



Asian
Migrant
Center



Migrant
Forum in
Asia



International
Labour
Organization
Jakarta



Government of
Norway

Protecting Migrant Workers Through

PARALEGAL Training



Developed by:

*Asian Migrant Center
Migrant Forum in Asia*

Supported by:

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Protecting Migrant Workers Through Paralegal Training

A Training Manual



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FOREWORD

According to the 1998 *ILO Declaration on Fundamental Principles and Rights at Work* and its 2004 Follow-up Resolution, all workers, including migrant workers, are covered by fundamental labour rights and are equally entitled to protection. The ILO Multilateral Framework on Labour Migration provides detailed guidance to Member states on the application of these rights and principles to migrant workers and national labour migration management frameworks.

In Indonesia, the number of migrant workers going overseas to work has grown rapidly over the past ten years. Approximately 700,000 documented Indonesian migrant workers go overseas for work annually, and an estimated 4.3 million documented Indonesian migrant workers are presently working abroad. While many migrant workers have rewarding work experiences overseas, a disturbingly high number of Indonesian migrant workers experience abuse and exploitation at the hands of employment agencies, employers, and officials in sending and destination countries. Female domestic workers, who make up more than 75% of all documented Indonesian migrant workers, are particularly vulnerable to such abuse and exploitation. As a result of the growing numbers of Indonesian migrant workers going overseas, and the seriousness of problems they encounter, the need to address the problems of migrant workers throughout the migration cycle and empower migrant workers to counter their problems at an early stage has become ever more urgent.

The vast majority of Indonesian migrant workers migrate for jobs in the informal sector where labour regulation and control is weak or absent, and rights violations are widespread. Consequently, many Indonesian migrant workers require legal advice and assistance to prepare themselves to deal with such rights violations. However, the Indonesian labour migration system, as it is currently structured, unfortunately does not ensure adequate education and information for migrant workers regarding their rights while working abroad and throughout the migration cycle.

For these reasons the ILO Project *Combating Forced Labour and Trafficking of Indonesian Migrant Workers*, funded by the Government of Norway, assists Indonesian stakeholders to strengthen their protection programmes for migrant workers at national and local level.

This training manual is part of that programme, and has been tested through extensive use in training sessions for governmental and non-governmental counterparts in Indonesia during 2006-2008. The manual constitutes a resource tool to capacitate institutions and organizations which provide basic paralegal information and services to Indonesian migrant workers and their families at national and local level. By capacitating migrant workers and their advocates through knowledge about their rights and their access to legal redress for problems encountered during the migration process, it is hoped that not only will they receive restitution, but that the incidences of exploitation and abuse will be reduced and compliment the ILO's and tripartite partners efforts to strengthen the protections for Indonesian migrant workers.

Jakarta, 2009



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BACKGROUND

For the past two decades migrant workers and migrant support groups have been working to promote the human rights of Asian migrant workers from the local to the international level. Among these efforts, advocacy for migrant workers using international standards and best practices and using relevant legal instruments and processes on migrant workers' rights has been a key strategy to protect migrant workers and raise awareness among national governments, inter-governmental bodies and other policy-makers on migrant workers' situation, needs and policy responses.

However, despite such efforts, there remains a tremendous gap between the rights of migrant workers as stipulated in various international and national rights standards and the daily realities of migrant workers. The range of social, political, economic and civil rights clearly defined in instruments are a far cry from migrants' daily struggles.

The reasons for this gap are numerous and beyond the scope of this training manual. However the under-utilization of legal methods of redress by migrants and migrants' advocates as instruments for advocacy on migrant workers' rights is among the key factors to begin to close that gap. Existing national and local level legal structures on migrants' labour and human rights can be used as tools in protecting migrants' human rights. The standards of treatment outlined in existing laws can be used to protect migrant workers, seek redress for violations and pressure governments to bring positive changes to policies and practices on migrant workers.

A critical obstacle to the better protection of Indonesian migrant workers is the fact that many migrants and migrants' support organizations have limited awareness, capability, energy and resources to actively access current formal legal structures and means of redress. Many grassroots organizations and NGOs similarly do not have the capacity or expertise to utilize formal legal structures to their fullest. Measures must, therefore, be taken to train migrants and their advocates on the necessity of using formal legal mechanisms to promote and protect migrant worker's rights. Consequently, training in how to utilize and access basic formal legal structures is a crucial first step towards laying the foundation for improved protection of migrant's rights.

In light of these observations, this training manual aims to address the basic need to develop the capacity of migrants' and migrant support groups in understanding legal frameworks relevant to migrant workers. The manual will focus in particular on capacitating people to serve in the role of paralegals to facilitate migrant workers access to and understanding of basic formal legal structures.

This manual was jointly developed by the Migrant Forum in Asia (MFA) and the Asian Migrant Center (AMC). MFA and AMC work throughout the Asia-Pacific region to protect migrant workers rights and improve conditions for all migrant workers. The production was supported by the International Labour Organization (ILO) through the ILO Jakarta's project *Combating Trafficking and Forced Labour of Indonesian Migrant Workers* funded by the Government of Norway.

INTRODUCTION

This training manual provides a basic course on **Paralegal skills**. It primarily aims to guide trainers and organizers to facilitate the training course. It lays down the course objectives as well as the detailed description of the modules and corresponding activities to each module. In addition to the training activities, there will be sections containing basic information and further sources for more detailed references.

COURSE DESCRIPTION

This Course is a combination of orientation and skills training on the concept and application of Paralegal skills. The manual can be used together with other guides and primers on related theories and practices.

The Course is designed to run for a minimum of four (4) days to a maximum of seven (7) days and is targeting an average of twenty (20) participants per training. The training contains many different modules and sections. Not all modules or sections will be relevant for all participants. Depending on the make-up of the participants the trainer/ facilitator may decide to stress or omit different modules. There is no set agenda for this training manual, the trainer or organizer must develop their own agenda, utilizing the relevant modules to best address the needs of the attending participants and their constituents. Primary participants are leaders of migrant workers' organizations and unions (regardless of their status of work) and migrant support groups (NGOs, private organizations, governmental units working laterally with the migrant community) that are engaged in protecting the rights of migrant workers, or that are planning to develop related policy, advocacy or activities. The Course is 'popular education' in terms of its approach and is learner-centred.

COURSE OBJECTIVES

The manual is built upon the following objectives for the migrant or trainee:

1. To be sensitized to and acquire basic knowledge regarding the current situation of migrant workers in Asia;
2. To develop analytical skills based on a framework of understanding that promotes social justice, gender-fairness and holistic health;
3. To acquire basic knowledge and analytical skills regarding basic paralegal skills and how they relate to the situation of migrant workers;
4. To develop practical skills on how to assist migrant workers and how to access related formal legal processes;
5. To enable participants to link ongoing local and national legal processes to international migration processes and problems, focusing on Indonesian migrant workers and redress for their problems;
6. To develop skills in participatory, learners'-centred training methodology.

COURSE OUTPUTS

It is hoped that the course will enable trainees to:

1. Develop a basic situational analysis for migrant workers that is linked to structural factors such as the local and global economy and national and international standards and policies;
2. Develop an understanding of how national and international legal structures

- can be used to protect migrant workers;
- 3. Be capacitated to assist migrant workers by serving in the role of a paralegal;
- 4. Come up with an integrated action plan (personal and group level) on how to use the newly acquired paralegal skills to assist and capacitate migrant workers;
- 5. Express commitment to begin paralegal advocacy work or expand her/ his paralegal advocacy efforts and to incorporate the skills gained learned into his/ her work.

TARGET PARTICIPANTS

The ideal number of participants is around twenty (20) individuals with a maximum of twenty-five (25). Primary target participants are leaders (actual or potential) of migrant workers' organizations, workers' unions or migrant communities, and those working in migrant-support organizations such as NGOs, church groups, relevant government agencies or research institutions. This training is for those who provide services and support to migrant workers. It will capacitate them to provide basic paralegal services and to hold step-down training sessions in the future as needed.

Participants can be of varying backgrounds in terms of experience: they should all have at least minimal experience in working with migrant workers and/ or researching migrants' issues and/ or working towards protecting migrant's rights. The ideal profile of participants would include those of varying levels of experience related to migration and/ or social/ labour/ gender-based legal advocacy, including those familiar with migration issues and/ or the law as well as less experienced individuals wanting to develop capacity in migration advocacy. This would maximise the extent to which participants can learn from each other.

This course can be modified depending on the exact profile of participants; trainers can choose to expand or omit certain modules, based on the targeted needs of the group. For example, training targeting migrant leaders can focus more on the situational analysis of migrants and basic concepts of human rights. On the other hand, training for NGOs already experienced in migrants' issues and national advocacy can focus on the modules on legal advocacy and training methodology.

The Course can also be modified and conducted as a basic orientation-training to individuals representing government units laterally working with migrants and their representatives. This is vital to build support on all fronts to protect migrants' rights.

COURSE PEDAGOGY: Design and Principles

COURSE DESIGN

The Course consists of 17 modules of learning which may be used, combined, emphasized as the organizers decide to best meet the needs of the participants. Each module can stand-alone but the manual design should be followed so that the participants receive the most complete training possible.

MODULE 1 Basic Values

Participants are exposed to situations of conflict that contain difficult dilemmas. Participants will understand universal basic human rights values which will serve as a basis for referral or standard when facing and dealing with conflict. The participants will know basic paralegal values. The participants will understand basic paralegal duties and responsibilities and also principles for dealing with conflict.

MODULE 2 Conflict Analysis

This module will assist participants in understanding the roots of conflict analysis. Participants will use a conflict roots analysis outline for Indonesian migrant workers.

MODULE 3 Migrant Work

Participants will understand that migration and the movement of people has been an integral part of human history. Participants understand that there are different factors affecting migration including pushing and pulling factors in migration. Participants understand that there is a process of marginalization before the decision to migrate happens.

MODULE 4 Issues Faced by Indonesian Migrant Workers

Participants will understand the actors behind the marginalization of Indonesian migrant workers and they will understand that this marginalization is done through many sectors of life (social, economic, culture, politics, etc). Participants learn that this process may affect cognitive behaviour of Indonesian migrant workers. Participants understand that to reduce the marginalization process, the strength must first come from within the worker, and then from the family, community and nation.

MODULE 5 Criminal Law Procedure

Participants will learn about Criminal Law Procedure. Participants will know the rights of victims or suspects in a case. Participants will know the procedures of arrest, custody, search and seizure. Participants will know how to deal with litigation cases.

MODULE 6 Insurance Law

Participants will have an understanding of legal issues and principles of insurance law including: type of Insurance; insurance elements; content of Insurance Agreement; and length of an Insurance Program (pre-departure, during work abroad, and return to Indonesia)

MODULE 7 Civil Law Procedure

Participants will know the general principles of Civil Law procedure in connection to Indonesian migrant workers' cases. Participants will know the rights of Indonesian migrant workers that can be obtained through civil procedures.

MODULE 8 Law of Proving and Investigation

Participants will know the Law of Proving including: understanding basic law and law principles of proving; civil proving; ad criminal proving. Participants will know about investigation including: principles and role of investigation; prepare and conduct an investigation; techniques on finding information and evidence; data analysis; and draft report and investigation development.

MODULE 9 Friend – Foe Analysis

This module will assist participants to be able to identify friends, foes and other groups involved in a conflict. It will assist participants to re-position and handle friends, foes and other groups involved in a case.

MODULE 10 Balance the Power

Participants will realize the existence of power as a determining factor in efforts to deal with conflict. Participants will have something to hold on to when determining strategy to balance the power factor.

MODULE 11 Confrontation

This module will assist participants by using an outline of strategy to balance the power relationship. Participants will be able to formulate strategies and tactics in dealing with conflict.

MODULE 12 Converse / Negotiate

This module will further assist participants in using the outline to balance the power relationship. It will assist participants in understand the negotiation process and techniques.

MODULE 13 Legal Drafting

Participants will be able to identify the legality of an agreement or contract. Participants will be able to make a simple contract. Participants can understand clauses which resulted from the negotiation agreement.

MODULE 14 Counselling

Participants will understand the role of paralegal when accompanying victims (legal auditor, legal drafter, legal counselling, legal training). Participants will know about a paralegals' role of legal counselling, and necessary and useful steps that should be taken in conduct during a case. Participants will know the process to assist victims.

MODULE 15 Training Management and Training Facilitation Techniques

Participants will obtain and grasp knowledge and skills needed to be a trainer/ facilitator and organizer to plan, implement, monitor and evaluate training sessions. Participants will be able to facilitate training.

MODULE 16 Training Evaluation

This module will assist participants to understand the meaning of evaluation. Participants will understand the use of the training for his/ her own development. Participants will evaluate the training.

MODULE 17 Follow-up Planning

This module will help participants make realistic follow-up plans regarding Indonesian migrant worker issues that are faced and currently handled.

Course Methodology

This course follows the general principle of a para-educational approach wherein popular education serves as its overarching methodology. In the whole duration of the training, the interplay of games, drills, workshop, simulation exercises, songs, video shows and other creative approaches should intersperse with deepening and theorizing processes.

An activity usually follows a cyclical process of practice-deepening-synthesis-practice. Practical approaches will be threshed out during discussion and processing in order to cull out concepts. This is followed by a deepening activity for the trainee to understand and interpret the subject under study holistically.

Training Principles

This training manual is guided by the following overarching principles and methodological options:

1. This training is based on the principle that the learning process is liberating. Guided by the popular education framework, its educational pursuit is centred on the trainees, thus, it facilitates learning by collectively drawing out the trainees' experiences for reflection, awareness-building and analysis. Further, it draws out rather than imposes people's opinions and perspectives so that they are encouraged to transform their present state into their desired way of life.
2. The manual is practical and accessible. It serves as a launching pad that will equip the trainees on the basic skills/ knowledge required in the advocacy process and the essential tools for analysis/ decision-making.

This course is guided by the following practical terms:

GLOSSARY OF TERMS

SUBJECT UNDER STUDY. Refers to the topic, subject matter or concept being studied.

GROUP DYNAMICS. A form of activity that serves as a preliminary exercise to introduce the subject matter and encourage interaction and release among the participants.

WORKSHOP. A formal group activity wherein trainees undergo a process of dissecting issues and topics and as well as generate discussion from their perspective. Usually, a guideline for discussion will be provided to the participants.

PROCESSING. A process that either happens after an activity or a workshop. This is the facilitation and drawing out of learning points and concepts by the trainer.

WRAPPING UP. Part of processing, but sometimes serves as a transition for the trainer to sum up and highlight learning areas out from an activity before proceeding into another activity.

SYNTHESIS. Sometimes serves as the wrapping up itself but oftentimes is the next process after wrapping up. This may be translated as the formal input or lecture on the subject understudy.

SIMULATION. Also known as a role-playing activity. This serves as a major activity that would help facilitate a practical process that participants have to undergo. This is essentially a collective learning process.

KEYWORDS. Are actually general concepts derived from an activity, discussion or processing. These usually lead to a detailed discussion on the subject matter.

RECAP. The contraction for "recapitulation", which is important in reviewing previous topics and activities. This would also facilitate how participants will treat the succeeding activities.

TEMPERATURE CHECK. Or getting feedback on a more personal note. This is one way of checking how the participants are responding and assess the level of group process at a certain period of the training.

EVALUATION. This is a period of assessing the efficacy of the training in all aspects-- process, content, facilitation and participation. This is done in a regular basis, either every module, every major topic or done on a daily basis.

WORKSHOP PREPARATION

WORKSHOP NEEDS

1. Be sure that all your workshop materials are already in place.
2. Prepare your resource materials, training design and syllabus, program, participants profile, workshop materials and visual aids.
3. Check if all participants and resource persons are notified accurately of the workshop details.
4. Check whether venue and accommodation requirements are taken care of.

Workshop Checklist:

1. Training design/ curriculum/ syllabi
2. Participants profile
3. Training kits
4. Workshop materials and paraphernalia
5. Registration form
6. Visual aids and presentation
7. Supplementary resource materials
8. Technical needs (overhead projector, LCD, video and TV units, slides projector, sound system, etc)
9. Resource persons
10. Venue and accommodation

THE WORKSHOP REHEARSAL

Spatial Design: A minimum of two days before the actual training starts, survey the training site. Visit the actual training venue and make a mental picture of where registration be, where the big group session will take place, where break away group discussions will be assigned, a special corner for visual outputs and a small spot for breathing space or food corner. Ensure that the training area will encourage a learning atmosphere, free from loud noise or any form of physical and mental obstruction. If need be, request the training host to hang or post a banner/ streamer, poster or a bulletin announcing the basic information regarding the workshop.

Training Curriculum: This manual will be the source of your group's training curriculum. But it is very important that all training factors are also in place before implementation. These pertain to basic training data such as: TRAINING OBJECTIVES, PARTICIPANT PROFILE, TRAINING NEEDS ANALYSIS, TRAINING METHODOLOGY, FACULTY REQUIREMENTS and TIMING factors as well.

TRAINING OBJECTIVES: the measured goals and target results of a structured learning atmosphere.

PARTICIPANT PROFILE: basic data about the target participants for the training, functional information about them for training purposes.

TRAINING NEEDS ANALYSIS: an assessment of how participant profiles will affect the training design and curriculum, including a presentation of the training areas needed and expressed by the participants.

TRAINING METHODOLOGY: the approach by which the objectives and activities will be articulated/ imparted to the trainees.

FACULTY REQUIREMENTS: pertains to the trainer-trainee ratio, capacity of trainer and technology needed to aid the trainer. The ideal ratio of trainer-trainee is one (1) facilitator for every ten (10) participants. If there are more than ten trainees, then a team of trainers should collectively perform the facilitation tasks.

TIMING: the period (number of days or weeks) allotted for the training activity. This also includes the time element in-between activities. The progress of the training activity is also greatly affected by the tightness and the slackness of the time schedule.

OPENING THE WORKSHOP

Registration: As the participants arrive in the training area, welcome them as cordially as possible. Give them a couple of minutes to secure their luggage, make themselves at ease with the new environment before you hand them the registration paraphernalia. Ask them to log in to the **Registration Form**, which needs to be prepared prior to the training sessions, and give them the training kit (pen, writing pad, handouts and other resource materials), ID and the rest of the registration flyers.

REMEMBER!: The following must be prepared before the training: registration table, registration form, training kits, participant profile form, room assignments, training area map, training ID, orientation paper, house rules.

In case of live-in trainings, the registration is the appropriate time for giving participants their room accommodation assignments. Participants are also requested to fill in a **Participant Profile** which is a general form that will contain basic data (name, institution, contact details, etc.) for the **Directory of Participants** which will be distributed on the last day of the training.

WARMUP

Goal:

1. Create a setting where the participants can learn in a comfortable and enjoyable mental situation
2. Show that mental preparedness can be created through active participation

Method:

Light exercise

Materials:

None

Time:

15 minutes

Facilitation Process:

	Steps	Method	Material	Time
1	Open the session by introducing the workshop topic	Oral	-	1'
2	Ask the participants to stand up and spread out. Each person stands in place without touching each other	Oral	-	4'
3	Ask the participants to close their eyes while stretching freely to relief soreness. Ask the participants to move in place. Ask the participants to reflect upon the fact that they are in the beginning of the training workshop	Oral	-	5'
4	Ask the participants how they feel now; are they able to be comfortable yet?	Oral	-	5'

SELF RECOGNITION – ICEBREAKER

Goal:

1. Participants are introduced to one another
2. Participants get to know more about their strengths and weaknesses when dealing with conflict

Method:

Drawing, group discussion

Materials:

Coloured markers, drawing paper, tape, participant name tag

Time:

120 minutes

Facilitation Process:

Steps	Method	Materials	Time
1 Explain the results that will be obtained from this session and the process that follows	Oral explanation	-	5'
2 Hand out name tag cards that can be placed on the chest. Ask participants to write: - Name - Group origination/Institution/Place	Oral	Participant name tag	5'
3 Hand out drawing paper and give the following instructions to the participants; <i>Draw yourself in the middle of the paper write in the bottom of page. Write your name in the back of the paper that has been drawn on</i>	Drawing and writing	Paper and markers or pencils	10'
4 Give your drawing a title: 'The Best in Me' Each participant writes five traits which describe your strengths in dealing with conflicts that have arose	Instruct Oral explanation	-	5'
5 Repeat step 4, but this time, instruct: Give your drawing a title: 'What Needs to be Improved in Me' Each participant writes five traits which need to be improved in dealing with conflicts that have arose	Drawing and writing	-	5'
6 Divide participants into three groups. Remain inside the classroom. - Assign each group to introduce each other by telling about the two drawings. - Discuss human traits in dealing with conflict What are some human traits in dealing with conflict? How do human traits change when dealing with conflict? Why do they change? What may change them?	Group discussion	-	30'

7	Ask participants to return to the larger group. Ask the participants: Is the introduction process easy or difficult? What did each person learn about themselves and about others? List the participants' answers on the whiteboard or plano paper. Give the list a title: HUMAN TRAITS WHEN FACING CONFLICT	Oral and written	Whiteboard or plano paper	15'
8	Draw a human on the whiteboard/plano paper. Describe 3 (three) types of general responses from a person when dealing with conflict, namely Aggression/Violence, Escape/Avoidance, Facing and Dealing. Discuss the three traits. Ask the question: <i>How can human behaviour change in face of conflict? Why does change? What can make it change?</i> Request answers from each group.	Oral and written	Whiteboard or plano paper	30'
9	Review the process and the results of the session for the participants.	Oral	-	5'
10	Ask the participants to stick the drawings on the wall surrounding the workshop room	Group activity	Tape	10'

LEARNING CONTRACT

Goal:

1. Determine and explain the hopes of the participants for this training
2. Assist the participants in aiming to reach their goals

Method:

Discuss opinions, filling out the list of questions

Materials:

Work sheet: My Hope for this training

Training Workshop Syllabus

Trainer further reading: Participatory Training Methodology (The trainers/ facilitators should research and read standard materials regarding how to run participatory trainings prior to beginning the training course.)

Time:

100 minutes

Facilitation Process:

	Steps	Method	Materials	Time
1	Open the workshop session by introducing the workshop topic and the goal for this session.	Oral explanation	-	5'
2	Ask participants to fill out the work sheet: <i>My Hopes and Fears</i>	Individual work	Worksheet	5'
3	Form small groups (four or five people) and discuss three of the following things (write on whiteboard or overhead projector or on plano paper); <i>I am participating in this workshop because....</i> <i>This training will succeed when....</i> <i>After finishing this training I hope to....</i> <i>What I am concerned with regarding this training is....</i>	Group Work	Plano paper	15'
4	Hand out training syllabus and give the participants a chance to read it. Afterwards, give a brief overview of the methodology and training syllabus (the facilitator use Facilitator Reading Materials: Participatory Learning Methodology). Ask the participants if there is anything that needs to be updated on the syllabus. The plans should be flexible and open to suggestions for changes, if needed, based on the hopes of the group.	Discussion	Training Syllabus	30'

5	Provide large plano papers (that can be connected to about 1 x 2 meter), ask one of the participants to draw a flowing river with panoramic background. Write topics that will be the main workshop events on pieces of paper, based on the order of events and place them along the river flow drawing. Start from the upstream and end downstream		Plano paper	30'
6	Express the lesson learned from this topic, which is basically a learning program based on agreement or contract. Also express that agreement or a contract reached provides a basis for the next process	Oral	-	15'

My Hopes and Fears Worksheet:

- I am participating in this training because
.....
.....
.....
- This training will succeed when
.....
.....
.....
- After finishing this training I hope to
.....
.....
.....
- What I am concerned with regarding this training is
.....
.....
.....

BASIC VALUES

Goal:

1. Exposure to conflict situations that have dilemmas
2. Understand universal basic human rights values as a basis for referral when facing and dealing with conflict
3. Participants know basic paralegal values
4. Participants know of paralegal duties and responsibilities and also the principles in dealing with conflict
5. Understand situations with dilemmas that exist in conflicts. Understand basic universal human rights as a basis for referral when dealing with conflict

Method:

Case study, Game “Connect the Dots”, group discussion and presentation

Materials:

Work Sheet: Story of Paijo and Paijem

Game Sheet: Connect the Dots

Reading Material: Introduction to Paralegal

Reading Material: Universal Declaration of Human Rights

Time:

200 minutes

Facilitation Process:

	Steps	Method	Materials	Time
1	Facilitator provides short explanation of the goal and material for the main topic of this session	Lecture	-	5'
2	Divide participants in small groups. Each group has 5 (five) people. Allow each persons to gather in their group	Groups	-	5'
3	Participants are asked to prepare writing utensils, and then the facilitator reads the story in parts/ sequentially (another possibility is to have the case study sheet distributed). After the reading of the first sequence of the story is finished, the facilitator will ask questions and the answer will be written by the participants (3 minutes), and then discussed in a group (10 minutes). There are 3 sections according to the guideline of the story.	Reading and Small Group Discussion	Paijo and Paijem Story Sheet	15'
4	Each group presents on pleno paper. Facilitator writes down key words that lead to finding basic human rights values on pieces of paper or writes on the whiteboard/ plano paper.	Group Presentations	Plano Paper	60'
5	List all of the group results. The facilitator is expected to write critical notes to each of the important clauses. Make sure all participants are active. Although the cases are in essence individual, it is important that the case can encourage participants toward finding basic values. One way is to ask what basic values are sometimes used in dealing with conflict situations	Discussion and Q&A session	-	40'

	in present social-political-economical life. Note the participants' answers on whiteboard/plano paper. Use some parts that are available on the Facilitator Handbook			
6	Create summary results of the discussion session and explain to participants.	Lecture	-	10'
7	The facilitator continues with Game "Connect the Dots". How to: Facilitator draws 9 dots inside a square on Plano Paper, then gives the following instructions: a. Connect the 9 dots with a line; b. All dots have to be passed by the line; c. The line drawn must be continuous; d. May draw the line 4 times; Provide participants a chance to try for 30 minutes on their desks. Ask a few participants to do this game in front of the class. If no participants can answer, ask the participants why that happened. Write down the answers. Facilitator will then answer by drawing the line. Elucidate comments from participants in regards to the answer. Write down participants' comments	Games and Discussion	Reading Material	45'
9	Elaborate the meaning of the game thoroughly. What is the meaning of the dots, the line and the square, and what the significance of the rules is. Elicit comments from the participants. Discuss in a large group the laws/rules against human rights and where paralegal is positioned. Reply to participants' questions and comments. Reading Material: Introduction to Paralegal	Lecture	-	10'
10	Ask participants to share a lesson they learned. Express that human rights values are the basis for referral in facing and dealing with conflict. Then, hand out reading materials on the Universal Declaration of Human Rights, and close this session.	Discussion	-	10'

THE STORY OF PAIJO AND PAIJEM

Part One

Paijo, Paijem and their only child are members of the Margototo village. Paijo provides for his family by working as a labourer on a farm. At one point Paijem, who is 9 months pregnant, felt that something was wrong with her pregnancy. After she had it checked, it turns out that her baby was in an upside down position and was starting to lose water. The doctor advised that the baby should be delivered by Caesarean operation. If the medical procedure is not conducted, the baby and the mother will not survive. This was advised to her husband, Paijo. Paijo is anxious not only because his wife needs an operation but also because the cost of the procedure is really high. If he borrows the money, Paijo may have trouble paying back. Finally, he decided to steal the money from Pak Diman's store.

If you were in Paijo's position, what would you do? Pick one of the answers below:

1. You would steal, because

.....
.....
.....

2. You cannot decide, because

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.....
.....

3. You would not steal, because

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.....
.....

Part Two

In this episode, Paijo finally steals money from Pak Diman's store. With enough money stolen, he pays for the operations' cost in the hospital. In fear of what he has done, Paijo asks his wife's permission to go to Malaysia as a Migrant Worker with the rest of the stolen money in hand. Paijem and his two children are entrusted to his mother's care. In Malaysia, Paijo regularly sends money to his family. After the 2 years of the contract have elapsed, Paijo returns home. It turns out Paijem did a good job managing the remittances sent home so that the money could be used towards opening a repair shop for motorcycles and farm equipment. People in their sub-district area knew the shop and some people from other villages will sometimes come to Paijo to get their farm equipment fixed. In this position, Paijo remembers to give charity to less fortunate neighbours. Ponggeng, another person, still works at Pak Diman's store and he is a good neighbour of Paijo. It turned out that he knew what Paijo did 2 years ago, stealing from his employer's store, and the case is still being pursued by the officials.

If you were in Ponggeng's position, what would you do? Pick one of the answers below:

1. You report to the police, because

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.....
.....

2. You cannot make any decision, because

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.....
.....

3. You will not report, because

.....
.....
.....

Part Three

It turns out that all this time Paijem has been suffering an infection in her womb, due to the Caesarean operation two years ago. The infection worsens, as before Paijem thought it was ordinary illness. Doctor Agung says that the disease has already progressed very far so any medical procedure will not heal, but only alleviate the pain. This condition worsens and, according to the Doctor, Paijem can survive the illness for no more than 3 months. While carrying the illness, Paijem feels an enormous pain. At one time, she feels a very painful stinging pain. Finally, Paijem gives up and asks the doctor to free her from the illness by giving her an overdose shot that will kill her. The doctor considers that request wisely. But, when Paijem lies on the bed, crying from withholding the pain she endures, she pleaded to Doctor Agung again to grant her request.

If you were in Doctor Agung's position, what would you do? Pick one of the answers below:

1. You can give the shot requested by Paijem, because

.....

.....

.....

