

Kabar Bumi

ORGANISING RETURNEE MIGRANT WORKERS AGAINST THE PRACTICE OF RECRUITMENT AGENCIES CONFISCATING PERSONAL DOCUMENTS

INDONESIA

Indonesia is the origin country for millions of migrant workers worldwide. In 2017, an estimated nine million Indonesians were working abroad. Up to 65 per cent were women, and the majority were employed as domestic workers¹. The existing laws leave the protection of migrant workers entirely up to the recruitment agencies. The Government of Indonesia requires prospective migrant domestic workers to apply for overseas employment through government-approved private recruitment agencies. However, the weak implementation of law protection and the profit-driven nature of the recruitment agencies leaves room for the recruiters to adopt unethical and criminal practices at the expense of the migrant workers. Some of the malpractices include charging exorbitant

¹ The World Bank (2017) Indonesia's Global Worker: Juggling Opportunities and Risks Retrieved from <https://thedocs.worldbank.org/en/doc/357131511778676366-0070022017/original/IndonesiasGlobalWorkersJugglingOpportunitiesRisks.pdf>



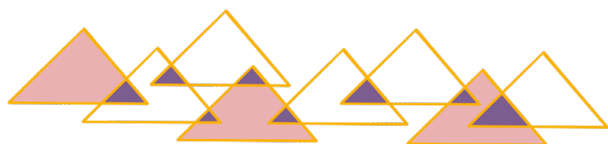
recruitment fees, document forgery and confiscation of personal documents that can potentially lead to forced labour - migrant domestic workers are compelled to work in conditions that violate labour rights and are coerced to pay the debt incurred by recruitment fees.





FPAR PROCESS

Keluarga Besar Buruh Migran Indonesia (KABAR BUMI) conducted the Migration Feminist Participatory Action Research (FPAR) on the private employment agencies' practice of personal document confiscation, and its impact on the rights of returning women migrant workers. The FPAR was held in two villages - Mertasinga Village and Sidakaya Village in Cilacap Regency, one of the top origin areas of women migrant workers in the Central Java Province of Indonesia. The FPAR findings were based on the data collected from the online survey, complaint cases, in-depth interviews and desk research from January 2020 to November 2020.



Illegal and exorbitant recruitment agency fees

Migrant domestic workers usually pay placement fees through monthly wage deductions. Based on the FPAR findings, it shows that migrant workers who work in Hong Kong need to repay the recruitment fee for six months, while Indonesian workers in Taiwan are required to undergo nine months of wage deductions, and eight months in Singapore. Without an itemised breakdown of the recruitment fee and the cost structure, the interviewees had no idea what services or items they were paying for and what were the responsibilities of the recruitment agencies. The problem of overcharging was further exacerbated after the outbreak of the COVID-19 pandemic. Migrant domestic workers were requested to pay extra fees for polymerase chain reaction (PCR) tests and quarantine. For instance, Mahanani, an Indonesian migrant worker who worked in Singapore, was required to repay the recruitment fee by deducting six months of salary from a 2-year contract period, then she was

required to pay an additional two months of salary to cover the costs of PCR tests and quarantine.

Confiscation of personal documents

Confiscation of personal documents is a common tactic recruitment agencies and brokers use to extend their control over the migrant workers. The documents withheld by the agencies are all important documents and can include original copies: 58 per cent of the respondents had their original ID card detained, 48 per cent of the respondents' family cards were kept by the agencies, while 33 per cent of marriage certificates and 16 per cent of diploma certificates were confiscated. All these personal documents are held as a form of debt guarantee. Migrant workers are forced to surrender the document, and it is only returned after they have repaid the recruitment fee, which leads the migrant domestic workers to be trapped in debt bondage and forced labour. From the FPAR findings, it shows that document confiscation is a widespread phenomenon among migrant domestic workers from Indonesia.

Consequences of the confiscation of personal documents:

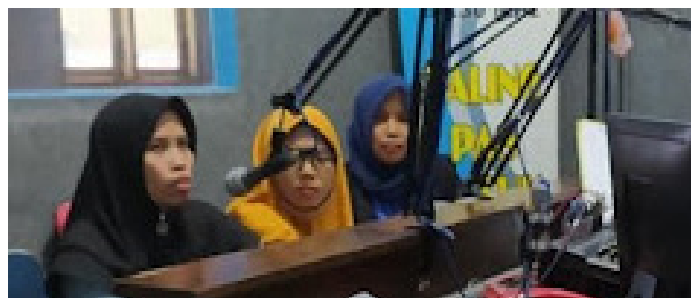
- **Unable to access public services, welfare and education:** The confiscation of documents brought negative impacts on the migrant workers' and their families' lives in different aspects. In the FPAR, the interviewees expressed their worries for not being able to regain the documents. Their concerns are valid as 84 per cent of the interviewees were rejected when they requested the agencies return their documents. Sixty-eight per cent of interviewees stated that the brokers are reluctant to assist them in regaining the documents. Even worse, 48 per cent of the agencies or employers claimed to have lost the documents. Without the documents in hand, 85 per cent of the interviewees encountered difficulties in their life, such as not being eligible to apply for government welfare and assistance programmes, and inability to register themselves to continue

their education or being unable to apply for land certificates.

