

**JOINT STAKEHOLDER REPORT  
INDONESIAN CIVIL SOCIETY ORGANIZATIONS  
ON THE LIST OF ISSUE PRIOR TO SUBMISSION  
OF THE INITIAL REPORT OF INDONESIA**

**TO THE COMMITTEE ON THE PROTECTION ON THE RIGHTS OF ALL MIGRANT WORKERS AND  
MEMBERS OF THEIR FAMILIES**

**27<sup>th</sup> SESSION (4 - 13 SEPTEMBER 2017)**

**SUBMITTED BY:**

SERIKAT BURUH MIGRAN INDONESIA (INDONESIAN MIGRANT WORKERS UNION) | LBH JAKARTA (JAKARTA LEGAL AID INSTITUTE) | JARINGAN BURUH MIGRAN (MIGRANT WORKERS NETWORK) | MIGRANT INSTITUTE | MIGRANT CARE | SOLIDARITAS PEREMPUAN (WOMEN'S SOLIDARITY FOR HUMAN RIGHTS) | LPBH FAS (LEGAL AID AND AWARENESS INSTITUTE OF PROSPEROUS JUSTICE FORUM)

**COORDINATED BY:**



**INDONESIAN NGO'S COALITION FOR  
INTERNATIONAL ADVOCACY**

## **I. Report Preparation**

1. This alternative report was prepared by Indonesian CSOs working on migrant worker issues through a series of consultations and meetings: led and facilitated by the Human Rights Working Group (HRWG) Indonesia as the Migrant Workers Network Presidium (JBM) for the advocacy of the issue of migrant workers in ASEAN and the UN, joined by the Migrant Workers Union Indonesia (SBMI), Migrant Institute (MI), LBH Jakarta, LPBH FAS, Solidaritas Perempuan (SP), and Migrant Care. The initial meeting was held on 28 April 2017 in Jakarta to discuss the list of issues. The next meeting was held on 4 and 9 August 2017 in Jakarta to respond to the answers to the list of issues and to finalize the alternative reports.
2. This alternative report responds to the list of issues that was given by the Committee on the Migrant Workers Convention on 24 May 2016 to the Indonesian government.

## **II. General Information**

3. The Impact of the Migrant Workers Convention on National Policy in Indonesia. The following impacts of the Migrant Workers Convention on improving national policies in the revision of Law No.39/2004 include: i) The freedom of association rights for migrant workers and members of their families; ii) An effort to limit the role of Private Placement Employers (PPTKIS); iii) Education and training are the responsibility of the government; iv) An extension of administrative services down to the village level (including information authority, data collection, and case handling referral); v) The existence of social security managed by the government; vi) The strengthening of labor attachés to provide services for the fulfilment of migrant workers' rights, such as legal aid and employment dispute cases to the facilitation of immigration documents; vii) One-stop integrated services (eg. in East Java Regulation No. 4/2016 and West Nusa Tenggara (NTB) Regulation No. 1/2016); viii) The regulation of the institutions that take care of migrant workers by clarifying the role of legislators and executives.

### **Questions:**

- 1) Explain the job and role of Agency for the Placement and Protection of Indonesian Migrant Workers (BNP2TKI) and the Minister of Manpower in the improvement of national policies?
- 2) Who is the promoter of education for migrant workers, whether in government or private sectors, and explain the policy of financing the placement of migrant workers abroad.
4. Related to Law No. 21/2007 on the Eradication of Crime of Trafficking in Persons, the Attorney General's Office or Supreme Court is making Standard Operating Procedures (SOP) on the implementation of restitution for victims. Currently, the determination of the executing agency is still being discussed by the government.

**Questions:** What are the obstacles in the implementation of Law No.21/2007 on the Eradication of Trafficking in Persons (TPPO)?

