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Regulation of legal sanctions against perpetrators of non-procedural placement of Indonesian migrant workers: a human trafficking perspective

Tanti Kirana Utami

Faculty of Law Universitas Suryakencana, Cianjur, Indonesia

ABSTRACT

The program for placing Indonesian Migrant Workers abroad is one of the efforts to overcome the problem of unemployment. The government has enacted regulations regarding the placement of Indonesian migrant workers. However, there is still a non-procedural placement for Indonesian migrant workers, giving rise to new problems in handling it. This study aims to analyze the factors that encourage perpetrators to carry out the non-procedural placement of migrant workers and the application of legal sanctions for perpetrators. The research method uses a qualitative normative juridical approach, which looks at problems from the study of legal materials such as books or articles that discuss research themes as references for primary and secondary legal materials. The data analysis technique used was descriptive analysis. The results of this research show that the increase in people or individuals involved in non-procedural PMI placement practices is due to economic factors; namely, the perpetrators receive a relatively large commission or service fee from each person who is sent, the perpetrators have a consumerist lifestyle, the educational conditions and knowledge of the victim or victim's family, and the victim's economic limitations. Perpetrators of non-procedural PMI placement can be charged, apart from Law Number 18 of 2017 concerning PPMI, which can also be subject to Law Number 21 of 2007 concerning the Eradication of Criminal Acts of Trafficking in Persons (PTPP), which is subject to legal sanctions of imprisonment or fines.

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Introduction

Law is understood as a coercive order that applies sanctions as coercive action. The provisions explaining the law will appear as a statement that under certain conditions, which are also determined by that legal order, specific coercive actions are also determined by that order. The problem of migrant workers continues to influence Indonesia's employment conditions, primarily related to the management, placement, and protection of migrant workers abroad. The government's way to reduce the unemployment rate is to place workers abroad as Indonesian migrant workers (Muthia, 2020). Several problems are on the government's agenda that must be resolved; among these problems are the lack of job opportunities, the low economic level of society, and the low competitiveness of Indonesian migrant workers; these are serious problems that must be resolved (Sulaksono, 2018). Sending migrant workers is hoped to be an alternative solution to existing problems. On one hand, remittances are an essential indicator of the economy of migrant worker families in their home villages.

The high number of Indonesian citizens interested in becoming migrant workers, supported by the above factors, means that many agencies providing migration work are starting to emerge (Bulan, 2021). On the other hand, the emergence of migrant job providers cannot be trusted for the 100% safety of their workers. The broker agents that are emerging at the moment are taking advantage of the situation of high demand for workers with worrying economic conditions and the lack of education of prospective

CONTACT Tanti Kirana Utami ✉ kireinatanti78@gmail.com

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migration workers so that prospective migration workers prefer to take shortcuts by using brokers rather than training first to meet the requirements of the provisions as PMI (Febrianti & Afifah, 2023).

The large number of crimes that occur among migrant workers is a risk for the creation of non-procedural migration workers by broker agents, who bring workers without going through proper procedures (Indrayani Arief, 2021). Risks such as fraud, violence, exploitation, human smuggling, human trafficking, and even murder can occur among Indonesian migrant workers who are victims of noncompliance with the requirements and procedures set out in the laws in force in Indonesia (Farbenblum et al., 2013).

One estimate puts the number of unauthorized migrant laborers at around ten thousand. There are about 58 million unauthorized or irregular migrant laborers, according to the International Organization for Migration. They are classified as 'illegal' migrant workers for a number of reasons, including the fact that they entered the country without following the legal procedures set forth by the immigration laws of that nation, that they have been there longer than allowed by a visa, that their travel document (passport) is no longer valid, or that they are employed in a foreign country without being registered as employees under local labor laws (Souline & Yovani, 2020). These data are relatively high; at least a third of the world's migrant worker population reaches 150.3 million (Kusdarini et al., 2021).

Global data on migrant workers who are not regular contributors is provided by Indonesia. According to the World Bank, nine million Indonesians are employed overseas. The majority of these workers travel non-procedurally, to countries like Malaysia, Singapore, China, Hong Kong, and Saudi Arabia. Women make up an estimated 70% of non-procedural migrant laborers. Indonesia is the second largest country in Southeast Asia after the Philippines, with more than 25 migrant workers. It can be shown from data from the Indonesian Migrant Worker Protection Agency (BP2MI), which started from early January to September 2022, that there have been 122,870 people in various nations (Noor & Noor, 2023). The data acquired are very different from those from prior years, particularly during the COVID-19 epidemic, when there was a severe shortage of migrant laborers. Senior High School graduates make up the majority of those who register on average.

