stock of capital goods (capital accumulation) because public savings are invested by the owners of capital in the hope of making a profit; and
3. Specialization and division of labor accompanied by market expansion and development of domestic and foreign (international) trade.

In addition, Adam Smith argues that government intervention and activities in economic relations with other countries only act as a liaison and guarantee the freedom of transactions of economic actors in their country without discrimination and obstacles. Meanwhile, intervention in cross-territory trade activities must be carried out and suppressed to a minimum. According to Adam Smith, through a free trade system, resources will be utilized as efficiently as possible, than the achievement of welfares will be more optimal.

Conversely, the perspective on legal system has actually provided an optimal protection space for individual freedom to trade based on liberalization. In oversee the trade, every individual is protected and prioritized to respect the principle of freedom, the principle of legal equality and the principle of reciprocity. (Wacziarg, 2008; Dix-Carneiro, 2017)) Aligned with its

function as social engineering and social empowering, the content material can be translated to align the paradigm that is devoted to profit calculation. Thoroughly, justice is the main variable required of individual independence, than the freedom of every economic actor cannot be limited, except in relation to a matter that violates the norms of morality, religion and public order. Even so, a policy, regulation or law is not justified to reduce this freedom.

### **Labor, Employment and Global Development**

Employment is one of the vital supports for all lines of business because currently human resources and labor are the spearhead of the implementation of work and business activities, both traditional and business (gilda) businesses that have been supported by sophisticated technology. Employment law first appeared in Europe as a reaction to the changes brought about by the Industrial Revolution. The invention of the steam engine in England around 1750, opened up opportunities to produce goods/services on a large scale. Prior to that, traditionally, work in agriculture was carried out using a feudalistic system, where workers or laborers worked on land owned by landlords and made a living from the produce of the fields they worked on themselves. Since the Middle Ages, in urban areas work has been localized in small work centres and organized by groups of workers with certain skills who monopolize and regulate certain fields of work. However, the new class of entrepreneurs who have emerged

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demands freedom in order to expand the scope and range of their activities.

The French Revolution (1795) became a symbol of the demands of a new group of modern society that began to emerge, namely the proclaimed necessity of equality for every citizen and freedom of trade. Law at the level of the nation-state is codified into a code of law based on new principles such as freedom of contract and absolute property rights over objects. Unions that were considered to be a legacy of workers' associations into guilds were abolished.

Napoleon spread the new idea of such a law throughout the European continent. However, during the 19th century it seemed that the new freedoms mentioned above could only be enjoyed by a small group of elites who later emerged. The majority of the working community/unskilled laborers are no longer able to enjoy their traditional way of life (which used to be based on agriculture) and are forced to make a living as factory workers. The above freedoms (with respect to freedom of contract and property rights absolute) dramatically imposing a completely different lifestyle on the majority of the working-age population.

### **The Development of Labor Law in ASEAN.**

The term *ius gentium* interpreted as the law of the nations, has been proposed by Cicero since Roman times. The use of the term *ius gentium* in its development often changed until finally the term international law was established. The term of international law was first used by Jeremy Bentham in 1780 to refer to the concept of *ius gentium*.

International law can be seen as "a system of agreements between international actors", namely countries that formulate how relations between countries are carried out in a conducive manner, or in other formulations, international law is said to be "as a body of rules that countries feel an obligation to obey. in".

If international law is connected with the doctrine of state equality which explains that in the perspective of international law states have the same and equal position, this equality of position is a reflection of the existence of a state sovereignty and this doctrine is closely related to the theory of natural law which states that the state by its nature considered as free beings and thus one country with another country has the same position in international law. (Goldsmith & Posner, 2005)

According to Kusumaatmadja (2003), the international law is the whole of the legal rules and principles governing relations or issues that cross state borders (international relations) which are not civil in nature. International law does not have an executive, legislative, or judicial body, but states can submit to the provisions of international law at their will. The submission of a state to international law makes the provisions of international law applicable in public matters that cross state borders or outside state boundaries.