2. You cannot make any decision, because

.....

.....

.....

3. You will not give the shot requested by Paijem, because

.....

.....

.....

WHAT IS A PARALEGAL?

Background and Definition

Within the legal practices of several countries, a paralegal is an individual who works in area of practicing law, usually as an advocate/ lawyer assistant and is an individual who is responsible for conducting research, investigation, analysis and the management of daily tasks concerning a particular case. When paralegal work is close to an important finding in a case, their work will be limited and it will be under the supervision of an advocate/ lawyer, who will take over the paralegal responsibilities.

Paralegals are often found in all areas where advocates/ lawyers deal with court cases, in real estate business, in government and so on. Many paralegals continue their education in law school and eventually become advocates/ lawyers. In the United States, the paralegal profession has developed since it was introduced in the 1960s. At present, there more than 200,000 paralegals.

According to the American Bar Association, “a legal assistant or paralegal is an individual who has education, training or work experience in working with advocates, law offices/ law firms, companies, government agencies or other organizations, and who particularly receives delegation for legal work which becomes a responsibility of advocates.” Through

that definition, legal responsibility of paralegal work lays upon direct supervision from an advocate.

Legal assistants and paralegals are individuals who assist advocates in providing legal services or legal procedure. Legal assistants and paralegals cannot provide legal advice to clients. Legal advice can only be provided by an advocate/ lawyer. Through formal education, training and experience, paralegals have knowledge and experience related to the legal system, laws and formal/ judicial procedures.

What can a paralegal do? The concept of a paralegal started in the 1960s when law firms and individuals practicing law looked for ways to increase work and cost efficiency while conducting their responsibilities. Another factor contributing to the development of the Paralegal profession was the increase in the volume of employment, driven in turn by an increase in people seeking justice through legal services.

In every States' legal regulations, legal assistants/ paralegals are forbidden to conduct a law practice without an Advocate permission or license. Legal assistants/ paralegals cannot provide legal advice, represent clients in court, discuss costs, or take on cases where those general functions are dealt with thoroughly in legal practice.

In communicating with clients and the public, the position of legal assistants/ paralegals has to be made clear. Legal assistants/ paralegals have to function as advocates' delegates and their role may be described by the following:

- May conduct direct interviews with clients and sustain good relations with clients, as long as the clients realize the status and function of legal assistants/ paralegals, and that the work is performed under advocate supervision;
- Conduct investigations in cases and interview witnesses;
- Conduct investigations and create factual statistics and document findings;
- Conduct legal studies;
- Draft legal planning documents, correspondence and letter of request or defence;
- Draft summaries of statements, investigations and witnesses;
- Attend legal procedures, statements, court administrations and court investigations with the company of an advocate;
- Create correspondences as long as it is made clear the status of legal assistant/ paralegal and the correspondence is not a legal opinion or legal advice.

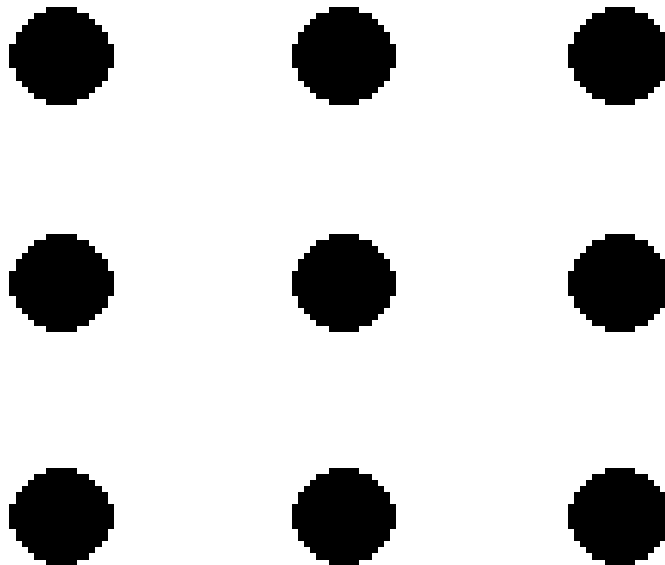
The Advocates' Role

Provide legal services when requested by a group of people seeking justice.

- Provide advice on civil or criminal procedures when requested by a group of people seeking justice.
- Finish procedures in peace through discussions to reach consensus within the mediation process.
- Actively encourage people/ justice seekers involved in court monitoring process and execution of court orders.
- Facilitate public in court procedure when there is no other choice and when the public/ justice seekers are truly aware of the consequences of handling conflict through court.
- Monitor handling conflict through court, monitor agreements between concerned parties.
- Monitor the execution of a court decision that has legal force.
- Assist the public/justice seekers who are interested in monitoring the legal procedure, before or after a court decision is made.

GAME

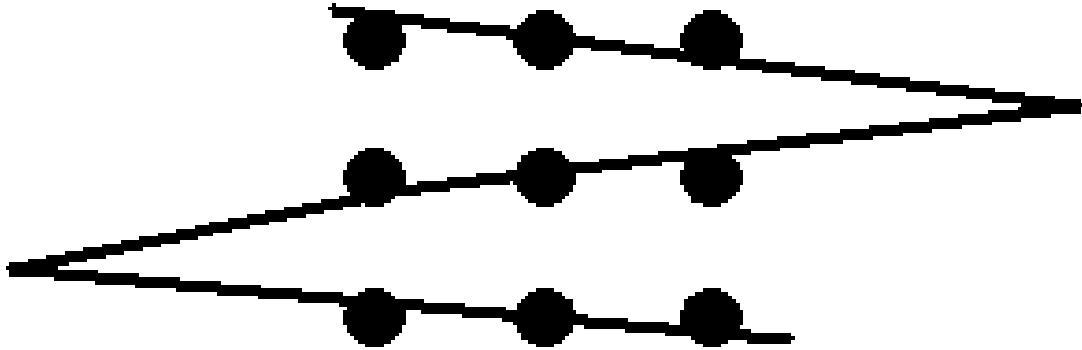
CONNECT THE DOTS



Instructions as follows:

Connect all 9 dots using just 3 straight lines.

Solution



Description of what this game means and what can be learned from it. Each element has meaning that can relate to your work.

1. Dot – issues, conflict, dispute, matter;
2. Line – procedure, action, movement, handling conflict;
3. Instructions – law, rules and regulation;
4. Square – something that limits your thinking. There is an imaginary square around the dots, though to find the solution you need to think beyond the normal barriers and think 'outside the box'. This is also true of how you will need to solve problems and meet the needs of migrant workers. You will need to re-think your paradigm, your individual habits, the norms of your community and country, etc.;
5. Sheet of paper – something undecided, unlimited, something every person has → HUMAN RIGHTS;

CONFLICT ANALYSIS

Goal:

1. Assist participants in understanding conflict root analysis
2. Use the conflict root analysis outline for Indonesian Migrant Workers

Method:

Lecture, opinion session, small group discussion, big group discussion, Q & A discussion

Materials:

A number of Indonesian Migrant Worker Conflict Posters. The facilitator or trainer will need to create these posters before the training session. The posters should contain some very basic scenes depicting typical conflict scenarios that migrant workers would encounter during the migration process or work.
Writing tools, pieces of cardboard/paper

Time:

200 minutes

Facilitation Process:

	Steps	Method	Materials	Time
1	Facilitator provides short explanation of goals and material of this topic.	Lecture	-	5'
2	Facilitator poses a question to all participants, <i>"what does conflict mean? What is the different between a conflict and a dispute?"</i> Ask a few volunteers to write their understanding of conflict on plano paper. Hand out markers and plano paper.	Opinion session	Plano paper, marker	10'
3	Facilitator then requests an agreement from the participants to choose one or two definitions on conflict that seems to accommodate the participants.		-	10'
4	Facilitator divides participants into small groups (5-7 people). Distribute a poster to each group		Poster	5'
5	Facilitator asks the groups to look at the poster, and then makes a short formula on what is the root of the conflict that refers to the poster. Ask each group to write the short formula onto a piece of plano paper	Small group discussion	Plano paper and marker	20'
6	Ask each group to present in the big group. Facilitate Q & A between groups. Facilitator writes key words that come up in each presentation into a piece of cardboard/paper and hang on the wall	Big group discussion	Piece of paper/ cardboard meta plan, markers	30'
7	Facilitate critical discussion, referring to matters written on the pieces of cardboard/paper that has been hung	Opinion session	-	30'
8	Facilitator explains the roots of conflict that usually appears by referring to reading	Q & A session	Reading Material	30'

	materials. Use the outline. Open discussion to all participants			
9	Facilitator distributes reading material and gives participants a chance to read		-	20'
10	Ask the participants to get back into the group. Assign groups to improve analysis of conflict roots according to the case in the poster	Small group discussion	-	15'
11	Ask each group what the most important lesson they got from the discussion is (do not ask them to present). Facilitator must pay attention to new findings of each group. Give comment as necessary	Present	-	10'
12	Ask the participants to reveal the lesson learned from the learning activities of this topic. Close the topic session by emphasizing that the analysis on the conflict will be used until the end of training workshop		-	5'

MIGRANT WORK

Effects on the Local, National and International Levels

Goal:

1. Participants understand that migration and the movement of people has been an integral part of human history
2. Participants understand that there are different factors pushing and pulling in migration
3. Participants understand that there is a process of marginalization before the decision to migrate happens

Method:

Group discussion and meta plan

Time:

105 minutes

Facilitation Process:

Steps	Method	Materials	Time
1 Facilitator tells a short story on the migration situation before the 20 th century and after the 20 th century. The Facilitator then encourages questions if there are audience members who want to add information.	Lecture	-	10'
2 Facilitator asks the audience about their impression of the migration story.	Opinion session	-	5'
3 Facilitator asks whether there is any similarity in public's way of thinking on migration, by asking: <i>Based on the information on migration history, a fundamental question arises: what is migration and what drives an individual to migrate?</i> Write on meta plan paper all of the participants answers		Meta paper	10'
4 Facilitator hangs all of the participants' answers (from the question: what drives an individual to migrate?). Facilitator ask participants to identify and group the answers on the meta plan, by asking: • What are the participants' answers regarding which reasons to migrate abroad derive from domestic economic, social and political force (and group the answers with title PUSH FACTORS). • What are the participants' answers regarding which reasons to migrate abroad derive from attractive pulling factors abroad (and group the answers with title PULL FACTORS). • What are the participants' answers regarding which reasons to migrate abroad derive from hope, individual aspirations (and group the answers with title HOPE).	Discussion	-	20'

5	Discussion Result Analysis: Facilitator must explain: That being an Indonesian migrant worker is a choice that comes from a system, where a marginalization process occurs before migration is undertaken. Facilitator explains with question tools, as follows:	Lecture	-	5'
6	Have the participants to peruse the EXPECTATION sheet. Then ask them: WHETHER THE EXPECTATIONS OF INDONESIAN MIGRANT WORKER HAVE BEEN FULFILLED? Get their answers in detail in a thick paper.		Thick Paper	15
7	Facilitator check the participants' answers: • Invite questions to participants who answered not yet with questions: ✓ Why there is such answer of not yet fulfilled? Why? (Get their answers in details in the card paper) ✓ Who else are responsible in fulfilling those expectations? <u>Note:</u> Facilitator improvises questions which are aimed to find the root of the problems from the failure to fulfil the expectations. • In searching for the root of the problem the facilitator may use the "Root of the Tree" method.		-	20
8	Finally, Facilitator should ask the participants: 'Whether, after they have seen the root of the problems, if the failure of the worker to achieve the expectation is caused by "something" outside the power of the participants/ workers? And if the answer is "YES", Facilitator should say: That to be an Indonesian Migrant Worker is a the only option, from a system, in which the process of poverty occurs before the migration.		-	20

INFORMATION SHEET

Migration History

Labour mobility in Southeast Asian countries is not a new phenomenon. Labour mobility without owning passports and obtaining visas was already occurring in Southeast Asia centuries ago. The new labour migration phenomenon began because of the strong economic forces that cause dynamic mobility and economic needs fulfilment. The following describes Indonesian migration history.

Mobility in the labour sector of Asian countries is not a new phenomenon. Southeast Asia has long been a place of maritime activities between Southeast Asians, Polynesians and Malagasies. The heart and soul of these maritime activities is located in South China Sea. Indonesia is known as a forerunner in international vessel traffic between India and China.

The marine traffic developed even more because of different factors (such as the development of ways to determine wind and current, improvement of rope and so on) and the cosmopolitan attitude in developed countries back then, stretching from East Asia to Europe (Han Empire in China, Andhra Empire in India and the Roman Empire in Europe, Asia Minor and the Middle East, which stretched from Britain to the Arabian Desert). Apart from that, there is another reason which is the increase in the gold trade with Indian markets, namely because of the end of the gold supply from Central Asia which was caused by chaos in that area. Also, the Roman Emperor issued an embargo on gold exports¹.

In the 14th and 15th century, there were two major dynasties, which had influence on historic international activities. The **Majapahit Dynasty** existed in 1294, and was not only an agriculture central dynasty but also an important centre of commerce. The Majapahit Dynasty had good relations with several regions, including Myanmar, Vietnam and China. In the end of the 14th century, the Majapahit Dynasty had setbacks while at the same time Malacca had become a commerce centre located in the western part of Indonesia. In the end it became **Malay Dynasty**, which successfully built an international port, which connects East Asia, Central Sea and East Africa. The two dynasties are the past historical developers of Indonesian economy.

Maritime adventure stories of the Bugis – Makassar people fills migration history, such as: **Kedautuan Luwu (VII - XX Century)** can be a strong emporium together with Sriwijaya (VII-XII), Majapahit (XII-XVI). People from Luwu took boats across the ocean to Malay. The Sawerigading expedition even went to China and India. Bugis – Makassar people's explorations allowed them to reach and sometimes control not only Sulawesi (Celebes), but also Kalimantan (Borneo), Sumatra (Andalas), Timor, Maluku, Ternate, even to parts of China, Malaysia, Filipina, Cambodia, Africa, Pacific, and Australia.

During the **Gowa Dynasty** (beginning in the XIII Century), especially in the period between Sultan Alauddin until his grandson Sultan Hasanuddin in east sea area, the home of the Bugis – Makassar people. In the **XVII Century**, Makassar became a very crowded Port and became the central cross point between Malacca and Maluku.

During the Dutch Colonial era, the Dutch East Indies Company (VOC) tried to implement hegemonic politics over the maritime area, with involvement from colonial rulers beginning in **1906**, which impeded Bugis – Makassar traders in conducting maritime trading while implementing a port tax. The character of the Bugis – Makassar people is such that they are not inclined to obey rules imposed on them, also with the addition of vessels with better weapons that operate with larger capacity, slowly but surely these policies displaced out the people of Bugis – Makassar from maritime trading. The Bugis – Makassar people since the fall of Gowa Dynasty in the XVII century had been pushed to conduct activities on land and Gowa was forced to become an agriculture dynasty, letting their maritime asset decline.

During the time before the independence of Republic of Indonesia, when the Dutch arrived and started to open plantations in Sumatra, the Javanese people (Java was becoming increasingly crowded) voluntarily or forcefully worked as plantation labours. Some were even placed in other Colonized Dutch areas such as New Caledonia and Suriname. This situation continued essentially until the war and the beginning of independence.

In 1966, national conflict arose with the dismissal of the Indonesian Communist Party (PKI). The condition impacted children and grandchildren of those accused as a members of PKI, and access to find work were closed to them. The Indonesian Government implemented this condition in order to forbid the descendents of PKI member from gaining employment

¹ Indonesia in the Edge of History, W. Van Der Meulen, S.J. Kanisius, 1988

opportunities as Civil Servants or other work with connections to the government. Fact: Many regions, which were the base for the PKI movement, are now the largest senders of Indonesian Migrant Workers in Indonesia, namely East Java (particularly the Blitar area).

In 1970, the Green Revolution developed in Indonesia – characterized by agriculture being run with intensification principles. The seeds used became hybrid and universal seeds. In order to create a large harvest the growth must be supported with chemical fertilizer, and insecticide to eradicate the pests that destroy plants.

Since that time, farmers rely upon seeds, fertilizer and insecticides that are technologically engineered and which contains lots of chemicals. Data shows that fertilizers often disappear from the market every time it nears harvest season – resulting in a soaring price. On the other hand, a mass harvest results in a price fall. Farmers are anxious with farm systems characterized by market controlled fertilizer prices and the land damage caused by use of chemical fertilizer, which results in a harvest that is worse for one's health because of the chemical and insecticide use. Women farmers or farm labourers particularly feel these effects. The few employment opportunities that women have are increasingly taken over by technology so access for women to farm labour and their role in fulfilling household economy are increasingly held by men, although the job is not profitable.

Fact: Approximately 75% of Indonesian Migrant Workers are women.

In that same year, a change in policy regarding the placement of Indonesian Migrant Workers occurred. At that time the political agreement between Suharto and Mahatir provided support from one of the Malaysian parties led by Mahatir that made large migration process happen.

In 1998, the economic crisis created unemployment for up to 400,000 people. Since early 1997, the number of new unemployed has increased by 9.22 million people. If one person works to support three family members, then the economy of people affected by new unemployment rate, who have fallen below the poverty level, is nearly 36.8 million.

INFORMATION SHEET

MAP OF TRAFFICKING SYNDICATE NETWORK²

Middle East & East Asia

- Trafficking syndicates in Indonesia in general operate in with the name “*PJTKI Kaki Lima*” (Street Vendor Indonesian Migrant Worker Placement Enterprise), in conducting their operation, they mostly use invisible PJTKIs which are unregistered recruitment agencies or take the name of an official PTJTKI without consent of referral of the PJTKI owners.
- The syndicates have a large network in Middle Eastern countries and their funds are often received from international human trafficking syndicates that operate in the Middle East.
- Apart from placing Indonesian Migrant Workers illegally in Middle Eastern countries, they also send many workers to East Asian countries such as Hong Kong, Taiwan and Japan.

² Source: KOPBUMI National Secretariat

- It is not yet known whether the group has ties to the syndicates operating in the Sumatra and Kalimantan regions who have also illegally placed Indonesian migrant workers in Malaysia through small routes with small boats in the Tanjung Pinang river.
- In counterfeiting documents and identity papers, they are said to work with village officials in the recruitment location of prospective migrant workers such as West Java, West Nusa Tenggara, East Java and Central Java. For dealing with passports, the group conducts many activities in specific Immigration Offices by taking advantage of the lax regulation and corruption of officials. They can pay between just 500,000 to 750,000 Rupiah per passport with a new identity for prospective migrants in just a day.
- For the departure of prospective migrant workers, they often use the Cengkareng Airport in Jakarta between 06.00 – 10.00 am.

Southeast Asia Region I

- The trafficking syndicates generally operate in many different regions of Indonesia, therefore it is difficult to track them as their office and shelter often moves around.
- With the capture of Budiman and Lubis in Bogor, and with complaints of one of the victims, this proves that the group has a large and well-kept network in Indonesia.
- In conducting their operation, the group sometime places an ad in certain print media.
- The group office and shelter is often located in a housing complex or house/office complex in Jakarta or Pontianak, Medan and Tanjung Pinang.
- For administration matters they make a letterhead and a PJTKI stamp, to make it look official, without creating the Business Permit Letter.
- The group often sends the prospective migrant workers to Entikong, Medan or Tanjung Pinang by land or sea in groups of 10 – 15 people, for Malaysia, Singapore and Brunei. By land, some prospective workers are taken from Entikong to Sarawak and Kuching (Malaysia), to then be placed in a syndicated shelter in Malaysia for 2 – 3 days before being sold to a buyer.
- There is an indication that the group has strong ties to syndicates in Tebedu and Sarawak, Malaysia, and also it appears that funds come from the syndicated group in that area.
- Apart from sending prospective migrant workers to Malaysia, Singapore, and Brunei, the group also sends prospective migrant workers to Taiwan to be entered into a forced marriage contract when they arrive.
- On average, the women they recruit are between 16 – 25 years, and they are typically recruited from Central Java, West Java, Banten, East Java and East Nusa Tenggara.
- To take care of the passports, the group is thought to operate in Immigration Offices, and on average they can administer 50 passports.

Southeast Asia Region II

- Syndicates generally operate in Nunukan and Pare-pare South Sulawesi area.
- In conducting their operation they take advantage of ticket agents selling ship tickets that are located in front of Point Port Pare-pare, or take advantage of middleman services to recruit prospective migrant workers in Bone, Pinrang, Toraja and Bulukumba area for South Sulawesi. In East Nusa Tenggara it is not yet known how they work because the majority of the prospective migrant workers from East Nusa Tenggara are in Nunukan departing from Pare-pare port. Apart from that in sending prospective migrant workers, the group also takes advantage of wooden boat ports located in Aweangnge area, New District, Bulukumba and Bone, all of which are regions located in South Sulawesi.
- Prospective migrant workers are sent through Pare-Pare port or Samudera Port through Nunukan, they are placed in a few shelters owned by PJTKI or sponsors located in Nunukan.
- In administering passports and new identities, the group do so in Nunukan, and use the same process as that which occurs in other immigration offices.
- Prospective migrant workers are smuggled into Malaysia, generally through Tawao beach, Sabah Malaysia. The majority of the prospective migrant workers are employed

in palm plantations with wage of 1.200 Malaysian Ringgit, but after working the worker only receives 50 Ringgit/month, while middlemen take the rest.

- The majority of Indonesian migrant workers entering through Nunukan are originally from South Sulawesi, East Java and East Nusa Tenggara.

INFORMATION SHEET

RECRUITMENT, MOBILIZATION AND PLACEMENT OF INDONESIAN MIGRANT WORKERS³

RECRUITMENT PROCESS

(Vulnerable Point I)

- a. Prospective Indonesian Migrant Workers (CTKI) that come from many villages in East Lampung are recruited directly by Middlemen & Sponsors that have close ties directly and indirectly with PJTKI generally located in Jakarta.
- b. Middlemen take the CTKI (in some cases with counterfeited identity documents) after administration matters are finished in the village level to higher Middlemen & Sponsor in East Lampung District or Metro City (usually 2-3/middlemen). In each delivery of CTKI the fee for the original village middlemen given by the middlemen/ sponsor in the District region is about IDR 100,000 – 200,000 per CTKI.
- c. After 10 – 15 CTKI are gathered, the Middlemen (District level) take CTKI to a PJTKI shelter (Jakarta & Surrounding). After CTKI arrive in the shelter, the middlemen/ sponsor takes them to conduct the transaction and administration process with outside middlemen (middlemen who often wait outside the shelter). For this transaction the fee received from outside middlemen/sponsor is IDR 400,000 per CTKI to a Middle East destination and IDR 1,000,000 per CTKI to Malaysia.
- d. Then after all transactions are finished between District level middlemen/ sponsors and outside sponsors, the outside middlemen give inside middlemen (usually employees of PJTKI) so that they can enter the shelter. In this process it is the fee that the inside middlemen receive is not yet known.

SHELTER

(Vulnerable Point II)

- a. When the recruitment process of CTKI is finished and they officially enter a shelter, the next step is to take them for a medical check up by a PJTKI, for each check up the cost is IDR 225,000 and it is usually done a few times.
- b. After the health check is done (formality), the next step is for PJTKI to conduct administration or documentation of CTKI (Identity card, passport and Visa). To administer new Citizen Identity Cards (KTP), PJTKI often go to close areas such as West Java for CTKI coming from outside of West Java.
- c. The next step after the CTKI have new identity cards is the process of passports and visa administration. For the Jakarta area it is done in East Jakarta Immigration office, for West Kalimantan it is done in Class III Entikong Immigration office, and Nunukan at the Nunukan Immigration office.
- d. Arrangements to obtain passports are done by PJTKI middlemen by attaching documents that was previously prepared by PJTKI. In the case that CTKI biometric is counterfeited the cost is IDR 50,000. The cost paid by PJTKI to administer passports depends on the days needed to finish one passport. For standard administration (min. 7 days) CTKI bear the cost of IDR 150,000 – 200,000 and for one day administration the

³ Source: KOPBUMI National Secretariat

cost is IDR 500,000 – 750,000/CTKI. In addition to those costs, during the interview process CTKI pay IDR 20,000 to the interviewee through the middlemen who deals with passport.

- e. After the administration/ documentation process is done then training follows which is done by PJTKI and assisted by a Ministry of Labour source, CTKI pays IDR 10,000 per CTKI to PJTKI as a “*Thank You*” to give to the trainer and the CTKI also has to buy a guidebook for IDR 5,000 per CTKI.
- f. Training is done by the PJTKI and assisted by the Ministry of Labour which is supposed to be 200 hours per CTKI, but often the training is not as long. Migrant Workers generally do not receive information on health and safety, and if they do it is often not done in a language understood by migrant workers. The information and training done is often not sufficient.
- g. When CTKI are in a shelter, usually future employers will come directly to choose the CTKI based on need and taste (not skill). When the future employer comes to pick the CTKI, the prospective migrants are asked to line up and they are separated based on physical criteria (beautiful – not beautiful, body posture, married – unmarried, etc). After the future employers get the CTKI of their choosing, then the CTKI do not have to wait long in the shelter, as the employers can take them right away after all transactions are finished.
- h. For the CTKI that is taken by a future employer, they usually are not taken directly back to the destination country, but they stay for 1 – 2 nights at a Hotel in the Pasar Senen area. They are usually accompanied by the middlemen/agency in Indonesia before departing through Cengkareng airport (between 06.00 – 10.00 am).
- i. For the CTKI that are not taken directly by the employer, they depart collectively through Cengkareng airport, by land through Entikong – Malaysian border, and by sea through several of the sea borders between Indonesia – Malaysia (Nunukan, Kuala Tungkal, Tanjung Pinang, Batam, and Belawan).
- j. Land transactions are done by middlemen/ syndicate in the Entikong – Malaysia border, and before passing the Malaysian immigration check post, usually the CTKI is given 1,000 Malaysian Ringgit and after passing the immigration check post, the middlemen takes back the money.
- k. For CTKI departing through Nunukan, Belawan, Batam, and Tanjung Pinang, before entering destination countries such as Malaysia, Brunei, and Singapore they are placed in a shelter owned by the syndicate while waiting for the departure process.

TIME OF DEPARTURE (Vulnerable Point III)

All CTKI who depart by air, sea and land, including those who have official documents and those who do not, are picked up by an agency or syndicate after they reach the destination country and are then taken to a shelter managed by the agency or syndicate before they are distributed to employers who need migrant workers.

PLACEMENT (Vulnerable Point IV)

- a. When they are located in the shelter in the destination country, the employer will then be contacted by the agency or syndicate to pick up the CTKI. If there are issues with the transaction or if it fails then the worker is sent to another place and maybe to another line of work. Many are even sent to another country (not the original country placement) by the syndicate, which often happens in Middle Eastern countries.
- b. The majority of the CTKI who arrived at the destination country are not reported by the Agency and PJTKI to the Indonesian Embassy or Consulate. Therefore the data on Indonesian migrant workers in many countries is incomplete.
- c. Many CTKI are placed by PJTKI or syndicated groups in countries where the government does not regulate the placement policy, which is common in many Middle Eastern countries.

