

PROJECT REPORT

“Regional CSOs Consultation Meeting on the Implementation of ASEAN Consensus on the Rights of Migrant Workers”

Alila Hotel, Jakarta, Indonesia, 20-21 February 2018



Prepared by:



Indonesia NGO Coalition
for International Human Rights Advocacy - HRWG

1. Introduction

This report was prepared by Indonesia's NGO Coalition for International Human Rights Advocacy (or the Human Rights Working Group – HRWG). This report is divided into four sections, with the introduction as the first section. The second part deals with the background description and the objective of the project. The third section of the report highlights the points of discussion and recommendations as the result of the expert meeting. The fourth section elaborates the opportunities and the upcoming advocacy.

2. Background

ASEAN Member States have expressed their concerns on a number of cross-border human rights issues. The protection of migrant workers and refugees as well as trafficking in persons¹ and people smuggling are a few issues that are crosscutting and interlinked with one another.² There are at least 6.000.000 (six millions) migrant workers in ASEAN who remain victims of various human rights violation, including exploitation, trafficking, and people smuggling.

As the ASEAN Community continues to grow, the number of migrant workers is expected to increase over time. Although migrating is seen as a way to improve their living condition, migrant workers are often stigmatized, discriminated, and facing indecent working condition. This situation is deeply concerning as it may impair the very own objective of ASEAN, that are, to be people oriented and supportive of social welfare.

In this context, ASEAN has taken a number of steps. Namely the adoption of the Cebu Declaration in 2007, the establishment of the ASEAN Committee on the Implementation of the Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW) in 2008, the formation of ASEAN Forum on Migrant Labor (AFML),³ and the adoption of the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers (ASEAN Consensus) just last year (2017).

Although these steps express the growing interest of ASEAN and its members-states in the protection of migrant workers, they have not resulted in substantial improvements. Several factors contribute to this end. The first is the differing national interests of ASEAN member states that lead to some states perceiving migrant workers more from an economic rather than a human rights standpoint. The second is the differing standard setting for migrant workers' rights, particularly because not all member states have ratified the UN Convention on Migrant Workers. The last is the issue of non-accountability and maladministration on migrant workers in some member states that, in turn, creates tensions between the ASEAN countries.

To this extent, the implementation of the ASEAN Consensus is of a particular concern. The adoption of this instrument under the Chairmanship of the Philippines is, without a doubt, a progress. It contains 62 articles that are aimed at ensuring fair treatment for migrant workers as well as protection against abuses, exploitations and violence. However, non-participation of the CSOs and migrant workers in the drafting and negotiation process lead to certain concerns left unaddressed. On top of that, its status as a non-legally binding instrument means that its implementation depends mostly on

¹ The 2012 Report of the UN Office on Drugs and Crime (UNODC) mentioned that more than 10,000 cases of trafficking in persons in South Asia, East Asia and the Pacific between 2007 and 2010, see <http://www.irinnews.org/fr/report/97979/southeast-asia-s-human-trafficking-conundrum>

² The 2013 Southeast Asian Press Alliance (SEAPA) report in reveals that freedom of expression in Southeast Asia has degenerated with more countries having enacted or applied restrictive laws, on-going or intensified violence against journalists and human rights defenders who offer differ or critical views, and widespread impunity for perpetrators of violations of freedom of expression. Such as in Brunei Darussalam, Viet Nam, Malaysia and Singapore. See, Working within bounds: Southeast Asia's Press Freedom Challenges for 2013 - SEAPA Southeast Asian Press Alliance.

³ a multi-stakeholder consultation that involves the participation of ACMW, employers, trade unions, and CSOs

the political will and national context of each ASEAN country. This is why ASEAN civil societies' participation is crucial.

At the very least, the ASEAN civil societies participation may be twofold. The first is to review and propose recommendations on any necessary amendments to the ASEAN Consensus. This process is already enabled under Article 61 of the ASEAN Consensus. What is now required is for the ASEAN civil societies to convene and brainstorm on the matter. The second is to participate in developing the regional and national action plans as follow-ups to the ASEAN Consensus. Ideally, these action plans should be developed and implemented together with migrant workers community and civil societies. Further, they should be binding, have monitoring space, and target timeline.

The current regional civil societies consultation is organized with this spirit. It is aimed at providing a bottom-up and participatory approach in gathering civil societies' views and inputs that, hopefully, would be considered by ASEAN and its member states.

Objective

1. To ensure the civil society's voices and participation are heard and included on the engagement process in developing the regional plan of action on ASEAN Consensus of migrant workers and their member families in ASEAN.
2. To come up with a civil society document on the action plan of the ASEAN Consensus on the protection and promotion of migrant workers and their families in ASEAN.
3. To create engagement among regional civil society initiatives with ASEAN
4. To share the CSO's document to public widely
5. To create basis argumentation for CSOs in advocating the protection of migrant workers' rights both in national and regional levels

3. Review of Progress

The project aims to give respond and input from civil societies in this region toward the implementation of ASEAN Consensus on the protection and the promotion to rights of migrant workers (ASEAN Consensus) that has been adopted by the ASEAN Leaders back to November 2017 in Manila.

It is a very successful project. The project meets all of the objectives that have been set. This success story started with the modalities from HRWG prior to the implementation of the project, by inviting the appropriate resource persons during the workshop and conducting follow up engagement with the relevant stakeholders.

Project Preparation

The preparation of the project started on 25 January 2018 where HRWG met the Minister of Manpower of Republic of Indonesia, H.E. M. Hanif Dakhiri. The meeting with Manpower Minister and national network consists of Indonesian Migrant Workers Union (Serikat Buruh Migran Indonesia - SBMI), Migrant Workers Network (Jaringan Buruh Migran - JBM), and Women's Solidarity for Human Rights (Solidaritas Perempuan - SP) gave an update on the position of the Indonesian government after the adoption of ASEAN Consensus.

