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NGO in Special Consultative Status with the Economic and Social Council of the United Nations

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Malaysia Needs to Urgently Halt Crackdown on Undocumented Migrants, Setup Complaint Mechanism to Investigate Permit Renewals/Re-Hiring Fraud Committed by Agents, and Regularise these Migrants with Strict Monitoring and Compliance

CARAM Asia Statement

It has been reported in the media,(The Star,12 August 2018) that at least 270 Bangladeshi workers, who paid over 1.8 million Malaysian Ringgit to an agent for securing valid work permits as part of the Immigration Department's rehiring programme, have claimed that they were cheated. This is not the first time such reports have surfaced. There are still numerous undocumented migrants who have reported to NGOs and other authorities of fraud during re-hiring and the risk of being arrested, even after paying high fees to get work permits. Yet, they are being punished.

In light of the new government's commitment to combating corruption, the Immigration Department must address the systemic corruption embedded in the migrant brokerage system. In order to address this issue immediately and in a comprehensive manner, while taking into consideration migrant workers' needs:

- First, Immigration must set up a special Complaints Mechanism system, including screening of undocumented migrants for victims of fraud.
- Then, the government must take firm legal action against corrupt agents involved in the re-hiring program, especially those in the government.
- Simultaneously, migrants who are identified as victims should not be punished further, but instead should be given channels to easily re-register at the lowest possible cost or recover the cost.

The majority of migrants become undocumented for various reasons, usually beyond their control, such as: employers/agents not renewing work permits, employers withholding passport/permits, fake documents provided by agents, and other circumstances which are not of the workers fault. In many cases, agents bring workers into the country on social visas with the promise of converting it to work visas once they arrive in Malaysia. But the moment they arrive in Malaysia, they are left abandoned while the agents make a huge profit. In other words, desperate and uninformed migrants are being taken advantage of and then punished for something they have not had a hand in deciding.

Immigration needs to focus on root causes of irregular migration rather than conducting enforcement crackdowns on poor migrants who are victims of circumstances. Additionally, there should be consideration for migrants who try to obtain legal documents for the government's rehiring program but are cheated.

History has shown that the migrant situation will not improve unless the Malaysian Government pays attention to recruitment issues in a holistic manner. The undersigned civil society organizations would like to recommend the government of Malaysia to:

Immediately

- Halt the enforcement of the crackdown;
- Set-up a Complaints Mechanism and screening system to identify cheating within the re-hiring program and create a database of complainants;
- Investigate reported incidents of fraudulent agents, take legal action against corrupt agents, and ensure due compensation and justice for the victims;
- Establish a system to allow cheated migrants and those already in the country and undocumented for no fault of their own the opportunity to enter the labour force through a regularized system at low cost and placed in appropriate jobs with the workers consent;
- Prioritize registering migrants already in the country who are willing to renew permits through the rehiring or 3+1 programme, with government's monitoring.

Long Term

- Ensure that migrants pay minimal repatriation fees overall and employers pay levy, and provide ticket for migrants to come in and go back;
- Strictly implement anti-trafficking in persons policies and laws and arrest the involved syndicates who are responsible for bringing in migrants via illegal means;
- Ensure proper screening mechanisms and investigations are implemented in order to identify possible victims of trafficking in persons among the detainees and treat them as victims and not offenders;
- Provide immigration officials and police with proper trainings to identify victims of trafficking in persons;
- Punish employers and agents who fail to renew migrant workers' work permits on time;
- Promote multi-lateral dialogue with countries of origin and NGOs to develop and implement a comprehensive policy on labour migration to ensure such problems do not reoccur.

CARAM Asia is a regional network of 42 member organizations in twenty origin and destination countries spanning across Asia and the Middle East. CARAM Asia has been working for the promotion and protection of migrants' labour and health rights since its establishment in 1997, and is an NGO in Special Consultative Status with the Economic and Social Council of the United Nations.

The CARAM Asia network is extremely concerned about migrant workers' current situation in Malaysia, and expects the new government to consider migrants' human rights in line with international human rights standards.

The following organizations have endorsed this statement in order to deliver their message to Malaysian government with the expectation of positive changes in laws, policies and practices to protect migrants' rights.

Endorsements:

Malaysian Organizations

Asosasyon ng mga Makabayang Manggagawang Pilipino Overseas (AMMPO)

SENTRO ng mga Nagkakaisa at Progresibong Manggagawa (SENTRO)

Society for the Promotion of Human Rights (PROHAM)

Parti Sosialis Malaysia

BWI Asia-Pacific

Citizens' Health Initiative

Muhammad Izwan Bin Ishak – Advocate and Solicitor

Rahman Hashim and Partners – Advocates and Solicitors

BWI Asia-Pacific

North South Initiative –NSI

Tenaganita

International Organizations

OKUP- Bangladesh

IMA Research Foundation - Bangladesh

BOMSA - Bangladesh

AWAJ - Bangladesh

MAP Foundation -Thailand

Development Action for Women Network (DAWN) – Philippines

DAWN - India

CARAM Cambodia – Cambodia

Bahrain Centre for Human Rights - Bahrain

Tamkeen Fields for Aid - Jordan

SPEAK Foundation - Pakistan

POURAKHI - Nepal

Community Development Services –CDS Sri Lanka

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