In carrying out the ASEAN economic integration process towards AEC 2025, in accordance with the ASEAN Charter, an ASEAN institutional structure was formed consisting of the ASEAN Summit, ASEAN Coordinating Council, ASEAN Community Council, ASEAN Economic Ministers,

ASEAN Free Trade Area Council, ASEAN Investment Area Council, Senior Economic Officials Meeting and the Coordinating Committee. The initial step of ASEAN's readiness to carry out its economic integration after the enactment of the ASEAN Charter (ASEAN Charter) is the appointment of the Deputy Secretary General of ASEAN for the ASEAN Economic Community (AEC) with the task of overseeing the implementation of the AEC Blueprint, monitoring and facilitating the process of regional readiness to face the global economy, as well as supporting the implementation of initiatives others in the context of ASEAN economic integration

At the initial ASEAN through AFTA became effective in 2008, but after being corrected in September 1994 in Chiang Mai, it was moved to 2003. At that time, AFTA covered various fields of cooperation including: industry, finance and banking, investment, food, agriculture and forestry, minerals, energy, transportation and communications, tourism, services, and intellectual property. The main purpose of implementing the AFTA concept is to increase the volume of trade among member countries (trade creation). This situation was made possible because through the free trade area, import duties (tariffs) on all trade commodities from all member countries were lowered to close to 0 percent. In addition, obstacles that are not caused by import duties, such as the application of import quotas for certain commodities must also be eliminated. The main purpose of implementing the AFTA concept is to increase the volume of trade among member countries (trade creation).

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In the Kuala Lumpur Declaration on November 22, 2015 which focused on the four pillars of the new era of the ASEAN Economic Community 2025, namely 1) an integrated and cohesive ASEAN economy; 2) a competitive and dynamic ASEAN; 3) increased connectivity and sectoral cooperation; and 4) a resilient, inclusive, and people-oriented and focused ASEAN; and ASEAN Global. The AEC Blueprint 2025 will focus on cooperation on empowering micro, small and medium enterprises or MSMEs in ASEAN, electronic commerce (e-commerce), and increasing engagement between the government and the business world to get views and input from business actors in deepening economic integration in the region, as well as increasing connectivity in ASEAN. ASEAN has signed ATIGA, AFAS, and ACIA to ensure the free flow of goods, services and investment in the ASEAN region.

In addition, ASEAN also has an agreement on a Mutual Recognition Arrangement or MRA which aims to facilitate the transfer of skilled workers which so far has focused on 8 (eight) professions, namely technicians, nurses, architects, tourism professionals, accountants, doctors and dentists. These 8 (eight) professions are the focus of employment in AEC 2025, so Indonesian

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professional workers will have enormous opportunities to work in international standard companies spread across all ASEAN member countries, for this reason it is necessary to improve the quality of experts and increase human resources. competitiveness through increasing the competence of the workforce which has an impact on improving the quality and quality of products in AFTA. Hence, The MRA does not equate the automatic recognition of the free movement of skilled workers in the ASEAN region. For other professions, MRAs only lay down the principles and framework for negotiating the recognition and mobility of conditions for professionals on a bilateral or multilateral basis and remain subject to various national regulations.

### **The Development of Labor Law in Indonesia**

According to the mandate set forth in both the 1945 Constitution and the ICESCR, the work obtained must guarantee the basic rights of workers/laborers and guarantee equal opportunity and treatment without discrimination on any basis to realize the welfare of workers/laborers and their families while taking into account the progress of the business world. With the role and position of the workforce, it is necessary to develop manpower to improve the quality of the workforce and their participation in development and increase the protection of workers and their families in accordance with human dignity. This has led Indonesia to ratify the ICESCR through a law.

Human rights are the core material contained in the 1945 Constitution, while the definition of Human Rights in Article 1

point 1 of Law no. 39 of 1999 concerning Human Rights asserts, Human Rights are a set of rights inherent in the nature and existence of every human being as a creature of God Almighty and is His gift that must be respected, upheld and protected by the State, Law, Government and every human being for the sake of honor and protection of human dignity.

In Asshiddiqie's (2010) opinion, human rights are inherent in every human being, therefore human rights are different from the definition of the citizen's rights, but because human rights have been explicitly stated in the 1945 Constitution, they are also officially become the constitutional rights of every citizen or Constitutional Right. Human rights related to the protection of workers are regulated in the 1945 Constitution Article 27 paragraph (2) which emphasizes that every citizen has the right to work and a decent living for humanity, and Article 28 D paragraph (2) confirms that, everyone have the right to work and receive fair and proper remuneration and treatment in an employment relationship.

Furthermore, to realize these concepts, the Government promulgated Law Number 11 of 2020 concerning Job Creation (Omnibus Law), complemented by material in Industrial Relations as a special court regarding legal issues between employers and workers, which is further regulated in Law -Law Number 2 of 2004 concerning Settlement of Industrial Relations. Due to its comprehensive nature in regulating the rights and obligations of employers and workers in Indonesia and the complex object of regulation, the Manpower Act is the law that is most



frequently submitted for judicial review to the Constitutional Court, which resulted in the repeal of several articles and the implementation of several additional regulations and the principles of protection for workers. This is important considering that employment is one of the vital sectors that affects the general welfare of citizens.