The government is preparing proposed regional action plans namely; 1) develop a standardized format of ASEAN Employment Contract; 2) Develop a roadmap towards a standardized working conditions as well as access to healthcare and education; 3) develop a roadmap that is free from undocumented workers, human trafficking, people smuggling and misconducted recruitment agencies, and; 4) develop a roadmap towards a binding instrument of the ASEAN Consensus.



(Interface Meeting with H.E. M. Hanif Dhakiri, Minister of Manpower, Republic of Indonesia)

After the meeting with the Manpower Minister, HRWG also had another meeting a week later with the Director General of ASEAN Cooperation on Social and Cultural Affairs, Directorate of ASEAN Functional Cooperation, Ministry of Foreign Affairs of Republic of Indonesia (MOFA), Mr. J.S George Lantu. From the meeting with him, HRWG knew the method Indonesian government used to prepare the proposal of regional plan of actions. They are responding article by article of the ASEAN Consensus and trying to come up with proposed plan of action and the strategy.

The other preparation that makes the project was successful is that HRWG collaborated with Solidaritas Perempuan, to conduct a national process in order to unify the voices of CSOs from Indonesia in responding the ASEAN Consensus. The meeting took place in Solidaritas Perempuan, a day before (back to back meeting) the regional meeting was started.



(National Preparation Meeting in Solidaritas Perempuan, 19 February 2018)

From the national preparation meeting, the Indonesian CSOs came up with a clear position as well as proposed recommendations to the action plans that had been brought in the regional meeting. For Indonesian CSOs, the ASEAN Consensus and its lengthy negotiation process are regrettable because the negotiation didn't involve migrant workers as the main subject of the protection. However, the stand point of Indonesian CSOs welcomed and accepted the ASEAN Consensus with some significant notes, for instance in the protection of undocumented migrant workers, they want to amend the ASEAN Consensus because it stated a condition to protect undocumented migrant workers. Indonesian CSOs want ASEAN to protect all migrant workers regardless the status of the document.

Regional Meeting

The two days agenda of regional meeting were attended by total sixty one (61) participants representing Diplomatic Missions and Dialogue Partners to ASEAN, Indonesian Government, ASEAN Bodies, Academes, Civil Societies from all ASEAN Member States (AMS), and Mass Media (see: Annex 1 and Annex 2) had been a very productive workshop that came up with the **Regional Civil Society Recommendation on the Implementation of ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers** (the “recommendation” see: Annex 3).

The opening session of the meeting was attended by Diplomatic Missions and Dialogue Partners to ASEAN in Jakarta which opened by the Director of HRWG, **Mr. Muhammad Hafiz**. He began by greetings all distinguished guests from the Ministry of Manpower, the EU ambassador to ASEAN, ASEAN Bodies, and the Sasakawa Foundation of Japan.

Mr. Muhammad Hafiz emphasized the challenges to migrant workers in ASEAN namely; different national legal frameworks, undocumented workers and inadequate migration information, lack of enforcement and access of justice. Indonesia and the Philippines are the only countries in ASEAN which have ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

HRWG also invited **H.E. Amb. Tan Hung Seng**, the Permanent Representative of Singapore to ASEAN to open the meeting by giving welcome remarks, as Singapore is being the ASEAN Chairman on 2018. The Ambassador unfortunately could not attend the opening session because of prior commitment.

Likewise the Amb. Tan Hun Seng, **H.E. M. Hanif Dhakiri**, the Minister of Manpower of Republic of Indonesia who was scheduled to give keynote speech in the opening session had cancelled his attendance because he received immediate call to attend the meeting with the President of Indonesia. Therefore **Mrs. Roostiawaty**, the Director of Labour Market Development, Ministry of Manpower of Republic of Indonesia on behalf of H.E. M. Hanif Dakhiri delivered the keynote speech.

Mrs. Roostiawaty highlighted three issues which related to the protection of migrant workers in ASEAN: whether the instrument be legally or non-legally binding; the protection of undocumented migrant workers and the protection of the families of migrant workers.

Indonesia has begun to discuss the issue of Regional Plan of Actions (RPA) which very important for the implementation of the ASEAN Consensus. The Consensus itself contains of the definition of migrant workers, the definition of undocumented migrant workers, and fundamental rights of the migrant workers. The specific rights that we have here are the rights to information pertaining to their employment and the legal provision of the receiving countries.

“We have to move forward to implement the Consensus, and this is where the RPA is very important. It is important for the CSOs and the ASEAN bodies such as the SOMSWD and ACWC to discuss the RPA; the resulting proposal should be submitted to the respective government, so that in the next ACMW meeting we could have the modalities to create the RPA. It is expected that this Consensus can have direct impact in improving the condition of the Migrant Workers in ASEAN,” said Mrs. Roostiawaty.

HRWG invited four resource persons who coming from the backgrounds of academia (**Mr. Charanpal Singh Bal, Ph.D** from Bina Nusantara University and **Ms. Avianti Azis** from University of Indonesia) and representatives of civil society (**Ms. Rhodora Abano**, Centre for Migrant Advocacy of the Philippines and **Mr. Ridwan Wahyudi** from SBMI). They discussed migrant workers issue in this region at the first session of “After ASEAN Consensus”. It was a pannel discussion to respond and propose the steps after having the ASEAN Consensus which moderated by **Mr. Rafendi Djamin**, the Former of Indonesian Representative to AICHR.

Ms. Rhodora was stressing that we need to convince our national governments to recognize domestic workers as formal workers who are entitled to paid leave, equal pay, etc. The government should also have mechanisms/policies/programs to anticipate or address these issues throughout all the migration cycle; including the families and organizations who working on migrant workers issues in the migration process.

