



General Assembly

Distr.
GENERAL

A/HRC/4/NGO/53
6 March 2007

ENGLISH ONLY

HUMAN RIGHTS COUNCIL
Fourth session
Item 2 of the provisional agenda

**IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 60/251
OF 15 MARCH 2006 ENTITLED “HUMAN RIGHTS COUNCIL”**

**Written statement* submitted by the International NGO Forum on Indonesian
Development (INFID), a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is
circulated in accordance with Economic and Social Council resolution 1996/31.

[28 February 2007]

* This written statement is issued, unedited, in the language(s) received from the
submitting non-governmental organization(s).

22 Indonesian Migrant Workers Facing with Dead Penalty Threat Abroad¹

The United Nations has affirmed the importance of death penalty abolition as expressed in the Second Optional Protocol to the UN International Covenant on Civil and Political Rights. The appeal to put the penal practice by death penalty method out is carried out because it violates the Human Rights.

The fact is, referring to the Migrant CARE' database, at the moment there are 22 Indonesian migrant workers facing death penalty threat abroad, i.e., 16 people in Malaysia, one person in Singapore, four people in Saudi Arabia and one person for Egypt. They are Siti Zaenab, Suhaidi Bin Asnawi, Lili Ardi Sinaga, Hasanuddin Sinring, Noni Fitria, Nazaruddin Bin Daud, Tarmidzi Bin Yacob, rmiadi Bin Ismail, Bustaman Bin Buchori, Abdul Jalil Bin Abdul Hamid, Rusaln Dedeh, Nuraini Binti Sadi, Izudan Kazuadi, Hafidh Bin Kholil Sulam, Eti Thoyib Anwar, Nur Makin Sobri, Barokah, Darman Agustiri, Aida Sukardi, Erik Bin Kartim, Wahyudi Bin Boinen, and Hariman Bin Sihombing. The majority of them are involved in the murder of their employer caused by poor working condition background and for not having their rights in accordance with the international labor standards.

This is ironical since Indonesia as the country supplying the work force as well as Malaysia and Saudi Arabia as the clients all have the status as members of the UN Commission for Human Rights.

Actually Indonesia has actually been the country ratifying 2 Human Rights Core Covenants, i.e. the International Covenant of Economy, Social and Cultural Rights and the International Covenant of Civil and Political Rights. Yet in the reality the ratification turns out to be no more that political cosmetics and it does not become the basis for the efforts to protect and fulfill the Human Rights, including the rights of the migrant workers. Even worse, although the two main covenants have been ratified, yet until now the UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families has not been ratified.

Meanwhile on the coming 19-20 March 2007, Suhaidi Bin Asnawi will be in the final trial in the High Court of Seremban Negeri Sembilan Malaysia. Suhaidi is threatened by the article 302 penal code Malaysia on the accusation of killing the mother of his employer. Suhaidi has not received his wages for his two year working time and every time he asked for his wages to his employer he never got any definite answer which made him desperate.

Besides Suhaidi, there are also Siti Zaenab, Nur Makin Sobri and Hafidh Bin Kholil Sulam who are waiting for an amnesty from their employer's family to be freed from the death penalty in Saudi Arabia. The three workers have received final verdict of death penalty from the High Court of Law.

On 15 May 2006, the Government of Indonesia and the Government of Malaysia signed the MoU on the protection of the Indonesian migrant domestic workers in Malaysia. The MoU is considered by various NGOs as the legitimated practice of human trafficking. The

¹ Migrant CARE (Indonesian Association for Migrant Workers Sovereignty) also shares the views expressed in this statement.

MoU clearly stated that the passport of the migrant domestic worker is kept by the employer, moreover the MoU in actually does not really accommodate much protection for the migrant domestic worker. During May - December 2006, since the signing of the MoU, violence and sexual abuse case kept happening to the Indonesian migrant domestic workers, such as what happened to Sanih Bt Saleh who was raped by her employer. The MoU has been proven of not working effectively, and logically it should be revised or cancelled.

People were also stunned by the death of Siti Maemunah (domestic worker originating from Sukabumi) in Lebanon by the Israeli's missile on 13 July 2006. The case revealed the screen of illegal migrant workers delivery in some countries with the potential of having a conflict such as Iraq, Lebanon, Syria, and Israel. All these times, the Government of Indonesia has been ignoring that there has been massive distribution of migrants to those countries which are not supposedly to be the destination countries of the migrant workers. From the case of Siti Maemunah's death, it was revealed that at least 60,000 migrant workers are sent illegally to conflict prone countries in the Middle East.