Related to the practice of opening a free market by Indonesia with other countries, other international organizations, and especially ASEAN in the MEA, it is also important to pay attention to aspects of developing the quality of the workforce, capacity building, as well as closer consultation and communication. regarding policies in practice, competency standards, qualification systems and licensing of skilled workers both domestically in facing the AEC in Indonesia's domestic competition, as well as Indonesian migrant workers who compete in the MEA free market outside Indonesia, which this is regulated in agreements within the framework under the AEC blueprint.

Certification of skilled workers accompanied by skills training must also be one of the important points that can equip workers to have competence in free market sectors. Specifically for the free flow of skilled labor (free flow of skilled labor), ASEAN countries enforce a mutual recognition arrangement (MRA) for labor competency certificates. Currently, there are eight professional fields that have signed the MRA, namely: tourism, engineering, architecture, nursing, general medicine, dentistry, surveyors, and accounting.

Through the MRA, MEA stipulates that the workforce must meet the competency qualifications according to the collective agreement. The competence of the workforce is indicated by a certificate issued by the respective certification body referring to ASEAN standards. In Indonesia, competency certificates are issued by the National Professional Certification Agency (BNSP). BNSP is the holder of the mandate to implement competency certification based on Law Number 13 of 2003 concerning Manpower and Government Regulation Number 23 of 2004 concerning the National Agency for Professional Certification (BNSP). The role of the government as a regulator is very important in protecting the workforce, especially in preparing skilled workers according to their duties and functions the Ministry of Manpower: formulating, stipulating, and implementing policies in the field of increasing labor competitiveness and productivity, increasing manpower placement and expanding job opportunities, increasing the role of industrial relations and social security for workers, fostering labor inspection and occupational safety and health; coordinating the implementation of tasks, fostering and providing administrative support to all organizational elements within the Ministry of Manpower; management of state property/wealth which is the responsibility of the Ministry of Manpower; supervision of the implementation of tasks within the Ministry of Manpower; implementation of technical guidance and supervision of the implementation of the affairs of the

Ministry of Manpower in the regions; implementation of technical activities on a national scale, in accordance with the provisions of laws and regulations; and implementation of planning, research and development in the field of manpower.

### **The Development of Employment Law in Malaysia**

Malaysia still maintains the tradition of British customary law (Common Law System). This tradition stands in the midst of the Islamic legal system (implemented by the courts or the Syari'ah Court) and the customary law of various indigenous groups. Malaysia has a federal system that divides government powers into Federal Government and State Government. This division of power is stated in the Federal Constitution. Although the constitution uses a federal system, this system operates with great power from the central government. The Constitution as the supreme law.

Recently, there have been a number of significant developments in Malaysian employment laws that regulates the relationship between employers and employees in private sectors. The Employment Act 55. The Employment Act 1955 (Act 265) (the EA 1955) is the fundamental legislation of all labour statutes recently enforceable in Malaysia. The clausula that appears in the Development of Malaysia Employment Law are Enhancing the maternity-related rights; Widening the circumstances under which the employees within the coverage of the EA 1955 may receive advances on wages; Enhancing the security measure of paying employee; Introducing sexual harassment-

specific criminal offences in the workplace; Recognizing the role of contractor for labour in employment i.e. supplying employees and laying down his statutory duties; Extending the liability of employer as a capacity of company to officers of company; Recognizing Malaysia Day as one of the compulsory public holiday; and Imposing report to the DG upon employment and termination of foreign domestic servants.

The Ministry of Human Resources Management is in charge on employment system, under the Prime Minister, parallel to other Ministries e.g Immigration and foreigners. The minister in charge of industrial relations law can file disputes between job providers and trade unions in industrial courts, and the director general of labor can be summoned to resolve disputes over employee salaries. Many laws provide for arbitration, furthermore the arbitration law of 1952 provided regulations for domestic arbitration. There is also a Regional Center for Arbitration in Kuala Lumpur which provides facilities for arbitration of international commercial transactions.

Malaysia is a Federal country with a rigid written constitution, the parliament derives power from the constitution and is divided between the federal and state states. Some of the powers of the Federal Government are foreign affairs, defense, national security, police, civil and criminal law as well as justice procedures and administration, citizenship, finance, trade, commerce and industry, shipping, navigation and fisheries, communications and transportation, performance and power. federal government, education,

health, employment, and social security. The court system is fundamentally federal. Both federal and state laws are enforced in federal courts. Only the state-only Sharia courts, which use the Islamic Law system, along with the indigenous courts in Sabah and Sarawak, deal with customary law. Furthermore, there are also Sessions Courts and Magistrates' Courts.

