

## Mitigating the Risk of Exploitation and Violence Against Women Indonesian Migrant Workers in The Informal Sector

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**Abstrak.** *This research aims to analyze the mitigation of the risk of exploitation and violence against women Indonesian migrant workers in the informal sector as well as the responsibilities of the government and migrant employment agencies. Using the normative juridical method, this research examines relevant legal norms, such as the Indonesian Migrant Workers Protection Act, to evaluate the protection of women migrant workers' rights. Data is obtained from documentation of primary and secondary legal sources, analyzed using a feminist perspective to understand vulnerability factors and challenges in the feminization of migration. The results show that mitigating the risk of exploitation and violence against women Indonesian migrant workers in the informal sector includes preventive measures, such as pre-departure education, skills training, recruitment agency supervision, and legal empowerment. During the working period, protection is carried out through standardized work contracts, access to social protection, and bilateral cooperation, while post-work, economic and social reintegration is carried out through mentoring and entrepreneurship training. However, weak implementation of regulations, lack of oversight, and sectoral silos exacerbate the vulnerability of women Indonesian migrant workers in the informal sector to exploitation, discrimination, and rights violations. The responsibilities of the government and migrant employment agencies include legal protection at all stages of migration, from pre-departure recruitment, monitoring of working conditions, and post-employment reintegration programs to ensure that women migrant workers receive comprehensive protection through effective enforcement of employment contracts, legal aid, monitoring, and social reintegration. This research recommends improved regulation, pre-departure education, recruitment agency supervision, legal empowerment, and post-worker reintegration to reduce the risk of exploitation and violence against women migrant workers.*

**Keywords:** *exploitation, violence, migrants, mitigation, women, risk.*

### 1. INTRODUCTION

Based on data from the Central Statistics Agency (BPS) in the last five years, remittances from Indonesian migrant workers have contributed 0.8% - 1.07% to the Gross Domestic Product (GDP). Bank Indonesia (BI) noted that remittances from migrant workers in 2024 reached US\$15.43 billion, higher than in 2023 which was only US\$14.22 billion, and reached US\$9.71 billion in 2022, up 6.01% compared to 2021 which was US\$9.16 billion (Nugraheny, 2024). The proportion of remittances to GDP promotes the welfare of the population in the area of origin of migrant workers and reduces poverty by 25.58% of 200,718 migrant workers (Madjid, 2024).

This migrant phenomenon represents 3% of the world's population and generates more than 9% of Global GDP or around US \$3 Trillion and many of them are women. The increasing number of women migrating is related to the concept of 'feminization of migration'. Feminization of migration is a concept that examines the increasing number of women

migrating, especially in developing countries and reveals that women's migration flows perpetuate the subordination of domestic work, such as care work, as work that is synonymous with women and because it is seen as not requiring skills (Atnike Nova Sigiuro, 2020).

The increase in the number of women workers' migration has also been accompanied by a rise in migrant worker cases, such as Case No. 254/Pdt/2020/PT SMG which revealed the violation of migrant workers' rights by PT Graha Mitra Balindo against Indri Ana Sari, who only worked three months of a two-year contract in Singapore. The company demanded reimbursement of placement fees of more than Rp12 million, including psychological testing, training, and repatriation, while withholding documents and applying financial pressure. Another case is in Surabaya High Court Decision Number 496/PID.SUS/2024/PT SBY which revealed the exploitation of migrant workers by an ASN who worked with an illegal labor channeling network. He sent seven Indonesian migrant workers to Thailand with false promises of decent jobs and high salaries, while violating immigration procedures at Soekarno-Hatta Airport by directing victims to claim to be tourists.

In 2023, BP2MI recorded the placement of 274,965 Indonesian Migrant Workers (PMI), an increase of 37% from the previous year, consisting of 167,863 women and 107,102 men. There were 1,999 complaints, up 1% from the previous year, with five main categories: repatriation requests (521 complaints), failure to depart (318 complaints), over-structured placement fees (201 complaints), job opportunity scams (121 complaints), and unpaid salaries (8 complaints), accounting for 62% of the total complaints. This indicates a major problem related to the protection of Indonesian Migrant Workers as a form of state responsibility (Fauzia, 2001).

