

# Indonesian Migrant Worker Policies and the Vulnerability of Women Migrant Workers to Becoming Trafficking Victims: an Overview of Recent Legislation

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## Abstract

This study will provide an overview of how migrant worker protection policies should govern all forms of protection for migrant workers, especially women workers who often face violent abuse as overseas domestic workers in receiving countries, and then problems when they return to their villages. It outlines several laws that deal with problems of abuse associated with migration such as the Law Eradication of Trafficking in Person, and other regulation. Indonesia Government has made a good initiative by amending the policies of migrant workers with the aim of prioritizing protection, including how to harmonize other policies. This is a good starting point for implementing all commitments to the extent that commitments to protect migrant workers, especially women migrant workers who are still vulnerable to violence and threats of trafficking.

*Keywords: Migrants, Women Migrant Workers, Bill of Indonesian Migrant Workers Protection, the UN Convention of 1990, & Harmonization of Policy*

## 1. INTRODUCTION

This article consists primarily three sections. First, it describes and explores data on Indonesian women migrant workers abroad to illustrate the urgency for Indonesian government to protect their basic rights. Second, this article examines the protection for Indonesian women migrant workers in Indonesian law and Indonesian policies to respond human trafficking and exploitation against Indonesian women migrant workers. The last part of this article proposes some recommendations that the writer believes can be used by the government of Indonesia to protect Indonesian women migrant workers in the future.

To begin my analysis, this section first explores Indonesia's Constitutional provisions regarding the right to work, while noting how migrant has appeared due to the difficulty of fulfilling this right. The Constitution of the Republic of Indonesia, also known as Undang-Undang Dasar 1945 asserts that every person

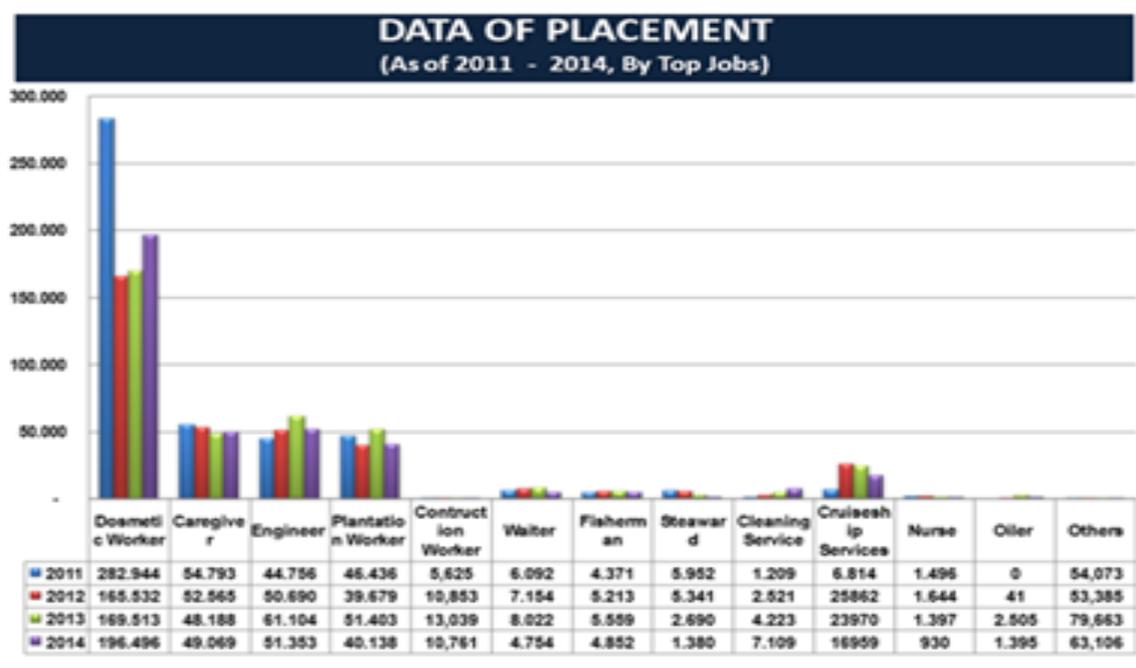
has the right to live worthy and prosperous lives. The Constitution guarantees this to Indonesian citizens, particularly article 27, paragraph 2<sup>1</sup>;

Every citizen shall have the right to work and to earn humane livelihoods

Every person shall have the right to work and to receive fair and proper recompense treatment employment

In addition, every citizen is also guaranteed the protection of his human dignity, as provided for in Article 28 G of the 1945 Constitution of the Republic of Indonesia: (1) Everyone has the right to personal, family, honor, dignity and property protection under his control, For a sense of security and protection from the threat of fear to do or not to do something that is a human right. Also in paragraph 2, that Everyone shall have the right to be free from torture or degrading treatment of human dignity and entitled to obtain political asylum from another country.

However, finding decent work in Indonesia is very difficult, so migration abroad to meet economic needs has become an increasingly popular option. There are many factors that influence people’s decision to work abroad, notably poverty, and a lack of job opportunities in Indonesia, in the context of increasing daily needs.