WORK

(Vulnerable Point V)

- a. Migrant workers are a target of abuse, maltreatment, inhumane punishment and undignified treatment. Migrant workers may be enslaved or used as forced labour.
- b. Migrant workers experience hatred based on nationality, race or religion.
- c. Migrant workers experience unfair legal treatment that does not support them, such as: overtime pay, work hours, weekly rest, paid vacation, safety, health, ending work contract and some employers do not even allow migrant workers a vacation.
- d. The employer violates provisions in the oral or written contract. The migrant worker is then forced to sign a new contract after arriving in the destination country. The new provisions in the contract may disadvantage migrant workers.
- e. Migrant workers receive illegal pay cuts such as placement service fees or mandatory savings.
- f. Migrant workers are prohibited from forming groups or unions to protect their economic, social, cultural and other interests in countries where they work.
- g. Sexual harassment and abuse.
- h. Migrant workers are physically detained at their place of work or other place.
- i. Suspension and repeal of migrant workers' passports and other travel documents.
- j. Migrant workers are forcefully sent back to their country of origin, forced to pay the deportation fee even though by law migrant workers being deported do not need to pay for the deportation fee.⁴

⁴ The above process is a result of investigation & monitoring done by KOPBUMI in many regions

ISSUES FACED BY INDONESIAN MIGRANT WORKERS

Marginalization of Indonesian Migrant Workers and Their Families

Goal:

1. Participants understand the actors behind the marginalization of Indonesian migrant workers
2. Participants understand that this marginalization is done through many sectors of life (social, economic, culture, politics, etc)
3. Participants understand that the situation may affect the cognitive behaviour of Indonesian migrant workers
4. Participants understand that to reduce the marginalization, the strength must first come from within themselves, and then from the family, community and the country

Method:

Spider web game

Materials:

Game room, raffia fibre rope, duck tape, quarto paper/ metaplan, flipchart, markets, case study sheet

Time:

90 minutes

Facilitation Process:

Steps	Method	Materials	Time
1 Facilitator provides instructions to the participants and gets the participants to discuss the material. In conjunction with that, the facilitator hands out a Case Study Sheet to each participant. Each participant is then asked to read it and discuss with someone next to them the reasons for the marginalization process. The results should be written on paper.	Oral	Case Study	10'
2 The facilitator observes the discussion process and sees whether someone needs extra explanation or needs to be accompanied.	Discussion	-	10'
3 Facilitator asks the participants whether they are finished. If not, give extra time (say 5 minutes). After that ask who has found the cause of marginalization of migrant workers. Ask who has found two causes, four causes and so on. Facilitator then emphasizes that there are a lot of causes for marginalization.	Discussion	-	15'
4 Facilitator then allows participants to stand up and make a circle. Facilitator also allows one of the participants to volunteer and stand up in the middle of the circle (acting as a migrant worker).	Activity	-	5'
5 And then, while stretching the raffia rope from the first person that answered, the facilitator asks	Activity	Rope	5'

	participants about “what makes Migrant Workers poor?” If the second answer arose from a different participant, the first person stays holding the rope and the rope is stretched towards the “migrant worker.” The rope should be wrapped around the migrant worker’s body before it is stretched toward the second person that answered.			
6	Meanwhile, the co-facilitator writes the second answer on metaplan paper, and hangs the answer on the chest of the person who responds.	-	-	-
7	After that, while stretching the raffia rope from the second person who answered, the facilitator asks participants about “what makes migrant workers poor?” If the third answer arose from a different participant, the first and second person stay holding the rope and rope is stretched towards the “migrant worker. The rope should be wrapped around the migrant worker’s body before it is stretched toward the third person that answered.	Activity	-	5’
8	Meanwhile, the co-facilitator writes the third answer on metaplan paper, and hangs the answer on the chest of the person who responds. And so on... until the migrant workers body is tangled by many causes of marginalization. The facilitator then explains that the rope represents those processes that marginalize workers and with so many processes it is not possible for an individual worker to untangle themselves without help both in this exercise and in reality.	-	-	10’
9	Q & A: between the facilitator and the participants on “why migrant workers are poor”? Dig deeply to participants’ understanding about root causes of marginalization of migrant workers in many sectors of life.	Discussion	-	10’
10	This seeks to find aspects (example: social, economic, culture, politics, etc) of marginalization of migrant workers and their families that can be mapped.	-	-	-

11	Then the participants are channelled to discuss the larger issue of how the marginalization process is done. In regards to this, the participants are asked the following questions to answer: 1. Who are the actors involved in marginalization process of migrant workers and their family? 2. What is the role of Indonesian migrant workers in destination countries? Who benefits the most? 3. Must migrant workers and their families become poor/ marginalized? If not, where can the spider web be cut? Why is that the place to be cut in order to free migrant workers and their family? How does one go about doing so? (Explains that change can start from within, and then family, community and finally the country)	Discussion	-	20'
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CASE STUDY 01

Paijo's Story – The Beginning

From Lampung arose the story of Paijo (alias for an Indonesian migrant worker). The documents that Paijo had to apply for were expensive, but if they were paid with “blood, sweat and tears”. Paijo had to wait to go to Malaysia while dealing with a great deal of uncertainty. Finally, the job order came and after one year of waiting, Paijo is able to go through a PJTKI in Jakarta. When he arrived in Malaysia, right away he faced threats. He could not hold his own documents, which were held by the employer as a guarantee for the migrant’s loan. Paijo did not understand why he owed the employer money. He heard through others that the employer must pay a large sum to get a worker from Indonesia.

Although working as a hard labourer overseas pays more than in his own country, it is still a small salary. Pay per day is RM 25 (around IDR 60,000) in comparison to work in Indonesia which pays IDR 15,000 – 25,000 a day. But in Malaysia, Paijo cannot benefit from the full pay because it is cut by the employer to supposedly pay for the price of getting Paijo to Malaysia. Paijo does not really know the actual cost and at which point his salary will stop being deducted. The pay of RM 25 a day is small when he thinks about the cost he paid to depart as a migrant worker (IDR 7 – 9 million) and on average it takes 2 years for migrants to gather the money. They not only have to repay the cost of departure, they also must send remittances to their family. Because of the deduction, some cannot send money to their family for the first 6 months working overseas.

It was not a rare occurrence that this misfortune happened to Paijo and his friends; with employers running from their responsibilities, taking the migrants documents and wages. When bad situations arise, Indonesian migrant workers cannot do much because in Malaysia, migrant workers are sometimes viewed as second-class citizens. Indonesian migrant workers in Malaysia may not be heard, cared about, or have their interests taken care of. The situation is even worse for female migrant workers because they are prone to both abuse and discrimination. Some of Paijo’s friends work for months and do not get paid, and when they ask the employer the reason given is that the wage is kept for savings.

Others experience rough treatment from employers. It is reasonable that the first reaction is to run away. But this puts the Indonesian migrant worker into an undocumented situation.

A promising way is to take care of a residence permit. But the cost to do this is RM 6,000 (equal to IDR 14.4 million) and the stay is not indefinite. A few hectares of land in the village or a few cattle must be sold to cover the cost of a residence permit. Once the permit is obtained, Paijo must save RM 100/month, and the money will be returned when Paijo is finished living in Malaysia. Once the permit is obtained, Paijo does not have to pay for a visa and migration.

Finally after two years, Paijo's work contract ended. He had to return to Indonesia. At the Dumai-Riau port, Paijo sat between two big bags of his and amongst hundreds of people in the waiting room. He saw an official from Dumai City Office of Labour and also a port security official that kept advising Indonesian migrant workers to continue their journey. They are given time to rest after the ship took them from Port Klang, Johor – Malaysia. But in less than an hour they had to leave the port by public buses heading to their area of destination.

When he reached his village, Paijo opened a savings account with the IDR 18 million he received from 2 years of working in Malaysia. The savings included the total wage of two years (IDR 43.2 million) that was deducted for the recruitment fee for 6 months (IDR 10.8 million) and deducted for the residence permit (IDR 14.4 million). With the addition from his savings, Paijo started to fulfil more needs. The pay addition has benefited the family. Paijo's family started to fix the house, buy household tools, motorcycle, etc.

But the rise of income tends to result in increased of lifestyle costs and the need to consume more. It turned out that Paijo's family cannot manage the savings well and the savings fell to the level they were at before Paijo was a migrant worker. The condition then forces his family to owe money in order to fulfil their needs (resulting in digging a hole, cover the whole cycle). Finally the family could not manage the financial crisis and they had to sell their goods. The next phase is bankruptcy as a result of no more resources or economic potential that is left for his family.

The solution for Paijo may be to seek migrant work again in order to release himself from the financial crisis, to go back to work overseas as a migrant worker.

CASE STUDY 02

Paijo – Ending in Problems

For the second time Paijo decided to work overseas, and the country he chose was South Korea. The choice was made based on information he received from a village friend named Pomo, who said that one can work in Korea for a small cost. With IDR 20 million, one can depart to Korea while being certain of employment and a good remittance.

Finally Paijo and 10 other village friends went to Jakarta with the help of a man named Pak Darmo, known in the village as the person who has a connection to employment agencies. When they arrived in Jakarta, Pak Darmo gave them to someone named Sutomo, who supposedly worked for PT. Sinar Abadi. Pak Sutomo placed them in a house that was later found out to be the office of PT. Sinar Abadi. There they joined 30 other people who had arrived earlier. They came from 3 regions, 15 from East Java, mostly Blitar, 10 from Central Java and 5 from Yogyakarta. 41 people were staying in the house.

Two days later, 41 people are moved to Bogor where they were supposed to do Korean language training and medical tests. In Bogor, they were placed in housing and they had not seen Pak Sutomo since. For one month, Paijo and 40 friends underwent a training program held by the company. There is something suspicious with the one month training because not once do the training providers introduce themselves as representatives from PT. Sinar Abadi. But Paijo and his friends still trust the process, particularly because some uniformed Ministry of Labour officials are among the training providers.

Based on that, Paijo and his friends decided to give the process payment of IDR 20 million to Mbak Sunarti (supposedly sent to Pak Sutomo), although the receipt does not have a PT. Sinar Abadi stamp. From the receipt, the payment is detailed as following:

1. Recruitment, IDR 1 million
2. Shelter, IDR 2,5 million
3. Consumption, IDR 1,3 million
4. Training Course IDR 10 million
5. Medical Test, IDR 500,000
6. Passport, IDR 600,000
7. Other costs, IDR 4,1 million

The training program was almost over but there had not been an announcement on when the contract will be signed or the departure time. After exactly one month, Pak Mardi, a representative Pak Sutomo, announced, "Gentlemen whom we respect ... at the moment there is a technical problem that caused your departure process to be delayed. We suggest that you stay calm and wait for another one month. Because of that you are allowed to go back to your area of origin while staying in contact with us." This announcement incites protest from the participants. Paijo asked "what is the guarantee that we will be sent to Korea?" Pak Mardi answered "the guarantee is our office, you may wait at our office in Jakarta so that you can hear the information that is directly linked to your departure process." They accepted the answer because of the high passion and hope that Paijo and his friends still have to go overseas.

After 15 days staying at PT. Sinar Abadi, some friends are starting to get anxious because they had to pay for their own consumption costs. Their pocket money is not enough for the next 15 days. The condition is discussed and then they decided that 15 people would stay at PT. Sinar Abadi and the rest go back to their hometown. Paijo was one of the people who stayed to get information.

For the next 15 days, Paijo and another friend met to discuss things in connection to their departure:

1. Pak Mardi and Mbak Sunarti from PT. Sinar Abadi had been in the office less frequently;
2. The computer was not in place anymore;
3. Work papers are no longer on the desk and table;

Paijo inquired about these issues to Mbak Narti, who happened to be in the office one day, and she answered, "We are moving office equipment and documents to an operational office in East Jakarta and this office functions only as a shelter. With regards to departure, just wait for Pak Mardi." Paijo asked whether there is an address or contact information that they can use to contact Pak Mardi because he had not been in the office for a while. Because she felt pushed, he gave Paijo the card for Pak Mardi and Pak Sutomo. From the card, they found out that Pak Sutomo is an operational staff of PT. Bahagia Sejahtera and Pak Mardi is a staff of PT. Damai Sentosa. The two companies specialize in providing manpower. Ever since then, they never saw Mbak Narti.

Understanding that the condition does not benefit Paijo and his friends; he called for a meeting. At the meeting they decided to appoint Paijo, Ali, Pomo, Karno, Loso and Gunarto to find the address written on the card and request someone to take responsibility. The others wait for PT. Sinar Abadi to come to the shelter.

Pak Sutomo's address was not known, but some people are able to reach Pak Mardi at his residence. Feeling threatened by Paijo and his friends' appearance, Pak Mardi said that he was Pak Sutomo's subordinate. All departure responsibilities are in the hands of Pak Sutomo. At this point, Pak Mardi offered to still send Paijo and friends through a different PJTKI and to a different destination country. The offer will be discussed with the others, but in the mean time they asked Pak Mardi to come to the shelter the next day. Paijo was not keen on the offer because it created a rift in the group. Loso, Karno and Gunarto, however, still insist that they will accept the offer because they still want to go overseas. It did not matter what PJTKI or destination country.

As promised, the next day before Pak Mardi arrived at the shelter, Paijo and his friends discussed the offer and decided that they will push for PT. Sinar Abadi to send them to Korea and that this request is non-negotiable. Pak Mardi replied that if that is the decision then there will still be an indefinite delay because of the technical issues happening in Korea. Based on that condition, Pak Mardi offered that the group still be sent abroad but the destination country depends on the job order that PT. Sinar Abadi receives. If a prospective migrant worker asks for a refund, then the money will be returned but only after a deduction, meaning that the worker will receive IDR 4 million back.

There were at least 3 wishes among the prospective workers: 1) the Korea process continues (20 people), 2) still go overseas no matter what (20 people) and 3) one person requests a refund. Pak Mardi took a note of the name of the prospective workers and their decision.

During the last few days, Loso, Karno and Gunarto discussed the matters with the 10 people who were originally from East Java and decided to still go to Korea, trying to persuade them to choose the option to work overseas in any destination area and through any PJTKI. Loso had been in frequent contact via phone with Pak Mardi. At the same time, Paijo and friends who decided to still await the Korea process had not received any progress.

CRIMINAL LAW PROCEDURE

Goal:

1. Participants know about Criminal Law Procedure
2. Participants know the rights of victims or suspects in a case
3. Participants know the procedures of arrest, custody, search and seizure
4. Participants know how to deal with litigation cases

Method:

Lecture by a resource person, group discussion

Materials:

Module for Lecture: Criminal Law Procedure
Case Study

Time:

95 minutes

Facilitation Process:

No.	Steps	Method	Materials	Time
1	Short explanation on the topic and process to be discussed, the materials to be distributed and the time needed	Oral explanation		5'
2	Short lecture by resource person, or the facilitator can describe the topic outlined as follows: • What is criminal law procedure, what is the principle? • What needs to be paid attention to (victim rights and/ or suspects in a case) • The procedure for arrest, custody, search and seizure • What procedures must they pass in court • Who has the role in criminal proceedings and what their roles are • Making a case in a criminal proceeding	Resource person lecture	Lecture Module	60'
3	Elaborate on discussion by asking questions, both from facilitator and participants. The resource person or facilitator conducts a short review based on the discussions.			30'

INFORMATION SHEET

CRIMINAL LAW PROCEDURE

Understanding of Criminal Law Procedure

Rules that instruct things that law enforcement and other officials or persons involved in them, if there is a suspicion of criminal law that was violated (Sudarto).

Conclusion from understanding of Criminal Law Procedure

- Criminal Law Procedure (CLP) has the function to implementing or enforcing CRIMINAL LAW;
- CLP starts to operate even when a case is only under suspicion due to violation of CRIMINAL LAW, meaning that CLP can go on even though there is not a clear criminal action;

Description of Function/Role of Criminal Law Procedure

- Find facts on violation of CRIMINAL LAW;
- Establish the violator (suspect);
- Find and investigate suspect (include arrest/custody);
- Gather evidence;
- To submit suspect in front of the court;
- Investigate suspect and impose sentence;
- Administer legal means based on judge's decision;
- Conduct and monitor judge's decision.

Goal of Criminal Law Procedure

Find material truth (*substantial truth/ materiele waarheid*) in order to support the protection of human rights;

Sources for Criminal Law Procedure

- Penal Code (KUHP);
- Main Justice National Law (UU Pokok Kehakiman);
- National Law on Supreme Court (UU Tentang Mahkamah Agung);
- Main Police National Law (UU Pokok Kepolisian);
- National Law on Prosecution (Attorney – UU Pokok Kejaksaan);
- Government Regulation on Implementing Penal Code (PP Tentang Pelaksanaan KUHP);
- Other National Law, such as Law on Terrorism, etc

Major figures in Criminal Law Procedure

- Everyone: 1) Suspect, 2) Witness, 3) Expert;
- Police officials and PPNS (preliminary investigation/ *voorenderzoek*): 1) Investigator (National Police); 2) Investigator/ Examiner (National Police and PPNS); 3) Assistant Investigator (National Police);
- Attorney General/ District official (conduct prosecution and implement court order): 1) Prosecutor; 2) General Prosecutor (JPU);
- Court officials (check and assist, and decide on matters in court): 1) Judge, 2) Clerk, Court Secretary, court secretariat;
- Legal Counsellor;
- Executor official (implementer) of court order (implement National Law on crime/ *penitentie recht*): Prosecutor, LAPAS official, National Police;

Basis for Criminal Law Procedure

1. Equality before the law (isonomia);
2. Principle of legality to all of the legal process;
3. Presumption of innocence;
4. Compensation losses and rehabilitation;
5. Speedy trial (constante justitie) and fair trial;
6. Right to self defence and the appointment of a legal advisor;
7. Right to be informed of one's rights;
8. *Onmiddellijkheid van het onderzoek* (continuation of court investigation with attendance of suspect);
9. *Openbaarheid van het proces* except instruct otherwise by National Law;

Assisting Knowledge on Criminal Law Procedure

1. Orientation – hypothesis – verification – logical construction on whether there is or is not criminal conduct;
2. Psychological: Try to understand the human mind in order to treat them right;
3. Criminalistic:
 - Learn crime from a technical view point.
 - Support by forensic science (science that provides information or witness to convince the court scientifically):
 - o *Forensic medical science* (learn human organs that cause wound or death which occurs in criminal events);
 - o *Forensic Toxicology* (“toxicon” and “logos”, learn about poison which occurs in criminal events);
 - o *Forensic chemical science* (learn different chemicals with analytical chemical science based);
 - o *Forensic natural science*, for example:
 - *Ballistic forensics* (court ballistics, learn crime bullets or *geincrimineerde kogel*)
 - *Dactyloscopie* (“doctylus” or “finger” and “copy” or *finger-prints*);
4. Psychiatry: learn about sicknesses of the human mind;
5. Criminology: Learn crime as a human issue: why, how, and what is the purpose behind people committing crimes. Learn about crime in a macro sense;

Preliminary Investigation (*voorenderzoek*)

Suspicion or knowledge of criminal activity that could be obtained from four possibilities:

- Caught red handed;
- Reported;
- Complaints;
- Investigator finding out;

Understanding: “an investigator’s action to restrain a person’s freedom temporarily (Suspect, the Accused) when proven preliminary evidence that will be enough for the interest of investigation or prosecution or justice” (Article 1 Verse 20 of the Penal Code)

Who is in Charge (Article 16 of the Penal Code)

- Investigation based on investigator order: Police, Prosecutor, Anti Corruption Committee, etc.
- Investigator/assistant investigator: same as the above

Base for Arrest (Article 17 the Penal Code)

“Arrest warrant is made for people who have been highly suspected to have committed criminal actions based on sufficient preliminary evidence”

Length of Arrest (Article 19 of the Penal Code)

1. Arrest can be done at the most 1 day/24 hour
2. Violator called twice legally, does not fulfil the call

Protocol (Article 18 – 19 of the Penal Code)

1. Conducted by Police by showing arrest warrant which contains the suspects identity and reason of arrest and a short summary of the crime committed and place of investigation
2. When caught red handed a warrant is not needed but the suspect must be taken to the nearest investigator
3. Bail arrest warrant must be handed over after the arrest

INSTITUTION	LENGTH OF ARREST			Article 29 additional
	Preliminary (days)	Extension (days/by)	Total (days)	
1. INVESTIGATION	20	40 (JPU)	60	30 + 30
2. PROSECUTION	20	30 (KPN)	50	30 + 30
3. COURT	30	60 (KPN)	90	30 + 30
4. APPEAL	30	60 (KPT)	90	30 + 30
5. CASSATION	50	60 (KMA)	110	30 + 30
Maximum arrest day		400 + (150+150)		(700 days)

Article 29: extent, if there is a physical + mental threat, threat of jail is more than 9 years.
+ extension = can file objection to KPT and KMA

SUBJECTIVE CONDITION Article 21 verse (1) of the Penal Code

- Suspect/Accused is highly suspected of committing a criminal offence.
- Based on sufficient evidence (based on jurisprudence, a minimum 2 (two) kinds of evidence)
- In terms of concerns that the suspect/accused:
 - Running away.
 - Destroy or loose evidence.
 - Repeat Criminal Offence.

OBJECTIVE CONDITION Article 21 Verse (4) of the Penal Code

- Criminal Offence is subject to 5 years of prison or more.
- Criminal Offence subject to less than 5 years, are regulated by
 1. Code of Criminal Law, Article 282 (3), 296,335 (1), 351 (1), 372, 378, 379 (a), 453, 454, 459, 480 and, 506.
 2. Breach of Duty and Custom.
 3. Article 1, 2 and 4 National Law No.8 Drt 1955 (immigration criminal offence).
 4. Narcotics criminal offence.

DEFFERAL OF ARREST (Article 31 (1) of the Penal Code)

- Based on Suspect or Accused request, Investigator or Prosecutor or Judge, according to each authority, may defer an arrest, with or without guarantee or bail on the person based on preconditions.
- In case of arrest deferral being granted by the Authorized Official,
 - Guarantee in the form of money set forth by authorized official based on Article 35 verse (1) Government Regulation No. 27 of 1983, regarding implementation of the Penal Code.
 - Guarantee in form of person, set forth by authorized official based on Article 36 verse (1) Government Regulation No. 27 of 1983, regarding implementation of the Penal Code.
- Request for arrest deferral must list the following conditions:
 - Suspect or Accused does not run away.
 - Suspect or Accused does not lose the evidence.
 - Suspect or Accused does not repeat his/her offence.
 - Suspect or Accused is willing to fulfil call in interest of investigation.

- Authorized official are able to withdraw arrest deferral on Suspect or Accused that breaks the conditions set forth, namely that they are obliged to report and that they do not leave the house or town.
- Suspect, Accused, family or Legal Counsel may request a change of arrest status to an authorized official, from State Prison Status to City Prisoner or House Arrest.
- Request for reasonable Arrest Status change will state
 - Suspect or Accused does not run away.
 - Suspect or Accused does not lose evidence.
 - Suspect or Accused will not repeat his/her offence.
 - Suspect or Accused is willing to fulfil call in interest of investigation.
- Change in Arrest Status, when granted, will reduce the length according to the following calculations:
 - State Prison Arrest, sum of reduction equals length of arrest (1 day: 1 day).
 - House Arrest, length of reduction is 1/3 day x length of arrest (example if length of arrest is 60 days, the length of arrest will be 60 day x 1/3 day).
 - City Arrest, of reduction is 1/5 day x length of arrest (example if length of arrest is 60 days, the length of arrest will be 60 day x 1/5 day).



Defence at Investigation and probe level (Article 69 and 70 of the Penal Code), Legal Counsel has the right to contact and speak to the suspect at all levels of investigation and at all times. Guideline number 1 of Ministry of Justice Decision Annex No.M.14-PW.07.03/1983, at all times means during working hours.

Summon Letter (Article No. 112-113)

- Investigator must use summon so that the investigation is clear.
- The summoned must appear.
- If the summoned does not show up, he/she must provide a reasonable reason.

Power of Attorney

- Basic reference in creating a power of attorney letter refers to Article 1792 – 1797 of the Civil Code.

- Power of Attorney can be given and received in; general deed, hand writing, letter or orally.
- Power of Attorney consists of:
 1. Power granter's identity;
 2. Power receiver's identity and his/her domicile;
 3. Things specifically granted power over.

Official Report

- Official Record (deposition) is not pro yustisia;
- Information given may be evidence in court;
- Refuse request of document by investigator (can lead to *self incrimination*). Documents handed over as evidence must be recorded in official record of confiscation;
- The role of Legal Counsel is not regulated, but in practice may accompany the investigated and provide legal advice.

Witness Probe – Investigation (Article 6 - 9 of the Penal Code)

- *Investigator* is an Indonesian National Police Officer or a Civil Service Officer given authority by law to conduct an investigation;
- Not regulated by role of Legal Counsel (LC) in investigating witness;
- In practice, investigator asks the witness if he/she will be represented by LC and noted on the Official Record the name of the LC;
- In practice, LC has flexibility to assist in formulating a question and answering so that the investigation is done swiftly and is kept on track;

Suspect Probe - Investigation

- The role of LC is simple according to Article 115 of the Penal Code;
- General Principles: *within sight and within hearing*;
- Exclusion: Matter of “national security” can only be *within sight and without hearing*;
- In practice for matters other than “national security” an LC may assist in formulating answers and sometimes even questions. This depends on the flexibility and etiquette of the LC and the investigator;
- The purpose is to assist an investigation, not for deceit;

Signing of Official Record Investigation (Article 118 of the Penal Code)

- Witness or Suspect must be freed to give a statement and note as detailed according to the words used (Article 117);
- After providing their statement, witness and suspect signs an Official Record of Investigation;
- When the statement given does not correspond to what was written of the Official Record of Investigation then the witness and suspect can refuse to sign the record;
- In that situation, a Refusal Official Record for signing the Official Record of Investigation is created;

Defence

Understanding

- *Defend the legal interest of client*, fend off, object, provide contrary evidence, place issues in place, defend in order to receive a “fair trial”.

Misunderstanding

- *Defend the wants of the client/defendant*, twisting what is straight and straightening what is twisted.

Objection Note/Exception

- Plea that does not get to the main material of the conviction letter but instead focuses on the formal deformity, that is the rule of events that are *improper or illegal*.

Conclusion

- Decide on defendant officially not proven and convincingly has committed offence as said by JPU and by that releasing the defendant from all charges or at least release defendant from all charges.

Defence Process (Fair Trial)

- Receive Legal Aid when under arrest and in custody (Article 69 of the Penal Code)
- Request Pre-court (Article 77 of the Penal Code)
- Ask for Official Record of Investigation (Article 72 of the Penal Code)
- Obtain case files when filed to State Court (Article 143-4 of the Civil Code)
- Request OBJECTION
- Conduct investigation of witness
- Give witness *A de Charge* (160-1-c of the Penal Code) – Legal Counsel request witness to come, must be fulfilled by Judge
- Deny reading of Official Record of Investigation (Article 162 of the Penal Code)
- Confrontation between one witness to another (Article 165 -4 of the Penal Code)
- Submit Written Defence (Article 182-1-c),

No Interest of Judge and JPU (Prosecutor) in Criminal Matter (Article 220 of the Penal Code)

- (1) No judge is allowed to try a case that he/she has interest in, whether directly or indirectly
- (4) The regulation as mentioned above also applies to General Prosecutor

Attitude of Judge (Article 158 of the Penal Code)

- Judge is barred to show an attitude or preference or release a statement in court regarding the believe of whether defendant is guilty or not

Attitude of Judge (Article 166 of the Penal Code)

- Any question that may be use to trick/trap the defendant or witness cannot be asked

INSURANCE LAW

Goal:

1. Participants will have an understanding of:
 - a. Legal basics and principle of insurance law
 - b. Type of Insurance
 - c. Insurance elements
 - d. Content of Insurance Agreement
 - e. Length of Insurance Program (Pre-Placement, During Placement, and Post-Placement)
 - f. Insurance Claim Documents
 - g. Sanction
2. Participants know how to prepare evidence and the procedure for submitting an insurance claim
3. Participants know how to handle insurance cases

Method:

Resource person (expert) lecture, group discussion, case study

Materials:

Lecture Material from resource person: Insurance Law
Case study sheet
Plano paper and markers

Time:

135 minutes

Facilitation process:

No.	Steps	Method	Materials	Time
1	Facilitator gives a short explanation of the topic and the process that will be discussed, the modules that are going to be handed out and the time needed	Oral explanation	-	5'
2	Resource person gives short lecture, if not the facilitator can explain the topic including: a. Understanding, legal basics and principle of insurance law b. Type of Insurance c. Insurance elements d. Content of Insurance Agreement e. Length of Insurance Program (Pre Placement, During Placement, and Post Placement) f. Insurance Claim Documents g. Sanction	Lecture	Lecture material: Insurance Law	60'
3	Elaborate discussion through questions from facilitator or participants and by swiftly reviewing the discussion and the lecture given by facilitator or resource person	Opinion session, Q&A	-	20'
4	Facilitator divides participants into 5 groups, hands out insurance case study and gives 15 minutes to finish the case in a discussion	Group discussion	Insurance case study,	15'

session		Plano paper and Markers		
5	Participants present their work and are judged by the other groups	Opinion session	Case study	25'
6	Facilitator draws conclusions from the participants by asking the following questions: a. What needs to be prepared in handling insurance issues? b. What are the challenges/issues often faced when dealing with a case? c. How do we face and overcome the challenges?	Opinion session	Case study group discussion result sheet	10'

INFORMATION SHEET

INDONESIAN INSURANCE LAW

Understanding

- Insurance
 - Agreement between two parties where guarantor attached him/herself by receiving premium as a guarantee of destruction, loss or profit loss that may occur from uncertain events (Article 1 National Law No. 2 of 1992)
 - Article 1320 of Civil Code
 - a. Subjective
 - Conditions for agreement legality
 - Agree to bind each party to an agreement
 - b. Objective
 - A certain matter (agreed upon), something legal
 - Article 1338 of the Civil Code
 - Agreement as a legal basis for each party to the agreement. Cannot be taken back except when agreement is remade and or when National Law restricts.
- Indonesian Migrant Worker Insurance
 - A form of protection for Indonesian Migrant Workers in the form of benefit pay due to risks taken by the Indonesian Migrant Worker "BEFORE, DURING, AFTER" working abroad (Article 1 Per-23/MEN/V?2006)

Legal Base

- Code of Criminal Law
- Civil Code
- Code of Commercial Law
- National Law No. 2 of 1992: Insurance Business
- National Law No. 39 of 2004: Placement and Protection of Indonesian Migrant Worker
- Per-23/MEN/V2006

Type of Insurance Business

- Insurance for Loss of Vehicle, Fire, etc
- Life Insurance: accident, death, etc
- Insurance re Insurance (Article 3 National Law No. 2 of 1992)

Insurance Elements

- Insured (party of interest is insured)
- Guarantor (insurance party that guarantees and pay losses)
- Insurance Agreement (between insured and guarantor)
- Premium payment (by insured to guarantor)
- Loss, damage or profit loss (bore by insured)
- Uncertain events.

Content of Insurance Agreement

- Names of parties involved
- Time of the creation of agreement
- Insurance Object (things/legal entity/person, in the case of life insurance)
- Certain matters: danger in things bore by the guarantor
- Payment sum
 1. Premium
 2. Compensation
 - Length of Insurance Agreement
 - Other matters: another matter specifically explained other than those insured.

