

2018

PROJECT REPORT

Prepared by:



Indonesia's NGO Coalition
for International Human
Rights Advocacy

Ashley Hotel, Jakarta, Indonesia
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Assessing the Human Rights Situation of Migrant Workers in ASEAN: A Civil Society Baseline Study

- ▶ Regional Focus Group Discussion
- ▶ A Baseline Study on Migrant Workers' Rights in ASEAN

1. Introduction

This project report is composed by the Human Rights Working Group (HRWG), Indonesia's NGO Coalition for International Human Rights Advocacy. The main deliverable of this project constitutes a baseline study that aims to identify the current human rights situation of migrant workers in ASEAN countries, in particular, in the wake of the ASEAN Consensus on the Promotion and Protection of the Rights of Migrant Workers (ASEAN Consensus). This in-depth baseline study provides new insights into the key issues affecting migrant workers in the region. Such insights are indispensable to civil society advocacy as they allow stakeholders to have a well-rounded understanding of labor migration, legal frameworks, main actors, and pressing issues pertaining to the migration of workers in each of ASEAN Member States (AMS). It is to note that this baseline study, which serves as a continuation of the civil society advocacy project on ASEAN Consensus, has been made possible with the ample support provided by The Sasakawa Peace Foundation (SPF).

2. Background

Labor migration is a major factor behind the thriving economies of both sending and receiving countries. The number of migrant workers within the region is estimated to perch at 20.9 million, of which around 6.9 million workers have crossed their national borders in the pursuit of jobs.¹ Around 87% of intra-ASEAN migrants are clustered around certain lines of work, such as in agriculture, fisheries, domestic work, manufacturing, construction, hospitality, and food services.²

Over a couple of decades, intra-ASEAN migration has heightened in intensity, but it mainly follows along specific routes. In 2013, for instance, around 97% of a total of 6.5 million intra-ASEAN migrants traversed the borders between Thailand, Malaysia and Singapore.³ Thailand hosts the most number of migrants in the region, with Malaysia and Singapore being the second and the third. Myanmar bags its status as the largest source country of foreign manpower in ASEAN, followed by Indonesia, Malaysia, Laos, and Cambodia, respectively.⁴ By and large, the main routes taken by 88% of ASEAN migrants

¹ International Labour Organisation (ILO) & International Organisation for Migration (IOM), *Risks and rewards: Outcomes of labour migration in South-East Asia*, 2017, p. 1

² *Id.*, p. 2

³ Sugiyarto & Rannveig Agunias, *A 'Freer' Flow of Skilled Labour within ASEAN: Aspirations, Opportunities and Challenges in 2015 and Beyond, A Joint Series of the IOM Regional Office for Asia and the Pacific and the Migration Policy Institute*, 2014, p. 5

⁴ *Id.*, p. 6

include: (1) Myanmar to Thailand, (2) Indonesia to Malaysia, (3) Malaysia to Singapore, (4) Laos to Thailand, (5) Cambodia to Thailand.⁵

While greasing the wheels of both source and destination countries, migrant workers in ASEAN continue to suffer from a string of human rights violations that ensue from flawed, inadequate and business-centric migration policies. This, in many instances, is likely to be exacerbated by migrant workers' oblivion to their rights and entitlements,⁶ as is the case among, in particular, undocumented migrants. Given their invisibility, transient nature and 'illegality' of their employment, undocumented migrants live and work in the shadow of exploitation and labor rights abuses.⁷ Those undocumented migrants are also hesitant to lodge complaints or approach the authorities in case of such abuses, all owing to the fear of legal repercussions.⁸ Also, the role of recruitment agencies has become especially dominant. In many cases, recruitment agencies put prospective migrants in a situation of 'debt bondage,' giving out loans to finance the lengthy, costly migration processes and deducting from the migrants' salaries more than the rightful amount.⁹ This 'fly now, pay later' phenomenon has given rise to indentured labor; that is, placing migrant workers in a condition of powerlessness as they are tied to their employment until debts are paid off. In some cases, this may lead to serious violations of rights, such as the deception of working conditions, non-payment and/or withholding of wages and physical as well as psychological abuses.¹⁰ In ASEAN, more than half of all migrant workers experience labor rights abuses during employment.¹¹ The most common labor rights violations in ASEAN include the confiscation of identification documents, withholding of wages and restriction of movement.¹² Profoundly warped migration policies, coupled with gaps in labor laws, ruthless middlemen, and remorseless employers, in many cases, have exposed migrants to trafficking, forced labor and other human rights violations.¹³

⁵ Id., p. 7

⁶ UN Women & the ASEAN Secretariat, *Women Migrant Workers in the ASEAN Economic Community*, 2017, p. 86

⁷ Id.