Further, **Mr. Charanpal** preceded the discussion with strategy recommendation as follows:

1. Identify domestic CSOs and trade unions in migrant workers advocacy and providing direct service
2. Increase CSO's pressure at national level in parallel at the regional level
3. Revisit and update the 2009 TF-AMW recommendations with inputs from local CSOs; including the rights to form unions in which Indonesia and the the Philippines actually adopted most of the point in the zero draft.
4. Intensify international pressure through reporting mechanism
5. Monitoring on national regulations and protection; for example when a new law expands the protection for migrant workers, then the CSOs must monitor how the law enforced and how the workers can access the benefits which provided by that law.
6. Consider the diversity in national labor politics and local CSOs strategy

Ms. Avianti Azis said that in Indonesian case where 80% of Indonesian migrant workers are women who working in domestic area, the unionization becomes a problem because the workers live and work far apart from each other. In her opinion, bilateral arrangement is not preferable, but the struggle that we urgently needed is that the academia and CSOs must collaborate more with trade unions.

She then proceeded with an analysis of the Political Opportunity Structure—Resource Mobilization Structure; which stressed that migration is not a problem and neither migrant workers are the problem. In the end, she gave an evaluation of the current campaign's framing on Rights-based Approach: the campaign for migrant workers' rights for example has not been able to sow empathy and sympathy from Indonesian members of parliament.

Mr. Ridwan Wahyudi enumerated some critical issues in the ASEAN Consensus as follows:

1. The ASEAN Consensus is not legally binding
2. Decentralization policy where each country would be free to interpret the consensus
3. The Consensus should has been a multilateral pact to be the referenced by national laws
4. Absence of monitoring mechanism and access to justice
5. Calling an amendment: on equality and fair treatment; on decent work; the norm in the Consensus should be higher than the provision of the UN Convention on Migrant Workers; social protection system between the sending and receiving countries; protection of undocumented workers and victims of Trafficking in Persons

The second session was about **Regional Plan of Actions in ASEAN and Cross Cutting Issues with Migrant Workers**. There are four resource persons who coming from various ASEAN Cooperation and belong to initiative and plan of action which related with the issue of migrant workers, such as the ASEAN Convention Against Trafficking in Persons Especially Women and Children, ASEAN Framework and Action Plan to Implement the ASEAN Declaration on Strengthening the Social Protection, the RPA on the Elimination of Violence Against Children from Indonesian Representative to ACWC for Child Rights and Researcher from HRWG.

The speakers are **Ms. Dian Anshar** from Regional TIPs Adviser - ASEAN, AAPTIP, **Mr. Mu'man Nuryana**, SOWSWD Focal Point of Indonesia, Ministry of Social Affairs of the Republic of Indonesia, **Ms. Yuyum Fhani Paryani**, The Indonesian Representative to ACWC for Child Rights, and **Ms.**

Patriani Paramitha Mulia, researcher of HRWG. This session was moderated by **Mr. Daniel Awigra**, the Program Manager of Human Rights and ASEAN at HRWG.

Mr. Daniel Awigra opened the session with explaining some cooperation's in some ASEAN Bodies that is already come up with some initiatives and cooperation of human rights especially whose linkage with the rights of migrant workers. By having this exchange views from the other ASEAN bodies, this session had been enriched and did not start from zero while developing the recommendation.

Ms. Patriani Mitha Mulia explained that this meeting will be coming up with a Regional CSO Recommendation. She explained the content of the ASEAN Consensus and the substantive issues that would be discussed in the next sessions.

"We need to come up with something concrete and measurable. I have compiled the list of issues that, in term of political commitment, really is a progress. The bigger question is not with the political commitment, but in the follow up and putting this commitment into practice." Ms. Patriani explained.

She had drafted a working document that was being a basis for further discussions. The two main questions she raised are 1) what should be the position of the ASEAN CSOs on the consensus; and if you were to be involved in the discussion of RPA, 2) what would you include in the document.

The list of issues that have been used to spark the discussions can be divided into two groups: Migrant Workers Protection and Applicability as well as Compliance to the Consensus.

Ms. Yuyum Fhahni underlined that the problem of migrant workers has a tight interconnection with women and children as well as trafficking issues. For example, the current case of Adelina Sau, an Indonesian maid working in Penang, Malaysia who died because an alleged abuse by the employer. She was 21 years old and working since 2014; which made her under aged when she started working. She didn't have any legal document to work overseas. She was an innocent girl, a child, and a trafficked worker. She mentioned that there are three categories of children whom related to migrant workers issues:

- 1) The children whom sent as migrant workers:
 - They usually have dropped out of school
 - Recruiters are people close to the victims and/or also parents who give blessings for children to work as migrant workers
 - Officials turn a blind eye and help in producing fake documents
- 2) Children of migrant workers who also face problems namely lack of attention from parents, bullying, and name calling by peers
- 3) Children living with parent working as migrant workers: child abuse, child marriage between them, potential child labor, the birth registration (which often leads to stateless status) and the access to health.

The RPA on the Elimination of Violence against Children mentions that child migrant workers are part of the most vulnerable groups. The RPA lists Prevention mechanism such as village community based network for early detection that can also be used to raise awareness and report the recruiters who come to the villages. The RPA also emphasize that children are right holders that need capacity building.

Ms. Dian Anshar opened her presentation by stating that it was her personal opinion. She explained that ASEAN is recognized as a hotspot of trafficked person. Undocumented labor is the main form of TIPs in ASEAN, rather than other forms such as prostitution.

