

Advocating for the Rights of Indonesia's Migrant Workers

A Capacity Building Program

Module-2 Report
05-09 September 2018, Jakarta, Indonesia



Executive Summary

The second module of the “Advocating for the Rights of Indonesia’s Migrant Workers: A Capacity Building Program” was organized from 06-09 September 2018 in Jakarta, Indonesia. The program was co-organized by the Diplomacy Training Program (DTP), Migrant Forum in Asia (MFA), and Serikat Buruh Migran Indonesia (SBMI). There were twenty-six (26) participants coming from different parts of Indonesia representing civil society organizations (CSOs), non-government organizations (NGOs), trade unions (TUs), and media working on migration and human rights.

The first module of the program was held from 28 June – 01 July 2018 in Jakarta, Indonesia. It focused on understanding the legal and policy framework governing labour migration in Indonesia, key issues and challenges faced by Indonesian migrant workers in the Middle East and ASEAN regions, and an introduction to rights of migrant workers and responsibilities of governments. In addition, the participants were introduced to the migrants’ rights movement in the Philippines.

Building on the objective of the program and in continuation with the first module, this module focused on experience sharing from Malaysia, one of the key destination countries for Indonesian workers. It also focused on building advocacy with the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC). The module also looked into the Global Compact for Safe, Orderly and Regular Migration (GCM), video advocacy and the importance that media can play in addressing migrant worker rights.

Several resource speakers who are experts in their own field were invited for this module. Ms. Sumitha Shaanthinni Kishna, a Malaysian lawyer and coordinator for Migration Working Group, shared her knowledge and experience in dealing with cases such as migrant workers’ death or injuries as well as in case documentation. Ms. Lily Purba, former Chair of the ACWC, familiarized the participants over the committee’s programs and functions. Mr. William Gois, Regional Coordinator of MFA, shared about the development of the GCM and how building advocacy can influence results. Mr. Arul Prakkash, Program Manager of WITNESS, shared the significance of using media and video to advance advocacy.

Program Content

Indonesian Migrant Workers in Malaysia

Ms. Sumitha Kishna Shaanthinni from Malaysia focused on the concerns of Indonesian migrant workers in Malaysia building participants’ knowledge on foreign worker insurance schemes and grievance mechanisms.

Indonesia has the biggest population of migrant worker in Malaysia, hence it is critical for both governments, and CSOs from both countries to build and strengthen cooperation towards the protection of migrant workers' rights. Specifically, this partnership could help organize Indonesian migrant workers in Malaysia and could promote joint advocacy such as information sharing and data gathering.

Historically, majority of these Indonesian migrant workers who crossed the borders did not bother to process documents because of the ease of travel and proximity in travelling between Indonesia and Malaysia. Consequently, Indonesian migrant workers became the largest population of undocumented migrants in Malaysia.

Sumitha discussed the need to improve pre-departure orientation programs for Indonesian migrant workers, as one of the options for regularising migration. In Indonesia pre-departure orientation is often conducted by private agencies. Sumitha suggested that Indonesian CSOs should work together with private agencies in updating and revising the training modules to fit the needs of migrant workers as well as assist in conducting the trainings.

Sumitha highlighted the example between Philippines and Malaysia on the good practices in the context of labour migration. The recruitment process and reporting mechanism of the Philippines-Malaysian corridor is regulated by the governments themselves and works on an accreditation system which helps to protect Filipino migrant workers in Malaysia. The Philippine embassy is also active in supporting Filipino migrants.

The session also looked into the process of case documentation. Documenting violations and abuses enables CSOs to advocate for policy change. Evidences such as this is crucial when filing for a case or when lobbying for change.

Plenary discussion focused on the following issues –

MIGRANT'S DEATH

In the event that a worker dies, employers have the obligation to notify the insurance company within 10 days for the worker's family to receive the insurance benefits. According to Malaysian laws, all deaths must have post mortem, details on the causes of death (death certificate) and the time and date of death. If a company do not report the death within 10 days, the company will be fined. For the purpose of getting the compensation, the family must submit/show a document to prove that they are eligible to receive the compensation. The maximum compensation for migrant workers is 25,000 Malaysian Ringgit. However, this policy does not include domestic workers.

INSURANCE

Beginning in January 2011, employers were mandated to provide insurance for documented migrant workers and seafarers. There are there (3) types of insurance that workers can avail: protection scheme, foreign workers insurance scheme, and health insurance. The foreign workers insurance scheme provides compensation arising from employment related accidents and diseases and includes coverage for injuries sustained after working hours and repatriation expenses due to death or permanent disablement. For the health insurance, its premium are to be borne by the employer.

