

**Written Submission
Coalition of Indonesian Migrant Workers Unions**

**Regarding Implementation of the International Convention on the Protection of the Rights
of All Migrant Workers and Members of Their Families in Indonesia**

**Submitted to the
UN Committee on the Protection of the Rights of All Migrant Workers and Members of
Their Families in Indonesia**

**Prior to the review of Indonesia during the 27th Session of the Committee
(4th September –13 September 2017)**

2017

Introduction

1. This report is written by the coalition of migrant workers unions and societal organizations that work together with the migrant workers of Indonesia in several countries, such as Malaysia, Hong Kong, Singapore, Macau, and Saudi Arabia.¹
2. The information in this report is compiled from data on the cases and complaints that have been received and handled by migrant workers' unions and escort agencies, but also taken from surveys, research, and some consultations done by members of the migrant workers' unions and related parties.

Issues of Concern

Violations and exploitation experienced by Indonesian migrant workers

3. Indonesian migrant workers still experience many violations and form of exploitation. The violations experienced by migrant workers include discrimination, violence (physical, psychological, sexual), trafficking in Persons, deportation, and criminalization. The forms of exploitation experienced by domestic migrant workers include long working hours, the absence of holiday and leave entitlements, heavy workload, inadequate and inhumane accommodations, and underpayment. Forms of discrimination experienced by migrant domestic workers include lower wages in comparison with other types of work, their passport or personal documents being held by the employers/agents, and limitations on mobility and the rights to socialize.
4. The female migrant workers who experience sexual abuse, violence, and working accidents are usually sent back to their countries with illnesses and disabilities. They are discharged without any adequate and comprehensive help. This does not only affect the social and economic lives of the workers but also affects their families who depend on them since they suffer the loss of economic resources.

Recommendations:

- Indonesian government should improve efforts by law enforcement to resolve the cases of violations and exploitation experienced by migrant workers, ensuring that the impunity of perpetrators and exploitation by private employment agencies are eradicated in order to avoid the repetition of criminal cases by the same perpetrators.
- During pre-departure training, the Indonesian government should provide materials/information about the mechanism for complaints or for reporting the types of cases often experienced by migrant workers in their destination countries.

¹ Indonesia Migrant Worker Union (Serikat Buruh Migran Indonesia -SBMI), Indonesia Migrant Worker Union Hong Kong (IMWU Hongkong), Indonesia Migrant Worker Union (IMWU) Macau, League of Indonesia Migran Worker in Hongkong (LiPMI), Association of Indonesia Migrant Worker in Hongkong (ATKI-Hongkong) United Indonesian Migrant Workers against Overcharging (PILAR Hongkong), Indonesian Migran Workers in Saudi-Arabia (*Buruh Migran Indonesia di Saudi-Arabia* or BMI-SA), Serantau (Indonesia migrant worker community in Malaysia), Indonesia Family Network Singapore, Assosiation of Returned Migrant and Families (Kabardumi), Institute of Education Development, Social, Religious and Cultural Studies, Seruni Banyumas, Lembaga KITA, Legal Resource Center for Human Rights and Gender Justice (LRC-KJHAM), Indonesian Women Coalition (Koalisi Perempuan Indonesia – KPI), Migrant Institute Indonesia, Migrant Care, East Indonesian Women Network (*Jaringan Perempuan Indonesia Timur* - JPIT).

- The Indonesian government should be able to manage remittance funds in order to ensure a future of the children and families of migrant workers, including the children and families of workers who died in their destination countries or returned to Indonesia with a physical disability, through various programs, such as education, empowerment, and healthcare.

Rights to Reproductive Health

1. Women migrant workers are forced to use contraceptives when they are leaving to work overseas and when they are on move. Both married and single women are forced to use contraceptives. The impact is not only a risk to reproductive health, but women also experience prolonged trauma and guilt due to this coercion.
2. Because women migrant workers are not equipped with adequate knowledge of reproductive health, they are vulnerable to reproductive health problems, sexually transmitted diseases, unwanted pregnancies, unsafe abortions, and losing their lives.

Recommendations:

- The Indonesian government should include materials on reproductive health and sexual health in the pre-departure training curriculum and ensure that these materials reach both women migrant workers already working overseas as well as prospective workers before they go overseas through counseling, sharing, and distribution of pamphlets.
- The Indonesian government ensures the availability of quality mechanisms and service standards that are transparent and easy to access, both domestically and in the destination country for handling complaints and recovery, not only for women workers but also for their families at the village level, including guaranteeing the right to compensation for migrant workers and their families.

The Position and Involvement of Migrant Worker's Unions

1. Migrant workers' organizations have not yet been involved in policy-making and government programs related to migrant workers and their families. Although migrant organizations have been involved in a formal way, substantially they have not been actively involved. Consequently, policies that are made often do not match the needs of migrant workers.

