

EXECUTIVE SUMMARY

“A REPORT FROM HELL”: CONDITIONS OF THE IMMIGRATION DETENTION CENTRES IN SABAH, MALAYSIA

From March 2021 to April 2022, the Sovereign Migrant Workers Coalition (KBMB) conducted nine monitoring activities regarding the conditions of Indonesian migrant workers and their families who were deported from five immigration detention centres in Sabah, Malaysia, to Nunukan, North Kalimantan. We monitored this by meeting and interviewing nearly 100 deportees in the shelter managed by UPT BP2MI (Technical Implementation Unit of the Indonesian Migrant Workers Protection Agency) in Nunukan, North Kalimantan.

Of all the monitoring we have carried out over the past two years, the direst finding is the high number of deaths in immigration detention centres experienced by Indonesian migrant workers and their families. Cases of death in immigration detention centres occur continuously in the five Immigration Detention Centres in Sabah. According to data from the Malaysian Embassy in Jakarta, the number of Indonesian citizens who died in all immigration detention centres in Sabah in 2021 was 101, and in 2022 (January – June) was 48. That means that in just 1.5 years, 149 Indonesian citizens died at the immigration detention centre in Sabah, Malaysia. This number has shown how tragic the deaths that occurred under the authority of the Immigration Detention Depot in Sabah were.

From various interviews, we conclude that all of the Immigration Detention Centres in Sabah are:

1. Deliberately neglecting sick detainees and not providing timely medical services to prevent detainees' illnesses from developing into severe and fatal consequences;
2. Deliberately not referring sick detainees to a healthcare centre before their illnesses worsen to a more serious one.
3. Deliberately not providing the necessary human resources, health facilities, and medicines in the detention centres. From the interviews we conducted, only in Tawau detention depot carried out health checks for detainees. However, this health check was performed because there was mass food poisoning occurred in November 2021, and only limited to tuberculosis tests;
4. Deliberately not making efforts to fulfil the right to health for detainees. They do not do their responsibilities to protect the health of detainees and ensure they can access every health service and facility;

Regarding the death cases inside the immigration detention centres, the testimonies of deported migrants suggest that the death cases are actually preventable. The high mortality rate experienced by migrant workers from Indonesia has clearly shown that the authorities in Sabah intentionally and continuously do not provide proper health standards. This condition will continue to put all the detainees at risk of health, safety, and even death. To improve the situation, the authority in Malaysia must act and improve the poor conditions of the immigration detention centres, fulfil the health standards and principles in detention centres, and must stop the inhumane treatment toward detained migrants.

Mass Arrests and Deportations

From March 2021 to June 2022, there were ten deportations from 5 immigration detention centres in Sabah, Malaysia, to Nunukan, North Kalimantan. During that period, 2191 migrant workers and their families were deported. 1765 (80 per cent) were male migrants, and 426 (30 per cent) were female. As many as 1996, or 91% of people were adult deportees, 195 or 9% were children aged 18 years, and 57 were children under five (toddlers).

Testimonies of deported migrants suggest how arrests can occur anywhere and anytime, even when the migrants are on their way to the border to return to Indonesia, not to enter Sabah. Most arrests take place massively, and sometimes some migrants have documents that are still valid but are usually held by their employers or are in the process of renewal.

Various arrests show that hundreds of thousands of Indonesian migrant workers in Sabah are always trapped in a vulnerable condition because they can be arrested at any time. They can be caught while travelling, detained at home, shopping at the market, or working.

Since the beginning of the arrest process, nearly all detainees have been treated as if they are all criminals and based on the principle of presumption of guilt. They were all immediately taken to the nearest police station without any explanation, and without being asked whether they had official documents or not. The arrest documents signed by the deportees and police officers did not state the reason for their arrest. The cause of arrest section on the paper is blank, even though it has been signed.

We conclude that none of the principles of a fair trial is adhered to by law enforcement authorities in Sabah. The judicial process is too fast, often taking no more than five minutes. None of the suspects was accompanied by a lawyer. They only need to admit their guilt and ask the judge for leniency.

