



LABOUR MIGRATION FROM INDONESIA

An Overview of Indonesian Migration to Selected Destinations in Asia and the Middle East



IOM International Organization for Migration

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Lastly, IOM is grateful for the financial support that the United States Government's Department of State's Bureau for Population, Refugees and Migration (PRM) provided for this study.

PREFACE

Labour migration is a transnational process and neither sending nor receiving countries are in a position to resolve all the issues alone. Inter-state cooperation in managing labour migration is essential at bilateral, regional, and multilateral levels. The Republic of Indonesia is the fourth most populous country in the world and is a source of hundreds of thousands of labour migrants who regularly seek employment in Malaysia, Singapore, and the Middle East. Overseas deployment of Indonesian migrant workers predominantly involves women who work in the non-formal sector. The labour migration of women for domestic services has grown dramatically since the Asian Financial Crisis in 1997 and deployment rates continue to rise. Domestic workers are generally not protected by labour law and are thus particularly vulnerable to extreme exploitation, as well as physical and psychological abuse, including violence, harassment, intimidation and various forms of exploitation at every step of the migration process.

Malaysia, Singapore and destination countries in the Middle East desire and require labour forces that are low skilled or willing to undertake low-skilled jobs that their citizens are unwilling to take at the prevailing wages. Increased demand for these workers in many destination countries has been a contributing factor to the rise of irregular migration, with the estimated number of undocumented migrant workers substantially higher than the number of documented migrants.

International labour migration is a driving factor for the development of the Indonesian economy as well as for its human resources. While migrant workers contribute greatly to the economic development of Indonesia, with registered remittances accounting for more than USD 6 billion annually, they remain inadequately protected by current law and practices. This renders Indonesian labour migrants highly vulnerable to violence, exploitative labour practices, sexual abuse, human trafficking and various other forms of abuse at each step of the migration journey.

I am pleased to present the final report for IOM Indonesia's project "Promoting Dialogue and Information Sharing on Labour Migration between Indonesia and Malaysia, Singapore and the Middle East". As Indonesia seeks to better support its migrant workers when they travel abroad for work, IOM Indonesia is supporting enhanced labour migration practices to common destination countries for Indonesian workers. This project, funded by the United States Government's Department of State's Bureau for Population, Refugees and Migration (PRM), supports IOM Indonesia's activities to link officials from Indonesia and destination countries, to research current policies and their implications and to develop a plan of action to better meet the current challenges.

This report is the result of a collaborative process with a wide cross-section of stakeholders having contributed to this report. IOM wishes to thank the Government of Indonesia for their support and participation in this project. Furthermore, IOM would also like to thank the Institute for Ecosoc Rights, Migrant Care Indonesia, Migrant Care Malaysia, the Task Force on ASEAN Migrant Workers, the Association of Recruitment Agencies for Indonesian Migrant Workers (APJATI), Indonesia Employment Agencies Association (IDEA) and the Insurance Consortium of Indonesian Migrant Workers for all their support throughout this project.

Finally, IOM hopes that this report will support the Government of Indonesia in its efforts to better address its current and future labour migration challenges, contributing to enhanced labour migration management capacity in Indonesia, and strengthening cooperation between Indonesia and selected key labour destination countries in Asia and the Middle East, namely Malaysia, Singapore, Bahrain and Kuwait. It is also hoped that this report will contribute to a wider discussion, cooperation and development of an action-oriented workplan to be used by key stakeholders in enhanced labour migration management.



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EXECUTIVE SUMMARY

This study has been conducted to complement the existing literature on Indonesian labour migration, with a particular focus on an evaluation of the legal system governing recruitment of prospective Indonesian labour migrants. The study focuses especially on Law No. 39/2004 *Concerning the Placement and Protection of Indonesian Overseas Workers*, as this is the main piece of legislation governing recruitment, placement, and protection of migrant workers. The study was carried out through extensive desk research, with additional input provided through two consultation meetings with the Government of Indonesia. Study visits were also conducted by IOM and a Government of Indonesia-led delegation to four key destination countries for Indonesian labour migrants: Singapore, Malaysia, Kuwait and Bahrain. During the study visits, information was gathered through meetings with government representatives of the destination countries, civil society organizations, and Indonesian labour migrants, representatives from the Indonesian embassies and consulates, academics, and recruitment agencies and through visits to shelters for labour migrants who had experienced problems while working abroad.

According to the Ministry of Manpower and Transmigration in 2006 there were 2.7 million Indonesian citizens working legally abroad, these workers constitute approximately 2.8 percent of the Indonesian workforce. The majority of these labour migrants are women working in the domestic or service sectors. They are concentrated in Southeast and East Asia and the Middle East, in particular Malaysia, Singapore, Hong Kong SAR (Hong Kong Special Administrative Region), Taiwan Province of China, Saudi Arabia, Kuwait and the United Arab Emirates.

The first part of the report analyzes the current legislative framework governing labour migration from Indonesia as well as the processes for migration from Indonesia. The study found a number of issues with regards to Law No. 39/2004 and its implementation and enforcement; these loopholes create the opportunity for abuses at all stages of the migration process. The law's formulation leaves room for interpretation and although a significant number of ministerial regulations, presidential decrees, and presidential instructions have been enacted to explain and clarify how the law should be implemented, these remain inadequate for effective protection of Indonesian labour migrants.

One of the main problems identified in the report is a lack of cooperation amongst government agencies in the implementation of Law No 39/2004. As Law No. 39/2004 does not explicitly state the responsibilities of each ministry or department throughout the migration process, confusion and power struggles within the Government of Indonesia have followed, especially between the Ministry of Manpower and Transmigration and the newly established National Authority for the Placement and Protection of Indonesian Overseas Workers (BNP2TKI). Regulations have now been put in place in an attempt to establish a division of jurisdiction between these two authorities, however, to date, these regulations have not had the intended effects.

Law No. 39/2004 also limits government involvement in the protection of labour migrants. Instead the system relies on private recruitment agencies to provide the majority of services needed by migrants. Private recruitment agencies are now responsible for recruiting prospective labour migrants, providing them with the skills required to carry out their job abroad, language training, obtaining appropriate documentation and finding suitable employment abroad. As most of the service providers are placed in Jakarta, this forces labour migrants to travel to, and stay in, Jakarta which substantially increases the cost of migration for labour migrants.

Under Law No. 39/2004, the power to implement and monitor the placement and protection of labour migrants has been concentrated at the national level. District and provincial governments are not required to monitor the implementation of the law, the performance of recruitment agencies in their districts or the number of labour migrants leaving their districts. A significant obstacle to safe recruitment practices in Indonesia is the lack of information among prospective labour migrants about safe migration, documentation and employment conditions abroad.

Additionally, the recruitment process, and especially the documentation process is currently very complicated and lengthy. This could be simplified to enable prospective migrants to take greater responsibility for obtaining their own documentation. There is a lack of compliance by some recruitment agencies, indicating the need for the government to take a more active role in regulating the industry, as well as monitoring and ensuring compliance.

Another problem identified by the report is the high cost of recruitment fees. A labour migrant to Hong Kong SAR, for example, pays around IDR 15 million (USD 1,600)¹ in recruitment costs, a significant sum considering the average monthly salary is around HKD 3,580 (USD 460)². For many migrants, the only way of covering this cost is to take a loan, either from the recruitment agency or village lenders at high interest rates.

Recent reforms to repatriation services have significantly improved the services for returning labour migrants. Terminal IV at the Soekarno-Hatta International Airport in Jakarta is managed by the National Authority for the Placement and Protection of Indonesian Overseas Workers and provides a number of services to returning labour migrants. There is a 24-hour on-call doctor and a special area devoted to providing assistance with insurance claims. Nevertheless, certain services could still be improved; specifically access to cheap transportation from the terminal to other destinations in Indonesia. There are also issues of freedom of movement for labour migrants using Terminal IV as all labour migrants arriving from overseas are required to enter Jakarta through this terminal. Labour migrants are also forced to return to the address stated on their passport, which can be inconvenient for labour migrants whose families have moved while they were placed abroad, or who would like to return to a different area in order to visit family members or friends.

The report found that a large number of labour migrants are in need of government services or assistance after their return. Specifically, they need help with case handling, insurance claims, training and assistance with business management. The Ministry of Manpower and Transmigration and the National Authority for the Placement and Protection of Indonesian Overseas Workers are endeavouring to train some returned labour migrants in business entrepreneurship, however this program has had limited success as a result of inadequate resources. Ideally, more resources should be made available to assist labour migrants in managing their earnings and ensuring that adequate employment and business opportunities are made available to them upon return. The high number of insurance claims made by returning migrants means that many claims are never processed and even fewer cases are resolved. It is also likely that a significant number of cases are never filed because migrants do not know where to seek assistance. Overall, efforts should be made to raise labour migrants' awareness of their labour rights and human rights, as well as the legal channels open to them in the event that their rights have been violated.

The second part of the report addresses the conditions and experiences of Indonesian labour migrants abroad. While these conditions and experiences varied between the four destination countries surveyed, certain commonalities were visible.

The Indonesian Ministry of Foreign Affairs has taken significant steps to improve protection for labour migrants overseas. Recruitment agencies are now required to register all Indonesian workers arriving overseas at the embassy or consulate in the destination country. The embassy also holds a copy of the worker's contract and logs the address of the employer, making it easy to locate the worker in the event of any reports of exploitation or abuse. However, many recruitment agencies fail to register the migrants with the embassy or consulate upon arrival; this makes it difficult for the embassy to provide services and protection for Indonesian labour migrants in the destination country.

At least partly stemming from the problems encountered during the recruitment process in Indonesia, many labour migrants are vulnerable to exploitation and abuse upon arrival in the destination country. Common problems faced by Indonesian labour migrants in destination countries fall into two typical categories, namely labour problems (for example wages that are below agreed rates, unpaid wages, passports and other documentation being retained by employers, excessive working hours, insufficient or no rest periods, inhumane working conditions, restrictions on access to information and communication, insufficient food) and problems related to violence (for example sexual abuse, rape, torture and murder).

Overall, reforms are needed to improve the situation for Indonesian labour migrants. Particular focus needs to be given to increasing the level of knowledge amongst labour migrants about safe migration and human and labour rights, while ensuring all labour migrants are protected by the government rather than by for-profit

recruitment agencies. In the long term, the Government of Indonesia also needs to consider improving the skills of labour migrants, thus diversifying Indonesia's labour supply. Improving the skill levels of labour migrants and placing them in better paid jobs, will usually result in better protection, and migrants will be more likely to acquire useful skills abroad. They will also be able to remit more money to their families, thus contributing to poverty alleviation in Indonesia.

Labour migration has the potential to be a positive force in the development of Indonesia. There is, however, an urgent need to strike a balance between deriving economic benefits from international labour migration and ensuring the effective protection of labour migrants.

¹ As of February 2010

² As of February 2010

ABBREVIATIONS AND ACRONYMS

ASEAN	Association of Southeast Asian Nations
AKAD	<i>Antar Kerja Antar Daerah</i> (Interprovincial Labour Placement Program)
AKAN	<i>Antar Kerja Antar Negara</i> (International Labour Placement Program)
BNP2TKI	<i>Badan Nasional Penempatan dan Perlindungan Tenaga Kerja Indonesia</i> (The National Authority for the Placement and Protection of Indonesian Overseas Workers)
BP3TKI	<i>Balai Pelayanan Penempatan dan Perlindungan Tenaga Kerja Indonesia</i> (Agency for the Service, Placement and Protection of Indonesian Overseas Workers)
Colombo Process	Also known as the Ministerial Consultations for Asian Labour Sending Countries
EFMA	Employment of Foreign Manpower Act (Singapore)
EOP	Employers' Orientation Programme (Singapore)
FAST	Foreign Domestic Worker Association for Skills Training (Singapore)
FMMD	Foreign Manpower Management Division (Singapore Government Ministry of Manpower)
FOMEMA	Foreign Workers' Medical Examination Monitoring Agency (Malaysia)
GCC	Gulf Cooperation Council
GFMD	Global Forum on Migration and Development
G-to-G	government-to-government
HOME	Humanitarian Organization for Migration Economics (NGO) (Singapore)
ILO	International Labour Organization
Kafeel system	Kuwait's foreign worker sponsorship system
KBRI	<i>Kedutaan Besar Republik Indonesia</i> (Embassy of the Republic of Indonesia)
KHRS	Kuwaiti Human Rights Society (NGO) (Kuwait)
KTKLN	<i>Kartu Tenaga Kerja Luar Negeri</i> (Overseas Workers Card)
LMRA	Labour Market Regulatory Authority (Bahrain)
MoU	Memorandum of Understanding
MWC	Migrant Workers' Centre (Singapore)
NTUC	National Trade Union Congress (Singapore)
NOC	No Objection Certificate, issued by the Kuwaiti Ministry of Social Affairs and Labour (Kuwait)
OECD	Organisation for Economic Co-operation and Development
PRT	<i>Pekerja Rumah Tangga</i> (Domestic Migrant Worker)
RELA	<i>Ikatan Relawan Rakyat Malaysia</i> (People's Voluntary Corps is a paramilitary civil volunteer corps formed by the Malaysian Government. Their main duty is to check the travel and immigration documents of foreigners in Malaysia, including tourists and migrants, to reduce the increasing rate of irregular migration in Malaysia.)
SAC	Safety Awareness Course (Singapore)
SBMI	<i>Serikat Buruh Migran Indonesia</i> (Indonesian Migrant Workers' Union)
SUHAKAM	<i>Suruhanjaya Hak Asasi Manusia Malaysia</i> (The Human Rights Commission of Malaysia)
TKI	<i>Tenaga Kerja Indonesia</i> (Overseas Migrant Worker/Labour Migrants)
TWC2	Transient Workers Count Too (NGO) (Singapore)
UNDHR	Universal Declaration of Human Rights



INTRODUCTION



INTRODUCTION

International labour migration has received increasing international attention in the past two decades as more countries are affected by international migration and want to enhance the benefits that can be derived from it as well as the way labour migration flows are managed. Migration constitutes a challenge for destination countries as they have to balance the needs of domestic business and labour markets with the views and needs of their own citizens, as well as the rights and protection of labour migrants. These three aspects all have to be taken into consideration in migration policy making. Likewise, countries of origin have to balance the interests of governments, migrants and local communities when managing the out-migration of their citizens. There are also rising concerns amongst countries of origin about the rights of their citizens abroad and how best to protect them.

This section will set out the overall purpose of this report, and the terminology used. This will be followed by an outline of the international context in which Indonesian labour migration takes place. Finally, it will describe the methodology used in the report and provide an overview of the structure of the remaining parts of the report.

PURPOSE

The purpose of this report is fivefold. First, the report will analyze and evaluate the existing capacity of the Government of Indonesia to effectively manage labour migration. Second, the report will assess the impact of the current regulatory system, working procedures and organizational structures that affect labour migration management in Indonesia. Third, it will identify ambiguities in the current regulatory framework. Fourth, it will analyze the conditions of Indonesian labour migrants in four destination countries and finally, it will identify protective mechanisms and regulations that can help protect the interests and rights of Indonesian migrant workers.

TERMINOLOGY

Migration is defined as the movement of a person or group of persons from one geographical unit to another across an administrative or political border, with the intention of settling indefinitely or temporarily in a place other than their place of origin³. Included in this definition is the movement of refugees, displaced persons, irregular migrants as well as economic migrants. Today, there are at least 200 million people living outside their countries of birth or nationality (IOM, 2008). In a world characterized by uneven economic, social and political development and increased global interconnectedness most countries are affected by migration. The regional and global social and economic disparities are the main drivers of migration today. Although economics and wage differentials play an important role, demographics play a major role too, as the more developed countries tend to have aging populations, and lower fertility rates while less developed countries tend to have higher fertility rates and larger populations of working age. These economic and demographic trends are long-term developments and, while policies may change rapidly, these trends help shape current patterns of migration. They are likely to keep doing so, thus we can expect existing migration trends to continue for the foreseeable future with the exception of movements caused by natural catastrophes and wars, which cannot be predicted.

Labour migration is commonly defined as a cross-border movement for the purpose of employment in a foreign country (IOM, 2009). Through legal or irregular means, facilitated or otherwise, labour migrants contribute to the economy of both the origin and the destination country. Migrants help expand the labour force in destination countries and through remittances they can contribute to development in their country of origin. In November 2009, the World Bank reported that official remittance flows to developing countries reached USD 338 billion in 2008, thus accounting for a significant part of all foreign investments (World Bank, 2009A). Remittance flows to South Asia, East Asia and the South Pacific grew strongly in 2008 despite the Global Financial Crisis, but there are now risks that remittance flows may slow down in a delayed response to a weak global economy (World Bank, 2009a).

³ Definitions can be drawn from a geographical ('migration'), or from a human perspective ('migrant'), with this definition using a geographical perspective. From the human perspective, any person who leaves his or her country with the intention to reside in another is called an 'emigrant' or 'émigré'. In the country of destination, that person is considered an 'immigrant', or is similarly described under national immigration laws framed by each State; <http://www.iom.int/jahia/Jahia/about-migration/migration-management-foundations/terminology/migration-typologies>

Most countries in the world are today affected by labour migration, either as countries of origin, destination or transit, and some countries are experiencing all three phenomena simultaneously. There is a growing trend amongst migrant workers in Asia from countries such as Indonesia, India, Pakistan, Philippines, Sri Lanka, Bangladesh, Cambodia, the Lao People's Democratic Republic, and Vietnam to seek work in other Asian countries. Japan, Republic of Korea, Malaysia, Singapore, Thailand, Brunei Darussalam, Hong Kong SAR, and Taiwan Province of China have become the main destinations for migrant workers. Two decades ago the majority of Asian labour migrants travelled to countries in the Middle East for employment. Of the 25 million labour migrants in Asia, most are working in neighbouring countries (Table 1)(ILO, 2007).

Table 1: Estimated Numbers of Labour Migrants by Country of Origin and Country of Destination

Country of Origin	Number of Labour Migrants	Destination Countries	Year
Myanmar	1,840,000	Thailand	2006
Thailand	340,000	Saudi Arabia, People's Republic of China, Taiwan Province of China, Myanmar, Singapore, Brunei Darussalam, Malaysia	2002
Lao People's Democratic Republic	173,000	Thailand	2004
Cambodia	183,541	Thailand	2006
Vietnam	400,000	Republic of Korea, Japan, Malaysia, Taiwan Province of China	2005
Philippines	8,233,172	Middle East, Malaysia, Japan	2006
Malaysia	250,000	Japan, Taiwan Province of China	1995
Singapore	150,000	-	2002
Indonesia	2,700,000	Malaysia, Saudi Arabia, Taiwan Province of China, Singapore, Republic of Korea, United Arab Emirates	2007
People's Republic of China	530,000	Middle East, Asia and Pacific, Africa	2004
Total	14,799,713		

Source : Hugo, 2009

Labour migration in Asia is predominantly temporary in nature, with the majority of labour migrants working on one or two year contracts. In addition, labour migration in Asia is dominated by lower skilled and semi-skilled workers, mainly employed in construction, domestic work, agriculture, manufacturing and the service sector. For most migrants the rationale for working abroad is to be able to earn a higher income to support themselves and their dependants in their home country. While working overseas, many labour migrants send money home to pay for their families' daily needs, children's education or to service debts. In 2008, ASEAN countries received an estimated USD 36 billion in remittances from migrant workers within and outside the region (World Bank, 2009b).

METHODOLOGY

A number of different methods were used to investigate the current situation of labour migration from Indonesia. First, a secondary data review on Indonesian labour was undertaken, based on data obtained from the Government of Indonesia and non-governmental agencies. Second, an analysis of the legislation directly or indirectly related to overseas migration of Indonesian labour was undertaken. This analysis focuses on Law No. 39/2004 Concerning the Placement and Protection of Indonesian Overseas Workers, which regulates the deployment of Indonesian labour abroad. Various legislative instruments issued prior to and following the enactment of Law No. 39/2004 have also been reviewed to provide a comparison in assessing the issue of legal protection for Indonesian labour migrants and any subsequent changes that have been made.

Analysis of the legislative content was undertaken to study the root of the labour migration problem faced by Indonesia workers. Third, case studies of the situation for Indonesian labour migrants in destination countries were carried out based on the results of study visits to four key destination countries: Malaysia, Singapore, Kuwait and Bahrain. The study visits consisted of meetings with government officials, interviews and observations at Indonesian embassies and consulates, together with consultation with civil society, academics, recruitment agencies, Indonesian migrant associations and Indonesian labour migrants in the countries of destination, as well as government and non-governmental labour migrant shelters.

These three approaches were deliberately selected to create a comprehensive picture of the condition of Indonesian labour migration. The report aims to include the experiences of Indonesian workers from the recruitment process, through their service abroad and upon their return to Indonesia. It also seeks to incorporate the views of various stakeholders in both Indonesia and the four destination countries with respect to Indonesian labour migration and current labour migration policies.

This triangulation of data and data collection methods enabled the researchers to identify the main issues pertaining to labour migration from Indonesia. By understanding the underlying causes of the problems associated with labour migration, solutions can be produced that address the difficulties faced by Indonesian labour migrants down to its roots.

STRUCTURE OF THE REPORT

The report is divided into three main parts. The first part provides an overview of labour migration from Indonesia. It focuses on the legal framework and the stakeholders involved in the migration process, as well as international cooperation. There is a discussion on the challenges of managing migration in Indonesia, in particular irregular migration and trafficking in persons. This section addresses the placement process for Indonesian labour migrants and the protection of migrant workers in Indonesia during and after working abroad.

The second part of the report will address the conditions experienced by Indonesian labour migrants in four different destination countries - Malaysia, Singapore, Kuwait and Bahrain. The last part of the report will summarize the main findings of the report and make recommendations for further actions.

REGIONAL AND INTERNATIONAL COOPERATION

There is no international legal framework governing labour migration. Migration policies are generally formulated by governments at the national level without consultation with other governments since the right to determine who enters a country, for what purpose and how long they can stay is considered an issue of state sovereignty. In many cases, such policies are subsequently implemented through bilateral labour agreements. There are also several international conventions dealing with the rights of labour migrants and their families and these too play an important standard-setting role in the protection of migrant workers worldwide, although there are no enforcement mechanisms or binding legal framework governing international migration.

Many governments in countries of origin have developed migration policies without specifically referring to the rights of labour migrants, preferring to submit protection standards to market mechanisms. Limited commitment by both countries of origin and destination to protect labour migrants makes them vulnerable to abuse in all phases of the migration process.

Cooperation between states can take the form of consultative mechanisms. In recent years several of these have been established that include Indonesia. These include the Global Forum for Migration and Development (GFMD), the Ministerial Consultations for Asian Labour Sending Countries (the Colombo Process) and the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers.

The Global Forum on Migration and Development (GFMD)

The GFMD⁴ is a global dialogue on migration and development issues that occurs annually. There are currently 155 governments taking part in the process. They discuss the global implications of international migration and the mutually beneficial interaction between migration and development. The GFMD evolved out of the United Nations High Level Dialogue on International Migration and Development in 2006.

The Ministerial Consultations for Asian Labour Sending Countries (The Colombo Process)

In view of the increasing numbers of Asian labour migrants overseas, individual Asian countries of origin have taken steps to protect their workers from exploitative practices both in recruitment and employment. Furthermore, they have also tried to optimize the benefits of migration by encouraging the use of formal channels for remittances. However, policy makers have acknowledged that greater efforts to address the challenges of labour migration require increased cooperation between countries of origin and destination. Consequently, 10 Asian countries (Bangladesh, China, India, Indonesia, Nepal, Pakistan, Philippines, Sri Lanka, Thailand and Vietnam) gathered in Colombo, Sri Lanka in 2003, to attend the Ministerial Consultations for Asian Labour Sending Countries. The member states of these consultations, now known as the “Colombo Process”, made recommendations for the effective management of overseas employment programs and agreed to conduct follow-up meetings. Several destination countries participated in the third consultation meeting in Bali, Indonesia in September 2005, including Bahrain, Italy, Kuwait, Malaysia, Qatar, Republic of Korea, Saudi Arabia, and the United Arab Emirates. Recommendations from this meeting included promoting improved dialogue between countries of origin and destination.

Ministerial Consultation on Overseas Employment and Contractual Labour for Countries of Origin and Destination in Asia (The Abu Dhabi Dialogue)

The participation of destination countries in the Third Consultation meetings of the Colombo Process countries in Bali in 2005 initiated the development of opportunities for dialogue between countries of origin and destination. In January 2008 the United Arab Emirates hosted the inaugural Ministerial Consultations between Asian destination countries and Colombo Process countries in Abu Dhabi⁵. This Ministerial Consultation, also known as the Abu Dhabi Dialogue, brought together for the first time the Colombo Process countries with the Gulf Cooperation Council (GCC) states, Yemen and two additional Asian destination countries, Malaysia and Singapore. The first meeting aimed to provide a forum to discuss new ideas toward the development of a comprehensive and practical framework for the management of temporary contractual labour mobility in Asia, promote the wellbeing of labour migrants and foster greater intergovernmental cooperation.

The ASEAN Declaration on the Protection and Promotion of the Right of Migrant Workers

During the 12th Association of Southeast Asian Nations (ASEAN) Summit on 13 January 2007 in Cebu, the Philippines, the Heads of State of ASEAN member countries signed the Declaration on the Protection and Promotion of the Rights of Migrant Workers⁶. ASEAN members, comprising countries of origin and destination for labour migrants, declared that they would take measures in order to protect and promote the rights of labour migrants. In accordance with national laws, regulations, and policies, ASEAN members are required to take action for the benefit of labour migrants by promoting decent, humane, productive, dignified and remunerative employment for labour migrants and creating re-integration and human resource development programmes for returned migrant workers. ASEAN member countries also cooperate to strengthen their capacities, share best practices and facilitate data sharing among themselves to prevent and curb people smuggling and trafficking.

⁴ The Global Forum on Migration and Development - <http://www.gfmdathens2009.org/index.php?id=10&L=0>

⁵ The Ministerial Consultation on Overseas Employment and Contractual Labour for Countries of Origin and Destination in Asia (The Abu Dhabi Dialogue) - http://www.colomboprocess.org/minis_abudhabi.php

⁶ The ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers - <http://www.aseansec.org/19264.htm>

INTERNATIONAL LABOUR MIGRATION

Labour Migration Challenges

Labour migration affects countries in different ways. In countries that are predominantly countries of origin problems emerge concerning the recruitment process, pre-departure preparations and placement costs. High rates of unemployment, poverty and teenage school dropouts create an abundance of lower-skilled workers looking for employment. These individuals are easily attracted to jobs overseas, which often pay more than they could earn for the same work in their home country. However, illegal recruitment practices and high recruitment fees can result in workers becoming trapped in situations of debt bondage overseas. Labour migrants are often not properly trained, have not been made aware of their rights and are thus easily exploited. Countries of destination and transit face problems relating to irregular migration, organized criminal networks involved in trafficking in persons and people smuggling as well as other social problems. The transnational nature of labour migration requires that its associated challenges are addressed by countries of origin, transit and destination.

Demand for Lower Skilled Labour

Restrictive labour migration policies in destination countries and the weak commitment to protection of migrants by governments in both countries of origin and destination result in vulnerable groups requiring special protection. These include, but are not limited to, irregular labour migrants and victims of human trafficking.

Highly skilled workers tend to be better protected overseas in comparison to low- or semi-skilled workers, as they are often more highly valued by the governments of destination countries as they fill acute labour market needs with their special skills set. Alternatively, low- or semi-skilled workers often fill jobs that destination country nationals are not willing to perform for the prevailing wage. These workers are often covered by firm policies relating to their stay in the destination country and are often subject to harsh punishments if they do not fulfil the conditions of their stay. Many countries of origin and destination have delegated private agents to manage the placement and protection of lower-skilled labour migrants. This often results in a lack of protection for workers, especially for those in the domestic sector, irregular labour migrants and victims of human trafficking.

Irregular Migration

Irregular migration is defined as movements that take place outside the regulatory norms of countries of origin, transit and destination. From the perspective of destination countries, this includes illegal entry, stay or work in the country, meaning that the migrant does not have the documents required under immigration regulations to enter, reside or work in a country at that time. From the perspective of countries of origin, irregular migration occurs when a national of that country crosses an international boundary without a valid travel document or does not fulfil the administrative requirements for departing the country.

Trafficking in Persons

The United Nations Convention against Transnational Organized Crime⁷ has two protocols on trafficking in persons and people smuggling, which aim to end all forms of human exploitation. It has been ratified by 112 countries, including Indonesia. The Protocol defines ‘trafficking in persons’ as ‘the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation’⁸. It also defines exploitation as, ‘at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs’⁹. Furthermore, this definition emphasizes that the consent of a victim is irrelevant when the means set out in the definition is used. The Protocol also explicitly states that the recruitment, transportation, transfer, harbouring or receipt of a child (under 18 years of age) for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth above.

⁷ The United Nations Convention Against Transnational Organized Crime (2000), http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_eng.pdf

⁸ The United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime (2000), http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_%20traff_eng.pdf

⁹ The United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime (2000), http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_%20traff_eng.pdf

When discussing trafficking, it is necessary to distinguish between trafficked and smuggled persons, a distinction which is often blurred. Trafficking is generally considered a criminal activity against the person that has been trafficked. A person is not trafficked voluntarily, because by definition it is not possible for a person to choose to be trafficked. The smuggling of people is considered a crime against one or more states by the persons being smuggled and by the smugglers, agents or brokers, if there are any involved. Migrants generally choose to be assisted by smugglers, who profit from the illegal border crossings, which results in those migrants immediately gaining an irregular status in the destination country. This voluntary element creates a very important distinction between the smuggling and trafficking of people. Another important distinction is that smuggling occurs only during the transportation phase, whereas trafficking (of both regular and irregular migrants) may take place at almost any point during the migration process, and a proportion of Indonesian labour migrants are trafficked.

Many prospective labour migrants are often unaware of how to migrate safely and are thus vulnerable to deception, extortion, exploitation and document forgery. In areas where the recruitment and deployment of labour migrants is conducted by private companies with limited government supervision, labour migrants are even more susceptible to exploitative labour practices. It is within this context that trafficking in persons takes place. Victims may depart countries of origin through legal channels or may be smuggled by transnational criminal networks, ending up in slave-like conditions, where they are not paid, have no freedom of movement and often experience abuses. Data on trafficked persons is very difficult to obtain as a result of its clandestine nature.

Gender and Migration: The Feminization of Labour Migration

Women play an increasing role in international labour migration and currently constitute 49.6 percent of all labour migrants globally (IOM, 2008). In developing countries, where the majority of labour migrants are temporary workers, the proportion of female labour migrants rose dramatically from the 1970s onwards. The main destination countries for Asian female labour migrants were in East, West and Southeast Asia and the Asia Pacific. In several countries, the number of female labour migrants has, in fact, reached 70 percent of the total number of labour migrants. In Indonesia, 69 percent of labour migrants in 2006 to 2007 were female (ILO, 2008). This shift in migration patterns is often referred to as the feminization of labour migration.

In Asia, the largest category of female employment is domestic work. Domestic workers travel from Indonesia, Philippines and Sri Lanka to Hong Kong SAR, Malaysia, the Middle East and Singapore. Many also come from Cambodia and Myanmar to work in Thailand, although these are largely irregular labour migrants.

The majority of female labour migrants are employed in domestic services. The domestic sector is often not covered by labour and industrial relations laws in the destination countries, which makes this group of migrants particularly vulnerable to abuse. This situation is re-inforced by the 'private' nature of domestic work, as it takes place in the employer's home, which makes enforcement and monitoring of labour laws difficult. In light of this, it is important that a gender perspective is included in labour migration discussions, encompassing the different experiences and protection needs of male and female labour migrants, as well as the families they leave behind. In addition, it is crucial that data collection and policy follows a similar approach.



PART 1: LABOUR MIGRATION FROM INDONESIA



PART 1: LABOUR MIGRATION FROM INDONESIA

OVERVIEW OF LABOUR MIGRATION FROM INDONESIA

Migration from Indonesia has been occurring for hundreds of years but has increased exponentially in modern times, from the 1960s and 1970s through to today. Indonesian labour migrants, often referred to as *Tenaga Kerja Indonesia* (TKIs) leave their home country for a number of reasons that include a lack of employment opportunities, poverty, and wage differentials between Indonesia and destination countries.

Formal, government-administered placement of labour migrants from Indonesia did not start until 1969 and was managed by the then-Department of Labor. With the advent of Government Regulation No. 4 of 1970, the Interprovincial Labour Placement (AKAD) and the International Labour Placement (AKAN) programs were introduced, paving the way for the involvement of the private sector in the migration recruitment and placement industry. Although the number of Indonesian labour migrants fluctuated between 1996 and 2007, the number increased from 517,169 to 696,746 (see Table 2) with an increase of 21 percent between 2004 and 2007. Around 60 percent of Indonesian labour migrants are in countries in the Middle East such as Saudi Arabia, Kuwait, the United Arab Emirates, Jordan and Qatar (Suparno, 2008). The remainder have been deployed to countries in Southeast and East Asia, such as Malaysia, Singapore, Hong Kong SAR, Republic of Korea, Taiwan Province of China, and the Americas (Suparno, 2008).

Table 2: Placement of Indonesian Labour Migrants by Gender

Gender	1996		2000		2004		2007	
	Total	%	Total	%	Total	%	Total	%
Men	228,337	44	137,949	32	84,075	22	152,887	22
Women	288,832	56	297,273	68	296,615	78	543,859	78
Total	517,169	100	435,222	100	380,690	100	696,746	100

Source: BNP2TKI (National Authority for the Placement and Protection of Indonesian Overseas Workers) (2006).

As illustrated in Table 2, the majority of Indonesian labour migrants are women, as a result of the increased demand for migrant labour in the domestic and manufacturing sectors. This is often referred to as the feminization of labour migration, and has attracted the attention of scholars and policy makers in recent years¹⁰. Female labour migrants deserve particular attention with regards to their protection needs, as these may differ from those of male migrants. The majority of female migrants work as domestic workers, nannies and aged care workers. Domestic work is often not covered by labour laws in the destination country and because it is carried out in private residences it is extremely difficult for authorities to monitor and for the workers to seek assistance if they need it. This makes domestic workers more vulnerable to exploitative labour practices, physical and mental abuse and withholding of wages.