The year of 2006 was ended with a report made by the UN Special Rapporteur on The Human Rights of Migrants, Mr. Jorge Bustamante, who visited Indonesia on 12-20 December 2006. Mr. Jorge Bustamante underlined the serious violation of Indonesian migrant workers' human rights which occurred in Malaysia. But in his report, Mr. Jorge Bustamante did not mention the case of Indonesian migrant workers facing death penalty threats abroad.

In 2007, Indonesian migrant workers as well as those originating from other countries are still in a fragile position that is prone to human rights violation. The Government of Malaysia plans to formulate new law which will put more restrain on the migrant workers' space to move around. The draft bill which is formulated by the Department of Home Affairs of Malaysia will be submitted and discussed in Malaysia commencing March 2007. Such progress definitely makes the Indonesian migrant workers more vulnerable after having been repressed by the Immigration Act/Akta Imigresen 1154 a/2002 which has caused thousands of migrant workers raided, jailed, and forcefully deported and even also suffered from corporal punishment. In fact, up to the present time, Malaysia authority still utilizes civilian militia RELA for the operation to evict migrant workers that are not equipped with the documents. Up to a certain extend, the militia can use the weapon and be violent.

We condemned Malaysia government's plan to table the bill that allows the employers to confine the workers in the plywood and zinc makeshift quarters in the work sites liken the practices of the illegal human traffickers. The new bill will grant the employers the total control of the workers' freedom including locking them up like the slaves. Such a legislative action is prejudice against migrant workers that categorizes migrant workers as a security problem is an over reacted actions that aims to promote the Out sourcing companies to trade human being. Currently there are 213 man power outsourcing company recruited 31,493 workers to be sold as human commodity at 150% to 200% mark up.

Malaysia current practice of the retaining of passports by agents and employers to control foreign workers movements, puts foreign workers in a very precarious situation where the

threat of becoming an 'undocumented' or "illegal immigrant" is always under the mercy of unscrupulous employers.

From the observations mentioned above, this year (2007), we recommend 10 main items to the UN Human Rights Council to urge the Government of Indonesia for the protection of the Indonesian migrant workers:

1. The Government of Indonesia should immediately ratify the International Convention on Protection of the Rights of All Migrant Workers and Members of Their Families, since according to the National Action Plan for Human Rights/RAN HAM 2004-2009, the government should have ratified the convention at the latest in 2005.
2. The Government of Indonesia should revise the MoU between RI -Malaysia on the protection of Indonesian Migrant Domestic Workers in Malaysia.
3. The Government of Indonesia should increase the national budgetary allocation for the protection of Indonesian migrant workers abroad.
4. The Government of Indonesia should seriously handle and prevent the death penalty case of the Indonesian migrant workers abroad.
5. The Government of Indonesia should seriously improve the Indonesian Migrant Worker repatriation system in Terminal III of the Soekarno Hatta Airport by not obliging each of the migrant workers to come through that particular terminal.
6. The Government of Indonesia should seriously attempt to prevent and deal with the human trafficking of migrant workers. One of the real efforts is by hastening the ratification of human trafficking draft bill.

We also demand the UN Human Rights Council to:

1. UN Human Rights Council to be more pro-active in the effort to protect the migrant workers.
2. To make a request to all countries as members of the UN Human Rights Council to abolish the penal practice by death penalty method, including Indonesia and some destination countries of the migrant workers that still make death penalty in effect such as Malaysia, Saudi Arabia, Singapore and Egypt.
3. To carry out emergency efforts to defend and protect the 22 Indonesian migrant workers threatened by death penalty abroad.
4. To request the Government of Malaysia to stop deporting Indonesian migrant workers that are not equipped with adequate documents by force and by utilizing armed militia force. In the deportation process, violations of human rights of the Indonesian migrant workers have the most possible chance to occur.
5. To request the governments of Malaysia, Singapore and Saudi Arabia to acknowledge the status of foreign domestic workers as a form of formal occupation and protected by law. This is to reduce the vulnerability of domestic workers from any form of violations and exploitations.
6. To request the sending and receiving countries of the migrant workers who have not ratified the International Convention on the Protection of the rights of migrant workers and their families to immediately ratify and implement it in their labor regulations.