For those who are arrested by immigration authorities with immigration violations, in the category of men aged between 19 to 50 years, the judge will give a rattan cane sentence on the buttocks. The number of lashes differed from one detainee to another, some one time, two times, some even six times. Several detainees who could not stand the pain fell unconscious at the first lash. By officers, they will usually be doused with water so that they are aware of continuing the second whipping. Many after the second lash could not stand and had to be supported to walk.

We also found that many prisoners had to stay in prison longer than the judge's verdict. They also become uncertain about when they will be transferred to an immigration detention centre. The practice of indefinite arrest and detention is common in various prisons in Sabah.

Since the process of arrest, trial and imprisonment, there have been various violations of international human rights standards. The arrest process is often carried out massively without personal inspection. The arrest and judicial process are carried out massively and quickly. It ignores the principle of the examination conducted individually and does not provide sufficient opportunity for the suspect to prove their innocence.

Other problems are the absence of the principle of presumption of innocence, the absence of a fair, open, and impartial examination process; the lack of opportunity to defend oneself and

request further examination; the absence of legal assistance by lawyers, and then only forced to plead guilty and ask the panel of judges for leniency.

Poor Conditions at the Sabah Immigration Detention Centre

Every time we monitor the condition of the deportees in the shelter managed by BP2MI in Nunukan, we always find various health problems experienced by the deportees. In the deportation in March 2022, one deportee even died at the Nunukan Hospital only six hours after arriving at the sea port. Many deportees have to use a wheelchair because they are weakened and disabled due to illness. In the last three deportations (March, May, and June 2022), at least 14 deportees with symptoms of paralysis and beriberi (a disease causing inflammation of the nerves and heart failure, caused by a deficiency of vitamin B1) were referred to health facilities in Nunukan.

Almost all deportees except those from Sandakan Immigration Detention Centre suffer from skin diseases, ranging from mild to severe. Infants, children, adults, and the elderly suffer from skin diseases, especially scabies. Many were severely ill.

Another disease commonly suffered by deportees is severe diarrhoea. Many deportees, when they arrived at the shelter, had to defecate up to 6-10 times a day. In addition, many deportees suffer from fever, sore throat, cough, stomach ulcers, and various digestive tract problems.

In general, we found deportees who showed symptoms of dehydration and lack of salt levels in their bodies. Likewise, the signs of malnutrition, especially in female deportees, including those breastfeeding, almost all female deportees also experienced menstrual disorders since they were detained.

Almost all detainees have sleep disturbances. A deportee from Papar Kimanis depot in Block K said he could only sleep a maximum of two hours in one day. The leading causes of sleeplessness are constant itching, noisy conditions, people passing by, bad smells, and vicious mosquitoes.

All the deportees spoke in anger about how poor the food quality was. Not only are the portions insufficient and often delivered late, but the food quality is also considered sub-standard: often stale, raw, smelly, and tasteless. In addition, food is also served in a dirty container. No other food for pregnant women is provided. With such conditions, we believe that the food served is not only unhygienic but also contains a lack of nutrients.

Violation of Health Principles in Detention

The poor conditions in the immigration detention centre made detainees quickly turn into patients. However, all immigration detention centres in Sabah fail to provide primary health checks and services. None of the immigration detention centres has clinics and health care personnel, let alone doctor. This condition is exacerbated by the behaviour of officers who continuously ignore the pain complaints from the detainees. They will wait for the detainee's

condition to worsen before being taken to the hospital. If the situation is getting serious, whatever the complaint, the officer will only give paracetamol, often only one or two tablets.

It is coupled with buying and selling essential medicines at a much higher than the market price. In all immigration detention centres, necessary medication such as paracetamol, antibiotics, pain killers, and itching medicines are traded by officers through some detainees at very high prices. One strip of paracetamol contains ten tablets, sold for 50 RM at Papar Kimanis depot, even though the normal price is only about 4 RM

The entire management of the Immigration Detention Centers in Sabah has failed to understand that anyone in the detention centre has the same right to health as any other human being as stated in The United Nations (1990) Basic Principles for the Treatment of detainees, that “detainees shall have access to the health services available in the country without discrimination on the grounds of their legal situation”.

