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SPECIFIC GROUPS AND INDIVIDUALS: MIGRANT WORKERS

**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.

[10 February 2006]

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

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INDONESIAN MIGRANT WORKERS, A NEVER ENDING SUFFERING

The Outcome Document produced in the UN High Level Meeting (Millennium Summit) on September 2005 said that the High Level Dialogue on Migration and Development will be held on September 2006 as one of the main agenda of the UN General Assembly. This shows that the problem of migrant workers is worsening nowadays that it has become an important topic in international meetings.

The 1990 International Convention on the Protection of the Rights of All Migrant Workers and the Members of their Families was ratified and signed by 34 countries. This Convention became effective on 1 July 2003 and it has a treaty body of the Commission of Migrant Workers and Special Rapporteur of Human Rights on Migrants.

Unfortunately, up to now, the Government of RI has not yet ratified this Convention and it is only a signatory of this Convention. The urgency to ratify this Convention is based on the situation of the Indonesian Migrant workers who are constantly threatened with the violation of their human rights, both, here and in the country where they will work. In reality, the quantitative increase in the sending of Indonesian Migrant Workers abroad is not accompanied by a guarantee to protect Indonesian Migrant Workers (BMI) that should be provided by the State. This is indicated by the increasing number of BMI who are dead, tortured, have lost contact, and the other cases of BMI from year to year. These cases of BMI are already encountered by BMI during the pre-departure process, post arrival in the destination country, and until their re-integration.

According to the data issued by KOPBUMI & SBMI, in 2005, there are at least 19 cases of death, 101 cases of torture with rape, and 117 cases of lost contact. Meanwhile, there are 4,100 cases of deportation, trafficking, unpaid wages, and long working hours.

Meanwhile, according to Migrant CARE, in 2005, the recorded cases of Indonesian migrant workers are not yet over. In January 2005, Hasanudin Sinring (22) is threatened with a death sentence by the Magistrate Court of Kota Kinabalu, Malaysia because he pointed a weapon, stabbed, and killed Ms. Elizabeth Wong Oi Chon (47). From February-March 2005, 800,000 BMI without documents have to return to Indonesia as a consequence of the Immigration Act No. 1154 A/2002 of the Government of Malaysia. In March 2005, the Government of Malaysia even hired RELA troops to arrest Indonesian migrant workers who are still staying in Malaysia without documents. Because of this, various HR violations were conducted during these arrests; starting from beatings, kicking, up to the stealing of valuable goods that were conducted by the RELA troops. The safety of the Indonesian migrant workers was at stake during the process of these arrests. They have to return to Indonesia without the *ringgit* that they have supposedly earned because their employers refused to pay them. This situation is worsened by distressing conditions of some of the refuge centres for BMI in Nunukan, East Kalimantan. The refuge centres owned by several placement agencies are narrow and the sanitation is poor.

In March-April 2005, 2 Indonesian migrant workers, Siti Aminah and Juminem, were tried in the Supreme Court of Singapore. Both are facing a death sentence because they are accused of the premeditated murder of their employer.

In May 2005, the Department of Labour and Transmigration of the Republic of Indonesia issued a policy that prohibits the family of Indonesian migrant workers from fetching the Indonesian migrant workers who are returning to Indonesia through Terminal 3 of the Soekarno-Hatta Airport. Although this policy obtained strong protests from various groups, The Department of Labour and Transmigration still enforced the said policy. This policy made it difficult for the people to control the various practices of extortion, deceit, negligence, and even physical violence to BMI. As far as the Indonesian migrant workers are concerned, Terminal 3 is a frightening place for them because different forms of violence happen there.

In June 2005, the corpse of Wafi Nurohmat, an Indonesian migrant worker from Ponorogo, East Java was brought home from Saudi Arabia. The cause of death of Wafi Nurohmat is not clear. Meanwhile, in July 2005, the family of Nurmiyati (BMI from Sumbawa) filed a complaint to the Department of Foreign Affairs and the Department of Labour and Transmigration because Nurmiyati was tortured by her employer, Fahd al-Doseri. As a consequence of this torture the hands and feet of Nurmiyati suffered serious wounds. The violence experienced by Indonesian migrant workers continued until the end of December 2005. By the end of 2005, the Indonesian society was astounded by the Verdict of the Riyadh Court that issued a sentence of 79 times whipping to Nurmiyati. This verdict is like a bolt of lightning to her family because all these time, Nurmiyati is still helpless as a consequence of the torture off her employer. The faces of Indonesian migrant workers in 2005 are really disturbing. The dream to attain prosperity after working abroad was actually transformed into torture and violence. There is a possibility that the various forms of violence, torture, and negligence of the rights of Indonesian migrant workers will happen again in 2006.