Table 3: Placement of Indonesian Labour Migrants by Major Destination Country in 2009

No.	Destination Country	Total
1	Malaysia	222,198
2	Singapore	37,496
3	Brunei Darussalam	5,852
4	Hong Kong SAR	29,973
5	Republic of Korea	3,830
6	Japan	96
7	Taiwan Province of China	50,810
8	Saudi Arabia	257,217
9	Kuwait	25,756
10	UAE	28,184
11	Bahrain	2,267
12	Qatar	10,449
13	Jordan	12,062
14	Oman	7,150

Source: BNP2TKI (The National Authority for the Placement and Protection of Indonesian Overseas Workers) (2009b).

¹⁰ See for example Castles and Miller (2009).

Malaysia is the main destination country for Indonesian labour migrants, both for regular migrants and for irregular workers according to the Malaysian Government. Similarities in ethnicity, culture and language with Indonesia enable Indonesian workers to easily blend into Malaysian society. In June 2009, following a series of cases of abuse of Indonesian domestic workers in Malaysia, the Indonesian Government banned Indonesian nationals from migrating to Malaysia as domestic workers. Nevertheless, despite the ban, Malaysia continues to be a major destination country for Indonesian labour migrants, and many migrate irregularly as an unfortunate consequence of the ban. The ban is expected to be lifted in the near future when a new MoU is signed between the Indonesian and Malaysian Governments.

Table 4: Economic Indicators for Indonesia and Key Destination Countries

No	Key Indicator	Indonesia	Malaysia	Singapore	Kuwait	Bahrain
1	Population (millions) (2007)	224.7	26.6	4.5	2.9	0.8
2	Population of working age (millions) (2009 est)	113.3	11.29	3.03	2.04	0.595
3	Level of Unemployment (%) (2009 est)	7.7	5.0	3.0	2.2	15.0
4	GDP per capita (USD) (2007)	1,918	7,033	35,163	42,421	21,421
5	Human Poverty Index (HPI-1) rank (2007)	69	25	14	-	39

Sources: UNDP Human Development Report 2009 - http://hdrstats.undp.org/en/countries/data_sheets/cty_ds_IDN.html

CIA World Factbook (2009) - <https://www.cia.gov/library/publications/the-world-factbook/geos/id.html>

Economic reasons drive the majority of Indonesian labour migrants to migrate abroad, to improve the economic status of themselves and their families. High levels of unemployment and underemployment in Indonesia push many individuals to look for jobs outside their area of origin and many may decide to go abroad after hearing about the availability of jobs from recruitment agents and social networks and the higher salaries on offer abroad in countries such as Malaysia, Saudi Arabia, Hong Kong SAR, Kuwait, Singapore and the United Arab Emirates. Many individuals, especially women, see migration abroad as the only way out of poverty for them and their families. Most workers therefore migrate with the intention of working abroad for only a limited period of time in order to save enough money to purchase a house, open a business or send their children or relatives to school. Although labour migration from Indonesia is characterized as temporary because few migrants leave with the intention of settling in the destination country, they generally do not have the opportunity to stay even if they change their mind. Nevertheless, due to the high costs often associated with securing overseas employment, temporary labour migration often turns into a stay that is longer than expected and may last several years.

The Government of Indonesia has facilitated the migration abroad of millions of Indonesian workers in the last two decades, as the country continues to be plagued by high levels of unemployment and underemployment despite high levels of economic growth since the late 1960s. Through the establishment of private recruitment agencies, the Government of Indonesia has allowed the deployment of Indonesian workers overseas as a way of easing domestic unemployment and underemployment.

Despite high levels of unemployment across all sectors of the Indonesian economy, it is primarily low-skilled workers who are migrating abroad. Globally, there are labour shortages in sectors such as domestic work, agriculture, construction, manufacturing, and the service sector which encourage the migration of lower-skilled workers. These are generally jobs that nationals in receiving countries are not willing to do or accept at the prevailing wages and, as a result, some countries have adopted policies to facilitate labour migration. Because of the comparatively higher salaries offered by countries in the Middle East and Southeast Asia for these jobs, compared to the wages in Indonesia, Indonesian labour migrants are willing to travel overseas to work in these sectors.

The choice of destination country is often limited; it is determined by the labour market needs in the destination countries and by the markets to which the particular recruiter has access. When the destination country is decided by the recruitment agency the migrant of ten has little or no choice in the matter. Many Indonesian labour migrants choose to go to Malaysia because of geographical proximity to Indonesia, similarities in history, language and culture and due to the lower cost of migrating there. These factors are also why there are a large number of irregular Indonesian labour migrants in Malaysia, an issue which will be discussed further in Part Two.

Indonesian labour migrants who migrate to the Middle East, especially to countries such as Saudi Arabia, Kuwait, the United Arab Emirates and Bahrain, are often drawn by the possibility of undertaking the Hajj pilgrimage. On the other hand, Hong Kong SAR and Taiwan Province of China attract workers for the comparatively higher salaries for domestic workers. Contact with labour migrants who have returned from these countries also influences the migration flows of Indonesian labour migrants. Migrants from the same area of origin will often migrate to the same country, as they are likely to use the same recruitment agency or village broker, or make use of personal contacts in the destination country.

OVERVIEW OF THE LEGAL FRAMEWORK COVERING INDONESIAN LABOUR MIGRATION

As discussed above, the number of Indonesian migrants abroad has been increasing recently and the Indonesian Government has paid increased attention to the labour migration process and how Indonesian labour migrants are recruited, deployed and treated in the destination countries. As a result, a number of public policies have been enacted to better manage the migration of Indonesian labour migrants. Broad public interest in cases of mass deportation of Indonesian labour migrants from Malaysia has also caused civil society to put pressure on the Government of Indonesia to strengthen legislation that protects Indonesian labour migrants.

The main provisions and regulations that have been enacted are listed below:

- Law No. 39/2004 *Concerning the Placement and Protection of Indonesian Workers Abroad*;
- Government Regulation No. 92/2000 on *Types of Valid Non-tax State Revenues in the Ministry of Manpower and Transmigration*;
- Presidential Instruction No. 6/2006 on *Reforming the System of Placement and Protection of Indonesian Migrant Workers*;
- Presidential Regulation No. 81/2006 on *the National Authority for the Placement and Protection of Indonesian Overseas Workers*;
- Ministry of Manpower and Transmigration Decree No. KEP-14/MEN/I/2005 on *the Prevention of Non-procedural Departures of Indonesian Labour Migrants and Repatriation Services for Indonesian Labour Migrants*;
- Ministry of Manpower and Transmigration Regulations, including No. PER-04/MEN/III/2005 on *Implementation of the Pre-departure Briefing of Indonesian Migrant Workers Abroad*;
- Ministry of Manpower and Transmigration Decree No. PER-05/MEN/III/2005 on *Regulations on Administrative Sanctions and Means of Determining Sanctions in the Placement and Protection of Indonesian Overseas Workers*;
- Ministry of Manpower and Transmigration Decree No. PER-07/MEN/IV/2005 on *Accommodation Standards for Prospective Migrant Workers*;
- Ministry of Manpower and Transmigration Decree No. PER-19/MEN/V/2006 on *Managing the Placement and Protection of Indonesian Overseas Workers*;
- Ministry of Manpower and Transmigration Decree No. PER-23/MEN/V/2006 on *Insurance for Indonesian Migrant Workers*.

Policies Prior to the Enactment of Law No. 39/2004

To understand the rationale behind Law No. 39/2004, it is important to first examine the policies from the early post-reform period of 1998 that became the basis for public regulation of the placement of labour migrants abroad. The following policies, in chronological order, provided the background for the emergence of Law No. 39/2004, and provide an insight into the labour migration situation at that point in time.

Ministerial Decree No. 204/1999

Ministerial Decree No. 204/1999 was issued in 1999 shortly after major national political changes and the government was urged by various stakeholders to undertake reform. Articles 69 to 74 of this ministerial decree regulated the protection of Indonesian labour migrants and the monitoring and evaluation of placement and recruitment activities. According to the decree, important high-ranking officials at the regional and national levels were obliged to prepare periodic progress reports (weekly, monthly and annually) on the placement and recruitment activities for Indonesian labour migrants in their regions. The decree also determined that the scope of the guidelines for the protection of Indonesian labour migrants included information management; improved regulations; vertical and horizontal coordination between government agencies; and law enforcement/enactment.

The ministerial decree also regulated the placement of Indonesian labour migrants in terms of simplifying and improving the quality of the placement system management and service for Indonesian labour migrants; empowerment of Indonesian labour migrants and improving the quality of protection for them and their families; improved performance of recruitment agencies; and improving the quality of Indonesian labour migrants supported by additional remittances. Ministerial Decree No. 204/1999 further strengthened the position of private recruitment agencies in the migration process.

Ministry of Manpower and Transmigration Ministerial Decree No. 104A/2002

Ministerial Decree No. 104A/2002 by the Ministry of Manpower and Transmigration set the tone for the development of public management of Indonesian labour migrant placements and was an early prototype for the formal recognition by the government of the need to regulate labour migration from Indonesia. Indonesian labour migrant export business circles and social networks had commenced working with national manpower officials before the regime collapsed in 1998 to outline the need to implement a policy on trade in manpower not only at the national level but on an international scale. Ministerial Decree No. 104A/2002 was thus predom inantly a tool to support labour migration of Indonesian nationals while attempting to protect workers in especially vulnerable sectors by focusing on the least regulated sectors such as domestic workers and caregivers. Through this policy the government attempted to protect Indonesian labour migrants who are particularly vulnerable to various exploitative practices, abuse and violence (physical, psychological and sexual). The decree introduced the 'vulnerable worker' category to reduce the number of Indonesian labour migrants in domestic services. However, the decree could not address the underlying driving forces in the destination countries, namely the global shortage of domestic labour and consequently, large numbers of Indonesian women continued to migrate as domestic workers through both regular and irregular channels.

This decree also authorized private recruitment companies to place Indonesian labour migrants in the domestic sector, preventing other parties from undertaking placements in the domestic sector. This limited the government's role in labour migration management by delegating the primary responsibility to the private sector. While this ministerial decree did not regulate the government's role in protecting migrant workers, it did provide sanctions for Indonesian labour migrants who violated the terms of their employment at home or abroad¹¹. The decree failed to address situations where unfair or exploitative situations forced Indonesian labour migrants to take actions that would incur sanctions. Applying penalties to Indonesian labour migrants who are themselves in a weak bargaining position does not provide balanced options and does not guarantee successful or sustainable management of labour migration.

¹¹ See sub-articles 2, 3, and 4, that regulate sanctions for Indonesian labour migrants who 'resigned', 'violated the terms of the work agreement', and 'took actions that were threatened with criminal sanctions'.

Introduction of Law No. 39/2004

In 2004, the Indonesian Parliament eventually passed, with little consultation with civil society, a National Law on the Placement and Protection of Indonesian Overseas Workers (Law No. 39/2004)¹² and the government adopted a series of regulations with the aim of further reforming and regulating the deployment and protection system of Indonesian labour migrants. The government issued a number of presidential instructions, starting with Presidential Instruction No. 6/2006¹³, which outlined the main initial reform actions to be undertaken by all relevant government institutions under the overall coordination of the Coordinating Ministry of Economic Affairs. This was followed by Presidential Regulation No. 81/2006 which established the National Authority for the Placement and Protection of Indonesian Overseas Workers (commonly known hereafter as BNP2TKI or the Authority). The Authority was expected to operate under the direct coordination of the Ministry for Manpower and Transmigration.

The Structure of Law No. 39/2004

The law is categorized into separate legal provisions namely:

- general provisions;
- duties, responsibilities and obligations of the government;
- rights and obligations of the migrant worker;
- worker placement institutions abroad;
- placement procedure, including worker pre-placement, manpower supply permit, recruitment and selection education and training, health and psychological examination, work agreement, placement period, post-placement and financing;
- worker protection;
- dispute settlement;
- supervision of placement and protection activities;
- establishment of the National Authority for the Placement and Protection of Indonesian Overseas Workers;
- administrative sanctions, investigations and crimes; and
- transition provisions.

While the individual sections of the law are connected, together they do not form a coherent or binding framework for the protection of Indonesian migrant workers.

Limited Scope of Protection

Article 1 of Law No. 39/2004 clearly states that the law only covers Indonesian citizens who meet the requirement to work overseas for remuneration for a certain period of time. Irregular labour migrants are not covered by this law and will not receive protection under this law, irrespective of whether they intentionally or unintentionally used unofficial channels to migrate. From a protection perspective Law No. 39/2004 says comparatively little.

The socio-economic re-integration process is an important part of the protection of labour migrants and the effort to improve the welfare of labour migrants and their families. However, Law No. 39/2004 does not include the protection of labour migrants once they return to Indonesia from working abroad. In reality many labour migrants experience social and economic problems at the time of re-integration and the benefits of their overseas experience and the wages they earned could be enhanced if placement services for employment in Indonesia were available along with basic financial education to manage their overseas earnings.

In addition, there are many returned labour migrants who are unable to report any problems they have experienced. For example, many labour migrants only become aware of unpaid salaries from their employers after they have returned home. According to a study by the Institute for Ecosoc Rights in 2007, migrants who returned from working overseas indicated that they would like to receive: (1) training and assistance in managing a business; (2) support in establishing cooperatives; (3) assistance handling insurance and wage claims resulting from their overseas work; and (4) support in resolving conflicts in the family (The Institute for Ecosoc Rights, 2007).

¹² Law No. 39/2004 Concerning the Placement and Protection of Indonesian Overseas Workers, 18 October 2004.

¹³ Presidential Instruction No 6/2006 about Reform Policies Regarding the Protection and Placement of Indonesian Labour Migrants, 2 August 2006.

Shortcomings of Law No. 39/2004

Despite recent initiatives at the national level, government reforms have, overall, been ad-hoc in nature and have not constituted a coherent and comprehensive strategy towards addressing the many complex issues pertaining to labour migration management in Indonesia, especially the protection of labour migrants' rights and the extent of irregular migration. Indonesia is yet to become a signatory of the UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. National labour migration laws and policies in Indonesia are still primarily concerned with reducing local unemployment, and thus tend to focus more on facilitating the outflow of migrant labour rather than creating a protection mechanism for migrants.

Regulation of the Ministry of Foreign Affairs No. 4/2008

As a result of Presidential Instruction No. 6/2006, the Ministry of Foreign Affairs issued a Regulation No. 4/2008, which establishes the concept of a 'citizen service' by intensifying office and interoffice performance within the ministry. This regulation is designed to assist and protect Indonesian citizens abroad. In reality, most of the services target labour migrants working in domestic services as they are most likely to experience problems, often as a result of a lack of labour laws that cover them. The instruction also includes directions for Indonesian representatives to check regulations in destination countries that have not signed an MoU with Indonesia in order to ensure that private recruitment agencies are accredited and that contracts contain articles concerning the protection of labour migrants. The instruction also covers the supervision of these agreements and the handling of employment-related problems for labour migrants. Indonesian embassies and consulates abroad also have representatives who can provide legal aid for Indonesian citizens with legal problems (see Part Two of this report).

Various services are provided to handle problems experienced by labour migrants such as being lost, neglected, losing contact with family, accidents, hospitalizations, being the victim of crime or human trafficking, death, being arrested, or being deported. In addition, there is a special service provision for labour migrants who pass away while abroad.

Despite the attempts made by this regulation to protect the most vulnerable labour migrants, it is insufficient, as many of these problems emerge during the pre-departure phase in Indonesia. Indonesia's representative offices in destination countries handle numerous labour migrants with problems, especially in destination countries that do not respect basic human rights. The number of labour migrants with problems often exceeds the capacity and staffing levels of Indonesian representative offices abroad. Coordination between government agencies in Indonesia and key stakeholders on migration is an important part of providing the protection needed by Indonesian migrants to avoid abuses abroad, especially cooperation between the Ministry of Manpower and Transmigration, the National Authority for the Placement and Protection of Indonesian Overseas Workers and the Ministry of Foreign Affairs.

KEY GOVERNMENT STAKEHOLDERS

The Indonesian Government's management of labour migration involves a number of important and relevant departments, particularly those related to labour migration policy and execution, the welfare of labour migrants, law enforcement and the offices of various Indonesian Government missions overseas as the resource point for various labour migration issues. While Law No. 39/2004 discusses cooperation between government agencies in emergency situations and the relationship between central, regional and local governments, these provisions are open to interpretation and the law fails to clarify the division of jurisdiction between government agencies. Presidential Instruction No. 6/2006 sought to rectify this by stipulating the involvement of key departments. According to this instruction the central government is the main focus for labour migration management including policy making, execution, monitoring and mobilizing the relevant agencies. Each central government agency plays an important role in the effective and efficient management of labour migration activities. Without integrated collaboration among these agencies, labour migrants will continue to be affected by a range of problems.

The reforms based on Law No. 39/2004 and the previously mentioned regulations have meant that the deployment and protection of Indonesian labour migrants currently involves the participation of at least 13 government institutions including, inter alia, the Ministry of Manpower and Transmigration; BNP2TKI; the Ministry of Foreign Affairs; the Ministry of Social Affairs; the Coordinating Ministry of Economic Affairs; the Coordinating Ministry of People's Welfare; the Ministry of Health; the Ministry of Communication; the Ministry of Home Affairs; the Directorate General of Immigration; the Indonesian National Police; and the National Body for Professional Certification and the Professional Certification Institute (see Appendix II for more information).

There are four articles within Law No. 39/2004 that explicitly order government institutions to take joint responsibility for the placement and protection of labour migrants:

- Article 5, mandates the relationship between the central and local government in 'regulating, guiding, implementing and monitoring' the placement of Indonesian labour migrants, with the nature of local government involvement optional, following delegated authority by the central government;
- Article 55, similarly refers to cooperation between central and regional governments in witnessing the signing of employment agreements for labour migrants. However, there is no firm explanation about who is the responsible authority;
- Article 73, regarding repatriation of labour migrants in an emergency situation, such as war in the destination country, involves the cooperation of the Indonesian embassy, BNP2TKI and the government at national and local levels; and
- Article 92, on monitoring the placement and protection of labour migrants abroad, states the involvement of central and local government; and the duty of Indonesian diplomatic representatives overseas and the need for explicit collaboration and coordination in monitoring work placements. These two subarticles still require further clarification from the government, but it is unclear when this will be issued.

LACK OF CLARITY REGARDING JURISDICTION AMONGST GOVERNMENT AGENCIES

There is a lack of clarity in the existing legal literature regarding the division of jurisdiction among state institutions at both central and provincial level, leading to either a lack of coordination or a duplication of work (Ford, 2005). While Law No. 39/2004 provides little guidance in that respect, the subsequent supporting presidential decrees, ministerial and regional regulations are no more insightful and are often contradictory. This has had a tremendous impact on the overall credibility and transparency of the system, especially with regard to pre-departure training, referral and monitoring mechanisms, opening the door for abuses at all stages of the migration process.

Articles 26 and 95 of Law No. 39/2004 have fuelled institutional conflicts between the National Authority for the Placement and Protection of Indonesian Overseas Workers and the Ministry of Manpower and Transmigration. Government agencies often work separately without sufficient interagency collaboration. There is a need for an implementation manual for Law No. 39/2004 that is not open to interpretation.

LACK OF TRANSPARENCY IN COORDINATION BETWEEN GOVERNMENT AGENCIES

There is also a lack of transparency in the general performance of the government bureaucracy, particularly in cooperation between government agencies. Without a clear delineation of jurisdiction in the placement and protection of labour migrants in the legislation, government agencies have found it difficult to coordinate their respective and shared responsibilities and, as a result, easily blame other institutions when protection fails, rather than evaluate and improve their own performance. Jurisdiction problems also create power imbalances, where some government agencies seek more power and responsibility, creating conflict which negatively affects the protection of labour migrants. In the case of the Ministry of Manpower and Transmigration and BNP2TKI, this has proved particularly problematic, with the Ministry of Manpower and Transmigration being reluctant to relinquish any of its previously assigned tasks.

Jurisdiction between BNP2TKI and the Ministry of Manpower and Transmigration is not clarified in the legislative framework. For example, the Ministry of Manpower and Transmigration has the authority to create policy, while BNP2TKI has the authority to execute and implement it. However, Article 94, which mandates the establishment of BNP2TKI does not clearly determine the level of cooperation between the ministry and BNP2TKI. The minimal level of coordination and cooperation between these two government agencies in protecting Indonesian labour migrants has impeded the management of labour migration in Indonesia as well as having a detrimental impact on labour migrants.

RIGHTS OF FAMILY MEMBERS OF LABOUR MIGRANTS

While the rights of migrants are considered under the current legislative framework, this is not the case for the rights of family members of migrants. The rights of the family members of labour migrants are not recognized by Law No. 39/2004, thus family members have no access to accurate information regarding overseas employment. They do not have the right to communicate with their family member, nor receive copies of important documents and information on their family member who is working abroad. This is a major impediment for the families of labour migrants who wish to help family members in trouble. Many families lose contact with their migrant family members at the pre-departure stage or while they are employed abroad. This is problematic for the individual migrant, as isolated and lonely labour migrants will find it more difficult to contact relevant authorities for assistance in cases of exploitation or abuse.

BILATERAL, REGIONAL, AND INTERNATIONAL COOPERATION

In addition to the national framework for managing migration, the Government of Indonesia is currently cooperating with a number of destination countries for the placement of Indonesian labour migrants abroad. Indonesia currently has Memoranda of Understanding (MoUs) with the following countries:

1. Republic of Korea, (government-to-government (G-to-G) via the Employment Permit System);
2. Jordan (revised, signed March 2008);
3. Kuwait (in the process of being renewed, being separated into formal and informal sectors);
4. Taiwan Province of China
5. United Arab Emirates (dated 18 December 2007 for the formal sector);
6. Qatar;
7. Australia (Government-to-Private Sector); and
8. Malaysia (2 MoUs, one covering formal sector workers and the other covering domestic workers).

Indonesia is in the process of MoU negotiations with the following countries:

1. Syria;
2. Brunei Darussalam (draft submitted to the Government of Brunei Darussalam); and
3. Japan via Indonesia-Japan Economic Partnership Agreement IIJEPA (in the process of finalizing an MoU for the placement of nurses and caregivers).

In terms of regional and international cooperation, Indonesia is a participant and active member of several existing forums, including the Global Forum on Migration and Development, the Colombo Process and the Abu Dhabi Dialogue. Indonesia has also ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (Palermo Protocol) as a national commitment to reject and alleviate all forms of human exploitation. Furthermore, the country has signed but not ratified the United Nations Convention on the Rights of Migrant Workers and Their Families.

THE CHALLENGES OF MANAGING MIGRATION IN INDONESIA

Irregular Migration

One of the major challenges facing the Government of Indonesia with regards to managing migration is the issue of irregular migration. Current policies on migration management, and the recruitment systems and protection of Indonesian migrants have led to a high number of people leaving Indonesia without following official procedures, thus becoming irregular migrants in the country of destination. These migrants can be found in almost all destination countries of Indonesian labour migrants although Malaysia hosts the largest number of irregular Indonesian labour migrants. Irregular migration results from labour migration policies in both countries of origin and destination, which create labour migration processes that are slow, complicated, and costly for the migrant. In Taiwan Province of China for example, Indonesian migrants experience high wage deductions to pay for recruitment fees. These may, over time, be the equivalent of 14 months' pay. Faced with this prospect, some Indonesian labour migrants decide to abscond from their employer and look for another job without using an intermediary agency. This places the labour migrant at the risk of working without appropriate documents, as these may have been retained by the employer or the agency. The high number of irregular Indonesian labour migrants is also supported by a network of Indonesian labour migrant recruiters in Indonesia and destination countries who place labour migrants without proper documents. Clandestine social networks that exist in destination and origin countries can facilitate irregular migration.

Irregular migration from Indonesia is the result of a number of interrelated factors, including high numbers of brokers and unregistered recruitment agencies in rural areas, a lack of knowledge among labour migrants about the proper procedures for migration and the basic human rights of migrants, weak government involvement in providing information and protection for labour migrants and weak law enforcement and a failure to prosecute those involved in illicit or unscrupulous recruitment practices. Due to the low levels of awareness among prospective labour migrants in Indonesia, it is particularly important that there is an extensive legal framework focusing on upholding migrants' rights and preventing unauthorized recruitment.

As discussed previously, there are three kinds of irregularity: irregular entry/exit, irregular stay and finally, irregular work. Some irregular migrants fall into all three categories. The majority of irregular migrants enter legally but then lose their official status in the destination country. A migrant can lose his/her official status for a number of reasons, including overstaying their visa, taking up employment, taking up a different form of employment to the one specified on the visa or absconding from the employer.

The majority of irregular Indonesian labour migrants are in Malaysia and it is estimated that the number of Indonesian irregular migrants to Malaysia is only surpassed by those from Mexico to the United States (Hugo, 2007). Indonesian irregular migration to Malaysia will be discussed in more detail in the second part of the report.

As a developing country with significant levels of poverty, unemployment and underemployment, Indonesia uses its human resources as one means of obtaining foreign exchange through remittances from labour migrants. Despite constantly high numbers of labour migrants leaving Indonesia over the last two decades, the legal framework that facilitates recruitment and placement of labour migrants remains weak. Law No. 39/2004, which is the main law governing labour migration from Indonesia, does not limit the high costs borne by labour migrants, nor does it accord adequate protection for labour migrants, devolving much power and responsibility to private recruitment agencies.

The Impact of Irregular Migration

Irregular migration occurs because of the strong demand for, and supply of, low-skilled labour and the limited and/or expensive legal channels for regular migration. Some labour migrants who consider the legal channels of recruitment too time consuming, expensive, and complicated choose to migrate through irregular channels. Due to the unregulated nature of these migration flows, there is no accurate data available; at best there are broad estimates. Certainly the number of irregular migrants is high. Irregular labour migrants also pay fees to agents that facilitate their placement and travel to the destination country. The costs range widely from hundreds to several thousands of dollars, depending on the type of job and location. Despite existing international legal norms, irregular migrants in many countries are not afforded their basic human rights and have limited access to legal redress in cases of non-payment of wages, dangerous working conditions, mistreatment or exploitation. Because they do not have the legal status to live or work in the destination country, they also live in greater fear of being arrested and deported and can therefore be much more easily controlled by their employer.

Irregular migration also affects other actors than the labour migrants themselves, including their families and communities, individuals involved in recruitment (brokers and illegal recruitment agencies) and states. In both Indonesia and destination countries, individuals involved in both regular and irregular migration are able to make big profits by importing labour. In the current climate, those involved in the recruitment process stand to gain from irregular migration, while weak law enforcement in Indonesia and abroad makes the risk of being penalized negligible. Consequently, irregular migration is likely to continue as long as it remains profitable and the profits outweigh the risks. It is, therefore, important that Indonesia gives more attention to illegal recruitment practices and attempts to combat them by: (i) increasing knowledge among prospective labour migrants about lack of protection associated with irregular migration; and (ii) improving law enforcement measures to locate individuals involved in irregular recruitment practices. In addition, if the economies of destination countries need to rely on migrant workers, the governments of these countries should also take steps to provide safer and more accessible ways to migrate legally, as well as taking steps to penalize the employers of irregular migrants.

Trafficking in Persons

Trafficking in persons can be considered a subset of irregular migration and is the most extreme case of exploitation in the realm of migration. According to the United States' State Department, "Indonesia is a major source of women, children and men being trafficked for the purposes of forced labour and commercial sexual exploitation. To a far lesser extent, it is also a destination and transit country for foreign victims of trafficking" (Department of State, 2009). According to IOM data, the greatest threat of trafficking facing Indonesian men and women is that posed by conditions of forced labour and debt bondage in more developed Asian countries—particularly Malaysia (75.76%), Singapore (0.76%), and Japan (0.73%)—and the Middle East, particularly Saudi Arabia (1.73%) (IOM, 2010).

Indonesia's large population, vast geographic span, weak economy and limited access to education are all conducive to trafficking in persons. In conjunction with low levels of knowledge of the phenomenon of trafficking in persons among ordinary people, government officials and law enforcement agencies, trafficking in persons has become a widespread phenomenon.

Of the 3,696 trafficked persons assisted by IOM between March 2005 and December 2009, 90 percent were women and 24 percent children. They originated from 31 of the 33 Indonesian provinces (Table 5), illustrating that almost all provinces in Indonesia are sources of human trafficking. The most significant source areas are, in descending order: West Java, West Kalimantan, East Java, Central Java, and North Sumatra. Of the trafficked persons, 88.20 percent stated economic problems as their reason for seeking job opportunities abroad; 29.68 percent of those who were trafficked had finished elementary school while 19.99 percent had not completed elementary school. These statistics show a strong link between weak local economic conditions and low educational status of the person being trafficked.

Table 5: Source of Victims of Trafficking by Province (March 2005 to December 2009)

Home Province	Total	%
West Java	831	22,42%
West Kalimantan	722	19,53%
East Java	457	12,36%
Central Java	422	11,42%
North Sumatra	254	6,87%
West Nusa Tenggara	236	6,39%
Lampung	189	5,11%
East Nusa Tenggara	163	4,41%
Banten	77	2,08%
South Sumatra	72	1,95%
South Sulawesi	60	1,62%
DKI Jakarta	57	1,54%
Aceh	27	0,73%
D.I. Yogyakarta	18	0,49%
Central Sulawesi	15	0,41%
Jambi	14	0,38%
West Sulawesi	12	0,32%
South East Sulawesi	12	0,32%
Riau Island	11	0,30%
West Sumatra	8	0,22%
Riau	8	0,22%
North Sulawesi	7	0,19%
South Kalimantan	5	0,14%
Maluku	5	0,14%
Bengkulu	5	0,14%
East Kalimantan	2	0,05%
Gorontalo	2	0,05%
Bali	1	0,03%
Central Kalimantan	1	0,03%
Papua (Irian Jaya)	1	0,03%
Bangka Belitung Island	1	0,03%
No data	1	0,03%
TOTAL	3,696	100%

■ Majority of women are from West Java
 ■ Majority of men and children are from West Kalimantan
 Source: (IOM, 2010a).

The majority of these trafficked persons were recruited through agents (66.88%), who were later identified as illegal agents or illegal personal recruiters, but due to a limited knowledge of the standard recruitment process, the trafficked persons unknowingly entered into trafficking situations. Often the people involved in the recruitment process are the people closest to them, such as family members, friends and neighbours.

Of the population surveyed, 55.75 percent were trafficked as domestic workers and 15.99 percent into forced prostitution. The majority of the domestic workers were women and children, while the majority of men were trafficked for plantation work. The survey also showed the vulnerability of this group. All were the victims of more than one breach of their fundamental rights or acts violence, the majority worked involuntary/unpaid overtime (79.95%), were denied freedom of movement (77%), suffered verbal or psychological violence (74.62%), had their documents confiscated (63.83%), had a lack of access to health care services in the case of illness (57.71%), and experienced sexual harassment (20.35%), and rape (9%) (IOM, 2010a).

In April 2007, the Government of Indonesia enacted Law No. 21/2007 on the Eradication of the Criminal Act of Trafficking in Persons. Following these government efforts to combat trafficking in persons, the United States' Department of State (2009) placed Indonesia in the Tier II category, as "the Government of Indonesia does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so". The report welcomed the Government of Indonesia's efforts in improving its law enforcement response to trafficking offences. A significant number of Indonesia's trafficking prosecutions and convictions involved labour trafficking offences—the first time that such desegregation in data has been reported. Moreover, the Government of Indonesia sustained strong efforts to assist victims of trafficking through the funding of basic services and referral of victims to NGOs and international organizations. However, the Government of Indonesia showed insufficient progress in efforts to confront labour trafficking committed through exploitative recruitment practices of politically powerful recruitment agencies. There were also few reported efforts to prosecute, convict, or punish Indonesian law enforcement and military officials complicit in human trafficking, despite reporting on such trafficking-related corruption.

Law No. 21/2007: The Eradication of the Criminal Act of Trafficking in Persons

Law No. 21/2007 aims to eradicate human trafficking through a combined effort by relevant government agencies to punish perpetrators, prevent human trafficking and provide protection to victims of trafficking. The law contains far-reaching provisions criminalizing trafficking in persons, and outlines provisions to guarantee comprehensive victim assistance and protection. For example, there are provisions that explicitly state that victims are entitled to medical and reintegration assistance. These provisions were further detailed through the following regulations that were mandated to be written within one year of the passage of the new law; Government Regulation No. 9/2008 on *Procedures and Mechanisms of an Integrated Service Centre for a Witness and/or Victim of Trafficking in Persons*; and Presidential Decree No. 69/2008 on a *Task Force to Prevent and Address the Criminal Act of Trafficking in Persons*. The Task Force produced the Minimum Service Standard for an Integrated Service Centre for a Witness and/or Victim of Trafficking in Persons in 2009 and will be followed by Standard Operation Procedures for an Integrated Service Centre for a Witness and/or Victim of Trafficking in Persons in 2010.

While the intentions of Law No. 21/2007 in terms of prosecution, high penalties and fines of perpetrators are good, the implementation of this has been very limited. Based on IOM's experience in providing legal assistance to victims of trafficking, no more than 10 cases have resulted in convictions of perpetrators under this law. The majority of cases are convicted under other laws, such as Law No. 23/2002 on *Child Protection* and the penal code. In addition, although Article 29 of Law No. 21/2007 refers to evidence required for examination of human trafficking cases, implementation of this is difficult, particularly where victims are required to provide a testimony in court. Many law enforcement personnel, such as judges, prosecutors and police, have limited knowledge of Law No. 21/2007, as dissemination of information about the law has been minimal and many are still confused about its implementation.

Articles 25 – 27 of Law No. 21/2007, which refer to prevention of human trafficking, are yet to be implemented at the local and national government level. Few local governments have created local regulations on prevention of human trafficking, despite the government's trafficking task force including prevention as part of their Action Plan.

Articles 36 and 37 of Law No. 21/2007 refer to witness protection, however there is currently no government procedure or institution which has operational guidelines relating to the protection of victims of trafficking during the investigation process. As a result, many victims of trafficking refuse to pursue their case with the authorities due to a fear of threats made by the people who trafficked them. Article 39 of Law No. 21/2007 clearly states the rights of victims of trafficking in terms of medical and social rehabilitation, however, funding for such schemes from the government is difficult to obtain. Many local governments and NGOs have, as a result, requested rehabilitation assistance from IOM.

Overall, while the anti-trafficking legislation appears to be strong on paper, there has been poor implementation of the legislation in practice.