5. The efforts made by the government to harmonize conventions with laws or policies include the DPR and the government's drafting of a bill to replace Law No.39/2004 on the Placement and Protection of Indonesian Migrant Workers Abroad. Both designs were then harmonized, including harmonizing input from CSOs. The current position has been discussed per section and is still among the Formulating Team after being discussed at the Hearing Meeting (RDPU) over and over again.
6. The memorandum of Understanding (MoU) between Indonesia and the destination country prior to the ratification of the convention does not contain the protective principles as in the conventions such as the MoU between Indonesia and Malaysia, Kuwait, Jordan and the UAE. The MoUs agreed by the destination countries after the ratification of the convention have also not adopted the contents of conventions such as the MoU between Indonesia and Saudi Arabia. The

Government actually issued a moratorium through Ministerial Decree No.260 / 2015 on the prohibition of placement of Indonesian workers abroad on individual users in Middle Eastern countries that cause female migrant workers to go to work without official procedures including documents.

**Question:** How is the MoU with destination countries Malaysia, Taiwan and Hong Kong implemented, and how does the Indonesian government explain the placement of migrant workers in a country that does not have an MoU with Indonesia?

7. The policies and strategies relating to migrant workers and member families in the form of legislation are not available because they are still under discussion at this time. Policies are through the draft of National Long Term Development Plan (RPJMN) and Nawacita, affirming the protection of migrant workers. Policies through the RPJMN and Nawacita have not been fully implemented by the government, especially for migrant workers and domestic workers. Desmigratif (Policies by the Ministry of Manpower were implemented at the village level (100 villages from target of 500 villages in 50 districts). Desmigratif is a productive migrant village program that provides information services, data collection, education, empowerment (small business development for ex-migrant workers and member families according to village potential), and case management.

**Question:** How is the evaluation of the Desmigratif program, is there any increase in capacity for the village apparatus for the implementation of Desmigratif program?

8. Ministries or Institutions responsible for intergovernmental coordination regarding the implementation of the Convention in Indonesia:
  - a. Ministry of Manpower and Transmigration. The Ministry of Manpower is tasked with taking care of migrant workers under the Directorate General of Manpower Placement Development (Binapenta) with their main duties and functions being: i) formulating policies on financing for migrant workers, ii) monitoring the migration process of migrant workers. The Ministry of Manpower has shaped the Directorate General of Binapenta, which was developed with the Expansion of Employment Opportunity and Directorate of Placement and Protection of Overseas Workers. The Ministry of Manpower, through the Directorate General of migrant workers' training and productivity (Binalattas), provides funding for education in the Training Center (BLK) except those whose operations were taken over by the local government.
  - b. The Ministry of Foreign Affairs with their main duties and functions being: i) preparing the formulation of citizen protection policy in Indonesia Indonesian law and jurisdiction abroad including provision of legal aid, ii) consular supervision, iii) harmonization of bilateral, regional, and multilateral policies.
  - c. The Ministry of Women's Empowerment and Child Protection (KPPA) with their main duties and functions being: i) establishing modules for the prevention of trafficking, ii) conducting economic reintegration activities in collaboration with CSOs and KPPA at the district level, iii) coordinating TPPO task forces across ministries and agencies.
  - d. BNP2TKI with their main duties and functions being: i) establish a one-door integrated service in several regions of Indonesia; ii) establish policies and become the implementer of the G to G placement program to Korea, Japan and Taiwan; iv) become the operator of migrant workers deployment; v) receive complaints for the migrant workers case through the crisis center.
  - e. The Ministry of Social Affairs with their main duties and functions being: i) repatriate deported migrant workers from the Indonesian territory to the migrant worker's home town; ii) create modules and activities for the reintegration of migrant workers in cooperation with existing social services; iii) to recommend sick migrant workers to The Health Care and Social Security Agency (BPJS Kesehatan) participants with beneficiaries schemes, iv) form the House Trauma Protection Center (RPTC) for women and children of exploited migrant workers.