The immigration detention centre’s management deliberately violates these fundamental principles by neglecting its responsibility to protect the health of detainees, including ensuring that those with health problems can access health services in a timely and appropriate manner. The detention administrators continuously allow conditions for detainees to deteriorate by making it difficult for them to access health facilities and services.

Crowded, Dirty, and Lack of Needed Sun Exposure

Except for the Sandakan Immigration Detention Depot, the other four depots in Sabah are extremely overcrowded. With an average area of 8 x 12 meters, each block is inhabited by 200 - 260 people. Each depot is estimated to have 10 - 14 blocks in it. The entire block of detainees was reported to be in poor condition and dirty, some were not even exposed to sunlight, and when it rained, the water got inside and wet the detainees. Some blocks are also very smelly due to the condition of the toilets, which are full of faeces. Conditions in the Sandakan detention depot are slightly better because it holds fewer detainees and provides clean water. Some of the information below reflects more of the conditions outside the Sandakan detention depot.

No proper mattress is provided in all the immigration detention depots. Each detainee had to sleep on a rough floor, and sometimes they covered it with cardboard as a base. Detainees sleep next to each other in very cramped situations. While lying down, their feet would touch the other detainees. In block 9 of Tawau depot, several detainees were forced to sleep in the toilet.

Each detention depot has only one shared toilet with an average of three toilet holes. It is far from sufficient for the number of detainees, which reaches more than 200 people. In many men's blocks, only one toilet hole properly functions. The rest is filthy. Several detainees at the Papar Kimanis depot said that two people often used the same toilet hole at the same time. One person faces forward, and the other faces back. These conditions forced many detainees to withhold from defecating to an extreme level. We hear many stories about those who only use the toilet once in two or three weeks.

While in the immigration detention depot, detainees are not allowed to carry out physical activities outside the block, except during visits from their families or while they are participating in the data collection process by the Consulate. They must be in the block 24 hours a day before being deported.

The absence of basic needs such as bedding, blankets, clean clothes, toiletries, clean and adequate bathrooms, and privacy has violated Guideline No. 8 Artitained in the Detention Guidelines issued by UNHCR. The absence of opportunities and facilities to carry out physical sports activities, as well as recreational activities outside the detention room with clean air and natural light, has also violated Guideline 8 Article 8 of the Detention Guidelines No. 8.

The Situation of Children and Women

As many as 9 per cent, or 195 migrants deported from March 2021 to June 2022, were children under 18. Fifty-seven of them are babies under five years old. They have been in immigration detention centres for 3 – 6 months. In one of the cases in Menggatal depot, one baby was born inside the facilities, and deported when he reached three years and eight months. Their detention period is no different from that of the adults. Children are also victims of the practice of prolonged detention.

Since there is no particular block for children, they are all held in the adult's block. Detainees under the age of 14 will be placed with their parents. We found at least three children whose parents died in the immigration detention centres. Two brothers aged 5 and 9 years lost their father in Block 9 of Tawau depot. A 7-year-old daughter lost her mother in Sandakan depot. The three children were never transferred to any other facility outside the immigration detention. The three remained detained until, finally, the deportation process was carried out. We also found several children born in immigration detention centres. At the Papar Kimanis detention depot, a child born in immigration detention was only deported with his mother after he was almost four years old. No child born in an immigration detention centre is granted a birth certificate.

Children had to be held in adult detention blocks in poor conditions: crowded, noisy, damp, smelly neighbourhoods. Some never get any needed exposure of sun. They had to sleep on the floor without a mattress. Sometimes the parents make mats from plastic or cardboard waste. Babies under five years old only get two diapers per month. They also never receive the necessary food and milk for children. So many deported children suffer from malnutrition and various skin diseases.

