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**SPECIFIC GROUPS AND INDIVIDUALS:
MIGRANT WORKERS**

**Written statement* submitted by the Netherlands Organization for International
Development Cooperation (NOVIB), 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.

[5 February 2004]

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

Realities of the rights of Indonesian Migrant Workers
Written by: Kopbumi (consortium for Indonesia migrant workers advocacy)

Migrant workers issue is one of the key agenda item under the discourse on human rights enforcement. During the *World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance* (WCAR) from August 31– September 7, 2001 in Durban, South Africa, migrant workers issue was admitted as an international issue which continuously encounters new challenges.

In an official statement made during the WCAR in Durban, Prof. Dr. Yusril Ihza Mahendra, Indonesian Minister of Justice and Human Rights who was sitting in a capacity of Chairman of Indonesian Delegation, made no comments on Indonesian migrant workers. It was Ms. Gabriela Rodriguez, UN Special Rapporteur for the rights of migrant workers, who made significant and specific remarks concerning Indonesian migrant workers.

As one of the biggest migrant workers suppliers in Asia, Indonesia has been submissive in giving protection to and enforcing the rights of migrant workers. This was reflected in the lack of judicial devices regarding migrant workers, and number of reported depressing cases regarding them. Since Indonesia sent out migrant workers for the first time in 1970s, it has only been using minister's regulations, decrees, and circulars as legal bases to protecting its migrant workers, which is ironical considering the huge devisa it gets from this sector.

The Indonesian Government has been indeed paying the least attention on migrant workers. As the economic crisis hit the country incessantly, followed by incapability to providing employment, the government started to encourage citizens to find employment abroad. However, only after reports on abuses occurred, and critics trailed the government due to unreliability in protecting migrant workers, the issue was made public. Nevertheless, the outputs still do not reflect the actual condition of the complexities faced by migrant workers. Take as an example, President Megawati Soekarnoputri in State's progress report before the MPR's annual session in November 2001 declared that **much progress has been achieved in the effort of protecting Indonesian migrant workers abroad, the rights of women, and the rights of child**. Obviously this was contradicting the facts. The data collected by **KOPBUMI (Indonesian Migrant Workers Consortium)** revealed that cases against Indonesian migrant workers are increasing every year. In 2001, 33 people were killed at work. The figure increased drastically in 2002, where 177 migrant workers were killed at work. There were 2 cases of execution in 2001 and 10 in 2002; 6,427 workers were arrested in 2001, increased to 80,546 in 2002; 137,866 were deported in 2001, increased to 505,000 in 2002.

Global economic crisis has driven the migrant workers recipient countries to change policy in favor of their own workers. Malaysia, for instance, had imposed *Imigresen Act* during the period of 2002-2003, that incurred significant number of abuses against the rights of migrant workers. This include arbitrary arrest, sweeping, extortion, torture in confinement, and forced deportation. The Malaysian government legally restricts the entry of Indonesian migrant workers as reflected in massive deportation off the country lately, which has been followed by human rights abuses. Thousands of Indonesian migrant workers were also deported from South Korea in 2003 due to the imposition of the country's new laws that deny illegal migrant workers from Indonesia.

These migrant workers have been facing discrimination in the countries where they are employed as they are not allowed to join or establish unions. Female migrant workers who work in domestic sector get lower wage than their male counterpart. Many of them are not allowed to do religious rites due to tight work schedule.

Even worse, female migrant workers that represent the majority of this community are more vulnerable to violence and gender discrimination. Sexual abuses, physical violence, rapes of migrant workers, and other kinds of maltreatment have been repeatedly reported.

Bad treatment to Indonesian migrant workers not only happen abroad. Sadly, they are also treated unfavorably in their own country where they are counted as commodity and second-class citizens. They are vulnerable to discrimination at the recruitment, camps, departure and arrival at country of origin. Terminal III of the Soekarno-Hatta airport have been witnessing the real unfairness to migrant workers where they were separated from other arriving passengers. This has made them objects of violence and abuses by local officials, and of treachery by others who are taking benefits of them (transportation agencies, money changers, and middlemen).

Instead of producing regulations to protecting migrant workers, the Government of Indonesia issued a number of policies that violate the rights of migrant workers by not giving legal admittance of female workers working as domestic servants (PRT). This defies the WCAR dialogue on clauses that protect the existence of migrant workers, including domestic servants, and the protection of their rights. Another point that weakens the government's stance is the decree of the Minister of Manpower and Transmigration No. 157/2003 on the insurance for migrant workers, which is not sufficient in giving protection and at the same time serves as a harvest field for insurance companies.

On top of those above, the government of Indonesia has been indifferent about the cases faced by Indonesian migrant workers. There is no legal instruments that could be used as a shield against abuses and injustice. The 98 cases that involved with the death of migrant workers in 2003 were mostly unconcealed and, sadly, the government has taken no initiative to clarify or settle the cases.

Departing from the above, we consider it urgent for the government of Indonesia to undertake the following recommendations:

1. Ratify the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*, 1990 and the *United Nations Convention against Transnational Organized Crime, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*;
2. At national level, the government should stipulate an Act on Protection to Migrants Workers and their Dependents, and develop operational instruments that comprehensively protect migrant workers. Finally, it should eliminate discriminative policies that detrimental policies to them;

3. Mobilize Indonesian representative offices to be more proactive in providing necessary protection and to produce unvarying regulations that applies to all representatives offices in order to increase protection;
4. Establish a bilateral agreement for the protection of migrant workers so that they have proper bargaining power in the recipient countries, and get better protection;
5. The Indonesian government must socialize and implement the WCAR results with a full involvement of all related institutions and constituents (Ministry of Foreign Affairs, Ministry of Manpower and transmigration, Ministry of Justice and Human Rights; State Ministry of Women Empowerment, NGOs, Press and migrant workers themselves).
6. Give permission to Ms. Gabriela Rodriguez, UN Rapporteur for the rights of migrant workers to come to Indonesia and Middle East countries and Malaysia in order to monitor, investigate and report any violations of the rights of migrant workers.