The government gains from the growing pool of prospective migrant laborers since it can lower the unemployment rate and boost foreign exchange. Because they earn significantly more money abroad than they do at home in Indonesia, prospective migrant workers believe that working there is profitable. But they have to take into account the significant hazards they will face (Dananjaya & Marsaulina, 2020). The risks that will be experienced include violence, human trafficking, sexual exploitation, unpaid wages according to work agreements, and very long working hours.

Owing to the risks incurred by migrant laborers, BP2MI has been contacted by Indonesian PMI abroad who have complained about issues they had while working overseas. According to BP2MI, PMI complaints were reported from January to September 2022. The largest number of complaints, 29.5%, came from Saudi Arabia; the largest number, 16.5%, came from Malaysia; the largest number, 10.6%, came from Taiwan; the largest number, 7%, came from the UAE; the smallest number, 6%, came from Poland; and the largest number, 30.4%, came from the UAE. There were 40 accusations of human trafficking, 93 allegations of deaths in the country of destination, 102 complaints about unlawful migrant workers, and 83 complaints about underpaid salaries. Of the many complaints received, they were legal workers, or what could be called non-procedural workers. This has a lot to do with how the PMI leaves and gets caught up in the broker game when they get to the destination nation (Nuraeny, 2023).

Brokers can persuade locals to handle departures to work overseas because they have easy-to-travel routes across many nations. The Law Number 18 of 2017's Article 72(b) regulates the prohibition of placing migrant workers in restricted countries. Prospective migrant workers must be placed in countries specified in their employment agreement. Additionally, this has been regulated, as stated in Law Number 18 of 2017's Article 71 (Dewi et al., 2021). Because they employ fictitious documents created by brokers from migrant worker-sending companies, prospective migrant workers whose departure is illegal can nonetheless depart. In addition to working overseas, non-procedural migrant workers run the risk of being victims of assault, human trafficking, and sexual exploitation. The people in charge of gathering resident data non-procedural migrant workers can be arrested during an inspection of the data collection of their nationals (Zamhir et al., 2023). It should be remembered that non-procedural migrant workers do not have official documents; therefore, for those who experience violence or other risks abroad,

the Indonesian government finds it very difficult to provide legal protection to non-procedural migrant workers (Puanandini, 2020). This differs from legal or procedural migrant workers; if they experience violence or have their rights confiscated by their employers, they will receive legal protection under Article 7 of Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers.

The government published Law Number 18 of 2017 about the Protection of Indonesian Migrant Workers and several other laws that control the placement process for Indonesian migrant workers in order to protect them while they are working overseas. This is done to keep migrant workers safe from crimes like as assault and human trafficking. Even so, a large number of migrant workers from Indonesia continue to violate the formalities outlined in legally mandated laws. The government is now concerned about this and is working to dissuade those who engage in nonprocedural PMI placement from doing so.

Previous research on non-procedural migrant workers has been conducted by previous researchers, including Lindquist (2017), who researched the transfer of migrant workers in the Indonesia-Malaysia palm oil complex. This study concluded that there was a dichotomy between smooth mobility and infrastructure through a case study of the recruitment of migrant workers from Indonesia to the Malaysian palm oil industry. This study emphasizes that the mobility of brokers causes various obstacles that ultimately form a socio-technical system that can be understood in terms of migration infrastructure. Furthermore, research was conducted by Azis and Wahyudi (2020), who conducted research on imperfect protocols in reflecting the experience of human trafficking in migrant fishermen in Indonesia. This study provides an accurate assessment of the transnational recruitment system, forced labor offshore, and the post-trafficking stage. Thus, the last stage is where male victims' complaints are located. This study's results also combined previous calls for more recognition and incorporation of migrant rights, especially labor rights, in anti-human trafficking efforts. Research on the experiences of non-procedural migrant workers working in Malaysia and Japan was conducted by Maksum (2017); the results of the study concluded that illegal Indonesian workers in Malaysia have faced three situations, namely being sued, exploited, and humiliated. While in Japan, some Indonesian workers are interested in getting better salaries, but they have to face risks. The Japanese also recognize the great contribution of migrant workers, including illegal Indonesian workers, to Japan's national development. However, most illegal Indonesian workers consider the Malaysian or Japanese governments to be slightly positive. Research to determine the management of migrant workers in Indonesia was conducted by Bal and Palmer (2020); the results of this study concluded that there are several things better to understand the broader problem of labor migration in Indonesia, namely: 1) disputed governance issues and transnational advocacy; 2) the often debated relationship between remittances and development; and 3) problems arising from the multi-directional nature of labor migration. Finally, research on legal protection for Indonesian migrant workers against acts of violence they experience conducted by Nuraeny (2023), this study concluded that the protection provided by the government to migrant workers who experience violence can be carried out during pre-placement, placement, and post-placement, as well as the government's handling of migrant workers that must be carried out for Indonesian Migrant Workers both procedurally and non-procedurally because the state is obliged to fulfill the legal protection rights of every citizen.