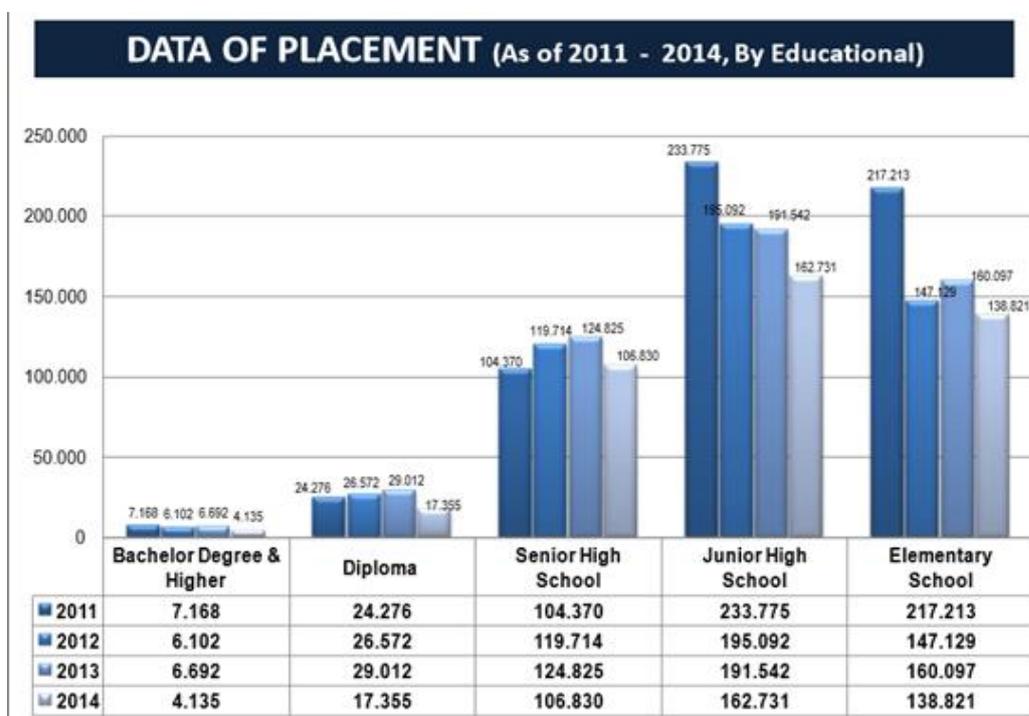
Indonesia is a country with a large number of migrant workers. According to the National Agency for the Placement and Protection of Indonesian Migrant Workers (BNP2TKI), in data published in January 2015 covering the period 2011-2014, a total of 2,320,959 people left Indonesia to work as Indonesian Migrant Workers.<sup>2</sup> Different data

<sup>1</sup> Rights to have a quality of life, decent work, including part of decision to migration and being migrant workers have guarantee by state. Strongly listed in The 1945 Constitution of Republic of Indonesia, as the fourth amendment of 2002. Furthermore, in article 28 D paragraph 1.

<sup>2</sup> Report on Indonesian National Body for placement dan protection Indonesian migrant workers, National data on 2011 – 2016, <http://www.bnptki.go.id/read/11034/Data-Penempatan-dan-Perlindungan-TKI-Periode-Tahun-2016.html>

from Migrant CARE <sup>3</sup> Report 2015, estimates that 6.5 million people are migrant workers, 70% of whom are females working in the domestic sector (domestic workers) and the manufacturing sector, with an average age of 18-30 years. This number has increased, because in 2014 the total number was around 4.5 million including number of migrant workers departing through irregular procedures. This apparent increase further reinforces the perception that work abroad is chosen because there is no longer work or sources of income that can sustain their lives in their own country.

BNP2TKI mention, Malaysia and Saudi Arabia are still the largest destinations for Indonesian migrant workers. Most of the migrant workers are women with an education level between 12 – 17 age mostly work in the domestic sector/domestic workers (domestic servants). However, of the total number, most women migrant workers have an education to Junior High School level, (30.27%). The large number of female migrant workers with limited levels of education has resulted in higher levels of violence affecting female migrant workers. This condition is supplemented by an inadequate protection system and large numbers of illegal recruitment agencies that are not easily reached by law enforcement.