- **Coercion to work in conditions that violate labour rights:** The FPAR findings show that the main reason that migrant domestic workers tolerate the adverse working conditions is that their identity documents are detained by the employer and the agencies. For instance, one of the interviewees, Kastijah, an Indonesian migrant domestic worker who worked in Malaysia, was forced to work in two houses with a doubled workload and no day off during the period of employment. Kastijah was aware that the workload violated the job description in the contract, however, she was forced to stay instead of terminating the contract because her employer had confiscated her documents.
- **Lack of awareness of rights:** Confiscation of documents is a form of rights violation, but it is a common practice of recruitment agencies to control and exploit workers. The majority of migrant workers and their families are not aware that legal document confiscation is illegal and violates their rights. Most of them believe that it is part of the requirements of the recruitment process. In addition, the migrant workers rely on recruitment agencies to work overseas. They have no choice but to surrender their documents even if they are reluctant to comply.
- **Hurdles to access justice and redress mechanisms:** The confiscation of personal documents is a common occurrence experienced by women migrant workers. Even if the workers lodge their complaints with the authorities, the redress mechanism is only carried out by mediation. Cases were settled after the agencies and employers returned the documents without requiring any obligation to compensate the workers nor legal consequences. Consequently, these cases continue to occur due to the lack of consequences on the perpetrators.



WOMEN'S ACTIONS THROUGH FPAR



Providing resources for returnee women migrant workers

During FPAR, KABAR BUMI organised a series of training and education workshops to help build the capability of the women in the community to handle cases related to document confiscation. Also, they have expand their hot desk to support migrant workers not only document confiscation case, but also for other cases like human trafficking, overcharging, vaccination access, data forgery by the recruitment agencies.

Supporting the victims of document confiscation

KABAR BUMI continued to provide support and consultation services for migrant workers and the returnees who had experienced violence and exploitation. During FPAR, KABAR BUMI successfully assisted 22 returnee migrant workers to file an official complaint to the authorities regarding the confiscation of their documents. With the support of KABAR BUMI, six cases have been successfully settled in such a way that the women migrant workers could retrieve their documents from the private employment agencies.

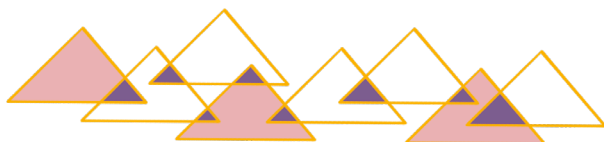
Organising and building a movement

Through FPAR, KABAR BUMI successfully expanded the organisation's membership and mobilised the movement against identity and legal document confiscation. Moreover, KABAR BUMI also broadened the network with migrant organisations in Indonesia and destination countries to strengthen the solidarity for migrants' rights.



The Government of Indonesia should:

- **Implement the UN Convention on the Protection of the Rights of All Migrants Workers and Their Families ratified through National Law No. 6 issued in 2012 and Law No. 18 in 2017 concerning the Protection of Indonesian Migrant Workers that guarantees migrant workers can retain their identity and legal documents.**
- **Provide practical steps for the legal and redress mechanisms to resolve the problem of document confiscation and prevent the recurrence of such practices in the future.**
- **Establish effective mechanisms to monitor and regulate the practices of recruitment agencies. Labour recruiters and recruitment agencies who are found involved in overcharging, document forgery and confiscation, and other illegal practices should be subjected to prosecution or conviction.**



About Kabar Bumi

KABAR BUMI, established on 11 May 2015, is a grassroots organisation of returned migrants and the families of migrants in Indonesia. The founding members of KABAR BUMI were migrant activists and organisers in different countries where they were working as migrant workers. To continue their activism of migrants' rights, they formed KABAR BUMI to support and organise returning migrant workers and their families. Currently, KABAR BUMI has 200 members and four chapters in Nusa Tenggara Timur (NTT), Sumbawa-Nusa Tenggara Barat (NTB), Cilacap in Central Java, and Ponorogo in East Java.

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About APWLD

The Asia Pacific Forum on Women, Law and Development (APWLD) is the region's leading network of feminist organisations and individual activists. For 35 years, we have been carrying out advocacy, activism and movement-building to advance women's human rights and Development Justice. This FPAR is part of APWLD's Migration Programme. APWLD worked with and supported seven partner organisations from six countries to conduct Migration FPAR in Asia and the Pacific between 2019 and 2021.

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