The act of detaining children together with adults violates international law, which requires the separation of juvenile and adult detainees. Moreover, the detention of children can only be done as a last resort taken in exceptional urgent circumstances and for the shortest possible time. At the same time, children in Sabah immigration detention centres must wait for deportation, as do adults. Many of these children are held for months or more than three years. None of the detained children received any educational or recreational activities provided by the immigration detention centre. Being held in adult blocks in deplorable conditions leaves them with no safe space to grow properly.

The deported women also shared their problems related to reproductive health. The lack of clean water makes it difficult for them during menstruation, as it is virtually impossible to maintain hygiene and avoid various infections. Some mentioned the problem of irregular menstruation. There are even some who, for months in the immigration detention, never had their menstrual cycle. Each female detainee is only given two sanitary napkins when entering immigration detention.

We found that at least four female Indonesian deportees had miscarriages at the Papar Kimanis detention depot, and one miscarried in Kepyayan prison. Almost all pregnant women suffer from malnutrition. This is in addition to poor conditions during detention, poor food quality, and no additional food supply for pregnant women.

Some of the female deportees lost most of their belongings when they were caught. The results of their hard work are lost or confiscated when they are caught and detained. Some of their property was also left behind in Sabah.

Recommendation

We believe that all individuals undergoing all forms of detention and imprisonment should be treated humanely with respect for their human dignity and based on the principle of human rights. Therefore, we recommend the following.

To the authorities in Sabah, Malaysia, we urge them to take necessary legal and administrative measures and mobilise the necessary resources to:

[1]. Avoid arbitrary arrests.

Including:

- to apply the principle of presumption of innocence, ensure that the rights of suspects are fulfilled, and provide access to information services and legal assistance to arrested migrants.
- to provide the arrested person reasonable time to prove their documentation; because many migrants do not keep their documents but are confiscated by their employers.
- to ensure that arrested migrants are scrutinised individually rather than mass arrests and scrutiny; if they need to be detained, they know the reason and the length of their detention and should be tried immediately.
- Given that large-scale arrests and detentions cause overcrowding in places of detention (police, immigration detention centres) and other problems that follow, detention should be considered a last resort. Vulnerable groups (elderly, children, disabled, women, and people intending to leave Sabah) should be excluded from detention.

[2]. Improve the conditions and treatment of detainees in immigration detention facilities.

Including:

- to provide a place of detention with basic facilities (detention room, bed, food, drinking water, clothing, toilet) that is appropriate and sufficient, so that detainees – even though their right as free humans is restricted – can live with dignity. Lack of food and various basic needs causes the buying and selling of basic supplies at high prices inside the depot. The

problem of polluted water sources, especially in the Papar Kimanis depot, which is detrimental to their health, must be addressed urgently.

- to improve the health facilities in the immigration detention centres, increasing visits by health workers, and facilitating access to hospitals to avoid preventable deaths.
- to review and stop the punishment of lashing, which causes pain, and handcuffs. To ensure that there are no more incidents of torture and cruel, inhuman, and degrading treatment and punishment.
- to provide facilities and opportunities for the detainees to stay in touch with their families and relatives.
- to provide facilities and opportunities for the detainees to communicate with legal advisors and representatives of the Republic of Indonesia in Sabah.
- to improve the administration of detention facilities to ensure that detainees' belongings are returned to their owners.
- to improve the administration of detention facilities so that the detainees are not detained more than they should be.
- to cooperate with representatives of the Republic of Indonesia in Sabah to expedite the deportation of Indonesian citizens who are already serving their prison terms or sentence.

We urge the Consulate of the Republic of Indonesia in Sabah, Malaysia, to take the following necessary measures:

- to provide more personnel who provide information services and legal assistance to ensure that the legal rights of arrested and detained Indonesian migrants are fulfilled.
- to ensure that families know the whereabouts and circumstances of Indonesian migrants who have been arrested, detained, and have died in detention.
- to cooperate with the authorities in Sabah, Malaysia, for the immediate repatriation of deportees from Sabah, Malaysia.

Jakarta, 25 June 2022

Coalition of Sovereign Migrant Workers