Center for Research, Development and Information National Board on The Placement and Protection of Indonesian Overseas Workers (BNP2TKI), 2015

Indonesian migrant workers have lower levels of educational attainment, many are employed as domestic workers, caregivers and plantation workers. In order to increase

<sup>3</sup> Migrant CARE is an organisation aiming to strengthen protection provided by state institutions of migrant workers' rights. Established in 2004, the organisation concentrates on strengthening migrant workers' capacity and bargaining power. Data on article taken from "The Migrant CARE 10 Years Book" page 6

the placement of migrant workers in occupations in the formal economy with formal skill requirements, the Government is providing competency based training, assessment and certification services for migrant workers. In particular, the Government is trialing the introduction of standardized salaries and working conditions in selected sectors and countries in order to improve the quality of migrant workers' jobs. These policy measures should see the skills and abilities of Indonesian migrant workers to change considerably in the future and consequently their ability to secure work in formal sectors.<sup>4</sup>

Many cases of female migrant workers are not revealed through complaints, especially those experiencing both verbal and physical abuse. According to a Reuters report on Thursday, September 19, 2013, a Survey of the Hong Kong Migrant Workers Mission 2012, involving more than 3,000 migrant women working in Hong Kong found that 58 percent of workers have been verbally abused, 18 percent have been physically abused, while 6 Percent have experienced sexual harassment. These findings are also borne out by qualitative data from Serikat Buruh Migran Indonesia (SBMI), 2015.<sup>5</sup>

Types of Abuse And Mistreatment Of Indonesian Domestic Workers Inflict By Employers And Recruitment Agents.<sup>6</sup>

No.	Employer	Recruitment Agent
1.	Sexual Harassment and Rape	Falsifying Data of Passports
2.	Physical Abuse	Human Trafficking
3.	Work Overload	Forced Signing of Contracts
4.	Withholding of Passports and Travel Documents	Withholding of Passports and Travel Documents
5.	Forced Confinement	Forced Confinement
6.	Restricted Communication	Restricted Communication
7.	No Freedom to Practice Their Religion (No Praying; No. Fasting and Forced Eating of Pork)	No Freedom to Practice Their Religion (No Praying)
8.	Lack of Access to Health Services (No Health Insurance)	Lack of Access to Health Services (No Health Insurance)
9.	Inadequate Food	-
10.	Multiple-Hiring Out	-
11.	Discrimination in Salary Rates	-
13.	No Off Day Once a Week	-
14.	Unpaid and Withheld Wages	-
15.	Long Hours of Work (more than 18 hours)	-

Women migrant workers are also vulnerable to people trafficking , according to a US Embassy Annual Report of 2016.<sup>7</sup> The Ministry of Foreign Affairs (KEMLU) repatriates

<sup>4</sup> Indonesia: Decent Work for Indoensian Migrant Workers. International Labour Organization, Asia Pasific 2005 – 2016 – Policy Brief

<sup>5</sup> Serikat Buruh Migran Indonesia (SBMI) – Indonesian Migrant Workers Union is an organization of migrant workers and members of their families. Established on February 25, 2003. Previously named the Federation of Indonesian Migrant Labour Organization (FOBMI). Initiated by Migrant Workers Defense Consortium (KOPBUMI) since 2000, through an organization which has been called the forerunner of the National Network of Migrant Workers. SBMI seeks to address and resolve the many problems and poor conditions faced by Indonesian migrant workers.

<sup>6</sup> The Problem Of Indonesian Migrant Workers Rights Protection in Malaysia, Jurnal Kependudukan Indonesia, Lembaga Ilmu Pengetahuan Indonesia (LIPI), Sri Wahyono, 2009

5,668 Indonesian trafficking victims, a significant increase from the previous number of about 1,200 victims discharged in 2014. KEMLU offers short-term shelter and services for victims' repatriation, and they are then submitted to the local government for further handling. In August 2015, the Indonesian and Saudi Arabian police cooperated to inspect illegal shelters in Riyadh and found 39 domestic workers who were promised jobs in Bahrain but were subsequently forced to work illegally in Saudi Arabia. They arrested the alleged offender, returned all the victims, and provided services for repatriation.

Other evidence suggests that women domestic migrant workers comprise the most undervalued and least regulated form of employment. Human Rights Watch 2015 published a study<sup>8</sup> detailing how many countries still do not conceive of domestic work as "real" work and often exclude paid domestic workers from protections offered by their labour laws. Consequently, many of the world's estimated domestic workers, the vast majority of whom are women, are given very few rights or protections.

Indonesia passed Law no. 39/2004 on the Placement and Protection of Indonesian Migrant Workers Abroad on [date], after more than a decade's deliberation in the national parliament (give official name – i.e. DPRD or whatever). However, the law is deemed to still not meet the needs of protection and guarantee for migrant workers, especially female migrant workers. Meanwhile, abroad they are subject to violence and exploitation, whether committed by Private Employment Indonesia namely, Perusahaan Pengerah Tenaga Kerja Indonesia Swasta or PPTKIS, or conducted in the workplace by their employers. Migrant CARE as Indonesian NGO documentation<sup>9</sup> suggests that there were 305.208 cases during 2010 – 2016 that have been handled either directly or by using monitoring method. Another factor that has worsened the situation of women migrant workers abroad is a greater likelihood of facing the death penalty. By 2015 there were 281 migrant workers facing the death penalty, 59 of whom have already been sentenced to death, with 219 are still on going process in the court. Two people have been executed, Siti Zaenab and Karni. This figure also explains that their lack of access to legal aid and other processes to achieve justice.