Government Coordination

Generally, the legislation stipulates that Indonesian labour migrants should receive positive benefits such as fiscal exemption¹⁴, support to create savings during their employment, and recognition of professional competency after participating in training¹⁵. Furthermore, it is the duty of recruitment agencies to organize the repatriation of labour migrants at the end of their deployment¹⁶ and the law restricts the placement of Indonesian labour migrants in indecent jobs¹⁷. Furthermore, Article 34, subarticles 1 and 2 of Law No. 39/2004 clearly regulates the information about recruitment that that should be provided to prospective labour migrants. While these articles convey a clear message, transparency in delivery of such information by recruitment agencies is difficult.

Article 82 in Law No. 39/2004 authorizes recruitment agencies to 'be responsible for labour migrants' protection in accordance with the employment agreement' while Articles 6 and 7 confirm the government's obligation to provide and improve protection for Indonesian labour migrants pre-departure, during their placement and post-placement. With two contradictory articles it is inevitable that there will be a weak system of monitoring the welfare of Indonesian labour migrants and the compliance of recruitment agencies, as well as effective law enforcement, penalizing agencies that do not follow the laws and regulations.

The lack of transparency by government and the weakness of the community in defending the interests of labour migrants have negative implications for labour migrants. For example, Article 61 of Law No. 39/2004 has assigned recruitment agencies to arrange changes in employment agreements for labour migrants by producing new work agreements and reporting it to the Indonesian embassy. However, many Indonesian labour migrants, particularly domestic workers, experience problems obtaining a new contract or passport. Such articles cannot protect Indonesian labour migrants overseas and lack clarity on what action should be taken by Indonesian government representatives.

A balanced role of government must be emphasized, particularly in monitoring and law enforcement so that the placement of Indonesian labour migrants overseas can be done with greater transparency and accountability. Manpower agencies are not likely to self-regulate or to comply with regulations in the absence of government monitoring and proactive enforcement of the regulations by the responsible government authorities. Devolving the responsibility for protection is probably not an effective way to enhance the protection of jobseekers and labour migrants because the recruitment agencies are commercial entities focused on profit-making and may not have the best interests of Indonesian labour migrants in mind at all times.

Article 5 of Law No. 39/2004 states that the government's duty is to regulate, guide, execute and monitor placement and protection overseas of Indonesian labour migrants. Two roles are mentioned in Article 5 - execution (arrange, guide, implement) and supervision, which in reality, should be carried out by more than one agency with the capacity to undertake the respective duties stipulated in the law. While internal evaluations can evaluate an agency's performance, there is also a need for external evaluations, as internal evaluations may present a conflict of interest.

Law No. 39/2004 does not acknowledge the community's role in the protection of labour migrants, with only Article 86, subarticle 2, stating that in undertaking monitoring, the government can include recruitment agencies, other organizations and/or the community. The role of the community is thus only possible in the area of monitoring if the government allows them to do so. Without the integration and involvement of Indonesian labour migrants, community organizations, and other organizations and institutions that support the interests of labour migrants, the legislation is unable to manage labour migration efficiently and effectively as well as having a positive impact on the protection of labour migrants. The law is thus fundamentally flawed in that it is not built on openness and government accountability, which is crucial in order to provide adequate protection for labour migrants.

¹⁴ Ministerial Decree 204/1999, Article 63, sub-article 1,2 and 3.

¹⁵ Law No. 39/2004, Article 34.

¹⁶ Article 55, Ministerial Decree 204/1999; Article 61 Ministerial Decree 104A/2002.

¹⁷ Article 34 Ministerial Decree 104A/2002.

Presidential Regulation No. 81/2006

Presidential Regulation No. 81/2006 on the *Establishment of the National Authority for the Placement and Protection of Indonesian Overseas Workers* followed as one aspect of the implementation of Law No. 39/2004. However, since its establishment, the placement and protection system for labour migrants has been characterized by disputes between agencies and high-ranking government officials personally involved in these matters. In addition, there is limited cooperation between the Authority, whose role is to implement this instruction, and the Ministry of Manpower and Transmigration. The constant conflict between the various government bodies that are responsible for the management of labour migration signifies government indifference in overcoming the endemic weaknesses of the migration recruitment industry.

The Coordinating Ministry of Economic Affairs, as an elite government body handling isolated interdepartmental matters, which is entrusted with coordinating the implementation of this instruction, has not yet succeeded in synchronizing the operations of responsible agencies. The Authority remains dominated by the interests of recruitment agencies and lacks a coherent perspective on the protection of migrant workers.

ACCESS TO FINANCE (LOANS, SAVINGS AND REMITTANCE OPTIONS)

The majority of labour migrants from Indonesia are motivated by economic considerations, i.e. they travel abroad to improve their financial situation at home. Most migrants thus take the opportunity when they are abroad to remit money to their families and friends in Indonesia. In 2008 remittances to Indonesia reached USD 6.6 billion according to the Bank of Indonesia (2008). The money is largely used by migrants and their families to fund daily expenses, to buy or build a house, educate children or relatives or to buy consumer goods. Very rarely do former Indonesian labour migrants manage to set up productive long-term businesses upon their return, and thus many migrants find themselves migrating again once the money has run out.

Indonesian labour migrants often have limited access to formal financial channels, such as banks. Apart from lack of collateral, many Indonesian labour migrants are also hesitant to get in touch with banks due to their overall lower level of education which affects their knowledge of banking. They often consider banks as too formal and complicated. To finance their migration journey, most Indonesian labour migrants seek loans from their family/relatives, neighbours, recruitment agencies, or even loan sharks before their departure. This enables the labour migrant to obtain a loan without the legal documentation usually required by formal financial service institutions and without enduring official procedures that appear too complicated.

According to a 2009 World Bank study, just below 50 percent of Indonesian households hold an account in a formal financial institution while 18 percent have accounts in informal institutions¹⁸ (World Bank, 2009c). Access is highly skewed to urban areas, and only 20–34 percent of rural households have access to banking services (Bank of Indonesia, 2008). In terms of savings, the World Bank reports that only 27 percent of the migrant households interviewed had their own saving accounts, while 34 percent used accounts of their relatives, friends or other people to save (World Bank, 2009c). The Government of Indonesia has made efforts to encourage labour migrants to open savings accounts and some state-owned commercial banks now allow labour migrants to open accounts with a minimum of IDR 10,000 (USD 1). The government hopes that this will encourage more labour migrants to send their remittances through formal institutions rather than through the frequently used informal channels. However, banks often charge a fee for maintaining accounts and additional fees to reactivate them if they are not active. Furthermore, most Indonesian migrants only start remitting money after a number of months abroad, as they need to repay the initial loans funding the trip first.

Nevertheless, it appears there is a trend towards formality as a greater percentage of remittances are sent through formal channels. According to an IOM-ERCOF study (ERCOF-IOM, 2010, forthcoming) on the Malaysia-Indonesia remittance corridor, at least 80 percent of the migrants and their families interviewed stated that banks and money transfer operators were their main channel to transfer/receive remittances. Labour migrants are becoming increasingly aware of the risks associated with informal channels: carrying cash and sending remittances through friends. Nevertheless, the study also found that a significant number of Indonesian labour migrants use other people's bank accounts to send and receive money as they do not have personal bank accounts.

¹⁸ Informal financial institutions include Rotating Savings and Credit Associations (ROSCAs or arisan), shopkeepers extending credit to their customers, self-help groups, farmers' organizations, and women's associations.

PLACEMENT SYSTEM FOR INDONESIAN LABOUR MIGRANTS ACCORDING TO LAW NO.39/2004: PRE-DEPARTURE PHASE

This section will describe and discuss the current system for placing Indonesian labour migrants abroad. The section will firstly examine the pre-departure phase, followed by the protection of Indonesian workers abroad, and lastly, the return and reintegration phase.

The Centralization of Pre-Departure Activities

The centralized system that was established by Law No. 39/2004 lacks timely and effective coordination between central and regional governments and has caused a number of problems. Regional governments are not actively involved in the central government's duty to control, establish, implement and supervise the placement and protection of Indonesian labour migrants who are preparing themselves to depart for overseas work, as is set out in Article 5(2) of Law No. 39/2004. This article states that the central government can delegate its responsibilities to regional governments. This means that regional governments will only become involved when their help is requested by central government.

There is a tendency for initiatives undertaken by district and city governments to fail because overall authority on crucial issues, such as establishment and monitoring of recruitment agencies, remains in the hands of the central government. As a result, although there are opportunities for 'regional autonomy', there is a strong trend towards centralization in government administration in Jakarta, resulting in the de facto exclusion of regional governments in the administration of work placements for Indonesian labour migrants. Thus, even though problems experienced by Indonesian labour migrants, such as illegal recruitment, falsification of documents, and the collection of excessive placement costs, are more likely to occur in areas outside of Jakarta, the government limits the authority and ability of regional governments to combat these problems.

The general stipulation of Article 1(3) of Law No. 39/2004 defines the placement of Indonesian labour migrants as a service activity. According to the law, a private recruitment agency is responsible for matching a labour migrant in accordance with their skills, interests and capabilities with an overseas employment provider. The private recruitment agency is responsible for the entire process from recruitment, document management, education and training, temporary accommodation, departure preparations, departure to the destination country through to repatriation back to Indonesia. For a more detailed description of the legal placement of Indonesian migrants see Appendix I.

Sponsors or brokers are always looking for 'safe' regions where there is no, or minimal presence of the regional government, to undertake illegal actions. Law No. 39/2004 has facilitated this process by effectively limiting regional governments' authority. As a result of limited government presence in districts, local communities tend to be unaware of the importance of combating such chronic problems as illegal recruitment.

In the government regulations that were subsequently published to clarify Law No. 39/2004, no single, progressive provision to deal with the problem of illegal recruitment was presented. Ministerial Regulation No. 18/2007 on Managing the Placement and Protection of Indonesian Labour Migrants does not clarify the coordination mechanism for the provision of the Recruitment Permission Letter to recruitment agencies that was published by the central government for issuance by the regional governments. Moreover, the effect of this regulation was to invalidate Ministerial Regulation No. 19/2006 which regulated the same problem. It superseded Ministerial Regulation No. 19/2006 which was more comprehensive than Ministerial Regulation No 18/2007. Regulation No 19/2006 coordinated the issuing of the Recruitment Permission Letter to recruitment agencies through the regional or provincial Agency for the Service, Placement and Protection of Indonesian Overseas Workers (BP3TKI - Balai Pelayanan Penempatan dan Perlindungan Tenaga Kerja Indonesia) and the district/provincial offices of the Ministry of Manpower and Transmigration (Article 4, subarticle 1).

While the Ministry of Manpower and Transmigration and BNP2TKI have committed the institutional resources to improve the quality of pre-departure services for prospective labour migrants, these activities continue to be conducted mainly in Jakarta or other large cities. Consequently, there are still limited opportunities for district governments to become involved.

Some of the pre-departure activities that are conducted only in Jakarta include:

- skills education and training for prospective labour migrants;
- pre-departure briefings;
- the management of labour migrants' overseas labour identity card; and
- the management and signing of employment agreements between the recruitment agency and the prospective labour migrant.

The Impact of Centralization on Pre-Departure Activities

It was expected that Presidential Instruction No. 6/2006 on Policy Reform of the Placement and Protection System for Indonesian Labour Migrants which outlines the main initial reforms to be undertaken by the relevant government institutions under the overall coordination of the Coordinating Ministry of Economic Affairs would lead to the decentralization of labour migrant placement services. Although the reforms did include a decentralization programme, it is yet to be fully implemented. This is evident from the number of recruitment agencies who reside in Jakarta and the vicinity. Concentrating pre-departure activities in Jakarta is practical and efficient for recruitment agencies, as the operational costs of housing prospective labour migrants in one place is lower than having multiple training centres in several different regions. Table 6 shows the geographical concentration of recruitment agencies in Indonesia.

Table 6: Distribution and Degree of Geographical Concentration of Indonesian Recruitment Agencies in Five Main Provinces (2007)¹⁹

Province	Level of Concentration
Jakarta	60%
East Java	13%
West Java	10%
Banten (West Java)	3%
Central Java	3%
North Sumatra	3%
Other Province	8%

While bringing together prospective labour migrants in Jakarta makes it easier for recruitment agencies to conduct their business, it also makes labour migrants more vulnerable during the recruitment process. During their training, labour migrants are placed in temporary housing, which may be closed to the public, including their family members, making monitoring of the housing conditions difficult if not impossible. Even if the families of labour migrants are allowed to visit, the number of visits is limited, considering the distance to their home region and the costs associated with making such a journey.

Another impact of the centralization of training centres is the difficulty of ensuring the training of prospective migrants. Of particular importance is the education labour migrants should receive about their rights and how to access assistance in cases of exploitation or abuse. Considering the weak supervision, monitoring and regulation of the recruitment agencies, it seems likely that many labour migrants do not receive any information on these issues and are inadequately prepared for labour conditions overseas. The standard of training for labour migrants, especially domestic workers, will be examined in greater detail later in this chapter.

The central government, whether it is the Ministry of Manpower and Transmigration or BNP2TKI, does not have the necessary capacity to handle the centralisation of labour migrant placement activities in Jakarta or supervise the activities of recruitment agencies and their field workers. Table 7 provides an overview of recruitment agencies which are registered at government labour offices in three regions with extensive out-migration. In terms of registered recruitment agencies, the government has had interaction with them, so it is assumed that the government knows of their existence and their work in the relevant area of jurisdiction.

The data indicates that there are still many recruitment agencies or their sponsors who are not yet registered. This makes it difficult to know to what extent they are adhering to procedures, manipulating documents or imposing excessive placement costs on prospective labour migrants.

Table 7: Registration of Recruitment Agencies at Regional Labour Offices (2007)

No	Registered Recruitment Agencies at Regional Labour Offices	Jember (%)	Banyumas (%)	Tulang Bawang (%)
1	Not registered at the national, provincial or district level ('illegal')	27.60%	31.03%	38.00%
2	Registered only at the national level, but not at the district and provincial level	48.28%	44.83%	24.00%
3	Registered only at the provincial level, but not at the national and district level	6.90%	0%	8.00%
4	Registered only at the district level, but not at the national or provincial level	3.45%	0%	0%
5	Registered at the national and provincial levels, but not at the district level	3.45%	0%	30.00%
6	Registered at the national and district levels, but not at the provincial level	3.45%	24.14%	0%
7	Registered at the national, provincial and district levels ('legitimate')	6.90%	0%	0%

Source: The Institute for Ecosoc Rights (2007).

The 'One Gate' System

The central government, through BNP2TKI, has attempted to address the lack of coordination between central and regional governments by inviting regional governments and private sector representatives in the regions to jointly handle labour migration issues. Different initiatives have been piloted including: (1) an overseas work exchange at the district level; (2) expanding the network of community-based training centres for labour migrants; and (3) establishing crisis centres for labour migrants in trouble.

Batam's 'One Gate' System

In 2004 Indonesia piloted a 'One Gate System' for the placement of Indonesian domestic workers in Singapore. On 28 May 2004 in Batam, in the province of Kepulauan Riau, the closest province to Singapore, then-President Megawati Sukarnoputri launched the Household Manager system to Singapore. The system requires all Indonesian domestic workers going to Singapore to go through it. It was set up to ensure that all Indonesian domestic workers who enter Singapore were prepared and had all the necessary documents for entering and working. This initiative was known as the *Batam One Gate System*.

The *Batam One Gate System* provided a single exit point for prospective domestic labour migrants going to Singapore. The centre provided a number of services including checking health documents, employment contracts, travel documents and the skills and suitability test. The geographical proximity of Batam to Singapore was a strategic choice aimed at combating irregular migration. With the establishment of the *Batam One Gate System*, the Indonesian Government, through the Indonesian embassy in Singapore, hoped to initiate a proactive system and provide work orientation to prospective labour migrants leaving for Singapore.

Unfortunately, the *Batam One Gate System* is no longer operational. The initiative was not sustainable, mainly due to weak interagency government coordination. In addition, in order to succeed, the system needed the support of the recruitment agencies which was not forthcoming. In October 2007, the then Minister of Manpower, Erman Suparno, cancelled the Indonesian Government's plan to control the placement of Indonesian labour migrants only through Batam as a 'one gate system'.

¹⁹ This table was compiled by counting the number of central office addresses of accredited recruitment agencies that are distributed across the various provinces in Indonesia (BNP2TKI, 2007).

Integrated One-Gate Service In West Nusa Tenggara

In 2008 BNP2TKI launched an integrated one-gate service system based in Mataram, West Nusa Tenggara for labour migrants originating from the Province of West Nusa Tenggara. The service is intended to provide a document service that is fast, safe, cheap and accessible. It is hoped that this one-gate service system can be replicated in other provinces, because of its potential to reduce the falsification of documents and combat the overcharging of prospective labour migrants.

The one-gate service was established through cooperation between BNP2TKI, the local office of the Ministry of Manpower and Transmigration, the Ministry of Education's Population and Civil Registration Office, Immigration Office, the Ministry of Health, the Regional Police and the Tax Office. Assistance available for prospective labour migrants includes passport applications, the management of overseas fiscal exemption documents, overseas labour identity cards, the work documents to place and protect labour migrants, insurance, case management, pre-departure briefings and checking the credentials of labour migrants who are due to depart Indonesia (identity documents, work visas, employment and placement agreements, work competency certificates and health certificates).

As the service commenced at the end of 2008, it is still too early to undertake a comprehensive evaluation. It was found that the pre-departure service is tailored towards labour migrants who intend to work in particular destination countries, especially Malaysia, while it is perceived that the one-gate service has not yet had an impact on those labour migrants departing for the Middle East. As the national departure system remains dominated by departures from Jakarta with a limited role for regional governments, the service in West Nusa Tenggara is not being utilized to its full extent.

Government Insurance System

The Indonesian Government recognises that labour migrants might experience various problems while working abroad, the more serious and common ones being redundancy, work accidents, violence, illness, and death. For these reasons, an insurance programme guaranteeing assistance in cases of loss, damage, violence or financial loss is important for labour migrants. Regarding the more vulnerable labour migrants (i.e. those who are less educated), the effective control and structuring of insurance companies to ensure provision of the required services is an important way to ensure that they are protected.

To date, the implementation of government policy on insurance for labour migrants has not been focused on the efficient processing and settlement of insurance claims from labour migrants experiencing problems. Moreover, the insurance policy has been revised numerous times yet it is still unable to guarantee the rights of labour migrants to claim the insurance that they are required to pay for pre-departure. According a 2010 World Bank presentation, issues with the insurance systems can be seen at all levels (World Bank 2010). First, at the government level there is a lack of coordination between the three agencies involved, that is the Ministry of Finance, Ministry of Manpower and BNP2TKI. Second, the consortium companies responsible for the actual claims processing and payments have made the process difficult and lengthy. They often do not provide migrants with general conditions and coverage descriptions, and if they do, the literacy level of the labour migrants is often not taken into account. Finally, the recruitment agencies often fail to provide the migrants with the help they need to file their claims.

A common problem associated with the insurance of labour migrants is that it is difficult to lodge insurance claims. LBH Kompar—an affiliate of BNP2TKI in providing legal aid services for labour migrants—reports that only 30 percent of insurance claims can be processed, with the majority (70 percent) of claims being stalled in the system (Viva News, 2009). Between September 2008 and April 2009, insurance claims from 16,621 labour migrants, valued at IDR 365 billion (USD 40 million)²⁰, had not yet been paid by the five insurance consortiums insuring labour migrants. The Indonesian Migrant Workers' Union (SBMI) held protests and a hunger strike at the Jakarta office of the Ministry of Manpower and Transmigration in August 2008 to press the government to take action on stalled insurance claims. They claimed that government insurance policy stipulated that the insured party (labour migrants) was not to hold the respective policy, although their name was listed as the insured party. Although policy stipulates that labour migrants had the right to obtain an Insurance Participant Card, in reality many labour migrants do not hold this card, due to a lack of awareness of their insured status by insurance companies, and a lack of information received from insurance companies.

²⁰ USD 1 = IDR 9,124 as at 25 March 2010.

In 2006, the ministerial regulations on insurance were issued, in which BP3TKI were appointed as the responsible entity in insurance matters for labour migrants. It was also stipulated that insurance policies be held by BP3TKI, while labour migrants were given the right to hold an Insurance Participant Card. This was an improvement from previous policy, which had made recruitment agencies responsible for insurance claims on behalf of the labour migrant. However, this stipulation was changed again following the issue of a new ministerial regulation on insurance for labour migrants in 2008.

Ministerial Decree No. 23/2006 on Insurance for Indonesian Migrant Workers withdrew authority from the BP3TKI in claims management and transferred this authority back to the recruitment agencies in individual districts or cities. The transfer of this authority was the result of a conflict between BNP2TKI and the Ministry of Manpower and Transmigration, where the Ministry of Manpower and Transmigration attempted to limit the role of BNP2TKI in matters relating to labour migrants. The new ministerial regulation also transferred the ownership of the insurance policy to the labour migrant or his/her next of kin, rather than to the BP3TKI. Nevertheless, this policy change is yet to change the performance of insurance companies in fulfilling their obligations.

THE TASKS AND RESPONSIBILITIES OF RECRUITMENT AGENCIES

Migrant Worker Documentation

Before a labour migrant can travel abroad for their placement, they need to have all the legal documents required to depart Indonesia and enter a foreign country, including a passport, an employment contract, work visa, fiscal exemption and an Overseas Workers Card (KTKLN - Kartu Tenaga Kerja Luar Negeri). Many labour migrants are not aware of what documents they require to work abroad and the importance of these documents for their safety while working abroad. As a result, labour migrants without a full understanding of the importance of complete documentation agree to have some or all of their documents falsified in order to speed up the migration process. Law No. 39/2004 requires recruitment agencies to fulfil three responsibilities in relation to documentation for labour migrants:

- produce and sign placement agreements with prospective labour migrants (Article 38, subarticles 1 and 2);
- report and submit copies of each placement agreement to the local office of the Ministry of Manpower and Transmigration (Article 38, subarticle 2; Article 54, subarticle 1); and
- responsible for the completeness of documentation of labour migrants (Article 65).

Delegating the responsibility for the completeness of documentation of labour migrants to private recruitment agencies disadvantages labour migrants distinctly, as some recruitment agencies see it as more profitable to place labour migrants with falsified or incomplete documentation to speed up the placement system. Although the existing regulations do not immediately require recruitment agencies to take over the management of labour migrants' documents, this is already occurring in many areas in order to speed up placements for many labour migrants.

As previously mentioned, a study conducted by the Institute for Ecosoc Rights in 2007 in three districts with high levels of out-migration (Jember – East Java, Banyumas – Central Java, and Tulang Bawang – Lampung) shows that more than 40 percent of labour migrants' documents were falsified, with the majority of falsifications done at the request of recruitment agencies or brokers. These falsifications mainly included falsified names, ages, addresses and marital status of the labour migrant. This study indicates that document falsification can be highly prevalent in some local areas. However, due to the localized scale of the study this level of falsification cannot be generalised to all of Indonesia. The falsification of documents has serious consequences when labour migrants experience problems in destination countries. Without proper documentation it is often difficult for staff at the Indonesian embassies in destination countries to establish the identities of labour migrants, especially in cases of death. Furthermore, a lack of documents also makes migrants more vulnerable to exploitation as they are unable to seek help out of fear of being deported.

Recruitment of Labour Migrants

Law No. 39/2004 stipulates at least six responsibilities borne by recruitment agencies in the recruitment of labour migrants:

- provide information to prospective labour migrants about recruitment activities and methods, the management of documents, rights and responsibilities of prospective labour migrants, the situation, conditions and risks in destination countries and the means of protection (Article 34, subarticle 2);
- undertake the recruitment of prospective labour migrants who are registered at the local office of the Ministry of Manpower and Transmigration (Article 36, subarticle 1);
- despatch prospective labour migrants who fulfil all the requirements for legal migration (Article 67, subarticle 1);
- report the departure of labour migrants to the Indonesian embassy or consulate in the destination country (Article 67, subarticle 2);
- enrol prospective labour migrants in an insurance programme (Article 68, subarticle 1); and
- house prospective labour migrants before their departure from Indonesia (Article 70, subarticle 1).

In order for the above tasks to be managed efficiently, effective supervision of the implementation of these responsibilities by the recruitment agencies is required.

The regulations state that recruitment agencies are only permitted to recruit prospective labour migrants who are registered at the local office of the Ministry of Manpower and Transmigration, however, recruitment agencies, and their field workers more commonly recruit directly from the home villages of many labour migrants, without the knowledge of the local government in that region. As a result, many regional governments do not know how many labour migrants originate from their region.

Recruitment agencies are responsible for reporting labour migrants who have been despatched overseas to the Indonesian diplomatic mission and for submitting copies of signed employment agreements to the local recruitment agency, according to Law No. 39/2004. However, this is not always done which makes it difficult for the Indonesian consulate or embassy in destination countries to know the numbers, location and employers of Indonesian labour migrants.

Without proper monitoring, supervision, investigation, controls, inspections and information dissemination, recruitment agencies can obstruct the juridical efforts to regulate labour migration. The provisions of Law No. 39/2004 relating to the supervision and monitoring of recruitment agencies do not list the action required by the government in supervising recruitment of labour migrants (Article 34, subarticle 3). Instead the government waits for recruitment agencies to seek approval of the information materials provided to prospective labour migrants and to submit reports on their recruitment activities. If a recruitment agency does not report, the government is not aware of that agency's activities. Although there are sanctions for recruitment agencies that do not report when they have provided information to prospective labour migrants or when they have sent labour migrants abroad, the severity of these sanctions is weak, making it easier for recruitment agencies to engage in illegal recruitment practices.

The protection of labour migrants would significantly improve if all recruitment agencies kept the best interest of the labour migrants in mind in the recruitment and placement process. However, tighter supervision of recruitment agencies and their recruitment and placement activities as well as clear sanctions for violators are needed to ensure this. The law does not currently specify such a system for tight and active supervision of recruitment agencies.

Training and Education Programmes

Education and training of prospective labour migrants is vital to ensure their safety and knowledge of basic rights. Pre-departure training for Indonesian labour migrants is stipulated in Articles 42 (1), 68 (1) and 69 (2) of Law No. 39/2004.

According to Article 69 (3) of Law No. 39/2004, the government is responsible for delivering pre-departure briefings²¹. Article 95 (2b) of Law No. 39/2004 further identifies BNP2TKI as the institution responsible for the delivery of such pre-departure briefings. In 2008, BNP2TKI developed training material covering the following topics:

- terms of deployment and work contract (including rights and obligations of labour migrants and their employers);
- laws (including criminal laws), regulations and customs of destination countries;
- arrival and departure procedures;
- the role of Indonesian diplomatic missions vis-à-vis Indonesian labour migrants and how to access assistance;
- insurance claims;
- safe banking and remittances channels;
- health tips;
- awareness raising of certain issues, such as trafficking in persons and drugs;
- self-confidence coaching to deal with culture shock, stress, loneliness, and professional issues; and
- procedures to return home.

Since February 2009, responsibility for delivering the pre-departure briefings has been divided between two agencies. BNP2TKI delivers training to labour migrants placed under government-to-government agreements, while the Ministry of Manpower and Transmigration together with recruitment agencies delivers training to all other departing labour migrants. Those labour migrants who are sent abroad through government-to-government agreements are only required to attend the training delivered by BNP2TKI and not that of the Ministry of Manpower and Transmigration.

In terms of labour migrants deployed by private recruitment agencies, Ministry of Manpower and Transmigration Regulation No. 17/2009 on the Organization of Pre-Departure Training for the Indonesian Labour Force Working Overseas adopted in August 2009, requires that officially licensed Associations of Recruitment Agencies should register all labour migrants complying with all administrative requirements, for a pre-departure briefing session to be delivered by the Ministry of Manpower and Transmigration with the possible support of other government institutions (no specification) or outside sources holding expertise in pre-departure briefings. Labour migrants should receive such pre-departure briefings free of charge and no later than two days before their deployment overseas. The pre-departure briefing curriculum which is annexed to the regulation is similar in content to the training manuals developed by BNP2TKI which was detailed above.

By law, all the above listed pre-departure briefing topics are expected to be delivered over a record time of 20 hours (or two days). In an effort to reduce pressure on the training resources of the central government, Ministerial Regulation No. 17/2009 does, nevertheless, foresee the possibility of delegating training responsibility to provincial and district level if provincial authorities have consented to do so.

The Ministry of Manpower and Transmigration has issued two ministerial decrees that regulate pre-departure briefings for labour migrants leaving to work abroad. Ministerial Regulation No. 4/2005 was, for practical purposes, replaced by Ministerial Regulation No. 17/2009, however this latter regulation was less clear than the previous one. Ministerial Regulation No. 4/2005 clearly stated who was responsible for delivering pre-departure briefings and who was to bear the cost. Ministerial Regulation No. 17/2009—without referring to the previous ministerial regulation about the same problem—only stated that 'delivering the pre-departure briefings is undertaken by the Director General of Manpower Placement and Establishment with the participation of other relevant agencies' (Article 3).

²¹ The pre-departure briefing is also known as Pembekalan Akhir Pemberangkatan (PAP).

Table 8 presents the results of a survey carried out in three main provinces of origin. It shows that education and training programmes provided by recruitment agencies often include inadequate material and ineffective teaching methods. Due to a lack of resources, even at the central government level, pre-departure briefings are much shorter than intended by the regulation. Instead of the required 20 hours, the pre-departure briefing is delivered in eight hours (or less) to an often over-crowded room. This makes it almost impossible to adequately cover all the required topics during the course. Although the training curriculum is quite comprehensive, time constraints mean that pre-departure briefings tend to discard points that are important to providing better protection for migrants.

Table 8: Education and Training Problems Experienced by Indonesian Labour Migrants in Three Districts (2007)

Problem	Proportion of Indonesian Labour Migrants Experiencing Problems (%)		
	Tulang Bawang	Banyumas	Jember
Insufficient/inadequate material	20.0	18.5	86.1
Methodology not effective	4.0	25.9	97.2
Did not receive any education/training	4.0	11.1	13.9
Education was accompanied with violence	10.0	-	11.1
Not provided with information on conditions in destination country	28.0	22.2	66.7
Did not receive skills training	2.0	14.8	16.7
Did not receive information about rights	22.0	48.1	69.4
Did not receive training in the language of the destination country	-	9.3	13.9
Did not take a competency test	18.0	88.9	44.4
Did not receive a final briefing	24.0	63.0	47.2
Employed without being paid during the education/training process	12.0	9.3	19.4
Education conducted in Jakarta	80.0	85.2	44.4
Education/training by recruitment agency	92.0	85.2	83.3

Source: The Institute for Ecosoc Rights (2007).

In Ministerial Regulation No. 17/2009, there is provision for the delegation of training responsibilities to the provincial level. In the short timeframe since the implementation of the regulation, however, there has been little effort to build the capacities of provincial or district level government officers to provide training. Training capacities and pre-departure briefings remain heavily centralized in Jakarta and other main departure hubs across the country such as Surabaya. This geographical centralisation increases the migration costs for Indonesian labour migrants who are required to pay their own travel and accommodation expenses in order to attend this compulsory training.

Recruitment agencies are given a significant degree of authority in the preparation and implementation of education and skills training programmes, however, there is no guarantee that adequate education and training is provided by recruitment agencies, as these are often not monitored by the government. A cause of concern is that a significant number of individuals in the 2007 study carried out by the Institute for Ecosoc Rights, did not receive any pre-departure training at all.

Weaknesses in the education and training programmes for labour migrants are the result of the failure to develop and implement a standardized system for the education programme that should be provided to Indonesian labour migrants. A study by the Institute for Ecosoc Rights (2007) found that the material taught was inadequate and did not address the challenges faced in working abroad. Without a national curriculum, it is highly likely that the standard of training and the material provided will vary greatly in quality. Many recruitment agencies do not currently have the capacity to provide high-quality training for labour migrants.

Government policy on labour migration does not clarify in detail the process and requirements for improving the capability and skills (including interpersonal skills) of prospective labour migrants that recruitment agencies are required to provide. The government only provides a broad outline of the scope of education and training such as an understanding of eventualities, work conditions, local customs and practices, religious practices, employment risks, information about the rights and responsibilities of intending labour migrants. These broad indicators are not adequate and do not regulate the implementation of these requirements.

Placement Costs

While most Indonesian labour migrants are motivated by the prospect of increasing their earnings through migration, migration itself is an investment as recruitment agencies impose fees on the individual migrant through the migration process. Migrating abroad for employment is a costly investment for many labour migrants and these costs have increased notably since 2004. In 2004, the government issued an information booklet for labour migrants containing information about "costing procedures for labour migrants to destination countries" as an attachment to Ministerial Regulation No. 104A/2002²². For Hong Kong SAR, the Directorate of Indonesian Labour Migrants' Empowerment as part of the Directorate General for Workers' Training and Plotting in November 2004 determined a placement cost of IDR 9,132,000 (USD 1,000). However Ministerial Regulation No. 186/2008 raised the cost for the placement of a labour migrant to Hong Kong SAR to IDR 15,000,000 (USD 1,600). For a labour migrant who only received a salary of HKD 3,580 (USD 460)²³ per month in Hong Kong SAR (China Worker, 2010), this increase is clearly a burden, and was made without any public consultation.

The estimated placement cost can be found in the respective government regulation. However, this information is not readily available to prospective labour migrants, who are thus unaware of how much they should pay for their migration overseas. As a result, recruitment agencies take advantage of labour migrants, and many labour migrants pay more for their recruitment and documentation than they should according to the law. Table 9 provides an overview of the components and the cost of placing a labour migrant in various destination countries.

Table 9: Components and Costs in the Placement of Labour Migrants in the Domestic Sector

Cost Component	Destination Country			
	Malaysia (IDR)	Singapore (IDR)	Hong Kong (IDR)	Saudi Arabia (IDR)
A. Fixed costs				
1. Passport management	110,000	110,000	110,000	110,000
2. Health test	225,000	150,000		
3. Work visa	60,000	60,000		
4. Insurance	400,000	400,000		
5. TKI protection levy (USD 15)	150,000	150,000		
B. Non-fixed costs				
1. Local transport	40,000	40,000	40,000	40,000
2. Departure ticket	810,000	700,000	2,125,000	3,500,000
3. Training (30 days x IDR 13,000 each)	390,000	1,170,000	1,170,000	780,000
4. Accommodation and consumables	405,000	1,215,000	1,215,000	810,000
5. Company service	1,150,000	1,250,000	3,597,000	1,200,000
6. Work Competency Test and Pre-departure orientation	125,000	125,000	125,000	125,000
TOTAL	3,865,000	5,370,000	9,192,000	7,505,000

Source: Ministry of Manpower (2004).