In order to receive compensations for injuries caused by worksite accidents, the migrant worker must provide evidence that they are working in the company. Proofs can be payment slip, photo of work residence, and photo of the worker wearing their uniform. Either a documented migrant or an undocumented migrant, a worker is entitled to insurance in terms of worksite induced injuries.

INJURY/ACCIDENT

When a worker is injured, a medical report must be filed which details what, when and how the injury happened. If the accident occurred during workday/within the work visa, the case has to be filed with the department of labor. It is also important to note that some, if not all, accidents occur due to overwork and lack of sleep.

LODGING

Under Malaysian law, employers are allowed to deduct 50 Malaysian Ringgit from the workers' salary to pay for workers' lodging. Since January 2018, the employer has to pay for the levy tax, which was previously imposed on the employee.

DETENTION

The Malaysian police are permitted to detain foreigners without informing their respective embassies. If the foreigner is detained for immigration issues, they could be detained for fourteen (14) days or two (2) weeks without legal assistance. They are normally detained near the place where they were captured. This means that they will not be allowed to speak to lawyers for fourteen (14) days. When the fourteen (14) days are up, the foreigner will be presented to the court.

UNDOCUMENTED MIGRANTS

Undocumented migrant workers are entitled to claim future earnings when rendered disabled by worksite accidents. Medical and other ancillary expenses are also claimable.

Migrant Workers Advocacy and ASEAN

The session on Migrant Workers Advocacy and ASEAN was led by Ms. Lily Purba, the former chair of ACWC. Ms. Purba introduced the committee's programs and functions to the participants. ASEAN holds regional forums annually where CSOs can elevate issues regarding human rights and migrant workers' rights. Only states can negotiate with other states, thus, the only way for CSOs to be able to advocate for the rights of migrants is through their states' representatives.

Philippines, an ASEAN member-state, stands out as one of the most active in the promotion and protection of migrant's rights. They debate with receiving countries such as Malaysia and Singapore to advocate for the rights of their nationals. The committee's work also focuses on the migrant's families.

There are three committees under the ASEAN human rights system, namely: ACWC, ASEAN Intergovernmental Commission on Human Rights (AICHR), and ACMW (ASEAN Commission on Migrant Workers). The ACWC, under its mandate, is allowed to attend and participate in all committee meetings in order to advance the gender issues seen as a crosscutting issue. ACWC does not deal with cases directly; they refer them to government agencies or CSOs

who have the capacity to provide solution. ACWC produce data reports of the human rights standards of each ASEAN states

Issues Concerning Indonesian Migrant Workers

This session was facilitated by Dina Nuriyati, SBMI, and was focused on the Indonesian government agencies that provides services to migrant workers.

Indonesia launched the Perlindungan Tenaga Kerja Indonesia (P4TKI) or Post Placement and Protection Services for Indonesian Workers, an extended hand of Badan Nasional Penempatan Dan Perlindungan Tenaga Kerja Indonesia (BNP2TKI), an agency for the Placement and Protection of Indonesian Overseas Workers. P4TKI compared to BNP2TKI operates at the provincial level in Indonesia. Police together with religious institutions are also stationed in the provincial and city level to reach out to rural communities that are home to prospective migrant workers. At the national level, there is the human rights commission, children protection commission, Red Cross, Ministry of Foreign Affairs (MoFA), and Ministry of Manpower that are tapped by CSOs and NGOs to seek help and support for the migrant workers. Lobbying and building connection with the presidential staff office is also important because they deliver CSO and NGO messages to the president which raise migrant worker issues to him. The staff are the bridge that link CSOs/NGOs with the president and different ministries of the state. In addition, participants believe that involving small emerging political parties as well as the media is beneficial to the advocacy, but with the right amount of engagement and depending on the political and social environment in the country. This is because small political parties are still in the process of making itself known to the people and are open to tackling new issues, while, the media is the easiest and fastest way to disseminate information about certain subjects.

Moving forward, there were two (2) migrant workers' concerns that were brought up during the session. These are restructuring and assessment of Layanan Terpadu Satu Atap (LTSA), and the involvement of CSOs/NGOs in the development of bilateral agreements of Indonesia concerning human rights and migrants' rights.

First, LTSA is a one-stop service center launched by the Ministry of Manpower. The number of LTSAs is projected to increase to 50 by the end of this year. The participants are advocating for the expansion of the services offered by the center, such as the inclusion of legal services and human resource offices. Before moving to the last issue, the participants decided to assess the LTSA in their respective communities and present their report in the next module.

Second, the participants called for CSOs to be involve in the development of Indonesian bilateral agreements concerning human rights and migrants' rights. They were demanding for their inputs to be heard and incorporated in the documents.