The high courts and lower courts have jurisdiction and authority governed by federal law and the jurisdiction in all matters relating to the jurisdiction of the

Sharia courts. Some of the state's powers include matters relating to the practice of Islam in the state, land ownership rights, land acquisition obligations, mining permits, agriculture and forest exploitation, city administration, and public work in the interest of the state. There are also several powers that apply simultaneously including sanitation, drainage and irrigation, fire safety, population and culture and sports. When federal law and state law conflict with each other, federal law prevails.

## MATERIALS AND METHODS

The concept of trade liberalization is used as a corridor in determining the pattern and purpose of free trade to become the main system in international trade. Through the concept of liberalization, the author can see the concrete elements of the reasons why then the system has become the main system used by countries in the world in conducting international trade relations. International trade and can be carried out in a regional context in the ASEAN region. Currently, AEC member countries move and work together to advance the regional economy. The existence of the MEA in the ASEAN region is also a means to achieve

optimal and equitable regional prosperity. In this study, the approach method used is socio-empirical, normative juridical and comparative juridical. The normative juridical approach is a problem approach by viewing, analysing and interpreting theoretical matters concerning legal principles in the form of conceptions, laws and regulations, views, legal doctrines and legal systems, and comparative juridical is an approach taken by comparing laws - relating to the formation of regulations on workers both Indonesian workers and Malaysian workers as an effort to implement the AEC.

## RESULTS AND DISCUSSION

### The Analysis

The comparative analysis of labour laws to enhance equal opportunities for them in the labour market. Several issues in regulation, competitiveness, education and

vocational training between Indonesia and Malaysia are described as follows;

### Indonesia

The Regulation Law number 11 Year

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2020 concerning Job Creation and as expected to support the improvement of labour force productivity and competitiveness while also providing protections to employees, so it will create the increased of job opportunities and further development of the Indonesian workforce through productivity and improvement on the investment climate in Indonesia.

The Labor competitiveness Indonesian workers is below that of other ASEAN member countries such as Singapore, Malaysia, and Thailand. One indicator to measure the level of competitiveness of the workforce is the level of education. Indonesia's workforce is indeed very large, but when viewed from the level of education, most of the education level is still low, namely elementary school graduates. In general, the competitiveness of Indonesian workers is still inferior to several other ASEAN countries, Indonesia still has the opportunity to take advantage of the liberalization of the ASEAN labor market, currently Indonesia has regulations on entry and exit of foreign workers. According to Papademetriou et al (2016), that ASEAN member countries aim to facilitate the free flow of skilled workers which is absolutely no prohibition at all and the MEA facilitates the movement of skilled workers to make it easier to be accepted in other ASEAN member countries.

#### Malaysia

The Malaysian government to assure Malaysia remains competitive in attracting investors and at the same time

considerably protecting the rights of the employee. The recent development of the Amendment Act 2012 has widely addressed important issues pertaining to employment. Generally, the principal objective of the EA 1955 as to provide basic protection for workers in private sectors is well enhanced by virtue of these recent amendments (Nazruzila, 2012).

The interrelated factors competitiveness in human resources, are education and human resource development among each other. The high quality education will produce quality human resources It is in line with the suggestion Tun Dr. Mahathir who encourages students to prepare themselves towards achieving Insight 2020 by avoiding being dominated by culture and western values of life that are incompatible with the progress of the country.

According to Islam et al (2016), human capital who wants to be born is in line with the desires of the Malaysian Education Philosophy which is the main basis for state education style. The State Education Philosophy (FPN) which is the principle to the implementation of the education system in Malaysia. According to Zaini (2009), from a scientific perspective, there are three main elements to drive development human capital, namely: (1) mastery of knowledge knowledge to the highest stage; (2) the ability in terms of skills that help the process of science; and (3) development.

#### Discussion

The liberalization of the labor sector in the ASEAN scheme is only devoted to skilled labor. The skilled workers can be

interpreted as workers with special skills or expertise, knowledge, or abilities in their fields, which can come from college graduates, academics or technical schools or from work experience as evidenced by a certificate of competence or diploma. The liberalization of the skilled workforce sector in the MEA scheme is also accompanied by efforts to develop human resources, increase capacity (capacity-building), as well as conduct closer consultation and communication regarding policy practices, competency standards, qualification and licensing systems. Efforts to achieve liberalization of the skilled labor sector in the AEC scheme are carried out by establishing inter-country agreements and frameworks under the AEC Blueprint.