Length of Insurance Program in Article 9 and 13 Per – 23/MEN/V/2006

Length of Insurance:

- Pre-Placement: 5 months since Work Contract with premium cost IDR 50,000
- During Placement : 24 months with premium cost IDR 300,000
- Post-Placement : 1 year with premium cost IDR 50,000

Insurance Claim Documents in Article 14 Per – 23/MEN/V/2006

- Insured/Indonesian Migrant Worker
“KPA, Photocopy of Premium Payment, Passport, Terminal III Data/Agency Information, Proof of Medication/Payment Receipt from Doctor (Original), Medical Resume (Original), etc”
- Heir
“Citizen Identity Card, Heir Letter, Compensation Power of Attorney, etc”

Sanction

- Criminal :
 1. 263, 372, 378 and other Articles in the Code of Criminal Law
 2. Article 102, 104 National Law 39/2004
 3. Article 21 National Law No 2/1992
- Civil :
 1. Breach of Contract (Wanprestasi)
 2. Actions against law

CASE STUDY

DEATH OF BANTEN INDONESIAN MIGRANT WORKER

Short Chronology

- Indonesian Migrant Worker is taken by a middleman named Bustoni to work as a migrant worker in Egypt - Middle East with agreement cost IDR 800,000, but is paid IDR 500,000,

- Indonesian Migrant Worker is taken to Jakarta for training
- Medical check-up sometime in 2006 through PT Rahayu Islamic Medical Centre located in Jln. Tebet Timur Selatan No.113, Jakarta
- Departs to Egypt on 23/08/2006, starts work in the employers house, Mrs. Nawal binti Ali binti Alsayyid mustofa
- While working, there is information saying the worker is “sick & is no longer strong & requests to return home” and a person from the company named Yane told the worker to go home, saying “don’t be selfish, your child is dying”
- The death based on information from the Embassy in Cairo- Egypt No:299/kons/2007, arrangement by family and person from Cairo named Nuweda, after arriving in Indonesia, no longer with people from the company
- After coming home, the family contacted Mr. Atiah and Mr. Adel (Agents from Jakarta), Lia said a secretary of Mr. Bustoni, Mr. Asiel promised to handle insurance
- Mr. Atiah promised on 07/06/2007 to finish the insurance claim within 15 to 20 days, finally the answer was that only IDR 5 million could be claimed.
- According to people close to Bustoni, the victim did not follow the company.

Questions:

1. What has to be completed in order to claim insurance?
.....
.....
2. What company should claim insurance?
.....
.....
3. What are the family’s rights?
.....
.....
4. What are the victim’s rights and how much money should the family receive?
.....
.....

CASE STUDY

DEATH CASE OF AHMAD SODIK

An Indonesian Migrant Worker in Korea, named Ahmad Sodik, has passed away during placement, on June 4, 2007. The cause of death is a heart attack. Ahmad Sodik departed as a migrant worker through PT. AMRI MARGATAMA on 18 September 2006, his body arrived in Indonesia on 09 June 2007.

Questions:

1. What has to be completed in order to claim insurance?
.....
.....
2. What company should claim insurance?
.....
.....
3. What are the Ahmad Sodik family’s rights and how much money should the family receive?
.....
.....

CIVIL LAW PROCEDURE

Goal:

1. Participants know the general principles of Civil Law procedure in connection to Indonesian Migrant Worker cases
2. Participants know the rights of Indonesian Migrant Workers obtained through civil procedure

Method:

Lecture, discussion

Materials:

Lecture materials from Resource person: Civil Law Procedure
Case study sheet

Time:

225 minutes

Facilitation Process:

No	Steps	Method	Materials	Time
1	Short explanation by the facilitator about the topic and the process that will be explained, the materials that will be handed out and the time needed	Oral explanation	-	5'
2	Lecture by Resource person or if not a facilitator can explain the topic, with the outline as following : • Principles of Civil Law Procedure • Disputes that can be brought up in a civil procedure • Procedure of arrest, custody, search and seizure • Court procedures that to be followed • Who are the actors and what are the roles in a civil procedure • Proof in civil procedure • Drafting a law suit	Lecture by resource person	Resource person lecture Material: Civil Law Procedure	60'
3	Elicit discussion through asking questions from facilitator or participants. Give a brief summary of the discussion (resource person/ facilitator)		-	30'
4	Facilitator explains the next process: • Participants are divided into groups (according to training conditions, at least 3 – 4 groups) • Divide case study sheet needed for group discussion (may be used for cases taken during field visit) • Facilitator explains what the group has to do that is to draft lawsuit • Groups are asked to draft a lawsuit	Group discussion	Case study sheet; Tools to assist drafting strategy	15'

5	Allow participants to take a comfortable spot to group and discuss	-	45'
6	Ask each group to present the result of their discussion on the lawsuit draft. Elicit discussion that uses simple lawsuit outline	Presentation and discussion	60'
7	Ask participants to draw conclusions and lessons learned taken from the topic.	-	10'

INFORMATION SHEET

CIVIL LAW PROCEDURE

Civil law procedure that applies in our country has not been coded in a National Law. Draft of the National Law on civil law procedure in general court area has been ratified by plenary session the 13th *B.P L.P.H.N* on 12 June 1967, but until now it has yet to be ratified into a National Law. Until now the foundation of civil law procedure in spread out in many different regulatory instruments. Some of the regulations include the following :

- HIR, commonly known as Code of Civil Law Procedure used in Java and Madura area;
- RBG, commonly known as Code of Civil Law Procedure used outside of Java and Madura area;
- BW Fourth Book on Proving and Overdue, from article 1865 – 1993;
- *Reglement Op De Rechtsvordering* (“RV”), civil law procedure for European;
- National Law No. 20 of 1947 on Do Over Court in Java and Madura (“UU No. 20/1947”);
- National Law No. 14 of 1970 on Main Regulation of Judicial Power (“UU No. 14/1970”);
- National Law No. 14 of 1985 on Supreme Court (“UU No. 14/1985”);
- National Law No. 2 of 1986 on General Court;
- National Law No. 7 of 1989 on Religious Court;
- National Law No. 1 of 1974 on Marriage;
- Republic of Indonesia Supreme Court Jurisprudence;
- Regulation on Republic of Indonesia Supreme Court;
- Other laws and regulations pertaining to Indonesian civil law procedure.

Based on Article 5 of the National Law Dar.1/1951, civil law procedure in the State Court is conducted with respect to the previous rules applied in Indonesia to State Court within the country. What was meant by that is *Het Herziene Indonesisch Reglement* (HIR or an updated Indonesian Regulation : S. 1848 no. 16, S. 1941 no. 44) for Java and Madura, and *Rechtsreglement Buitengewesten* (Rbg or regulation for other area S. 1927 no. 227) for outside Java and Madura. So the civil law procedure that is officially implemented is HIR for Java and Madura and Rbg for outside Java and Madura region.

The underlying difference between criminal and civil law is that **civil law seeks formal truth** while **criminal law seeks material truth**. Formal truth (*formeele waarheid*) is truth obtained as a result of spelling out in detail during court process all facts and events that happened and were obtained.

General Observation on Civil Suit

1. Conditions to File a Suit

Social interaction between humans can sometimes lead to conflict between them, so that 1 (one) party must fight for their right or force the other party to fulfill their duty.

The party that files a suit for rights need legal protection. He/she has an interest to obtain legal protection, therefore the party files suit to the court. Therefore only interests that are sufficient, proper and that have a legal basis will be accepted as a basis for suit. That a suit must have a sufficient legal interest is the main condition that the suit will be accepted by the court for further investigation: *point d'intérêt*, *point d'action*. This does not mean that all suits with legal interest will be granted by court. It depends on proof. If the law suit is proven on a certain right, then it will be granted. The Supreme Court decision on 7 July 1971, No. 294K/Sip/1971 placed a condition that a law suit must be put forward by person with legal connection.

2. Plaintiff

The party that files a suit or claim for rights is called a plaintiff. If there are many plaintiffs, then they are called plaintiff I, plaintiff II and so on. The party that can file a complaint is a party that has sufficient legal interest. Supreme Court Jurisprudence dated 7 July 1971, No. 294K/Sip/1971 mentions that a suit must be filed by a person who has legal connection in person legal subject (*natuurlijke persoon*) or subject to legal entity (*rechtspersoon*). In case the Plaintiff is a legal entity subject (*rechtspersoon*), the formulation of the party which will represent the legal entity should be monitored clearly, for example a limited enterprise represented by Director of Enterprise, a foundation represented by Foundation Management. In the case that the Plaintiff is a person legal subject (*natuurlijke persoon*), then the ability and authority of that legal subject should be monitored clearly, whether or not the concerned is an adult or still under custody or guardianship, among other things.

3. Defendant

The defendant is a person or legal entity that a claim or right suit is filed against. The defendant can be one person or many people, or 1 (one) legal entity or many legal entities.

4. Power of Attorney

In court practice, the plaintiff or defendant can be represented by power of attorney. National Law does not require the use of power transfer, but it does not restrict it either, it regulates the power transfer. Power means authority, to give power of attorney means giving/transferring authority from power granter to receiver, to represent his/her interests. Article 1792 of Civil Code defines that granting power of attorney means that a person hands over their power (authority) to another, who receives it to and on the of the Power Granter to deal with a certain matter. In practice, there are two known letters of Power of Attorney, namely a general power of attorney and a special power of attorney letter. The general power of attorney letter explains that the granting of power is general and includes different matters, while the special power of attorney letter specifically explains that the power is transferred and only valid for certain matters.

Content of Power of Attorney Letter:

In creating a power of attorney letter, certain things must be paid attention to:

- I. Clearly state the identity of power granter and receiver, name, age, work and address. If the power granter is a legal entity, then in the letter the entity must be stated, and then the identity of person in charge to grant power according to the bylaws/existing regulations;
- II. Clearly state materials of the authority granted in detail, for example in regards to land dispute, the location and border of the disputed land must be explicitly stated;
- III. State authorized border of power granter in conducting the duties;
- IV. In case the defendant files a counterclaim to the plaintiff, then the Power of Attorney letter must state the authority of the power receiver to file counterclaim.

Other than that, it should be remembered that a power of attorney letter may be given with substitution right, meaning the receiver of power can grant substitution authority to certain parties according to the power of attorney substitution letter mentioned;

- V. Provide sufficient materials and signed by power granter;
- VI. The smallest detail and one usually overlooked by many is that the date of power transfer must be made prior to the date of the law suit.

5. Court Competency

In civil law procedure, there are 2 (two) types of court competency:

a. Absolute Competency (*absolute competentie*).

Absolute authority deals with division of power between court institutions as regulated in National Law No. 14/1970 Article 10.

General Court

Absolute competency from the General Court Institution is to check, finish and decide on general civil and criminal matters, except if National Law regulates otherwise. For example, general civil procedures such as offence against law, breach of contract, termination of agreement, can be solved through general court, while other commercial disputes such as bankruptcy, violation of intellectual property, can be solved through Commercial Court in the Central Jakarta State Court.

Religious Court

Absolute competency in Religious Court is to check, finish and decide matters that deals with marriage, divorce, reconciliation, and deciding heirs of Muslims.

Military Court

Absolute competency in Military Court Institution is to check, finish and decide on criminal matters done by military personnel.

State Administrative Court

Absolute competency in State Administrative Court deals with administrative disputes between persons or legal entities and state officials or state administrative legal entities.

b. Relative Authority (*relative competentie*).

Relative authority regulates division of power between similar courts based on *Actor Sequitior Forum Rei* or depending on the defendant place of residence (Article 118 of HIR).

6. Technique of Civil Suit Formulation

A law suit must be formulated accurately and in detail to avoid wrong technical procedures that may cause the suit to not be accepted. Some things deserve special attention:

1. Legal Condition of Law Suit Letter.

HIR and RBG do not clearly regulate conditions to make a letter of law suit, the only regulation on law suit letter conditions can be found in Article 8 No. 3 RV. In general a letter of suit (complaint) contains 2 (two) parts as follow:

Formal Condition. A formal condition of a letter of lawsuit is as follows:

- Place and date of creation of law suit, in practice, a letter of complaint (suit) mentions place of creation and date.
- "Materai" (tax stamp), in practice, a letter of complaint (suit) has sufficient "materai." A letter of complaint without "materai" does not result cancellation of

the suit but the letter will be returned to the Plaintiff so that “materai” will be added.

- Signature. A letter of complaint (suit) must be signed by the Plaintiff (him/herself) or by the person with Power of Attorney.

2. Substantial Conditions

Substantial condition is a lawsuit letter regulated in Article 8 RV verse 3 which consist of:

- **Identity of Parties**

In a letter of complaint (suit) identity of Plaintiff and Defendant must be explicitly stated, that includes:

- I. Full name;
- II. Age/place and date of birth;
- III. Work; and
- IV. Domicile

- **Allegation (*Fundamentum Petendi*)**

Allegations are concrete arguments on legal connection that becomes a basis for filing a civil suit. The allegation in general is divided into 2 (two) parts, which is:

- I. Explanation regarding events that describe the basis of the matter;
- II. Explanation on regulation that describes legal connection as jurisprudence base of a civil suit;
- III. In short, an allegation must describe object matters, legal facts, defendant action qualification, and other things that could be in a form of explanation regarding guarantee seizure, description of loss, tax, penalty, and so on.

- **Relief Sought**

Relief sought or demand that the plaintiff requested or wished for is decided by Judge. Relief sought will therefore be answered in a verdict or ruling. The plaintiff must formulate petition clearly and explicitly.

7. Civil Procedure Investigation

Civil Procedure Investigation through different court agenda, as follows:

- a. File suit
- b. Defendant answers, with a few steps:
 - Answer in Objection
 - Answer in case matter
 - Answer in counterclaim
- c. Counterplea
- d. Rejoinder
- e. Proof (written proof, witness testimony, accusation, confession, oath)
- f. Conclusion
- g. Judge’s decision (temporary decision, final decision)
- h. Legal effort, contains Regular Legal Effort: Objection, Appeal, Higher Appeal, and Extraordinary Legal Effort: Review, Derden Verzet
- i. Execution

Ad.a. File Letter of Complaint (suit) In the following work flow:

- Register Letter of Complaint (Suit)
- Letter of complaint (law suit) must be registered in the authorized State Court. In filing a complaint, the Plaintiff or receiver of power must register the complaint. Plaintiff or authorized party will be given Power of Attorney to Pay letter (“SKUM”) by Court Clerk in registration to pay deposit for cost of dispute (“POP”) that has been regulated. After, the letter of complaint (suit) will be given case number by the Court Clerk.

- After the head of court receives the letter of complaint, he/she will appoint the Judge that will work to handle the case. In principle the case investigation in a court is done by a Judging Committee, which consists of 1 (one) Head Judge and 2 (two) Member Judges.
- Next, the State Court Clerk will inform the court to call the Defendant. In practice the first court date will be held 14 (fourteen) days after the court call is received by the Defendant.
- If on the assigned court date the Plaintiff does not show up, then the claim will be dismissed. In practice, however, the Judging Committee is wise enough to delay the court for a certain period of time, usually a week which can be extended to another week, in order to give Plaintiff another chance to be in court after being recalled by the concerned Judge Committee.
- If defendant never shows up in court, although they have been called properly, the Judge Committee will sentence *Verstek*. As in cancellation above, the court will be rescheduled for the next week and can be extended to another week. Due to the *verstek* decision, Defendant files a *verzet* legal effort to the State Court concerned, as described below.
- If the Defendant only shows up for first court hearing, and does not show up for second or third hearing, the civil matter will be decided with *contradictoir*, where *contradictoir* decision can be Appealed to Higher Court.
- Things met in filing suit in practice are as follows:

Change to Letter of Complaint (Law Suit)

- Matters about change in law suit are not regulated in HIR, but in RV. Basically, law suits that have been registered in State Court can be revised, but the revision must not cause any loss to the Defendant.
- According to Article 127 of the RV, revisions in law suit are permitted throughout investigation, as long as they do not change or add “*onderwerp van den eis*” (relief sought, main claims). Understanding “*onderwerp van den eis*” in practice includes the basis or claims, including events that are made to be basis for claims. Revisions are not permitted that may change the basis for claims, for example: claims that agreement is fulfilled, change into agreement revision to be decided, etc.
- Republic of Indonesia Supreme Court Jurisprudence, dated 28 October 1970, No. 546 K/Sip/1970 mentioned:
- “State Court Decision, strengthen by High Court must be cancelled, because the decisions grant change in base for claims (suit) that has been filed in the investigation level where all grounds, counterclaims and defence has been brought forward.”

Withdraw Letter of Complaint (Lawsuit).

- Withdrawal of a lawsuit can be done before the claims are investigated in court or before Defendant provides answers or after the Defendant provides answer.
- If withdrawal is done before the case is investigated in court or before the Defendant provides official answers, then the Defendant has not official find out about the claims, which officially means that his/her interest has not been breached. In this case, agreement from Defendant is not needed (Article 271 of RV).
- On the other hand, if withdrawal is done after the Defendant provides answers to the claims of Plaintiff, except if the Defendant’s interest is being attacked, the Defendant has put forth significant cost and their reputation is on the line: to him/her it is better that the case continue. A conflict of interest may arise between the Plaintiff and Defendant, therefore in order to withdraw claims after the Defendant has provided answers to claim, an agreement from the Defendant is needed.

Accumulation of Claims.

- An accumulation claim is a number of claims accumulated into one lawsuit. Claim accumulation can happen by subject or object. If the accumulation is based on subject then it is called subjective accumulation. For example, the accumulation may take the following forms: the Plaintiff consists of many people using claims against a Defendant, or a few Plaintiffs making claims against a few Defendants, or a Plaintiff making claims against few Defendants. Sudikno Mertokusumo (1988: 51 – 52) mentioned that often the Plaintiff makes more than one claim in one case at once. This is accumulation of an objective accumulation. To file an objective accumulation, in general, the claims do not have to have a close connection to one another.
- There are 3 (three) things not permitted in an objective accumulation :
 - a. If a certain claim is needed on special circumstances (divorce suit), while other claims must be investigated through general circumstances (claims to fulfill agreement), then the two claims cannot be combined in one lawsuit;
 - b. Also, when the judge does not have authority (relatively) to investigate a claim that is filed together in a claim with other claims, then the two claims cannot be filed in one;
 - c. Lawsuit on “*bezit*” cannot be filed together with claim on “*eigendom*” in one claim (Article 103 of the RV).

Ad.b. Response from the Defendant

- After receiving the letter of complaint (lawsuit), the Defendant will deny the arguments in the suit based on the responses. In principle, the response is divided into 2 (two) parts:

a. Response in Objection

Objection is to ward off Plaintiff claims that do not concern basis of the case. Objections can be divided 2 (two) parts, absolute objection and relative objection.

1. Absolute Objection Competency (Authority)

Absolute objection deals with court competence, there is absolute competency and relative competency. Absolute competence is regulated by Article 134 HIR/160 RBG and can be filed at all times during the course of the case. Even court must declare even when there is no objection from Defendant. Relative competency must be filed during first chance, if not, the objection cannot be filed again (Republic of Indonesia Supreme Court Jurisprudence, dated 13 September 1972, No. 1340 K/ Sip/1971).

2. Relative Objection Competency

Relative objection is a counterplea that does not aim for the basis of the case, deals with technical issues of the lawsuit outside of absolute objection. Different types of objection, are the following:

Declatoire Exceptie is an objection that states that the Court does not have authority to investigate the case, or that the lawsuit is cancelled, or that the case are in fact still in process and that no decision has been made that has yet to have a certain legal power.

Dilatoire Exceptie is an objection that does not deal at all with the main claims. The objection mentions something that made the main claims to fail. For example, if facts are Defendant owes the Plaintiff but the loan is not due (extension of the length of payment) or the claims are filed prematurely.

Paremtoire Exceptie is an objection or even though admitting to the arguments of the claims, but mentioned principle additions which causes the claims to fail. For example, by mentioning that the Defendant never

owes Plaintiff or the loan has been paid in full by the Defendant to the Plaintiff, or has been relief of debt, or claims mention is *nebis in idem*, because it has been filed to the Court on the same case subject, object and arguments.

Disqualificatoire Exceptie is an objection that states that the Plaintiff is not the one who should sue me. The point of the counterplea is that the person filing claim has no right to.

Exceptie Obscurum Libellum is an objection that states that the Plaintiff claims are weak. That sort of claim is due to refusal of right or has no foundation. Examples are regulated in Article 125 verse (1) of HIR/Article 149 verse (1) of RBG.

Exceptie Plurum Litis Consortium is an objection that states that the claims should include other matters; not only the Defendant. This is due to the need for all parties in the claim. Without filing other suit then the subject of the claim is not completed.

Exceptie Non-adimpleti Contractus is an objection that states that i do not fulfill my performance, because other party breach of contract. This situation can happen in case of mutual agreement.

Exceptie Rei Judicatae is an objection that states that the case has been cancelled and it does not have a legal power. Based on nebis in idem, it cannot be tried again. Article 1917 of BW regulated, nebis in idem happens when a claim is based on the same reason, filed by and to same people in the same relationship.

Exceptie van Litispendentie is an objection that states that the same case is still dependent on court process, there are no decision made that has a certain authority.

Exceptie van connexiteit is an objection that states that the case has connections with a case that is currently dealt by Court or other institution and no decision has been made.

Exceptie van Beraad is an objection that states that the claims should have not been filed yet. For example, due to an agreement that has not met a deadline, so there has not been a breach of contract, or because the Defendant is still considering whether or not to take the heritage.

Other than matters listed above, in practice, court legal procedure still has many objection that can be filed to break a claim (lawsuit), that are the following:

- Difference in Allegations and Relief Sought, for example there are some things requested in the relief sought where it were never mentioned in the allegations. Where in fact the relief sought cannot be more than the allegations.
- Undetailed losses, in case loss was made than each loss must be detailed. The losses that are not detailed in the lawsuit, may be a base for filing objection.
- Deadline expired, a claim (lawsuit) filed that has passed the deadline, may be a base for filing objection.
- Defendant action qualification not clear, formulation of mistakes/action of the Defendant that was not clear may be a base for Defendant to file objection.
- Claims (Lawsuit) object not clear, claim object must be clear, concise, and characterises detailed. Claims object that does not made clear, may be a base to file objection.

b. Response in Case Matter

Although the HIR does not specifically state, a Defendant response must be followed by reasons, to make the base for the case clear. It is not enough if the

Defendant just denies the charges, but he/she must give reasons for the denial. The denial that is insufficient can be put aside by Judge that is the decision made by the Jakarta Court of Justice on 1 April 1938. Article 113 of the RV placed condition where the Defendant denial is with reasons (*met redenen omkleed*). To make response easier, the Defendant can use letter of claims (lawsuit) schematic. By first responding to the claim allegations that will be responded and then providing reasoning for the contrary. The language used must be a legal language, easily understand, concise and clear. To support a response, literary source such as doctrine, jurisprudence, etc, may be used.

c. Response in counterclaim proceeding

Counterclaim proceeding is a Defendant counterclaim. The counterclaim proceeding must be filed together with response. The Indonesian Supreme Court decision dated 26 April 1979, Reg.No.346K/Sip/1975, states that because the counterclaim is filed on the second written response (duplik - rejoinder/reply), the counterclaim is too late. In principles, counterclaim can be filed in all terms, except 3 (three) matters listed in Article 132a of the HIR or Article 157 of the RBG, that states:

- In cases where counterclaim does not serve self interest, or when the counterclaim serves self interest. For example, the Plaintiff counterclaim;
- If State Court investigating the counterclaim has no absolute authority to investigate the counterclaim. For example, the counterclaim regarding loan – debt, whilst counterclaim on claims to increase house rent cost;
- In case of disputes regarding judge's decision. This prohibition is appropriate because the case that is finished (closed) is not a place for claims and counterclaims.

Ad.c. Replik (Rejoinder/Reply)

Replik is a counter response of the Defendant's response. In procedural practice, replik contains arguments or additional agreements of Plaintiff in a letter of claim. To formulate replik, it is usually sufficient to follow Defendant's points of response.

Ad.d. Duplik

Duplik is Defendant's response of the Plaintiff's replik that basically denies the arguments of Plaintiff's replik and strengthen Defendant arguments stated in response.

Ad.e. Proving

Proving is very important because the decision of whether or not civil proceeding is granted is based on each party's argument. Legal Base of proving can be seen from the following articles:

- In Article 163 of the HIR jo. Article 1865 of the Civil Code, stated that whoever say or argue that he/she has a right or state that the actions done to strengthen the right, or deny someone's right, must prove whether actions are done or not. In court proceeding, mainly the weight of proving is bear by the Plaintiff, because if Plaintiff cannot prove arguments made, the lawsuit may be rejected;
- Next, in material law, many times the weight of proving has been divided, for example:
 - a. Force events must be proved by debtor (Article 1244 of the Civil Code);
 - b. Whoever sue for losses due to legal violation action, must prove guilt (Article 1365 of the Civil Code);
 - c. Whoever show last three receipt, will be considered to have paid all instalments (Article 1394 of the Civil Code);
 - d. Whoever control moving goods, considered as the owner (Article 1977 verse 1 of the Civil Code);

- Next, in many Republic of Indonesia Supreme Courts Jurisprudence are stated unarguable argument, which is considered a statement. An argument that needs no further proving are stated in Supreme Court Jurisprudence No. 803K/Sip/1970 dated 5 May 1971 that basically states, ***"the things filed by the PLAINTIFF that are not denied by the DEFENDANT can be considered proven"***.
- Regarding evidence: According to Article 1866 of the Civil Code or Article 164 of the RIB (Article 283 of the RDS) evidence in civil proceeding are as follow:
 - a. Written evidence;
 - b. Witness evidence;
 - c. Allegation;
 - d. Confession; and
 - e. Promise/Oath.

Information regarding evidence is discussed below:

a. Written Evidence

Written evidence is anything that contains written signs that can be understood and contain certain thoughts. Written evidence is divided into 2 (two) kinds, that are: (i) deeds; and (ii) other writing not deeds. Deed means writing made purposely to be evidence on an event and signed by creator.

Deed can be divided into 2 (two) kinds:

1. **Authentic Deed** is a deed made by or in front of authorized official based on National Law. Examples of authentic deeds include the following:
 - a. Notary deed, based on Article 163 of HIR, whoever denies truth of notary deed, the concerned party shall prove falseness of the mentioned notary deed.
 - b. Criminal judge decision (Supreme Court Jurisprudence) No. 199 K/Sip/1973 and Article 1920 of the Civil Code.

Authentic deed has proving power as follows:

- a. Formal proving, that is proving the parties that they have done what was written in the deed;
 - b. Material proving that is proving between parties that the event written in the deed has happened;
 - c. Binding proving, that is proving between parties and third party that during the date (time) concerned in the deed mentioned that the party mentioned has explained what is written in the deed to an official employee.
2. **Deed under the table (not drawn up before a notary)**, Deed under the table is a letter that was not made in front of authorized officials (Article 1874 of the Civil Code and Article 1819 of the Code of Criminal Law). In practice, for a case investigation in State Court the written evidence filed is not the original, but a photocopy that has been legalized by the court clerk, and by showing the original writing in front of the Court. This development of court practice connects with the development and improvement of technology with the introduction of photocopy machine, therefore the copy evidence is exactly the same as the original. In this matter, the Supreme Court decision dated 14 April 1976 No. 701 K/Sip/1974 has stated that a photocopy that is not legalized can be considered to be the same as original, while there are still important substantial matters being disputed by the two parties, that are not considered legal evidence by law. The written evidence has been filed in court has to have "materai" (tax stamp), except if it is already on a sealed paper, if not the written evidence will be put aside by the Judge (Supreme Court dated 28 August 1975 No. 983 K/Sip/1972).

b. Witness Evidence

A witness is person that provide information in front of the court about what was seen, heard and experienced by the person in question. Article 169 of the HIR states that witness testimony itself, without any other evidence, cannot be trusted by law. This principle is known as *unus testis nulus testis* which means that a witness is not a witness [without supporting evidence]. To prove using witness, there has to be at least 2 (two) witnesses or a witness has to be supported by other evidence. A witness that gives testimony must have been sworn prior to giving testimony. The Judge has authority to appraise (judge) a testimony of a witness (Article 170 of the HIR and Article 1906 of the Civil Code).

c. Allegation

An allegation is evidence regulated in Article 173 of the HIR, Article 1915 of the Civil Code. What is meant by allegation is the conclusions drawn by regulation or Judge from a known event toward an unknown event (Article 1915 of the Civil Code). What can a Judge decide to be allegations? Any event, event in court, materials gathered from case investigation, everything can be materials to formulate Judge's allegations.

Allegation as evidence can be divided into 2 (two) kinds:

- a. Allegation based on truth
- b. Allegation based on National Law, some which regulated by Article 1977 verse (1) Article 644, Article 250, Article 1394, Article 159, Article 658, Article 662, and Article 1921 of the Civil Code.

d. Confession

Confession is regulated in Article 174 of the HIR, Article 175 of the HIR, Article 175 of the HIR, Article 1923 of the Civil Code and Article 1928 of the Civil Code. Confession is any information, written or oral, that confirms an event, right or legal connection stated by the other party.

Confession can be divided into 2 (two) kinds:

(i). **Confession in front of court**, Confession in front of court is regulation in Article 174 of the HIR, Article 1925 of the Civil Code and Article 1926 of the Civil Code. Confession in front of court cannot be retracted unless it can be shown that the event was a mistake/unplanned.

(ii). **Confession outside of court**, Confession outside of court is regulated in Article 175 of the HIR, Article 1927 of the Civil Code and Article 1928 of the Civil Code. Confession made outside of court will be judged subject to the power of prove by a Judge. Judge can grant that the oral confession done outside of court is strong evidence. Aside from an oral confession outside of court, there may be written confession made outside of court.

e. Promise/Oath

Promise/Oath is regulated by Article 155 of the HIR, Article 156 of the HIR, Article 157 of the HIR, Article 158 of the HIR, Article 177 of the HIR and Article 1929 – 1945 of the Civil Code.