The government has enacted Law No. 18/2017 on the Protection of Indonesian Migrant Workers which covers protection from pre-placement, placement, to post-placement. However, each stage faces various problems, especially since the migration stage is entirely left to private agencies that are more profit-oriented than worker protection. For example, the placement of Indonesian Migrant Workers in the United Arab Emirates faces various problems, especially the lack of regulations that protect workers in the informal sector such as domestic and construction workers. This is exacerbated by the existence of three conflicting types of contracts, namely contracts according to Law No. 18 of 2017, contracts from the UAE government that are often not understood by workers, and contracts from agents that are more favorable to employers.

The implementation of Permenaker No. 4 Year 2023 faces obstacles, such as limited protection for work accidents in the placement country, not optimizing JKK and JKM benefits,

and additional claim requirements that are not in accordance with the rules. Lack of support for the families of workers who die or are disabled, difficult access to social security renewals, and manual claim processes make it more difficult for migrant workers to obtain their rights. This obstacle shows that the implementation of the Minister of Manpower Regulation Number 4 of 2023 is still far from expectations. This emphasizes the need for significant reforms to improve the effectiveness of protection and social security for Indonesian Migrant Workers.

## 2. LITERATURE REVIEW

Research L. Hadi Adha, Zaeni, Rahmawati, Social Security Policy for Indonesian Migrant Workers. This research is in line with the author's research which both highlights the importance of social protection for Indonesian migrant workers at various stages, namely pre-placement, placement period, and post-placement, which is also the core of risk mitigation in the author's research. The main difference lies in the focus, where Hadi's research emphasizes more on the social security of migrant workers in general, including aspects of health and employment without detailing the informal sector or issues of exploitation and gender-based violence. Meanwhile, the author's research focuses more on exploitation and violence experienced by women migrant workers in the informal sector with a feminization of migration perspective, which emphasizes the gender dimension in protection policies.

Aslely Farida Turnip's research, The Role of Victims of the Crime of Trafficking in Persons as Indonesian Migrant Workers. This research has similarities with the author's research in highlighting the risks of exploitation experienced by Indonesian migrant workers. Both discuss the importance of prevention approaches, such as coaching and education, as well as the need for supervision of recruitment agencies. However, Aslely Farida Turnip's research focuses more on the criminal act of trafficking in persons (TPPO) and how victims are involved in this dynamic, while the author's research focuses on exploitation and violence in the informal sector with a broader scope, covering various forms of women's human rights violations.

Research by Wabilia Husnah, Protection of the Rights of Women Indonesian Migrant Workers in Law Number 18 of 2017: A Feminism Legal Theory Perspective. This research highlights the importance of a gender-based approach to protecting women migrant workers, which is in line with the author's research. Both highlight how the patriarchal system exacerbates the vulnerability of women migrant workers to discrimination and violence. The main difference is the scope of the research. Wabilia's research focuses more on legal analysis and the weaknesses of Law No. 18/2017 in addressing women's specific rights, such as reproductive health rights. The author's research is more focused on concrete steps to mitigate

the risk of violence and exploitation through education, training, and strengthening supervision in the informal sector.

Indrianto Prasetyo's research, *Legal Review of the Protection of Indonesian Migrant Workers from Indramayu Regency Based on Law Number 18 of 2017*. This research highlights the protection of migrant workers based on Law No. 18/2017, which has similarities with the author's research in aspects of legal protection at various stages of migration. Despite the similarities, Indrianto's research focuses more on the implementation of protection in the Indramayu Regency area and is more general in scope compared to the author's research, which focuses on the risk of exploitation and gender-based violence in the informal sector.

### **3. METHODS**

This research uses the normative juridical method to analyze the protection of women migrant workers' rights, focusing on positive legal norms such as the 1945 Constitution and the Manpower Law. The main objective is to provide a clear legal framework for the government's responsibility in protecting migrant workers and improving their legal and social protection. This approach includes analysis of laws, legal doctrine from scholars such as Vladimir Rys and Nicola Piper, jurisprudence such as in Decision No. 254/Pdt/2020/PT SMG and Surabaya High Court Decision No. 496/PID.SUS/2024/PT SBY, as well as other legal documents to understand the feminization of migration and the challenges faced by migrant workers.