²² In this document, the government only stated, but did not determine the various cost components. Civil society and labour migrants had hoped that the government would determine a policy on placement costs that would lighten the cost burden on, and take into account, the interests of, labour migrants.

²³ USD 1 = HKD 7.76 as at 25 March 2010.

The cost of training and temporary accommodation is a major part of the recruitment fees as these depend on the destination country where the relevant labour migrant will be working. Tuition in the language of the destination country requires a shorter or longer time, dependent on the actual need of the labour migrant. In reality, the cost of temporary accommodation is the largest cost component because of the education service and time spent waiting to be called by the employer. If the education and training of labour migrants was done locally, the costs of placement could be kept to a minimum as the labour migrant could continue to live at home. In addition, the cost of transportation to the country of destination—which should be the employer's responsibility—is often passed on to the labour migrant. This makes the recruitment and placement cost very high for labour migrants but it reduces the cost for the employer in the country of destination.

With regards to the payment of the mandatory pre-departure briefing, current regulations are unclear as to who should bear the cost. Ministerial Regulation No. 17/2009 states that prospective labour migrants should not be levied with the cost of the briefing, however, it does not clearly state who is responsible for the cost of the pre-departure briefing. With no specific provision stating that the government will pay for the training, it is far more likely that the cost will be borne by the recruitment agencies who will then pass it on to the labour migrant.

THE ROLE OF GOVERNMENT IN SUPERVISING THE PERFORMANCE OF RECRUITMENT AGENCIES

Indonesian government policy attempts to regulate recruitment agencies by means of applying placement regulations that consist of two components: (1) regulating the establishment of recruitment agencies; and (2) determining the duties and responsibilities of recruitment agencies in managing the work placements for labour migrants.

Law No. 39/2004 outlines numerous requirements for the establishment of recruitment agencies including: financial guarantees, a three-year work plan for the placement and protection of labour migrants and the availability of supporting tools and equipment such as employment training for the placement and protection of labour migrants.

Within Law No. 39/2004, the tasks and functions of recruitment agencies are divided into three parts:

- *Recruitment activities* such as information provision, registering recruited labour migrants with the local office of the Ministry of Manpower and Transmigration, producing and signing placement agreements, accepting responsibility for the costs of recruitment, conducting education and training, submitting copies of placement agreements to the local office of the Ministry of Manpower and Transmigration, checking and taking responsibility for the completeness of labour migrants' documents, despatching labour migrants who have fulfilled requirements, reporting departures of labour migrants to the Indonesian embassy or consulate in the destination country, enrolling prospective labour migrants in an insurance programme, providing pre-departure briefings and accommodating labour migrants pre-departure.
- *Protection activities* abroad that are conducted by recruitment agencies include: (1) arranging new employment agreements for labour migrants who change employer, arranging extensions of employment agreements and reporting these changes to the Indonesian embassy or consulate in the destination country; and (2) reporting labour migrant arrivals in destination countries.
- *Recruitment agencies* are obliged to provide protection to returning labour migrants, including reporting returned labour migrants to the Indonesian embassy in destination countries, repatriating labour migrants who are in trouble and providing health facilities for labour migrants who are ill. In cases where the death of a labour migrant occurs, the protection provided includes informing the labour migrant's family, seeking information on the cause of death, repatriating the deceased's remains, taking responsibility for the cost of burial, protecting the effects of the deceased and arranging the affairs of the deceased (such as insurance claim).

However, the policies on placement and protection have changed numerous times in the past few years, making it difficult for all involved stakeholders to remain up-to-date with the newest developments and ensure compliance in a way most conducive to the protection of labour migrants.

It is the role of central government to monitor the activities of recruitment agencies in Indonesia as well as to determine sanctions imposed on recruitment agencies if they breach the provisions of Law No. 39/2004. These sanctions are set out in Ministerial Regulation No. 5/2005. Sanctions on recruitment agencies that breach the provisions of Law No. 39/2004 consist of written warnings, suspensions or temporary cessation, wholly or in part of placement activities, or withdrawal of the recruitment agency's permit. The type of sanctions that are applied to recruitment agencies depends, however, on the type of breach (see Appendix III).

A recruitment agency's permit may be withdrawn if they have seriously breached regulations such as recruiting without a permit, despatching labour migrants without a complete set of documents, placing excessive placement costs on labour migrants that are not in accordance with regulations and placing labour migrants who have not been given pre-departure briefings. Operating permits are withdrawn for breaches of Article 13(1) of the administrative requirements for the establishment of recruitment agencies and not undertaking the obligations and responsibilities allocated by the government through Law No. 39/2004.

In addition to administrative sanctions, criminal sanctions can also be imposed by the government to punish recruitment agencies which are guilty of the following breaches:

- moving or transferring the license to deploy labour migrants to another recruitment agency;
- moving or transferring the Recruitment Permission Letter to another party;
- undertaking recruitment of labour migrants that does not fulfil legal requirements;
- placing labour migrants who do not meet the work competency test;
- placing labour migrants who do not meet the health and psychological requirements;
- placing prospective labour migrants or labour migrants who do not have documents;
- placing labour migrants overseas without the protection of an insurance programme;
- not treating prospective labour migrants properly or humanely during the pre-departure training;
- not placing labour migrants through a business partner;
- placing labour migrants overseas for their own interests without written permission from the minister;
- employing prospective labour migrants who are still undertaking education and skills training;
- placing labour migrants without an overseas labour identity card; and
- not despatching labour migrants who already have a complete set of documents. The penalty imposed on recruitment agencies for these criminal breaches is imprisonment for a period of 1 to 5 years or a fine of no less than IDR 1 billion (USD 109,600).

Government inspections of recruitment agencies which violate the legislation are more likely to be conducted if there is a report from the public (Tempo Interaktif, 2009). As the government does not initiate inspections, either on a regular or unscheduled basis, this is exploited by some recruitment agencies who intimidate prospective labour migrants so few reports are lodged with the government (Lampung Post, 2005).

Regional governments are limited in their power to take action against recruitment agencies in breach of regulations. Only the Minister for Manpower and Transmigration has the authority to close recruitment agencies as stipulated in Ministerial Regulation No. 10/2009 on the provision, extension and withdrawal of Indonesian manpower placement permits. In these cases, the local office of the Ministry of Manpower and Transmigration can only provide a recommendation to the Ministry of Manpower and Transmigration for a recruitment agency to be sanctioned. Jurisdictional problems between central and regional governments and the lack of oversight thus seriously impedes the control of recruitment agencies in the regions.

As discussed above, the central government (Ministry of Manpower and Transmigration) has enacted a regulation that requires recruitment agencies and the arrangements for labour placement to be in accordance with certain standard procedures. The basic weakness of this policy is that many central government agencies lack the legal infrastructure to regulate and monitor the activities of the recruitment agencies.

Regional communities often complain that they do not know which recruitment agencies cause problems and which ones do not. This makes it difficult for them to boycott or inform prospective labour migrants about which recruitment agencies to avoid. Moreover, there have been reports that it is easy for recruitment agencies which have been sanctioned to establish a new company with a new name even though the owner and manager remain the same. The phenomenon of 'piggybacking' also exists; recruitment agencies without recruitment permits recruit labour migrants and the labour migrants who they have recruited are then processed by other recruitment agencies.

PROTECTION FOR INDONESIAN WORKERS: DURING AND AFTER WORKING ABROAD

Services Provided by Indonesian Government Representatives in Destination Countries

As discussed in the previous sections, effective management of migration that benefits all stakeholders and addresses the issues of protection cannot be achieved without close cooperation between relevant government agencies, private stakeholders and labour migrants. To date, labour unions for labour migrants and organizations working for labour migrants have not been able to achieve adequate protection for labour migrants on their own. Only increased cooperation between the government and other stakeholders will solve the deficiencies in the current system of protection for labour migrants and improve the relevant regulations and overall management of labour migration. Furthermore, in order to be able to protect migrants while they are abroad, close cooperation is also needed with destination countries.

To improve the protection services for Indonesian labour migrants mandated by Presidential Instruction No. 6/2006, the Ministry of Foreign Affairs issued Ministerial Regulation No. 4/2008 on service provisions for citizens at Indonesian diplomatic missions overseas. This regulation stipulates that services for Indonesian citizens are part of an integrated service system that aims to improve the protection of all Indonesian citizens, including Indonesian labour migrants. The services provided for Indonesian citizens at Indonesian diplomatic missions overseas have two main objectives:

- to improve the quality of services and strengthen protection for Indonesian citizens through either the service itself or via the transparency and standardization of services that cover rules and regulations, resolution timelines, service charges in accordance with regulations and eliminating bribes; and
- serving and protecting Indonesian citizens abroad.

Services provided by the Indonesian missions abroad include:

- registration of Indonesian citizens and maintaining a database of Indonesian nationals in the country;
- assistance and consular protection;
- services and protection to Indonesian labour migrants;
- services and protection to Indonesian seafarers; and
- temporary accommodation and counselling.

In addition to regulating the legal aid services for Indonesian citizens including labour migrants with legal cases, this ministerial regulation also regulates the monitoring and protection of labour migrants. Indonesian missions abroad are responsible for the protection of labour migrants from the point of departure, the monitoring of work contracts, and the protection of labour migrants working abroad, through to handling problems encountered while overseas. It is also the mission's task to provide assistance to the families of citizens who pass away while abroad. Improvements in the management of documents and the availability of such services for citizens has improved the performance of Indonesia's overseas missions and their ability to protect labour migrants. In several Indonesian diplomatic missions in destination countries, the Indonesian community acknowledges that processing of documents is much faster and easier, and better services are provided for Indonesian labour migrants who require assistance.

Although the provision of services has improved in Indonesia's diplomatic missions in destination countries, these changes have not completely removed the need for protection of Indonesian labour migrants as the protection responsibilities are still predominantly consigned to the recruitment agencies. The weakness of this protection system is slowly becoming clear; it often means that the efforts made by the Ministry of Foreign Affairs to improve

the protection of Indonesian labour migrants abroad are not fully implemented. For example, despite the attempts to register all Indonesian labour migrants at Indonesian missions in destination countries in order to be able to assist them more easily if they encounter problems, many recruitment agencies do not report newly arrived labour migrants. As a result, the embassies and consulates are not aware of the number or location of Indonesian labour migrants working in that country.

As the recruitment process is dominated by recruitment agencies, Indonesian labour migrants' knowledge about the services provided by Indonesian Embassies will mostly be limited to the information they receive from the recruitment agencies. With limited monitoring of recruitment agencies, it is difficult to establish whether the majority of Indonesian labour migrants are actually provided with adequate and correct information about where to turn for help should they require it. Interviews by the Institute for Ecosoc Rights (2007) with former Indonesian labour migrants indicate that many labour migrants are told by recruitment agencies in Indonesia and in destination countries not to seek assistance from the Indonesian embassy or consulate if they are experiencing problems. Furthermore, former labour migrants stated that upon arrival in the destination country, recruitment agencies or employers sometimes took away the telephone number for the Indonesian embassy.

Return Services for Indonesian Labour Migrants

Upon their return to Indonesia, Indonesian labour migrants go through the repatriation system at a special airport terminal; Terminal IV at Soekarno-Hatta International Airport. This policy of repatriating Indonesian labour migrants to their home villages through Terminal IV has been in place since 1999 when the then-Ministry of Labour Decree No. 204/1999 was issued which designated Terminal IV as the special terminal for handling the return of Indonesian labour migrants.

A "Special Terminal" at the Soekarno-Hatta airport in Jakarta was inaugurated in 1999. In 2008, the special terminal was, however, moved from Terminal III to Terminal IV (the "Data Collection Terminal") and the processing of returning labour migrants is now managed by BNP2TKI.

The Indonesian Government has recognized that returning labour migrants have certain requirements and needs that have to be addressed upon their return. Many need help with transportation, medical assistance, legal aid, and in some cases financial or psychological assistance. These needs can be assessed and provided by special services personnel at Terminal IV upon arrival.

Despite the good intentions, the provision of services at Terminal IV has not been without flaws. The special terminal forces labour migrants to return via Jakarta, although this may be a detour for them and it prevents them from choosing other options. Furthermore, labour migrants are also required to return to the home address stated in their passport; this causes problems for migrants with falsified documents and for migrants whose family has moved. It also forces migrants to change their earnings into rupiah and send their belongings home as cargo which can be expensive. Labour migrants who have experienced problems abroad are often forced to deal with the recruitment agency even if the agency was at fault; some are even forced to pay their own return costs. The process is time consuming and there have been reports of corruption in the terminal.

Although many parties have reported various problems experienced by labour migrants during the return process, BNP2TKI considers Terminal IV as a place that can protect labour migrants from criminal elements at the Soekarno-Hatta airport. The Authority acknowledges that protection services at Terminal IV are not operating optimally and there is room for improvement. Appendix IV discusses the improvements that have been made in more detail.

Assistance with Business Capital

Through the initiation of a programme entitled "Business Empowerment for Former Indonesian Labour Migrants" (Binapenta, 2006), the Ministry of Manpower and Transmigration, together with a number of other national and regional agencies, is offering an assistance programme for returned labour migrants to initiate business activities in their home regions. Due to limited funds, the programme has, to date, only been able to offer training activities in business entrepreneurship (Kiss, 2009). To increase the involvement of regional governments in providing assistance to former labour migrants, BNP2TKI (2008) is encouraging the planning and enactment of regional

laws and regulations for the empowerment of former labour migrants. Both central and regional officials have focused on the assistance provided by banks and other organizations to help former migrants with managing the money earned overseas. The efforts of government at various levels in regions where local officials have been responsive (for example, in Semarang, Central Java), include successful cooperation between regional banks with the formation of a cooperative for former labour migrants, together with the provision of facilities for the development of cooperatives in the form of subsidy programmes and assistance with business capital. In Karanganyar, Kabupaten Semarang, there has been a contribution of IDR 500 million (USD 54,800) for a subsidy programme and business credit of IDR 1 billion (USD 109,601) for cooperatives established for former labour migrants (Suara Merdeka, 2006).

Regionally, the launch of government assistance activities for former labour migrants is often undertaken simultaneously with a campaign in the community known as a 'Labour Migrant Expo' (BNP2TKI, 2008) (Antara News, 2006), where information is disseminated on how to migrate overseas for work. These campaigns often give prominence to the success stories, and focus less on the preparations that are required before departing to work overseas.

Limited Geographic Coverage of Government Intervention

While the government's current efforts with new reintegration programmes for returned labour migrants are a positive development, it is important to emphasize labour migrants' need for support after their return, especially support related to management of the income they earned abroad and access to justice for labour migrants who experienced problems overseas.

There is limited geographic coverage for these reintegration efforts as Law No. 39/2004 does not include any regulation on protection schemes for former return migrants. According to the law the protection of labour migrants ends with the repatriation of labour migrants to their home area. The law does not discuss the protection of former labour migrants, either for those with problems or those who have had successful and problem-free placements.

The results of a study by the Institute for Ecosoc Rights (2007) in three high-origin districts for labour migrants, found that 71.4 percent of former labour migrants confirmed an urgent need for services after returning home. The study found that 37.1 percent of returned labour migrants experienced problems in managing money, generally complaining that the proceeds of their work were not evident, were used entirely for daily consumption or spent by their husbands. In addition to services related to the management of their money, returned labour migrants also required other services, including assistance with insurance claims and case management (Table 10).

Table 10: Services Required by Returned Labour Migrants

No	Type of Service Required	Proportion of Labour Migrants (%)		
		Tulang Bawang	Banyumas	Jember
1	Training and assistance with business management	30.0	16.7	8.3
2	Easier access to cooperatives	22.0	31.5	38.9
3	Case handling and insurance affairs	42.0	37.0	36.1
4	Assistance in overcoming problems with family	18.0	14.8	16.7

Source: The Institute for Ecosoc Rights (2007).

Re-emigration

There is an increasingly clear need for services for returned labour migrants in the management of their overseas earnings, as illustrated by the pattern of use of those proceeds. Overseas earnings most often go toward daily living expenses, an indication of the tight economic situation faced by many labour migrants and their families (Table 11). The majority of overseas earnings are used by labour migrants to pay for daily consumption, education of children and siblings, building a house, buying land, and housing maintenance and repairs. This indicates that working abroad is a way to improve the life of the labour migrant and the welfare of their family.

Table 11: Usage of Overseas Earnings by Returned Labour Migrants

No	Usage of Overseas Earnings	Proportion of Labour Migrants (%)		
		Tulang Bawang	Banyumas	Jember
1.	Eating daily	42.0	72.2	55.6
2.	Education of children/younger siblings	40.0	40.7	25.0
3.	Assisting family	48.0	37.0	5.6
4.	Building a house	22.0	48.1	27.8
5.	Buying land	36.0	25.9	27.8
6.	Improving house	20.0	11.1	13.9
7.	Buying motorcycle	30.0	9.3	47.2
8.	Saving	24.0	35.2	16.7
9.	Paying off debt	20.0	20.4	13.9
10.	Buying electronic goods	34.0	1.9	19.4
11.	Used as business capital	18.0	22.2	8.3
12.	Buy livestock	10.0	7.4	25.0
13.	Medical treatment	14.0	1.9	16.7
14.	Buy jewellery	2.0	5.6	11.1

Source: The Institute for Ecosoc Rights (2007).

From the pattern of use of these overseas earnings, it appears that few labour migrants use their earnings to invest in a business. This is understandable given the risks that have to be faced. It is safer for labour migrants to keep the proceeds of their work in the form of land, housing or savings to buy a motorcycle that can be used as an *ojek* (motorcycle taxi). Accounts from labour migrants point to a desire to start a business, however, this is difficult with limited capital. Some labour migrants use their overseas earnings to start a business. However, the reality is that these business endeavours often have limited success, with many labour migrants lacking knowledge, education, training and assistance in undertaking and managing a business.

Many labour migrants choose to build homes with their earnings, however, after building a house that seems luxurious for the size of the village, former labour migrants or their family members are often forced to remigrate overseas for work to pay for daily living expenses. In fact, many labour migrants return overseas many times to work. In addition, the study by the Institute for Ecosoc Rights (2007) found many cases of labour migrants who are born into families of labour migrants (for example in Banyumas and Cilacap), with several generations engaging in labour migration. This points to a developing culture of migration in some areas of Indonesia.

The majority of Indonesian migrant workers are not highly paid (Table 12). The amounts shown are the average savings after two years abroad. The relatively small amounts partly reflect the low-paid jobs which most labour migrants are confined to, but is also a reflection of the high recruitment costs borne by the labour migrant. Table 12 also shows that there is a difference in earnings between different regions of origin. This is most likely a result of labour migrants going to different destination countries and receiving different salaries. Strong networks often develop between a region and a certain destination country and most workers from the same region will thus travel to the same destination country.

Table 12: Average Savings by Labour Migrants After Two Years Abroad

No	Value of Savings After Two Years	Proportion of Labour Migrants (%)		
		Tulang Bawang	Banyumas	Jember
1.	Less than IDR 15 million (USD 1,644)	30.0	70.4	27.8
2.	IDR 15 – 30 million (USD 1,644-3,288)	22.0	18.5	38.9
3.	IDR 31 – 45 million (USD 3,398-4,932)	18.0	1.8	2.8
4.	More than IDR 45 million (USD 4,932)	24.0	9.3	22.2
5.	Don't know	6.0	-	8.3

Source: The Institute for Ecosoc Rights (2007).

Case Handling and Legal Aid at Home

Many labour migrants who experience problems overseas are unable to solve them while abroad. There are many cases of labour migrants not reporting their cases until they return home. According to data from a legal aid NGO (LBH, 2010), only 30 percent of the cases that were reported to BNP2TKI were resolved. In addition, a large number of cases are never reported to the authorities, and thus stand no chance of being resolved.

The Institute for Ecosoc Rights study (2007) of former labour migrants in three districts found that many cases concerning labour migrants were not reported or managed by authorities. Of the many labour migrants who experienced problems, at least 45.3 percent stated that they did not report their case to anyone, while of those who did report their case to a relevant authority, 57.2 percent claimed that their case was not handled. The study also found that of those labour migrants who reported their cases, none were reported to law enforcement authorities, but rather their cases were reported to a party without the authority to handle their case, such as their neighbourhood head, village official or local religious figure. Labour migrants reported that they found it easier to access such individuals rather than law enforcement officials.

There are four main reasons why labour migrants in trouble do not report their case: (1) fear of being blamed or ending up with more problems by reporting their case; (2) no knowledge of where or who to report their case to; (3) insufficient funds to cover the consequences of reporting the case, including case handling service; and (4) fear of embarrassment as the community will know about the problem. This also relates to the labour migrant's social status as perceived by the community, a status which often depends on the amount earned while working abroad.

Furthermore, many labour migrants experience poor handling of their cases, indicating weaknesses in the legal aid service, especially in the regions of origin. Law enforcement authorities and regional governments do not yet have adequate infrastructure to handle the cases of labour migrants and there is no basic standard in case management that is easily accessible to labour migrants. This is made worse by: (1) inadequate resources to deal with the number of cases; (2) inadequate understanding of the cases and how to resolve them by the authorities; (3) cases that cannot be resolved by parties in the regions alone; and (4) weak coordination between regional and national government bodies in case resolution.

In addition, there does not yet appear to be a case-handling system that provides clear administrative or criminal sanctions for those who commit crimes against labour migrants. Instead, the handling of labour migrants' cases, particularly in the regions, is conducted haphazardly without a clear system and strategy. There is also no legal aid service for labour migrants which severely restricts labour migrants in seeking justice.

Weak case management and a lack of legal aid for former labour migrants who have experienced some form of injustice is also a result of the weakness of the laws that regulate them, such as Law No. 39/2004. These weaknesses include:

- sanctions stipulated in Article 100 of Law No. 39/2004 do not clearly state the timeframe for sanctions so, although law enforcement authorities have issued warnings, perpetrators are able to continue actions that violate the law;
- the law does not clearly state the responsibilities of labour migrants in relation to their role in the handling of their cases; and
- the law does not specifically and explicitly state the rights of labour migrants who experience problems pre- or post-migration, including access/right to legal aid for those who have experienced some form of injustice.

Lack of Awareness of the Rights of Labour Migrants

The provision of protection of labour migrants could be improved through creating better awareness of migrants' rights amongst stakeholders and labour migrants themselves. Many labour migrants have low levels of education and are unaware of their basic human and employment rights. It is, therefore, crucial that other stakeholders in the migration process provide easier access to information and awareness campaigns.

Many labour migrants commit to working abroad without being completely aware of the conditions abroad and sometimes without knowing where to get appropriate information about working abroad. Many individuals perceive overseas migration as the only way out of poverty or to assist relatives with education, debts or health problems and information about their rights is often considered of secondary importance. Many prospective labour migrants are only educated to junior high school level or less, with many required to obtain further training and education appropriate to the needs of overseas employers. This education and training can assist in raising an awareness of labour migrants' rights.

An adequate level of education and training is crucial in providing protection for labour migrants abroad. When labour migrants are placed overseas, they can encounter a number of situations that they need to be able to handle in order to successfully complete their contract. This includes familiarizing themselves with the local culture and working conditions, language skills, awareness of their rights and particular skills needed to carry out the work tasks. Many labour migrants expect to benefit significantly from migration. Combined with little knowledge of conditions abroad and their own rights, this means that labour migrants often choose to remain silent about abuses. Table 13 shows the level of legal awareness amongst Indonesian domestic workers in Hong Kong SAR. The table shows that 41 percent of Indonesian labour migrant workers have no awareness of their own rights or the laws in the destination country. This is concerning since many labour migrants who work in Hong Kong SAR already have significant work experience in other destination countries.

Table 13: Legal Awareness of Migrant Domestic Workers in Hong Kong SAR (%)

Legal Awareness	Number of Indonesian Domestic Workers
Law of destination country	18%
Migration regulations	14%
Human Rights	14%
All of the above	10%
None of the above	41%

Source : Ignacio and Mejia (2008)

Moreover, a little awareness amongst labour migrants of their rights and the law of the destination country clearly advantages employers and recruitment agencies. Without knowing their rights and where to go to get assistance, many labour migrants will remain silent in cases of breaches of employment contracts or violence. It is evident that the majority of labour migrants in Hong Kong SAR receive below-standard wages and many are not compensated for working excessive hours.

KEY FINDINGS AND RECOMMENDATIONS

Indonesia is a major country of origin for international labour migrants. While individual migrants and their families as well as Indonesian society benefit from migration, this report has identified a number of issues and challenges regarding migration management in Indonesia.

While the current legislation is fairly comprehensive, the report found a need for further improvements, specifically with regards to the rights of migrants and their families both in Indonesia and abroad. Furthermore, central government needs to improve internal cooperation between government agencies as well as between central, regional and local governments and other stakeholders in the management of labour migration. In addition, the report found little engagement with migrants themselves. There should be greater consultation with migrants and their families at all levels and during all parts of the migration process.

There are issues regarding irregular migration which can be addressed by the government, specifically the issue of debt bondage which often leads to irregular forms of migration or even trafficking. Debt bondage could be limited by providing better access to loans for migrants; either through government-owned banks, cooperatives or microfinance institutions. In addition, more transparent and cheaper access to legal migration channels, as well as information about the risks of irregular migration should be provided to discourage labour migrants from choosing to migrate irregularly.

The report found that the current monitoring of recruitment agencies is insufficient and needs to be improved either at the national level or by regional governments. Better monitoring of recruitment agencies would lead to better protection of labour migrants as well as curb illegal recruitment activities. A protection regime should be developed by the Government of Indonesia aimed at building an effective mechanism to control recruitment agencies, agents, and employers. This monitoring mechanism should be accompanied by the application of clearer sanctions for recruitment agencies, agents and employers who breach the law. Agents and employers who violate the law should be blacklisted and no longer permitted to recruit Indonesian labour migrants and this should be enforceable.

There is also a need to improve data collection on migration to inform policy making. A national identity card, as has been suggested, would also help lower the prevalence of false documents.

In the pre-departure stage, the report found that several improvements could be made to prepare migrants better for working abroad. While Indonesian labour migrants are supposed to receive pre-departure training, the report found that this was all too often not the case, or the training the migrants received was severely deficient. Thus the report proposes that all labour migrants receive an introduction to the culture of the destination country; language training, information about their rights and responsibilities, clear information about the working conditions in the destination country and emergency contact numbers and information about proper procedures to follow in case of an emergency. Furthermore, the report recommends that this training be provided by the government or by a third party such as an NGO, rather than the recruitment agency.

Better management of returned labour migrants is also called for; repatriation programmes should be directed towards developing easy and safe ways for labour migrants to return to their country of origin. Reintegration programmes, on the other hand, should maximize the positive outcomes of migration for the individual worker and the local community as well as for national development. This can be done by creating conditions that enable labour migrants to invest in productive employment with the potential to develop the local community.



PART 2 : THE CONDITIONS OF INDONESIAN LABOUR MIGRANTS IN FOUR DESTINATION COUNTRIES



PART 2: THE CONDITIONS OF INDONESIAN LABOUR MIGRANTS IN FOUR DESTINATION COUNTRIES

As discussed in the previous chapter, Malaysia, Singapore, Kuwait and Bahrain are major destination countries for Indonesian labour migrants. This chapter will address the situation and experience of Indonesian labour migrants in these key destination countries. The chapter will first discuss Malaysia as this is the main destination country for Indonesian migrants followed by Singapore, Kuwait and Bahrain in that order.

MALAYSIA

LABOUR MIGRATION OVERVIEW

Malaysia is both a country of origin and destination for labour migrants and the main destination country for Indonesian labour migrants. Migration abroad is dominated by skilled workers and students studying abroad, while migration to Malaysia is characterized by lower- or semi-skilled workers.

Malaysia has a high demand for Indonesian labour migrants and is highly dependent on their contribution to its development and industrialization. There are three main reasons for the continued high demand for Indonesian labour migrants in Malaysia. First, there are general demographic and economic imbalances between Malaysia and Indonesia. Second, networks of brokers, sponsors and work placement agents have been institutionalized. In these networks brokers also function as sponsors, resulting in the intensification of the flow of labour migrants to Malaysia. Third, the linguistic, cultural and historic relationship between the two countries allows an easier working relationship between employers and Indonesian labour migrants, compared with labour migrants from other countries.

Over the last 40 years, there have been three major waves of migrant labour movements to Malaysia, with labour migrants to Malaysia playing an important role in the Malaysian economy. During the 1970s and 1980s when Malaysian immigration regulations were still limited (Kanapathy, 2004), the first wave of labour migrants were mostly employed in plantations/agricultural sector, followed by the manufacturing and services sectors. During the second wave of labour migration in the late 1980s, labour migrants were increasingly employed in the formal manufacturing and services sectors, with a large influx of regular and irregular migrants at this time. New immigration policies came into effect around 1991 to 1992, which included a levy on the employment of foreign workers (Kanapathy, 2004b). In an effort to legalize irregular migrants in the domestic, construction, agriculture, manufacturing and services sectors, an amnesty programme was also enacted during this period (APMRN, 2010). The 1997 Asian Financial Crisis, combined with the implementation of strict national policies to curb illegal entry and employment, slowed and stabilized the flow of labour migrants to Malaysia.

According to the Malaysian Ministry of Human Resources²⁴, of the approximately 2,109,954 migrant workers currently working in Malaysia, 50 percent are Indonesian labour migrants, indicating the scale of Indonesian labour migration to Malaysia. The majority of labour migrants arriving in Malaysia originate from other South and Southeast Asian countries, mainly attracted by the higher salaries that are offered in Malaysia compared with their countries of origin. In July 2008, 35 percent of employers registered with the Ministry of Manpower employed labour migrants.

IOM Member State: No
IOM Office in Malaysia: Yes
Population: 25,715,819 (July 2009 est.)*
Population growth rate: 1.742% (2008)
Net migration rate: 1 migrant/1,000 people
Migrant Stock: 1,850,000 – 3,000,000
Government type: Constitutional Monarchy
GDP/per capita (PPP): USD 15,200 (2008)
Human Development Index: 0.811 or 63/177

* CIA World Factbook

²⁴ Data obtained from a presentation given by the Malaysian Ministry of Human Resources during the Study Visit Tour to Malaysia by an Indonesian Government delegation on 1-2 September 2009.

The Malaysian Government categorizes labour migrants in three groups:

i. Documented labour migrants

- Enter legally and hold a temporary valid work visa (TEVP) issued by the Malaysian Department of Immigration;
- Have the right to receive protection and benefits provided by various Malaysian labour laws and regulations; and
- Are usually employed in low-class work sectors and are unskilled.

ii. Expatriate workers

- Hold a work permit;
- Permitted to bring partner and family to Malaysia; and
- Employed in higher managerial and executive positions and technical employment.

iii. Irregular labour migrants

- Violate immigration laws by entering and working in Malaysia without authorization;
- Do not fulfil the requirements for protection under the law; and
- Are vulnerable to exploitation and mistreatment.

The majority of labour migrants in Malaysia are lower-skilled or semi-skilled, and primarily occupy jobs that are dangerous, dirty and/or demeaning (also known as “3D” jobs) in sectors such as manufacturing, agriculture, construction and domestic work. These are jobs that a majority of Malaysian citizens do not want to perform at the current wage.

Under Malaysian law, employers are obligated to post a security bond ranging from MYR 200 (USD 60.20)²⁵ to MYR 2,000 (USD 601.96), depending on the labour migrant’s country of origin. Furthermore, employers are legally entitled to hold labour migrants’ passports.

Table 14: Number of Labour Migrants in Malaysia by Country of Origin

Country of Origin	Number of Workers (2006)	Number of Workers (2008)
Indonesia	1,215,000	1,120,828*
Nepal	200,200	207,053
India	139,700	138,083
Vietnam	85,800	103,338
Bangladesh	58,800	315,154
Myanmar	32,000	134,110
Philippines	22,000	27,105
Thailand	7,200	20,704
Others	88,900	43,579
Total	1,849,600	2,109,954

Note: * 50 percent of the total number of migrant workers in Malaysia.

Source: Data obtained from a presentation given by the Malaysian Ministry of Human Resources during the Study Visit Tour to Malaysia by an Indonesian Government delegation on 1-2 September 2009.

According to the Malaysian Ministry of Human Resources, there were approximately 2.1 million labour migrants in Malaysia working in almost all sectors of the economy (approximately 170,000 companies employ foreigners). The considerable number of labour migrants in most sectors of the economy indicates Malaysia’s economic dependency on labour migrants. Table 15 shows the distribution of Indonesian labour migrants by sector in Malaysia; plantation, domestic, construction and factory work are the primary sectors for Indonesian labour migrants.

Table 15: Demography of Indonesian Labour Migrants in Malaysia by Employment Sector

No	Employment Sector	Number and Proportion of Indonesian Labour Migrants	
1.	Plantation	310,000	25.5%
2.	Domestic Workers	294,000	24.2%
3.	Construction	220,000	18.1%
4.	Factories/Industry	200,000	16.5%
5.	Services	100,000	8.2%
6.	Agriculture	90,000	7.5%
	Total	1,214,000	100,0%

Source: Indonesian embassy in Malaysia (2005).

Sector employment in Malaysia tends to be divided by gender. Male Indonesian labour migrants work primarily in the plantation and construction sectors, while female labour migrants are mainly employed in the domestic and services sectors. It has been reported that both male and female labour migrants are often subjected to harsh treatment, including withholding of wages and verbal and physical abuse. Domestic workers are especially vulnerable as they are not protected by Malaysian labour laws and are often isolated from other workers as they are confined to the household of their employers.

IRREGULAR MIGRATION IN MALAYSIA

In addition to regular labour migration from Indonesia to Malaysia, Malaysia remains the largest destination country for irregular Indonesian labour migrants. Official 2006 data from Malaysia estimated that there were approximately 700,000 irregular labour migrants in Malaysia, of whom the majority (70 percent) came from Indonesia (Kanapathy, 2004b). However, unofficial sources suggest that there may be twice as many irregular labour migrants in Malaysia.

Labour migrants often do not become irregular labour migrants by choice. A 2007 study conducted by the Institute for Ecosoc Rights identified five main factors that led to labour migrants becoming irregular migrants.

First, due to the complexity, impracticalities, cost and length of time needed to migrate through regular migration channels, some Indonesian labour migrants consciously choose to migrate irregularly. While regular migration channels are generally safer, some labour migrants consider that irregular channels are more beneficial, both for themselves and the employer, as they are faster, less expensive and thus more practical.