Promise/Oath as an evidence in civil proceeding, if there are no other evidence then the parties can prove by Promise/Oath (swear).

Ad.f. Conclusion

Conclusion refers to conclusions drawn by each party after Q & A session and proving, then a conclusion can be drawn. Conclusion is not a must but it is merely a common practice in court, and HIR/RBG does not regulate it.

A conclusion can contain the following:

- a. Conclusion from Q & A

From Q & A process, that is the claims, answer, *replik* and *duplik*, the things considered proven, or things not considered proven, or vice versa for the Defendant.

b. Conclusion of written evidence

Mostly the important contents of written evidence are explained briefly and clearly. Then the things considered proven or not are formulated based on the evidence.

c. Conclusion from witness testimony

Important matters are gathered from witnesses of Defendant and Plaintiff, and drawn to conclude. Next the information of witnesses are concluded whether it is proven or not.

Ad.g. Judge Decision

There are 2 (two) types of Judge decision, (i) Temporary decision; and (ii) final decision.

a. Temporary Decision

The following are types of temporary decision:

1. Preparation decision;
2. Incidental decision;
3. Provisional decision.

Preparation decision is used to prepare a case, same as incidental, but provisional decision is a decision given in connection to claims in the bases of case, meanwhile preliminary actions are done for the benefit of one party or both parties. For example, in case house rooftop rented by Plaintiff is destroyed by Defendant during rainy season, the Defendant may be ordered to fix the roof right away. Due to the nature priority of the case, a provisional decision can always be arrived at earlier (example Article 180 of the HIR). According to Article 185 verse (1) of the HIR/196 verse (1) of the RBG, although a temporary decision is stated in court, it is not made separately but only written in Court Official Record. Next Article 190 verse (1) of the HIR/201 verse (1) of the RBG regulates that:

- *“temporary decision can also be appealed together with appeal for final decision”.*

b. Final Decision

Final Decision is a decision that ends a dispute or case at a certain level of court (Sudikno Mertokusumo, 1988: 183). Every court decision is stated in writing and must be signed by court chairperson of the Judge committee and member judges that followed the investigation and decide on the case, and also the court clerk replacement who followed court (Article 23 verse (2) National Law No. 14/1970). Does what the judge says in court have to be exactly the same with what was written, and what was written be exactly the same with what was said in court? In court decisions on civil matters the Judge, according to Article 178 verse (2) of the HIR/189 verse (2) of the RBG, must try all claims/suit (petitum) – (Supreme Court of Republic of Indonesia decision dated 4 December 1975, No. 335K/Sip/1973). However, the Judge is not allowed to decide on matters that were not claimed or grant more than what was sought (Article 178 verse (3) of the HIR/189 verse (3) of the RBG). If in the relief sought claim the Plaintiff does not seek compensation for loss, then if the Court decision made the Defendant compensate losses, the decision must be annulled (Republic of Indonesia Supreme Court Jurisprudence dated 19 September 1973, No. 77K/Sip/1973). That decision is not absolute, therefore the Indonesian Supreme Court Jurisprudence dated 10 November 1971, No. 556K/Sip/1971, states that Court can grant more than what was sought, as long as it is still in line with material events. A civil court decision contains 4 (four) parts:

- a. Decision Heading: A court decision heading must state (Article 4 verse (1) of the National Law No. 14 of 1970): **“For Justice Based on The One God”**; Decision heading provide executorial strength to the court decision mentioned, if a court decision does not have decision heading, then the decision cannot be proceed.
- b. Parties identity: A court decision must state clearly and in detail the identity of the parties in dispute, such as name, address, and place of work.
- c. Legal consideration: Legal consideration of a court decision has 2 (two) parts:
 1. Consideration on that basis of the matter that briefly states all claims and responses;
 2. Consideration on the legal basis that contains the reasons or legal principles of the Judge Committee in deciding a case.
- d. Ruling decision
A ruling decision is a response to relief sought within Plaintiff’s claims. In civil law procedure it is decided that the Judge must try all parts of claims, even in preliminary claims or in counterplea. If not then the decision must be annulled (Indonesia Supreme Court Jurisprudence No. 104K/Sip/1968). In court practice, there are times where Plaintiff or Defendant does not show up in court. And there are times where one party does not show up, regardless of whether that party has been officially called. To make decisions in those situations will be different.

c. Default decision

A default decision (*verstek*) is drawn if a Defendant who has been officially called does not show up in court, or is not even represented by power of attorney. The default decision is a decision taken without the attendance of Defendant.

Ad.h. Legal Effort On Judge Decision

1. Regular Legal Effort in civil case can be in a form of objection (*verzet*), appeal or higher court appeal.
 - a. Verzet (objection)
Response to default decision, Defendant can pose objection according to Article 123 verse (3) of the HIR jo. Article 129 of the HIR. Time limit to file objection is 14 (fourteen) days after the Defendant was informed of the default decision. In this case the objection of Defendant was beaten by another default decision, because the requestor did not attend court, then he/she cannot file another objection, but can file an appeal of the decision. In objection cases, the process proceeds as usual, that is there are claims, responses, replik, duplik and conclusions. For the Defendant who lost by default decision, their legal effort can only be an appeal.
 - b. Appeal
Legal effort on a State Court final decision is an appeal. A request for an appeal must be filed within 14 (fourteen) days since the decision date if the parties attend court or 14 (fourteen) days after the ones concerned are informed of the decision. To file an appeal, an appeal memory is needed as a basis for appeal investigation. But the appeal memory is not a must, meaning if appeal memory is not made, it can still be valid. Reasons for appeal are not regulated in civil law procedure, therefore all things can be considered a reason to file appeal, such as proving, or matters of legal implementation.
 - c. Higher Court Appeal
Higher court appeal is a legal tool which refers to the authority of Supreme Court to reinvestigate court decisions passed. This is the last level of court. The time limit to file Higher Court Appeal is 14 (fourteen) days after decision is read in front of court if parties attend, or 14 (fourteen) days after the ones concerned are informed of the decision. Counted 14 (fourteen) days of higher

court appeal statement, requestor of higher court appeal must turn in “Higher Court Appeal Memory”, then the requested can file counter-memory of Higher court appeal in 14 (fourteen) days since the higher court appeal memory is informed to the requested. Reasons to file higher court appeal are based on Article 30 of the National Law of Supreme Court, as follows:

- Not authorized or exceeds authority.
- Wrongfully implemented or comprising a breach of current regulation.
- Negligent to obligatory conditions created by regulations that threaten negligence by annulling the concerned.
- *Onvoldunde Gemotiveerd*
- In practice, reason for a higher court appeal can be *judex facti* (High Court) if its decision does not appropriately consider the decision made (*Onvoldoende Gemotiveerd*).

2. **Extraordinary Legal Effort** in a civil case can be in a form of review or *derden verzet*.

a. **Review**

Review is an effort to check or to foil a court decision that has steady legal power. A request for review does not hinder the execution of a decision that has legal power. Reasons to file review are regulated in Article 67 of National Law No. 15/1985, as follow:

- If a decision based on lie or illusion which is discovered after the case is closed, or if it is based on evidence that the civil court judge finds fake.
- If the case is closed and then new evidence appear (novum).
- If what was granted is something that was not sought or more than what was sought..
- If parts of the claim have not been closed, without reasons being considered.
- If decisions contradict each other, while the case has commonalities.
- If the decision indicates mistakes by the judge or obvious errors.

b. **Derden Verzet**

Derden verzet is a dispute of the decision made by third party, which originally did not have a connection to the case. *Derden verzet* is regulated in Article 378 of the RV, which states that the important elements to file *derden verzet* are:

- (i). Interest of third party;
- (ii). Obvious that the right of the third party is jeopardized.

In practice, *Derden verzet* can be done by third party to: execution order, execution bid decision, execution implementation exceeding court decision, seizure of third party goods, *conservatoir beslag*, etc.

Ad.i. Execution

Execution is implementation based on an official court order from the Chairperson of State Court that investigated the case at the first level. In case of an execution that must be performed together or partly outside of State Court legal area, then the State Court Chairperson requests assistance from the State Court Chairperson that has right to implement it. The State Court Chairperson that receives the request for assistance informs that all efforts has been ordered and the end to the State Court Chairperson who investigate case at the first level. After a court decision has a certain legal authority, then the party which won the case files request to the State Court Chairperson in charge/who investigate case at the first level to implement the decision. For that, the requestor of execution file submits a written request to the State Court Chairperson. After receiving the request, the State Court Chairperson calls the party who lost to be warned (*aanmaning*), so that

the party voluntarily implements the content of decision in 8 (eight) days since *aanmaning*. In case the time limit has passed and the party which lost, after already having been called, does not come, the State Court Chairperson can give an order to seize moveable or non-moveable goods owned by the party who lost. To implement a seizure, the implementation officer is assisted by 2 (two) witnesses whose identity is mentioned Seizure Official Record. Due to seizure, counted since the date of seizure is announced, the party whose goods are seized, cannot move, pawn or rent the seized goods.

LAW OF PROVING AND INVESTIGATION

Goal:

1. Participants know the Law of Proving:
 1. Understanding basic law and law principles of Proving
 2. Civil proving
 3. Criminal proving
2. Participants know about investigation:
 - a. Principles and Role of Investigation
 - b. Get Ready and Conduct Investigation
 - c. Technique on Finding Information and Evidence
 - d. Data Analysis
 - e. Draft Report and Investigation Development

Method:

Lecture by the resource person, group discussion, case study

Materials:

Lecture by Resource person
 Materials : Insurance Law and Investigation
 Case Study Sheet
 Plano Paper and Marker

Time:

145 minutes

Facilitation Process:

No	Steps	Method	Material	Time
1	Short explanation by facilitator on topic and the process that will be discussed, the materials that will be handed out, and the time needed	Oral explanation	-	5'
2	Lecture by resource person, or if not, a facilitator can discuss the topic which contains the following: a. Participants know about Law of Proving: • Understanding basic law and Law of Proving Principles • Proving and Evidence in Civil Procedure • Proving and Evidence in Criminal Procedure b. Participants know about Investigation: • Principles and Role of Investigation • Getting Ready and Conducting an Investigation • Technique of finding information and Evidence • Data Analysis • Draft Report and Development of the Investigation	Resource person Lecture	Resource person Lecture Materials : Insurance Law and Investigation	60'

3	Encourage discussion by asking questions from facilitator or participants. The facilitator discusses briefly the resource person's lecture and the discussion develops	Suggestion session, Q & A	-	30'
4	Facilitator divides participants into 5 groups, then distributes case study sheets and give 15 minutes to finish the case in discussion group	Group discussion	Case study sheet, Plano paper and Marker	15'
5	Participants present their group's results and are judged by other groups	Suggestion session	Case study sheet	25'
6	Facilitator gathers conclusions from the participants by asking the question: • What are the preparations that have to be made when starting and conducting an investigation to gather evidence? • What are the challenges that are often faced when starting and conducting investigation to gather evidence? • How do we face and eliminate these challenges?	Suggestion session	Case study result, group work	10'

INFORMATION SHEET⁵

LAW OF PROVING AND INVESTIGATION

Law of Proving

Understanding for Proving

General Dictionary: **Proving** is showing something or an event that is sufficient to be declared or understood to be something right (*W.J.S. Poerwadarminta*)

Law Dictionary: **Proving** is effort to decide what has happened concretely. Proving in a legal sense means providing a sufficient basis to judge in order to investigate a case and give certainty about the truth of an event that was presented within the court (*Prof Dr. Sudikno Mertokusumo, SH*)

Law of Proving in Civil Proceeding

- CIVIL LAW PROCEDURE: Seek, sustain and determine a truth based on the guidelines and provisions authorized by law/regulation in order to determine the Defendant's fault.
- Article 183: A Judge cannot sentence a penalty to a person without at least *two* items of evidence that *the judge* considers sufficient to establish that the criminal offence actually happened and that the defendant is guilty of the charge.
- Legal Evidence
 1. Witness Testimony
 2. Expert Testimony
 3. Letter
 4. Clue
 5. Defendant Testimony
- Each verse "available evidence" must be fully fulfilled in order to satisfy requirements as 1 evidence. Two official witnesses mean one evidence.

⁵ Sources: "Menelusuri Jejak, Menyingkap Fakta", Lembaga Studi dan Advokasi Masyarakat (ELSAM), Cetakan Pertama, Juni 1999.

- Therefore 2 official evidence is a full combination between No. 1 until 5. Or one official witness plus a Defendant testimony equals 2 official evidence.

Law of Proving in Civil Proceeding

According to Article 1866 of the Civil Code or Article 164 of the RIB (Article 283 of the RDS), evidence in a civil suit are the following:

- Written evidence;
- Witness evidence;
- Allegations;
- Confession; and
- Promise/Oath.

Explanation of the evidence listed above are as follows:

a. Written evidence

Written evidence is anything that contains written signs that can be understood and which contain certain thoughts. Written evidence is divided into 2 (two) types: (i) deed, and (ii) other written not deed.

Deed is a written document created for the purpose of being evidence on a certain event and which is signed by the creator.

Deeds can be separated into 2 (two) types: (i) authentic deed; and (ii) deed made under the table (not in front of notary). Authentic deed is a deed drawn up by or in front of authorized official by law. Example of authentic deed:

- Notary deed, based on Article 163 of HIR, whoever denies the truth of a notary deed, the concerned party shall prove falseness of the mentioned notary deed.
- Criminal judge decision (Supreme Court Jurisprudence) No. 199 K/Sip/1973 and Article 1920 of the Civil Code.

Authentic deeds have proving power as follows:

1. Formal proving, that is proving to the parties that they have done what was written in the deed;
2. Material proving, that is proving between parties that the event written in the deed has happened;
3. Binding proving, that is proving between parties and third party that during the date (time) concerned in the deed mentioned that the party mentioned has explained what is written in the deed to an official employee.

Deed under the table is a letter not drawn up in front of the authorized officer (Article Pasal 1874 of the Civil Code and Article 1819 of the Civil Code).

In practice, the case investigation in State Court the written evidence filed is not the original, but a photocopy that has been legalized by the court clerk, and by showing the original writing in front of the Court. This development of court practice connects with the development and improvement of technology with the introduction of photocopy machine, therefore the copy evidence are exactly the same as the original. In this matter, the Supreme Court decision dated 14 April 1976 No. 701 K/Sip/1974 has stated that a photocopy that is not legalized can be considered same as original, while there are still important substantial matters being disputed by the two parties, that are not legal evidence by law. The written evidence has been filed to court has to have "materai" (tax stamp), except if it is already on a sealed paper, if not the written evidence will be put aside by the Judge (Supreme Court dated 28 August 1975 No. 983 K/Sip/1972).

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An allegation is evidence regulated in Article 173 of the HIR, Article 1915 of the Civil Code. What meant by allegation is the conclusions drawn by regulation or Judge from a known event toward an unknown event (Article 1915 of the Civil Code). What can a Judge decide to be allegations? Any event, event in court, materials gathered from case investigation, everything can be materials to formulate Judge's allegations. Allegation as evidence can be divided into 2 (two) kinds:

- a. Allegation based on truth
- b. Allegation based on National Law, some which regulated by Article 1977 verse (1) Article 644, Article 250, Article 1394, Article 159, Article 658, Article 662, and Article 1921 of the Civil Code.

d. Confession

Confession is regulated in Article 174 of the HIR, Article 175 of the HIR, Article 175 of the HIR, Article 1923 of the Civil Code and Article 1928 of the Civil Code. Confession is any information, written or oral, that confirms an event, right or legal connection stated by the other party.

Confession can be divided into 2 (two) kinds:

- (i). **Confession in front of court**, Confession in front of court is regulation in Article 174 of the HIR, Article 1925 of the Civil Code and Article 1926 of the Civil Code. Confession in front of court cannot be retracted unless the confession shows event was a mistake/unplanned.
- (ii). **Confession outside of court**, Confession outside of court is regulated in Article 175 of the HIR, Article 1927 of the Civil Code and Article 1928 of the Civil Code. Confession made outside of court will be judged the power of prove by a Judge. A Judge can decide that the oral confession done outside of court is strong evidence. Aside from an oral confession outside of court, there may be a written confession made outside of court.

e. Promise/Oath

Promise/Oath is regulated by Article 155 of the HIR, Article 156 of the HIR, Article 157 of the HIR, Article 158 of the HIR, Article 177 of the HIR and Article 1929 – 1945 of the Civil Code. Promise/Oath may be evidence in a civil proceeding; if there are no other evidence then the parties can prove by Promise/Oath (swear).

f. Conclusion

Conclusion refers to conclusions drawn by each party after the Q & A session and proving, at which point a conclusion can be drawn. Conclusion is not a requirement but it is a common practice in court, and HIR/RBG does not regulate it.

Investigation

Principles of Investigation

1. Investigation can be done for all matters and is not limited to criminal suits. Investigations are carried out not only to find perpetrators but also to explain the bases of a problem.
2. Investigation is a group effort that goes on in a network.
3. Investigation involves work to gather data from various sources and not to find data.
4. Investigation is not conducted to test a theory or to conduct census.
5. Everyone can and has the right to conduct an investigation.
6. The owners of real information are those who are victimized by an event.

Goal and Use of Investigation

Goal of Investigation:

1. Clarify and verify a problem
2. Obtain truth which will serve as the basis to make a decision and will contribute to the effort to give justice for all, including victims

Use for Investigation:

1. Support to providing aid:
 - a. Urgent aid to victims
In case of arrest, detention, or kidnapping, usually the victim and their families needs assistance to locate the victim's location and check their condition. Paralegals must also check whether the victim is accompanied by lawyer or not. To do so, an investigation is needed to gather the facts surrounding the violent event. The results of data gathering are formulated in a special report.
 - b. Caring for victims
Other than legal assistance, victims usually need help in other forms such as medical, psychological, therapeutic, material assistance, etc. Information gathered by the Paralegal will help other people work in this case.
 - c. Legal actions
Facts are needed by lawyers and legal aid workers to assist the victims in seeking justice through the law at the local and national level. In many cases, legal action must be taken at the local level first. Materials gathered to go through local level legal track will later be materials used at the national level.
2. Monitoring
 - a. Gathering data is also useful for monitoring and making sure that the practice and implementation of law is in accordance with international Human Rights principles.
 - b. Campaign and Publication
Data gathering is conducted in order to be campaigned and published. Campaigning and publication aims to increase public awareness and to push the public to force the government to work towards stopping and preventing further violence. Campaigning or publication also assists victims in obtaining justice and the care that they need.
 - c. Strengthening public's response
If information is distributed to the general public, it will assist the public to be more aware of the possibilities of violent acts during the migration process.
3. Disclose networks of oppressors
 - a. Formulate historical record
Information documented on an event will help make historical records. Historical records are important in order to identify and formulate patterns of violence, judge the scope of human rights abuses and their impact on Indonesian Migrant Workers and their families.

Preparing and Conducting an Investigation

Starting point to looking at issue so that one can set one's foot on a strong factual platform.

- First,* regarding scene and event, identifying issues and events
- Second,* tape or record all that was seen in the location: building situation, local public physical situation and local geographic conditions.
- Third,* meet and identify victims and people surrounding victims, obtain information, and gain as much information as possible concerning the victims' conditions.
- Fourth,* identify witness, key witness and additional witnesses, and obtain testimony from the witnesses.
- Fifth,* gather evidence.
- Sixth,* obtain early chronology of events. The chronology will be the first starting point to look at the relevant issues.
- Seventh,* identify the perpetrators involved, or those alleged to be involved. If possible, obtain testimonies from them.

When **accompanying** victims, things that have to be done include the following:

- First,* socialize with victims and get an estimate of number of victims, as well as their physical condition, material loss, and the chronology of events concerning them.
- Second,* socialize with victims and develop an idea of the types of people being targeted as victims: poor people, certain race/ethnicity, political involvement, religious affiliation, women, children, certain profession (labour, farmer, university student), and the victim's life history. This will provide a rough and broader picture of the possible political motives behind the event.
- Third,* socialize with victims to get a description of perpetrator(s).

Train sensitivity when conduct investigation, by:

- a. Being open to whoever comes, whether they are victims, witnesses, security officials, or local authorities (RT, RW, Lurah/ Head of Village)
- b. Show a willingness to listen to every story, whether in a form of complaints, claims, reminiscence or stories that we may consider not to make any sense.
- c. Always ask people we meet about all the positive things relating to the event we are investigating and other things outside the events, such as people's habits, work, and family.
- d. Give a good impression to people who come and to those we visit. The good impressions include the following: being ready to help if needed; being trustworthy; being accountable in all situations; being ready to give insight or information when needed; being able to connect to the parties that the victims want to. Do not give the impression that we can give money; that we are scared or inferior or easily panicked and emotional. Also, do not give the impression that we are easy to control, shaken or provoked by anything.
- e. Do not force people to listen to insight information or our stories if they are not interested. Do not try to attract attention to our personality and do not make people feel controlled by us.
- f. On the other hand, do not easily get provoked to disclose all the information we know to people if we cannot ensure that information will be useful to them.
- g. Realize that work depends on individual commitment and willingness to disclose event.
- h. Discuss certain findings with an investigation team member.

Technique to Find Information and Evidence

Information gathered is evidence in a case. The information gathered can be obtained through interviews done with certain people that can be classified as witnesses:

1. Victims

2. Family Members
3. Officials or local authorities (domestic and abroad)
4. Middlemen/Sponsors
5. Company for Indonesian Migrant Worker Service (PJTKI)
6. Employers
7. Agencies
8. Public

Witness

A witness is someone who directly saw, heard or felt a criminal action or actions that breach law or breach contract/promise.

Potential people that can be witness include the following:

- People suspected of involvement (as perpetrator) in an event
- People with a close connection to the victim
- People who recognize the victim
- People who live nearby or were around the location or the surrounding area of location
- People who know or have information on the suspects
- People who have conducted an investigation concerning the matter
- People who know the motive on an event
- People who help or care for the victim.

Information from witnesses, general information which can be obtained from witnesses, include the following:

1. Number of Victims
2. Event chronology
3. Setting of story
4. Victimization process (cross check with victims testimony)
5. Signs of perpetrator

Event Chronology

An event can be divided into 3 parts: before, during and after the event.

Chronology should at least note the following:

- a. Date, time, hour of each event since before event until after the event
- b. Event process in each date/time/hour of the event is noted
- c. Overview of the parties who are perpetrators and victims
- d. Overview of how the event started and how it ended. Which actions provoked the event to start and continue, and which actions stopped it
- e. General situation overview after the event ended.

Analyzing Data

Information is not always obtained from opinion, monitoring forms, or interviews. The sources can develop from different directions. All information that sustains the basic story of an event can be used. The sources of information are as follows:

1. Field observation result
2. Event location map
3. Investigation report from other human rights organization
4. Reference book
5. Collection of rules and regulation
6. Treatment test result (*visum et repertum*, forensic test, etc)
7. Public statistic data
8. Media: official statement from authority in a newspaper or other electronic media

FRIEND – FOE ANALYSIS

Goal:

1. Assist participants to be able to identify friends, foes and other groups involved in a conflict
2. Assist participants to re-position and handle friends, foes and other groups involved in a case

Method:

Lecture, group discussion

Materials:

Lecture Materials from Resource person: Friends – Foes analysis
Case study sheet
Assisting tools to identify friends – foes and how to handle them

Time:

195 minutes

Facilitation Process:

No	Steps	Method	Materials	Time
1	Brief explanation by the topic to be discussed, the methods used, the time needed and the materials to be handed out	Oral explanation	-	5'
2	Facilitator explains main discussion referring to the resource person lecture materials (can also ask the resource person to give a short lecture)	Oral explanation	Resource Person lecture materials	15'
3	Facilitator opens a short discussion by asking questions, or if available the resource person can give a lecture, while providing a chance for the participants to respond	Question and answer	-	20'
4	Ask participants to review the essence of the lecture from facilitator/resource person along with the discussion		-	10'
5	Next, ask participants to identify friends – foes and ways to handle them from cases faced on the case study or field visit	Discussion	-	5'
6	If site visit is not conducted, case study sheet can be used. Hand out case study sheet and ensure that each participant obtain materials that will be used in discussion. Participants are then asked to read new materials that have been handed out	Individual work	Case study or site visit	15'
7	Facilitator hand out “friends – foes identification assistant tools and ways to handle” to each participant. Ask them to carefully formulate responses based on the latest developments	Individual analysis	“friends – foe identification assistant tools and ways to handle”	5'

8	Facilitator divides participants in 3 (three) discussion groups. Allow each participant to form discussion group and pick a comfortable area	Group work	-	45'
9	Ask each group to present discussion results	Groups present	-	45'
10	Formulate questions to create intense discussion in order to reach an accurate conclusion for the friends – foes analysis	Discussion	-	25'
11	Ask the participants to present their conclusion and the lessons they learned from the topic		-	5'

NOTE:

- Ask participants to carefully identify Friends – Foes and the Grey Group. Inform them that the grouping is based on the behaviour and practices of each person. It is not based on unfulfilled interest in behaviour/practice.
- Usually, participants will easily label a side as “Friend or Foe”. Remember, that in conflict people tend to lean to the side of “Foe”. Ask the participants to conduct investigation of the practices of the sides being identified.
- Other tendency is failing to concretely identify. Names such as “government”, “State”, “business person” will not help to accomplish concrete identification. It is better to identify concretely by naming specifically, such as “Labour Office”, Subdistrict Office, etc.
- Because the basis for identification is the practices of each side, the label “friend”, “foe”, and “grey” can change. Herein lies the importance of continually looking for changes as they occur, and even to push for desired changes.

WORK SHEETS

FRIEND – FOE IDENTIFICATION ASSISTANCE TOOLS

FRIEND

No	Who	Casual contact	Participate/ contribute	Work together (ally)	Collaboration (main team)	Concrete behaviour information
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						

FRIEND – FOE IDENTIFICATION ASSISTANCE TOOLS

FOE

No	Who	Reveal secret, provoke our group (play one off against the other), etc	Refuse our efforts	Treat us as an enemy	Open conflict with us	Concrete behaviour information
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						

FRIEND – FOE IDENTIFICATION ASSISTANCE TOOLS

GREY AREA GROUP

No	Who	Quiet but always listening	Does not pay any attention	Hesitant to do something	Concrete behaviour information
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					

WORK SHEET

FRIEND – FOE IDENTIFICATION ASSISTANCE TOOLS AND HOW TO HANDLE IT

TURN HOPE INTO REALITY

No	Who	Position		Reason	Our Effort
		Reality	Hope		
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					

CASE STUDY 02

PAIJO - ENDING IN PROBLEMS

For the second time, Paijo decided to work overseas, and the country he chose was South Korea. The choice was made based on information he received from a village friend named Pomo, who said that one can work in Korea with small cost. With IDR 20 million, one can depart to Korea with certainty that one will find employment and a good remittance.

Finally, Paijo and 10 other village friends went to Jakarta with help of a guy named Pak Darmo, known in the village as the person who has connections with manpower distributors. When they arrived in Jakarta, Pak Darmo gave them to someone named Sutomo, who supposedly worked for PT. Sinar Abadi. Pak Sutomo placed them in a house that was later found out to be the office of PT. Sinar Abadi. There they joined 30 other people who had arrived earlier. They came from 3 regions, 15 from East Java, mostly Blitar, 10 from Central Java and 5 from Yogyakarta. 41 persons were staying in the house.

Two days later, 41 people were moved to Bogor where they were supposed to undergo Korean language training and a medical test. In Bogor, they are placed in housing and they had not seen Pak Sutomo since. For one month, Paijo and 40 friends underwent a training program held by the company. There is something suspicious with the one-month training because not once do the training providers introduce themselves as representatives from PT. Sinar Abadi. Paijo and his friends still trust the process, however, particularly because some uniformed Ministry of Labour officials are among the training providers.

Based on that, Paijo and his friends decided to give the process payment of IDR 20 million to Mbak Sunarti (supposedly sent to Pak Sutomo), although the receipt does not have a PT. Sinar Abadi stamp. From the receipt, the payment is detailed as following:

1. Recruitment, IDR 1 million
2. Shelter, IDR 2,5 million

3. Consumption, IDR 1,3 million
4. Training Course IDR 10 million
5. Medical Test, IDR 500,000
6. Passport, IDR 600,000
7. Other costs, IDR 4,1 million

The training program was almost over but there had not been an announcement on when the contract will be signed or the departure time. After exactly one month, Pak Mardi, a representative Pak Sutomo, announced, "Gentlemen whom we respect ... at the moment there is a technical problem that has caused your departure process to be delayed. We suggest that you stay calm and wait for one more month. Because of that you are allowed to go back to your original area while staying in contact with us." This announcement incites protest from the participants. Paijo asked, "What is the guarantee that we will be sent to Korea?" Pak Mardi answered "the guarantee is our office, you may wait at our office in Jakarta so that you can hear the information that is directly linked to your departure process." Paijo and his friends accepted the answer because of their high passions and strong hope to go overseas.