TIP has become one of the most serious challenges for ASEAN in decades. In relation to the legal framework, ACTIP was finally signed by ASEAN leaders in Kuala Lumpur. ACTIP has been in force

since March 2017 after the minimum number of AMS (six) had ratified. In this regard, ACTIP is one of the ASEAN's achievements because it is a legally binding document, which is a rare thing to achieve at the ASEAN level.

She then asked: How ASEAN would implement this document? ASEAN has been very good at making documents but to what extent are those documents implemented? The process is as follows:

1. Coordinating Structure
2. Monitoring and Reviewing
3. Led by SOMTC which has now proposed a national representative with mandate to collect report and progress report to SOMTC
4. BOHOL TIP Work Plan 2017-2020 has been recognized by all ASEAN sectoral bodies and endorsed at the ASEAN Summit of 2017
5. The implementation depends on how the individual state party fulfill its obligation
6. BOHOL TIP Work Plan 2017-2020, on the other hand, is not legally binding; the implementation of the TIP Work Plan is voluntary rather than obligatory.

Mr. Mu'man Nuryana underlined that migration can give positive impact to both sending and receiving countries; however, there is an open social cost which paid by the families of the migrant workers (for instance the children suffer from abuse and abandonment).

He continued to say that at SOMSWD level, we are committed to strengthen the recognition of migrant workers as workers; and that families of migrant workers are included in addressing the problem of protection of migrant workers (e.g. how to reunite children with parent of migrant workers). SOMSWD believes that our framework must be in accordance with people centered approach; especially by generating alternatives to migration at the national level.

One of the problems in protecting migrant workers in ASEAN is there is none ASEAN Member States implement a universal social protection; by this design, foreigners cannot be tax payer and cannot be protected. Another thing which very lacking is that the social protection measures largely do not include intervention efforts, even when they undertake them they only have minimum budget.

The idea to approach parliamentarian to make universal design social protection is good for ASEAN; in order to protect all the workers in ASEAN regardless of borders. The budget problem is even harder: do we even have enough money to support social protection for all people? SOMSWD needs bigger support from member of parliaments all across ASEAN in order to kick start the universal social protection in ASEAN. The ASEAN Consensus actually calls for ASEAN Member States to come up with framework for social protection for migrant workers.

"I think this is where CSOs can contribute. Please send your proposed framework to the ASEAN secretariat," said Mr. Mu'man.

Before the Q&A session, Mr. Daniel Awigra invited **Ms. Maulani Rotinsulu** from ASEAN Disability Forum to explain what the intersection areas between migrant workers and persons with disability. She mentioned that some workers who got injured from the work place are being disabled and the parents of migrant workers might have disabled children. It is very significant to provide adequate living condition and safety procedure at the work place for facilitating and protecting the rights of migrant workers and persons with disabilities such as by providing interpreters, ramp, and other proper infrastructures.

After lunch, the workshop starts by dividing the participants into three groups;

- 1) Decent work and social protection
- 2) Undocumented workers and cross cutting issues with TIP
- 3) Access to justice and migrants in crisis

The group discussion continued with the presentation from each group in the end of the first day of the regional meeting. The dynamic of the process has been captured on some pictures/photos (Annex 4)

On the second day, Mr. Daniel Awigra facilitated the plenary discussion on the Applicability and Compliance to the Consensus. The discussion was about the ratification of UN CMW, some ILO Conventions, information for migrant workers, how to deal with recruitment agencies, repatriation, and reintegration process.

The result of the discussion has been compiled by Ms. Patriani and she drafted the proposed recommendation and presented to ask comment and inputs from all participants then adopted as a Regional CSO Recommendation to the ASEAN Consensus (Annex 3). The whole process of consultation also was recorded and summarized by note taker (Annex 6).

Press Conference

In order to increase public awareness, we held the press conference at the second day. The press conference was held on the 21st of February 2018 with a panel comprising of **Mr. Daniel Awigra** from the Human Rights Working Group, **Ms. Sumitha Shaanthinni Kishna** from the Migration Working Group Malaysia, **Ms. Rhodora Abano**, Centre for Migrant Advocacy of the Philippines and **Ms. Stephanie Chok** from HOME, Singapore and moderated by **Mr. Rafendi Djamin**.

There are some media coverage which reporting the press conference (Annex 5).

4. Opportunities, Challenges and Ways Forward

After regional meeting, the document of CSO Recommendation to the Implementation of ASEAN Consensus has been submitted to the relevant stakeholders. On 5 March 2018, the Recommendation has been handed over directly to the Minister of Foreign Affairs of Republic of Indonesia, **H.E. Mrs. Retno Marsudi** during the interface meeting with migrant workers' organizations with MOFA.

On 8 March 2018, the CSO Recommendation has been handed over directly to Ministry of Manpower of Republic of Indonesia, represented by **Ms. Erwiana**, the Director of Inter Cooperation and on 13 March 2018 the recommendation has been handed over to the Acting DG of ASEAN Cooperation, Ministry of Foreign Affairs of Republic of Indonesia which represented by **Mr. Pramudya Sulaksono**.



(Handed over directly the CSO Recommendation to the Implementation of ASEAN Consensus from left to right to 1) the Minister of Minister of Foreign Affairs of Republic of Indonesia, **H.E. Mrs. Retno Marsudi**, 2) the Director of Inter Cooperation, Ministry of Manpower of Republic of Indonesia, **Ms. Erwiana**, 3) Acting DG of ASEAN Cooperation, Ministry of Foreign Affairs of Republic of Indonesia, **Mr. Pramudya Sulaksono**)

There are some opportunities to advocate further for the implementation of the ASEAN Consensus. Even more, ACMW will have a meeting on 27-29 March 2018 in Singapore. The need to continue the advocacy to the representatives of ACMW who will be coming to the meeting is necessary. The steps from Indonesian CSOs have to be followed by other ASEAN CSOs in order to ensure that the

voices stated by CSOs in the recommendation will be heard and tabled during the negotiation this month.