Some of the forms of violations against the rights of migrant workers in several countries are:

In the countries in the Middle East like, Saudi Arabia, Kuwait, and Oman, the cases of BMI are: torture, death, lost contact, confinement, unpaid wages, long working hours, not allowed to communicate with families, forced prostitution, imprisonment without due process of law, and unwanted pregnancy because they are raped by their employer or other family members of their employer.

In Malaysia, the cases of BMI are: death, torture, trafficking, unpaid wages, long working hours, confinement, low wages with a high risk work, and deportation of Indonesian migrant workers that is carried out every year.

Meanwhile, what occurs in Hong Kong, Taiwan, and Korea are cases of: death, torture, prohibited from practicing their religion, and salary deduction that amounts to 15 – 21 million rupiah.

Meanwhile, the cases that occurred in Singapore are: death from falling from a high-rise building, prohibited from practicing their religion, huge salary deductions conducted by their agency, torture of employer, and the imposition of a death sentence. In 2005, a court case with a threat of a death sentence was filed against Sumiyati, Purwanti Panji, Juminem, and Siti Aminah. Meanwhile, the latest case with a threat of a death sentence is the case of Rohana and Barokah.

The number of cases of BMI in all these destination countries is increasing. This is an indication that the legal tools that will specially guarantee the protection of Indonesian migrant workers are still very weak. This condition is worsened by the absence of a mechanism to protect BMI

abroad to minimize these problems. The regulation issued by the government is only directed to the operational mechanism in sending workers abroad while the protection aspect is not clear.

So far, there is an impression that the orientation of the government is to make BMI a commodity. This is indicated by the presence of a target on foreign exchange. In 2001, the foreign exchange obtained from this sector is US\$ 537,654,777, US\$ 2.198.019.604 in 2002, US\$ 75,639,513 in 2003 and US\$ 170,869,287 in 2004. This is with the total number of BMI who went abroad from 2001-2004 is 1,307,703. Meanwhile, in 2005, the target foreign exchange of the Minister of Labour is more than US\$ 5 billion while the target BMI that will be sent abroad by the Government of the Republic of Indonesia in 2006 – 2009 is 6 million.

The vague picture of the exploitation of BMI that occurs in every stage in the placement of work is only a small part of the reality that BMI is experiencing. There is a big possibility that there are still many cases whose records are not clear. Because of the complexity of these problems, it is necessary to find a solution in the form of a comprehensive policy that will regulate concerned parties, including the role of the government. In short, the main problem is that, BMI are not protected during the various process of the placement of work. And as one of the countries that are sending migrant workers abroad, so far, Indonesia has experienced all sorts of problems related to migrant worker. As such, the presence of an instrument that will specially protect migrant workers and the members of their families has already become a pressing need.

The fight against terrorists also has an impact to the occurrence of HR violations against migrant workers. In pursuing the people who are considered as being involved in the network of terrorists, arbitrary arrests are conducted to the candidate migrant workers who will work in Australia. This case was experienced by Djejen, Fachrudin, and some of his partners because the face of Djejen resembles Dr. Azhahari (perpetrator of the bombing in Bali).

In 2006, the cases of migrant workers are still happening. Thousands of Indonesian migrant workers without documents are threatened of losing their citizenship and their children have no access on education and health services.

In February 2006, Nuraeni, daughter of Misja, an Indonesian migrant worker from Sukabumi, West Java is threatened with a death sentence. At the start of 2006, 29 Indonesian migrant workers are facing a death sentence in Singapore, Malaysia, Saudi Arabia, Egypt, and Kuwait

Based on these considerations, we are urging the UN HR Commission to push the Government of Indonesia to :

1. Ratify the International Convention on the Protection of the Rights of All Migrant Workers and the Members of their Families.
2. Establish a system and mechanism for the process of the placement of work that will guarantee the protection of migrant workers and the members of their families.
3. Formulate a MoU in the placement of Indonesian Migrant Workers between Indonesia as the Country that sends Indonesian migrant workers and the Countries that hire Indonesian migrant workers to guarantee the protection of Migrant Workers and the Members of their Families.
4. Recognize that domestic workers as workers.

We are also asking the UN HR Commission to:

1. Urge the countries that are hiring migrant workers to provide legal protection to Indonesian migrant workers (and a special protection to Indonesian migrant workers with problems).
2. Urge the countries that are hiring migrant workers to make a regulation that will protect the foreigners who are working in their countries.
3. Urge the countries that are hiring migrant workers, such as, Saudi Arabia, Hong Kong, Singapore, Malaysia, and Taiwan to form a Special Commission to investigate the murder of Indonesian migrant workers and tortures committed by the employers of Indonesian migrant workers and placement agencies.
5. Urge the Government of Malaysia to legalize the documents of Indonesian migrant workers who does not have documents.
6. Urge the Government of Singapore, Malaysia, Saudi Arabia, Egypt, and Kuwait to abolish the death sentence (stop demanding a death sentence) imposed to Indonesian migrant workers.