After 15 days staying at PT. Sinar Abadi, some friends are starting to get anxious because they had to pay for their own consumption goods. The money in their pocket is not enough for the next 15 days. This condition is discussed and then they decided that 15 people would stay at PT. Sinar Abadi and the rest go back to their hometown. Paijo was one of the people who stayed to get information. For the next 15 days, Paijo and another friend meet to discuss things in connection to their departure:

1. Pak Mardi and Mbak Sunarti from PT. Sinar Abadi has less frequently been in the office;
2. The computer is not in place anymore;
3. Work papers are no longer on the desk and table;

Paijo asked Mbak Narti, who happened to be in the office one day, about these issues. She answered, "we are moving office equipment and documents to an operational office in East Jakarta and this office functions only as a shelter. With regards to departure, just wait for Pak Mardi." Paijo asked whether there is an address or contact information that they can use to contact Pak Mardi because he has not been in the office for a while. Because she felt pushed, she gave Paijo the card for Pak Mardi and Pak Sutomo. From the card, they found out that Pak Sutomo is an operational staff of PT. Bahagia Sejahtera and Pak Mardi is a staff of PT. Damai Sentosa. The two companies operate in providing manpower. Ever since then, they never saw Mbak Narti.

Understanding that the condition does not benefit Paijo and his friends; he called for a meeting. At the meeting they decided to appoint Paijo, Ali, Pomo, Karno, Loso and Gunarto to find the address written on the card, in order to demand a response. The others wait for PT. Sinar Abadi to come to the shelter.

Pak Sutomo's address was not known, but some people are able to reach Pak Mardi at his residence. Feeling threatened by the appearance of Paijo and his friends, Pak Mardi says that he was Pak Sutomo's subordinate. All departure responsibilities are in the hands of Pak Sutomo. At this point, Pak Mardi offered to still send Paijo and friends through a different PJTKI and to a different destination country. The offer will be discussed to the others, but in the mean time they asked Pak Mardi to come to the shelter the next day. Paijo was not keen on the offer because it made a rift between the groups. Loso, Karno and Gunarto, however, he still insisted that they accept the offer because they still want to go overseas. It did not matter what PJTKI or which destination country.

As promised, the next day before Pak Mardi arrived at the shelter, Paijo and his friends discussed the offer and decided that they will push for PT. Sinar Abadi to send them to Korea and that this request is non-negotiable. Pak Mardi replied that if that is the decision then there will still be an indefinite delay because of technical issues happening in Korea. Based on that condition, Pak Mardi offered that the group still be sent abroad but the destination country depends on the job order that PT. Sinar Abadi receives. If a prospective migrant worker asks for a refund, then the money will be returned but only after a deduction, the worker will receive IDR 4 million back.

Among the prospective workers, there were 3 wishes, that is 1) The Korea process continues (20 people), 2) Still go overseas no matter what (20 people) and 3) One person requests a refund. Pak Mardi took a note of the name of the prospective workers and their decision.

The last few days, Loso, Karno and Gunarto discussed the matters with the 10 people from East Java, and who decided to still go to Korea, to choose the option to work overseas in any destination area and through any PJTKI. Loso has been in frequent contact via phone with Pak Mardi. At the same time, Paijo and friends who decided to still await the Korea process had not seen any progress.

BALANCE THE POWER

Goal:

1. Participants realize the existence of power as a determining factor in efforts to deal with conflict
2. Participants have something to hold on to when determining strategy to balance the power factor

Method:

Opinion session, group discussion

Material:

Sources of Power Identification Assistance Tool
Reading Material: Sources of Power
Case study sheet

Time:

150 minutes

Facilitation Process:

	Steps	Method	Material	Time
1	Open the session by describing the topic and goal of the session	Oral explanation	-	5'
2	Remind participants of the site visit result. Hand out a piece of blank paper or cardboard pieces. Ask each participant to first fill out sources of power from perpetrators, according with the case visited (if the site visit was not conducted, use the case study sheet from previous session).		Blank paper or pieces of cardboard	20'
3	Facilitator asks the following questions to all participants: "What is meant by power?", "What are the sources of power?" Facilitator, together with the participants, chooses which understanding most suitable. In general the understanding of power is something or a force that effects others	Oral explanation	Plano paper	20'
4	When the discussion is finished, ask the participants to form groups. Divide into two or three groups. Ask them to discuss individual results in order to formulate a group result. Ask them to use the grouping of Sources of Power, that is: Position, Personality and Politic. Hand out Identification Tools for Sources of Power. Give a chance for discussion		Identification Tools for Sources of Power	30'
5	Ask each group to present their result. Give chances to other participants to ask questions. Give chances to answer as	Groups Present	-	20'

	well.																	
6	Facilitator formulates a general conclusion by referring to the goals of the session, the result of the small group work, while connecting with reading sheet for balancing the power and the concrete cases that are faced	Oral explanation	-	15'														
7	Hand out reading material : 200 Techniques to Push Foe. Ask them to read one by one in sequence. Give 15 minutes to read. Then say that there are many creative Confrontation Techniques		Reading Material : 200 Techniques to Push Foe	20'														
8	Balloon War Game Rules: 1. Participants divided into groups. 2. Groups face each other : group 1 with 2, group 3 with 4, so on. 3. Each group gets balloons with certain colours. The balloons are placed on left ankle. 4. Each group tries to blow up the opponent's balloon in 5 minutes, while using ONLY the right foot. No violence, no tools, and one cannot hold one's opponent. 5. Count points scored <table><tr><td><u>Blow Up</u></td><td><u>Points</u></td></tr><tr><td>0</td><td>+100</td></tr><tr><td>1</td><td>-200</td></tr><tr><td>2</td><td>-400</td></tr><tr><td>3</td><td>-800</td></tr><tr><td>4</td><td>-1600</td></tr><tr><td>5</td><td>-3200</td></tr></table> BONUS - Groups whose balloons do not get blown up, get extra points (+100) and negative points from the opponents	<u>Blow Up</u>	<u>Points</u>	0	+100	1	-200	2	-400	3	-800	4	-1600	5	-3200	Game	Colourful balloons, rafia rope	15'
<u>Blow Up</u>	<u>Points</u>																	
0	+100																	
1	-200																	
2	-400																	
3	-800																	
4	-1600																	
5	-3200																	
6.	Steps: 1. Facilitator hands out balloons to each person in different groups with different colours; 2. Each group faces and ensures that each person has an opponent; 3. Then balloons are handed out and inflated by participants; 4. After the balloons are inflated and tied, the balloons will be traded with the opponents balloon in front of them; 5. And then the balloon that is received is tied to the left foot; 6. Facilitator reads the rules before the war is started, Facilitator gives each group a chance to discuss their strategy for 30																	

	seconds;	
	7. Facilitator gives signal to start the balloon war (1 minute);	
	8. War starts;	
	9. Facilitator ask the impression of the participants in the game;	
9	Ask participants to close the topic by presenting lesson learned from the topic	5'

WORK SHEET

SOURCES OF POWER IDENTIFICATION ASSISTANCE TOOL

No	Perpetrator	Sources of Power			How We Change it
		Personality	Position	Politic	
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					

INFORMATION SHEET

200 TECHNIQUES TO PRESS FOE

The following is a long list of different techniques/actions that can be done by an organization/civil society organization in order to resolve conflict. The long list is taken from book by Roem Topatimasak, and friends, *Shifting Power Balance "Menggeser Neraca Kekuatan"*, Jakarta, Yayasan Lembaga Konsumen Indonesia (YLKI), 1997.

Protest and Persuasion

Official Statement

1. Speech in front of public
2. Counter-statement letter
3. Open declaration
4. Statement by gathering signatures from public
5. Special attitude statement on certain matter
6. Group petition or mass

Open Broadcast

7. Slogan and caricature
8. Banner and poster
9. Hand outs and pamphlets
10. Periodic newspaper
11. Radio and television broadcast
12. Wall graffiti or sidewalk graffiti and gas balloon banner

Group Representative

13. Special representative

14. Mock gift
15. Group lobbyist
16. Volunteer Security servicemen
17. Mock election

Symbolic Actions

18. Bury flag and banners
19. Symbolic outfits
20. Prayer or mass prayer
21. Delivery of symbolic items
22. Nude Protest Act
23. Destruction of goods
24. Symbolic light beam
25. Portraits show
26. Protest graffiti
27. Use name or new signs
28. Symbolic use of sounds
29. Symbolic Occupation of a certain place
30. Move or basic attitude

Individual Force

31. Shadowing/Spying
32. Mocking
33. Acting friendly
34. Being fully alert

Drama and Music

35. Short comedy
36. Show or music
37. Singing

Ceremony

38. Foot march
39. Parade
40. Religious ceremony
41. Visit/pilgrimage
42. Motor vehicle march

Mourning

43. Political mourning
44. Mock cemetery
45. Demonstrative cemetery
46. Giving respect in heroes cemetery

General Meeting

47. Protest or support meeting
48. Protest meeting
49. Meeting or protest that is secret
50. Open discussion
51. Exit room (walk out)
52. Silence action
53. Cancelling an award
54. Retracting a confession/statement

Social Rebellion

People Accomplishment

55. Social boycott
56. Social selective boycott
57. Private ignorance
58. Isolation

59. Prevention

Use of Social, Customary Practice and Institution Event

60. Barrier to certain social or sport activities
61. Boycott of a public event
62. University student strike
63. Social rebellion
64. Self-isolation from certain social institution

Self Retraction from Social System

65. Staying at home
66. Refusal of total cooperation
67. Work Sundays
68. Enclose self
69. Collective self isolation
70. Move place as a protest

Economic Resistance (Boycott)

Consumer Action

71. Boycott purchase
72. Boycott usage
73. Save/reduce use of certain goods/services
74. Does not pay rent, etc
75. Refusal to pay tax
76. National boycott
77. International boycott

Labour and Producer Action

78. Labour boycott
79. Producer boycott

Middle Class Action

80. Distributor boycott

Business Person and Management Action

81. Trader boycott
82. Refusal to sell and purchase
83. Close up store/office/factory
84. Refusal of technical assistance
85. General network strike

Shareholder Action

86. Withdraw bank deposit
87. Refusal to pay remuneration
88. Refusal to pay interest and loan
89. Cut aid fund
90. Refusal to withdraw loan
91. Refusal of government aid

Government Action

92. Domestic Embargo
93. Blacklist traders
94. International buyer Embargo
95. International trader Embargo
96. International trading Embargo

Economic Resistance (Strike)

Symbolic Strike

97. Protest strike
98. Sudden strike in place, planned strike

Farming Strike

- 99. Farmer strike
- 100. Farm labour strike

Special Group Strike

- 101. Labour strike
- 102. Convict strike
- 103. Hand crafter strike
- 104. Professionals' strike

General Labour Strike

- 105. Steady and invariable strike
- 106. Factory strike
- 107. Strike for solidarity statement
- 108. Temporary strike
- 109. Strike with barriers
- 110. Strike by fooling work
- 111. Uncontrolled strike
- 112. Strike by pretending to be ill
- 113. Strike due to firing
- 114. Complete strike
- 115. Selective strike

Various Industry Strike

- 116. General Strike
- 117. Planned strike

Combination Strike for Economy Interest

- 118. Stop production activities
- 119. Close down work place

Political Resistance

Refuse Authority

- 120. Withdraw obedience
- 121. Refuse to give support
- 122. Speech and write how to rebel

Public Rebellion

- 123. Representative institution boycott
- 124. Boycott election
- 125. Boycott function and role of government
- 126. Boycott the Ministries and government institution
- 127. Back out of government education institution
- 128. Boycott organizations that support the government
- 129. Reject aid to government public service institution
- 130. Erase signature and seal
- 131. Refuse to get government duties
- 132. Refuse dispersion of existing institution

Avoid Decision

- 133. Get out of fulfilling duties
- 134. Do not obey when there is no surveillance
- 135. General rebellion
- 136. Hidden rebellion
- 137. Refuse to attend public meeting, or attend only in order to disturb
- 138. Sit-down strike
- 139. Refuse military draft and deportation
- 140. Hide oneself, escape, create false identity
- 141. Civil rebellion or rules and regulation considered "unofficial"

Government Official Action

- 142. Selective refusal to help government program
- 143. Close government line and certain information
- 144. Slow down government
- 145. Employees disobey rules
- 146. Refuse court order
- 147. Slow down work of certain institution
- 148. Rebel

Domestic Government Action

- 149. Slow down work and avoid law
- 150. Refuse cooperation with certain government institution

International Level Government Action

- 151. Change status of diplomatic relations
- 152. Postpone diplomatic relations
- 153. Refuse diplomatic confession
- 154. Cut diplomatic relations
- 155. Resign from international organization
- 156. Refuse membership in international organization
- 157. Expulsion from international organization

Non Violent Resistance

Psychological Resistance

- 158. Get used to non-violent resistance
- 159. Fasting (eating strike)
 - As moral pressure
 - Real eating strike
 - Non violent resistance
- 160. Talking strike in court
- 161. Silent resistance

Physical Resistance

- 162. Sit down strike
- 163. Stand up strike
- 164. Walking strike
- 165. Crossing the road strike
- 166. Work strike
- 167. Prayer strike
- 168. Surround peacefully
- 169. Peaceful raid
- 170. Peaceful attack
- 171. Peaceful announcement
- 172. Peaceful barrier
- 173. Peaceful occupation

Social Resistance

- 174. Form social competitor
- 175. Overuse public facilities
- 176. Prayer strike
- 177. Talking strike
- 178. Underground theatre show
- 179. Form competitor institution
- 180. Form communication network competitor

Economic Resistance

- 181. Work strike
- 182. Strike in place
- 183. Peacefully occupy a place
- 184. Blockade goods

185. Falsify for political motives
186. Illegal purchase
187. Admit to certain wealth
188. Dispose rest of goods
189. Follow something selectively
190. Create alternative market
191. Create alternative transportation
192. Sustain competitor institutions

Political Resistance

193. Weigh down the government public service system with overwork
194. Hide self identity from police and military spies
195. Social rebellion to particular laws
196. Visit convicts
197. Refuse total cooperation or any assistance
198. Refuse to obey without having to refuse the policy set forth by government
199. Burn oneself to deny the policy set forth by government
200. Set up tents in public road

GAME

BALLOON WAR

Rules:

1. Participants are divided into groups.
2. Groups are facing each other : group 1 with 2, group 3 with 4 and so on.
3. Each group gets a balloon with a certain colour. The balloon is placed on left ankle.
4. Each group tries to blow up the opponent's balloon in 5 minutes, by using ONLY their right foot. No violence, no tools, no holding opponents.
5. Count Score of Balloon War.

BLOWN UP	SCORE	BONUS
0	+100	Groups whose balloon does not get Blown up get +100 added bonus Points and negative from the Opponents team
1	-200	
2	-400	
3	-800	
4	-1600	
5	-3200	

Steps:

1. Facilitator hands out balloons to each person in different groups with different colours;
2. Each group faces the other and ensures that each person has an opponent;
3. Then balloons are handed out and inflated by participants;
4. After the balloons are inflated and tied, the balloons will be traded with the opponents balloon in front of them;
5. And then the balloon that are received are tied to the left foot;
6. Facilitator reads the rules before the war begins, Facilitator gives each group a chance to discuss strategy for 30 seconds;
7. Facilitator gives signal so that the balloon war begins (1 minute);
8. War starts;

9. Facilitator asks the impression of the participants in the game;

Game Overview

Symbol:

1. Balloon = suit/opinion/option/claims/price
2. Inflate balloons → small = strategy to make opponent teams have difficulty blowing up the balloon

INFORMATION SHEET

PARADIGM WITHIN CONFLICT

WIN / WIN

- Try constantly to reach agreement or solution that will benefit and satisfy each other.
- Make all parties feel satisfied with the decision and be commitment to an “action plan”.
- See life as an arena for cooperation, not competition.
- Success is not met above someone else’s failure.
- A third alternative : “it’s a better way” (not “it’s my way” or “it’s not your way”).

WIN / LOSE

- “If I win, you lose”
- Authoritarian approach
- Exploit position, power, wealth or personality to get what is wanted.

LOSE / WIN

- “I lose, you win”, “I always lose”
- Not with standard, no claims, no hopes, no vision.
- Find strength from popularity or acceptance (become “good hearted person”).
- Not brave enough to express feelings.
- Easily intimidated by other peoples’ ego.

LOSE / LOSE

- “If no one wins, being the loser is not too bad”.
- If two individuals “win / lose” meet, the result is “lose / lose”.
- War philosophy

WIN

- “Deal with each others business”, “Do not disturb each other”.
- Obtained what was wanted without inciting lost to others.

CONFRONTATION

Goal:

1. Assist participants use outline for Strategy Formulation Assistance Tool
2. Participants are able to formulate strategies and tactics in dealing with conflict

Method:

Resource person lecture, group discussion

Material:

Resource person lecture material : Strategy and Tactics
Case study sheet

Time:

195 minutes

Facilitation Process:

No	Steps	Method	Material	Time
1	Facilitator gives a short explanation regarding the topic and the process that will be discussed, the materials to be handed out and the time needed	Oral explanation	-	5'
2	Resource person gives short lecture, which can also be done by facilitator, to explain the main content of the topic: • What are strategies, why is formulation of a strategy needed when dealing or going to deal with conflict? • Things needing attention to in formulating strategy • What are the tactics needed to operate strategies • What are the types of institution/ organization that can be used to resolve disputes where space can be used for conflict, and the concrete form in site, etc	Resource person lecture	Resource person lecture material : Strategy and Tactic	30'
3	Develop discussion by taking questions from facilitator or participants. The facilitator provides brief overview of the lecture and discussion		-	30'
4	Facilitator explains the next step: • Participants are divided into groups (according to training condition, at least 3 -4 groups) • Hand out case study sheet needed for group discussion (can also use the case seen during Site Visit) • Facilitator explains the group work by referring to areas where the strategies are used	Group discussion	Case study sheet, tool to assist formulation of strategy	15'

	Groups are asked to formulate a strategy to deal with the conflict Question assistance tool is: what are the problems faced, who are the perpetrators, what are the next steps to take, what is the concrete form, why is that considered correct?			
5	Allow participants to select a comfortable place to place their group and discuss		-	45'
6	Ask each group to present the result formulated by their group on strategy and tactics. Develop the discussion, using the outline to Balance the Power, which has been taught before	Presentation and discussion	-	60'
7	Ask participants to draw conclusions and lessons learned from the topic. Facilitator emphasizes the three types of areas where strategy is used: Court, Outside of Court, and Local Mechanism		-	10'

ASSIGNMENT SHEET

STRATEGY FORMULATION ASSISTANCE TOOL

No	Strategy Actions	Base Stepping Point (Why the action is chosen)	Provisions that has to be fulfilled	Power (Positive)	Risk (Negative)
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					

CONVERSE / NEGOTIATE

Goal:

1. Assist participants in using the Negotiation outline
2. Assist participants in understand the negotiation process and techniques

Method:

Resource Person critical lecture, role play

Material:

Assistance Tool: Reference Paper from Resource Person or Facilitator Overview

Assistance Tool: Negotiation Process Note Form

Assistance Tool: Case Study Sheet

Time:

240 minutes

Facilitation Process:

No	Steps	Method	Material	Time
1	Facilitator gives short explanation regarding the topic and process that will be discussed, the materials to be handed out and the time needed	Oral Explanation	-	5'
2	Facilitator explains main topic according to the assistance tool; or if available, asks the resource person to present the topic	Overview by facilitator or resource person	Assistance Tool reference	30'
3	Develop interesting discussion, ask questions or discuss using thought process outline Strategy to Balance the Power		-	20'
4	Ask one or two participants to draw their own conclusion from the overview and the discussion session		-	5'
5	Divide participants into groups of two. Facilitator then explains what they are going to do and the rules of the game, which is, the story cannot be informed to one another. Facilitator hands out a story in a Case Sheet		Reading materials	5'
6	Facilitator give participants a chance to read		Reading materials	10'
7	Facilitator allows each partner to start a negotiation process		-	45'
8	Facilitator guides discussion by asking: <i>What kind of agreement was made?</i> <i>Do you have enough information to use during a negotiation? Why?</i> <i>Would there be any differences if you were not sitting down and discussing your interest?</i>		-	10'
9	Facilitator gives participants a chance to learn the materials that have been handed		-	10'

	out		
10	Allow participants to practice three steps of negotiation, as follows: Step 1 : Pre Negotiation, what has to be prepared? Step 2 : During negotiation, what has to be prepared and agreed upon? Step 3 : After the negotiation is conducted, what has to be paid attention to (further negotiation or monitor, watch to see that the negotiation result is implemented and obeyed)	-	60
11	Ask the participants to reflect on their experience. First ask which feelings were experienced, what difficulty were faced, and ask about behaviour of negotiation and the results accomplished.	-	20'
12	Ask observers to present their notes, so that all participants can better evaluate the negotiation process. Give emphasis to the importance of presentation.	-	10'
13	Ask a few participants to draw conclusions and lessons learned from this topic.	-	10'

ROLE PLAY

NEGOTIATION: FULFILLMENT OF JUSTICE

1. Set roles for each person;
2. Conduct negotiation according to the following steps:
Step 1 :
Pre negotiation, what needs to be prepared
Step 2 :
During negotiation, what needs to be prepared and agreed upon
Step 3 :
After the negotiation is conducted, what needs to be paid attention to next (further negotiation or monitor, surveying negotiation result to see if they are implemented and obeyed)
3. Note results

CASE STUDY 03

Pak Mardi:

What you have to know when playing a role as Pak Mardi is the following:

1. Position as Director of PT. Damai Sentosa;
2. Position as Commissioner of PT. Sinar Abadi, with this position Pak Mardi is the largest shareholder of PT. Sinar Abadi;
3. Connection to Pak Sutomo → together established PT. Sinar Abadi, and Sutomo is the Director;

4. Knows that the process done by Pak Sutomo does not follow regulations. But Pak Sutomo must be protected, if not it will affect himself and PT. Sinar Abadi;
5. If forced to secure the PT. Sinar Abadi and his own assets, Pak Mardi can use Pak Sutomo as a scapegoat;
6. After consulting their advocate, PT. Sinar Abadi can escape from the problem because there is no single piece of evidence that shows a connection between PT. Sinar Abadi and the Prospective Migrant Worker;
7. As Director of PT. Damai Sentosa, he can move people abroad according to Job Order;
8. That there are 3 types of wishes among the prospective Indonesian Migrant Workers, that is: 1) Process to Korea continue (20 people); 2) Must go abroad (20 people); 3) Ask for refund (1 person). Pak Mardi already has plans to handle the wishes.
9. Pak Mardi obtained information from Loso, that those who insist to continue the process to Korea are only 10 people. The other 10 have been influenced to choose the second choice.
10. Negotiation preparation regarding Wishes: Continue process to Korea, 20 people, Pak Mardi insists that they change their destination country. If negotiation gets harder, then offer to pay the cost after cutting out a few costs that have been incurred, so that the money paid will be IDR 4 million/person, or develop another alternative.
11. If negotiation comes to a dead end, then say that the problem is Pak Sutomo's private responsibility, and that Pak Mardi does negotiation effort based on good etiquette.

Paijo:

1. A representative for 20 friends who still want to work in Korea;
2. Will not return home or move from the shelter until the claims are granted;
3. After consulting with the Legal Aid Institution, the weight of proof is weak because there is no single document that connects with PT. Sinar Abadi, but victim witnesses can strengthen the claims;
4. If negotiation heats up, then claim refund according to receipt (IDR 20 million), or develop another alternative that could fulfill justice;
5. When finding dead end, the actions to be done include the following:
 - a. Invite media to cover this case;
 - b. 20 victim witnesses will report PT. Sinar Abadi to the police;
 - c. Place suit on PT. Sinar Abadi;
 - d. Develop another alternative.

ASSIGNMENT SHEET

NEGOTIATION PROCESS NOTE FORM

No	Full Agreement	Possibility for agreement	No possibility for agreement
1			
2			
3			
4			

LEGAL DRAFTING

Goal:

1. Participants can identify legality of agreement/ contract
2. Participants can make a simple contract
3. Participants can embody clauses which resulted from the negotiation agreement

Method:

Lecture, discussion/group assignment

Material:

Reading Material: Design Contract

Assistance Tool: Referral to Resource Person Paper or Facilitator Overview

Assistance Tool: Negotiation Process Note Form

Assistance Tool: Case Study Sheet

Time:

115 minutes

Facilitation Process:

No	Steps	Method	Material	Time
1	Facilitator briefly explains the topic that will be discussed, the process and methods, the materials to be handed out and the time needed	Oral explanation	-	5'
2	Facilitator presents main topic by referring to assistance tool; or if available, asks the resource person to explain the topic.	Facilitator or Resource person overview	Reading Material from Resource Person; Assistance Tool	30'
3	Facilitator reminds participants about the process and goals from the Negotiation Process Note Form. Use group work result that has found meeting point in negotiation as a medium to use in drafting contract contents		Negotiation Process Note Form	5'
4	Conduct activities by dividing participants into groups of two. Facilitator explains what they will do and the rules. Participants can be creative and make contract plan with case study sheet work flow and result that had been agreed in Negotiation Process Note Form		Case Study Sheet; Negotiation Process Note Form	5
5	Facilitator allows each pair to start drafting contract process			30'
6	Facilitator allows 3 groups to read the work result			15'
7	Ask participants to reflect on their			15'

	experiences. First ask about the feelings felt, challenges faced, up until the explanation of the contract draft, and the result accomplished	
8	Ask a few participants to draw conclusions and lessons learned from this topic	10'

INFORMATION SHEET

LAW OF AGREEMENT

1. Understanding and Terms

- Civil Law in a broad sense includes all lag “*private materiel*” that is the main law regulating individual interests;
- Civil Law in Indonesia, as known mostly are “heritage” from the Dutch Colonial Government called *Burgelijk Wetboek* (BW);
- Civil Law now as a main law regulated in the Criminal Law Code and Civil Code;
- Others that regulate civil rights still spread and has yet to be decoded;
- Because civil law as a main law that regulate individual interests so in a case of prospective Migrant Workers/Indonesian Migrant Workers individual cases, it is generally regulated by the Civil Code;
- Relationship between prospective Indonesian Migrant Worker/ Indonesian Migrant Worker in every step of ***pre departure – placement – return home*** can be understood as fulfilling individual rights as regulated in the Civil Code;
- Creation and signing agreement prospective Indonesian Migrant Worker/ Indonesian Migrant Worker as an obligatory condition to incite rights and obligation;
- Rights and obligations to be fulfilled by the two parties within the agreement, regulated by the Civil Code;

2. Agreement

- *Agreement* is an event where someone promise another person or where the two parties promise each other to conduct something
- In its *form an agreement* is a an arrangement of words that contain promises or ability that is said or written
- Regarding work agreement or contract, it has to be in writing and contain everything that will be the rights and obligations of each parties;
- Legal agreement according to Article 1320 of the Civil Code, needs 4 (four) conditions, that are as follow:
 1. *Agree* to bound themselves;
 2. *Able* to make an agreement;
 3. A certain *matter*;
 4. A *cause that is legal*;

Condition 1 and 2 are subjective conditions;
Subjective Conditions: if this condition cannot be fulfilled, one of the parties has a right to request *annulment of agreement (voidable)*.
 Condition 3 and 4 are objective conditions;
Objective Conditions: if this condition cannot be fulfilled, the agreement is *annulled by law (null and void)*
- What is meant by the conditions being unfulfilled if when someone who conduct the agreement is:
 - a. not an adult;

- b. under guardianship;
 - c. under trusteeship;
 - d. in giving agreement, was not in a free condition
 - e. someone who is not considered able to act by law
- Something promised cannot be fulfilled made the agreement *annulled by law (null and void)*; because the objective conditions is a content of the agreement itself; as a result of the creation of agreement;
- If this cause cannot be fulfilled, it means the same as if the agreement does not exist;
- Prospective Indonesian Migrant Worker/ Indonesian Migrant Worker in placement agreement or work contract, are agreement subject or party that face another subject or another party;
- Agreement subject conditions has to clearly be able to act by law and agreement must be given in a free condition;
- If not, the consequence is that the agreement can be requested for *annulment of agreement (voidable)*;

Agreements According to Law No. 39/2009:

- Indonesian Migrant Worker Placement Agreement (Article 52):
 - a. *Creation of agreement (Article 52 verse 4)*
 - b. *Content of agreement (Article 52 verse 3)*
 - c. *Annulment of agreement (withdrawn and/or revised – Article 53)*
- Work Contract (Article 55) :
 - a. *Creation of agreement (Article 55 (2))*
 - b. *Content of agreement (Article 55 (5))*
 - c. *Annulment of agreement is not regulated*
- Extension of Indonesian Migrant Worker Work Contract (Article 57; 58; 59; 60; 61)
- Resolve dispute/conflict according to National Law No. 39 of 2004 Article 85 undertaken by:
 - a. *Try to resolve peacefully through consensus;*
 - b. *Request assistance from institution responsible in manpower issues on the District/City, Province or Central Government level;*
- Where is the dispute resolution on the agreements:
 - a. National Law No. 39 of 2004 regarding *PLACEMENT AND PROTECTION OF INDONESIAN MIGRANT WORKER OVERSEAS* is clearly not binding
 - b. Include ways and mechanism that can be used by Prospective Indonesian Migrant Worker/ Indonesian Migrant Worker in claiming compensation for loss (Article 1365 of the Civil Code) suffered in process of pre – placement, during and return home;
- Because the agreement creates rights and obligations; if one of the legality conditions of agreement not fulfilled it can create annulment by law (null and void) or requested to be annulled for law (voidable) of one of the parties. This can incite material loss or immaterial loss for one of the parties;
- Within process steps, there is work agreement between Prospective Indonesian Migrant Worker/ Indonesian Migrant Worker and parties involved. Remember the principles of civil law, if there is dispute, to resolve must go through an objective justice, fair and honest institution, which is a Court.⁶

⁶ References: Main Points of Civil Law, Print XVI, Year1982, Prof. SUBEKTI, S.H.; The Civil Code (K U H Perdata); National Law Nofo. 39 2004.