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<sup>7</sup> [Put exact report title here]. Indonesia is still in a 'tier 2' position, meaning that ... Page 205. [the following text seems to be a quote. Accordingly it should be in quotation marks.] Indonesia is a major source and, to a much lesser extent, destination and transit country for women, men, and Indonesian children are subjected to forced labour and sex trafficking. Each of its 34 provinces is a source and destination of trafficking. The government estimates 1.9 million of the 4.5 million Indonesians working abroad—many of whom are women—are undocumented or have overstayed their visas, increasing their vulnerability to trafficking. Downloaded at: <https://id.usembassy.gov/our-relationship/official-reports/> on [date]

<sup>8</sup> Rothna Begum, as a researcher from Human Rights Watch, Women Rights Division publish her finding that Migrant Domestic worker are overworked and underprotection. <https://www.hrw.org/news/2016/06/15/migrant-domestic-workers-overworked-and-underprotected>

<sup>9</sup> Statement: Wahyu Susilo as Head of policy analysis division at Migrant CARE, The accumulation of the number of Indonesian migrant workers threatened with the death penalty of hundreds of years is a failure of diplomacy for the protection of Indonesian migrant workers in the past which will continue until today if there is no fundamental change in the posture of diplomacy and foreign policy of Indonesia. <http://migrantcare.net/menyoal-hukuman-mati-terhadap-buruh-migran/>

In 2014, the Government issued a moratorium terminating migrant worker access to 21 countries in the Middle East. By stopping their entry into such countries, the Government intends this policy to address the various problems experienced by overseas migrant workers. Yet an evaluation of moratorium policies has argued that they are not an appropriate solution, since many migrant workers still travel to and work in countries with a moratorium on employment. This has effectively made the position of migrant workers much more vulnerable, since the protection and responsibility of the state will be much less when they are in those countries.

The process of amending Law 39/2004 was lengthy due to the input solicited and received by many groups, as noted above.<sup>10</sup> Hence, the Act consists of 13 Chapters and 87 articles which have accommodated recommendation from civil society. Yet as this section has shown, while the Act and its incorporation of the UN Convention is a positive step, there still remain issues about how best to enact policies that provide assistance and protection to Indonesian migrant workers.

## 2. WOMEN MIGRANT WORKERS IN INDONESIAN MIGRATION LAW

According to the International Organization for Migration (IOM) the number of international migrants has increased from 150 million people in 2000 to 214 million in 2010. The high demand for labour in developed countries and the availability of labour in developing countries is a factor that increases international migration activities. The Ministry of Foreign Affairs recorded no less than 3,091,284 Indonesian citizens who currently reside abroad, of which 58.9 percent work as domestic workers. In fact, this figure is estimated to be two to three times greater than the official figures, as most Indonesian citizens do not report to the Immigration Service. The origin of labour is mainly from Java, West Kalimantan, Lampung, North Sumatra, and South Sumatra provinces. The majority of Indonesian migrant workers face conditions of forced labour, most cases are related to working conditions in the recipient country, such as unpaid wages, forced labour, irregular working hours, sexual harassment and physical violence.

The migration cycle associated with migrant workers is generally thought of in three phases, including pre-departure, placement and return to the home country. At the pre-departure stage, there are three common issues that migrant workers often experience. First, the lack of reliable information from authorized sources on safe migration and the risks of working abroad, creates a challenging environment and increases workers' vulnerability. Due to this situation, prospective migrant workers may be misled by recruiters (*calo*) in their villages.

The rights of migrant workers, especially women, should be upheld by laws and mechanisms which guarantee the protection and fulfillment of such rights. The migration process in Indonesia uses Law 39/2004 as the only reference. But the implementation of the Act is not yet strong enough to guarantee the protection and

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<sup>10</sup> <http://nasional.kompas.com/read/2017/10/25/17423191/dua-pasal-dinilai-jadi-titik-lemah-uu-perlindungan-pekerja-migran-indonesia>

fulfillment of the rights of migrant workers, especially women. In some cases the substance of the law is still confusing, causing problems with its implementation. In addition, the determination of sanctions are not strong against the violating party. The ambiguity of this arrangement is due to the foundation of philosophy to provide fundamental protection is not very strong.<sup>11</sup>

On Law 39/2004, from 109 articles only 8 articles are about protection. In 2012 Indonesia ratified Law 6/2012 on the Ratification of International Convention on The Protection Of The Rights Of All Migrant Workers And Members Of Their Families (International Convention on the Protection of the Rights of All Migrant Workers And Members Of Their Families). On the other hand, the government has also ratified several international instruments related to discrimination, such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and other International Labour Organization (ILO) Conventions.<sup>12</sup>

In addition, the context of modern migration management, the state-recognized migration model is simply migration through official procedures, namely through PPTKIS or PJTKI in accordance with the provisions of Law 39/2004. Indonesia is facing a large number of women migrant workers recruited and deported illegally. The oversight function of labour dispatching agencies is also weak in practice. The reality in the field shows that migration through the official channels of PPTKIS is not a risk-free guarantee, even according to reports on the handling of cases of various migrant workers organizations shows that cases of migrant workers dispatched through PPTKIS are very large.