- f. The Ministry of Village with their main duties and functions being the provision of training through BLKs, providing information and data, as well as case referrals.
- g. The Ministry of Transportation's main duties and functions: i) qualifying, issuing seafarers' certificates to prospective Anak Buah Kapal (ABK), ii) protecting migrant workers especially ABK.
- h. The Ministry of Justice and Human Rights with their main duties and functions being: i) control the protection of migrant workers at home and abroad, ii) provide protection and facilities for immigration detention and residence of migrant workers at home and abroad.
- i. The Ministry of Education and Culture with their main duties and functions being: i) providing education for domestic children migrant workers, ii) providing educational certification to domestic and foreign migrant child domestic workers.
- j. Ombudsman RI with its main duty and function being to improve public service.
- k. The Information Commission with its main duty and function being to ensure transparency of information.
- l. The Employment Agencies of the Employment Guarantees with their main duty and function being to principally provide social security insurance compensation to migrant workers.

**Questions:**

- 1) In carrying out its mandate, has the government provided staff and resources for the monitoring of its activities and follow-up procedures allocated for that purpose to promote, protect, and fulfil the rights of migrant workers and family members under the Convention?
  - 2) What is the coordination mechanism between government agencies for harmonizing protection under the Migrant Workers Convention?
9. Data on regular and irregular migrant workers including data on different departments across agencies. The following are issues related to the return of regular and irregular migrant workers experienced by migrant workers: i) one-sided dismissal, examples of mass layoffs PT Bin Laden Group; ii) lack of documentation, repatriation from Malaysia; iii) overstay, amnesty granted in Saudi Arabia; iv) exploitation of the crew of the Fisheries on board the vessel of Taiwan; v) unpaid wages; vi) violence; vii) over-charging; viii) falsification of documents; ix) trafficking; xi) placement to illicit countries (eg conflicting states).
10. The government has made several attempts to collect the data of migrant workers such as: i) creating Information and Documentation Center (PPID - Pusat pelayanan Informasi dan Dokumentasi) in each institution; ii) collecting and presenting data from foreign workers' computerization systems (Sisko TKLN); iii) creating PPID website; iv) providing information through Desmigratif in 50 villages; v) providing information through the Final Dispatch of Departure (PAP) but with limited delivery time of only 45 minutes with thousands worker candidates and different destination countries.

**Questions:**

- 1) What can be done to harmonize data of regular and irregular migrant workers between government institutions?
- 2) What is the mechanism of presentation and data processing of regular and irregular migrant workers conducted by the government so far?
- 3) What does the state do to collect data, and what are the ways in which to convey information to the public?

11. The role and mandate of Indonesian National Human Rights Institution (Komnas HAM) for the protection and supervision of migrant workers and members of their families. During this time the cases of migrant workers are not the focus of handling at Komnas HAM. Komnas HAM only records the problems of human rights violations experienced by migrant workers (compiled). The types of problems experienced by migrant workers and recommendations made by Komnas HAM are not mentioned in detail. Thus, the reader of the report is less understanding of the implications and impacts of Komnas HAM.

**Question:** What has the government done to encourage the engagement of Komnas HAM in cases of human rights violations of migrant workers?

12. Steps that have been taken by the Indonesian government to promote and publicize the Convention among others: i) translating conventions, ii) socialization of conventions on a limited basis, iii) Ministry of Foreign Affairs conducting the socialization of conventions through public aspirations by SBMI in July 2017, West Nusa Tenggara.

With regard to national migrant workers working abroad, there is no sustainable roadmap made by the government for the promotion and training of the rights of migrant workers and their families. There is only limited activity such as KPPA to make the module of mental reinforcement of prospective migrant workers abroad. One of the national and international law matters is presented in the try out module (150 people).

**Question:** What programs have Ministry of Manpower and Transmigration done to promote and socialize the Migrant Workers Convention? Considering that Ministry of Manpower and Transmigration is a leading sector in labor and migrant worker issues.