INFORMATION SHEET⁷

LEGAL DRAFTING (PLANNING LEGAL LETTER)

Understanding Contracts

a. Understanding and Important Meaning of Contract

- Contract is agreement that defined relationship between 2 parties or more;
- Role of Contract:
 - 1) Contract is a media that can shoe whether an agreement made refers to the legal conditions of an agreement;
 - 2) Contract is purposely made in writing so that parties that monitor each other, whether performance has been done or even if a breach of contract is done;
 - 3) Contract is purposely made as evidence for those with interests, so that a party victimized has evidence to file compensation for loss claims to the other party;
- Important meaning of contract:
 - 1) To know the bound that is conducted and when and where the contract is done;
 - 2) To clearly know who has bound themselves in the contract;
 - 3) To know right and obligation of the parties, what has to be done and what can be done and what cannot be done by the parties;
 - 4) To know the contract conditions;
 - 5) To know ways chosen to resolve conflict and legal domicile chosen when dispute occurs between parties;
 - 6) To know when contract end, or things that can end the contract;
 - 7) As monitoring tool to parties, what are the performance that has been fulfilled or even if breach of contract happened;
 - 8) As evidence for those with interest so that if a party that suffer loss has an evidence to file a compensation for loss claims to the other party

b. Legal Effect of Contract

Legal Effects of a contract basically is established and legal connection exists from bond, in a form of rights and obligation. Fulfilment of right and obligation is one form of legal effect of contract. This is based from Articles in the Civil Code:

- All agreement legally made act as regulation for those who created it (Article 1338 verse 1);
- "An agreement does not only bond for matters specifically stated in agreement, but also other things according to obligated agreement traits by obedience, habit and National Law" (Article 1339)

c. Contract and Deed and also Power of Proving

A deed and contract can be judged to have Power of Proving, if:

1. Signed;
2. Contain events that will be based for right to claims;
3. Aim for evidence.

⁷ Reference : CONTRACT DRAFTING, Print I, Th. 2003, Hasanuddin Rahman, S.H.

d. End in Contract

In Article 1381 of the Civil Code that states the bind/connection is erased, if: 1) because of payment; 2) because offer of cash payment is combined with saving and entrust; 3) renewal of loan; 4) because meeting loan or compensation; 5) because loan mix; 6) because loan liberation; 7) because of elimination of goods loan; 8) because annulment or cancellation; 9) because a condition is cancelled; and 10) because the deadline is passed.

Technique to Draft Contract

A) Contract Draft

1. Title Contract, between title and content of the contract must have correlation and reliance. Example: Work Contract, Rental Agreement.

1. Opening Part,

- **Time and Place of Contract establishment**, this is established to reduce denial risk from each parties, that he/she at that date in contract does not exist in a place and time as explained in contract.
- **Comparison** is an opening part of contract that contains information regarding people/ parties that conduct violation of law act. Present as follow:
 - Detailed identity, include name, work and parties domicile;
 - Legal base that legally authorized to act from all parties (particularly business entity);
- Position of all parties, often written by giving designated title, for example: "Further in agreement will be called BANK".
- **Recitals**, is an official explanation or a background of an event in a contract/agreement to explain why a bond exist. In recitals usually the reasons of each parties is stated, which will be useful because it is one condition for legality of an agreement.
- **Scope**, usually start with the sentence "Based on the above consideration, then the two parties has consensus and agreed to have a cooperation agreement with regulation and conditions as stated in the following articles..."

2. Content of Articles in Contract, is a part of a contract that contains a sentence or a series of sentences that provide information of the conditions and information agreed upon, whether stated or implied. To function optimally, the Articles must fulfill the following conditions:

- **Sequence**, meaning the articles must be created chronologically in order to simplify finding and understanding matters that are regulated by each articles;
- **Explicit**, meaning the language used can avoid words that inflict many interpretations. The sounding of the articles must be explicit and not vague;
- **Integration**, meaning that between one article and the other, between one verse and another, has to integrative/cohesive – having connection between one and the other;
- **Unity**, meaning that 1 (one) article reflect 1 (one) condition, however between them they support each other;
- **Comprehensive**, meaning that because 1 (one) article must reflect the 1 (one) condition, then articles in a contract must have complete information.
- a. **General requirements** contain limitation of terminology and understanding used in the whole contract. With having this kind of understanding, dispute that may arise due to the differences in meaning or interpretation between the parties can be minimised.
- b. **Main requirements**, the main requirement content of contract are the following 3 (three) types of clauses:

- **Transaction Clause**, contain matters agreed by the parties regarding object and guidelines to fulfill performance and counter performance as obligation for each parties.
 - **Specific Clause**, contain specific matters dealing with characteristic type of binding or business.
 - **Anticipatory Clause**, is a clause that contains matters connecting to the possibilities that can happen during the contract. For example, contract extension, change rights and obligation of a party/side, resolve dispute, and including mailing address of the two parties.
- c. **Supporting Requirements**, this requirement is needed to support effectiveness of the contract implementation by the parties involved. It usually contains the following:
- **Clause on precedent condition**, clause that contains the deferral conditions that has to be fulfilled first by one of the parties before the other party fulfils his/her obligation. i.e.: Credit Agreement.
 - **Clause on affirmative covenants**, clause that contains promises of each party to do certain things throughout the course of the agreement/contract time frame.
 - **Clause on negative covenants**, clause that contains promises of each party to not do certain things throughout the course of the agreement/contract time frame. I.e.: for Cooperation Agreement.
3. **Closing Part**, at least 4 things have to be paid attention to:
- a) As an emphasis that this contract is evidence;
 - b) As part that states the place of drafting and signing;
 - c) As place that state the witnesses in a contract;
 - d) As space to place signature of the parties involved in contract.

B) Other Matters to Be Paid Attention to

- 1) **Mistake, Force and Fraud**, no legal agreement if the agreement was made by mistake or obtained through force or fraud (Article 1321 of the Civil Code).
- 2) **Witness**, that needs to be paid attention to in the case of witness are as follow:
 - That the witness is limited to the actual signing of a contract, which includes: time and place and also people/ parties that placed their signature in the contract. Witness does not know what happened or what is done by the parties involved prior to or after the signing of contract is done;
 - That the witness has to attend in the dispute court. The witness has to fulfill the conditions set forth by the Civil Code regarding proving by using witness; the condition as follow:
 - 1) Considered not able to be a witness and cannot be heard; are the family member or direct in-laws of one of the parties, and also the husband or wife, even after a divorce (Article 1910);
 - 2) Other than that, witness must fulfill capability traits in conducting a legal action.
 - That "One witness is not a witness", meaning that witness must be more than one person. As stated in Article 1905 of the Civil Code that a witness information without other evidence presented in court, cannot be trusted.
- 3) **Force Majeure**, at least 3 elements must be fulfilled in order to be force majeure:
 - Does not fulfill performance;
 - There is cause outside of mistake done by parties; and
 - The factor of the cause is unpredicted and the parties involved cannot be held responsible.

In a force majeure, event must be proved by person or parties involved, regarding:

- That the involved are innocence;
- That the involved cannot fulfill the obligations whatsoever; and
- That the involved does not bear risk;

4) **Cost of Tax Stamp (Bea Materai)**, the following are documents stated that has cost of *materai*:

- Agreement letter and other letters made for the purpose to be used as evidence regarding civil conduct, reality or situation;
- Notary deed including copy;
- Deed made by Official who Creates Land Deed/Certification including the official copies;
- Letter that contains sum of money;
- Valuables papers;
- Documents that will be used as evidence in courts;

5) **Dispute Resolution**, that in a contract there are a few alternatives to resolve dispute, that is:

- Consensus / agreement
- State Justice (Court) Peradilan Negara (pengadilan)
- Arbitration Body

ASSIGNMENT SHEET

NEGOTIATION PROCESS NOTE FORM

No	Full Agreement	Possibility for agreement	No Possibility for agreement
1			
2			
3			
4			
5			

COUNSELLING

Goal:

1. Participants know the Function of Paralegal in accompanying the victims (Legal Auditor, Legal Drafter, Legal Counselling, Legal Training)
2. Participants know about Paralegal with function of **Legal Counselling**, and necessary and useful steps that should be taken in conducting its function during a case
3. Participants know the process to assist victims

Method:

Lecture by Resource Person, Group Discussion, Role Play

Materials:

Lecture by Resource Person Module: Counselling Bahan
Metaplan cardboard paper
Assignment Sheet
Case Study Sheet

Time:

170 minutes

Facilitation Process:

No	Steps	Method	Materials	Time
1	Brief overview by the facilitator regarding the topic and process that will be discussed, modules that will be handed out.	Oral explanation	-	5'
2	Resource Person short lecture, or, the facilitator can explain the topic: • Paralegal Function in Accompanying Victims • Necessary and useful steps needed to be taken when conducting the function as Legal Auditor, Legal Drafter, Legal Counselling, Legal Training in a case • Assisting victims process by Counselling	Resource Person Lecture	Resource Person Lecture Module	60'
3	Incite discussion by questions from facilitator or participants, while facilitator provide brief overview from the lecture session and the discussion	Suggestion session		30'
4	Provoke participants to talk about each of their experiences, <u>b while handling migrant workers issues, what are the actions that can incite victims to tell their story easier</u> guiding with asking: “	Opinion session		15'

5	Conduct ROLE PLAY, by doing the following steps: - Facilitator group participants in pair; - Then hand out assignment sheet and case study choices; - Participants are given 15 minutes to understanding the case positions and roles chosen (as Victim or Counsellor/Paralegal; - Participants are given 15 minutes to conduct role play with their partners; - Facilitator appoints 3 groups to demonstrate the Role Play that they have done; - Facilitator ask the participants impression when doing role play; - Facilitator notes important points from the impressions about what has to be done and what cannot be done by a counsellor/paralegal; - Facilitator ask participants the conclusion of this topic;	Role Play	Assignment sheet, Case study sheet	60'
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INFORMATION SHEET

HOW CAN A PARALEGAL HELP MIGRATION VICTIMS BY COUNSELLING AND COACHING

A. WHAT IS COUNSELLING?

Paralegal activities are focused to renew victims' behaviour; done to assist Victims in seeing that negative behaviour and attitude affects their lives and cause them problems.

B. COUNSELLING NOT COACHING!

C. WHAT IS COACHING?

- Steering Process by Paralegal to provide instruction, tutoring, training for Victims to obtain new capability or methods to solving problems in order to achieve set goals
- Steering Process by Paralegal to train and introduce Victims to the condition of issues / position of case so that the Victims can overcome barriers to achieve full rights

D. COUNSELLING CHARACTERISTICS

- Victims take initiative for counselling
- Conducted when issues arise or when subordinate feels that issues must be solved
- Any kind of issues
- Emphasis on "listening" by counsellor (Paralegal)
- Counsellor does not provide suggestions, but assist victims in finding solutions
- Aim to solve problems and/or alleviate victims "tension"

E. COACHING CHARACTERISTICS

- Paralegal takes initiative
- Connect to methods to solve issues / case
- Positive attitude and corrective actions
- Coach (paralegal) shows or provides suggestions for "what to do" and "how to do"

- Goal: improve capacity to handle issues/ case

F. WHEN IS COUNSELLING NEEDED? WHEN VICTIMS HAVE:

- Emotional problems: worry, tense, “moody”
- Personal issues
- Behavioural problems, avoiding or postponing decision making
- Attitude problems
- Know the solution but does not know what decision to make

G. WHEN IS “COACHING” NEEDED? WHEN VICTIMS HAVE:

- There are issues that needs to be solved
- Opportunity to act
- Victims come to discuss about “situation and condition”
- Paralegal sees victim dealing with issues in a wrong way

H. DIFFERENCES OF COACHING AND COUNSELLING

COACHING

1. Ask to obtain new job or skills
2. Tell them “What to do” and “How to do”
3. Emphasis on “Teaching” problem Solving
4. Coach Provide solution

COUNSELLING

1. Change attitude/ behaviour
2. Discuss the negative attitude/behaviour with victim
3. Emphasis on “counselling” by a counsellor
4. Counsellor helps victims to find their own solution

I. COUNSELLING GUIDELINES & STEPS

1. OPENING

- Warm opening, use body language and eye contact. Goal: relaxing feel, feeling of welcome
- Explain reasons and goal of meeting. If it is an initiative from Victim, ask for explanation
- Avoid words that judge, for example: should have, must, what was needed was, etc.

2. PROBLEM IDENTIFICATION

- Use open question to probe thoughts and feelings of victims
- Conclude and note
- Conclude important problems in the end of the session to gain a better understanding

3. DEVELOP ALTERNATIVE SOLUTION

- Push the victims to find alternative solution
- Imagine the victims feelings and the outcomes from an alternative solution
- Do not state opinion when is not necessary
- Give information on policies of institution/ labour union/ legal aid organization that can help to make decision

4. SUPPORTS AND TRUST

- Show EMPATHY
- Show trust in victims ability
- Provide support and suggestions if needed
- Suggest victims in victim violence protection program or safe house or other programs if necessary

5. NEXT STEPS

- Create next meeting schedule

- Create short note of meeting results

J. USE OF COUNSELLING

- Reduce victims dependency
- Increase paralegal time use
- Increase enthusiasm
- Show the paralegal appreciation and loyalty to the victims

K. CONDITIONS TO BE COUNSELLOR

- Respect of others and their views Respect
- Simple and direct to issues
- Avoid pretending
- Emphasize
- Has a humanist views and sensitivity

L. COUNSELLING PRINCIPLES

- Have interest, sincere, and avoid negative opinion
- Build & sustain good relations
- Prepare environment that supports emotional revelation
- Provide support and peace
- Provide a situation that give out positive support
- Provide understandable explanation regarding reasons and cause of the solution
- Push the subordinate to experience
- Push the use of Victims faith

M. ABILITY TO LISTEN

- Create a right environment to listen
- Show interest and curiosity to subordinate and to the context of the discussion
- First understand what is said, before responding
- Check our understanding is properly arranged and make summary
- Maintain concentration especially for the sensitive issues that is being discussed
- Prevent preconception and other emotional reaction

N. GENERAL ISSUES

- Relationship with others
- Family and marriage issues
- Pregnancy
- Future: development, barrier, change
- Stress and worry
- Willingness to support
- Lack of confidence and feeling of inferiority
- Death of loved ones
- Depression

O. SPECIAL ISSUES

- Rape victims
- Sexual harassment
- Financial issues
- Carried disease
- Discrimination
- Violence
- Disciplinary issues
- Drugs, alcohol dependency

ROLE PLAY

HOW CAN PARALEGAL HELP MIGRATION VICTIMS AND THEIR FAMILY?

Steps:

1. Facilitator decides roles as Victims (Migrant Workers or their families) and Paralegal;
2. Facilitator oversees conduct of counselling according to the following steps:
 - Opening
 - Problem Identification
 - Develop Alternative
 - Solving
 - Support and Trust
 - Next Steps
3. Note counselling results

CASE STUDY 04

POSITION CASE: MUBAROKAH SUFFERING IN JORDAN

November 2004	Mubarokah sheltered in PT.IRFAN JAYA SAPUTRA
12 December 2004	Mubarokah depart from Jordan, that first was sheltered by agency and then channelled to the employer, Abdul Karim.
6 May 2005	Family receives phone call from Mubarokah, and she confessed the suffering endured during work. From the phone information her condition are as follow: a. Mubarokah is reluctant to all parts of her work b. Mean employer c. During nine months she was never paid d. When Mubarokah expressed her interest to change employer; the employer then took to her to the agency. What she got was torture from the agency by hitting (hand), kicking, which ended in her being locked up in the bathroom from 14.00 until 19.00. Mubarokah was forced to work with her employee again and because she is scared and without options, she followed agency's order
May 2005	Family member contact the Middleman (Slamet Santoso), which then contacted PT. Irfan Jaya Saputra to conduct the next step of Mubarokah family complaints. Next PT. Irfan Jaya Saputra will contact the Agency in Jordan and promised to take care and protect Mubarokah
May 2005 (a week after receiving phone call from Mubarokah)	Family member contacted Mubarokah, and from the conversation it is known that her conditions has not changed and if her parents want to take her home, they have to pay \$1,300 as compensation
May 2005 (two days after talking Mubarokah)	Listening to that information, the family member contacted PT. Irfan Jaya Saputra who said that Mubarokah was in the process of returning back home and flight tickets are already bought for her, they are just waiting for the contract counter cancellation

May 2005 (a week later)	The family member waited but no news was received, so they contacted PT. Irfan Jaya Saputra, and they received information that: Mubarokah return is being processed and contract cancellation is signed, just waiting for the remuneration that has not been paid. PT. Irfan Jaya Saputra promised that Mubarokah will come back in 10 days
Early June 2005	Family contacted Mubarokah, obtained information that her return process is not being processed. The employee even threatens her if her family does not pay, she cannot go home. Then the information is relayed to PT. IJS. But the PT. IJS representative still convinced that on Tuesday, Mubarokah will be home. Next, the family contact Mubarokah to monitor her conditions. While crying, Mubarokah tells the story that her clothes are placed in storage and her employee is watching her phone calls. Finally the family pushed the middlemen so that he could push PT. IJS. Again, PT. IJS promised that Mubarokah will come home on August 2005.
12 September 2005	Mubarokah parents sent one of the family members (Syamsudi) to Jakarta to follow up Mubarokah claims. On the same date, Syamsudi went to the 6 th floor of Ministry of Labour and Transmigration in order to find information of PT. IJS address. Because he got a phone number, 9231729, but no one answered when contacted.
13 September 2005	Syamsudi went to the Ministry of Labour and Transmigration to obtain address, and he got Jl. Waru and the phone number, 87796391. After communicating with Edi (who claims to be the head in the office), he received the following information: 1. PT. Irfan Jaya Saputra has conducted recruitment to Jordan 2. The concerned is not familiar with Rohim (the person who recruited Mubarokah) From that conversation, Syamsudi is offered to track PT. IJS Kueni and on Jl. H.Bak'i. The result of the tracking is: 1. PT. Irfan Jaya Saputra Kueni stated the same thing Edi did. 2. PT. Irfan jaya Saputra H.Bak'i met with KUNARTO and stated that PT. IJS never recruited prospective Indonesian Migrant Worker to Jordan and explained that ROHIM is a member of PT.IJS in the Visa part and at the moment Rahim is being searched for.
16 September 2005	Tracking information is relayed to the family, because they are desperate and in the end, Mubarokah sends a letter to the Director of PT. IJS.
26 September 2005	Because they always find dead end, Mubarokah's family (Salbani) ask for legal assistance to the Legal Aid Service Office (ATMA).

CASE STUDY 05

POSITION CASE: LITA SUFFERING

IN HONG KONG

- In April 2005, the victim wanted to work overseas and worked to find information on working overseas by asking her relatives. The relative then suggests victim to meet Fikri, a middleman/sponsor from company that sends workers, name SUKMA KARYA SEJATI (SKS)
- In May 2005, the victim and her sibling met with Fikri to ask for assistance so she can work abroad. Then Fikri suggested the victim that if she chooses to work in Hong Kong, the process takes a long time and offered the victim to work in another country. But she chose Hong Kong. Then Fikri told the victim that for those who has not worked abroad before, remuneration receives (when converted to Indonesian Rupiah) will be around two until three million per month, and she has to pay IDR 600,000 for the process fee to Hong Kong.
- Then, on 2 June 2005, Fikri takes the victim to Jakarta in order to follow process to work abroad. In Jakarta, the victim is sheltered in PT. SUKMA KARYA SEJATI. In the shelter, the victim followed training session for overseas work that was held by the Company. She lived in the shelter for eight months and twenty days.
- On 7 February 2005, the victim departs to work in Hong Kong through the Company, and she will be working as housemaid in Hong Kong. Before departing, she was told by the company that the work in Hong Kong would consist of taking care of a 4 and 7-year old children. But when she arrived, her work was different than what was told. She had to take care of two elderly people and based on the information received by the family of the victim, the employer does not like her so she was often yelled at and received harsh treatment. Sometimes she was not even fed, was not allowed to communicate with family and others. The victims can call by giving excuse that she is going to shop; even then the driver and security personnel heavily monitored her.
- On Sunday, 16 April 2006, the victim contacted her family via cell phone and told them that she is sick and that the employer does not treat her or provide medication. The victim also told that her employer no longer greets her, and she asked to return home because she cannot handle the employer's treatment.

CASE STUDY 06

POSITION CASE: EKA SUFFERING IN SHELTER

- On January 2005, the victims wanted to work overseas with Taiwan as a destination country. Then the victim meets Pak Yono, who is a prospective migrant worker who has sent the victim to Malaysia.
- After the victim met with Pak Yono, she received information that there is an opportunity to work in Taiwan and it cost IDR 7,000,000
- Then, after the victims received the information, she went home to ask the family's consideration. The family agreed to find money to cover the cost.
- On 26 January 2006, the father and mother of the victim, met Pak Yono to hand out the most that will be used to process their daughter to work overseas. The family only had IDR 6,000,000 and the rest of the IDR 1,000,000 was received by selling 10 grams of gold.
- After the family paid the fee, the victim was sent to Jakarta to start the process to work overseas. The victim stayed in the shelter with other Women Migrant Workers in Jakarta.
- On 14 February 2006, the victim called her older sibling to tell about her experiences. She said that she has run out of money and cannot stand living in the shelter because she has been there for a year but the departure is still not clear.

CASE STUDY 07

POSITION CASE: PUTRI SUFFERING IN SINGAPORE

Putri, is a Migrant Worker who departed with PT. Perwata Mustika on 12 August 2001 to Singapore to work as a housemaid. In brief, the event that Putri experienced was informed through a letter she wrote and sent on 6 May 2005.

The issues informed in the letter are as follow:

1. The victim does not receive remuneration from the employee and reason was because her wage is gone from deduction of the medication she takes daily, flight ticket home, and her daily costs.
2. Because the daughter (victim) has fulfilled her part of the obligation according to the work contract, therefore she has a right to receive remuneration, according to the contract.

The efforts that the victim has done are as follow:

1. The victim has filed complaint on the issue through a letter to the agency, dated 23 April 2005, but no responses yet;
2. Because the victims' letter did not get a response, the victim called the Agency and files a complaint. The agency told victim to just wait until her work contract is finished.

TRAINING MANAGEMENT AND TRAINING FACILITATION TECHNIQUES

Goal:

1. Participants obtain and grasp knowledge and skills needed for a trainer/facilitator and organizer to plan, implement, monitor/evaluate training sessions
2. Participants are able to facilitate training

Method:

Resource Person lecture, group discussion, role play

Materials:

Resource Person Lecture Modules: Training Management

Resource Person Lecture Modules: Training Facilitation Techniques

Time:

125 minutes

Facilitation Process:

No	Steps	Method	Materials	Time
1	Facilitator give a brief overview on the topic and process that will be discussed, modules to be handed out, and time needed	Oral explanation	-	5'
2	Resource person brief lecture, or facilitator can explain the topic	Resource person lecture	-	60'
3	Elaborate discussion by questions from facilitator and participants. Facilitator express a short overview on the lecture by resource person/facilitator and on the discussion session	Opinion session, Q & A	-	30'
4	Facilitator divide participants into 5 groups, and give assignment: a. Plan training in base b. Conduct training by dividing roles in each group: Facilitator, Resource Person, and training Participants, with certain issues.	Group discussion	Plano paper and marker	15'
5	Participants present work result and conduct role play in doing training and other groups will judge	Role play and opinion session	Group work result sheet	25'
6	Facilitator gather the participants' conclusion by guiding them with asking: • What should be prepared in planning, conducting, monitoring/evaluating the training? • What are the barriers often faced in starting and conducting training? • How do we face and eliminate barriers?	Opinion session		10'

INFORMATION SHEET

TRAINING MANAGEMENT

Charles Babbage interprets management as ways to conduct work efficiently and effectively. The function of management (G.R. Ferry) is divided into four functions, as follow: planning, organizing, implementation/actuating, and controlling/monitoring.

PRE TRAINING STEP

Formulate and Set Training Needs

Formulate training needs is a preliminary step in planning training. Formulating training needs is not only meaning identifying the training needs but also to differentiate the needs of the organization/institution with the needs of the participants/individuals. This is important in order to create interconnection and balance between fulfilling the development needs of the organization/institution and human resources development needs within the organization. In formulating the organization's development needs and human resources development needs, the stepping point used is vision, mission and goal of the organizational institution. The needs formulation has to be evaluated to ensure that those are real needs.

Set Training Operational Policy

Next step is to choose and set how the training activities are conducted (operational policy). The choices are as follow:

- a. Conducted exactly as done before;
- b. Conducted as the training has been done before, but with necessary modification;
- c. Conducted in a totally new way by paying attention of the efficiency and affectivity;
- d. Rent/ pay a professional institution to conduct the training needed; and
- e. Cooperate with other organization/ institution (strategic alliance).

If the choice regarding how to conduct activities has been decided, then the next step is to formulate Outline of Reference that will be a guideline in preparing and conduct the activities, that contains:

- a. Main thoughts that acts as a background to conduct activities;
- b. Formulate training goal according needs, and that rate of success can be observed and measure;
- c. Main point discussion that connects with the goals;
- d. Approach, method and media/ learning assistance tools will be used to reach the maximum goal, by paying attention to the participants ability to grasp the topic;
- e. Resource person/ facilitator who is adequate to handle the material;
- f. Participants (criteria/ conditions and number of participants);
- g. Time needed to conduct training;
- h. Time/ location to support the training and facility;
- i. Financing;
- j. Daily training activities Schedule.

Set and Prepare Participants

Number of participants, setting the number of participants is closely connected to the training goal to be conducted. The number of participants should not be too large (maximum 25 people). Also there needs to be a consideration to the male and female ratio of participants

Participants' criteria, needs to be set by:

- The level of development in an institution/ organization today and in the future connects with the organization vision and mission;

- Needs of staff/ member development is done according to the function and responsibility they have within the organization/ institution;

By paying attention to the matters listed above, there needs to be a consideration in seating participants: level of participant's ability, sincere willingness, and the line of work they are doing.

Prepare the Participants; they each need to send private data that contains their age, education, work, experience, training and other important information that is valuable to the organizers.

Resource Person/ Facilitator

In setting resource person/ facilitator, one must pay attention to:

- 1) Facilitator grasp the materials (theoretical and practical), and has experience as a trainer;
- 2) Ability to use and develop training/ material presentation methods;
- 3) Time ability;
- 4) Financial ability;

Modules

Modules must be adjusted with training needs. Usually, the training modules contain the following 4 matters: (1) Development of academic ability; (2) Development of professional ability; (3) Development of managerial ability; and (4) Development of technical ability.

Provide Learning Assistance Tool During Activities

Learning assistance tool is divided into 2 types: (1) Learning assistance tool that is already available and ready to use, such as: computer, OHP, LCD, white board, flipchart, etc; (2) Learning assistance tool that has to be made to order according to need, such as: transparency, reading material/ handout, assignment sheet, etc.

Learning Assistance Tool is classified into: (1) Hardware, such as: OHP, slide projector, LCD, whiteboard, games, etc; (2) Software, which completes the hardware, such as: transparency, film slide, writing tools for the white board, and guidelines for game.

Location and Facilities to Support Training

In setting a training location, the following needs to be paid attention to:

1. Environment seating that supports flow and concentration;
2. Distance between location and participants' domicile;
3. Transportation and communication means available;
4. Facilities available for participants, such as: bedroom, bathroom and WC, dining room;
5. Training room that can hold all participants with facilities such as table, chair, lighting, speaker, whiteboard, small rooms for group discussion, and clean water;
6. Sports and recreation facilities;

Offence

An offence is an effort to convert into payments all activities involved with preparation, conducting, evaluating and next step of conducting a training program.

In general, training budget arrangement can be divided into different payment post:

- a. **Preparation** includes payment for: meeting, permit acquisition, invitation and preparation of participants, contact the resource person, material preparation, funding efforts, etc.
- b. **Conducting** includes payment for: accommodation, consumption, transportation, documentation, health, providing materials/modules, honorarium, rent equipment/tools, training, sports/art/recreation, etc.
- c. **Evaluation** includes payment for: evaluation tools, evaluation result processing, etc.
- d. **Reporting** includes payment for: report writing, providing report, sending report, etc.

Training Administration

In conducting training, the training administration system is divided into two, one is general system that regulates matter that connects with administrative, correspondence, dealing with taking care of training equipment, participant data, etc. Another system is the special administrative system that deals with payment/financing of the training.

Near the start of the training program, there are few main things that need to be looked at to ensure that the training is ready to be started. The main things are as follow:

- a. Participants and the readiness of the participants;
- b. Willingness and readiness of the facilitator;
- c. Training materials;
- d. Facility and supporting media/ learning assistance tool;
- e. Location/training area and the equipments needed;
- f. Permission from authorized official;
- g. Transportation means;
- h. Financing;

STEPS TO CONDUCT TRAINING

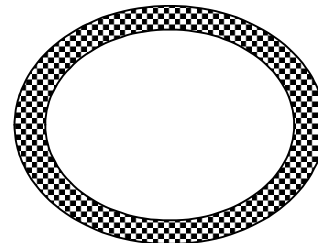
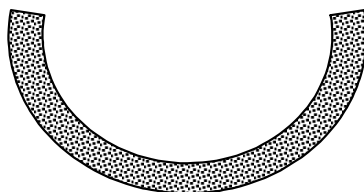
Involvement in Learning Process (Involvement Skills)

Organizer needs to:

- Create training situation and environment that is fun and can form close bond between participants, participants and organizer, and participants and facilitator;
- Facilitate participants while conducting the training program in order to create a situation where the participants feel comfortable.