Second, Malaysian migration law places the migrant with a specific employer, thus the irregular labour migrant has greater freedom to choose their employer and the type of work they do. This is facilitated by the large employment market for irregular labour migrants in Malaysia. In addition, the costs associated with irregular migration are often lower than official channels.

Third, although many labour migrants enter Malaysia as regular migrants, exploitative working conditions, physical and psychological abuse or non-payment of wages can leave the worker with little choice but to leave that particular employer and thus lose his/her legal status as a labour migrant, as the worker’s work permit is tied to the employer.

Fourth, the Memorandum of Understanding between Indonesia and Malaysia allows for the labour migrants’ travel documents to be kept by the employer. Leaving an employer, therefore, results in a loss of immigration status and identity documents.

Fifth, prospective Indonesian labour migrants often have little access to information about migration procedures and working conditions in Malaysia. Lack of information makes labour migrants vulnerable to deception and potential trafficking by parties in both Indonesia and Malaysia. There are two main forms of deception that may be experienced by Indonesian labour migrants. First, labour migrants can be deceived during the migration process and thus become unknowingly engaged in irregular migration. Second, some labour migrants are given false information about the job and working conditions in Malaysia and are often promised higher wages or better conditions than are actually the case.

²⁵ 11 March 2010 - USD 1 = MYR 3.32

Interviews with Indonesian irregular labour migrants show that many Indonesian labour migrants become irregular labour migrants not by choice but because conducive conditions have been created by other parties²⁶. Those who have consciously chosen irregular migration usually have sufficient information on conditions and social relationships in Malaysia that can assist them. However, those who become irregular as a result of lack of knowledge and because they have escaped exploitation or abuse are at risk of being taken advantage of in other forms.

To address the issue of irregular migration, Malaysia has pursued two different strategies; often combining legalization campaigns with harsh punitive measures for irregular migrants. In 1993 500,000 irregular Indonesian labour migrants took advantage of the legalization programme, while in 1996 another 300,000 Indonesian labour migrants were legalized (Hugo, 2007). The 2002 amnesty programme was accompanied by mass deportations for labour migrants who did not take advantage of the programme. During the 2004 Asian tsunami, the Government of Malaysia provided clemency for undocumented Indonesian labour migrants and cancelled plans for mass deportations. The number of migrants legalized in these programmes show the scale of irregular migration to Malaysia. While legalization programmes solve the short-term problems of irregular migration, they are not a long-term solution as the legalization is often time-limited and thus a number of migrants will revert to an irregular status when the amnesty period expires.

In addition to regular amnesty programmes, the Government of Malaysia has initiated numerous mass deportations of irregular migrants. A voluntary civilian paramilitary body, *Ikatan Relawan Rakyat Malaysia (RELA)* or People's Voluntary Corps, has been established with the authority to check travel documents and migration permits of foreign citizens in Malaysia. RELA is authorized to arrest migrants who are unable to produce the required documents and may do so either in public or private at any time of the day. RELA will hand migrants over to the police or immigration officials. Malaysia also carries out regular caning of irregular migrants before deporting them, a practice which has been heavily criticized by both Amnesty International (2002) and Human Rights Watch (2010).

Despite these efforts, irregular migration to Malaysia continues. There have been very few cases of employers being penalized for employing irregular labour migrants. Irregular migration leads to a cycle of deportations, those migrants who are deported will re-enter Malaysia and be rehired by employers in Malaysia. Thus legalization programmes and deportations fail to address the underlying issue; the Malaysian economy's dependency on migrant labour.

Malaysia is now increasing the fines for irregular labour migrants who wish to return voluntarily. Previously, Indonesian labour migrants who wished to return to Indonesia voluntarily only had to pay MYR 150 (USD 45) while now they have to pay MYR 750 (USD 226).

MALAYSIAN GOVERNMENT POLICY ON LABOUR MIGRATION

Labour migration to Malaysia is regulated by The Ministry of Home Affairs which is responsible for managing immigration and citizenship matters and enforcing immigration laws in the country. The Immigration Department of Malaysia is the agency within the Ministry of Home Affairs with responsibility for processing requests for work permits and visas and approving admissions. The Ministry of Human Resources implements labour policies, enforces labour laws and oversees Malaysia's workforce and skills training programmes. Furthermore, the Foreign Workers' Medical Examination Monitoring Agency (FOMEMA) is responsible for overseeing the medical examinations of foreign workers under the annual mandatory health-screening programme.

Public opinion in Malaysia about labour migration is often mixed. As is often the case, Malaysian citizens perceive labour migrants as taking jobs from ordinary Malaysians, especially in the current economic climate where many Malaysians have returned home after losing their jobs abroad. While there have been many attempts to give priority to Malaysian citizens in the labour market, these efforts have rarely been successful as the available work is usually considered undesirable for Malaysians and/or the wages are not high enough.

The Malaysian Government imposes several restrictions on lower-skilled workers to ensure their eventual return to their country of origin. Lower- and semi-skilled migrants are not permitted to bring their family to Malaysia, they must carry their work permit with them at all times and are only permitted to remain for the duration of their contract which usually lasts two years. This period can, however, be extended with the consent of the employer and Malaysian immigration authorities.

Passports of labour migrants can legally be held by employers or agents, which place migrants in a very vulnerable position as they can lose their legal status if they abscond from an abusive employer. A main concern with regards to migration management in Malaysia concerns migrants who have left abusive employers and need to stay in Malaysia while the case is pending. To remain in Malaysia, a labour migrant must submit a request for a special visa at a cost of MYR 100 (USD 30.10) per month²⁷. This permit does not allow for paid employment. The labour migrant must, therefore, pay a monthly fee for the special visa and for room and board while being denied an income. This situation is often unsustainable for many labour migrants as court cases can drag out for months or even years. Many abused or exploited labour migrants therefore return to their countries of origin before they have had an opportunity to receive adequate compensation for their work or for the abuses they have endured.

The current framework for managing migration to Malaysia is the Immigration Act of 2002. According to this Act, irregular labour migrants can face imprisonment of up to five years, be fined up to MYR 10,000, or receive six strokes of the cane and deportation. The same punishment applies to an employer who has been employing more than five irregular labour migrants. Penalties tend to apply more frequently to irregular labour migrants and more drastically than is the case for employers who have been found guilty of employing workers without official documents. Several attempts have been made by the Malaysian Government to take action against irregular labour migrants, with amnesties offered in 2002 (just prior to the introduction of the *Immigration Act of 2002*), and again in 2004 and 2005 to encourage irregular labour migrants to return to their countries of origin and apply for legal entry to Malaysia. However, efforts by the Malaysian authorities to clamp down on irregular labour migrants have had little effect on preventing or reducing irregular migration to Malaysia. In 2009, a new technique was tried involving fining irregular labour migrants and encouraging them to return to their countries of origin, rather than imprisoning or deporting them. Government officials state that the previous strategy had become too costly to maintain and it was expected that this will be a more efficient and humane strategy to deal with irregular labour migration.

Under the *Employment Act 1955*, each employer is required to submit information pertaining to labour migrants under their employment to the Director-General of Labour within 14 days of commencing employment. This law empowers the Director-General of Labour to investigate discriminatory and unfair treatment of labour migrants and protects local workers against retrenchment in the event of redundancy. The *Employment Act 1955* also establishes the statutory benefits for labour migrants, including payment of wages, working hours, shift work, overtime, rest days, holiday pay, annual leave, and sick leave. The *Workmen's Compensation Act 1992* stipulates the social security coverage for labour migrants.

Under the *Trade Union Act 1959*, labour migrants may become members of unofficial trade unions. According to the *Employment Act 1955*, an employment contract shall not contain a clause prohibiting a worker from joining a union and, according to the *Industrial Relations Act 1967*, a worker cannot be dismissed for their union activities. However, participation in unions is difficult for labour migrants due to the conditions attached to certain work permits, namely long working hours (Department of Labor and US Embassy, Kuala Lumpur, 2002).

In addition to national laws and regulations, Malaysia has signed labour migration MoUs with several countries, including Bangladesh, China, Indonesia, Pakistan, Sri Lanka, Thailand and Vietnam for short-term contract labourers. These MoUs stipulate that migrants must have the ability to communicate in English or Bahasa Malaysia, they must not have a criminal record, and the country of origin is liable for migrant workers repatriated for violations of Malaysian law (Kanapathy, 2004a). These MoUs aim to facilitate the recruitment and selection of labour migrants from these countries and to establish guidelines on how they should be treated while in Malaysia. They also aim to regulate the supply of unskilled labour migrants to Malaysia (Shuto, 2006). However, the legal channels for migration under these agreements remain limited and do not reflect the labour market needs for labour migrants in Malaysia. Most regular labour migrants are protected under Malaysian labour laws, however this does not apply to labour migrants who work as domestic workers, as domestic work is not covered by Malaysian labour laws.

²⁶ Research conducted by The Institute for Ecosoc Rights in 2009 on undocumented Indonesian labour migrants in 2009 (forthcoming publication).

²⁷ As at 2004.

ISSUES FACED BY INDONESIAN LABOUR MIGRANTS IN MALAYSIA AND THEIR IMPLICATIONS

Since 26 June 2009, Indonesia has enacted a moratorium on placing Indonesian domestic workers in Malaysia. Although the policy was still active at the time of the government delegation study visit to Malaysia in September 2009, the Government of Malaysia continued to issue permits to Indonesian foreign domestic workers, this was viewed as problematic by civil society organizations²⁸. In addition, it was reported that the moratorium had led to an increase in irregular migration of Indonesian labour migrants to Malaysia.

The 2009 ban on Indonesian workers migrating to Malaysia has been lifted as a 'letter of intent' was signed between the two countries in May 2010. The 'letter of intent' stipulates that migrant workers are entitled to one day off a week and have the right to retain their passports while in Malaysia. However, the two governments were not able to resolve the issue of a minimum wage for migrant workers (The Jakarta Post, 2010). The Malaysian Government has approved, in principle, measures proposed by the Government of Indonesia, including allowing Indonesian domestic workers one day off per week, periodic salary increases, retaining their own passports for the duration of their contract and having their transportation expenses reimbursed by their employers. The Government of Indonesia has proposed an increase in the minimum monthly salary for labour migrants from MYR 500 (USD 150.42) to MYR 800 (USD 240.67) per month.

Many irregular Indonesian labour migrants travel to Malaysia every year from Batam via boat, or from Nunukan using falsified documents. Irregular immigration to Malaysia is considered a crime, and irregular migrants are often treated as criminals: their homes or places of employment are raided and the workers placed in detention centres. The conditions in these detention centres have been a source of concern for civil society organizations and The Human Rights Commission of Malaysia (SUHAKAM)²⁹ has subsequently made recommendations to the Malaysian Department of Immigration to address these issues. Some of their findings on detention centres include: overcrowded facilities which can cause communicable diseases; breaches of hygiene standards and a lack of education on hygiene; lack of adequate diet and proper health care; lack of effective redress; minimum clothing and bathing facilities; pregnant women and children held in the facilities; and physical and psychological abuse.

Compared with the number of Indonesian migrants in Malaysia, the Indonesian diplomatic missions are often understaffed. Due to the lack of reporting by recruitment agencies, Indonesian Government officials are often not aware of the location of Indonesian labour migrants, the nature of their work, and their general conditions. This makes it difficult for government officials to be proactive in providing assistance. It is difficult for diplomatic representatives to supervise and detect, let alone anticipate the possibilities of serious problems emerging, such as monitoring Malaysian agents and private recruitment agencies and their partners in Indonesia and problematic employers.

Problems of Violence and Violations of Workers' Rights

Although the problems experienced by Indonesian labour migrants vary by sector, certain general issues are visible. These are evident from the complaints received by the Indonesian embassy in Kuala Lumpur from 2005 to 2007. While the primary problem varies from year to year, two main categories of problems are apparent: (1) problems related to violence including torture, whippings, sexual abuse, and rape; and (2) problems associated with workers' rights, including unpaid wages, extreme workload, no holidays, deception, eviction by the employer, and inhumane working conditions. These two categories of problems are interrelated; problems associated with work rights often provide the background for problems associated with violence.

The confiscation of passports has, in many cases, led to severe restriction of workers' freedom of movement, as migrants must carry their work permit with them at all times or risk imprisonment. Many domestic workers cite lack of access to their passport and the subsequent possibility of imprisonment and deportation as the main reason for not leaving an abusive employer. In addition, many labour migrants do not leave abusive employers

due to a lack of awareness about where they can obtain assistance. In 2004 the Malaysian Government gave labour migrants the right to change employers twice during their contract. This was previously not permitted and forced many labour migrants to remain for long periods in unfortunate conditions in order to repay the debts they had incurred to pay the recruitment agency. Unfortunately, information about this change in the law has not been disseminated and many workers are not aware of this right, consequently, they believe that they will face caning and deportation if they leave an abusive employer.

Trafficking in Persons

Trafficking in persons is an inherent part of the problems facing Indonesian labour migrants, and is partly responsible for the increase in irregular labour migration between the two countries. Complaints to the Indonesian embassy in Malaysia concerning this declined, however, between 2005 and 2007. To date, the enactment of Malaysia's anti-people trafficking legislation has not alleviated the crime of trafficking in persons, partly as a result of the need for a basic revision of the main legislation on labour migrants by the Malaysian Government. Without amending the legislation to protect labour migrants, it will be difficult to make meaningful progress in the effort to resolve the problem of trafficking in persons. Little is known about the exact numbers involved in trafficking because of the clandestine nature of trafficking. According to IOM's records of assistance from 2005-2009, Indonesian women and children are mainly trafficked into domestic servitude, whereas men are predominantly trafficked for plantation work.

SECTOR-SPECIFIC PROBLEMS

Plantation Workers

Indonesian labour migrants in this sector face problems such as very low wages, unpaid wages, having their passports retained by the employer, heavy workloads, long working hours and insufficient breaks, and confinement/isolation. Many are also trapped in debt, while many abscond to seek other work because of poor working conditions or imprisonment. Those who leave the plantation sector generally enter the construction sector.

Domestic Workers

Domestic workers experience many limitations and weaknesses, such as fear of losing their job, high levels of stress, low social status, no awareness of their rights, and unfamiliarity with procedures. Some also suffer xenophobia from the Malaysian community. Domestic workers have limited protection from Malaysian and Indonesian Government policies as domestic work is not covered by Malaysian labour law. Some Indonesian domestic workers are mistreated by their employers; examples of abuses include torture, rape, humiliation and non-payment of wages. Furthermore, their freedom of movement is often restricted.

In a number of cases of violence against Indonesian labour migrants, the courts have sided with employers and agents. An attempt to blacklist agents in Malaysia and by implication, private recruitment agencies in Indonesia has not been successful in changing the practices of all stakeholders. The situation is not very different in Indonesia, with Law No. 39/2004 predominantly favouring the needs of employers of labour migrants rather the protection of Indonesian labour migrants. The existing MoU between Indonesia and Malaysia allows the passports of Indonesian labour migrants to be retained by employers or agents for 'safekeeping,' making domestic workers in particular more vulnerable. However, media reports in February 2010 suggest this practice will change (The Jakarta Post, 2010).

Construction and Services

The construction and services sectors are similar in the management of the work permit system. The service sector is dominated by female workers and, while their situation is different to domestic workers because they work in the public domain, they are still vulnerable, facing problems such as having their passports retained by employers, insufficient breaks, low wages, and are vulnerable to being trafficked as sex workers.

Although Indonesian labour migrants in the construction sector appear to have more freedom than their compatriots in other sectors, they are not free from employer exploitation.

²⁸ Civil society organizations are broad-ranging associations that provide services, benefits or political influence to specific groups within society. They include professional associations, cultural associations, business forums, trade unions, local community groups, philanthropic foundations and think-tanks.

²⁹ The Human Rights Commission of Malaysia (SUHAKAM) was established by parliament under the Human Rights Commission of Malaysia Act 1999, Act 597, following Malaysia's active participation in the United Nations Commission on Human Rights (UNCHR) in 1993-95, when it was elected as a member of the Commission by the United Nations Economic and Social Council – www.suhakam.org.my

THE DILEMMA OF RESOLVING LEGAL PROBLEMS IN MALAYSIA

While Indonesian labour migrants in principle can seek redress in Malaysian courts in case of abuse, there are a number of limitations and barriers preventing many migrants from pursuing this course of action: the legal process is slow; the majority of employers are not jailed while awaiting trial; the personal considerations of the affected Indonesian labour migrant are not taken into account³⁰, and there are difficulties in proving the case.

In cases of violence and rape that are reported to the Indonesian embassy, the evidence of the incident is often lost. The complexity of the cases and delays in handling cases through legal channels is evident in the case of Nirmala Bonat. According to Amnesty International most cases take between 6 months and 2 years to solve in the Malaysian Court System (Amnesty International, 2010).

Box 1: Case Study: Nirmala Bonat³¹

Nirmala Bonat, the daughter of subsistence farmers from West Nusa Tenggara, was keen to supplement her parents' meagre income and agreed to be recruited as a domestic worker. She was sent to Malaysia in 2003, aged 19 years. Nirmala's employer, Ms Yim Pek Ha, began abusing her a few months after commencing employment. After accidentally breaking a mug, Yim threw boiling water on her. Following this, each time Yim seemed displeased with Nirmala, she was attacked, using any nearby object, such as a clothes hanger and an iron mug. The most serious physical attacks that Nirmala was subjected to, however, were scalding with boiling water and being burnt by a hot iron on her breasts.

Nirmala tried to run away from her employer's home twice, however, she was overwhelmed by unfamiliar surroundings and uncertain about where to go, which made her return to her employer's home. When the abuse became completely intolerable, Nirmala walked out again, uncertain of where to go. Fortunately a security guard came to her assistance, taking her to the nearest police station. Following this, Nirmala's employer was arrested and Nirmala was admitted to hospital for further examination.

In May 2004, Yim Pek Ha was charged with four counts of voluntarily causing grievous bodily harm, with the prosecution demanding that Yim be sentenced to 20 years imprisonment for each of those charges. However in July 2004, Malaysia's High Court, taking into account her asthma and high blood pressure and child under one year of age in her care, allowed Yim to be held under town arrest, with a bail of MYR 85,000 (USD 25,602) and on condition that she hand in her passport and undertake not to employ any foreign domestic worker.

Yim was absent from the first day of the hearing in July 2004, reportedly because she was receiving treatment for asthma in hospital. The judge adjourned the case until the following day. The next day, the hearing was adjourned for a further two months, resuming in September 2004. The trial was not a clear case, as Yim had hired a very astute legal team who claimed that the charges against Yim were defective and that there weaknesses in the reports of the night Nirmala was found by the security guard. Yim's defence team even suggested that Nirmala could have inflicted the injuries sustained on herself. Furthermore, Yim's defence lawyers tried to establish that Nirmala was suffering from mental illness, however this was weakened by the testimony of expert witnesses, including a consultant psychiatrist and other medical officers. At the trial, Nirmala's testimony was also cut short by Yim's defence team who obtained a decision for the trial to be stood down after thirty minutes. While her case was being heard in the Malaysian courts, Nirmala stayed in the Indonesian embassy shelter in Kuala Lumpur.

In November 2008, Yim Pek Ha was convicted and sentenced to 18 years jail after being found guilty of three charges of grievous bodily harm to Nirmala Bonat (The Star Online, 2008). Yim was acquitted of the fourth charge of breaking Nirmala's nose with a steel mug. According to Section 326 of the Penal Code, each offence carries a maximum 20 years' jail term and fine or whipping. In December 2009, Yim's sentence was reduced to 12 years by Malaysia's High Court.

In January 2010, Nirmala filed a law suit against her former employer at the Malaysian High Court Registry, seeking special damages for medical expenses, loss of earnings (MYR 28,545 – USD 8,597) and other expenses (MYR 10,616 – USD 3,198) as well as general damages and costs (New Straits Times, 2010).

³⁰ Many Indonesian labour migrants who are affected by legal cases choose to accept compensation and return immediately to Indonesia rather than pursue their case through the Malaysian legal system.

³¹ Anggraeni (2006).

MALAYSIAN GOVERNMENT MEASURES TO IMPROVE THE MANAGEMENT OF LABOUR MIGRATION

The Government of Malaysia provides a limited range of services for labour migrants in Malaysia, with the majority of services provided by civil society organizations and NGOs, including respective migrant community groups.

A number of reforms are currently being considered by the Malaysian Government to provide a more comprehensive framework to protect foreign labour migrants. In collaboration with countries of origin, the Malaysian Government intends to provide induction courses for labour migrants before their arrival in Malaysia³². This will build the labour migrants' knowledge of Malaysian culture and customs, the skills needed for labour migrants to carry out their job, basic communication skills and the applicable Malaysian laws. In addition, a guide book will be developed for labour migrants, containing basic information pertaining to Malaysian labour and immigration law, procedures for filing complaints, and a list of contact details for labour offices throughout Malaysia.

Through employer visits, the Malaysian Government will inform employers of their legal and social responsibility towards labour migrants. Recalcitrant employers will be prosecuted for offences committed against Malaysia's labour laws. In addition, the Malaysian Government will investigate complaints without giving employers prior notice.

The Malaysian Government also plans to amend the legislation and process for labour migrants³³. In particular, there are plans to expand the coverage of the Workmen's Compensation Act 1952 to also cover domestic workers; and for new provisions to be introduced in the Employment Act 1955 to protect the wages and work conditions of foreign domestic workers and to control exploitative employment of labour migrants. There are also plans to introduce a new provision in the law to deal with cases of sexual harassment involving foreign workers. To address issues with slow resolution of cases through the legal system, the Malaysian Government intends to speed up settlement of claims by labour migrants against employers through Labour Courts.

In terms of monitoring, the Malaysian Government intends to strengthen the manpower capacity of the government agencies responsible for the employment of labour migrants, to effectively enforce the law and strengthen statutory inspections to places of employment with a special focus on those employers who employ large numbers of labour migrants. In terms of data and information relating to labour migrants, the Malaysian Government intends to enhance the collection of such information through the National Employment Return, e-Pampasan³⁴, Labour Market Database and Electronic Labour Exchange³⁵ systems for effective monitoring, management and policy planning. Data and information in the Ministry of Home Affairs' labour migrants Biometric Data System will also be shared to improve monitoring of employers with labour migrants.

INDONESIAN EMBASSY IN MALAYSIA

In 2006, following significant publicity concerning cases of violence against Indonesian labour migrants in Malaysia, the Indonesian President, Susilo Bambang Yudhoyono, issued Presidential Instruction No. 6/2006 on Reforming the Placement System and Protection of Indonesian Migrant Workers. A component of this presidential instruction was the strengthening of Indonesia's diplomatic function in the protection of Indonesian labour migrants through the deployment of labour attachés in key destination countries for Indonesian labour migrants. One of these labour attachés is located at the Indonesian Embassy in Malaysia. There have been many complaints to date concerning the provision of services to Indonesian labour migrants at the Indonesian Embassy in Malaysia, including slow and bureaucratic service; brokers acting violently and arbitrarily; corruption and inhumane treatment of Indonesian labour migrants.

³² As reported on the study visit to Malaysia 1-2 September 2009.

³³ As reported on the study visit to Malaysia 1-2 September 2009.

³⁴ e-Pampasan is a Malaysian Government online system to efficiently manage compensation for foreign workers

³⁵ ELX or Electronic Labour Exchange system (<http://www.elx.gov.my>) is an online system that provides a one-stop service related to the Malaysian job market, including information about vacancies and recruitment agencies

Following a visit by President Susilo Bambang Yudhoyono to Malaysia in 2006, the Indonesian Embassy began to undertake improvements in the services provided for Indonesian citizens in Malaysia, especially for Indonesian labour migrants. These changes were also fuelled by the disclosure of corruption cases at the Embassy. Interviews with Indonesian academics, labour migrants, NGOs, researchers, and professional workers in Malaysia³⁶ suggest that there have been improvements in the performance of the Indonesian Embassy in Malaysia, especially in its provision of emergency services to its citizens.

On 29 January 2007 the Indonesian Embassy commenced its efforts to improve its long-term service performance, forming a taskforce to improve protection for Indonesian labour migrants. This taskforce was created to improve coordination between labour, immigration, defence, police, research and communications work units in the embassy. The roles of the taskforce were to: provide protection for labour migrants; observe Indonesian labour migrants in the workplace; market the availability of skilled workers; and case management services.

The Embassy provides various services to Indonesian labour migrants including: passport extensions; case management; information services through the internet, brochures, radio and sms; and outreach programmes through field visits. The embassy also maintains a 'blacklist' of Malaysian recruitment agents and employers who have acted inappropriately towards Indonesian labour migrants, with the embassy reporting these agents to the appropriate Malaysian authorities.

The following services are provided for all Indonesian citizens in Malaysia:

(i) A fast 'three hour' administrative service

Prior to the administrative improvements at the Embassy, renewals, replacement and other passport-related services usually took a number of days or weeks to process. This made it difficult for Indonesian labour migrants to access Embassy services because they could not leave work for long periods of time. A system has now been established to manage documents within a three hour time frame. Observations by an Ecosoc research team indicate that the rapid 'three hour' service operates better on Fridays when there is less pressure on staff. However, from Monday to Thursday, the express 'three hour' service often takes longer. As a result of the express service, the Embassy no longer outsources the management of passports for Indonesian labour migrants as was previously the case.

(ii) Establishment of shelters for Indonesian labour migrants experiencing problems.

The Embassy shelter provides protective services for Indonesian labour migrants, with the majority of beneficiaries being domestic workers who are victims of violence, and who may be suffering from psychological stress. To support the recovery of Indonesian labour migrants, the shelter provides them with food, skill activities and counselling. The Embassy limits the length of stay at the shelter to six months and while the shelter can accommodate 70 people, it is often overcrowded. At the time of the study visit in September 2009, there were at least 150 women staying at the shelter. One volunteer assisting with activities at the shelter expressed a hope for a more established and frequent medical service to be provided to enable an improved recovery process for Indonesian labour migrants in need. Every month the Embassy assists the return of more than 100 women from the Embassy shelter to Indonesia.

(iii) Prevention of brokers from entering the Indonesian Embassy.

Brokers and people offering false document services are no longer permitted to enter the Embassy grounds in Kuala Lumpur. This protects Indonesian labour migrants from being exploited by them. The migrant community previously felt that improper cooperation between brokers and document-handling officials disrupted the public service process. Brokers are now no longer permitted to approach the queue, nor enter the Embassy grounds. However, despite this, they are still able to continue offering their services, for example by 'preparing pictures' (falsification of photos).

(iv) Suitable service facilities.

Prior to the establishment of a waiting room for Indonesian citizens, migrants found it difficult to enter the Embassy, as they were forced to wait in crowds outside the embassy grounds. This previous environment was conducive to brokers offering to falsify documents, particularly if the brokers were facilitated by, or had a relationship with, embassy personnel. The Embassy now provides a separate space for Indonesian labour migrants to sort out their documents.

(v) Transparent data collection.

External parties with an interest in Indonesian labour migrants can access data from the Embassy, which is very useful in the monitoring process and in enabling stakeholders to improve their services for Indonesian labour migrants. Data collected by the Embassy is critical in formulating the protection policy for Indonesian labour migrants.

(vi) Access to education for Indonesian migrants.

In an ideal scenario, Indonesian labour migrants should be trained prior to departing for Malaysia. However, as discussed in Part One, many Indonesian labour migrants, in particular domestic workers, arrive with basic or limited skills. The Embassy funds several activities to provide assistance or empowerment programmes for Indonesian citizens. For example, the Indonesian School in Kota Kinabalu, East Borneo, aims to provide access to education for Indonesian migrants who are unable to access education services in the Malaysian state of Sabah. The Indonesian Government is collaborating with the international NGO Humana to overcome a lack of access to education for Indonesian children in Malaysia. The Malaysian and Indonesian Governments agree that this Danish-based organization can assist in the provision of education, as it has already reached approximately 70,000 Indonesian children who would otherwise not have been able to access education. The Indonesian School in Kota Kinabalu is used as a training centre, with classes held outside the training centre, due to the distance between the children's homes and the centre. Although the Indonesian Embassy's partnership with Humana has ended, the Embassy plans to continue this programme as it is vital to provide education to migrant children.

(vii) An orientation programme for new labour migrants arriving in Malaysia.

The Indonesian Embassy has initiated an orientation programme for new labour migrants arriving in Malaysia to provide information for migrants about their rights, relevant laws and regulations in Malaysia as well as the Embassy's services.

In addition to the services provided by the Indonesian Embassy, a series of services for Indonesian migrants are provided by NGOs and community associations across Malaysia. For more information see Appendix V.

POLICY RESPONSE BY INDONESIAN EMBASSY IN MALAYSIA

While the Malaysian Government is currently in the process of developing a new framework for managing labour migration, the Indonesian Embassy in Malaysia is also trying to improve its responses to the issues faced by Indonesian labour migrants.

The Embassy is broadening its protection scheme to include all Indonesian labour migrants. Existing protection services include: a complaints and consultation service for Indonesian labour migrants in trouble; a 24 hour telephone hotline service; and a mobile monitoring service to Indonesian labour migrants' workplaces (such as plantations, factories, and construction barracks).

Furthermore, the Embassy is in the process of developing an Association of Indonesian Labour Migrants. In Malaysia there are many informal regionally based associations of Indonesian labour migrants, who provide assistance to labour migrants by communicating with Indonesian Embassy officials. Through partnerships with the Embassy, associations of Indonesian labour migrants can assist in more effective monitoring of working conditions and providing information to the embassy where there are problems across all sectors and in both urban and rural areas. In addition, Indonesian labour migrants who are part of these associations, particularly those in rural areas of Malaysia, can complain to the Embassy without their employer's knowledge. In the long term, it is envisaged that such associations may provide assistance for Indonesian labour migrants filing complaints, reducing the workload of the Embassy.

The Embassy is in the process of developing an Embassy-based complaint and protection mechanism for irregular Indonesian labour migrants. Indonesian labour migrants who enter Malaysia through irregular pathways often become victims of Malaysia's migration and labour policies, making it difficult for them to access the Indonesian Embassy's services as they often face difficulties in entering the office area of the Embassy as they do not have valid identification documents. They are often without documentation because they have been deceived or exploited by employers, agents, middlemen or other parties.

³⁶ As part of a Focus Group Discussion held during the Indonesian Government delegation's study visit to Malaysia – 1-2 September 2009.

Efforts are being directed towards developing an effective monitoring system of recruitment agencies and employers and public reporting of findings. There is limited government authority over recruitment agencies for Indonesian labour migrants in Indonesia, especially in dealing with agents and employers abroad. Most Indonesian recruitment agencies have agencies in Malaysia. These are managed by Indonesians but owned by Malaysians so the profits actually remain in Malaysia.

To date, the Government of Indonesia has had difficulty in obtaining accurate data on the number and distribution of Indonesian labour migrants in Malaysia. This supports the need for a census of Indonesian labour migrants in Malaysia by involving various Indonesian community groups in Malaysia. The availability of accurate data on Indonesian labour migrants in Malaysia would enable the Indonesian embassy to improve protection and develop empowerment programmes for its labour migrants.

The Embassy is also engaging more with the Indonesian community in Malaysia and facilitating the development of Indonesian community groups. To date, the Indonesian Embassy has focused largely on formal diplomacy through bilateral meetings and discussions, however, these have not resolved the problems faced by Indonesian labour migrants. The Embassy is, therefore, also drawing attention to how the Indonesian community in Malaysia can develop awareness in Malaysia about Indonesian labour migrants. For example, how students, academics, professional groups and other middle-class interest groups can communicate and encourage the Malaysian community within their spheres of influence to increase protection for Indonesian labour migrants. These efforts have often been undertaken by various academics and professionals in Indonesia, who, in their areas of influence, invite and encourage the community to strive for the protection of labour migrants.

Community organizations such as the Indonesian Community Association in Malaysia (Permai) and various Indonesian labour migrant associations have, to date, been providing significant assistance to Indonesian labour migrants in need. In addition, Permai facilitates communication between different Indonesian labour migrant associations. As an organization whose membership incorporates various elements of the Indonesian community, professional groups, academics and Indonesian-born Malay citizens, Permai has the potential to work in partnership with the Indonesian embassy in empowering Indonesian labour migrants, establishing representative associations and campaigning for the protection of Indonesian labour migrants in the Malaysian community.

SINGAPORE

LABOUR MIGRATION OVERVIEW

Singapore has a large foreign population; approximately one-quarter of Singapore's 4.6 million people are non-Singaporean. In addition, Singapore's average population growth rate is much higher amongst non-nationals (19 percent in 2008) than Singaporean nationals (one percent growth in 2008) (Singapore National Population Secretariat, et al 2009). According to Singapore's Ministry of Manpower, in 2009 there were approximately 1.05 million labour migrants in Singapore, making up 35.2 percent of the country's total labour force (Singapore Ministry of Manpower, 2009).

These labour migrants fall into three different categories:

- (i) **highly skilled work permit holders (expatriates)** who earn a minimum of SGD 2,500 (USD 1,790.81³⁷) per month;
- (ii) **S-Pass holders**, who earn a salary of more than SGD 1,800 (USD 1,289.35) per month; and
- (iii) **unskilled (temporary) workers** who earn less than SGD 1,800 (USD 1,289.35) per month.

The majority of Indonesian labour migrants fall into the third category working in construction, manufacturing or as domestic workers. While Indonesian labour migrants are represented in a variety of sectors, this chapter will primarily focus on the conditions and experiences of domestic workers in Singapore. Immigration measures are stricter for unskilled workers—their stay is temporary, they are not permitted to perform jobs not specified on their work permit, their families are not permitted to accompany them to Singapore, they must undertake certain medical examinations, they are prohibited from marrying citizens and permanent residents of Singapore, and their employers must pay a foreign worker levy (Yeoh, 2007).

Since the late 1970s an increasing number of Singaporean women have entered the workforce, and the hiring of foreign labour migrants as domestic workers has become popular, with an estimated one in five families currently employing a foreign domestic worker. Furthermore, Singapore's economic growth is partly a result of skilled and non-skilled labour migrants who help fill labour shortages resulting from demographic developments in Singapore. Singapore has the oldest population in Southeast Asia, and a low birth rate, consequently, the country needs labour migrants to avoid population decline.

There are approximately 140,000 Singaporean citizens living abroad (most of whom are in Australia, the People's Republic of China, the United States of America and the United Kingdom), and the Government of Singapore is actively encouraging the return of these highly skilled workers. In addition, in order to maintain a professional population, the Government of Singapore encourages mixed marriages between skilled foreign workers and Singaporean citizens in order to reduce the demographic pressure.