13. Interactions between the Government of Indonesia, CSOs and other social partners working on migrant worker issues particularly related to the implementation of conventions have been established through the following efforts: i) Ministry of Manpower and Transmigration invites CSOs to socialize the ratification of conventions; ii) the ILO facilitates bilateral-national meetings between Indonesia-Malaysia and facilitating the tripartied ASEAN Forum migrant labor (AFML) meeting, iii) The Ministry of Foreign Affairs held a meeting for the formulation of the protection of fisheries crew, iv) BNP2TKI facilitated tripartied meeting in December 2015 for zero recruitment fee; v) Ministry of Manpower and Transmigration invited CSO to request revision of the Law No.39/2004, vi) The Minister of Manpower invited CSOs to request input for revision of the Law No.39/2004, vii) The meeting of the minister of manpower, Ministry of Foreign affairs, Ministry of Transportation, Ministry of Home Affairs to discuss improvement of protection policy of fisheries crew (the result is the mechanism of placement and protection of crew submitted from Ministry of Transportation to Ministry of Manpower and Transmigration), viii) Ministry of Marine and Fisheries issued regulations on training standards for fisheries crew.

**Question:** Until now there has been no regulation of the Fisheries Crews, so what is the government's plan to fill this legal void?

14. With regard to private recruitment in Indonesia recruiting migrant workers abroad and the laws and regulations governing them, private recruitment agency (PPTKIS) only provides information on overseas jobs that are submitted through the middle man, and this information is not validated by the government. In addition to that, PPTKIS is also required to have a training unit. Unfortunately, there is no standard for training, no curriculum, and no supervision. In the case of a competency test, the institution issuing the certificate does not act objectively, hence it cannot provide information on which aspects of PPTKIS is correct or not. This refers to Law No.13/2003 on employment regulations about the agency (outsourcing).

The PPTKIS/agency and the user (the employer) are not responsible for the mandate of the placement and the employment agreements. When there is a dispute between the migrant worker and the employer, the PPTKIS/agency does not favor the migrant worker. In the case of repatriation due to death, the constitution obliges PPTKIS to repatriate migrant workers to their home countries, inform their families, and seek information on the cause of their death. PPTKIS

never communicates information on the rights of migrant workers and their exploitative employment situations or human rights violations. To this point in time, PPTKIS has never been involved in any tripartite meetings. The government is miss-targeted by involving Indonesian Employers Association (APINDO) because PPTKIS/agency is not only APINDO.