Classroom Techniques

A good classroom setting will support effective learning process for an effective meeting. It is best that the seating position of the participants are made so that the participants can face one another, therefore the room setting should be a U shaped or a circle. In both examples the facilitator should be in the centre of the participants, whether it be in the centre of the 'U' or 'O' shaped settings.



Setting Up The Learning Environment

- a. Balance between the room size and the number of participants
- b. Table and chair arrangement
- c. Providing and placement of modelling tools, learning assistance tools, to make it easier to use and to make it easier for participants to see and follow.

EVALUATION STEPS

1. **Preparation and Preliminary Training Steps (Pre Evaluation)**, such as: formulation of goals, training modules, speaker, participants, strategy/method, place, time, etc.
2. **Training Activities Steps (On Going Evaluation)**, such as: material presentation, attitude, and the behaviour of participants, facilitator, etc.
3. **Final Activities Steps (Terminal Evaluation)**, such as: level of training goal achievement, content of training, method, process, time, participant, financing, means/facilities and conducting the training.

4. **Post Training Steps (Expose Evaluation – Post Evaluation)**, this evaluation is conducted a certain period of time after the training ended, where a deep analysis towards the direct effect of training can be done. The aim of the evaluation is to see the direct effect and the affect of the activities.

FOLLOW-UP STEPS/ POST TRAINING

This step is focused on monitoring the training participants and the level of accomplishment they have in implementing the topics learned during the program.

In order to do that, there are a few things that needs to be looked at and conducted:

1. Assist and push participants to implement what they have learned during training;
2. Appeal and push the organizer to provide a chance and help the participants to implement and develop the experiences they received during the training process;
3. Ask feedback from participants and the organization that sent them;
4. Conduct monitoring on participants and alumni;
5. Give new insight according to the participant need (send actual information, discussion materials, etc);
6. Conduct visit to the participants/ alumni (if necessary);
7. Prepare means for information and communication between alumni, between alumni and organizer, in a bulletin or other means available;
8. Organize refreshment activities in a form of reunion (meeting between alumni). Or training made especially for alumni.

INFORMATION SHEET

TRAINING FACILITATION TECHNIQUES

I. PARTICIPATORY TRAINING STRATEGY

Five assumptions used in Participatory Training:

1. That everyone has knowledge
2. That everyone is a valuable source of learning
3. That everyone has an ability to learn and develop
4. That participants cannot be forced to learn
5. That group is the best learning forum

The vision needed by the facilitator:

1. **Rediscover dignity.** May happened that a participant come from a social status that does not appreciate his/her attendance or ability. That situation and acceptance will incite a feel of not being needed, not worth and not able. Facilitator has an obligation to provide a large chance for all participants to succeed, even a small success, and appreciate the accomplishment.
2. **Realize your power and the ability.** Facilitator dude is to provide a chance so that the Participants can keep training to prove that they have the ability and spirit to live and change themselves and their environment.
3. **Release from all sorts of confinement.** The facilitator must free participants from all sorts of confinement that become a barrier in showing their potential.
4. **Reach optimum self-improvement.** The Facilitator needs to create an environment where factors are strengthening, such as: motivation, activity, vitality, commitment, persistence, creativity, health and endurance.

Characteristic of Mature Participants

There are few characteristics of a mature person in their relationship with training strategies. The characteristics are:

- I. **A mature person has adequate life experience and work experience.** *Strategy to be conducted by facilitator:* A mature person education must start from what they already know and with connection to their work, their interest and their daily life.
- II. **A mature person prefers finding something on his or her own.** *Strategy to be conducted by facilitator:* through learning experience, participants must be informed as many things possible in order to be able to draw their own conclusion and formulate implementation in their daily life.
- III. **A mature person prefers to receive advice from colleagues then to be preached.** *Strategy to be conducted by facilitator:* A mature person's education is a work process between the facilitator and the participants to reach learning goals
- IV. **A mature person prefers more practical things.** *Strategy to be conducted by facilitator:* a mature person will be interested to learn through discussing case studies or real matters faced during their duty or in daily life by using a real experience faced by each participant as a source of learning.
- V. **A mature person prefers to get feedback on what he/she has done.** *Strategy to be conducted by facilitator:* facilitator must try to ensure that participants receive feedback from the training process, from the evaluation monitoring, etc.
- VI. **A mature person will be more interested to learn when given push and support.** *Strategy to be conducted by facilitator:* facilitator must create an environment, which provides support and push to the participants. Avoid tendency to blame that weakens participants' spirit.
- VII. **A mature person prefers to learn in a situation that is free of conflict or frustration.** *Strategy to be conducted by facilitator:* if problems, conflicts or incompatibility arise, it is better to solve openly together so that the learning process is not postponed.
- VIII. **A mature person prefers to be treated with sincerity, justice and reasonably.** *Strategy to be conducted by facilitator:* facilitator must treat participants as an equal mature person in a fair and wise way.

II. SET/ CHOOSE TYPE OF MATERIAL AND DEVELOPMENT TECHNIQUE

Type of Materials:

1. **Facts** (verbal cap), keyword: What, Who, Where, When, How Much?
2. **Concept**, a compilation of abstract meaning or a sequence of object that has a similar characteristic. Keyword: definition, character identification, clarification.
3. **Perception**, a mental image resulting from monitoring process. Through monitoring, one thing and another can be differed or one limit and another (differences in physical characteristic such as shape, colour, size, etc). Keyword: how, how much, etc.
4. **Procedure**, a sequence of activities to conduct something or to solve an issue. Keyword: steps, calculation, using formulas, etc.
5. **Principle**, revelation of relationship between two concepts or more. Keyword: law, hypothesis, why, reasons-consequences.

Material Development Pattern:

1. **Linear Pattern**, textbooks usually use this pattern; the sequence of the chapters and the paragraphs goes from easy to hard, close to far, concrete to abstract, from simple to complex.
2. **Chronological/ Anti Chronological Pattern**. History writing usually uses the chronological pattern, or can also use reason – consequences pattern. Anti chronological pattern starts from the consequences then find the reasons (in connection to the reason – consequences).
3. **Spiral Pattern**, patterns with layers-repetition-continuous that broadens or focused. Usually it is used on same training theme but for different time frame. For example:

repeat training material on different level of skills during intermediate and expert level.

4. **Build-up Pattern**, start from a small scope or close area as a whole and develop into a large scope. For example: leadership in the household, village, sub-district, and so on.
5. **Cycle Pattern**, follows life cycle: birth, young, mature, old, death. For example: topic regarding old emperor in the area (when it was established, how it developed, the high point, and decline until the death).

III. LEARNING METHOD

The word method originates from *metha* and *hodos*. *Metha* means *through* and *hodos* means *way/path*. Method means a way or path that has to be gone through or passed in order to reach a destination. Learning is an effort to assist or create a condition so that learning activities exist, therefore will receive learning experience. Learning method is a way used to create a condition where learning activities can happen in order to achieve learning goals that is to receive learning experience. There is a very significant connection between variation and the change of methods with learning accomplishment. Change of methods can be done every 20 minutes during learning. For example, the first 20 minutes use lecture method, next 20 minutes use discussion method, the next 20 minutes back to lecture method. The use of method variation will affect the level of high success in comparison to using a monotonous method.

Types of Learning Method:

1. **Lecture Method**, a way to present learning material from educator to educate orally, in order to reach the goal.

This method is used:

- a. Presenting facts/ reality which sources are not available in books/written sources or other publications, and that students do not have access to;
- b. There are many materials to be presented in a short time;
- c. Used to sustain, grow and build appreciation/ implementation/ commitment to the content of verse/ prose, human attitude, policy, etc.

Way to allocate lecture time activities:

- a. Opening: 10% of time available;
- b. Main lecture: 50% of the time available;
- c. Dialog or Q & A to provide feedback: 25%
- d. Conclusion of main points: 15%

2. **Discussion Method**, a way to manage the contents of training through exchange of opinions based on knowledge and experience obtained in order to solve a problem.

This method is used:

- a. Way to develop the participants' skills and behaviour;
- b. Way for the participants to have an active role in learning process;
- c. When there is problem that cannot be solved with one answer, so that a few alternative answers is needed.

Role of Facilitator in Discussion:

- a. As a traffic regulator: so that the conversation is not monopolized by certain participant and to manage flow of discussion;
- b. To manage: not dominate conversation;
- c. As a road guide: straightening opinions that is not appropriate or is far from the topic;
- d. As a catalyst: connect between information and participants;
- e. As a resource person;
- f. As a motivator: push the participants to give opinion;
- g. As a facilitator: provide equipment and source that can support discussion.

3. **Question & Answer Method**, a way to present teaching material with asking questions that can incite answers or actions in response to the question asked by the Facilitator to the participants or vice versa, in order to complete or deepen the understanding in reaching learning goals.

This Method is used:

- a. Repeat previous education by connecting to new education;
- b. Actively involve participants in learning process;
- c. To accompany participants' observation and thoughts;
- d. Learning materials in a form of general facts and information that is easily traceable through various source.
- e. Way for participants to have an active role in learning process.

4. **Assigning Task Method**, a way to present learning material by assigning tasks for the participants to do outside of schedule in a certain period of time and the result must be reported to the other participants.

This method is used:

- a. So participants can grasp the training assignment material;
- b. Because participants need to develop the materials learned;
- c. Participants need to increase ability in order to accomplish something as a follow-up step or as learning material application;
- d. To promote participants interest and responsibility.

Way to use this method:

- a. Inform learning goals to be achieved;
- b. Inform assignment that must be done, how to do it, provisions, and criteria of success;
- c. Give adequate time and set deadline and where the assignment should be handed out;
- d. Present assignment in class;
- e. Check and give comments.

5. **Group Work Method**, a way to present learning material where Facilitator (after grouping participants) ask the participant to work on certain tasks in order to reach learning goals.

This method is used:

- a. By informing the learning goals to be achieved;
- b. Divide participants into groups, by: (1) directly set group by the seating arrangement; (2) Facilitator set group by knowledge/skills; (3) Facilitator groups' participants by sex; (4) Participants set their own group.

Role of Facilitator in Group Work:

- a. Facilitator monitor learning activities and group work;
- b. Facilitator go around when group work is undergone;
- c. Provide assistance and guidance to all groups in turn;
- d. Do an evaluation of the group work to identify which group is productive and which one is not;
- e. Facilitator assist in making conclusion and to receive result of group work.

6. **Problem Solving Method**, a way to present learning material by giving participants a problem which needs to be solved or resolved through investigation, critical thinking, logic, analysis to reach learning goals.

This method is used:

- a. To provoke the participants creative thinking;
- b. To stimulate participants participation;
- c. To create an exciting and challenging environment for the participants;
- d. To train participants to get used to thinking analytically, critically, and systematically in dealing with problem.

Way to use the method:

- a. Provide participants with problems. Formulate issues that are clear, gains participants interests, and the level of difficulty is still on the reach of participants;
- b. Look for data/information. In an effort to solve the problem, participants is forced to gather data/information by literary study, observation, interview, that connects with formulating problems;
- c. Set temporary answer. In this step, participants set temporary answer to the problem. The preliminary assumptions is based on the data/information gathered;
- d. Test temporary answer, can be done through experiment, test, etc;
- e. Make conclusion.

7. **Drilling Method**, a way where participants conduct exercises to develop knowledge and skills. The use of method can be combined with many activities, whether individually or in-group, whether written, physical, or mental activities.

This method is used:

- a. As means to sustain habits;
- b. To provoke participant participation;

Way to used method:

- a. Explain goal;
- b. Explain what is being trained;
- c. Not use for repetition, but in doing it there must be an understanding and certain goals to reach;
- d. Give intervals during training so that it will not be boring;
- e. Note mistakes and diagnose difficulties;
- f. Not too long or too short.

8. **Experimental Method**, a way to present learning materials by trying to do something while monitoring the process and result of the experiment. This method is a form of interaction to learn – teach that involved induction logic in order to conclude observation of the process and result of experiment done individually or group.

This method is used:

- a. Means to develop and incite curiosity;
- b. Means to train discipline in order to follow work plan;

Way to use this method:

- a. Explain experiment goal;
- b. Provide equipments;
- c. Explain sequence of activities;
- d. Implementing experiment;
- e. Make conclusion;
- f. Evaluation;

9. **Simulation Method**, a way to learn attitude behaviour by imitating true events in daily life.

Form of Simulation Methods:

- a. Role Play is one of the forms of games used to explain feelings, attitude, values and behaviour, and grasp the feeling from another person's point of view. Through role-play, the actor will play a role as reality.
- b. Socio-drama, is actor imitating problems in a story in a way so that the story can be grasped with seeing and hearing.
- c. Simulation Game, is a game where participants take the role of different people, such as role as decision make acting as if involved in a certain situation, trying to achieve certain goals, but the goals clashed with one

another. The Simulation Game is a step ahead of just playing a game to making game that is more functional.

10. **Site Visit Method**, is a way to present training material by conducting site visit to certain objects in order to investigate or learn certain things that will result in reaching learning goal.

Way to use this method:

- a. Preparation:
 - 1) Formulation of goals;
 - 2) Set objects to be visit;
 - 3) Make trip planning;
 - 4) Form committee;
 - 5) Design Assignment;
 - 6) Set guidelines.
- b. Conducting:
 - 1) Explain goal;
 - 2) Conduct discussion and analysis;
 - 3) Make report.
- c. Closing:
 - 1) Discuss report;
 - 2) Set follow-up steps.

IV. FACILITATOR IN LEARNING PROCESS

Create learning situation and environment that support and push active involvement of participants throughout the training. To do that, throughout the process the facilitator needs to pay attention to:

- (1) **Grasp main material/discussion** that will be presented, the attitude and behaviour during presentation of material, and attraction in presentation style;
- (2) **Know the training participants well** not only name, sex, age, education and origin, but most importantly their hopes, needs, motivation, ability, spirit and seriousness, the learning pattern and means needed for learning and discipline. This is necessary in order to present the materials so that the facilitator can choose method and learning assistance tool that fits participants and attract their attention;
- (3) **Assist participant to achieve and grasp the experience and skills** that is given and to further push and try the experience and skills chosen (develop method, group assignments and individual assignment);
- (4) **Create climate and situation** of training that ensure the participants to have adequate time to grasp the knowledge, experience and skills that they have gained, so that they can provide feedback to the training (deep discussion, building commitment, plan of action);
- (5) **Be flexible**;
- (6) **Empathized** (understand, accept difference, and feel what the participants experienced);
- (7) **Actively listened** to understand the participant's thoughts and feelings. Use more time to listen than talk, do not cut a conversation that the participants are involved in, do not answer a question with a question, do not dominate conversation, answer when you understand the question, prepare feedback, avoid interrupting, maintain the conversation in order to stick with the main material;
- (8) **Acquire Skills of Providing Variation**
There are 3 aspects in skills to provide variation that has to be acquired in the process of teach-learn:
 - (b) Variation in learning style (voice variation, body language, mimic, and position in class);

- (c) Variation in using Learning assistance tool that are grouped into 3 groups: listened, seen, and touched;
- (d) Variation in interaction forms in participants' activities, such as: conducting dialog, asking questions, invite discussion, so that the trainer/facilitator is not the only one talking.
- (9) **Acquire Skills to Strengthen**
There are 2 types of strengthening:
 - a. **Verbal**, used to express words such as: Yes, what you said is correct; I really agreed on what you said;
 - b. **Non Verbal**, can be done by facial expression and body language movement such as: head nod, smile, facial experience to show interest, hand clap, thumbs up, facilitator approach participants to show attention by shaking hands or through a short dialog.
- (10) **Receive Feedback**
Feedback can be received by conducting dialog with participants, to ask for opinion, and asking question.
- (11) **Acquire Skills to Ask Questions**
There are 6 types of question:
 - 1. Knowledge Question;
 - 2. Understanding Question;
 - 3. Implementation Question;
 - 4. Analytical Question;
 - 5. Synthesis Question;
 - 6. Evaluation Question.

Put forward questions to: (1) incite interest and curiosity to the main points; (2) develop active learning and thinking; (3) Push participants to express views that connect with the issues discussed; (4) as feedback to facilitator in order to know how far the participants have learned throughout the training process.
- (12) **Acquire Skills to Open and Close a Session**
That is done to open a session is to explain learning goals; explain main topic to be learned; provide overview of the activities; asking questions to participants regarding the materials to be given in connection to the materials that participants have previously learned.
Done to close a session is to make conclusion from the material presented emphasize on important matters and monitor the follow-up practices; emphasize the importance of new materials discussed in connection to be discussed.

Attitude and Behaviour of Facilitator When Presenting Materials:

In presenting materials, it is better for facilitator to pay attention to the following:

1. Do not place two hands into pant pockets when talking/presenting materials;
2. Do variation of teaching styles;
3. Conduct variation of the use of learning assistance tools;
4. Use interesting media/learning assistance tools;
5. Variation in interaction forms of activities where both the facilitator and participants speak. This can be done by asking questions or asking opinion;
6. Ask questions in a clear and concise language and provide participants with time to think;
7. Try to know as many names;
8. Acquire skills to open and close sessions.

EXAMPLE FORM:

TRAINING EVALUATION / TRAINING FACILITATOR

Trainer Name:

Title of Material:

Evaluation	Poor	Average	Good	Very Good
Material Content				
Method of material presentation				
Language				
Clarity of sentence				
Way to attract participants				
Expression and style				
Interaction with participants				
Use of audio visual				
Use of time				
Additional Comments				
Strengths				
Weaknesses				
Suggestions				

TRAINING EVALUATION

Goal:

1. Assist participants to understand the meaning of evaluation
2. Participants understand the use of the training on his/her own development
3. Participants evacuate the training

Method:

Discussion, drawing

Modules:

Plano paper (each participants draw)
Work Sheet: "List of Question Regarding Evaluation"
List of Participants Hopes and Worries

Time:

125 minutes

Facilitation Process:

No	Steps	Method	Materials	Time
1	Open the session by presenting the topic. Facilitator does not forget to inform that this training will continue with other similar exercise but in different places.	Oral explanation	-	5'
2	Hand out paper and ask participants to think of the word "evaluation". Ask each participants to write a sentence to explain the meaning of "evaluation" (Big Writing)		Paper and writing utensils	10'
3	Together discuss the various definition and try to find a general definition		-	15'
4	Present once again the hopes and worries of participants. Read clearly.		Plano Paper "Hopes and Worries"	10'
5	Present once again the drawings of "The best in Me" and "What needs to be Improved in Me". Allow participants to take back their drawing.		Participant's drawing	10'
6	Hand out empty drawing paper. Give the following instruction to the participants: <i>Draw yourself in the middle of the paper and write something below. Give the title on top of the paper: ME AFTER TRAINING. Write your name in the back of the paper.</i>	Drawing	Paper, Coloured Markers or Pencil	10'
7	Ask participants to write on the back of the empty paper: - New personal traits that grew after following this training - Learning experiences that are most useful for your personal development achieved from the training? - Your hopes fulfilled by this training	Writing	-	15'

	- Your hopes, which was unfulfilled by this training.			
8	Ask all participants to hand in their drawing		-	
9	Then, divide participants into three groups. Assign each participant to discuss the following (write question on whiteboard or plano paper): - What needs to be improved from this training? - Which session was most useful? - Which session must be revised? - What are the revision suggestions? Ask participants to write result on plano paper.	Group Discussion	-	30'
10	Ask one person from each group to present their group's response. Gather and write the result on the whiteboard.	Opinion Session	-	20'
11	Express thank you for the evaluation		-	

FOLLOW UP PLANNING

Goal:

To help participants make a realistic follow-up plans regarding Indonesian Migrant Worker conflicts that are faced and currently handled.

Method:

Group discussion, pleno session

Modules:

Assistance Tool: Follow Up Matrix Examples
Cut out coloured cardboard

Time:

120 minutes

Facilitation Process:

No	Steps	Method	Materials	Time
1	Short explanation on: - Topics to be discussed; - Process/Methods; - Materials to be handed out; and - Time needed	Oral Explanation	-	5'
2	Facilitator then hands out small cut out cardboards to training participants so they can write the following: 1. What needs to be done after training ends (in connection with problems faced); 2. One cardboard contains not more than one suggestion. The answer must be written in Capital Letters; 3. Suggestion should be clear and concise; 4. Every participants are given 4 -5 small cardboard in order to write their suggestion.		Cut out cardboard	15'
3	Give chance for participants to think and write what needs to be done		-	10'
4	Facilitator gather all cardboard and stick it on the wall in classification; 1. Build institution (organizing oneself) 2. Development of activist capacity (education, training and comparative study, etc) 3. Network 4. Defend cases with chosen strategic media 5. Etc	Metaplan	-	30'
5	Facilitator offers participants to choose the follow up steps that are important and necessary. Usually there are few choices, 3-4 chosen programs that are most important (from	Group Discussion	Plano paper	30'

each group). Based on the program suggestions, facilitator divides participants in groups. Each group are assigned to formulate program into a form of activities that are clear and concrete.

Before the group discussion starts, facilitator give signs for the activities:

1. Specific
2. Can be achieved (realistic)
3. Can be indicated
4. There is timeline

6	Ask participants to present group discussion result. Give comments on the discussion especially on how appropriate the plan is to be conducted.	-	30'
7	Facilitator draws a few lessons learned connected with the follow up plan.	-	5'

ASSIGNMENT SHEET

ACTIVITIES PLAN EXAMPLE GOAL: Increase Paralegal Ability in Base

No	Activities	Steps	Results Accomplished	Evidence	Person in Charge	Implementation Deadline	Information
1							
2							

PARALEGAL EDUCATION MATRIX SYLLABUS

MAIN DISCUSSION	TOPIC	GOAL	METHOD	MATERIALS
EDUCATION ORIENTATION	Set Situation	1. Set mental situation of participants to be comfortable and fun 2. Show that mental situation can be created through active participants being	Light Exercise	-
	Self Introduction	1. Participant introduces each other. 2. Participants better know strengths and weaknesses they have in facing conflict.	Draw, Group Discussion	Marker, Paper, Tape, Name Tag
	Learning Contract	1. Clear the hopes of participants for the training. 2. Assist participants and lead them towards their hopes.	Opinion session, fill list of questions	Work sheet: My Hopes for this training, event syllabus
	Basic Values	1. Participants know basic values of Paralegal 2. Participants know of paralegal traits, duties, responsibilities, principles in dealing with conflict 3. Express the dilemmatic situation that happened in the conflict 4. Understand basic Universal Human Rights as a guideline in facing and dealing with conflict	Case Study, Group Discussion, Presentation	1. Reading Material: Who is a Paralegal 2. Reading Material: Universal Declaration of Human Rights 3. Reading Material: Human Rights, Law and Justice
INDONESIAN MIGRANT	Analysis of Sources	1. Assist Participant to understand analysis sources of	Lecture, Opinion	A number of poster of Indonesian

WORKERS CONFLICT ANALYSIS	of Conflict	conflict 2. Use outline for analysis of conflict sources	Session, Small Group and, Large Group Discussion, Q & A Discussion	Migrant Worker, writing utensils, cardboard, Reading Material: Sources of Conflict
	Faces of Indonesian Migrant Workers Issues: Effects of Local Issues Nationally and Globally	1. Participants express facts that are known regarding Indonesian Migrant Workers conflict on the village, regional or national level 2. Participants realize that the causes of Global, National and Regional conflicts that are faced by Migrant Workers and their family	Opinion session, flow of history, group discussion	Cardboard, Reading Material: Pattern and Flow of Migrant Workers Placement Syndication, Reading Material: History of Migration
	Faces of Indonesian Migrant Workers Issues: Construction of Migrant Worker Marginalization and Their Family	1. Participants understand who are the actors in Indonesian Migrant Worker Marginalization 2. Participant understand that migrant worker marginalization are done through many sectors of life (social, culture, politics, etc) 3. Participant understand that because of the strength of the marginalization process, it is internalized 4. Participant understand that construction of Indonesian Migrant Worker marginalization can affect cognitive, affective, and migrant worker attitude/behaviour 5. Participant understand that in order to cut the process of marginalization, it must be started from within, then to the scope of family, and then to society and the country	Spider Web Game	Game room, raffia rope, duck tape, metaplan paper, flipchart, markers, case study sheet
PARALEGAL BASIC KNOWLEDGE	Criminal law Proceeding	1. Participants know the Criminal Law Proceeding principles 2. Participants know victims rights and or suspects, in a case 3. Participants know the procedure for arrest, search and seizure 4. Participants know how to handle case through litigation	Lecture, opinion session, group discussion, case study	Reading Material: Criminal law Procedure, case synopsis
	Civil Law Proceeding	1. Participant know the general principle of Civil Law Proceeding in connection to Indonesian Migrant Workers case 2. Participant know the Indonesian Migrant Workers	Lecture, Opinion Session	Reading Material: Introduction to Civil Law Procedure

SKILLS TO HANDLE INDONESIAN MIGRANT WORKERS CASES	Indonesian Insurance Law	rights that can be obtained through civil proceeding 1. Participants know: a. Understanding, basic principle of Insurance Law Principles b. Type of Insurance business c. Insurance Elements d. Content of Insurance Agreement e. Insurance Program Deadline (Pre Placement, During Placement, Post Placement) f. Insurance Claims Documents g. Sanctions 2. Participants know how to prepare evidence and procedure in claiming insurance 3. Participant know how to handle insurance case	Resource Person Lecture, Group Discussion, Case Study	Reading Material: Insurance Law, Case Study Sheet, Plano Paper and Markers
	Law of Proving and Investigation	1. Participant know about the Law of Proving: a. Understanding, legal basis and Principles Law of Proving b. Civil Proving c. Criminal Proving 2. Participants know about Investigation: a. Principle and Role of Investigation b. Prepare and Conduct Investigation c. Technique to find information and evidence d. Analyze Data e. Draft Report and Investigation Development	Lecture, Opinion Session, Group Discussion, Case Study	Reading Material: Law of Proving in Civil and Criminal Proceeding, Case Synopsis
	Friends – Foe Analysis	1. Assist participant in order to identify friends, foe and other groups in a case 2. Assist Participant to repositioned and handle friends, foe and other groups involved in the case	Lecture, Group Discussion	Reading Material: Friends – Foe Analysis, Case Study Sheet, Identification Assistance Tool and ways to handle it
	Balance of Power	1. Participant realize the factors of power that determines efforts to handle a case 2. Participants have a guideline to determine strategy to balance the power	Opinion session, Group Discussion	Identification Assistance Tool for Sources of Power, Reading Materials: Sources of Power
	Confrontation	1. Assist Participants to use outline strategy to balance the power 2. Participants can formulate strategy and tactics in facing a confrontational case	Resource Person Lecture, Group Discussion	Resource Person Lecture Materials: Strategy and Tactics, Tools to Formulate Strategy, Case Synopsis
	Negotiation	1. Assist participants to use strategy outline to	Critic Lecture,	Reading Material: What is

		balance the power 2. Assist participants in understanding process and techniques of negotiation	Role play	Negotiation? Case Study Sheet, Negotiation Process Note Form
	Law of Binding and Legal Drafting	1. Participants know that the contract is a media to show whether an agreement is made with legal provisions of a contract 2. Participant realize that the contract is made in writing in order to monitor parties whether the performance has been conducted or if there is a breach of contract 3. Participant know that the contract was purposely made as evidence for those with interest, so that if a party is at loss, they have evidence for filing compensation claims to another party 4. Participant can identify the legality of an agreement or contract 5. Participants can draft a simple contract 6. Participant can place result clause from negotiation agreement	Critical Lecture, Role play	Reading Material: Law of Binding, Contract Drafting, Case Study, Negotiation Process Note Form
	Counselling	1. Participant know the function of Paralegal in accompanying victims (Legal Auditor, Legal Drafter, Legal Counselling, Legal Training) 2. Participants know Paralegal with the function of Legal counselling, and the steps necessary and useful to take in conducting their function in a case 3. Participants know the process in assisting victims	Resource Person Lecture, Group Discussion, Role Play	Resource Person Lecture Material: Counselling, Pieces of Cardboard/Metaplan paper, Case Study Sheet, Assignment Sheet, Markers and Tape
ADDITIONAL SKILLS	Training Management and Training Facilitation Techniques	1. Participants obtain and acquire knowledge needed for a trainer/facilitator and organizer to plan, conduct, monitor/evaluate the training program 2. Participant can facilitate training	Resource Person Lecture, group discussion, role play	Reading Material: Training Management Reading Material: Training Facilitation Techniques, Plano Paper and Markers
	Meaning of Evaluation and Training Evaluation	1. Assist Participant to understand meaning of evaluation 2. Participants realize the use of training 3. Participant evaluate the training	Discussion, Drawing	Plano Paper, Work Sheet: List of Question regarding Evaluation, List of Participants Hopes and Worries
EVALUATION AND FOLLOW UP EDUCATION	Follow Up Plan	Assist participants to create follow-up planning that is realistic regarding the case that faced and handled	Group discussion, pleno meeting	Assistance Tool: Follow-up Matrix, cut out coloured cardboard pieces



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