Compared with other Southeast Asian countries, there are relatively few irregular migrants in Singapore. The small island nation's geographic location enables Singaporean authorities to control the entry and exit of people more effectively than in countries with larger and more porous national borders. Effective border management combined with stringent regulation of the labour market has enabled Singapore to successfully limit the number of irregular migrants.

IOM Member State: No
IOM Office in Singapore: No
Population: 4,987,600 (2009)
Number of non-nationals: 1,050,000 (2009)
Number of nationals abroad: 140,000 (2006)
Net migration rate: 6.88 migrants/1,000 people
Population growth rate: 1.135%
Government type: Parliamentary Republic
GDP - per capita (PPP): USD 49,900 (2007)
Human Development Index: 0.922 or 25/177

Sources: CIA World Fact book, Singapore Department of Statistics 2009, Singapore Ministry of Manpower 2009, UNDP: Human Development Report 2007/2008.

³⁷ As at 12 March 2010 USD 1 = SGD 1.40

DEMAND FOR FOREIGN LABOUR

The demand for foreign labour in Singapore continues to rise. From 1990 until 2006, the number of labour migrants rose by 170 percent—from 248,000 to 670,000. Of this number, 580,000 are labour migrants with minimal skills, concentrated in the construction, manufacturing and shipping industries and domestic work, while the remaining 90,000 are foreign professionals (Yeoh, 2007). The demand for unskilled labour commenced when former President Lee Kuan Yew changed Singapore's migration policy from one based on industry and production to one based on the services and financial sectors. When construction and factory development began to stall and the number of unskilled labour migrants in the construction and manufacturing sectors began to decline, the number of low-skilled labour migrants began to rise in other sectors such as the domestic sector.

Several factors have influenced this increase in the number of Indonesian domestic workers in Singapore since the mid-1990s, including an increasing number of Singaporean women returning to the workforce after having children combined with increasing education, and greater employment opportunities for live-in domestic workers with attractive wages. From 1980 to 1990, the proportion of Singaporean women working rose from 36 to 41 percent (Abdul Rahman, 2008). Families in Singapore require domestic workers to not only manage householdwork, but also to care for children and the elderly. Singapore's inflexible work culture and long working hours, together with a long cultural tradition by the middle and elite classes of paid domestic service, have also contributed to an increasing demand for full-time domestic workers (Abdul Rahman et al, 2005). In addition, following the case of Flor Contemplacion, a Philippine national³⁸ in 1995, and a tighter and more protective policy by the Government of the Philippines, recruitment agents in Singapore have focused more on promoting domestic workers from Indonesia.

It is currently estimated that there are approximately 196,000 foreign domestic workers in Singapore, with about one in five Singaporean households reliant on the help of foreign domestic workers in their homes (Singapore Ministry of Manpower, 2010b). According to a report by the Indonesian embassy in Singapore (2005), the largest number of foreign domestic workers (55 percent) come from Indonesia, followed by the Philippines with 40 percent and the remaining 5 percent from other countries including Thailand, Myanmar, India and Bangladesh.

SINGAPOREAN GOVERNMENT POLICY ON LABOUR MIGRATION

The type of employment permit obtained by labour migrants determines their rights and obligations in Singapore. For example, highly skilled workers are encouraged to work in Singapore and integrate into Singaporean society. Their visas need not be tied to a specific employer and they can apply for permanent residence following a period of two to ten years. Professional workers may also be eligible for subsidized health care, education and housing. Low skilled workers do not enjoy the same privileges, with a tightly controlled residency period. They are not eligible for any subsidized social services, such as health care and housing, and they are not permitted to bring their families (a privilege granted only to those earning a minimum salary of SGD 2,500 (USD 1,790.81) per month).

Labour migrants in Singapore are not permitted to marry Singaporean nationals without obtaining prior government approval. All foreign domestic workers are required to undergo a mandatory six-monthly medical examination to screen for infectious diseases and pregnancies (Singapore Ministry of Manpower, 2007b). If a foreign domestic worker falls pregnant, she must either agree to have an abortion or must leave Singapore.

Unskilled workers are also bonded to certain employers who must post a security bond of SGD 5,000 (USD 3,582.19) for the labour migrant's repatriation at the end of their contract. If the worker absconds, the employer will forego the security bond. As a result, the security bond provides some employers of domestic workers with a reason to strictly control the worker's mobility and social interactions.

In Singapore, labour migrants are usually protected by the *Employment Act*, which regulates minimum employment standards such as timely payment of salaries, overtime payment and rest days. However, domestic workers (both local and foreign) are not covered under these regulations. Instead, domestic workers are protected under *The Employment of Foreign Manpower Act* (EFMA) 2007.

³⁸ Flor Contemplacion was a Filipino domestic worker who was executed in Singapore in 1995 for murder. Her execution severely strained relations between Singapore and the Philippines, resulting in many Filipinos venting their frustration at the Governments of the Philippines and Singapore over the helplessness, abuse, and mental stresses that many Filipino overseas workers face globally. Relations between Singapore and the Philippines chilled for several years following her execution, with the Filipino Ambassador to Singapore recalled, and many bilateral exchanges between the countries cancelled.

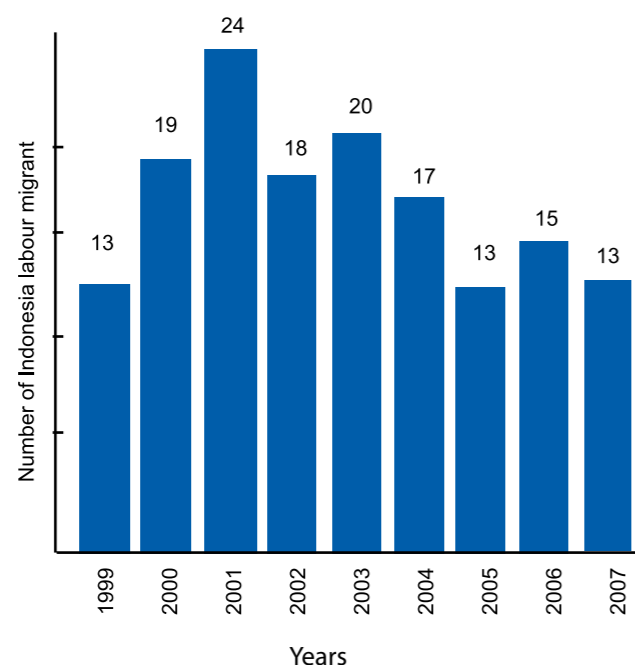
Under the EFMA, the Ministry of Manpower imposes work permit conditions that bind all employers to provide for the well-being of their foreign workers. These conditions include provisions on medical treatment, personal safety, proper housing, prompt salary payment and adequate food and rest (Singapore Ministry of Manpower, 2007a). The Act provides greater power to employment inspectors in enforcing regulations and increased the penalties for irregular migrants and their employers (Singapore Ministry of Manpower, 2007a). Employers who breach these conditions can be fined up to SGD 5,000 (USD 3,571) and/or jailed for up to six months, as well as being barred from hiring foreign workers. Amid widespread reports of abuse of domestic workers, the Government of Singapore introduced the *'General Guidelines on the Employment of Migrant Workers'*, which outlines the responsibilities of employers to labour migrants, such as wages, working hours and holidays as well as the penalties for the abuse of labour migrants.

A new standard contract for domestic workers and a new service agreement between labour agencies and employers were launched in 2006 by the two accreditation bodies for labour agencies in Singapore: the Association of Employment Agencies of Singapore and CaseTrust. Labour agencies that wish to be accredited and maintain their license are now required to use both of these contracts. The standard contract does not guarantee domestic workers eight consecutive hours' rest, one day leave per week (but does state that employers need to provide compensation in cash if a weekly rest day is not provided to the domestic worker), nor does it cap the high recruitment fee paid by many female labour migrants. *The Employment Act*, which ensures that employment agencies do not charge job seekers more than 10 percent of their first month's income, does not apply to employees recruited as domestic workers. Recruitment costs, which can be up to ten month's wages, are considered a private arrangement between recruitment agencies and labour migrants that is not regulated by the Government of Singapore. The Ministry of Manpower offers mediation services to assist with expediting settlement of employment disputes as quickly and as amicably as possible, and to reach a settlement that is fair and reasonable to all involved parties. In cases where agreement cannot be reached, claims may be referred to the Labour Court for adjudication. According to the Ministry of Manpower, of the cases involving foreign workers, more than 90 percent were heard and concluded within two months from the commencement of the first hearing (Singapore Ministry of Manpower, 2010a).

ISSUES FACED BY INDONESIAN WORKERS IN SINGAPORE AND THEIR IMPLICATIONS

Observations of Indonesian labour migrants in Singapore by the Institute for Ecosoc Rights from 1995 to 2007 show little change in the pattern and breadth of problems that they face (The Institute for Ecosoc Rights, 2005, 2007). Disconcertingly, the death rate amongst labour migrant domestic workers from year to year has not declined or shown any significant change during this period (Figure 6). In addition, a minimum of two Indonesian domestic workers per day abscond from their employer to seek assistance in an Indonesian Government shelter as reported during the study visit to Singapore.

Between 1999 and 2005, at least 147 labour migrants, of whom 122 were Indonesian citizens, died from falling or jumping from their employer's apartments (Human Rights Watch, 2005). These incidents included both workplace accidents, such as unsafe methods of cleaning windows, and suicides that were the consequence of inhumane working conditions, which caused depression and anxiety amongst these labour migrants.

Figure 1: Number of Indonesian Domestic Workers Who Died in Singapore Between 1999 and 2007

Source: The Institute for Ecosoc Rights – 1999 to 2005 data from the Indonesian embassy in Singapore; 2006-2007 data from media reports.

In Singapore, the main problems faced by Indonesian domestic workers are harsh working conditions, which peaks in instances of violence against domestic workers and sometimes results in their death. Extreme working conditions experienced by labour migrants include below-standard wages; physical violence; illness; restrictions on access to information and communication; insufficient food; public humiliation; and specific problems with employers (especially female) and their families.

Although the Governments of Singapore and Indonesia have made efforts to improve the situation for Indonesian domestic workers, the pattern of problems over recent years has not changed. Cases involving the death of domestic workers remain high, for example, 154 Indonesian domestic workers died in Singapore between 1999 and 2007, indicating no significant change despite the Singaporean Government's protection policy.

In addition, there is no explicit policy on the right to holidays for domestic workers. Although the Singaporean Government appeals to employers to provide the opportunity to save up one day's leave a month, this has not been legally affirmed as a holiday for Indonesian domestic workers. As a result, it is estimated that only 20 percent of Indonesian domestic workers enjoy holidays. Those who do not receive holidays are generally enduring harsh working conditions, tend to be stressed, and suffering from medical conditions including depression. This is particularly the case for labour migrants working overseas for the first time.

Despite the heavy workload borne by domestic workers, they often do not receive appropriate compensation. Between 1999 and 2005 wages received by Indonesian domestic workers ranged from SGD 230 to 250 (USD 164 to 179). For such a wage, more than one-half (54.4 percent) of Indonesian domestic workers worked more than 16 hours per day and 11.5 percent worked more than 19 hours per day (The Institute for Ecosoc Rights, 2005). There is no compensation for domestic workers who work more than 10 hours per day and with such long working hours they are often confined to the home. In addition, the proportion of Indonesian domestic workers employed in more than one location has increased. Employers in Singapore tend to expect an increasingly extreme workload for domestic workers. A survey conducted by the Institute for Ecosoc Rights (2005) showed that more than 20 percent of domestic workers were employed in more than one location. This share had risen to 53 percent in a 2008 study conducted by the Institute for Ecosoc Rights (forthcoming 2010a). Finally, physical violence continues to be a problem for Indonesian domestic workers. The Institute for Ecosoc Rights surveys in 2005 and 2008 (forthcoming 2010b) show that the number of violence cases has increased between 2005 and 2008.

Table 16: Problems Faced by Indonesian Domestic Workers in Singapore (1999-2008)

Problems Faced by Domestic Workers				Problems Resulting in the Return Home of Domestic Worker	
Rank (a)	1999 to 2005 (b)	Rank (c)	2008 (d)	Rank (e)	2008 (f)
1	No holidays	1	No holidays	1	Unilateral retrenchment
2	High workload	2	Insufficient rest breaks	2	Injury caused by work accident
3	Insufficient rest breaks	3	High workload	3	Mistreatment
4	Not permitted to leave the house	4	Not permitted to leave the house	4	Poor communication
5	Limited access to information and communication	5	Wages below standard	5	Incomplete documents
6	Not allowed to pray	6	Not allowed to pray	6	Employer died
7	Problems with grandparents/children/female employer	7	Working in more than one location	7	Incapable of working
8	Humiliation in words and actions	8	Illness	8	Work not in accordance with employment agreement
9	Insufficient food	9	Physical violence	9	Problem with employer
10	Working in more than one place	10	Running away from employer	10	Congenital illness

Note: Data in this table is compiled from the following sources:

(a) and (c) Rank based on problems considered to be the most onerous by Indonesian domestic workers.

(b) The Institute for Ecosoc Rights (2005).

(d) Survey by the Institute for Ecosoc Rights in 2008, to be published in forthcoming 2010 report.

(e) and (f) data from the National Authority for the Placement and Protection of Indonesian Labour Migrants Overseas, May 2008 - Arrival data of Indonesian labour migrants from Selapajang-Tangerang data agency.

As is the case in Malaysia, there is a lack of integrated and reliable data on Indonesian domestic workers entering and working in Singapore. Access to such reliable data would enable the embassy to improve its services. Poor coordination between the Ministry of Manpower and Transmigration, BNP2TKI and the Indonesian embassy makes it difficult to provide protection for labour migrants. Weak control of the placement process for domestic workers in Singapore makes it difficult for the embassy to provide protection for these workers.

Limited resources at the Indonesian Embassy are unable to cope with the problems and the number of Indonesian domestic workers seeking services. As a result, the Embassy is unable to provide optimal protective services for domestic workers. To date, the Embassy has no case management standards, nor any transparent indicators of success. In cases with a significant socio-political impact for Indonesia and Singapore, such as murders, cruel treatment, rape accompanied by torture and death, the Embassy cooperates with the Singaporean authorities. Alternatively, with cases concerning labour or violence that are not considered very serious, the Embassy tends to resolve them through negotiation or mediation due to the complex legal regime in Singapore. In these cases the Embassy tries to exert pressure on employers or agencies to respect the rights of domestic workers. Employers or agencies who breach regulations are rarely sanctioned by the Ministry of Manpower. If the agencies or employers fulfil the Embassy's demands then they are not subjected to any sanctions, whereas if the case was handled by the Ministry of Manpower, employers who breach the work permit will no longer be permitted to employ foreign domestic workers. Domestic workers are wholly dependent on the Embassy, and are concerned about appropriate management of their cases given the limited number of Embassy personnel and the large volume of work. Domestic workers staying at the government shelter with pending cases are required to remain in Singapore pending the resolution of their case.

There is weak monitoring of recruitment agencies in Singapore and a reliance on domestic workers to self-report any problems to the Embassy. Despite the embassy's accreditation policy for recruitment agencies and employers, no clear action is taken against non-compliant agencies. The Embassy's plan to build an online database of job orders, recruitment agency accreditation and other information related to the protection of domestic workers is not yet fully functioning. According to easy records, the number of Singaporean agencies accredited by the Embassy rose from 119 in 2008 to 202 in 2009. Meanwhile, it is still difficult to access data related to the

supervision of agencies, employers, domestic worker cases and the handling process. The Embassy's agency blacklist is not effective as these 'blacklisted' agencies are still able to recruit domestic workers directly from Indonesia. In addition, there is no mechanism for the Embassy to control the agencies' performance, other than through the job order system which has been shown to be ineffective because it assumes that there is cooperation and coordination with the responsible Indonesian government bodies at the domestic level. The lack of reporting on domestic worker issues also makes monitoring difficult.

According to a report by the Indonesian Embassy in Singapore (2005), there is limited outreach by the Embassy to domestic workers in Singapore. There is no Singaporean Government regulation requiring the Embassies of foreign governments to screen and supervise their labour migrants in Singapore and, as a result, Indonesian labour migrants within their first two years of working in Singapore are usually not registered by the Indonesian Embassy. As few Singaporean agencies inform the Embassy about Indonesian domestic workers and their employers, it is difficult for the embassy to monitor the implementation of work contracts. The Embassy is, therefore, only able to communicate with domestic workers in Singapore following the extension of their work contracts.

POLICY RESPONSES IN SINGAPORE FOR INDONESIAN LABOUR MIGRANTS

Singaporean Government Measures to Improve the Management of Labour Migration

A number of initiatives are currently being considered and implemented by the Singaporean Government to improve the management of labour migrants in response to the issues facing foreign workers.

To improve the conditions of labour migrants in Singapore, the government has developed safety courses for foreign workers in the construction and maritime sectors; distributed posters on illegal employment for display in public places; and held outreach events, such as dormitory road shows. First-time foreign domestic workers are required to attend a compulsory Safety Awareness Course (SAC), which includes important safety practices, provides contact telephone numbers and helplines, and informs foreign domestic workers of their obligations, rights and protection under Singaporean law. From May 2010, the Ministry of Manpower will engage the Foreign Domestic Worker Association for Skills Training (FAST) to introduce a Settling-In Programme for foreign domestic workers, to be conducted on weekends at selected community centres. The programme will include lessons on Singapore's culture and norms, financial management and stress management.

The Singaporean Government is also engaging employers through press releases and coverage about illegal employment, together with pamphlets and brochures. In addition, the government implemented a compulsory Employers' Orientation Program (EOP) for first-time employers of foreign domestic workers, conducted either online or in a classroom. The EOP highlights the obligations and responsibilities of employers and provides advice on forging a harmonious working relationship with foreign domestic workers. The government also distributed guidebooks, safety brochures and e-newsletters to employers, to ensure the safety of their domestic workers and inform them about the requirements of working in Singapore, safety regulations, health, personal hygiene, caring for young children and elders, road safety, crime prevention, important telephone numbers, help lines, NGOs, salary and rights.

The Government of Singapore has also developed some initiatives to monitor foreign domestic workers and their employers. In 2009, the Ministry of Manpower increased its enforcement of the Employment of Foreign Manpower Act by conducting a greater number of inspections to ensure compliance with the Act and took action against non-compliant employers. Officers from the Foreign Manpower Management Division (FMMD) of the Ministry of Manpower conduct random interviews of first-time foreign domestic workers within the first three months of their arrival in Singapore, to ensure that they can adapt to working and living in Singapore. Employers are also monitored, with those who apply for five or more domestic workers within a 12-month period required to attend a classroom EOP or attend an FMMD interview. Finally, the employment history of foreign domestic workers is made available to prospective employers to enable them to make an informed employment decision.

On 12 March 2010, Singapore's Ministry of Manpower announced that the employment agency accreditation bodies, the Association of Employment Agencies (Singapore) and CaseTrust, will launch a standard personal information template for the industry in June 2010. This was in response to the accreditation bodies identification of different standards between employment agencies, making it difficult to compare bio-data of foreign domestic workers, leading to employers hiring foreign domestic workers who do not meet their expectations. Twenty-eight

percent of employers engaging a new foreign domestic worker in 2009 terminated their contracts within the first three months, most likely because it was thought that these foreign domestic workers were not a good match for their family (Singapore Ministry of Manpower, 2010b). Furthermore, 154 complaints were received by the employment accreditation bodies against employment agencies for poor job matching or inaccurate bio-data. A standard template would help to identify "more responsible employment agencies to indicate if and how they had attempted to verify the information provided" (Singapore Ministry of Manpower 2010b), and would assist employers to compare bio-data from different agencies and provide them with sufficient information to select the best foreign domestic worker for their family.

The Ministry of Manpower on the same date (2010c) announced a review of the Employment Agencies regulatory framework to improve compliance and minimize malpractices. The review will include four main objectives. The first objective is to ensure that unlicensed employment agencies are subject to employment agency regulations, imposing penalties on unlicensed agencies and discouraging any transactions with such unlicensed agencies. Secondly, penalties for some offences will be increased to be "commensurate with the large potential gains from malpractices", together with an expansion of the range of enforcement options, such as suspending the operations of agencies undergoing investigations. Thirdly, the government will aim to ensure better minimum service standards when employment agencies deal with employers, and include these standards as part of the new licensing conditions for all employment agencies. Finally, a greater focus will be placed on compliance of employment agencies who deal with vulnerable workers.

POLICY RESPONSE BY INDONESIAN EMBASSY IN SINGAPORE

In response to the changes made by the Singaporean Government, the Indonesian Embassy in Singapore is undertaking changes to its policies and services.

Administrative reforms undertaken by the Indonesian Embassy in Singapore have improved services for Indonesian citizens, particularly domestic workers, in issuing passports, visas and employment documents. Administrative reforms have facilitated more efficient, cost-effective and user-friendly services. In addition, domestic workers have also experienced greater support from the Embassy with regards to protection, for example, a hotline service for domestic workers has been established and the Embassy is trying to raise the domestic worker wage from SGD 280 (USD 200) to SGD 320 (USD 229) per month.

SERVICES AVAILABLE FOR LABOUR MIGRANTS

Singaporean Government Services for Labour Migrants

The Migrant Workers Centre (MWC) was launched on 26 April 2009, supported by the National Trade Union Congress (NTUC), Singaporean Employers' Federation and the Singapore Ministry of Manpower. The MWC's three main objectives are:

- to provide humanitarian and emergency support for distressed labour migrants;
- to promote responsible employment practices among employers; and
- to educate labour migrants on their employment rights and how to adapt to Singaporean society.

The MWC has an emergency shelter for abused domestic workers and a 24 hour helpline. Following close liaison between the MWC and the Singaporean Ministry of Manpower's Enforcement Division, the costs of the shelter are covered by the security bond paid by employers. One of the requirements for employers of domestic workers is the payment of a security bond, which is used to fund the return of domestic workers or any cost associated with their well-being. However, where employers have no means of paying, MWC bears the costs. MWC runs two levels of basic English conversation courses in conjunction with NTUC. This includes 72 hours of face-to-face instruction provided to labour migrants to improve their conversational English. MWC also provides information sessions about Singapore's culture, the city environment, transport system and road safety. In 2009, MWC held a carnival with games and a sports tournament, providing an opportunity for labour migrants to congregate, with about 15,000 people attending the event.

All other shelters and services for labour migrants in Singapore are provided by service organizations, charitable and religious organizations and various embassies.

Indonesian Embassy in Singapore

Consular officials at the Indonesian Embassy undertake the majority of protection services for Indonesian domestic workers in Singapore. Their function is to protect the interests of Indonesian citizens (including Indonesian labour migrants) and private Indonesian companies operating in Singapore.

Consular officials at the Embassy in Singapore provide daily public services for Indonesian citizens (including domestic workers) in Singapore, via telephone, SMS, and the 24 hour hotline for counselling and complaints from Indonesian citizens. More than 70 percent of Indonesian domestic workers who reported their cases to the embassy experienced problems during their first week of employment, including unpaid salary and cases of violence and abuse³⁹. The Embassy refers all cases of violence and abuse to the police. It is up to the individual migrant whether to seek initial help from the Embassy or the police. At the time of the study visit to Singapore in September 2009, the Embassy had successfully claimed IDR 5 billion (USD 164,420) in unpaid salary and insurance for labour migrants, which has been transferred to the individuals or their families. Domestic workers who experience problems with demanding work can telephone an Embassy official to make a complaint and resolve problems. Of those who use this service, many complain that their extreme work leads to physical and psychological stress.

Embassy officers are assigned to a 24 hour telephone hotline service⁴⁰, which provides emergency assistance to Indonesian citizens. The hotline is well-known among immigration and police officers in Singapore. Domestic workers can call the hotline whenever they require emergency assistance, and hotline staff will guide the worker to leave their work place and find a taxi to take them to the Indonesian embassy. The security guard at the Embassy is provided with funds to pay for the taxi fare in the event that the domestic worker does not have any. Hotline officers receive approximately 80-90 calls per day.

The Indonesian Ambassador to Singapore holds fortnightly meetings with members of the Indonesian community in Singapore, including the Indonesian association of domestic workers, expatriates and businesspeople, to hear their needs and seek solutions for the problems faced by Indonesian citizens abroad⁴¹.

A Taskforce for Advocacy and Legal Assistance has been developed by the Embassy following their successful cooperation with the Singaporean Police and associated agencies in handling criminal cases or arbitrary treatment by employers, such as mistreatment, torture, sexual abuse and other violent acts. If Indonesian labour migrants experience problems and report it to the police rather than the Embassy, then the police will handle the labour migrant's problem, working in cooperation with the embassy. If it is a serious problem requiring a lengthy process, the police will inform the eEmbassy or bring the domestic worker to the Embassy. The Embassy taskforce can also provide a lawyer for domestic workers with legal problems.

The Embassy shelter facilities, which can accommodate up to 150 people, has equipment and infrastructure to accommodate domestic workers experiencing problems. The shelter is for domestic workers awaiting resolution of their cases, either by the police or their employer, and also accommodates domestic workers who have absconded from their employer. Each month the Embassy shelter receives up to 120 women. In 2007, the Embassy shelter accommodated a total of 1,340 migrant domestic workers who absconded from their employers. Meals, health services (such as a doctor) and educational activities, including sewing and languages, are provided at the shelter to reduce the labour migrants' stress levels while waiting for their case to be resolved. Other services provided at the shelter include:

- recovery assistance and referral, working with the nearest medical clinic;
- telephone services, whenever the women at the shelter need to inform their family in Indonesia about their situation; and
- return assistance to Indonesia through Jakarta airport—the embassy prevents return through Batam as the area has been identified as a hot spot for trafficking in persons.

The Embassy provides guidance for domestic workers on the renewal of work contracts and negotiating with employers to obtain their holiday entitlements. Domestic workers are often reluctant to discuss these issues with their employer for cultural reasons. Work contract extensions provide the opportunity for the Embassy in Singapore to exert 'pressure' on employers to provide holidays for domestic workers as well as to raise their wages. The Indonesian Embassy in Singapore is aware that one of the main problems faced by Indonesian domestic workers is their lack of knowledge on their rights and responsibilities.

The Embassy in Singapore has already established an accreditation system for agencies recruiting and employing Indonesian domestic workers in Singapore. This accreditation system has been extended to recruitment agents in Indonesia who place domestic workers in Singapore. At the time of the Indonesian Government study visit to Singapore in September 2009, the Embassy had issued 202 accreditations to recruitment agencies that can bring domestic workers to Singapore.

Since 2003, the Indonesian Embassy in Singapore has conducted a monthly skill improvement training programme for Indonesian domestic workers in the Embassy's auditorium. It is expected that this training will encourage employers to provide more holidays for domestic workers. To support this, the Embassy has prepared an introductory letter for employers to allow domestic workers to request leave from their workplace. This training includes English and Mandarin language training, cooking, computers, dressmaking, counselling and spiritual education. The Embassy and the Singaporean Ministry of Manpower also support training activities conducted by the Mujahidin Mosque. These commenced on 24 March 2005. At the mosque there are approximately 16 training classes from beginners to advanced level in sewing, computers, cooking, hairdressing, English language and reading the Koran. Training is conducted on Sunday, the usual day off for most domestic workers, with classes held in the morning and afternoon. Each training programme runs for approximately six months, at a cost of USD 10 per domestic worker per month. The training is managed jointly by the management of the Mujahidin Mosque in cooperation with the participating domestic workers.

Development programmes through the media are an attempt by the Embassy to reach as many domestic workers as possible by radio from Batam. The radio programme aims to educate domestic workers and is conducted routinely via two radio stations in Batam—'Kei FM' and 'Zoo FM'—that have a signal that can be received in Singapore. Other media specially targeted at Indonesian domestic workers in Singapore includes the 20 page magazine Karina that provides information for domestic workers on psychological, physical and social problems experienced by labour migrants.

In addition to the services provided by the Indonesian Embassy and the Singaporean Government, a range of services are provided for labour migrants in Singapore through NGOs and civil society organizations. For more information see Appendix VI.

³⁹ As reported on the study visit to Singapore on 4 September 2009.

⁴⁰ +65 929 53964 for domestic workers and +65 842 81348 for seafarers.

⁴¹ As reported on the study visit to Singapore on 4 September 2009.

KUWAIT⁴²

LABOUR MIGRATION OVERVIEW

The oil-rich Gulf countries comprise a region with an exceptionally high rate of international migration originating from a wide range of countries. The six countries that comprise this subregion include Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and United Arab Emirates (UAE), which are joined together for several purposes in an association known as the Gulf Cooperation Council (GCC).

The Gulf Cooperation Council (GCC) countries host some 22 million temporary migrant workers⁴³. Over one-quarter of foreign workers originate from other Arab countries, with a further 67 percent originating from Asia (World Bank, 2008). The composition of the expatriate population is constantly changing. The Gulf region's first oil boom led to an influx of Egyptians, Jordanians, Lebanese and Syrians seeking employment opportunities. This was later paralleled by the arrival of individuals seeking refuge in Kuwait due to instability and conflict in their countries of origin—notably Palestine and Iraq. While foreign workers initially originated predominantly from within the Middle East, in more recent years the composition of the foreign labour population has shifted, as large numbers of foreign workers have arrived from South and Southeast Asia.

During the 1970s and 1980s, the large-scale movement of migrant workers began in response to the increase in the price of oil, and the plans of the GCC countries for rapid development. Such plans necessitated very large numbers of foreign workers, as the indigenous labour forces were small in number and lacked the skills required for the development of infrastructure and other projects. In the initial stages, construction workers were a major category of migrant workers. While the demand for construction workers has declined somewhat with the completion of projects, a persistent demand for such workers still exists, especially with the creation of new housing projects and buildings required for the growing number of nationals. The GCC countries have fairly high population growth rates, with women in most countries generally having more than four children.

Besides construction workers, domestic workers are the other major category of migrant workers in the GCC. In most GCC countries, women constitute the majority of domestic workers, with Sri Lanka, the Philippines, Indonesia and India the major countries of origin. Over the years, the number of domestic workers has been increasing.

Indonesia has become one of the largest countries of origin for foreign labour to Kuwait. There are currently 64,780 Indonesian labour migrants in Kuwait (BNP2TKI 2009b). According to the Indonesian embassy, 70 percent are low skilled, however, according to community leaders in Kuwait, this number is more like 95 percent low skilled. Many Indonesian women work as domestic workers—since February 2009, 6,110 domestic workers have arrived in Kuwait from Indonesia (BNP2TKI 2009b).

Minimum wage levels for foreign workers vary and are normally set by countries of origin. According to the Indonesian embassy in Kuwait, the minimum salary for Indonesian labour migrants is set at KD 45 per month (USD 157 per month)⁴⁴ for unskilled workers and KD 60 per month (USD 210 per month) for skilled workers. Food and housing is usually provided by the sponsor, especially for domestic workers.

IOM Member State: No
IOM Office in Kuwait: Yes (Established 2003)
Population: 3.3 million*
Population growth rate: 2.4%*
Net Migration rate: 16.39 per 1,000**
Migrant Stock: 1,869,700 ***
Population Groups: Kuwaiti 45%, other Arab 35%, South Asian 9%, Iranian 4%, Other 7%
Religions: Muslim 85% (Sunni 70%, Shi'a 30%), Christian, Hindu, Parsi, and other 15%
Languages: Arabic (official), English widely spoken
Government type: Nominal constitutional monarchy
Legal system: Civil law system with Islamic law significant in personal matters
GDP per capita (PPP): USD 55,800**
Human Development Index: 0.916 (31/182)***

*As of 2008, World Development Indicators Database

**2009 estimate, CIA Fact Book

*** As of 2007, UNDP: 2009 Human Development Report

⁴² Much of the information in this section was obtained during a study visit to Kuwait in October 2009.

⁴³ More commonly known in Kuwait and Bahrain as temporary foreign contract workers

⁴⁴ November 2009 exchange rate – KD 1 = USD 3.50.

Despite low wages, remittances remain a significant incentive for foreign workers to work in Kuwait. Labour migration and related remittances are major income generators for the Indonesian economy as a whole. In Kuwait, some 75 percent of Indonesian labour migrants' salary is sent home through banks or money transfers, with the remainder used to cover living expenses in Kuwait and/or brought home in person.

DEMAND FOR FOREIGN LABOUR

According to an International Labour Organization (ILO) study (2009), labour migrants dominate the following sectors: construction (99 percent labour migrants), manufacturing (92 percent), wholesale, retail trade, restaurants and hotels (98 percent). Labour migrants from South and Southeast Asian countries, including India, Sri Lanka, Indonesia, Bangladesh and the Philippines, are predominantly employed in the construction and service sectors. In 1994, an Order of the Ministry of Social Affairs and Labor (MoSAL) came into force, listing sectors and occupations for which work permits may be issued to foreign workers.

In recent years, female foreign workers have composed an incrementally larger percentage of foreign temporary workers in GCC countries and several recent articles published in the local press report that females represent approximately one-third of Kuwait's foreign workforce. Indonesia is one of the major countries of origin of female labour to Kuwait and these women are primarily employed as domestic workers. A small number of Indonesians are employed in the medical sector, most often as nurses, with smaller numbers working in the oil, airline, hospitality and other industries. As the vast majority of Indonesian labour migrants are employed as domestic workers, there is a common perception that Indonesians are best suited for this type of work. This impacts on opportunities for more skilled Indonesians to access other sectors of the labour market.

Kuwait remains an appealing destination for foreign workers due to relatively cheap residency fees, perceptions of good and plentiful job opportunities and free medical treatment (foreign workers are not granted a work permit prior to proof of health insurance). Nonetheless, the process of obtaining a work permit is not easy. A sponsor is obliged to complete formalities on behalf of potential employees. The sponsor is required to approach MoSAL for the issuance of a No Objection Certificate (NOC). Once the NOC is issued, the sponsor must apply to the Ministry of Interior for the entry permit. There are four types of sponsorship: domestic sector, private sector, state institution and business partnership. Individual Kuwaitis act as sponsors for domestic workers, a Kuwaiti private company is the sponsor for skilled and unskilled labour, while the government sponsors public sector employees.

KUWAITI GOVERNMENT POLICY ON LABOUR MIGRATION

In response to a 2005 UN survey (United Nations, 2006), the Government of Kuwait expressed concern about the high level of immigration and announced that it wished to lower them. The government policy aims to reduce the number of temporary foreign labour migrants, while maintaining the level of skilled migrants and family reunifications. Migration policy in Kuwait can be broadly grouped into three categories: migration regulation; restrictions on regular and irregular migration, and protection of labour migrants.