**Questions:**

- 1) When will the Indonesian government ratify ILO Convention 181 on the Employment Agency, and how will the Indonesian government establish a case-resolution mechanism with PPTKIS? Can it involve quasi trials similar to the tax court?
  - 2) Mention the existing problems in the PPTKIS list?
15. Regarding the regulatory and supervisory mechanisms of private agencies to avoid situations in which the agency may act as an extension of the recruiters, the government through BNP2TKI provides complaint services through the 08001000 hotline, online complaints, and direct complaints, but unfortunately this facility is not maximized. Along with that, Directorate General of Binapenta, Ministry of Manpower and Transmigration receives any direct complaints, and there is a one-door Ministry of Foreign Affairs service with BNP2TKI. However, the Ministry of Foreign Affairs does not have much authority in deciding, and the timing of the settlement is unclear.
  16. With regard to insurance for migrant workers within the disabled minority, are susceptible to the risk of death, or in need of financial assistance, if any limbs are injured or accidents occur from PPTKIS. PPTKIS only facilitates the insurance of the migrant workers, but the migrant workers are forced to bear or pay for their own insurance. However, not all migrant workers are included in this insurance program (there are migrant workers leaving without insurance). The transition from insurance to social security at present does not necessarily protect migrant workers from risks to the diverse issues migrant workers face.
  17. For the application of migrant workers' conventions in terms of administration, the Government of Indonesia has the Regulation of the Minister of Manpower No.22/2014 on the Implementation of the Placement and Protection of Indonesian Overseas Workers, but they have yet to consider Law No. 6/2012 on the Ratification of the Migrant Worker Convention. Currently Law No. 39/2004 on the Placement and Protection of Indonesian Migrant Workers is still in the process of revision. In 2017, the bill entered the national legislation program and has brought the ratified migrant workers' conventions into consideration.
  18. In the context of irregular migration, the government has the Minister of Foreign Affairs' Regulation No.4/2008 on Citizen Services, although this is currently in the process of revision to adapt to the conditions of citizens abroad, especially for undocumented migrant workers. In fact, there is an overlap between ministries and agencies in making policies concerning irregular migration. The Social Ministry defines irregular migration as concerning a troubled migrant worker. Meanwhile, the Ministry of Manpower and Transmigration calls it a non-procedural migrant worker, and the Ministry of Foreign Affairs calls it a citizen having legal problems abroad. Meanwhile, this overlap is not accompanied by good collaboration, mainly regarding the distribution of budgets.
- Question:** What efforts have been made to deal with irregular migrant worker cases, and how can we avoid overlap between inter-agency authorities?
19. Relating to the National Agency for the Placement and Protection of Indonesian Overseas Workers (BNP2TKI) as the institution responsible for overseas employment administration, this agency has been performing well in terms of information disclosure. Types of cases and complaints have been clearly and easily downloaded from the BNP2TKI website. On the other hand, this information is difficult to analyze due to its non-systematic presentation. Moreover, government justification of completed cases needs to be investigated further, primarily in regards to rights that have been violated.

BNP2TKI has provided crisis centers as a complaint center for legal aid mechanisms, be it complaints online, through a hotline, and offline. However, crisis centers are being undertaken by third parties while their mediation efforts are resolved, even though the cases experienced by migrant workers are criminal cases. On the other hand, elements of a police force are available in those institutions, albeit not in the field of investigation. This will disregard the principle of revenge and violence for the perpetrator within the principles of criminal law. Hence, the perpetrator will be able to easily repeat his actions toward the migrant worker.

**Question:**

- 1) Why is the crisis center built by BNP2TKI not being trusted by the public?
  - 2) Has the work of BNP2TKI sufficiently responded to the need for justice for migrant workers?
  - 3) What is the Indonesian government's standard for providing legal assistance to migrant workers?
  - 4) Is this an effective way to resolve the case of migrant workers?
20. With regards to compensation and redress mechanisms for migrant workers who have experienced a human rights violation, the government has been demanding PPTKIS to pay compensation for these violations. There is compensation for troubled migrant workers, but the nature of this compensation is not targeted well despite the fact that the government has data on migrant workers in trouble. The government is still reluctant to reach out once more for compensation.
21. Regarding the remedy mechanisms for migrant workers, there has not been clear and sufficient information from the government despite the actual remedy mechanism being available. For example, the reporting of all forms of violations committed by the government to Komnas HAM or remedy mechanisms for poorly working public services to the Indonesian Ombudsman. However, the information channel is still not being reached by migrant workers. In addition, recommendations on both institutions are still not as effective in improving services to migrant workers.

**Question:** How can we overcome the problem of compensation that is targeted inaccurately due to minimal data?

## **II. The implementation of Articles in the Migrant Workers Convention**

### **Article 7**

22. With regard to discrimination against migrant workers, in practice there are many discriminatory acts by the government, such as protection services for documented and undocumented migrant workers. They are most certainly distinguishable in terms of legal aid. In fact, they work together, but when they experience labor problems, the government is reluctant to provide services, especially to undocumented migrant workers. A range of issues cause them to become undocumented—one of the main ones being the poor service of legal documentation of migrant workers.
23. In relation to cases involving racism, xenophobia, and discrimination, Indonesia has ratified the Convention on the Elimination of All Forms of Racial Discrimination (CERD) through Law No. 29/1999, in order to abolish racial and ethnic discrimination. Often times, though, governments upload racist hate speech against foreign workers from China who work in Indonesia. This treatment is not in line with the efforts made by the government in responding to the racism and hatred towards Indonesian migrant workers abroad in destination countries. The government should try to campaign with a positive message to all citizens in the destination country to prevent the spread of hate speech and racism to Indonesian migrant workers.