Recommendations:

- We recommend the acknowledgment and involvement of migrant workers' organizations, both formally and substantially, in formulation of each government policy and programs related to migrant workers and their families.

Moratorium on the Placement of migrant workers

1. The Moratorium policy of migrant workers abroad brings problems related to human trafficking and illegal recruitment of migrant workers. The moratorium is only repeating the problems that existed before. Indonesian migrant workers can go abroad with umroh visit visas and eventually become undocumented workers who are vulnerable to criminalization and deportation.

Recommendations:

- The Indonesian government should revise its moratorium policy so that the policy will be better-planned and measurable. Also, the government should have a target for revising the

moratorium policy and an agreement with the destination countries so that the policy runs effectively. It is expected that the revised moratorium policy will not obstruct people from working and will not repeat the same problems.

Role of Private Employment Agencies

1. The role of private employment agencies is very dominant. All affairs related to the placement and even the protection of migrant workers is bestowed upon them. According to Indonesian Law number 39 of 2004 on the Placement and Protection of Indonesian Workers Abroad, the Indonesian government requires migrant workers to have employment contracts and placement agreements with private employment agencies. This results in cases of human trafficking, such as falsification of documents and the exploitation of prospective workers from the beginning of the recruitment process.

Recommendations:

- The Indonesian government should restrict the role of private employment agencies and supervise their activities in the placement of migrant workers. Law enforcement and punishment against private agencies must be clear and strict, and not just an administrative punishment.

The Rights of Children and Families

1. In a number of destination countries, migrant workers experience discrimination based on their gender/sexual identities, jobs, religions, and cultures. This occurs because of the policies of destination countries. For instance, 1). The Singapore government's policy prohibits pregnancy and to become a permanent resident a migrant resident must go through a process of upgrading qualifications and her/his professions. 2). The policy in Hong Kong does not allow domestic workers to apply for permanent residence. 3). The policy in Malaysia does not give the children of either documented or undocumented workers access to education, healthcare, or citizenship. Moreover, migrant workers are not allowed to marry as long as they are still tied to a work contract. 4). Female migrant workers who give birth in Saudi Arabia must have a DNA test or obtain a letter of recommendation from the Indonesian embassy in order to get a child custody and have the right to take their child home.

Recommendations:

- The government should provide reliable information and a mechanism that makes it easier for Indonesian migrant workers to get married in their destination countries so that their marriage and children born from a marriage will have a clear status. This may also prevent violence against women and the violation of the sexual rights of female workers.
- The government should provide a mechanism for the protection of pregnant migrant workers so that the risks of pregnancy and childbirth are not seen as the responsibility of the individual woman and her children who are born abroad.
- The government should ensure that migrant workers are free from discrimination based on their citizenship status that they may experience in their destination country.

Rights to Freedom Of Faith (Religion) and Free Association

1. In several destination countries such as Singapore, Hong Kong, Taiwan, and Malaysia, Indonesian migrant workers still face limitations related to worshipping in accordance with their religion. Employers prohibit them from worshipping outside the house or factory where they work, or their accommodations do not make it possible to worship inside the house. In a number of destination countries, migrant workers also are limited in terms of involvement in organizations and being able to participate in community events.

Recommendation:

- The Indonesian government should ensure there is a bilateral agreement with the destination countries to guarantee the right of migrant workers to worship freely in accordance with their own faith or religion.

Undocumented migrant workers

1. Undocumented migrant workers from Indonesia are vulnerable to being criminalized in their destination country. In Malaysia, a national security approach is used to handle undocumented migrant workers so that actions taken against undocumented migrant workers are the same as those taken against criminals involved in terrorism and other serious crimes.
2. There are still Indonesian migrant workers in Malaysia whose personal documents have been taken by their employers or agency. This is how migrant workers become undocumented, namely at the point when they leave or run away from exploitative working conditions. Consequently, migrant workers are vulnerable to exploitation, arrest by the police, imprisonment, human trafficking, deportation, and being black listed.
3. East Nusa Tenggara (NTT) Province is a region sending out migrant workers that has the greatest number of human trafficking cases. A number of migrant workers from NTT died in Malaysia and within a short period of time, female migrant workers from Indonesia were reported dead. Breaking down the human trafficking mafia in NTT and eliminating human trafficking victims must become a serious concern of the central government in Indonesia and the NTT provincial government.

Recommendations:

- The Indonesian government and the government of the destination country must ensure that migrant workers are able to keep their personal documents and that those perpetrators who hold personal identity documents of migrant workers are subjected to a legal process.
- The Indonesian government must ensure that the government of the destination country respects the rights of migrant workers when handling and repatriating undocumented Indonesian migrant workers.
- The Indonesian government must ensure that those responsible for law enforcement are bringing cases of human trafficking to a complete resolution and are fulfilling victims' rights.