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May 2004

Information on Indonesia:

Compliance with ILO Convention No. 29 on Forced Labour (ratified in 1950)

Since the early 1980s, poverty, high unemployment and lack of educational opportunities have been driving Indonesian migrants abroad in search of work, and by the late 1990s, they were among the fastest-growing migrant population in Asia. By mid-2001, over 70 per cent of Indonesian migrants were women, and 43 per cent worked in the informal employment sector as domestic workers, factory workers or construction workers.¹

Most Indonesians wishing to work abroad in jobs perceived as “low-status” or “unskilled” are officially required to go through over 400 government-sanctioned recruitment agencies, which seek to profit from the migrant trade. These agencies charge huge and often extortionate training, processing and placement fees, which make migrant workers severely indebted before they even start working abroad.

The compulsory requirement to sign contracts with recruitment agencies means that migrants have little or no power to negotiate the terms of their agreement and employment contract, including agency fees. Many migrants end up accepting whatever work they are offered, even if it is different to the work they were promised. Such conditions make them vulnerable to abuse and severe exploitation such as violence, being forced to work long hours and not being paid minimum wages. Through the combination of factors involved in this process, many migrants become bonded labourers.

The Indonesian Government’s requirement for migrants to use the agency system, and its failure to provide adequate rights and legal protection makes them even more vulnerable to exploitation, abuse and forced labour, as defined in Article 2 of ILO Convention No. 29.²

¹ Indonesia Country Report, *Asian Migrant Yearbook 2000*, The Asian Migrant Centre (AMC), November 2001, Hong Kong SAR.

² *Recommendations to the Indonesian Government for Improving Policy on Indonesian Migrant Workers*, Indonesian Migrant Workers Union, 16 August 2002, Jakarta, Indonesia.

Forced Labour and Exploitation in the Migration Process

Pre-migration

The agencies require prospective migrant workers to live in training camps for one to 14 months, where they are often forced to work for the agency staff as well as carry out other tasks such as cleaning, shopping and cooking. Though the Indonesian labour department has set minimal standards to regulate certain practices within these camps, these are rarely enforced. Restrictions are placed on migrants' freedom of movement, and conditions in the camps are poor, often leading to health problems for which there is little medical care. According to research conducted by the Centre for Indonesian Migrant Workers (CIMW) on conditions inside 100 such training camps, 68 per cent of girls/women interviewed were not provided with mattresses to sleep on; 62 per cent stated they received insufficient food; and nine per cent received no food at all. Though many training camps provided one toilet per 50 women, one training camp had 200 persons sharing a single toilet. Physical and sexual abuse were reported among 17 per cent of interviewees.³

The research also found that almost all workers interviewed had signed a contract in a foreign language (without translation) and were prevented from reading the contract. 41 per cent had been forced by agents to use false ages and addresses and three per cent had provided false names. 78 per cent of women interviewed had paid illegal fees to brokers of Rupiah (Rp) 100,000 (US\$12) to Rp seven million (US\$855). Despite enduring such risks and violations, there is no guarantee that all migrants would actually end up with a legitimate job abroad.

Case study - Adek

Adek's experience exemplifies what many migrant domestics have to go through at the hands of Indonesian recruitment agencies. Adek had contacted a broker in her hometown to help her go to Hong Kong, because she had heard from a relative that she could get a better job there and earn more money. The broker had taken her to an employment agency in Surabaya, East Java, where she had to pay Rp 390,000 (US \$44) for a medical test, a uniform, and Cantonese language books and cookery books.

Adek was sent to a training camp in Surabaya. There were around 1,000 women in this camp, many women in the camp came down with illnesses due to inadequate food and unsanitary water. One woman died through lack of medical care. Adek and the other women were forced to carry out tasks for the agency staff, cleaning duties, and undertake long hours of language tuition. During her four months in the camp, Adek was not allowed to leave, and her family was only allowed a few hours to visit her every two weeks. There were no telephones for Adek to contact her family, and letters were censored or taken away. Adek signed contract papers without these being explained to her.

Adek was taken to Hong Kong where she worked for five months without pay as this money went to repay the agency fees she "owed". Adek also faced routine verbal abuse, was not allowed to leave the apartment and had only one rest day in nine months of employment.⁴

³ *Training Camps for Potential Indonesian Migrant Women Workers: Study on the Conditions Inside Training Camps for Indonesian Migrant Workers in Jakarta,* Centre for Indonesian Migrant Workers, September 1999, Jakarta, Indonesia.

⁴ It should be noted that, according to the research carried out by Asian Migrant Centre & Coalition for Migrants Rights, the majority of Indonesian migrants in Hong Kong receive two rest days per month.