The implementation of the 2015 AEC is a benchmark for the competitiveness of the global workforce, as well as within ASEAN. The current skilled workforce shows an increasing trend and at the same time shows that the share of overseas employment is still a hope for some Indonesians to improve their economic conditions. The 2015 MEA constellation encourages ASEAN countries to prepare to face the share of skilled workforce more seriously. This means that the higher the availability of labor, it will set a positive precedent when it can be absorbed in the regional and international share of work.

The enthusiasm for working abroad is increasing from year to year. The high gap between domestic income and destination countries is one of the considerations for skilled PMI to decide to work, after previously most of them took short courses or training or by utilizing diploma and

undergraduate education levels at several universities in Indonesia and Malaysia.

The competitiveness of skilled workers in the ASEAN region has indeed experienced progressive development since 2012. The existence of a regional free market agenda has made ASEAN countries also seek to prepare themselves to face the latest challenges in the dynamics of skilled PMI. The WTO Consortium in 2015 stated that ASEAN is the world's third largest provider of international employment after the European Union, Middle East and East Asia. Then the share of ASEAN's work is increasingly complex, when the migrant workers in this region not only come from the scope of Southeast Asian countries, but also East Asia, such as Bangladesh, India, Sri Lanka to China. The availability of skilled jobs in the ASEAN region continues to increase from year to year. Facing the 2015 MEA, this increasing trend is still ongoing. The countries with the largest share of work are Malaysia, followed by Thailand, Indonesia, Singapore, and several other countries. Although Thailand has a fairly large share of skilled labor, the country has succeeded in filling this potential for domestic workers.

In facing the 2015 MEA regarding skilled workers, ASEAN countries also apply standardization in the field of mastery of foreign materials and education. Singapore and Malaysia, most of the existing universities have international standards. Meanwhile in Indonesia, there are only a few universities that have obtained the same accreditation certificate. In addition, the minimum period applied in Indonesia to pursue undergraduate education is four

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years, while in other countries such as Singapore and Malaysia, the minimum duration for undergraduate programs is five years. Even if referring to the provisions of the AQR and MRA for the qualification of professional competence, it is five years. In addition to being a factor that affects competitiveness, this situation is also an obstacle for Indonesian workers in obtaining competency recognition. Although to meet the educational standards in AQR and MRA, Indonesia stipulates an additional one-year professional program education period for undergraduate graduates, however, not all scientific fields follow and have the program, this is because the program is not a compulsory education.

Employment in Indonesia, based on BPS data as of February 2020, there are 199.38 million people of working age of which 137.91 million people are in the workforce. The workforce in question is those who are of working age. Based on Article 68 of Law no. 13 of 2003 states that employers are prohibited from employing children, in the provisions of the law, a child is any person under the age of 18 years. This means that 18 years is the minimum age allowed by the government to work. Based on the number of the workforce, the total population with jobs is 131.03 million and another 6.88 million are unemployed. This number of unemployed increased by 0.06 million people when compared to year-on-year (YOY) data as of February 2019. Based on these data, it can be seen that the unemployment rate in Indonesia is 4.99% of the total workforce.

Based on BPS data also, 56.5% of workers are formal workers, or those who

are in business who are assisted by permanent workers/labourers and workers/laborers, while the other 43.5% are informal workers, i.e. non-permanent workers/labor, casual workers, and family workers or unpaid. Data for formal workers increased by 0.77% compared to YOY data.

Furthermore, the agriculture, trade and processing industries are still the top three categories as the main employment sector in Indonesia with a total of 61.76%. The sectors with the ASEAN MRA having percentages include the accommodation industry (which is integrated with food and beverages) at 6.83%, construction at 6.08%, health services and social activities at 1.66%, financial and accounting services at 1,37%.

If the sum is done, the total percentage of the employment structure that can be entered by professionals based on the ASEAN MRA is 15,925 of the total employment opportunities in Indonesia.

When viewed from the welfare point of view, the average income of employees/laborers in Indonesia, as of February 2020, was Rp.2.92 million, with male workers/laborers earning Rp.3.18 million while female workers/labourers earned an average of Rp.2.45 million. The professions in the MRA have incomes above the average salary, with a range of Rp. 2.98 million to Rp. 5.1 million.