## **Article 8-15**

24. With regard to cases involving domestic slavery, forced labor, and sexual exploitation, the Indonesian government has Law No.21/2007 on TPPO. However, attempts for the prosecution of the perpetrators in TPPO cases have only occurred in very few cases. There are several different interpretations for law enforcement in view of TPPO. Cases of migrant workers often refer to Law No.39/2004 as a referral to investigation and prosecution despite the cases in question being a TPPO case. The implications of the efforts made by law enforcement include lowered demands and the victims of TPPO's loss of restitution rights.
25. A case study under the above context is the case of the 74 ABK migrant workers handled by SBMI, which, since 2014, has not experienced any progress towards settlement. In fact, the case was discontinued by the police on the grounds of lack of evidence.

## **Article 25-30**

26. In relation to the protection of the remuneration and working conditions of migrant workers, there are provisions on minimum standards for domestic workers in Malaysia (RM 900), with RM 50 per day in the construction sector, RM 900-RM 1000 in the agricultural sector in Singapore, Hong Kong SAR, Taiwan, and Saudi Arabia. There is also an increase in wages from minimum standards, such as that in Singapore, Taiwan, Hong Kong, and Saudi Arabia. However, there has not been equal treatment between migrant workers and local workers in destination countries in terms of social access, such as health services, access to legal aid agencies, and other social accesses.
27. In addition to that, there is a gap between the president, foreign minister, and the ministry's overseas consular staff regarding the political direction of the implementation of migrant worker protection services abroad. For example, the president and the foreign minister have a strong policy on the protection of migrant workers abroad, but the policy has not been able to be implemented and is even considered a heavy burden by the consular staff.
28. Migrant workers have already been included in the National Security Social System, also called SJSN, which is managed by the Social Security Administrator for Health and Employment, also known as BPJS Ketenagakerjaan. However, the mechanism that regulates frequent risks faced by migrant workers is not regulated in the National Security Social System. These risks, for instance, include unilateral layoffs, moving to another employer, and problematic repatriation. Given this condition, the government should make a policy specifically on the social security of migrant workers because of the precarious condition they often experience.
29. The Indonesian government has not ratified ILO Convention 189 concerning Decent Work for Domestic Workers; furthermore Indonesia has not made any regulations on domestic workers. Indonesian CSOs keeps pushing the Indonesian government to ratify the convention and adopt the regulation on domestic workers in accordance with the recommendation of Universal Periodic Review of the Indonesian government report, which ratifies ILO Convention 189.
30. In relation with the child rights of undocumented migrant workers or in irregular situations, the Indonesian government has made no efforts to ensure the protection and fulfilment of the child rights of undocumented migrant workers. In some cases, children who were born in destination countries, such as Malaysia and Saudi Arabia (and other Middle Eastern countries) face difficulties in obtaining birth certification, thus they are placed in a stateless status. Aside from that, those children are at risk to lose their rights to education, health care and service, and other social rights.
31. Moreover, the children of migrant workers who were brought to Indonesia by parents who lack proper marital documentation will find it hard to obtain a birth certificate because they cannot fulfil the requirement of providing a marriage book, family card, and citizen card. Many migrant child laborers are found in palm oil plantations in Sabah, Malaysia.