According to the Indonesian Medium Term Development Plan (RPJMN) 2015-2019, the main areas of intervention concerning migrant workers relate to the realization of recruitment and placement mechanisms that protect migrant workers. In addition, skilled migrants are being prioritized, with the goal of increasing the number of Indonesian migrant workers who have the skills and expertise that are in-line with market needs. In this sense, the management of the placement system of migrant workers needs to be improved. In particular, the placement needs to take into account the knowledge, education and skills of the applicants.

### 3. HOW WOMEN MIGRANT WORKERS POSITIONED IN THE NEW MIGRANT WORKERS POLICIES?

On October 25, 2017 the Plenary Session of the House of Representatives (DPR RI) has passed the Indonesian Migrant Workers Protection Act (Undang-Undang Perlindungan Pekerja Migrant Indonesia). This law is a revision of Law 39/2004 on the Placement and Protection of Indonesian Workers, because the law does not meet the needs of problem solving experienced by Indonesian migrant workers abroad. also more stronger in

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<sup>11</sup> Sulistyowati Irianto, *Akses Keadilan dan Migrasi Global, Kisah Perempuan Indonesia Pekerja Domestik di Uni Emirat Arab*, page 47, May 2012

<sup>12</sup> Studi of Sicio-Legal Aspect About Indonesin Women Migrant Workers Protection, Sugeng Riyadi. <https://pukrul.wordpress.com/2015/07/25/kajian-sosio-legal-perlindungan-hukum-bagi-buruh-migran-perempuan/>

regulating technical placement rather than regulating the protection of migrant workers. The new laws consisting of 13 chapters and 91 chapters. Under the new law, the protection of migrant workers is a priority for the state.

The amendment contains provisions to further protect Indonesian migrant workers, especially women by making a clear distinction between Indonesian migrant workers and Indonesians engaging in overseas activities.<sup>13</sup> Social security for Indonesian migrant workers as a form of social protection ensures Indonesian migrant workers and their families are organized by the Social Security Nasional Body. Certainty regarding the recruitment process, immigration data services, health, skills upgrading training is the responsibility of local government.

The amendment also makes the provision to improve the capacity and competence of migrant workers through more comprehensive pre-placement education, especially for migrant workers with low education as part of fulfilling the rights of Indonesian migrant workers, in order to further strengthen the bargaining position of employers and have the skills to overcome they problems in the destination country. The new laws also regulated the division of duties and responsibilities explicitly between the central and regional governments provide protection to Indonesian migrant workers and their families in an integrated and coordinated manner. Indonesian migrant worker placements abroad are limited and their duties and responsibilities are not limited to the government's responsibility to provide protection to Indonesian migrant workers.

The service of placement and protection of Indonesian migrant workers is carried out by the central and regional governments in a coordinated and integrated manner through One Roof Integrated Service (LTSA).<sup>14</sup> LTSA aims at the efficiency and transparency of documentation of the placement and protection of prospective Indonesian migrant workers and / or Indonesian migrant workers. The regulation of sanctions given to individuals, Indonesian migrant workers, corporations and Aparatur Sipil Negara (ASN) as providers of Indonesian migrant worker protection services is more severe and firm than sanctions stipulated in the provisions of Law 39/2004.

#### 4. THE INCREASING OF TRAFFICKING CASESS

In Indonesia, women, men and children are exploited for forced labour in the fishing, fish processing and construction sectors; in plantations, including oil palm plantations; and in mining and manufacturing. Many women are exploited in the domestic and sex trade, including women from Colombia who are forced into commercial sex work.

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<sup>13</sup> Law No. 18/2017 article 1 Definition of Migrant Worker; Indonesian Migrant Workers are any Indonesian citizen who will, be, or have done work with a remuneration outside the territory of the Republic of Indonesia

<sup>14</sup> Law No 18/2017 article 38 NTEGRATED SERVICES ONE OF THE PLACEMENTS AND PROTECTION OF INDONESIAN MIGRANT WORKERS Article 38 (1) The placement and protection services of Indonesian Migrant Workers is undertaken by the Central Government and Regional Government in a coordinated and integrated manner. (2) In providing placement and protection services as referred to in paragraph (1), the Regional Government shall establish a one stop integrated service

Victims are often recruited with the lure of job offers in restaurants, factories, or domestic work but are actually made into commercial sex workers.<sup>15</sup>

Debt is very common in trafficking victims. Women and adolescent girls have been made into commercial sex workers in mining operations in Maluku, Papua and Jambi. When the government closed a large prostitution area in 2014, the protection for women working in the prostitution area was reduced, thus increasing vulnerability to the sex trade in other areas, including Bali and Papua. Children became victims of the sex trade in Batam, Riau Islands province, and in the province of West Papua in previous years. Many reports show an increasing number of high school students and students using social media to recruit and persuade other students, including those still under the age of 18, to commercialize sex. Riau Islands bordering Singapore and Bali have become a destination for child sex tourism.