Data was collected through documentation of primary and secondary legal sources, such as laws, regulations, books, journals and articles. Analysis was conducted to identify weaknesses in the legal system and formulate better policy recommendations. This research uses a feminist perspective to emphasize the importance of coherence between legal norms and state responsibilities in protecting women migrant workers, especially in the informal sector. Hopefully, the results of this research can provide comprehensive recommendations to reduce the exploitation and violence often experienced by women migrant workers.

### **4. RESULTS**

#### **Mitigating the risk of exploitation and violence against women Indonesian migrant workers in the informal sector**

Women migrant workers do not have access to basic protection due to legal limitations in destination countries and the ignorance of migrant workers themselves. In addition, there are also frequent salary manipulations such as unilateral wage deductions which are certainly unfair to women Indonesian migrant workers and are a form of violation of Article 5 paragraph

(2) of the Minister of Social Affairs Regulation Number 8 of 2023, which emphasizes the right of workers to a fair and decent income.

Article 7 of Law No. 18/2017 emphasizes the importance of synergy between central and local governments in the protection of Indonesian migrant workers, but there is still weak coordination between relevant agencies, which is a factor that hinders effective legal protection. The absence of a direct work inspection mechanism in the household environment for women informal migrant workers is also a major cause of the difficulty in detecting and taking action if violations occur. Article 7 of Law No. 18/2017 emphasizes the importance of eliminating discrimination, but implementation is weak due to a lack of monitoring and evaluation. Article 6 paragraph 2 of Law No. 18/2017, which regulates the development of information systems for the protection of migrant workers, has not been effective due to poor coordination between the central, regional and destination governments.

Piper's concept of feminization of migration emphasizes that women workers are often placed in vulnerable positions, such as domestic work, which is not considered formal employment. Piper in this case underscores the importance of recognizing domestic work as equal work under legal protection.

Article 41 of Law No. 18/2017 stipulates that BP2MI is responsible for providing post-employment protection, including assistance during return and reintegration of Indonesian migrant workers into the community. However, its implementation still faces many obstacles such as a lack of psychological rehabilitation support or a lack of retraining to find new jobs. This shows that there are significant challenges in the implementation of the protection of women migrant workers in the informal sector, including low awareness of migrant workers about the obligation to report to Indonesian representatives if violations occur, limited access to communication for migrant workers, and elements involved in falsifying migrant worker documents.

## 5. DISCUSSION

### **Mitigating the risk of exploitation and violence against women Indonesian migrant workers in the informal sector**

Based on the theoretical study, sexual exploitation refers to the act of utilizing workers' bodies or reproductive organs for sexual or financial gain without their consent, such as in the case of migrant workers who are forced to serve the employer's sexual desires. Law No. 21/2007 Article 2 mentions sexual exploitation as one of the criminal offenses that must be eradicated because it is a gross violation of human rights. Legal protection theory emphasizes

the importance of the state's role in creating a fair system and protecting legal subjects from abuse of power. Regarding women migrant workers in the informal sector, the government must ensure clear and strong regulations to protect them. Article 5 of the Minister of Social Affairs Regulation No. 8 of 2023 emphasizes the importance of fulfilling occupational safety and health, but its implementation has not been optimal. In addition, legal protection should include supervision of labor channeling agencies, improvement of employment contracts, and protection against violations that occur during the working period in the destination country.

An evaluation of the implementation of the protection of women Indonesian migrant workers in the informal sector through Law No. 18/2017 on the Protection of Indonesian Migrant Workers (PPMI) as a lex specialist regulation explains the significant gaps that affect its effectiveness in addressing exploitation and violence. The PPMI Law seeks to regulate the protection of Indonesian migrant workers broadly, but the regulation still faces obstacles in its implementation that result in the ineffectiveness of ensuring the safety and welfare of women migrant workers, especially in the informal sector. On the other hand, the role of local governments as stated in Article 3 and Article 7 of the PPMI Law should be maximized in implementing the protection of women migrant workers. However, in reality, the lack of coordination between the central and local governments as well as weak supervision of the migrant worker placement process, makes the protection provided not optimal. This supports the research theory which explains that the sectoral ego of various institutions hinders the achievement of an effective protection system. This lack of coordination makes the protection of migrant workers not optimal and it is difficult to reach those who are in difficult situations or experiencing problems with employers in destination countries.