⁸ *Women Migrant Workers in the ASEAN Economic Community*, p. 69.

⁹ Sugiyarto & Rannveig Agunias, p. 8

¹⁰ Human Rights Watch, *ASEAN Migrant Workers Abandoned to Abuse*, 2017, <https://www.hrw.org/news/2007/12/17/asian-migrant-workers-abandoned-abuse>

¹¹ *Risks and rewards: Outcomes of labour migration in South-East Asia*, p. 55

¹² Id., p. 56

¹³ Human Rights Watch, *ASEAN Migrant Workers Abandoned to Abuse*

The advent of ASEAN Consensus in 2017, which renewed the commitment of AMS as contained in the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (Cebu Declaration) of 2007, offers a beacon light of hope for migrants. However, this is not a legally binding instrument, meaning that the enforcement of the points discussed in the document hinges solely on the political will of respective countries. In spite of that, the document is to be translated into concrete action plans to be carried out at both regional and national levels. For this reason, it is pertinent to identify the pressing issues experienced by migrant workers so as to ensure that the said action plans can best answer the needs of migrant workers in the region.

Objective

Aiming to ensure the utmost protection and promotion of the rights of migrant workers in the ASEAN countries, HRWG proposes to conduct an in-depth baseline study. In doing so, HRWG put together a Focused Group Discussion (FGD) with the purpose of collecting crucial information and data on migrant workers from each of ASEAN Member States (AMS). The baseline study aims to project the current image of the human rights situation of migrant workers, considering in particular the following issues already discussed under ASEAN Consensus:

- decent work and social protection
- undocumented migrant workers and cross-cutting human rights issues
- access to justice
- information, empowerment and recruitment
- repatriation and reintegration
- cooperation among AMS and mechanisms
- standard-setting and ratification of the CMW

3. Review of Progress

a. Desk research

HRWG has appointed two researchers whose expertise is within the area of migration; those are Ms. Avyanthi Azis, a faculty member at the University of Indonesia, and Ms. Irthe Blokhuizen, HRWG's associate researcher. They shouldered the responsibility of preparing the baseline study. Ms. Aziz was tasked to focus on Indonesia, Singapore, Brunei Darussalam, and the Philippines, while Ms. Blokhuizen looked

specifically at Cambodia, Lao PDR, Myanmar, Vietnam, and Thailand. Having completed their initial study, both researchers presented their findings to the participants of the FGD, who represented CSOs from all of the ten AMS. The presentation was meant to spark discussions among the participants and draw out input as well as insights into the current human rights situation of migrant workers in their respective countries.

b. FGD on Post-ASEAN Consensus and Human Rights Situation of Migrant Workers in the Region

The FGD was attended by people of diverse backgrounds; some were academics, others were experts, practitioners, activists, and government representatives alike. The issues covered in the FGD included those mentioned earlier (in the Objective), but the FGD allowed for more robust, thought-provoking discussions mainly geared towards gathering civil society perspectives and insights into the aforementioned matters. (Proceedings attached)

c. Editing and Finalization

HRWG appointed Ms. Patriani Mita Mulia, a Ph.D. student and researcher at Utrecht to edit and proofread the final draft of this baseline study. Her tasks involved correcting grammatical errors, punctuations, spellings, awkward sentence constructions, and referencing. She was also tasked to compose a conclusion to the draft of baseline study.

d. Publication

With the ISBN (**978-979-18586-7-0**) at hand, this baseline study will be circulated online. This document is directed mainly at all of relevant ASEAN stakeholders who deal with migrant worker issues. Other targeted groups include people from the academe, civil society groups and the media. In order to reach out to more audience, it is pivotal to have a snapshot version in the national languages of ASEAN. Also, it is equally paramount to conduct a public book launch and discussion with policy makers at both regional and national levels. This is a strategic move to inform and influence decision-making processes to ensure that migrant workers' rights are upheld.

4. Challenges

Data collection was elusive, especially in such countries as Brunei Darussalam and Myanmar. Researchers barely had access to information on policies governing the employment of migrant workers in these countries. The Focus Group Discussion (FGD), nonetheless, served as a treasure trove of information as participants from these countries shared the much-needed data on the human rights situation of migrant workers in their respective countries. Also, in order to acquire accurate information, our researchers consulted and quoted data from reliable sources, such as the International Organization for Migration (IOM) and International Labour Organization (ILO). A concern over the need to have a uniform data collection among ASEAN Member States was also raised during the FGD.