While Indonesia has had Law 21/2007 on the Eradication of Trafficking in Persons for 8 years, law enforcement related to trafficking is still weak. The law also mandates the establishment of a task force for the prevention and handling of trafficking through Peraturan Pemerintah No. 9 Tahun 2008 Tentang Gugus Tugas Pemberantasan Tindak Pidana Perdagangan Orang . It too has been established for eight years, and likewise trafficking is still ongoing,. Indonesia up to July 2016 according to the Trafficking in Persons Report 2015 report is reportedly still a sending country, destination and transit for the sex trade, trafficking of women and children. And is at "LEVEL 2"<sup>16</sup> a country whose government does not fully comply with the minimum standards of Victims of Trafficking Victims, but makes a significant effort to conform to standards of protection of trafficking victims.

Ongoing implementation Trafficking in Person Act, the Government of Indonesia has successfully sentenced 119 defendants, repatriated 5,668 NI victims of TPPO abroad, and provided protection and assistance to 441 victims. Police reported 221 cases of TPPO being investigated—far less than the number of investigations by 2015 against 305 cases. Meanwhile, 165 cases were brought to the prosecution stage, more than the previous year when 134 cases were brought to trial. Furthermore, the Supreme Court noted that there have been 119 TPPO cases being severed by the court with prison sentences ranging from 3 to 15 years old - up 79 cases compared to the previous year.

Similar increases occurred since the first time the TPPO Law was implemented in April 2007, where the arrest of Trafficking in person perpetrators increased by 77% from

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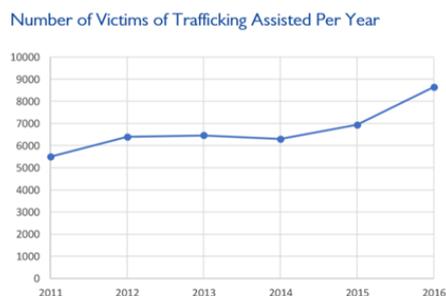
<sup>15</sup> US Embassy Report on Indonesian Trafficking in Person 2016.

<sup>16</sup> There are three levels to assess a country's commitment in providing protection to trafficking victims. That is LEVEL 1 for countries where the government fully complies with minimum standards of protection of trafficking victims; LEVEL 2 for countries whose governments do not fully comply with minimum standards of protection of trafficking victims, but make significant efforts to adapt them to existing standards. LEVEL 2 IN CONTROL is a country whose governments are not fully compliant with the minimum standards of TVPA, but make significant efforts to adapt them to the standards, and a) the number of trafficking victims who are significant or significantly increased; b) There is a failure to provide evidence of increasing efforts to combat trafficking in persons from the previous year; or c) The determination that a country makes a significant effort to bring itself into compliance with minimum standards is based on a commitment by the state to take additional time measures over the next year. LEVEL 3 for countries whose governments do not fully meet minimum standards and make no significant effort to do so.

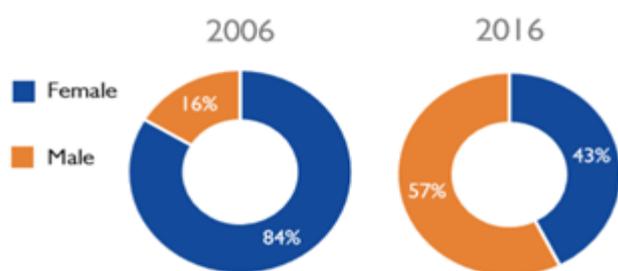
141 to 252 cases, prosecution increased 94% from 56 cases to 109 cases, and court rulings increased 27% from 36 cases to 46 cases. This number continues to increase,