Afterwards, the facilitator played a short film entitled "A Dream Of A Misty Land" produced by and starring one of the participants. The film is fictional but based on true stories of women trafficking that is prominent in far-flung areas of Indonesia.

Building Advocacy to Influence Outcomes

The session on building advocacy to influence outcomes was led by Mr. William Gois, Regional Coordinator of MFA. He began by inquiring the background of the participants and from which organization they belong.

There are thirty-four (34) provinces in Indonesia, ten (10) of which have the biggest number of population that sends migrant workers abroad. Several of the participants revealed that they are returnee migrants who have worked in Taiwan, Malaysia, Singapore, Hong Kong, China, and Macau for more than 3 years. Now, they work towards the promotion and protection of the rights and welfare of migrant workers through their organization's programs.

Most of them were unfamiliar with the Global Compact for Safe, Orderly and Regular Migration (GCM), even though, governments, including the Indonesian government, are looking forward to its adoption in December 2018 in Marrakesh, Morocco. The GCM took twelve (12) months of consultation and six (6) months negotiation to finish the final draft. The document is almost similar to the plan of the participants – for Indonesian governments to increase job opportunities, improve the education system, and develop and implement good policies. The proposed plan is good. However, it lacks ideas of migrant workers themselves and their families because they were not consulted during the planning process. This means that the plan was not tailor-fitted to address their needs.

Several of the participants are returnee migrant workers who decided to advocate for migrants' rights upon their return to Indonesia. Mr. Gois have noted that this might be the strength of Indonesian CSOs. However, its benefits could only be realize if they use it appropriately. For example, their reflections and stories as migrant workers can be shared in order to gather lessons learned, then share those stories to potential migrant workers. This way, potential migrant workers can replicate positive experiences and avoid making similar mistakes. Mediums used in telling their stories are also important for listeners to better comprehend their message.

Three (3) points were raised for the participants to think over and remember to ensure that the human rights part of the advocacy is not forgotten.

First, participants in the past have conducted programs and taken up projects that does not directly fill up their proposed agenda. Their programs at present do not effectively address or look into the problems associated with human rights and migrant workers' rights advocacy work. Second, it is essential to find other ways to share stories and to have a stronger sense that CSOs are together in this advocacy. Third, CSO's function is not to feed the existing system but to challenge it.

Based on their discussion, the participants came together and decided to make a request from the Indonesian government to translate the GCM to Bahasa Indonesia for the purpose of understanding the guidelines and policies stated in the document. Mr. Gois suggested writing a letter addressed to the Ministry of Foreign Affairs and the International Organization for Migration (IOM). As mentioned by the participants, they have the right to information, which includes translating the document to a language that they all understand.

Writing a letter requesting for the GCM's translation maybe a small action but it can start the process of change.

Indonesian Engagement with the GCM

Mr. Gois facilitated the session on Indonesian engagement with the Global Compact for Safe, Orderly and Regular Migration. This is a continuation of his previous session and have briefly discussed the components behind the Compact.

First, GCM is non-legally binding meaning there are no legal consequence awaiting countries who violate the agreement. Second, the GCM holds a 360 degrees vision. Third, it follows an all-of-government-approach. This means that all government agencies, ministries, even in the provincial level are included in the implementation of the GCM, when the Indonesian government signs it. Lastly, the GCM is an all-of-society's-approach which means that all CSOs and NGOs should be involved in its implementation. All four points should be in their frame of mind when looking at the GCM.

Video Advocacy

Mr. Arul Prakash, Program Manager of WITNESS, led the session on video advocacy where he introduced the participants to the benefits of utilizing technology to serve their purpose. He discussed and showed them several techniques on how to shoot a video and how to edit the video. He also gave them security tips because there will be times where they may need to film videos in high-risk areas to gather evidence to support their claims.

Organizations across the world have made use of videos to advertise and promote their products as well as their advocacy. For instance, WITNESS created videos as a campaign tool against mining companies. Technology has also learned to adapt to any situations, even high-risk ones, to serve the purpose of the people using it. Small cameras can be hidden in pens or breast pockets to prevent detection. However, it is also better to keep in mind the risks and to understand the local laws and policies before filming. In filming, directors must remember who their intended audience is, the objective of the film, and the message of the film.

Kinemaster App, an app that is widely used by Android users, is a free video-editing app that is downloadable from Google Play. Users can edit their videos in the app while on-the-go and after the video is done, post it in social media.

During the last part of the session, he requested each group to shoot a video using their phones. The theme of the videos were pressing issues concerning migrant workers and lasted only for 1-2 minutes. Afterwards, the videos were projected for everyone to watch. Prakash offered his feedbacks on each video and congratulated the participants for completing the activity. The videos were then shared by the participants in their Facebook accounts after the session.