From the meeting on 13 March 2018 with Indonesian MOFA, we knew that the Chair of ASEAN, Singapore targeted the meeting on 27-29 March 2018 to have a format for plan of action. The format comprises some clusters of issue from pre-departure until reintegration process. Then it has to be followed by some proposed programs and activities with clear timeline. The plan of action further will be put on the ACMW Working Plan of 2021-2025 instead of the current working plan on 2016-2020 because it stills running and it will be difficult to revise the ongoing work plan. However, all plan of actions that will be agreed, can be enforced without waiting until 2021.

There is another occasion to push further the implementation of ASEAN Consensus on ASEAN Labor Ministerial Meeting (ALMM) on May 2018. The continuity for engagements in the national process mainly for the SLOM meeting is a must for Regional CSOs in ASEAN. However, we cannot predict when the exact time that the RPA will be adopted. It really depends on the negotiation process within ASEAN Member States.

CSOs have to campaign the importance of the RPA as the implementation of ASEAN Consensus as well as its proposal. The Regional CSOs Recommendation has been accepted at least by the government of Indonesia. They welcomed this statement and promise to bring the document as a consideration. Otherwise, the government at least will mention on ACMW meeting's session that they received input from the regional CSOs. The government of Indonesia is trying to find a way on how to put the Regional CSOs recommendation on the agenda or discussed at the ACMW meeting in Singapore on 27-29 March 2019.

The challenge on the norm setting remains the gap between national framework, regional instrument, and international standard of human rights. Other challenge is on the national interest of the state in dealing with migrant workers issue. Human rights based approach has to be promoted and dealt with the specific need of the national interest of the respective country. The Regional CSOs Recommendation itself asked the national laws and regulation that are not in compliance with the international human rights standards that should be harmonized as a plan of action.

It is important to really monitor the process of negotiation as well as the substance of the RPA. We have to ensure that the RPA has a specific mechanism on the implementation as well as how CSOs can be included on the process and the monitoring mechanism.

Another thing that's came up during the workshop is the importance to have a network among CSO in this region in order to share the the current update, progress of advocacy, challenges and opportunities.

Annexes

Annex 1. Program

TIME	ACTIVITY
19 Feb	Arrival (lunch is available for participants who arrive at noon)
	Dinner meeting with participants, facilitator, and rapporteur
20 Feb	(Day 1)
08:30-09:00	Registration
09:00-09:45	Welcoming Remark - Mr. Muhammad Hafiz , Acting Executive Director HRWG Opening Remarks - H.E. Amb. Tan Hung Seng , Permanent Representative of Singapore to ASEAN (*not presence) Keynote Speech - H.E. Mr. M. Hanif Dhakiri , Minister of Manpower Republic of Indonesia
09:45-11:00	Session 1 After ASEAN Consensus <ol style="list-style-type: none">1. Mr. Ridwan Wahyudi, SBMI2. Ms. Rhodora Abano, Centre for Migrant Advocacy (CMA) of Philippines3. Mr. Charanpal Singh Bal, Ph.D, Deputy Head in International Relations Department, Binus University, Indonesia4. Ms. Avianti Azis, Lecturer, Department of International Relation, University of Indonesia Moderator: Rafendi Djamin , Former Indonesia Rep to AICHR 2009-2015
11:00-11:15	Coffee Break
11:15-12:00	Session 2 Regional Plan of Actions in ASEAN and Cross Cutting Issues with Migrant Workers <ol style="list-style-type: none">1. Proposal: Regional Plan of Action and Amendment, by Ms. Patriani Mulia, Researcher at HRWG2. ASEAN Regional Plan of Action on the Elimination of Violence Against Children (RPA EVAC) by Ms. Yuyum Fhahni Paryani, Indonesia Representative for ASEAN Commission on the Promotion and Protection of the Rights of Women and Children - ACWC for Children3. ASEAN Plan of Action Against Trafficking in Persons, Especially Women and Children and Bohol Trafficking in Persons (TIP) Work Plan 2017-2020 by Ms. Dian Anshar, Regional TIPs Adviser - ASEAN, AAPTIP4. Regional Framework and Action Plan to Implement The ASEAN Declaration on Strengthening Social Protection by Mr. Mu'man

	<p>Nuryana, SOWSWD Focal Point Indonesia, Ministry of Social Affairs of the Republic of Indonesia</p> <p>Moderator: Mr. Daniel Awigra, Program Manager of HRWG for Human Rights and ASEAN Advocacy</p>
13:00-14:00	Lunch
14:00-15:30	Session 3 Working Group
15:30-16:30	Coffee Break
16:30-18:00	Session 4 Group presentation and adoption
21 Feb	(Day 2)
09:00-11:00	Session 5 Regional and National Advocacy (campaign and lobby) Strategy followed by Working Group led by Mr. Rafendi Djamin
11:30-12:30	Session 6 Working Group and Plenary
12:30-13:30	Lunch
13:30-14:00	Press conference
14:00-15:30	Coffee Break
15:30-16:00	Session 8 Adoption and Ways Forward
16:00-17:30	Closing

Annex 2. List of Participants

**A. List of Participants Regional Meeting
(Attached in PDF Format)**

**B. Profile of Regional Participants
(Attached in PDF Format)**

**Annex 3. Regional CSO Recommendation
(Attached in PDF Format)**

**Regional Civil Society Recommendations
on the
Implementation of the 2017 ASEAN Consensus on the Protection and Promotion of the
Rights of Migrant Workers**

We, representatives of the civil society, trade unions, and people's organizations of Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Vietnam, have gathered here today in Jakarta on the twenty first of February two thousand and eighteen for the purpose of solidifying our common ground with a view towards ensuring utmost protection and promotion of the rights of all migrant workers in the ASEAN region;