The weak regulations related to the protection of migrant workers in the informal sector, especially women, contradict the theory of legal protection put forward by Vladimir Rys. According to Rys, legal protection must be realized through social security that functions to protect individuals and families from economic and physiological risks. Unfortunately, policies such as Article 31 of Law No. 13/2003 and Article 77 of Law No. 39/2004 focus more on general principles without specification of the informal sector. As a result, women workers such as domestic workers are vulnerable to exploitation, overwork, and lack of rest.

Analysis of the implementation of pre-placement risk mitigation against pre-placement mitigation theory shows a gap between the ideal principles outlined in theory and practice in the field. The theoretical study outlines the importance of needs-based training and close supervision of labor recruitment agencies to ensure compliance of training with regulations and protection of workers' rights. However, implementation in Indonesia still faces significant

challenges. Analysis of the implementation of risk mitigation at the placement stage of migrant workers shows that despite a strong legal foundation, implementation still faces various obstacles. Implementation through Article 82 of the PPMI Law, which requires certification and accreditation of labor channeling agents, demonstrates the government's efforts to prevent contract manipulation. However, supervision of the implementation of labor contracts in accordance with Article 18 paragraph (1) of the PPMI Law is often less than optimal, especially in ensuring that contracts are drafted in a language that workers understand.

The state also needs to improve the return documentation system to monitor the welfare of migrant workers. This is in accordance with Article 9 paragraph (5) of the PPMI Law which underlines the importance of bilateral cooperation in creating long-term protection mechanisms. The government can work with civil society organizations to organize empowerment programs for women migrant workers and advocate for policies that support the sustainability of protection, including anti-discrimination policies and strengthening gender equality in the formal employment sector. Article 5 of Permensos No. 8 of 2023 emphasizes the importance of financial assistance, including financial management education and facilitating access to banking services. This program will help workers manage their income wisely and avoid debt traps.

At the pre-departure stage, mitigating the risk of exploitation and violence against women migrant workers begins with education on legal rights, including labor contracts, fair wage rights, and humane working hours. Training should also include simulations of informal sector work situations. During the working period, protection focuses on access to legal aid, insurance, and fair treatment, including for undocumented workers. The presence of labor attachés in destination countries is important for direct protection. After return, the focus shifts to reintegration through empowerment, retraining and financial support. While gender-based policies are important, implementation is hampered by uneven pre-departure education and weak oversight of labor agencies.

Piper emphasized that migrant women often work in the informal sector with little legal protection, which opens up opportunities for exploitation and violence. This is reflected in the implementation of policies such as Article 8 and Article 10 of the PPMI Law, which aim to provide pre-departure training and protection, but are often ineffective. Fundamental gender inequality is a major obstacle in ensuring migrant women have sufficient understanding of their rights and the risks of employment. As a result, women workers remain vulnerable to exploitation, especially due to weak supervision and coordination between relevant parties. Based on the theoretical study, legal protection is an effort to protect legal subjects through

appropriate tools to create justice, order and legal certainty. Preventive protection aims to prevent violations through education, training, and strict regulations before the departure of migrant workers. Conversely, repressive protection sanctions violations that occur, ensuring migrant workers have access to legal aid and fair treatment in the destination country.

Gender awareness also serves as an ideal protection instrument as it includes education on discrimination, employment risks and mitigation strategies. Women migrant workers often do not have clear employment contracts or adequate training prior to departure, potentially trapping them in a cycle of exploitation. As a mitigation measure, states should provide gender-based training programs that cover practical and legal aspects, establish easily accessible grievance institutions, and promote transparency in the labor recruitment process. Legal frameworks such as the PPMI Law and ILO Convention No. 189 can be used as a foundation to strengthen the rights of women migrant workers in the informal sector.