Based on GDP per capita, Indonesia ranks 5th among ASEAN countries with USD 4,163. This ranking is below Singapore, Brunei Darussalam, Malaysia, and Thailand, and even Indonesia's GDP per capita is still below the average GDP of the ASEAN community of USD 4,755. Based on these data, it is clear that Indonesia's GDP per

capita is still far below some other countries and even below the average of all ASEAN countries, so that in general professional workers will target countries with higher incomes, such as Singapore, Brunei Darussalam and Malaysia. However, this does not mean that Indonesia cannot compete in the MRA MEA free market, because Indonesia is the largest country in Southeast Asia, both in terms of its area and economy, even the total population of Indonesia reaches 40% of the total population of ASEAN countries. Therefore, basically, Indonesia still has the potential to attract ASEAN MRA professionals to work in Indonesia, on the other hand, MRA professionals from Indonesia also have the potential to fill professional jobs in other ASEAN countries because of the very large number.

However, the professional potential of MRA must also be balanced with strong competitiveness, so that in addition to being able to compete in the domestic employment sector, these professionals can still compete and compete to become MRA professionals in other countries, especially countries with higher incomes than Indonesia. For this reason, Indonesian professional competence must be improved, both at the level of preparation by providing related education and accompanied by training, courses, and other related activities in the level of developing competence and competitiveness.

By looking at the purpose of the enactment of the Manpower Act, the aim of the Governments of Indonesia and Malaysia is to implement a welfare state.

This can be seen from one of the characteristics of the Manpower Law, which is to increase the life security of citizens by eradicating unemployment. In addition to opening employment opportunities in the country by starting to apply the concept of a certain time work agreement, the Government is also committed to creating job opportunities with participation in several free trades, and one of them is within the framework of the MEA with MRA 8 included professions.

Manpower in Indonesia and Malaysia prioritizes the rights and protection of the community, this confirms that until now the manpower sector is classified as private law because it regulates individual relationships, namely between workers/laborers and employers/employers, but the state continues to take affirmative action. (affirmative action) by taking policies that aim to avoid an imbalance in the position of workers/labor, especially those with a low level of education and less skilled and employers/employers who have a higher position which can lead to exploitation and discrimination in the employment relationship. Therefore, in the Indonesian labor regime, there are still arrangements for setting minimum wages, licensing related to employment, settling industrial relations, and applying (criminal) sanctions for violations in the labor sector which are the realization of the Government's intervention in protecting its people.

The Government's focus in their respective countries is on the development and preparation of national higher education. The development is a realization

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towards the harmonization process of continuing education, development of work competencies, education for marginalized people, promotion of basic science and education for knowledge creation. Furthermore, it can be implemented by integrating more into the regional system which will provide wider employment potential.

The development of a new national qualifications framework was initiated and included as one of the priorities through the Ministry of Higher Education in 2015-2016. With that, the government really wants to improve the quality assurance system, especially in institutions and universities through external quality assurance institutions, namely through the ASEAN University Network Quality Assurance (AUNQA) system. This is to ensure that the quality of education is in accordance with regional standard references. However, Indonesia has prioritized issues such as the credit transfer system as it focuses on increasing the number of Indonesian students studying abroad as a starting point towards regional harmonization of higher education in the region.

Although in general the competitiveness of Indonesian workers is still inferior to some Malaysian countries, each country still has the opportunity to take advantage of the liberalization of the ASEAN labor market, currently Indonesia has regulations that regulate the entry and exit of foreign workers into Indonesia. According to Sugiyarto and Agunias, that ASEAN member countries aim to facilitate the free flow of skilled workers which is absolutely no prohibition at all and the

MEA facilitates the movement of these skilled workers to make it easier for them to be accepted in other ASEAN member countries.

The basic thing that the Indonesian people need to know is that only skilled workers are allowed to enjoy the free flow of labor policy in ASEAN which is supported by the Mutual Recognition Agreement (MRA). Currently, there are only eight professions that have been agreed upon in the MRA and signed by ASEAN member countries. In addition to the eight professions, the regulation of labor entry and exit is still regulated by the old regulations according to the policies of each country. So, it is very unlikely that foreign workers will seize domestic job opportunities other than the eight professions.

Eight professions that already have a valid MRA, it is possible that the number of other professions will increase in line with global developments. Even though they already have an MRA, it is not automatic that workers who enter the MRA can freely enter and exit ASEAN countries, there are still requirements that must be met; such as the qualifications required by the receiving country and the qualifications differ between countries. The qualifications of prospective workers about work qualification standards is important in its implementation.