(i) Regulatory Policies

A comprehensive administrative mechanism exists to regulate the inflow and residence of temporary labour migrants to Kuwait. All labour migrants and their dependents (if eligible) are issued a resident visa for the number of years stipulated in the work contract. All such visas are issued under the authority of a sponsor (al-kafil) who wishes to hire the labour migrants. The above rule applies to those hired to work in the public or private sectors. In the public sector, the relevant government agency (such as the Kuwait University) is the sponsor. In the private sector the company that holds the license for the business or service enterprise where the employee works acts as the sponsor. The labour migrant is legally allowed to take up employment only with the sponsor and cannot easily transfer from one employer to another without permission of the initial sponsor.

Kuwait's family reunification policy is conditional upon the salary level of the worker. While Kuwait claims to have a policy of integration of non-nationals, the limited contractual nature of jobs offered to non-Kuwaitis does not promote integration. Non-Kuwaitis are viewed primarily as temporary workers who are in the country on renewable contracts that are awarded generally for a period of two years. In reality, contracts for many temporary contract workers are often renewed for several years, providing a degree of continuity for workers in the labour market. In some cases, residents in Kuwait are second generation, born in the country and living in Kuwait all their lives.

(ii) Restrictive Policies

In 1991, guidelines were issued capping the percentage of non-nationals in the public sector at 35 percent (Al-Ramadhan, 1995). In 2004, MoSAL acknowledged that unemployment amongst Kuwaiti nationals had risen steadily since 2001, reaching nine percent in 2004. In response to this trend, the Kuwaiti Government adopted a policy of 'Kuwaitization' and has implemented various measures to increase the percentage of Kuwaitis in the labour force. One strategy was to identify occupations where the phasing out of expatriates could be undertaken as a priority. In March 2006, sixteen occupations that would no longer be open for non-Kuwaitis were specified, including computer programming, computer operations, data entry, secretarial, and clerical jobs, cashiers and drivers, amongst others. During the last decade, concrete policies aimed at promoting 'Kuwaitization' and reducing the number of foreign workers have been implemented, for example the restriction of access to public sector jobs for non-nationals.

The Government of Kuwait is trying to combat irregular migration. Kuwait has tried to limit entry of irregular migrants by controlling its land and maritime borders. To reduce the number of irregular residents, the country has occasionally declared periods of amnesty through which such residents are permitted to leave the country without paying heavy fines or being imprisoned. The most recent amnesty was from 1 May to 30 June 2007 (Shah, 2007). A person may enter Kuwait irregularly or become irregular by overstaying their visa. The overstaying of visas accounts for the majority of residents with an irregular status; the exact numbers are unknown, but some estimates range as high as over 80,000 (Shah, 2007).

Migrants employed by another employer than their sponsor are also considered irregular migrants. As previously mentioned, all non-Kuwaiti nationals must have a sponsor to obtain residency status. All workers are sponsored by their employers, usually Kuwaiti nationals, and must work only for them. There are reports that Kuwaiti sponsors may 'sell' work visas to labour migrants for a considerable sum, ranging from KD 100 to 200 per year (USD 350 to 700). Devising better sponsorship strategies has been the subject of an active debate at recent international meetings dealing with migration to the GCC. One suggestion made by some regional human resource experts is that governments, rather than individuals, should act as the sponsor of workers to the Gulf (Shah, 2007).

(iii) Protection Policies

Kuwait has attempted to institute some protection mechanisms for labour migrants by issuing licenses to companies and individuals who import labour migrants. Guidelines are provided regarding minimum wages and living and working conditions, however, these guidelines are not always followed by prospective employers. Along with other GCC countries, Kuwait has been criticized repeatedly for its treatment of labour migrants, especially female domestic workers, as stories of mistreatment, abuse and sexual harassment of domestic workers routinely feature in the media. One response by countries of origin has been the establishment of shelters for runaway domestic workers at their respective embassies, with Sri Lanka, Indonesia, the Philippines and India all having shelters to house domestic workers who have absconded from their employer in Kuwait (Shah & Menon, 1997).

The Government of Kuwait has recently implemented a number of initiatives to improve the management of migration in the country:

- the introduction of standardized working contracts which list the rights and responsibilities of workers;
- periods of amnesty to allow those with irregular status to leave the country or change their status;
- a ban on sponsors holding passports of their employees;
- the organization of a series of lectures in mosques in 2008 through the Ministry of Awqaf and Islamic Affairs to help raise public awareness;
- establishment of a Human Rights Commission, also in 2008;
- closure of recruitment agencies which are unwilling or unable to take care of workers brought to Kuwait; and
- establishment of a shelter for female victims of forced labour; revealing plans to expand the shelter's capacity to provide legal support, health care and counselling to victims, with capacity to accommodate up to 700 men and women.

While there is no explicit legislation on trafficking in persons, transnational slavery is prohibited under the Kuwaiti Criminal Code (Article 185) as is forced prostitution (Article 201). There is also legislation punishing people who facilitate residence or visitor permits for foreigners illegally (Article 24 of Amir Decree No. 17/1959) and regulation of the recruitment and placement of domestic workers (Article 3 of Law No. 40 Year 1992).

Through the amendment of Ministerial Decree No. 617/1992 in April 2010 (Ministerial Resolution No. 1182 of 2010), the Kuwaiti Government aims to reduce the number of recruitment agencies. In addition, recruitment agencies are required to deposit a bank guarantee of KD 20,000 (USD 70,000), an increase from the previous required amount of KD 5,000 (USD 17,500). In addition, other conditions will be applied to recruitment agencies regarding the placement of domestic workers, including:

- prohibition of bringing domestic workers into Kuwait under someone else's name;
- prohibition of transferring domestic workers to other employers;
- responsibility for runaway domestic workers; and
- compulsory monitoring of the work of domestic workers and requirement to abide by the rules and regulations regarding the placement of domestic workers.

It is expected that with these requirements, the number of recruitment agencies will be reduced.

MoSAL is responsible for enforcing laws relating to migrant workers. However, domestic worker issues are covered under a committee chaired by MoSAL that includes the Ministry of the Interior. There is an expectation from MoSAL that prior to workers leaving Indonesia for Kuwait the Government of Indonesia has provided them with information about the work and about Kuwait's culture, nature, people, climate and labour laws.

In December 2009, the Kuwaiti parliament passed a new labour law that grants better rights and conditions to foreign workers (Kuwait Times, 24 December 2009). The new law has improved the rights of foreign workers in terms of annual leave (an increase from 15 days to 30 days from the start of the contract), indemnity rules, public holidays (an increase from eight to 13 days), sick leave (an increase from six to 15 days with full pay) and conditions for dismissal or resignation (employers must give three months' notice). The new law stipulates that women cannot work between 8 pm and 7 am, with the exception of certain professions designated by the Minister of Social Affairs and Labor. While the law maintains a 48 hours work week, this must not exceed eight hours daily. Workers are entitled to a weekly rest day, however if they are required to work on their rest day, they must receive a 50 percent additional day's pay and receive another rest day. Although the *Kafeel* sponsorship system was not abolished with the new labour law, the Minister of Social Affairs and Labor has stated that the ministry will continue to push for the gradual abolition of the sponsorship system. The new law also requires that the Kuwaiti Government set up a public authority that is responsible for recruiting workers from abroad.

Issues Faced by Indonesian Labour Migrants in Kuwait and Their Implications

According to the Indonesian Embassy in Kuwait, there are currently around 64,000 Indonesians residing in Kuwait, of whom 99 percent are labour migrants. Most Indonesians in Kuwait are between 21 and 26 years of age and, as required by the Government of Indonesia, are educated to a minimum standard of junior high school or equivalent. The majority of Indonesians are employed as domestic workers, while others work at Kuwaiti oil companies, hotels, shopping malls, restaurants, hotels and as nurses. Indonesians tend not to register their presence in Kuwait with the Indonesian Embassy upon arrival. Instead, many workers only contact the Embassy when they need assistance, for example to apply for a new passport. According to the Indonesian Embassy in Kuwait, skilled or semi-skilled workers rarely have problems. The majority of the difficult cases are with low-skilled workers, particularly domestic workers.

One of the major problems encountered by labour migrants is the falsification of documents such as increasing their age on official documents by up to ten years so that they can receive approval to work abroad. Law No. 39/2004 requires migrant workers to be 18 years old while migrant workers employed by individual employers, such as domestic workers, are required to be 21 years old at the time of deployment. In addition to these requirements, individual destination countries may also impose their own age restrictions. The Embassy reported that there is no regular forum for exchange between the Embassy and recruitment agencies.

To reduce the problem of identity fraud, the Indonesian Government is in the process of implementing a single identity card in Indonesia. Other problems facing labour migrants' pre-departure, as reported by Indonesian domestic workers at the Kuwaiti Ministry of Social Affairs and Labor's shelter include:

- limited provision of Arabic language training;
- some women were not advised that there would be deductions from their gross salaries;
- not advised about their job or employer; and
- being asked to sign employment contracts in Arabic which they did not understand.

Box 2: Case study: Ms. RT⁴⁵.

"I was 15 when I was offered a job by an agent in my home village. I was told to lie about my age otherwise I couldn't work. I agreed to do so because I want to help my parents. Although the agent made my age older, I was told that I looked too young to go to Saudi Arabia and was told that I'd better go to Kuwait as they will accept me there. The recruitment company knew my real age. Then I was trained for a while in Jakarta. I worked with a family in Kuwait and if I broke something in the house, my salary was deducted. I wasn't happy, but my agent didn't want to get me a new boss because they had already paid 20 million Rupiah to bring me in to Kuwait".

Of the 500 recruitment agencies in Kuwait, the Indonesian Embassy has agreements with 112 of them which are endorsed to recruit and deploy labour migrants. The remaining agencies which are not under the Embassy's endorsement are not able to recruit and deploy Indonesian workers. This highlights the need for a regulation to control recruitment agencies in Kuwait, to develop a standard of labour management and to punish those agencies that do not respect the law. In October 2009, 2,400 disputes between employers and migrants were handed over to recruitment agencies for settlement, 1,900 of these cases were settled with the remaining cases still in process.

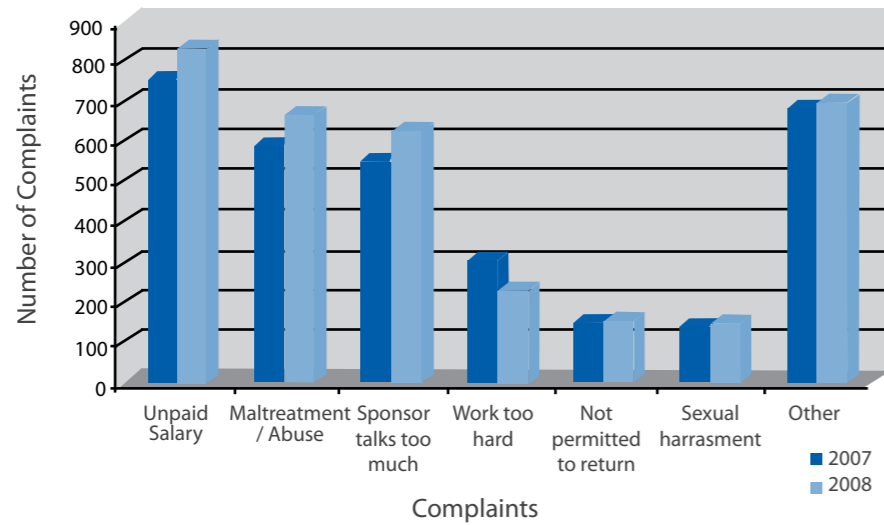
According to the Indonesian Embassy in Kuwait, the main problems facing labour migrants in Kuwait include unpaid salary, physical and verbal abuse, excessive workload and culture shock. From January to July 2009, 1,825 domestic workers absconded and sought assistance from the Indonesian Embassy in Kuwait. Of these women, the three most common problems were unpaid salary (29%), ill-tempered employer (24%) and abuse (16%). Other reported problems encountered by these women included:

- demanding work hours (unreasonable hours worked, no days off);
- completed their work contract but were not returned to Indonesia by employer;
- sexual harassment;
- disagreement with female employer;
- accused of stealing, hitting employer's children and having boyfriends;
- employer borrowed money from domestic workers, however they were never repaid; and
- disagreement with working partners.

⁴⁵As reported on the study visit to Kuwait in October 2009

The chart below demonstrates the primary complaints from Indonesian labour migrants who sought assistance from the Indonesian embassy in 2007 and 2008.

Figure 2: Complaints by Indonesian Workers at the Indonesian Embassy Shelter in Kuwait (2007 to 2008)⁴⁶.

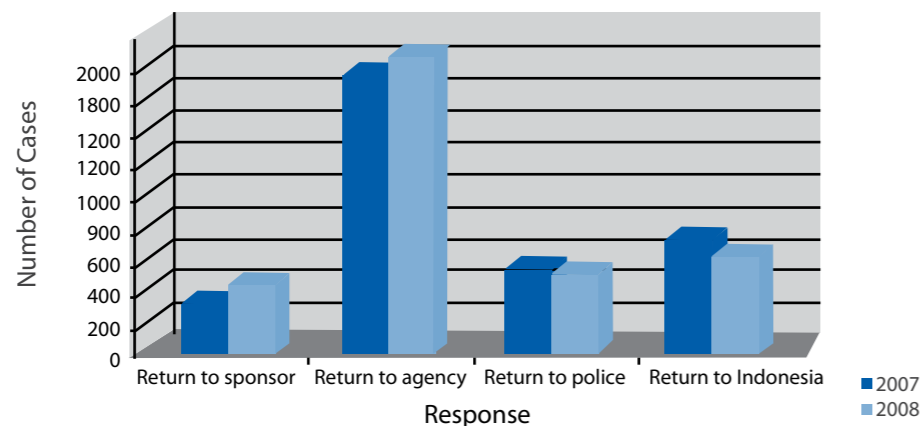


When an employer refuses to give a migrant worker an Exit Permit, obtaining one can be difficult, and would only be facilitated by the General Migration Department within the Kuwaiti Ministry of the Interior, accompanied by an official letter from the Indonesian embassy.

Domestic abuse is reportedly more common among migrant workers employed in domestic spheres and is more likely to be unreported and undocumented. According to an ILO survey (2009), as many as half of all domestic workers reported experiencing some form of abuse while working in Kuwait. However, since this occurs within homes, addressing this issue remains a challenge for authorities. The ILO study continues by noting that most victims of trafficking first turn to the agencies that brought them to Kuwait, and then their embassies. Very few turn to sources within the government. This may primarily be due to a lack of information available to migrant workers on their rights, and a lack of clear information of what support different bodies can provide. While foreign workers in Kuwait tend to migrate voluntarily, on arrival some find themselves in situations which can be defined as trafficking in persons. Female workers are particularly at risk, more so those working as domestic workers in the private sphere who have limited access to external assistance and are not covered under Kuwaiti national legislation. Children of migrant workers born in Kuwait, both as a result of consent and as a result of rapes are permitted to return to Indonesia, however, the process takes some time.

Figure 3 presents the response to complaints by TKIs known to the Indonesian embassy in Kuwait. The vast majority of cases are returned to the agency, although it is unknown what steps are taken by the agency thereafter.

Figure 3: Response to Complaints from Indonesian Workers in Kuwait



⁴⁶ Graph provided by the Indonesian Embassy in Kuwait. The category "sponsor talks too much" refers to verbal abuse suffered by Indonesian labour migrants.

POLICY RESPONSES IN KUWAIT FOR INDONESIAN LABOUR MIGRANTS

Kuwait Home Helper Operating Company

Following the new labour law passed by Kuwait's parliament in December 2009, the Kuwaiti Government plans to establish a joint-venture company, called the Kuwait Home Helper Operating Company, for the placement of foreign domestic workers. The Kuwaiti Government will be one of the main shareholders in the company, with its headquarters in Kuwait City and six branches in governorates of Kuwait. The company will include the following representatives:

- Public Investment Authority—to ensure the company is run and managed according to commercial practice;
- General Immigration and Investigation Department—to monitor the Board of Directors;
- Ministry of Awqaf and Islamic Affairs—to ensure regulation of laws compatible with Shariah Law;
- Department of Immigration—to facilitate the issuing of residence permits;
- Ministry of Public Health—to ensure migrant workers undertake a health check prior to, and immediately following, arrival in Kuwait; and
- Ministry of Social Affairs and Labor—the agency representing the Kuwaiti Government in international circles on labour issues.

The proposed company should have the following facilities:

- customer service desk—to provide services for those who recruit foreign domestic workers;
- Health Department—to carry out general medical checkups, blood analysis and any related health checks;
- accommodation, including a dining room where domestic workers can stay on arrival in Kuwait while they are completing paperwork such as residency permits. The accommodation is set to international law standards (4x4 square metres) and can be used to accommodate domestic workers with problems;
- transportation—ground transportation provided from the airport to the workplace.

In contrast to current practice, passports of foreign domestic workers will no longer be kept by the employer. Rather, the Kuwait Home Helper Operating Company will keep the domestic worker's passport, with each domestic worker given a microchip card so that, for example, if they have a problem with their employing family, they can take a taxi to the company for assistance. The microchip card will remove the need for domestic workers to report to the embassy, as they will have their residence card and a stipend until their issue is dealt with. This procedure is also proposed to avoid any trouble created by some embassy staff who may be involved in, and benefit financially from, trafficking of domestic workers. The Kuwaiti Government is willing to work hand-in-hand with countries of origin in order to ensure that there is no involvement of embassy staff or other players in trafficking or helping absconded domestic workers for a personal benefit.

The Kuwaiti Government has proposed the following objectives for the Kuwait Home Helper Operating Company:

- the recruitment and employment of domestic workers;
- development and delivery of training and/or workshop courses to domestic workers, raising awareness on culture, traditions and habits of Kuwaiti families and society;
- provision of awareness-raising sessions in countries of origin to prepare potential migrant workers psychologically prior to their arrival in Kuwait. The trainers will be returned migrants who have experience with living and working in Kuwait. The embassy is expected to assist with identifying those people as well as to provide a venue for training;
- provision of general health checks for workers to ensure they are not carrying any contagious disease; and
- selection of the best domestic workers for Kuwaiti families.

Once implemented, the new system will require sponsors to sign contracts through the company to which they must abide, including respecting the rights of domestic workers.

MoU between Kuwait and Indonesia

In the mid-1990s an MoU on skilled foreign workers was signed between Kuwait and Indonesia. The MoU did not include a quota on the number of Indonesian skilled workers, but focused on foreign temporary worker rights and protection while in Kuwait. Representatives of the Government of Kuwait and the Indonesian embassy in Kuwait recently met to discuss revisions to this MoU and the inclusion of both skilled and unskilled Indonesian workers in recognition of the significant number of unskilled Indonesian workers employed in Kuwait.

Push for Labour Law to include Domestic Workers

The Kuwaiti Human Rights Society is currently advocating for the amendment of Kuwait's 1962 Labour Law to also cover domestic workers. The Society has made the following recommendations to the Government of Indonesia:

- appoint a lawyer at the Indonesian embassy who can go through the employment contracts to identify any cases of manipulation and ensure that workers receive a fair salary;
- provide a workshop and training in Kuwait and Indonesia to build mutual understanding between the two countries and migrant workers; and
- provide comprehensive training for Indonesian labour migrants on the culture and regulations in Kuwait and some skill training.

SERVICES AVAILABLE FOR LABOUR MIGRANTS

Government of Kuwait

Kuwait's Ministry of Social Affairs and Labour has been working to provide services to foreign temporary workers. It established a shelter for victims of forced labour in 2007, primarily to shelter domestic workers who have absconded from their employer because of abuse. The Indonesian embassy refers women to this shelter. The shelter has an accommodation capacity of 40 women, with services including medical (psychological and physical) and legal assistance. Foreign workers are permitted to stay at the shelter for two months, however victims of abuse who have ongoing legal cases are accommodated until their legal matter is resolved. Those accommodated at the shelter are not permitted to work outside the shelter during their stay. However, the shelter is unable to assist all of the labour migrants who seek assistance here each year. The Government of Kuwait allocated USD 2.5 million in 2008 to expand and refurbish the shelter, showing dedication to providing increased support to these workers (Department of State, 2009).

Indonesian Embassy in Kuwait

Each year over 3,000 Indonesians, of whom the vast majority are labour migrants, find their way to the Indonesian Embassy in Kuwait. The embassy accepts Indonesian nationals and provides available assistance. The Embassy can provide emergency travel documentation, emergency shelter and immediate care, as well as refer cases to local authorities, recruitment agencies or employers when relevant. The Embassy also provides legal assistance through a law firm hired by the Embassy to represent labour migrants. The Government of Kuwait and the Embassy also offer assisted voluntary returns to those who find shelter at the Embassy and cannot finance their own return home (Esim & Smith, 2004).

The Indonesian Embassy in Kuwait provides assistance to runaway domestic workers who have problems with their employers. Their cases can be settled in three ways:

- assistance through recruitment agencies (the majority of cases in 2008 were settled by recruitment agencies);
- facilitation by the embassy and continued reporting of legal cases to police; or
- return to employers.

The Embassy refers any criminal cases to the police, while administrative cases are referred to the Department of Domestic Labour, within the Ministry of Interior. The Embassy also works with legal counsellors and lawyers to assist domestic workers. Unpaid salary is the most common problem for domestic workers, however the settlement of such cases is time and resource intensive for the Embassy. This is partly because the Kuwaiti Ministry of the Interior does not deal with cases of salary dispute, stating that it is a matter between sponsor and domestic workers. Sometimes it can take six months to one year for domestic workers to obtain unpaid salaries.

The Embassy identifies the following challenges in settling outstanding cases of domestic workers:

- limited time provided by the Department of Domestic Labor in the Ministry of Interior;
- fingerprinting, which takes one to two weeks;
- in the case of employers who transfer domestic workers to different agencies who have no working relationship with agencies in Indonesia, the Kuwaiti agencies refuse to settle any cases against the domestic workers;
- delays in returning to Indonesia because procedures are not understood and/or followed; and
- a limited number of cases are settled through insurance.

In addition to cooperating with the Government of Kuwait, the Indonesian Embassy has also successfully engaged with civil society in Kuwait. The Kuwaiti Human Rights Society (KHRS) worked with IOM to conduct a workshop in November 2007 entitled "International Migration Law and Labour Migrants".

The KHRS also receives complaints from foreign workers and registers and follows up on these with relevant officials. Issues facing foreign workers in Kuwait are the top priority of KHRS. For more information about the role of Kuwaiti civil society in assisting labour migrants see Appendix VII.

BAHRAIN⁴⁷

LABOUR MIGRATION OVERVIEW

There are no accurate statistics on the total labour force and the number of labour migrants and other foreign nationals currently residing in the Kingdom of Bahrain (hereafter Bahrain). However, according to official statistics released by the Ministry of Health in 2006, labour migrants in Bahrain account for approximately 39 percent of the total population and 72 percent of the total workforce. Bahrain's emergence as a destination country paralleled the development of the oil industry beginning in the early 1930s. The country has since experienced two major types of migration: interregional migration from non-oil-producing Arab countries (including Egypt, Jordan, Lebanon and Syria) and, more recently, intraregional migration from countries in South and Southeast Asia, including Bangladesh, India, Pakistan and the Philippines. In addition, according to the Indonesian embassy in Kuwait, there are reportedly 10,000 Indonesian labour migrants in Bahrain.

IOM OBSERVER STATE SINCE 2007

IOM Office in Bahrain: Yes

Population: 718,306 *

Number of Non-Nationals: 235,108 *

Women as a percentage of international migrants: 15.05% **

Net Migration rate: 0.4 migrant(s)/1,000 population*

Population growth rate: 1.337% *

Government type: Constitutional monarchy

Legal system: Based on Islamic Law and English Common Law

GDP per capita (PPP): USD 33,900

Human Development Index: 0.866 or 41/177 ***

* CIA World Factbook 2008

** Labor Market Regulatory Authority 2009

*** UNDP: Human Development Report 2007/2008

Until recently, labour migration was regulated in accordance with Article 25 of Ministerial Decree No. 19/2006. As such, the sponsorship or *Kafeel* system remained the principal legal avenue for residence and employment of overseas labour migrants in Bahrain. Under the *Kafeel* system, residency permits are tied to working contracts with sponsors. According to the system's critics, this increases the possibility of abuse and exploitation. Indeed, according to the local media and other studies, some employers retained labour migrants' passports. Amongst other issues, this system also led to the so-called "free visa" problem—whereby businessmen 'sponsored' labour migrants, supplying them with a visa in exchange for a fee (or a percentage of income subsequently earned). The Bahraini Government has recognized this issue and the Labour Market Regulatory Authority (LMRA) has taken the initiative to mitigate the problem. According to the LMRA, any employer who obtains money (or any other benefit) from a labour migrant in exchange for the issuance of a visa will face imprisonment of up to one year and/or a maximum fine equivalent to approximately USD 5,300 per labour migrant involved. Similar penalties apply to companies that illegally employ labour migrants and manpower agencies operating without licenses.

The Bahraini Government has recently initiated a review of the *Kafeel* system. In May 2009, the Bahraini Labour Minister, Majeed al-Alawi, announced a plan to discard the sponsorship system. Under a new system—effective since August 2009—the LMRA has assumed responsibility for the issuance of work permits, renewable for periods of two years, and the relationship between employers and labour migrants is based entirely on the work contract. This noteworthy reform is yet to extend to those employed in Bahrain's domestic sector, however; it has been suggested that this will take place in 2010. Bahrain's Labor Minister has said that recent reforms will lead to a "more liberalized and dynamic" labour market as it will allow labour migrants to move from one employer to another without having to seek their sponsor's permission. He also informed BBC Arabic radio that the new system would form part of a broader initiative to place a ceiling on the number of labour migrants in Bahrain.

At the same time, several foreign governments have tried to introduce minimum wages for their nationals working in Bahrain. In 2007 the Bahraini Labour Minister stated, however, that any minimum wage set by a country of origin for labour migrants would not be binding (Gulf Daily News, 2007).

⁴⁷ Much of the information contained in this section was obtained during a study visit to Bahrain in October 2009.

DEMAND FOR FOREIGN LABOUR

Bahrain's demand for foreign labour is generally attributable to two main factors: the country's relatively small population and the low rate of labour force participation amongst nationals. In July 2008, the combined local and expatriate population of Bahrain was 1,106,509—of which 537,719 are Bahraini and 568,790 were non-nationals (Bahrain Central Informatics Organization, 2008). Government statistics indicate that over the past decade the inflow of migrant workers to Bahrain has substantially increased over the last decade “with an increase of 180 percent in the eight years to 2007” (The Allen Consulting Group 2009:26). Up to 55 percent of women employed in Bahrain are expatriates (Kapiszewski, 2006).

The unemployment rate among Bahraini nationals is relatively high and, in an effort to reduce this rate, the Government of Bahrain has encouraged companies to hire Bahraini nationals (broadly referred to as ‘Bahrainization’) rather than overseas labour migrants by offering companies incentives to hire Bahrainis. However, thus far, the process of ‘Bahrainization’ has made limited discernible progress. According to Bahrain's Labor Minister, Bahrain's unemployment rate fell to 3.8 percent by 2008 and stabilized at 3.5 percent in 2009. Nonetheless, with the assistance of the National Employment Programme, the government continues to develop and implement programmes with a view to reducing unemployment amongst Bahraini nationals.

BAHRAINI GOVERNMENT POLICY ON LABOUR MIGRATION

The Ministry of Labour and Social Affairs is responsible for issuing work permits for foreign workers and prescribing the conditions for work permits, renewal procedures, prescribed fees, and cases for suspending the renewal of such a permit, withdrawal before its expiry date and cases of exemption from the conditions of obtaining such a permit.

Labour migrants are required to undertake health assessments as prescribed by the Ministry of Health to ascertain their physical fitness and determine that they do not carry any infectious diseases.

All foreign workers are required to have a contract of employment, with one copy held by the employer and the other retained by the worker. The contract should include:

- the employer's name and address of the business premises;
- the worker's name, qualifications, nationality, occupation, residential address and the necessary personal identification details;
- date of appointment;
- the nature, type and place of employment agreed to in the contract;
- the duration of the contract, if it is for a definite period;
- the mutually agreed upon wage, the method and date of payment (i.e. in cash or in kind); and
- any special conditions agreed upon by the two parties.

Employers of foreign workers are obliged to incur the costs of repatriating the foreign worker to their country of origin at the completion, expiry or cessation of the work contract. This should be specified in the employment contract. Should a foreign worker change employers, the new employer is liable to pay the repatriation costs at the end of the work contract.

Employers are required to provide foreign workers with a receipt for all documents which may have been deposited with them for safekeeping.

Recruitment agents must hold a license from the Ministry of Labour and Social Affairs, which is valid for one year. Employers should not enter into a contract with a recruitment agent unless they hold a valid license. Workers supplied by a recruitment agency are considered workers of the employer once they join his/her employ, with all contact directly between the employer and worker, without any intervention from the recruitment agency. There should not be any cost to the worker in terms of obtaining or retaining employment.

ISSUES FACED BY INDONESIAN LABOUR MIGRANTS IN BAHRAIN

According to the Indonesian embassy in Kuwait, there are approximately 10,000 Indonesians employed in Bahrain, approximately 1,000 of whom are highly skilled workers and 8,000 who are employed in the domestic sector.

The issues faced by Indonesian labour migrants are similar to those affecting other labour migrants in Bahrain. Many of those employed to undertake lower or semi-skilled work continue to receive low wages despite attempts of several origin-country governments to introduce minimum wages for their respective nationals. In addition, many overseas labour migrants may face issues associated with their age and limited understanding of Bahraini culture and law. They may also experience harsh or potentially dangerous workplace conditions. The Government of Bahrain is taking initiatives to address this issue; for example, a ban on transportation to and from work in open trucks has been planned, although implementation was postponed following protests from private companies. According to the Ministry of Interior, a national committee is currently developing a guide for domestic workers to Bahrain.

Female overseas labour migrants employed in Bahrain's domestic sector are particularly vulnerable as the household is considered a private domain and “domestic servants and persons regarded as such” are therefore explicitly excluded from protection under Bahrain's Labour Law. At the same time, they are not covered by family law, which only includes spouses and children. This leaves domestic workers vulnerable to physical and sexual abuse, as well as to various forms of exploitation as the terms and conditions of their employment are defined exclusively by work contracts negotiated by either their recruitment agency or their embassy. In the case of Indonesian labour migrants employed in Bahrain's domestic sector, it is typically recruitment agencies that negotiate the contract and the labour migrants themselves may provide little input and often lack awareness of the importance of this document and its implications.

One important problem emphasized by the Association of Recruitment Agencies in Bahrain during the meeting with the Government of Indonesia delegation is the fact that there is no blacklist for Indonesian recruitment agencies available for Bahraini recruitment agencies and they are, therefore, often not aware whether they are working with legal or illegal agencies in Indonesia. If labour migrants have not received appropriate pre-departure training and the right documents in Indonesia, they will be more vulnerable to abuse once they have arrived in Bahrain. This is especially true for labour migrants who have had their ages altered in official documents to bypass a regulation setting the minimum age for lawful employment of non-Bahraini domestic workers at 25 years. As mentioned above, the Government of Indonesia has set the minimum age for legal migration at 18, with the exception of migrants employed by an individual employer such as domestic workers, where the minimum age is 21.

In addition, it was observed by the Association of Recruitment Agencies during the meeting with the Government of Indonesia delegation that labour migrants differ in their way of seeking assistance when they experience difficulties. Indonesian domestic workers are more inclined to stay with other Indonesian people living in Bahrain who are often able to provide work for them. This makes it difficult for the recruitment agencies to assist them or even know what problems they encounter. According to the laws governing recruitment agencies in Bahrain, the agencies are responsible for assisting labour migrants who have not received their salary or have outstanding salary. However, in cases where legal assistance is required, agencies are responsible for reporting the case to the police.

The Association of Recruitment Agencies also identified the following problems in Bahrain as a country of destination:

- lack of training and information sessions about the culture, language and rules in Bahrain;
- no ‘hotline’ between the Indonesian consulate and recruitment agencies;
- no information on blacklisted recruitment agencies so Bahraini recruitment agencies often end up working with disreputable recruitment agencies in Indonesia;
- sending young workers who lack experience to work;
- domestic workers do not understand the work contract and, in several cases, did not know their passport number;
- domestic workers who do not know how to transfer money; and
- domestic workers who do not speak English or Arabic.

In Bahrain, in contrast to many other GCC nations, labour migrants have the right to keep their own passports. According to Bahraini law, no person is allowed to keep another person's passport. This makes it easier for labour migrants to move freely, leave their employers, contact their consulate or seek refuge at a shelter if they encounter problems in the workplace. Labour migrants are required to present their documents upon request. According to civil society organizations, despite this, employers still routinely retain the passports of domestic workers.

One consequence has been a high number of domestic workers who have absconded from their employers. Official estimates suggest that between two and five domestic workers abscond each day to seek refuge in shelters or their respective embassies (Bahrain Tribune, 2007). According to one trade union officer, female labour migrants who migrate to Bahrain to work in the domestic sector may also be exploited by recruitment agencies which have reportedly demanded up to three months' salary in exchange for a visa, far in excess of the regular recruitment fees.

According to recent studies, including the 2009 Trafficking in Persons (TIP) Report issued by the US Department of State's Office to Monitor and Combat Trafficking in Persons, incidence of trafficking in persons also occurs. According to the 2009 TIP Report:

"Bahrain is a destination country for men and women trafficked for the purposes of forced labor and commercial sexual exploitation. Men and women from India, Pakistan, Nepal, Sri Lanka, Bangladesh, Indonesia, Thailand, the Philippines, Ethiopia, and Eritrea migrate voluntarily to Bahrain to work as formal sector laborers or domestic workers. Some, however, face conditions of involuntary servitude after arriving in Bahrain, such as unlawful withholding of passports, restrictions on movement, non-payment of wages, threats, and physical or sexual abuse."

Bahrain recently introduced a comprehensive Anti-Trafficking Law, and witnessed its first conviction in January 2008. Several further cases have since been successfully prosecuted.