Moving Forward

Towards its conclusion, participants joined together to draft the letter addressed to the Ministry of Foreign Affairs and IOM requesting to translate the GCM document to Bahasa Indonesia. In addition, they requested for the Concluding Observation on the United Nations Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) 2017 to be translated as well. The participants invoked their right to information as basis for the translation and have stated that the document will be studied and shared to Indonesian migrant workers. All the letters were in Bahasa Indonesia and they planned to send the letters via email. The letter to the IOM was to be copied to MFA and MFA will forward the email together with an English version of the letter to IOM Geneva.

Finally, the schedule of the 3rd module was yet to be decided. A doodle will be shared to the participants to decide which dates are the most practicable for them.

2018 Advocating for the Rights of Indonesia's Migrant Workers
A Capacity Building Program

Module 2, 6 – 9 September 2018

Jakarta

Schedule

	Day 1 – Sept 6 (THU)	Day 2 – Sept 7 (FRI)	Day 3 – Sept 8 (SAT)	Day 4 – Sept 9 (SUN)
Morning 1 09:00 to 10:30	8.30 – 9.00: Registration Welcome Remarks – (Introductions of New Participants) – Recap on Module 1 – Module 2 Introduction - Introduction to the broad agenda of the workshop series – What has happened for the last two months – Recap on Key Issues	Recap - Participants Taking issues to different levels of government in Indonesia – Sharing experiences and practical tips on advocacy and lobbying	Recap – Participant presentation Making Migrant Voices Heard – Lessons and Challenges for Advocates – A Perspective from Migrant Forum in Asia (MFA)	Recap - Participants Building Advocacy to Influence Outcomes – The GCM
Facilitator(s)	DTP/MFA	Dina Nuryati – SBMI	William Gois, MFA	William Gois, MFA
Tea 10:30-10:45				
Morning 2 10:45-12:30	Indonesian Migrant Workers in Malaysia– - The abuses – specific cases/issues - What/who/how are the advocates doing case work? - What can advocates in Indonesia do to help Malaysian advocates with effective case management and referral?	Taking issues to different levels of government in Indonesia – Sharing experiences and practical tips on advocacy and lobbying – Group work exercise	Video Advocacy – - Some Basics of Digital Safety and Security - Developing Communication Strategies	Telling Our Stories – Practical Exercise in Telling Stories and Building Support through Video
Facilitator(s)	Sumitha Kishna Shaanthinni – MWG Malaysia	Dina Nuryati – SBMI	Arul Prakkash, WITNESS	Arul Prakkash, WITNESS
Lunch 12:30 - 1:30				
Afternoon 1 1:30-3:00	Indonesian Migrant Workers in Malaysia– - Access to Justice & Remedy - Building Links in Advocacy – Civil Society in Indonesia and Malaysia o Challenges and Next Steps o How to build it more effectively	Building Collaboration around a Shared Agenda – Priority Issues Group discussions	Making Migrant Voices Heard - An Introduction to the Global Compact on Safe Migration – Beyond Management to Ensuring the Rights Way to Migration	Presentation and Review of Participant Videos –
Facilitator(s)	Sumitha Kishna Shaanthinni – MWG Malaysia	Dina Nuryati – SBMI	William Gois, MFA	Arul Prakkash, WITNESS
Tea 3:00-3:15				
Afternoon 2 3:15-4:45pm	Migrant Workers Advocacy and ASEAN plus - The ASEAN – the work ACWC & Civil Society Consensus on Migrant Workers and Implementation - ASEAN forums as avenues for advocacy and collaboration between Indonesia and Malaysia <i>Lily Purba – formerly Chair of ACWC</i> <i>Sumitha Kishna Shaanthinni – MWG Malaysia</i>	Building Collaboration around a Shared Agenda – Priority Issues for Engaging Government - Group discussions Screening of “A Dream Of A Misty Land” movie on trafficking, produced by and starring Maizidah Salas, DTP participant	- Using Video to tell stories and make change - Communicating Human Rights to Target Audiences - Telling Our Stories – Practical Exercise	Follow-Up Steps on GCM and CMW Concluding Observations – Drafting of Letters to MoFA & IOM Program Evaluations, Next Steps and Closing
Facilitator(s)	Dina Nuriyati, SBMI	Dina Nuryati – SBMI	Arul Prakkash, WITNESS	DTP/MFA/SBMI
Evening		Program Dinner with William Gois, Regional Coordinator of MFA	Program Dinner with William Gois, Regional Coordinator of MFA	
Evening Events	Free Time	Free time		