If analyzed from the perspective of feminization of migration according to Nicola Piper, there are several articles that still show gender bias. Article 31 of Law No. 13 of 2003 concerning Manpower provides the right to choose decent work, but the reality is that women's migration, especially in the informal sector such as domestic workers, experiences structural injustice both from the lack of supervision and specific protection mechanisms for women. Article 77 of Law No. 39/2004, which calls for protection at every stage of migration, is only theoretical due to weak oversight, reflecting gendered failures in the implementation of regulations as Nicola Piper's explanation emphasizes that many women workers are not given sufficient information about contract risks and working conditions. Article 81 of the Ciptakerja Law focuses on administrative efficiency without considering the vulnerability of women in the feminization of migration, who often work in the informal sector without contractual protection. This when analyzed through Piper's feminization of migration shows that a focus on economic efficiency can exacerbate the exploitation of women's labor, as they are often selected for low-paid jobs with little legal protection.

Article 5 paragraph 1 of Law No. 18/2017, which includes the right to work safety, is not strong enough to address exploitative practices such as forced labor or social isolation due to many factors including weak supervision. The feminization of migration notes that women are more vulnerable to these forms of violence due to their subordinate position in a patriarchal global work system. When it comes to women migrant workers, legal protections must take into account their specific vulnerabilities, especially in informal sectors such as domestic work. Nicola Piper's feminization of migration theory highlights that women migrant workers often face structural exploitation and gender-based stigma that exacerbates their situation.



### **Liability of the government and migrant employment agencies for exploitation and violence against women Indonesian migrant workers in the informal sector**

To ensure continued legal protection, under Article 42 of the PPMI Law the government is required to provide psychosocial services for women migrant workers who are victims of violence or human trafficking. These facilities include counseling, mental health services, and legal assistance to restore the personal integrity and dignity of women migrant workers. Article 41 of the PPMI Law emphasizes the importance of a social security system for women migrant workers, including health insurance and protection against work accidents that may occur during the working period. Based on the description above and if analyzed through the risk theory approach to responsibility, the government's responsibility in protecting women migrant workers in the informal sector is less than optimal. Risk theory views state responsibility objectively, regardless of the element of fault. The state is considered responsible if its activities, although legal or have a legal basis, can cause harm to other parties or society. Sending Indonesian women migrant workers to the formal sector carries a high risk of exploitation that demands close supervision. However, the protection mechanisms implemented by the government are inadequate, especially in terms of weak supervision of channeling agents and lack of training to improve the skills of migrant workers.

From a state responsibility perspective, weaknesses in these three stages reflect the government's inability to effectively protect women migrant workers. Existing regulations are often not implemented consistently, while oversight of law violations in the informal sector is very limited. These weaknesses show that state responsibility remains normative without adequate operational support, so women migrant workers continue to face the risk of exploitation without proper protection.

The principle of objective responsibility suggests that the state is liable even when there is no intention to violate the law, especially when the risk of exploitation and abuse is real due to weak recruitment systems. BP2MI's role as part of the government in addressing exploitation and violence against women migrant workers in the informal sector reflects the inadequacy of existing protection mechanisms. At the pre-departure stage, although BP2MI has provided complaint services and skills training, access to women migrant workers, especially in the informal sector, for example those working as domestic assistants, is still limited. At the during-work stage, the biggest challenge is the lack of adequate legal and social support for women migrant workers facing exploitation. At the post-work stage, reparation and reintegration responsibilities are often neglected. The government tends to be slow in following up on reports of exploitation or abuse, as well as providing rehabilitation support to victims.

The implementation of government diplomacy responsibilities in protecting women migrant workers in the informal sector reflects the realization of legal protection theory through preventive and repressive approaches. Regarding prevention, the Indonesian government has enacted Law Number 18 of 2017 and Law Number 40 of 2004, which provide a legal basis for the protection of migrant workers, including social security by BPJS Employment. This social security aims to protect workers from economic risks such as accidents, illness, or termination of employment, as emphasized by Vladimir Rys. Based on the theoretical study, the state's responsibility for the protection of women migrant workers in the informal sector must be seen through the principle of objective responsibility which emphasizes the state's obligation to prevent harm, regardless of fault. Risk theory explains that legal activities such as labor dispatch still have a high potential for danger, such as exploitation and violence. Article 9 of the PPMI Law emphasizes the state's responsibility to ensure the safety of migrant workers through strict regulations. However, the implementation of protection is often not optimal due to weak supervision of channeling agents, which is the main door to violations of migrant workers' rights.