Reiterating that a legally binding ASEAN instrument on migrant workers is still key to ensure full enjoyment of the rights of migrant workers that would strengthen political, economic, and socio-cultural pillars of the ASEAN Community by promoting the full potential and dignity of migrant workers and their family members in a climate of freedom, equality, and stability;

Acknowledging the existing national and regional conflict of interests and politics of migration in addition to the varying challenges, national interests, and development gaps among the ASEAN Member States (**AMS**) that contribute to the lengthy negotiation and discussion process towards having a legally binding ASEAN instrument on the rights of migrant workers;

Welcoming the political commitment of the AMS as expressed through the adoptions of the 2007 ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (**Cebu Declaration**) and the 2017 ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers (**ASEAN Consensus**);

Emphasizing the need for the ASEAN Consensus to be guided by international norms and standards embodied in the Universal Declaration of Human Rights and other international instruments particularly the International Convention on the Protection of the Rights of All Migrant Workers and Their Family Members (**CMW**), United Nations Convention on the Elimination on Discrimination against Women (**CEDAW**), the United Nations Convention on the Rights of the Child (**CRC**), the United Nations Convention on the Rights of Persons with Disabilities (**CRPD**), and/or other international human rights treaties, international humanitarian law treaties, and the International Labour Organization (**ILO**) core labour standards;

Emphasizing the need to have a synergy with other cross-cutting ASEAN human rights commitments, namely the 2015 ASEAN Convention against Trafficking in Persons, Especially Women and Children (**ACTIP**), ASEAN Plan of Action against Trafficking in Persons, Especially Women and Children, the Bohol TIP Work Plan, the ASEAN Regional Plan of Action on the Elimination of Violence against Women (**RPA ERAW**), the ASEAN Regional Plan of Action on Elimination of Violence against Children (**RPA EVAC**), and Regional Framework and Action Plan to Implement the ASEAN Declaration on Strengthening Social Protection and other relevant ASEAN commitments;

Affirming that regional commitments have to be supported by dedicated national structures to ensure sustainable and effective protection and promotion of the rights of migrant workers and their families;

Welcoming the commitment of AMS to develop and review an action plan in view of fully implementing the ASEAN Consensus;

Reaffirming that the inclusion of and engagement with civil society, trade unions, and people's organizations is integral to the adherence to the purpose of ASEAN as stipulated in Article 1.13 of the ASEAN Charter 'to promote a people-oriented ASEAN, in which all sectors of the society are encouraged to participate in, and benefit from, the process of ASEAN integration and community building';

Based on Chapter 8 of the ASEAN Consensus that allows for amendments, we hereby submit and call upon AMS to consider and adopt the following recommendations:

1. Ensure that the Regional Plan of Action (**RPA**) is linked to the Sustainable Development Goals (SDGs), time-bound, measurable with clear goals, targets, and indicators;
2. Ensure that the RPA review mechanism is transparent and inclusive of the ASEAN civil society, trade unions, and people organizations;
3. On **decent work and social protection**, include the following items in the RPA:
 - a. Relevant to Chapter 4 paragraphs 14-17 and Chapter 6 paragraph 36, developing a standard employment contract that has to be respected and commonly applied in all AMS. The standard employment contract (i) has to be in compliance with international human rights standards, including the ILO Conventions, (ii) has to be distributed to all relevant parties, including but not limited to the migrant worker, the employer, the governments of sending and receiving states, and family of the migrant worker, and (iii) has to be written in a language understood by the migrant worker;
 - b. Relevant to Chapter 6 paragraphs 36-40, the standard employment contract should, at the minimum, the following terms: clear job description, working hours, rest days, annual leave, mandatory medical insurance at the expense of the employer, full access to medical care and social protection, clear remuneration elements such as salary, bonuses, overtime rate, and/or other allowances, occupational hazards and safety precautions, notice period and repatriation, guarantee to hold all documents including but not limited to passports and work permits, enjoyment of reasonable and adequate housing and/or accommodation, clear recruitment policies and description of responsibilities, guarantees to the rights to privacy, communication, and/or other human rights and labour standards, access to labour dispute mechanisms, and a guarantee of periodical review and updating of employment contract to maintain relevance to the changing economic conditions;
 - c. Relevant to Chapter 6, developing clear criteria of minimum medical insurance and access to healthcare and social protection, reasonable and adequate housing and/or accommodation to be afforded by the employers to any migrant workers in the ASEAN region;
 - d. Relevant to Chapter 5 paragraphs 21-24 in conjunction with Chapter 6 paragraphs 32 and 36(c) and Chapter 7 paragraphs 51-55, developing an effective communication system between migrant workers, consular offices, labour representatives and civil society to assist migrant workers to obtain necessary information, access to justice, and/or aid in times of crisis in addition to providing other services that ensure the enjoyment of decent work and living conditions of the migrant workers and their families;
 - e. Relevant to Chapter 3 paragraph 7 in conjunction with Chapter 4 paragraph 15 and Chapter 6 paragraph 30, initiate a process of developing binding national law or regulations that ensure enjoyment of fair and equal treatment for migrant workers where the rights afforded to migrant workers shall not be less favourable than the rights afforded to local workers. The right to fair and equal treatment shall include the

rights for domestic workers, undocumented migrants, people working in vulnerable sectors, rights to citizenship of children, family reunification, reproductive rights, and other international standards;