POLICY RESPONSES IN BAHRAIN FOR LABOUR MIGRANTS

The Government of Bahrain has taken the initiative to enhance labour mobility management and reduce incidents of abuse and exploitation amongst labour migrants. The Labour Market Regulation (Act No. 19 of 2006) established the LMRA. The LMRA is a government body with full financial and administrative independence, responsible for gradual labour market reform, including the abolition of the *Kafeel* sponsorship system. Under Act No. 19/2006, the LMRA has the authority to regulate Bahrain's labour market. The LMRA also issues work visas, regulates and controls manpower licenses, recruitment agencies, employment offices and business practices of self-sponsored expatriates. In August 2009, the Government of Bahrain replaced the *Kafeel* system, with the LMRA taking over the issuance of work permits, in accordance with Decision No. 79/2009. While Bahrain's abolition of the *Kafeel* system has been praised, concerns have been raised that the visas of labour migrants employed in the Bahraini domestic sector remain tied to their employers.

Instead of the *Kafeel* system the LMRA now operates a 'one-stop' service which issues work permits and carries out workplace inspections to ensure that a person granted a specific work permit is doing the job specified in their permit. The LMRA is equipped with technology that allows its clients (mainly employers and employees) to access information about working in Bahrain. Of the permits issued, 99 percent are done through the online system. Users are advised to register with the LMRA to access the available services, including vacant positions, skill training and applying for/checking the status of their visa. This portal is also made available to the origin countries' embassies, including the Indonesian Consulate, which can thus easily monitor the number of foreign nationals working legally in Bahrain. Consular staff can translate this website into Bahasa Indonesia so that Indonesian labour migrants can better understand and access the information they need. The LMRA services 45,000 labour migrants in Bahrain, with 50,000 to 60,000 employers and employees accessing the website each month.

In addition, coordination between the Bahraini Ministry of Interior and the Indonesian Consulate has been established so that the consulate is notified when the Department of Immigration receives cases involving Indonesian labour migrants, enabling them to work together to find a solution to the problem.

The Government of Bahrain has also taken positive steps to strengthen the capacity of its criminal justice system to combat trafficking in persons and identify and provide timely and appropriate assistance to victims. In early 2002, the Government of Bahrain set up an Interministerial Task Force to Combat Trafficking in Persons, subsequently renamed the National Committee to Combat Human Trafficking. The National Committee is headed by the Ministry of Foreign Affairs and membership is comprised of the Ministry of Law and Human Rights, the Attorney General's Office, the Ministry of Interior, the Ministry of Social Development, the Ministry of Labour, the Legal Directorate and the Capital Governorate as well as civil society organizations that deal with labour migrants who have been trafficked. The National Committee's main responsibilities have, to date, included information collection and awareness-raising on the extent and nature of trafficking in persons in Bahrain, as well as the preparation and implementation of a National Plan of Action to Combat Trafficking.

In November 2007, a specialized unit was established within the Ministry of the Interior to investigate trafficking crimes and in January 2008, the Government of Bahrain passed a comprehensive anti-trafficking law.

Bahrain's National Plan of Action to Combat Trafficking has prompted significant measures, including:

- the establishment of two hotlines within the framework of the Ministry of Labour to provide information and assistance to labour migrants;
- the design and dissemination of brochures on the rights of labour migrants in Bahrain;
- the development of a comprehensive information manual for labour migrants which has been distributed by the embassies of the main countries of origin; and
- the establishment of a safe house for abused and trafficked female domestic workers.

Bahrain's labour market inspection system has also been enhanced. Since 2002, the Bahraini authorities have closed 105 manpower agencies accused of confiscating labour migrants' passports, switching contracts or withholding payment of salaries to labour migrants.

There is now one government-run shelter in Bahrain. The government also provided small grants to the Migrant Workers Protection Society in April and July 2008 to establish and manage a shelter for both victims of trafficking and abused labour migrants. Nonetheless, a considerable number of trafficking victims and labour migrants continue to seek shelter at their respective embassies. There are no specific shelter facilities or protective services for male victims of trafficking or abused labour migrants in Bahrain.

There is currently no MoU between the Governments of Bahrain and Indonesia regarding labour placement. However, in meetings held in Bahrain as part of the study visit on 7 October 2009, the Ministry of Foreign Affairs suggested that should the Government of Indonesia wish to create an MoU, this should be done at the GCC level, rather than as a bilateral agreement, since Indonesian migrant workers are employed in most countries in the GCC.

According to data provided by the Ministry of Health, 400,000 non-Bahrainis are entitled to unlimited health care at public hospitals and health care clinics. However, important developments are also occurring in relation to health care services for migrants in Bahrain. The government has proposed a five-stage plan to make private health insurance compulsory for all non-Bahrainis by 2013 in an effort to reduce the strain on government health services.

SERVICES AVAILABLE FOR INDONESIAN LABOUR MIGRANTS

Government of Bahrain

Dar Al Aman is a government-run shelter funded by Bahrain's Ministry of Social Affairs which began operating in November 2006. The shelter is offered to women and children who have been victims of violence irrespective of their nationality. However, victims of domestic violence have been the main clients of this shelter which can accommodate up to 20 people. The shelter provides protection to victims, including legal assistance, accommodation, meals and recovery assistance. Prior to accommodating victims, police reports are filed to ensure that the claims of violence against the victims are processed, as well as confirming the identity of victims and ensuring that their status is not irregular.

Although police reports are instrumental in providing assistance to victims, the shelter can provide direct emergency assistance within 24 hours if immediate treatment is needed. Following provision of basic support, victims are advised to report the cases to the police, with social assistance given to victims for three months. Victims are regularly and carefully assessed by the multi-disciplinary officers working at the shelter, including a physician, psychologist, legal counsellors and researchers. Victims' needs are assessed by a case manager within the first 24 hours of arriving at the shelter. They are referred to the nearest hospital if they require medical assistance. If there is a need to assist clients for more than three months, case managers will identify referral organizations.

Indonesian Consulate in Bahrain

In addition to government services, some advocacy and service provision is carried out by embassies of major countries of origin and Bahrain's emerging civil society. A number of embassies—such as the Philippines embassy—offer shelter and other direct assistance to their nationals. The Indonesian Government shelter is located in an apartment and currently has the capacity to accommodate 20 absconded domestic workers. At the time of the study visit to Bahrain, only three women were accommodated in the shelter. These women had left their employers due to unpaid salaries and ill treatment. A baby had also recently been abandoned by her mother and was under the care of the Indonesian staff at the shelter.

In addition to the services provided by the Indonesian embassy and the Bahraini Government, a range of services are provided for labour migrants in Bahrain through NGOs and civil society organizations. For more information see Appendix VIII.

KEY FINDINGS AND RECOMMENDATIONS

This chapter has addressed the situation of Indonesian labour migrants in four key destination countries. While the experiences and issues differ from each destination country to the next, several more general issues are visible. First, there is a lack of protection, either legal or in practice, for many labour migrants in the destination countries. Domestic workers are particularly vulnerable as domestic work is not covered by labour laws in the four destination countries. The conditions set out in individual labour contracts, therefore, become the main form of protection for migrants, and these conditions are often difficult to enforce. Second, labour migrants experience restrictions on their basic civil and human rights, such as limited right of movement and association. Third, irregular migration is an issue for most countries of destination. This needs to be addressed in a way that is not excessively punitive, instead, irregular migration needs to be addressed more holistically. In order to address irregular migration it is necessary to examine 'push' and 'pull' factors and conditions conducive to irregular migration in both countries of origin and destination, as opposed to focusing exclusively on punishing or deporting irregular migrants. In destination countries with large numbers of irregular labour migrants, the government should assess their own labour market needs to address the 'pull factors' and design a plan, in cooperation with the countries of origin, to work towards minimizing irregular migration.

The Indonesian representation in the destination country plays a vital role in the protection of Indonesian migrants. However, most embassies and consulates are not well-informed about the numbers and conditions of labour migrants in the destination country, thus this report suggests improving information gathering by diplomatic representatives. In addition, the role of labour attachés within the structure of Indonesian Embassies should be improved, as should the monitoring of recruitment agencies. The labour attachés should verify job placements, and conduct employer site visits and related follow-up activities to provide better protection for labour migrants in destination countries. In cooperation with the government of the destination country, a blacklist of illegal recruitment agencies should be developed and the information shared with the Indonesian Government.

The report also suggests implementing Standard Operating Procedures at Indonesian embassies overseas in cases where labour migrants are stranded abroad, incorporating awareness-raising about trafficking in persons and victim identification for labour attachés.

Furthermore, it is necessary to strengthen bilateral cooperation between Indonesia and destination countries on labour migration issues through MoUs and other bilateral means. And it is necessary to strengthen coordination between the Government of Indonesia and Indonesian Embassies and Consulates abroad to collaborate more effectively in providing support to labour migrants.

While the Indonesian diplomatic mission in the country is a vital stakeholder and provider of protection for labour migrants, it is important that governments in destination countries also assume responsibility for the well-being and protection of labour migrants in their country. Labour migrants should be afforded the same terms and conditions of employment (such as working hours, rest periods, salary, and access to health care) and the same legal protections as national workers. This is particularly an issue in sectors not covered by labour laws, such as domestic work. In all four countries it is necessary to recognize domestic work as a category of employment to be covered by national labour laws and to strengthen systems of labour inspection to better protect the rights of all workers—both migrants and non-migrants.

In addition, labour migrants should enjoy such basic civil rights as the right to hold their identification documents, freedom to leave their workplace outside of working hours, and freedom to own a mobile telephone or other means of communication.

Destination countries should also ensure that freedom of association is respected for labour migrants so that they can form associations to support their culture and to advocate for their rights. Labour migrants should be able to establish labour unions and to enable better promotion of their interests, depending on the legislation in destination countries. While protection of labour migrants is predominantly the role of governments, civil society can play a vital role through both service provision and advocacy and this should be encouraged.



RECOMMENDATIONS



RECOMMENDATIONS

These recommendations are to be incorporated as part of broader recommendations across the ASEAN framework to increase the protection of all labour migrants throughout all stages of the migration journey.

SHORT-TERM RECOMMENDATIONS FOR INDONESIA

1. Develop a strategic plan to implement and enforce the following recommendations within reasonable and realistic timeframes.

Laws and Policies

2. Revise the relevant national laws in Indonesia to include more specific articles relating to the rights and protection of labour migrants and their families. The law must also clearly define who is responsible for ensuring that recruitment, placement and protection is taking place according to the law and extensive monitoring will need to take place.
3. Revise Law No. 39/2004 to include the government's obligations towards labour migrants, ensuring the protection of all parties, and inclusion of a gender perspective. As the majority of labour migrants are women, the Ministry of Women's Empowerment should play a key role in the revision process.
4. Increase the role of district-level governments in the implementation and enforcement of laws and policies relating to the rights and protection of labour migrants and their families.

Recruitment

5. Clarify the process of recruitment and certify the departure of labour migrants through a professional agency, as there are many different avenues for recruiting, including recruitment agencies, personal recruiters and government officials, and to ensure that individuals are not recruiting labour migrants in breach of the government's regulations on facilitating labour migration overseas. Furthermore, it should be ensured that some degree of accountability and responsibility is placed on recruitment agencies.
6. Build on current activities by the Ministry of Information in developing procedures for a national population and information database, to enhance the quality of documents issued to labour migrants by the Directorate General of Immigration and the National Police and to reduce the falsification of such documents. Furthermore, identity cards with microchips should be created to store personal information such as fingerprints and other data for labour migrants.
7. Eliminate illegal recruitment and brokerage through improved monitoring and facilitation of recruitment activities and increased involvement of district and provincial governments.
8. Shorten the recruitment process and ensure recruitment is done locally, to decrease the costs for prospective labour migrants.
9. Increase transparency in the costs associated with the recruitment process.
10. Provide aspiring labour migrants with comprehensive access to information concerning the recruitment process.

Placement and Pre-departure Assistance

11. Provide more efficient placement services through a 'one-roof' service centre at the district and provincial level, and by establishing licensed government-affiliated agencies or limiting the number of private agencies engaged in the deployment of labour migrants.
12. Establish a national telephone hotline for labour migrants or potential labour migrants to provide information on safe migration.

13. Ensure that labour migrants participate in certified, destination country-specific pre-departure orientation seminars at little or no cost to themselves. Conducted by each regional government before labour migrants depart Indonesia, these seminars should include information on culture, language, social norms, labour laws, migrants' rights, available assistance abroad, financial literacy and utilization of the insurance system.
14. Develop and implement a standardized education system provided to all Indonesian labour migrants, irrespective of whether they are placed overseas through government-to-government agreements or through private recruitment arrangements.
15. Ensure that all departing labour migrants hold valid employment contracts, signed in Indonesia pre-departure, that clearly stipulate conditions, including wages and working hours so that potential labour migrants can easily understand their rights and obligations. Furthermore, ensure that employment contracts are drafted in a language that prospective labour migrants can easily understand and that they have sufficient time to review and properly understand such contracts before signing them.
16. Ensure that all departing labour migrants undergo and meet a pre-departure health assessment conducted by a national government-accredited authority, as health assessments have become a tradable commodity. To minimize the potential risk of harassment to labour migrants, the health assessments should be conducted by a health professional of the same gender as the labour migrant.
17. Increase monitoring of labour migrants by the government to minimize the costs for labour migrants, as regulated by BNP2TKI, and reduce the costs of migration to labour migrants through reducing government fees and levies and more effective regulation of the fees charged by private employment agencies.
18. Develop and establish clear guidelines on the fees which can be charged to labour migrants by recruitment agencies and any other additional costs which may be incurred by labour migrants.
19. Establish MoUs between countries of origin and destination, which clearly set out the mutually agreed costs and levies for labour migrants, and increase the availability of loans from banks and microfinance institutions to prospective labour migrants to cover their recruitment costs, in order to reduce the risk of debt bondage to loan sharks or recruitment agencies.
20. Make available a list of the available job orders and number of labour migrants required for specific jobs in each destination country, to avoid over-recruitment of foreign labour for jobs that no longer exist.

Overseas Protection

21. Reinforce the role of labour attachés within the structure of Indonesian Embassies, in monitoring recruitment agencies, verifying job placements, conducting employer site visits and related follow-up activities to provide better protection for labour migrants in destination countries. Furthermore, implement Standard Operating Procedures at Indonesian Embassies overseas regarding cases where labour migrants are stranded at Indonesian Embassies abroad, incorporating awareness-raising on trafficking in persons and victim identification for labour attachés, and where immediate action is required. This will entail building the capacity of labour attachés and consular staff on how to best offer protection and assistance to labour migrants.
22. Strengthen coordination between the Government of Indonesia and Indonesian Embassies and Consulates abroad to collaborate more effectively in providing support to labour migrants.
23. Develop and maintain a 'blacklist' of illegal recruitment agencies, in collaboration with the Ministry of Manpower and Transmigration.
24. Ensure international workplace standards are applied in all destination countries, administered by Indonesian Government representatives overseas.
25. Revise the Ministry of Foreign Affairs' Regulation No. 4/2008 to ensure consistency that labour attachés at all Indonesian Embassies overseas hold diplomatic status.

26. Improve data collection of labour migrants by the Government of Indonesia through developing an effective system to improve protection.

Return and Reintegration

27. Provide ongoing protection, economic assistance and training opportunities for returned labour migrants.
28. Provide legal aid for returning labour migrants with ongoing legal cases.
29. Establish a reintegration program for returned labour migrants, including:
 - a network among government agencies, including NGOs, to enable returning labour migrants to impart their skills and experiences at the community level;
 - provision of support groups for returned labour migrants; and
 - cooperatives at the village level to enhance social cohesion among returned labour migrants and their home communities.

SHORT-TERM RECOMMENDATIONS FOR DESTINATION COUNTRIES

30. Ensure that labour migrants are afforded the principle of national treatment, which is that they enjoy the same terms and conditions of employment (such as working hours, rest periods, salary, and access to health care) and the same legal protections as national workers.
31. Recognize domestic work as a category of employment to be covered by national labour laws.
32. Strengthen systems of labour inspection to better protect the rights of all workers—both migrants and non-migrants.
33. Ensure that labour migrants enjoy such basic civil rights as the right to hold their identification documents, freedom to leave their workplace outside of working hours, and the freedom to own a mobile telephone.
34. Ensure that freedom of association is respected for labour migrants so that they can form associations to support their culture and to advocate for their rights overseas.
35. Establish labour unions for labour migrants, to enable better promotion of their interests, depending on the legislation in destination countries.
36. Strengthen bilateral cooperation between Indonesia and destination countries on labour migration issues through MoUs and establishment of task forces in each country.

LONG-TERM RECOMMENDATIONS FOR INDONESIA

37. Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
38. Enhance the skills and qualifications of labour migrants in order to reduce their vulnerability.
39. Facilitate the development of dependable, accessible and low-cost systems for labour migrants to send remittances, preferably through cooperation between countries of origin and destination as well as the commercial and not-for-profit banking sectors.
40. Shift the responsibility for the placement and protection of labour migrants, especially for the most vulnerable labour migrants such as female domestic workers, from private recruitment agencies, to government control and increase the number of government-to-government recruitments.
41. Increase the number and geographic coverage of labour attachés at Indonesian Embassies overseas.
42. Enhance the capacity of rural areas to raise awareness of labour migration issues within communities.

LONG-TERM RECOMMENDATIONS FOR DESTINATION COUNTRIES

43. Where destination countries do not intend to ratify the main international conventions pertaining to migration, the key principles contained in the conventions should be applied to respective national legislation, policy and procedures, to enable better management of international migration in connection with their development objectives.
44. Establish MoUs between Indonesia and destination countries to increase protection of labour migrants, based on the laws of both countries, human rights, and international law.
45. Further to bilateral agreements, there is an identified need to develop an ASEAN regional agreement on the migration process, where receiving countries will initiate laws favourable to countries of origin, with the laws differing in each country.
46. Countries with large numbers of irregular labour migrants should examine their own labour markets to address the 'pull factors' and design a plan, in cooperation with the countries of origin, to work towards minimizing irregular migration.

In countries where labour migrants experience conditions of exploitation or abuse, irregular migration can be perceived as a reasonable or sometimes even a preferable choice. Punishing irregular labour migrants without examining the roots of their problems or the policies that made them consciously choose an irregular migration pathway will not solve the problem. To combat irregular migration it is, therefore, important to not only foster upholding the rule of law in both countries of origin and destination, but to ensure that all labour migrants have adequate levels of protection and can access the judicial system in the event of problems. To address irregular migration, fair and reasonable regulations and policies must be developed that protect vulnerable parties from exploitation. In the absence of such policies that protect labour migrants, the business of migration will continue to encourage irregular labour migrants, creating a cycle of deportation and recycling of labour migrants between Indonesia and countries of destination.

APPENDICES



APPENDIX I: LEGAL PLACEMENT PROCESS FOR INDONESIAN LABOUR MIGRANTS⁴⁸

1. Approval of job order by the Indonesian embassy or consulate-general in the destination country.
2. Issue of deployment permission letter to the Ministry of Manpower and Transmigration at provincial and district level, which is then sent to the Ministry of Manpower and Transmigration.
3. Awareness raising, selection and registration of labour migrant candidates and placement contract, by the Ministry of Manpower and Transmigration at provincial and district levels.
4. Health and psychological examinations by the Ministry of Health and BNP2TKI.
5. Training and competency test and accommodation by the Ministry of Health, BNP2TKI and recruitment agencies.
6. Insurance payment by the insurance consortium and recruitment agencies.
7. Issue of letter to obtain passport by the Ministry of Law and Human Rights.
8. Passport issue by the Directorate General of Immigration.
9. Payment of the USD 15 Labour Migrant Protection Levy to the Ministry of Finance and recruitment agencies.
10. Work visa produced by BNP2TKI, Indonesian embassy or consulate-general in the destination country and recruitment agencies.
11. Pre-departure briefing, including signing the employment contract and overseas worker card (KTKLN) by BNP2TKI and the Ministry of Manpower and Transmigration.
12. Departure of Indonesian labour migrants coordinated by recruitment agencies, BNP2TKI, Immigration, Ministry of Transport, Ministry of Law and Human Rights, Ministry of Finance, and the Indonesian National Police.
13. Arrival in the destination countries facilitated by recruitment agencies and the Indonesian embassy or consulate-general in the destination country.
14. While overseas, the labour migrant is the responsibility of recruitment agencies, the Indonesian embassy or consulate-general in the destination country and the employer.
15. Repatriation services for labour migrants on returning to Indonesia are coordinated by recruitment agencies, BNP2TKI, Ministry of Transport, Indonesian National Police, Ministry of Health and Ministry of Interior, Ministry of Cooperatives and Small Business, insurance companies and banks.

⁴⁸ Article 1(3) of Law No. 39/2004

APPENDIX II: KEY INDONESIAN GOVERNMENT AGENCIES INVOLVED IN MIGRATION MANAGEMENT⁴⁹

Within the Government of Indonesia there are a number of key agencies involved in the management of labour migration:

1. The Ministry of Manpower and Transmigration has the main role in formulating policy on the placement and protection of Indonesian labour migrants, with offices in the provinces and districts. In coordinating its work in the regions, the Ministry of Manpower and Transmigration cooperates with the regent, the mayor or governor and BNP2TKI.
2. BNP2TKI is the authority responsible for the placement and protection of Indonesian labour migrants.
3. The Ministry of Foreign Affairs is mandated to manage various tasks associated with labour migration while Indonesian labour migrants are overseas, via Indonesian diplomatic representative offices.
4. The Ministry of Social Affairs, at both the central level and its regional offices, manages Indonesian labour migrants who have been deported or are victims of human trafficking.
5. The Coordinating Ministry for Economic Affairs is responsible for the coordination of various related agencies' work in relation to placement and protection reform, as well as financial service improvements for labour migrants. Under Presidential Instruction No. 6/2006, the Coordinating Ministry for Economic Affairs was responsible for establishing two supporting task forces to ease the coordination by specific agencies working in specific issues.
6. The Coordinating Ministry for People's Welfare is responsible for carrying out the coordination of services for Indonesian labour migrants with problems such as deportation.
7. The Coordinating Ministry for Politics, Law and Security, together with the Coordinating Ministry for Economic Affairs, is in charge of coordinating and monitoring the implementation of Presidential Instruction No. 6/2006 according to its respective areas of responsibility, and regularly report on such implementation.
8. The Ministry of Health manages pre-departure health assessments for Indonesian labour migrants and manages health services for labour migrants who are ill and victims of violence and human trafficking.
9. The Ministry of Communication manages the journey of labour migrants from the airport or port at the point of arrival and departure, from the village to the destination countries and on return to their place of origin.
10. The Ministry of Home Affairs administers and regulates government identity documents, especially in the regions down to the subdistrict or even the village level.
11. The Directorate General of Immigration, within the Ministry of Law and Human Rights, manages the provision of passports for citizens, including labour migrants. This process is managed in the regional offices of this directorate.
12. The Indonesian National Police is involved in labour migration management at the village and subdistrict level. The police uphold the rule of law and implement legal regulations, especially in taking legal action such as arrests or sanctions against violators of labour migration regulations.
13. The Ministry of State-Owned Enterprises is authorized to provide services and create a special section to accommodate Indonesian labour migrants at airports.
14. The Ministry of Finance is in charge of ensuring efficient handling of the incoming baggage of the labour migrants. Working jointly with the president directors of various banks, the ministry will also support credit facilities for potential labour migrants.

15. The regional government (regent/mayor/governor) is involved with the procurement of documents, handling arriving labour migrants with problems, or deported labour migrants, and are in operational coordination with the Manpower office in the pre-departure process of the Indonesian labour migrants.
16. The Indonesian Central Bank (Bank Indonesia) regulates international money transfers to prevent illegal/illicit remittances used for crime/terrorism as well as the promotion of the use of formal remittance channels for migrants to remit money. Bank Indonesia regularly conducts research on remittances to improve data and is also cooperating with the Financing Task Force of the Coordinating Ministry for Economic Affairs and BNP2TKI in the provision of financial literacy campaigns for Indonesian labour migrants during their pre-departure training.
17. The Ministry for Women's Empowerment and Child Protection is responsible for coordinating and heading the counter-trafficking task force.

⁴⁹ Government of Indonesia, various ministries

APPENDIX III: REASONS FOR WARNING AND SUSPENDING INDONESIAN RECRUITMENT AGENCIES⁵⁰

Written warnings are issued to recruitment agencies which have:

- not increased the deposit for resolving disputes;
- not established a representative office overseas;
- not informed the local Ministry of Manpower about information activities for Indonesian labour migrants;
- not arranged the extension of employment agreement documents; and
- not reported departures, arrivals and returns of Indonesian labour migrants entering and leaving the destination country to the Indonesian mission.

Recruitment agencies may be suspended for:

- moving or transferring Recruitment Permission Letters to another party;
- not involving labour migrants in pre-departure briefings;
- not placing labour migrants in accordance with their employment agreement;
- not attending to labour migrants who die; and
- not providing protection in accordance with placement agreements.

APPENDIX IV: ARRIVAL SERVICES FOR RETURNING LABOUR MIGRANTS AT TERMINAL IV AT SOEKARNO-HATTA INTERNATIONAL AIRPORT

Performance reform	Terminal III ⁵¹	Terminal IV ⁵²
Service costs	Labour migrants must pay IDR 25,000. (USD 2.75)	Labour migrants are not required to pay and the service costs are borne by the BNP2TKI budget.
Data collection system and repatriation service	System not yet online.	System online and monitored from the BNP2TKI office.
Health clinic service	Medical staff (doctor) not yet available. Labour migrants with health issues are treated using an "on call" system via the health office of the Angkasa Pura port.	Medical staff (doctor) on standby 24 hours for labour migrants who may require medical treatment.
Legal aid and advocacy	There is not yet a legal aid institution devoted to insurance claims.	There is a legal aid institution available provided by LBH, which includes a special department for insurance claims.
Channeling system	Through a shift system, returning labour migrants are transferred from one group of transportation (for example drivers, operators, and brokers) to another group. This system is considered confusing, with many transport operators arguing over taking returning labour migrants as passengers on the way home to their villages.	Queuing system and no arguing amongst passengers.
Data collection on luggage of returning labour migrants	The process of collecting data on the luggage of returning labour migrants is very slow, resulting in delayed returns of labour migrants.	Data collection via the transport operator following returning labour migrants obtaining their return transport ticket.
Insurance claims	There is no official from the insurance consortium present.	There is an official from the insurance consortium present.
Porter services	Porter service outsourced to a second party.	The porter service is the direct responsibility of BNP2TKI.
Equipment and infrastructure	Limited. There is no overnight accommodation provided for returning labour migrants, no waiting room for drivers, no air-conditioning, no meeting room or prayer room (musholla).	Complete. A large air-conditioned building with a rest room for labour migrants in transit, a musholla, waiting room for drivers, a canteen, meeting room and polyclinic.
Safety and comfort	Situated in the "restricted area" of Soekarno-Hatta International Airport. Security at Terminal III is the responsibility of PT Angkasa Pura so security is coordinated and more assured.	Less safe than Terminal III due to its location adjacent to local residences and the security responsibility has been outsourced to a second party.

Source: BNP2TKI (January 2009)

⁵¹ Terminal III at Jakarta's Soekarno-Hatta International Airport was established in 1999 to process returning Indonesian labour migrants and repatriate them to their home villages. As Terminal III is now used for the general public, labour migrants are now processed through Terminal IV.

⁵² The repatriation of Indonesian labour migrants through Terminal IV at Jakarta's Soekarno-Hatta International Airport has been in place since February 2008.

⁵⁰ Law No. 39 / 2004 and Ministerial Regulation No. 5 / 2005

APPENDIX V: NGOS/CIVIL SOCIETY ORGANIZATIONS IN MALAYSIA

A range of services are provided for labour migrants through NGOs and civil society organizations in Malaysia including, but not limited to:

UNI Global Union (Malaysian Liaison Council)⁵³ has assisted labour migrants to become members of various trade unions since 2007. While the Malaysian Government permits labour migrants to be members of unions, they are not permitted to hold positions within them. There are no trade unions for domestic workers, as a result of the private nature of their work.

Migrant Care⁵⁴ is an association for migrant workers which undertakes advocacy on migrants' rights and protection in Indonesia and abroad. Over the last 10 years, Migrant Care has been working to address problems faced by foreign domestic workers in Malaysia.

The Association of Workers in the Oil Industry (IATMI)⁵⁵ is actively addressing concerns and responds to problems concerning Indonesian labour migrants through fund assistance. IATMI has a network across Malaysia, organized under the Indonesian Branch Group Circulation Network.

MY Commit is an IT community with an extensive network across Malaysia. They are assisting the Indonesian Embassy in Malaysia to build a database of labour migrants facing problems.

Bochaedewe is an NGO comprised of more than 32,000 members, aims at combating the problems faced by many labour migrants in Malaysia by assisting labour migrants who seek their assistance.

Paguyuban Solidaritas Masyarakat Jawa (Pasomaja) is an ethnic-based association which often receives referrals from Indonesian labour migrants who are facing social problems such as women with unwanted pregnancies. Pasomaja also sometimes provides funding to assist these women.

The Women's Aid Organization (WAO)⁵⁶ was established in 1982, the WAO is an independent, non-religious NGO based in Malaysia, with a commitment to confronting violence against women. WAO is active in providing assistance to foreign domestic workers who encounter problems relating to their work. With the assistance of pro bono lawyers, social workers and volunteers, WAO has the capacity to provide shelter for, and handle cases of, domestic workers in trouble who are unable to deal with the authorities themselves. Services provided by WAO include a refuge shelter for women and children suffering from domestic violence, telephone counselling, a sexual assault helpline, face-to-face counselling, and a child care centre.

Tenaganita⁵⁷ conducts advocacy and research on the rights of migrants and refugees, with a focus on domestic workers, migrant rights, anti-trafficking, health issues, irregular migrant workers and single mothers.

⁵³UNI Global Union (Malaysian Liaison Council) is part of UNI Global Unions, an international trade union umbrella organization committed to the ideals and principles of the trade union movement. UNI Global Unions share a common determination to organize, to defend human rights and labour standards every where, and to promote the growth of trade unions for the benefit of all working men and women and their families – www.global-unions.org

⁵⁴www.migrantcare.org

⁵⁵www.iatmikualalumpur.com

⁵⁶<http://www.wao.org.my/>

⁵⁷<http://tenaganita.net>

APPENDIX VI: NGOS /CIVIL SOCIETY ORGANIZATIONS IN SINGAPORE

The Humanitarian Organization for Migration Economics (H.O.M.E)⁵⁸ is a charity committed to the principle that the migration of people benefits global society with a focus on the effects of migration within the Singapore context. Its objectives are to develop research and education on the socio-economics of migration in Singapore; provide social integration services for migrants; and provide humanitarian assistance to migrants. H.O.M.E has three offices in Singapore—a main office for case management, mediation and referrals from embassies, police, Ministry of Manpower and civil society; one office in Lucky Plaza for immediate responses to situations; and a shelter to accommodate male and female labour migrants. Labour migrants who are accommodated at the H.O.M.E shelter are provided with the option to either remain in Singapore for resolution of their cases, or to return to their country of origin. Should they wish to remain in Singapore, H.O.M.E provides assistance in obtaining a six month work permit from the Ministry of Manpower, and visa extensions as required. The Ministry of Manpower provides a special license to H.O.M.E to act as a recruitment agency, assist with seeking employers and providing necessary training to labour migrants on condition that the previous employer should provide a “no objection to work” for Indonesian labour migrants. At the time of the Government of Indonesia study visit to Singapore, there were seven Indonesian women waiting for settlement of their cases with the assistance of pro bono lawyers at one of H.O.M.E's offices. Some cases with the police can take up to two years for settlement.

Transient Workers Count Too (TWC2)⁵⁹ is an NGO established in 2004 with the aim of promoting respect for domestic workers through education and to secure better treatment of labour migrants through legislation and other means. Since its inception, TWC2 has engaged with government officials, labour migrants, employment agencies, partner organizations and civil society. TWC2 has become a reliable contact point for labour migrants who encounter problems with their employers, a source of information for employers and the public, and a centre for generating action-oriented research.

Appointed by the Catholic Archbishop of Singapore, the objective of the **Archdiocesan Commission for the Pastoral Care of Migrants and Itinerant People (ACMI)** is to give migrants a sense of belonging and security through acts of compassion such as friendship, hospital visits, providing food and shelter, skills training, legal aid, information and referrals. ACMI's beneficiaries are labour migrants, construction workers, students, migrant spouses and local employers, regardless of religion. ACMI advocates and brings awareness to migrants, itinerants and employers by uncovering and providing research in order to solve the exploitation of labour migrants and itinerant people.

The Franciscan Missionaries of Mary (FMM) is a faith-based organization that assists female labour migrants with necessary social services.

Think Centre is an independent Singaporean NGO⁶⁰, which aims to critically examine issues related to political development, democracy, rule of law, human rights and civil society. The Think Centre's activities include research, publishing, organizing events and networking.

⁵⁸ www.home.org.sg

⁵⁹ www.twc2.org.sg

⁶⁰ www.thinkcentre.org

APPENDIX VII: NGOS / CIVIL SOCIETY ORGANIZATIONS IN KUWAIT

The Kuwaiti Association for Basic Evaluators of Human Rights piloted an awareness campaign directed to Kuwaitis on how to treat foreign workers in general, and domestic workers in particular. The campaign educated children in elementary and secondary schools on labour rights and responsibilities. The Association is seeking funding for a media campaign for broader impact.

The Indonesian community in Kuwait plans to develop an information network between the community and Indonesia regarding work opportunities⁶¹.

⁶¹As reported on the Kuwait study visit, 4 October 2009

APPENDIX VIII: NGOS/CIVIL SOCIETY ORGANIZATIONS IN BAHRAIN

The number of civil society organizations active in Bahrain has increased from 275 in 2001 to more than 460 (in part, attributed to introduction of the National Action Charter), some of which are working toward enhanced protection of labour migrants.

The Migrant Workers Protection Society is a non-governmental organization established in 2005 to assist abused and exploited domestic workers. Since it was established, the Society has supported several victims of abuse to take their case to court, although success has been limited. The Migrant Workers Protection Society received government funding in 2008 for the establishment and operation of a facility at which female domestic workers may seek temporary shelter, as well as food, psychosocial support and medical treatment. However, this shelter mainly accommodates Bangladeshi and Indian domestic workers as some of the Society's members are from these countries and they are thus able to effectively provide help to women of the same nationalities. They struggle to accommodate Indonesian 'runaway' domestic workers, as they do not have the required language skills to assist them effectively. The Migrant Workers Protection Society, therefore, works very closely with the Indonesian consulate in Bahrain as part of their referral network to accommodate any Indonesian labour migrants who arrive at their shelter.

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