Onsite

Agencies generate huge profits as migrants' exploitation continues after departing to host countries. Here they are in a situation of debt bondage and forced labour for the first one to 14 months. Migrants must pay off agency fees, which are usually extortionate, even though a legal maximum for such fees is set by the Indonesian Government. Migrants going to the Gulf must pay official fees of Rp 400,000 (US\$49) with a two to three months salary deduction. Those going to Taiwan must pay NT\$82,653 (US\$2,430) with a 21 month salary deduction in addition to brokers fees of NT\$60,000 (US\$1,760). Those going to Hong Kong must pay Rp 17,845,000 (US\$2,179), however, more than 50 per cent of migrants in Hong Kong pay excessive placement fees of up to HK\$21,000 (US\$2,699) with a four to seven month salary deduction.⁵ Hence, even if Indonesian migrants are mistreated and forced to work long hours under harsh conditions, they cannot leave because of the contract they have signed and the money "owed" to agencies. Migrants who have had their rights violated, especially those who have signed contracts using false names, find it difficult to receive information and assistance from the Indonesian consulate authorities on how to pursue redress mechanisms.

According to baseline research, 48 per cent of Indonesian migrant workers are paid below the legal minimum wage, 61 per cent do not receive their weekly rest days, and 24 per cent have undergone physical and verbal abuse.⁶

Migrants must also pay excessive agency fees in order to renew their employment contract. According to a survey conducted in Hong Kong, 89 per cent of respondents were charged fees higher than the legal maximum of HK\$367 (US\$47) set by the Hong Kong Government. The average fee paid by respondents was HK\$5,655 (US\$727), and 5% of respondents had even paid HK\$10,000 (US\$1,285).⁷

Return

Migrants continue to be exploited and discriminated against even as they return home. All returning migrants must return through the specially-designated Terminal 3 of Soekarno Hatta International Airport, where there have been reports of migrants experiencing rape and physical abuse and having to pay bribes in order to obtain basic information and services. Migrants are also required to be met upon arrival by their family members. If not, they must return home by transportation offered by agencies, which again involves paying fees ten times higher than public transportation.

Conclusions and Recommendations

The compulsory use of recruitment agencies and the lack of rights-based legislation regulating the Indonesian migration process are facilitating the exploitation of Indonesian migrant workers. The forced use of agencies, payment of extortionate fees and signing of contracts with little or no ability to negotiate leads to a situation of debt bondage and compels many Indonesian migrants to work as *de facto* forced labourers, enduring exploitative conditions with little or no enjoyment of rights-based labour protections.

⁵ Indonesia Country Report, *Asian Migrant Yearbook 2001 (AMY 2001)*, The Asian Migrant Centre (AMC), April 2002, Hong Kong SAR; & AMY 2000.

⁶ *Baseline Research on Racial Discrimination Against Foreign Domestic Helpers*, Asian Migrant Centre & Coalition for Migrants Rights, February 2002, Hong Kong SAR.

⁷ *Campaign for Fair Treatment of Indonesian Domestic Helpers in Hong Kong by Agencies Approved by the Hong Kong Labour Department*, Asian Migrant Centre, Amal Indonesia Direct & Coalition for Indonesian Migrant Workers Associations (KOTKIHO), 30 March 2001, Hong Kong SAR.

Some agencies are also using coercion and deception in recruiting and transporting migrants for work abroad where they can then exploit them. These agencies would therefore also come under the definition of traffickers as defined in the *UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, 2000 and should face the kind of punishments outlined in the Protocol.

There is currently no comprehensive law against trafficking and no specific national legislation for the protection of migrant workers in Indonesia. Furthermore, there does not appear to be adequate and strictly enforced penalties against those perpetrating the use of forced labour, as required under Article 25 of the Convention.

In view of the above we urge the Indonesian Government to:

1. Adopt the recommendation of the Indonesian Migrant Workers Union to repeal Indonesian Labour Ministry Decree 104A on the placement of Indonesian Migrant Workers Overseas (2002) and bring to an end the compulsory and exploitative use of recruitment agencies in the migration process. New regulations should be introduced that fully protect migrant workers and recruitment agencies which do exploit migrant workers should be prosecuted.
2. Ratify the *United Nations Convention on the Protection of the Rights of All Migrant Workers and their Families* (1990), *ILO Convention No. 97 concerning Migration for Employment (Revised 1949)* and *Convention No.181 concerning Private Employment Agencies* (1997) and introduce comprehensive national legislation to protect all migrant workers in line with these Conventions and other appropriate international human rights standards. This national migration legislation should ensure:
 - (a) The repeal of the decree for migrant workers to return to Indonesia to renew their contracts.
 - (b) The creation of a National Commission on Migrant Workers' Rights with representation from migrant workers' organisations and unions and NGOs, and with specific responsibility for protecting migrants during the whole of the migration process, including recruitment, monitoring rights violations and abuses, and facilitating migrants' redress actions and reintegration.
 - (c) The funding and implementation of a compulsory programme of information and public education in conjunction with migrant workers' organisations and unions, national trade unions and NGOs in both sending and receiving countries for prospective and returning migrant workers and their families. This programme should be based on international human rights standards and include information on the realities of labour migration, migration processes and procedures, migrant workers rights, policies and laws in Indonesia and host countries, how to obtain assistance abroad and how to access economic alternatives to migration upon return.
3. Ratify the *United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, 2000 and introduce domestic legislation to prohibit trafficking in all its forms and to provide support and protection to trafficked persons in line with articles 6, 7 and 8 of the Protocol.



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