4. On **undocumented migrant workers and cross-cutting human rights issues**, include the following items in the RPA:
 - a. Relevant to Chapter 7 paragraph 52, implement the ACTIP provisions and ensure the national anti trafficking systems are victim-centric to ensure the victim has freedom to work, freedom of movement, and rightful compensation. The system should also ensure the protection of the families of victims from traffickers, and non-criminalization of victims and informants of trafficking. Stronger cross border cooperation is needed to ensure that trafficking syndicates are prosecuted in their countries;
 - b. Relevant to Chapter 7 paragraphs 55 and 57, provide a rescue system at the embassies and consulates to assist migrant workers with any necessary help and information to ensure protection and promotion of their rights;
 - c. Relevant to Chapter 7, governments of the AMS should ensure compliance of laws and regulations by recruitment agencies and/or any other parties involved in the recruitment process of migrant workers. Among other programs, AMS should:
 - i. Develop simple and clear guidelines accessible to migrant workers on the recruitment process and the costs involved;
 - ii. Enact national laws and regulations on the licensing and registration of recruitment agencies and their sub-agents, including penalties for any breach of licensing laws and regular auditing of their processes;
 - iii. Increase the number of labour inspectors in receiving states to facilitate more random inspections at households where domestic workers work without the need for a complaint to be lodged;
 - iv. Increase number of labour inspectors in sending states to oversee the predeparture documentation of migrant workers and recruitment agencies without notice;
 - v. Implement effective amnesty programmes in receiving states wherein all existing undocumented migrants should be able to register without restriction and cost barriers. Governments should facilitate free repatriation of migrants who volunteer to return home;
 - vi. Ensure that all migrant workers regardless of their migration and documented status receive the same protection and benefits as local workers to prevent employers from exploiting migrant workers.
 - d. Relevant to Chapter 7 paragraphs 52 and 55 and provisions of the ACTIP, increase collaboration among the AMS and ASEAN bodies and mechanisms, including the AICHR, ACWC, SOMTC, and SOMSWD to establish mechanisms to prevent trafficking in persons and minimize the impacts of trafficking in persons to the victims and members of their families.

5. On **access to justice**, include the following items in the RPA:

- a. Relevant to Chapter 4 paragraphs 19-20 and Chapter 6 paragraph 42, AMS should facilitate migrant workers' access to legal representation by:
 - i. Developing and enacting legal aid law, regulations, and policies on the protection and promotion of the rights of migrant workers in AMS;
 - ii. Providing legal aid services, including pro bono lawyers, interpreters, and cross-border cooperation for returnee migrant workers and their families;
 - iii. Ensuring fair trial processes in any courts and judicial procedures for migrant workers and their families;
 - iv. Eliminating criminalization of migrants who, through no fault of their own, have subsequently become undocumented.
- b. Relevant to Chapter 4 paragraph 20, allowing migrant workers to form and join trade unions in all AMS in accordance with ILO Conventions Number 87 on the Rights to Freedom of Association and Number 98 on Collective Bargaining;
- c. Relevant to Chapter 7, conduct activities to increase awareness on the rights of migrant workers, including migrant workers with disability, and provide access to translators and interpreters to overcome any language barriers and/or disability.

6. On **information, empowerment, and recruitment**, including the following items in the RPA:

- a. Relevant to Chapter 4 paragraph 13 and Chapter 5 paragraphs 21-24 and Chapter 6 paragraphs 32-34, develop concrete national programs aimed at disseminating information related to migration, including:
 - i. Cooperating with civil society and international organizations to formulate pre-departure and post-arrival curricular that cover all necessary information related to migration procedures, rights and obligations of migrant workers in addition to sharing cultural differences, language trainings, and useful contact information;
 - ii. Establishing media platforms for the dissemination of information on migration, recruitment process, and complaint mechanisms;
 - iii. Adopt the ILO Fair Recruitment Initiative to foster fair recruitment practices, preventing human trafficking, and reducing the costs of labour migration;
- b. Relevant to Chapter 5 paragraph 25 and Chapter 7 paragraph 57, include the following items in the RPA:
 - i. Establish, regulate, and monitor medical and healthcare providers that conduct mandatory health checks for migrant workers in sending states to prevent fraudulent health certifications;
 - ii. Remove discriminatory policies in receiving states, such as deporting migrant workers on grounds of sickness, hospitalization, or pregnancies.

7. On **repatriation and reintegration**, include the following items in the RPA:

- a. Coordinating with migrant workers organizations in conducting baseline studies aimed at identifying the needs of returnee migrant workers;
- b. Coordinating with migrant workers organizations in formulating detailed steps to develop (i) participatory reintegration program for migrant workers and their families,

(ii) social protection law for migrant workers, (iii) measures to access birth certification and education for children of migrant workers, (iv) promoting the positive image of returnee migrant workers.

8. On **the cooperation among AMS and mechanisms**, relevant to Chapter 7 paragraphs 59-60, include the following items in the RPA:

- a. Task the ACMW to develop a database on migrant workers in the ASEAN region comprising all relevant information, including but not limited to the lists of certified recruitment agencies, costs and fees related to recruitment and placement of migrant workers;
- b. Task the ACMW to (i) produce written and accessible public reports on the implementation and progress of the ASEAN Consensus (ii) set a dedicated session to review the implementation of ASEAN Consensus at the ASEAN Forum on Migrant Labour (**AFML**);
- c. Develop steps to familiarize all national and regional stakeholders on ASEAN documents including but not limited to ACTIP, ASEAN Plan of Action against Trafficking in Persons, Especially Women and Children, the Bohol TIP Work Plan, the RPA EAW, RPA EVAC, and Regional Framework and Action Plan to Implement the ASEAN Declaration on Strengthening Social Protection and other relevant ASEAN commitments with a view of creating a synergy among all cross-cutting issues related to the protection and promotion of the rights of migrant workers;
- d. Enact national laws, regulation and/or policies obliging the employer to use electronic banking system for the payment of salary of migrant workers;
- e. Task AMS to develop one stop service centres to provide information, education, and services to migrant workers;
- f. Enact regulations or policies to ensure that any recruitment and money transactions are conducted in the company or agency's office unless authorized and monitored by the government;

9. On **standard-setting and ratification of the CMW**, include the following items in the RPA:

- a. Develop clear measures and activities aimed at raising better awareness of the international norms and standards related to migrant workers and for AMS to ratify the CMW, namely through:
 - i. ACMW's collaboration and engagement with AICHR;
 - ii. Tasking the Ministry of Foreign Affairs to lead the national development and intra-ASEAN cooperation in the pursuance of CMW ratification;
 - iii. Officially inviting the United Nations Special Rapporteur on the Human Rights of Migrants and implement their recommendations (if any);
- b. Harmonizing national legal systems with the regional commitment and international standards on the protection and promotion on the rights of migrant workers, by enacting and/or amending and/or repealing laws, regulations, and policies.