32. The Indonesian government has not been able to negotiate child rights to education for migrant workers' children in destination countries. This can be seen in the children of migrant workers in the destination country of Malaysia, who face challenges in being accepted in formal schools to earn their educational rights. This happens to both documented and undocumented migrant workers. Many migrant workers' children in Malaysia lack access to Community Learning Centers (CLC). In some cases, the CLC initiative is undertaken by the Indonesian community overseas. However educational facilities for CLC have not received any support from the Indonesian government. Meanwhile, the Indonesian government has not taken any serious commitments to provide those rights.

#### **Article 31-33, Article 46-48**

33. The Indonesian government has not provided a remittance policy until this moment; remittance management and mechanisms are organized by private sectors. In addition, the conventional banks owned by the Indonesian government are carrying out their remittance product independently, and this has not benefitted migrant workers. Otherwise, the remittance cost from conventional banks is higher than other remittance agencies.

34. The Indonesian government interprets remittances only based on the value of money, although broader definitions include socio-remittance aspects—namely discipline, skills, experience, or expertise—which are obtained in destination countries. However these potencies have not been managed properly by the Indonesian government. A total remittance of Indonesian migrant workers in 2016 was USD 8.860 billion.

35. Recently, the Indonesian government legalized a custom policy through the Regulation of Finance Ministry No.188/PMK/04/2010 on imported goods brought by passengers, carrier crew, cross border people and shipments, which has not been understood by migrant workers. When they return to Indonesia and bring goods from overseas that amount to more than USD 250, they should settle its tax first or else it will be kept by custom officials. However, custom officials do not inform migrant workers how they can retrieve their belongings after the settlement.

36. Many migrant workers who are generally working in the domestic sector cannot access remittance agencies to send their money. This is because important documents have been lost or are being held by their employer. Moreover, their employers restrict them from having days off and going outside, making it more difficult for migrant workers to access remittance agencies. The Indonesian government has not taken enough measures to provide education on financial planning and remittances to migrant workers, as well.

#### **Article 37**

37. With regard to the socialization of safe migration in the migrant workers' home villages, the Migrant Care Research findings of 2017 show that 80% of information about work abroad is obtained by prospective migrant workers from sponsors, agents or brokers. The socialization of secure migration is mostly done by civil society organizations to migrant workers' origin villages through various programs from the Village for Migrant Workers' Care (Desbumi).

38. The village administrator allocates education, protection, and empowerment programs for migrant workers through society empowerment schemes outlined in Law No. 6/2014 on the Village. Aside from that, the government conducted the integration of population data through the electronic identity card system (e-KPT). This effort was partially made to prevent the forgery of documents. However, the government has not maximized the role of the village on its authority, such as collecting data for migrant workers, official recruiters, or authorities concerning the license of the recruiter before recruiting citizens from a particular village.

#### **Article 40-41**

39. In terms of freedom of assembly and association, the Indonesian government has not been able to ensure that the destination countries undertake and fulfil the rights of migrant workers to affiliate with local migrant worker unions. The Indonesian government only records data of migrant workers as communities without providing training and consultation on the existence of migrant workers. Those communities are only treated as mediums for socialization, have no legality, and are still primordialistic based on the identity of regional origin, religion, ethnicity and other identities.
40. Furthermore, the rights to elect and be elected, especially rights to elect the legislative and presidential candidates, are still restricted. This is because of fraud by the election administrator. Migrant workers' votes overseas are included in the Jakarta II electoral district (as well as Central and South Jakarta districts). Migrant workers' votes have yet to become an independent electoral district; hence their voice is often ignored. When members of legislation have recess, they do not visit their constituents, which are migrant workers overseas. In addition, migrant workers' votes are ignored in local elections, specifically the gubernatorial, mayoral, and regent elections.

#### **Article 49**

41. In relation with remunerated activity which can be freely chosen by migrant workers, the Indonesian government allows employers in Malaysia to hold on to their migrant workers' documents instead of the migrant workers themselves. This is mentioned in the MoU between Indonesia and Malaysia in 2012. The MoU has expired since May 2016, and there is still debate on the renewal of that memorandum, which remains unfinished until this moment.