a. Global Trafficking Trends in Focus

International Organization Of Migration (IOM) 2006-2016<sup>17</sup>

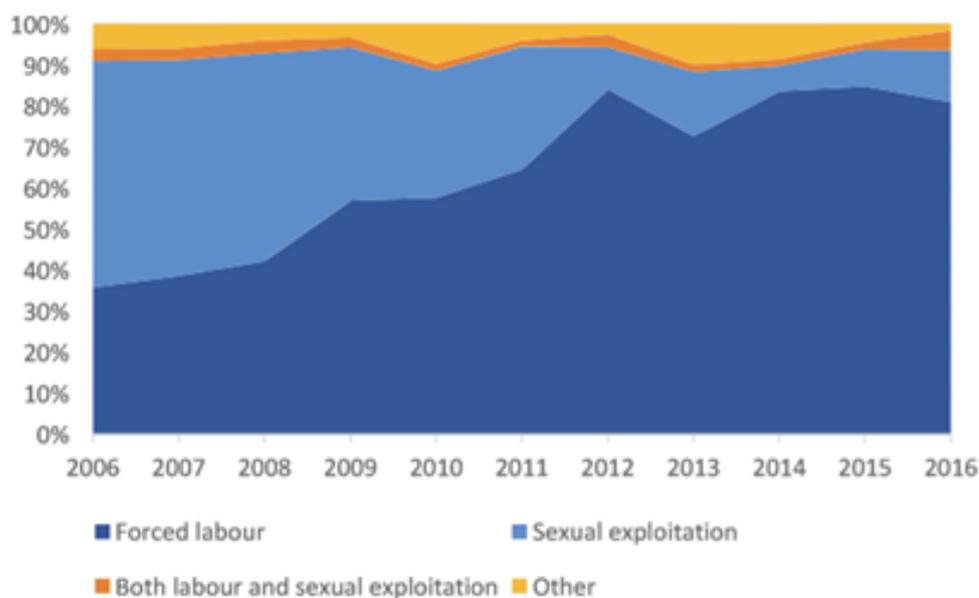


Nearly 50,000 victims of trafficking were recorded in IOM’s case management system, MiMOSA, in the past 10 years. However, some graphs present data from the period 2014 to 2016, where the data are most current. Only graphs showing change over time use data from 2006-2016.



The graphic picture above show the demographics of female and male victims from 2006 to 2016. A large proportion of victims identified are female, as human trafficking has historically been a crime which affects mostly women and girls. Over time, acknowledgement that men and boys are also vulnerable to human trafficking led to a higher percentage of males identified. The number of male victims assisted has steadily increased since 2006, with 2015 being the first year that more male than female victims of trafficking were registered.

<sup>17</sup> International Organization Of Migration (IOM) Global Trafficking Trend in Focus, International Organization Of Migration (IOM) 2006-2016, IOM has been working to counter trafficking in persons since 1994. In this time, we have assisted over 90,000 trafficked persons. Ensuring freedom and a chance at a new life, IOM’s assistance can include accommodation in places of safety, medical and psychosocial support, skills development and vocational training, reintegration assistance, and the options of voluntary, safe and dignified return to countries.



Annual percentage of types of exploitation among trafficked victims as a proportion of the total IOM caseload

Displayed here is the breakdown of victims of trafficking registered each year who are victims of trafficking for forced labour, sexual exploitation, and other purposes which include forced marriage, forced criminal activity, forced military service, organ removal and other types of exploitation. In 2006, IOM mainly assisted victims trafficked for sexual exploitation, but the proportion of victims trafficked for forced labour has steadily risen to become the most significant category of victims assisted. The average age of victims of labour exploitation is 32 years, while for victims of sexual exploitation it is 24 years.<sup>18</sup>

The data above shows that the problem of people trafficking is still serious. One of its strongest modes is through the unsafe labour migration routes of Indonesia. International Organization of Migration (IOM)<sup>19</sup>, in Indonesia, which finds at least seven modus operandi of people traffickers, namely:

a. Exploitation of Migrant Workers

Women domestic workers are promised jobs as informal workers such as housemaids, shopkeepers, factory workers, or restaurant waiters, sent and received by agents in the destination country. In the country, they are treated like slaves, their rights are not respected as workers and they may be subject to physical, psychological and sexual abuse.

b. Forced sex work

Prospective workers are promised jobs as informal workers such as domestic helpers, nannies, and migrant workers promised jobs as informal workers such

<sup>18</sup> IOM Report page 4

<sup>19</sup> International Organization of Migration (IOM), Guidelines for Law Enforcement and Victim Protection in Crime of Trafficking in Persons, IOM, Jakarta, 2009, page 10

as domestic helpers, shopkeepers, factory workers, or restaurant waiters, etc. In fact, inside and outside the country, they are forced into organized sex work. Victims are usually locked up in an apartment room, and taken out to serve customers at a hotel or in another location.

c. Forced Labour

Adult males and male children are typically offered jobs in plantations, mines, timber mills, or as construction workers abroad, and are promised a high salary with accommodation provided by the company. However, they are then forced to work without salary and adequate rest, and are forbidden from leaving their workplace and are not provided with proper accommodation.

d. Training Children

sent child abroad on training grounds are then forced to work in hotels, restaurants, on fishing boats, with no salary and adequate rest periods.

e. Kidnapping

Teenage girls are kidnapped, drugged and transported away from their place of residence for prostitution. Adult women are anaesthetized, usually on public transport, such as inter-city buses.

f. Order Bridal

The victim is promised marriage by a foreign national (Warga Negara Asing - WNA), but later made a domestic servant or prostituted by her husband.

g. Contract marriage

The victim is married by contract and exploited as a prostitute by her husband. Besides the *modus operandi* mentioned above, nowadays there has been a growing number of people trafficked by using internet media, especially social media. Such methods are used to exploit women into prostitution, to sell children and sexually exploit children.