Analysis of the implementation of the government's diplomatic responsibilities shows that there are efforts to protect migrant workers, such as through the domestic legal framework, international cooperation, and the active role of diplomatic representatives. However, these efforts still have weaknesses. Many migrant workers do not understand their rights due to a lack of socialization, and legal assistance from Indonesian representatives abroad is often hampered by bureaucracy or limited resources. Pre-departure briefing programs have also not fully addressed the real needs of women migrant workers working in the informal sector, such as specific information on the risks of gender-based violence.

Exploitation and violence against women migrant workers are serious violations subject to sanctions under Law No. 18/2017 and its derivative regulations. Administrative sanctions such as revocation of operational licenses or fines can be imposed on P3MIs that are proven to be negligent in providing protection. The application of sanctions against Indonesian Migrant Worker Placement Companies (P3MI) in cases of exploitation and violence against women migrant workers in the informal sector, based on the existing legal framework, relies heavily on the provisions of Law No. 18/2017.

Efforts to mitigate the risks of exploitation and violence require a joint commitment between the government, P3MI, and civil society. The provision of legal services for victims, raising awareness through education, and consistent application of sanctions are key steps to ensure protection for women migrant workers. The government also needs to ensure that

existing regulations are not only normative but can be implemented effectively to provide real protection for women migrant workers in the informal sector.

The implementation of optimizing the roles and responsibilities of the Indonesian Migrant Worker Placement Company (P3MI) is closely related to legal protection efforts in the form of social security. Based on the study of legal protection theory which includes preventive and repressive protection, the government can strengthen the protection of migrant workers by providing clear supervision and sanctions against P3MI that violate the provisions. The state is responsible for the risks inherent in sending labor abroad, even though the process is carried out legally. This theory asserts that the state remains responsible for any losses incurred due to systemic failures, including weak regulation and supervision of Indonesian Migrant Worker Placement Companies (P3MI).

Regarding pre-departure. Many women workers depart without fully understanding the risks they will face, due to weak oversight of P3MI in ensuring their preparedness. Suboptimal reporting systems and protection mechanisms in destination countries exacerbate their vulnerability to violence. The state should increase bilateral cooperation to ensure workers' rights are protected in destination countries, but concrete steps in this aspect have also not been optimally promoted. Risk Theory asserts that the state has an absolute responsibility to remedy this weakness through proactive policies that can minimize risks in the field.

## 6. CONCLUSION

Based on the discussion above, this research is concluded as follows:

- a. Mitigating the risk of exploitation and violence against women Indonesian migrant workers in the informal sector includes preventive measures, such as pre-departure education, skills training, recruitment agency supervision, and legal empowerment. During the working period, protection is carried out through standardized employment contracts, access to social protection, and bilateral cooperation, while post-employment, economic and social reintegration through mentoring and entrepreneurship training is the focus. However, weak implementation of regulations, lack of supervision, and sectoral ego between institutions make women migrant workers in the informal sector still vulnerable to exploitation, discrimination, and human rights violations.
- b. The responsibilities of the government and migrant employment agencies include legal protection at all stages of migration, from pre-departure recruitment education, training, and supervision, to monitoring working conditions according to international standards, and post-employment reintegration programs. BP2MI and P3MI are responsible for

ensuring that women migrant workers receive comprehensive protection through effective enforcement of labor contracts, legal aid, monitoring, and social reintegration. However, there are still many obstacles such as coordination problems between countries and between institutions, limited access to services and access to communication, and limited resources that hamper the effectiveness of protection for Indonesian women migrant workers.

## **LIMITATION**

The research is limited to analyzing risk mitigation specific to exploitation and violence against women Indonesian migrant workers in the informal sector, with a primary focus on identifying preventive measures that are applicable and effective in reducing the potential for violence and exploitation. The research is also limited to evaluating the responsibilities of the government and labor agencies in ensuring adequate legal protection and support for women migrant workers, without extending coverage to the formal sector or other aspects of migration beyond risk mitigation and the responsibilities of relevant parties in the informal sector.

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