The future of advocacy for migrant workers' rights would arguably become more challenging as ASEAN Member States declined to adopt a peer-review mechanism to monitor and evaluate the implementation of the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers (ASEAN Consensus). In lieu of the peer-review mechanism, AMS have agreed to enact a self-assessment mechanism for the purpose mentioned earlier. In light of this, civil societies in ASEAN should work alongside their respective national governments to set up a national mechanism so as to convene dialogs and consultations on the implementation of the ASEAN Consensus.

5. Next Steps

To move the advocacy forward, as well as in response to the adoption of the regional plans of action on ASEAN Consensus, it is paramount to disseminate the findings of this baseline study to relevant stakeholders throughout ASEAN, mainly the ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW). This begs the question: "How do we make ASEAN governments take this baseline study into consideration?" Therefore, policy dialogs need to be put together in an effort to engage and support the implementation of said action plans with a view to address human rights issues stated in the ASEAN Consensus. In addition, public discussions and the launch of this baseline study are highly necessary to raise awareness among the general public about the issues affecting migrant workers.

It is also worth noting that, towards the end of the FGD, Reiko Ogawa (Associate Professor of Chiba University, Japan) expounded on the current situations of migrant workers

in Japan and the cooperation of East Asian Countries on this matter. As such, a similar baseline study needs to be carried out to identify the human rights situation of migrant workers in East Asia. Also, this opportunity will allow civil societies in both ASEAN and East Asian Region (as origin and destination countries) to exchange views with the purpose of protecting and promoting the rights of migrant workers in these regions.

6. Financial Report (Attached)

Annexes

Annex 1. Program

Program

Post - ASEAN Consensus and Human Rights Situation of Migrant Workers in the Region

30-31 August 2018

Ashley Hotel, Jakarta, Indonesia

TIME	ACTIVITY
	Travel Day
30 Aug	(Day 1)
08:30-09:00	Registration
09:00-09:20	Opening Session <ul style="list-style-type: none"> • Mr. Muhammad Hafiz, Executive Director of HRWG • Ms. Mariko Hayashi, Program Officer of the Sasakawa Peace Foundation (SPF) • Mr. Riaz J.P Saehu, Director of ASEAN Socio-Cultural Cooperation, Ministry of Foreign Affairs of Indonesia
09:20-09:30	Group Photo Session
09:30-10:45	Session 1 <p>Updates on the Current Regional Plans of Action (RPA) and CSOs Advocacy on the ASEAN Consensus on the Promotion and Protection of the Rights of Migrant Workers</p> <ul style="list-style-type: none"> • Mr. Japar Malik, Head of Domestic Inter-institutional Cooperation, Ministry of Manpower of Republic of Indonesia • Mr. Sinapan Samydorai, Task Force on ASEAN Migrant Workers

	<ul style="list-style-type: none"> • Mr. Daniel Awigra, Program Manager of HRWG Moderator: Ms. Patriani P. Mulia, Associate Researcher of HRWG
10:45-11:00	Coffee Break
11:00-12:30	Session 2 Proposed Baseline Study on “Post-ASEAN Consensus and Human Rights Situations of Migrant Workers the Region” <ul style="list-style-type: none"> • Ms. Irthe Blokhuizen and Ms. Avyanthi Azis, HRWG Researchers on Human Rights Situations of Migrant Workers in ASEAN • Ms. Reiko Ogawa, Associate Professor of Chiba University, Japan • Mr. Charanpal Singh Bal, Ph.D., Deputy Head of International Relations Department, Binus University, Indonesia Moderator: Mr. Rafendi Djamin, Senior Adviser of HRWG
12:30-13:30	Lunch
13:30-15:00	Session 3 Breakout Session on “Post-ASEAN Consensus and Human Rights Situation of Migrant Workers in the Region” Group 1: Cambodia, Lao PDR, Myanmar, Vietnam, and Thailand Group2: Indonesia, Malaysia, Brunei Darussalam, Singapore, and Philippines Rapporteurs: Ms. Irthe Blokhuizen and Ms. Avyanthi Azis
15:30-16:00	Coffee Break
16:00-17:30	Session 4 Breakout Session Discussion on “Post-ASEAN Consensus and Human Rights Situation of Migrant Workers in the Region” (continued session) Group 1: Cambodia, Lao PDR, Myanmar, Vietnam, and Thailand Group2: Indonesia, Malaysia, Brunei Darussalam, Singapore, and Philippines Rapporteurs: Ms. Irthe Blokhuizen and Ms. Avyanthi Azis
17.30	Closing
31 Aug	(Day 2)
08.30-09.00	Registration