10. In ensuring sustainable and effective implementation of the regional commitment adopted by AMS, include the following items in the RPA:

- a. Establish national focal points in each AMS mandated to cooperate at the regional level and implement the RPA in the national context;
- b. Conduct activities, such as regional and national studies, focus group discussions, civil society consultation, awareness raising campaigns and/or other activities that contribute to the process of ratifying the CMW and relevant ILO Conventions;

Done in Jakarta, Indonesia on this twenty first day of February of two thousand and eighteen.

Endorsed by the following civil society members:

1. Human Rights Working Group (HRWG) – Indonesia
2. Majlis Kesejahteraan Masyarakat (MKM) – Brunei Darussalam
3. Legal Support for Children and Women (LSCW) – Cambodia
4. Agency for Basic Community Development (ABC) – Myanmar
5. Migration Working Group (MWG) – Malaysia
6. Migrant Working Group (MWG) – Thailand
7. HOME – Singapore
8. Center for Migrant Advocacy (CMA) – Philippines
9. Network of Action for Migrant Workers (M.Net) – Viet Nam
10. Confederation of Indonesian Prosperous Labor Unions (KSBSI) – Indonesia
11. Women’s Solidarity for Human Rights (Solidaritas Perempuan) – Indonesia
12. Jakarta Legal Aid (LBH Jakarta) – Indonesia
13. Migrant Workers Network (JBM) – Indonesia
14. Migrant Care – Indonesia
15. Trade Union Rights Centre (TURC) – Indonesia
16. Indonesian Migrant Workers Union (SBMI) – Indonesia

**Annex 4. Photos
(Saved in USB)**



Annex 5. Media Coverage

1. Cermati 6 Isu Ini untuk Implementasi Konsensus ASEAN
<http://www.hukumonline.com/berita/baca/lt5a90bbe8414c7/cermati-6-isu-ini-untuk-implementasi-konsensus-asean>
2. Kemenaker Dorong Negara-negara ASEAN Serius Terapkan Konsultasi Regional
<https://biz.kompas.com/read/2018/02/21/095423128/kemenaker-dorong-negara-negara-asean-serius-terapkan-konsultasi-regional>
3. Lindungi Pekerja Migran, Indonesia Dorong Konsensus ASEAN
<https://international.sindonews.com/read/1283897/40/lindungi-pekerja-migran-indonesia-dorong-konsensus-asean-1519190598>
4. Lindungi Pekerja Migran, Indonesia Dorong Konsensus ASEAN
<http://setnas-asean.id/news-events/read/lindungi-pekerja-migran-indonesia-dorong-konsensus-asean>
5. Indonesia Dorong Konsensus ASEAN
<http://koran-sindo.com/page/news/2018-02-21/0/8/index.php>
6. Pemerintah Dorong Asean Komitmen Kawal Implementasi Perlindungan Pekerja Migran
<https://news.okezone.com/read/2018/02/20/337/1862172/pemerintah-dorong-asean-komitmen-kawal-implementasi-perlindungan-pekerja-migran>
7. Konsensus ASEAN soal Pekerja Migran Dianggap Belum Maksimal
<https://www.medcom.id/nasional/peristiwa/aNrVrDWN-konsensus-asean-soal-pekerja-migran-dianggap-belum-maksimal>
8. Konsultasi Regional, untuk Pekerja Migran
<https://www.indopos.co.id/index.php/read/2018/02/20/128170/konsultasi-regional-untuk-pekerja-migran>
9. Kemnaker Dorong Negara ASEAN Berkomitmen Kawal Perlindungan Pekerja Migran
<https://www.berkabar.id/kabar/26298/kemnaker-dorong-negara-asean-berkomitmen-kawal-perlindungan-pekerja-migran>
10. Pekerja Migran: Kemenaker Dorong Rencana Kerja Konsensus Asean
<http://kalimantan.bisnis.com/read/20180221/448/740899/pekerja-migran-kemenaker-dorong-rencana-kerja-konsensus-asean>
11. Kemenaker Dorong Negara ASEAN Kawal Perlindungan Hak Pekerja Migran
<https://infonawacita.com/kemenaker-dorong-negara-asean-kawal-perlindungan-hak-pekerja-migran/>
12. Konsensus ASEAN Soal Pekerja Migran dianggap Belum Maksimal
<http://news.metrotvnews.com/peristiwa/aNrVrDWN-konsensus-asean-soal-pekerja-migran-dianggap-belum-maksimal>
13. Pemerintah Dorong ASEAN Kawal Implementasi Perlindungan Pekerja Migran
<https://www.nu.or.id/post/read/86350/pemerintah-dorong-asean-kawal-implementasi-perlindungan-pekerja-migran>
14. Negara ASEAN diminta Serius Tangani Buruh Migran
<https://reaksinasional.com/berita-negara-asean-diminta-serius-tangani-buruh-migran.html>

**Annex 6. Notes Taking
(Attached in PDF Format)**