Another reason that can explain the MEA is not a threat to Indonesian employment is that the average income of Indonesian workers is still inferior to several other ASEAN member countries. With such conditions, Indonesia is not the main destination for ASEAN workers. One of the



motivating factors for workers to decide to work abroad is to seek higher wage standards. Countries that are the main destinations for ASEAN workers are, of course, countries that have relatively higher wage standards, such as Singapore, Malaysia, and Thailand.

As a recipient country for Indonesian Migrant Workers, Malaysia does not specifically regulate legislation relating to foreign workers, in Malaysia all workers both domestic and from outside the country who work in Malaysia through a valid employment contract between workers and Malaysia are bound by the provisions of the Employment Deed (law). employment), except for informal workers, the same as Indonesia, Malaysia does not have special legislation relating to informal workers, Indonesian Workers who work in Malaysia as informal workers (unemployed laborers / Domestic Helpers) are not covered in Malaysian legislation, Indonesian labor informants subject to the provisions of the Malaysian immigration rules as a foreign citizen residing in Malaysia for a certain time limit.

Labor-free competition within the AEC framework must be viewed in a positive light. According to the liberalist perspective, competition encourages each party to increase competitiveness. Workers in ASEAN are faced with an era of free competition in the ASEAN labor market which encourages workers and the government to increase competitiveness through training programs or formal education. Increased competitiveness will encourage labor productivity which will directly increase economic growth in

ASEAN.

One of the factors that play an important role in increasing competitiveness is human capital. Several factors in the Global Competitiveness Index are closely related to aspects of human capital, such as basic education, higher education and training, and the labor market. Furthermore, transformation is related to the effectiveness of human capital strategies with business strategies that can increase the company's advantages to encourage change.

To achieve these advantages, research on human capital is more focused on having a relationship with a resource-based view and competitive advantage. Human resource strategy is often seen as a functional plan, not a business plan. Initiatives for recruitment, termination, development, performance or rewards are seen as human resources initiatives. People (workers, personnel or employees) are not called human resources or human assets anymore. Human capital is the knowledge, skills and abilities that organizations need to succeed in acquiring new capabilities and economic technologies. Tom Davenport, a human capital expert, stated that employees' contributions from their capital such as time, energy and thought expect investment development from the company in the form of compensation, development and a comfortable working environment. Human capital is an individual's decision to spend his time, energy and money to invest in education, training and experience. The choice to agree will have an impact on career advancement and income.

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In the journal Ployhart and Moliterno, Ployhart Iddekine and MacKenzie Jr. examine the multilevel model of human capital at the micro and macro levels. In general, the phenomenon of the micro level (individual level) is more about how individuals use knowledge, skills, and abilities as well as other characteristics (KSAO's) related to individual performance. Meanwhile, the phenomenon of performance at the macro-economic level is more of a strategy at the organizational level as a whole by using the resources, experience, expertise, education of employees as resources that can achieve a sustainable competitive advantage.

The approach at the micro level is more cognitive (what can be done) consisting of 4 types, namely knowledge, skills and abilities and experience. The purpose of this approach is how employees use knowledge, skills and abilities and experience on individual performance. While non-cognitive (what will be done) consists of 3 types, namely values, personality and interests.

The concept of human capital is different from general human capital and specific human capital. These two concepts are linked to training that results in human capital investment. In an effort to increase company productivity. Investment in general human capital in the form of formal education and work experience. General human capital relates to skills and knowledge that are easily applied to economic conditions.

Specific human capital is oriented to managerial, entrepreneurial, and technical abilities as well as business founders/entrepreneurs. Specific human

capital is not easily transferred and applied usually applies to companies/organizations. Generic human capital is defined as human capital resources that can be transferred in various types of companies while specific human capital is defined as human capital resources as resources related to certain units and have little relationship with other units by creating something that cannot be imitated and replaced. Both concepts of human capital are expected to be able to create a sustainable competitive advantage. The relationship between the two is a cause-and-effect relationship where generic human capital causes changes in the creation of specific-generic human capital that contributes to changes in performance and effectiveness.

According to Ployhart, generic human capital is based on all Knowledge, Skills, Ability & Other Personal (KSAO) including personality and cognitive abilities. Generic human capital does not directly affect economic changes, while specific human capital determines the company's performance based on a resource-based view.

Ployhart's research model is generic human capital which has a relationship with specific human capital. Specific human capital that has behavior towards effectiveness. The variables used in this study consist of generic human capital cognitive (knowledge, skills, cognitive ability experience) and non-cognitive (personality, value and interest), while the specific dimension of human capital is more about specific knowledge, skills, abilities and experience.