09:00-11.00	Session 5 Plenary Discussion on “Human Rights Situations of Migrant Workers in the Region” of Group 1 on Cambodia, Lao PDR, Myanmar, Viet Nam and Thailand. Facilitator: Mr. Rafendi Djamin, Senior Adviser of Human Rights Working Group Rapporteurs: Ms. Irthe Blokhuizen and Ms. Avyanthi Azis
11.00-11.15	Coffee Break
11:15-12:30	Session 6 Plenary Session on “Human Rights Situations of Migrant Workers in ASEAN” of Group 2 on Indonesia, Singapore, Malaysia, Philippines, Brunei Darussalam, and Malaysia. Facilitator: Mr. Rafendi Djamin, Senior Advisor of Human Rights Working Group Rapporteurs: Ms. Irthe Blokhuizen and Ms. Avyanthi Azis Final Rapporteur: Ms. Patriani P. Mulia, Associate Researcher of HRWG
12:30-13:30	Lunch
13:30-14:15	Session 7 Press Conference on “Post – ASEAN Consensus on Human Rights Situation of Migrant Workers in the Region” Resource Persons: TBC. Facilitator: Mr. Daniel Awigra, Program Manager of HRWG
14.15-15.00	Session 8 Movie Screening “Pengantin” or “The Bride” is Indonesian documentary film directed by Noor Huda Ismail, Indonesian Migrant Workers in Hongkong. This film tells about three Indonesian women migrant workers who worked overseas and becoming radicalized by extremist group. Resource Person: Mr. Noor Huda Ismail, Director of “Pengantin” Facilitator: Mr. Daniel Awigra, Program Manager of HRWG
15.00-15.30	Coffee Break
15.30-16.45	Session 8

	<p>Next advocacy</p> <p>Presentation: Possible Cooperation on the Protection of Migrant Workers among ASEAN and East-Asia Countries.</p> <p>Presenter: Ms. Reiko Ogawa, Associate Professor of Chiba University, Japan</p>
16.45-17:00	Closing

Annex 2. List of Participants

No.	Names	Country	Organization	Position
1	Ms. Dina Nuryati	Indonesia	Serikat Buruh Migran Indonesia	Research and International Affairs
2	Ms. Alenah Joyce Romero	Philippines	Center for Migrant Advocacy	Program Researcher-Writer
3	Ms. Stephanie Chok	Singapore	Humanitarian Organization for Migration Economics	Research/Casework
4	Mr. Fajar Santoadi	Malaysia	Tenaganita	Project Manager
5	Mr. Maung John	Myanmar	Agency for Basic Community Development	Director
6	Mr. Khairul Gafur	Brunei Darussalam	Social Welfare Council, Brunei Darussalam	Assistant Secretary 3
7	Mr. Vu Ngoc Binh	Vietnam	Institute for Population, Family and Children Studies (IPFCS)	Senior Adviser
8	Ms. Khone Vongvannaxay	Lao PDR	National University of Lao PDR	Lecturer
9	Mr. Sovichet Ieng	Cambodia	Legal Support for Children and Women	
10	Ms. Chonticha Tang	Thailand	Human Rights and Development Foundation	Program Coordinator
11	Ms. Nova Silitonga	Indonesia	TIFA Foundation	Program Manager
12	Mr. Irham Ali	Indonesia	ILO	Program Officer
13	Ms. Savitri Wisnuwardhani	Indonesia	Migrant Worker Network (JBM)	Secretary General
14	Ms. Mariko Hayashi	Japan	The Sasakawa Peace Foundation	Program Officer
15	Mr. Adhy Buwono	Indonesia	MOFA RI	
16	Wiam Satriawan (Kasubdit analisis pengaduan)	Indonesia	BNP2TKI	

	Husni Muh. Nur Pua Upa (Kepala Seksi Dokumen Visa Kerja)			
17	Mr. Michael Cottier	Indonesia	Switzerland Embassy	Chargé d'affaires
18	H.E.Ms. Marie-Louise Hannan	Indonesia	Mission of Canada to ASEAN	Ambassador to ASEAN
19	Mr. Keith Doxtater	Indonesia	ASEAN - U.S. PROGRESS	Chief of Party
20	Ms. Maria Lauranti	Indonesia	Oxfam	Head of Program

Annex 3. Baseline Study

(Attached in PDF Format)

Annex 4. Photos of Activities



Group Photo to Conclude Session I



Opening Session



Session II



Break-up Session



Break-up Session



Session I

Annex 5. Meeting Notes

(Attached in PDF Format)