



Migrant Forum in Asia

and

The International Service for Human Rights



Intervention: Protecting Indonesian migrant rights defenders

UN Committee on the Protection of the Rights of All Migrant Workers and Members of their Families
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Indonesia is a major origin country for migrant workers throughout the region, and indeed globally. The Government of Indonesia (GoI) has, through ratification of the Convention on Migrant Workers and their Families, taken an important step toward the recognition of the many protection gaps that can face these individuals as they seek employment and a better life for themselves and their families abroad.

As a generalist organisation, ISHR is privileged to join this group here. Indeed, our joint submission would not have been possible without the guidance and expertise of Migrant Forum Asia, and the contributions of many groups, including some who have submitted parallel reports for this review.

Therefore, I would like to approach this intervention from a meta-view. Rather than focus on the efforts the GoI should take to improve respect for the rights of migrant workers, I will focus on the steps we hope they can take to recognise and protect those individual and groups who promote and protect the rights of migrant workers, and who respond to violations and seek accountability when those rights are violated.

First, we urge the Committee to press the GoI to recognise publicly the important role of migrant rights defenders. This includes stepping up efforts to consult with civil society in the development, monitoring and implementation of policies relevant to migrant workers.

The concerns outlined in our submission, including lack of coherence and consistency and arbitrary or tokenistic outreach, demonstrate that there are clear gaps in the GoI's approach to engagement with these stakeholders. Without the participation of actors involved in the front lines in responding to violations of migrants' rights, whether at home or in the workplace, the GoI cannot fully implement its obligations under the Convention. In our view, the OHCHR report on NMRFs is a useful resource in this regard.

Because bilateral agreements are one of the few tools available to seek protections guaranteed by the Convention in countries who are not States Parties, it is essential that these agreements be negotiated and benchmarked in a transparent and inclusive manner.

Finally, we suggest that other plans at the national level may also have the potential to benefit migrant workers, when the policymaking process is accessible to civil society. We use the example of the National Action Plan on Business and Human Rights, announced by the GoI in June of this year, as one framework which might provide avenues for better coordination within the GoI for improving protection of migrant workers' rights, especially when they face violations by private sector actors.

Second, the GoI should be encouraged to improve respect for fundamental freedoms, both in Indonesia and in major sites of destination for Indonesian migrants. This is particularly pressing in the area of freedom of association and assembly. And this is especially pertinent to Indonesia, who is a member of the core group of the Human Rights Council resolution establishing and continuing the mandate of the UN Special Rapporteur on Freedom of Association and Peaceful Assembly.

Specifically, while the Indonesian government should be recognised for what partners broadly agree are minimal registration requirements for CSOs, it should remove bureaucratic barriers to accessing funding, especially from international sources. This is in line with best practice of the Special Rapporteur, who in his report from April 2013 recognised civil society's right to seek, receive and use resources – and thus identified funding restrictions as *de facto* restrictions on FoAA.

For Indonesians overseas, the Special Rapporteur engaged clearly with the challenges this vulnerable group faced. He has clearly stated, for example, that States should 'prohibit the collective expulsion of migrant workers' as retaliation for exercise of these rights.

The Rapporteur continued: 'Groups that are disenfranchised from mainstream political activities... have an even greater need for alternative means to participate in the public sphere. Peaceful assemblies are an important tool for allowing the voices of otherwise excluded groups to be heard... and restrictions can foster or magnify a culture of silence among the excluded groups, putting them at higher risk of violations and abuses' (A/HRC/26/29, para 25-26).

Our submission outlines some ways in which Indonesian missions are working with association in places of destination. We hope to see that go one step further. The GoI should be well-aware of the limitations on association and assembly rights of its citizens overseas, and engaged actively in using the various means at its disposal to demand protection of these rights.

Finally, we urge the GoI to take an active stance in promoting human rights defenders and creating an enabling environment for the work of civil society organisations working in the area of migrants' rights – both at home and abroad. The threats, harassment and stigmatisation that migrant rights defenders face may constitute a violation of Indonesia's international obligations and commitments, including per the UN Declaration on Human Rights Defenders.

In this regard, the Government should consider adopting laws and policies to protect human rights defenders and to ensure a safe and enabling environment for their work. It should also take active steps to ensure that Indonesians defending migrants' rights abroad are supported and protected.