In the era of open and competitive

markets, almost all countries will open access to multi-sector operations openly, this results in competitive competition in all lines, especially competitive competition in the development of human resources, especially in the education sector, especially in technology and vocational education.

The process towards harmonization of higher education in ASEAN will still continue. The national quality assurance and qualifications framework, both at the national and regional levels, will be the leading mechanism providing reference points and guidelines for the improvement of higher education in the region. Curriculum revision will still be the responsibility of higher education institutions without much interference by the central government, especially in liberal countries. On the other hand, the credit transfer system and concrete policies towards lifelong learning will still require more debate and implementation at the regional level. The development of reference points in these areas and mechanisms clearly demonstrates the common determinants of success, namely, policy direction from government, involvement of higher education institutions, and support from regional organizations.

There are several things that can be done to increase the competitiveness index, such as making related policies so that there is a legal umbrella for regulations; the existence of equal opportunities in improving the economy that will be directly proportional to opportunities and access to employment

opportunities; fostering healthy work competition that will result in innovation and better product quality; and the existence of an adequate social protection system.

The new economic agenda is needed that incorporates environmental, social and economic growth goals that are recognized by all stakeholders at the advanced level in developing countries. The challenge is that such implementation requires an ambitious agenda. Transitioning to a new development path will require significant efforts, bold policies that are capable of and resolve some existing and potential problems. All stakeholders such as policy makers, business leaders and civil society need collaboration to do this and collectively take full responsibility to adopt policies, practices and behaviors that are aligned with the goal of achieving broad prosperity, prosperity and sustainable development.

Currently, many parties still doubt that the liberalization of the ASEAN service sector along with the implementation of the MEA will benefit Indonesia and Malaysia. The existence of the MEA is not always beneficial for the Indonesian people because of the limited aspects in the aspect of human resources. It is important to note that with the entry into force of the AEC, there has been an agreement that there are 8 employment or professional fields that are open to the ASEAN community market. These fields are: engineers, architects, nurses, surveyors, tourism workers, medical practitioners, dentists, and accountants. This means that with this agreement all ASEAN people can work in any country in

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the ASEAN region as long as they meet the quality standards set by each of the 8 professional associations. For example, an Indonesian engineer can work in Singapore or Malaysia with the stipulation that

## CONCLUSIONS

The development of the quality of Indonesian human resources within the framework of the ASEAN Economic Community can be carried out by the Governments of Indonesia and Malaysia by preparing themselves in ASEAN to increase the competitiveness of their human resources. In the context of the eight professions belonging to the MRA, the data shows that the number of certified workers in Indonesia is still low compared to other ASEAN countries. In terms of quality, several professions have standards below the ASEAN average. In addition, there are still differences in standards between one ASEAN country and another. In terms of education, both Indonesia and other ASEAN countries have shown their political will to reform the curriculum and develop a framework for qualifications, quality assurance, lifelong learning, and credit transfer systems.

The competence of workers in each country based on the perspective of Labor Law in supporting the ASEAN Economic Community has been carried out by the Government in their respective countries by carrying out a competency standardization for workers in the form of . SKKNI with BNSP as the organizing body can be used as the main tool and institution in forming Indonesian workers who are competent in their fields and have competitiveness. In

Indonesian human resources are equal to the quality of engineer human resources in Singapore or Malaysia, with the reference used is the quality of education which is the main factor.

the context of the ASEAN MRA, the expansion of the scope of the SKKNI and BNSP can be carried out and adjusted to the ASEAN MRA standards so that Indonesian workers can be certified regionally and internationally and have the required competitiveness at that level. Promotion of ASEAN programs, particularly those related to MRA, can also be carried out by the Government to encourage the knowledge and desire of Indonesian workers to participate in the ASEAN MRA by inserting them into related Government movements and work programs.

The concept of regulation of Indonesian Manpower Law in increasing the competitiveness of Indonesian workers in the ASEAN Economic Community is carried out through programs launched by the Government that are good in encouraging competitiveness, but have not been integrated with one another. For example, pre-employment programs and competency standardization programs. In fact, this integration is important in terms of increasing competitiveness. Program integration can be carried out if it is stated in a regulation in the form of a government regulation that regulates the job training system. This is because the current regulations are not yet integrated with one another. An integrated regulation will show the direction of program integration and its

binding strength will have a good impact on increasing the competitiveness of the workforce. In addition, cooperation between ASEAN member countries is also needed to increase protection for workers who compete in the ASEAN MRA.

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