The fact of this mode is strongly linked to the weakness of a secure migration system sourced from a migrant protection policy that greatly gives space to the private sector in this case the Employment Entrepreneurs or PJTKI. There is also weak supervision from the government, so that trafficking patterns are also derived from the recruitment process of irregular women migrant workers.

b. Does the Indonesian Migrant Worker Protection Bill ensure that women migrant workers are protected and protected from the threat of trafficking ?

Some activists<sup>20</sup> who are concerned about the rights of migrant workers have still found weaknesses in the Migrant Protection Bill such as: the placement mechanism still has to go through an agency or PJTKI, so that women domestic workers can not become self-employed; employment agreement letters have not been applied in both countries and a dispute resolution mechanism has not yet entered the sphere of [bilateral?] judicial co-

<sup>20</sup> Savitri Wisnuwardhani as the Coordinator of the Migrant Workers' Network (JBM) gave a press statement about the criticism of the ratification of Indonesian migrant workers protection bill. <http://rilis.id/catatan-kritis-jbm-terhadap-pengesahan-ruu-perlindungan-pekerja-migran-indonesia.html>

operation; social security provisions in Indonesia also does not cover the risks often experienced by migrant workers namely unilateral layoffs and unpaid salaries; and lastly, the involvement of community participation is still weak, because in the implementation of supervision of government protection can involve the community.

It is clear that the Bill contains weak penal sanctions against offenders. For example, some point do not include a minimum punishment for offences, leaving it to the judge to cast a decision on what form and length punishment should take.

Guarantees of legal aid are not specifically regulated in the the Bill and have not comprehensively ensured the right of migrant workers to access legal aid and what institutions are appointed by the government to conduct a legal counseling process including being accompanied by lawyers.

The government has not provided a strong mandate for the development of integrated data systems from villages to destination countries. The above facts indicate that the migrant workers' protection policy still has loopholes that could cause Indonesian migrant workers, especially migrant domestic workers, to be trafficked. However, the efforts of the Indonesian government to amend Law 39/2004 should also be appreciated. High expectations of existing weaknesses can be regulated in more technical government regulations.

## 5. CONCLUSION

It is a good time to return to the commitment of the Indonesian government to implement the revision of the Indonesia Migrant Protection Bill, especially to institutions with a direct mandate to return to the main objective as stated in the Constitution regarding to the protection and fulfillment of migrant workers' human rights.

Although Indonesia already has a new Law on the Protection of Migrant Workers, the fact remains that women remain vulnerable to the threat of trafficking and violence in the destination countries, even through they may still be in their village of origin. Migration is the face of women who mostly fill the domestic jobs sector. Therefore, the policies developed must have a non-discriminatory and gender-sensitive perspective. Recognition of domestic workers is a necessity.

The Indonesia Migrant Protection Bill can serve as a basis to prove the Government of Indonesia's strong commitment to prevent and reduce trafficking, since it is important to ensure protection for prospective migrant workers from the time of departure from home, the preparation process, in the destination country, and back in the village.

## 6. RECOMENDATION

The Government of Indonesia, in particular the President, becomes the decisive factor that can drive the successful process on Indonesia Migrant Protection Bill in order to be resolved properly, in addition to the role of mediator that can strengthen the work synergy between ministries / institutions. The government immediately formulated presidential and government regulations regarding technical implementation, so that the

protection and fulfillment of migrant workers' rights could be fulfilled, including protecting them from the threat of trafficking.

The revision process of is expected to protect the rights of migrant workers and their families and address the needs of migrant workers and members of their families including vulnerability during their migration process from pre-departure, at work to return. The Implementation of Indonesian Migrant Protection Law should fully adopt the standard protection of the human rights of women migrant workers and their families mandated in international human rights instruments including the Migrant Convention, CEDAW and ILO Convention 189 on Decent Work of Domestic Workers.

The government and the Parliament should change the conservative paradigm that only sees migrant workers as commodities. Migrant workers are citizens with rights that must be fulfilled, protected and respected by the Government. It is important to improve a strong partnership at the local, national, regional and international levels, especially with countries that have seriously committed to the protection of migrant workers.

Women migrant workers are also entitled to choose the placement model, either in direct hiring or through PPTKIS. Service options should be provided without prejudice to the basic services that migrant women need to undertake such as data collection, document processing, medical testing, contractual arrangements and education / training even to the resolution of existing problems. The protection of all migrant workers and members of their families shall be inclusive and comprehensive and shall be the obligation of States to guarantee and fulfill such protection without discrimination as mandated by the 1990 Migrant Convention. Therefore, independent migrant workers should not bear the risks themselves. In addition, in order for the protection of migrant workers to be truly implemented, the derivative legislation should not exceed 1 year.

The central government should immediately set up technical guidelines for local governments to coordinate its work from the level where migration processes begin, aiming to deal with the beginning of unsafe migration problems. The importance of establishing a mechanism for providing data, a formal prerequisite for the delivery of labour that is centralized and carried out by the government, is no longer in the domain of the private sector (PPTKIS). The government should ensure all substantial requirements, namely document management, job order letter education and training ensure the safety of migrant workers in pre-occupation, placement and post-employment settings.

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