Based on the research problem and several previous studies, the researcher is interested in studying more deeply the law enforcement for perpetrators of non-procedural PMI placement by limiting it to the factors that support the perpetrators to carry out non-procedural PMI placement and how legal sanctions are applied to perpetrators of non-procedural PMI placement in Indonesia, which of course is different from several previous studies.

Method

The method used in this research is a normative juridical research method with descriptive-analytical research specifications, namely, studying and analyzing the non-procedural sending of Indonesian migrant workers and providing an objective picture relating to law enforcement against perpetrators of criminal acts that protect Indonesian migrant workers linked to human trafficking. Based on Law No. 18 of 2017 and Law No. 21 of 2007. This research uses secondary data, including primary, secondary, and tertiary legal materials, statutory regulations, books, scientific articles, and data from websites/the Internet. Library research was used as the data-collection technique. Meanwhile, the data analysis technique used

is qualitative analysis, namely describing and interpreting data in the form of good and correct sentences to obtain short answers that are formulated deductively, or, in other words, expressing and understanding the truth of the problem and discussion by interpreting data received from the study's results. The legal material is described in sentences arranged in detail, systematically, and analyzed to facilitate the drawing of a conclusion.

Discussions

Factors and violations of non-procedural placement of Indonesian Migrant Workers

The large population is disproportionate to available jobs, which causes poverty and the inability to meet their living needs and livelihoods, thus requiring most Indonesian people to move to other countries to get work abroad (Firdaus & Simangunsong, 2023). Migration of workers is an essential economic activity for sending and receiving countries. The high migration flow in this region is due to countries that are economically dependent on migrant workers. Receiving countries are dependent on migrant workers for economic mobilization, which can be seen from the high number of migrant workers in the country (Muthia, 2020).

The yearly increase in Indonesian citizens becoming migrant workers and looking for work abroad in both the formal and informal sectors is due to various reasons, including domestic unemployment, insufficient domestic employment opportunities, disparities in global and regional economic growth, advances in transportation technology and information, and the right to work abroad (Lindquist, 2012). The pull factor that exists abroad in the form of higher wages makes workers more interested in working abroad. Working abroad has a positive side, namely, overcoming some unemployment problems in the country. On the other hand, there is a negative side in the form of the risk of possible inhumane treatment of PMI (Febrianti & Afifah, 2023).

Data on the placements of Indonesian Migrant Workers up to June 2023 illustrate that the number of placements of Indonesian Migrant Workers has increased over the last two years; namely, in June 2023, placements reached 20,388; in June 2022, there were 15,700 placements; and in June 2021, there were 6,661 placements. In June 2023, the majority of Indonesian Migrant Workers were placed in the formal sector, with 11,645 placements (55%), while 8,743 placements (45%) were placed in the informal sector (Nuraeny, 2023).

Based on the G to G Program placement scheme (PMI placement with the government-to-government scheme through the Indonesian Migrant Worker Protection Agency (BP2MI)), the number of Indonesian Migrant Workers placed by BP2MI in June 2023 was 963 placements, with 652 placements to South Korea, 311 placements to Japan in June 2023, and 0 placements to Germany. Meanwhile, based on the P-to-P placement scheme (PMI placement with a private-to-private or company-to-company scheme. This placement is carried out by the Indonesian Migrant Worker Placement Company (P3MI) with the agency in the destination country. Previously, P3MI was known as PJTKI or PPTKIS). P3MI placed 15,301 Indonesian Migrant Workers. Based on the Individual Placement Scheme, there were 1,848 placements. Based on the Placement Scheme for the Company's Own Benefits (UKPS), there were 17 placements. Complaint data increased in June 2023 compared with June 2021 and 2022. Most complaints in June 2023 came from Saudi Arabia, Malaysia, and Hong Kong, whereas West Java and Central Java were the provinces with the highest complaints in June 2023. The most common complaints include Indonesian Migrant Workers wanting to be repatriated and placement costs exceeding the fee structure.

The stages of PMI placement, as regulated in Article 9 of Government Regulation Number 10 of 2020, often need to be followed according to these rules. This is what is called non-procedural PMI placement, whose victims have the possibility of becoming victims of human trafficking, violence, or other crimes. The non-procedural placement of migrant workers is the placement of Indonesian citizens who work abroad without going through correct PMI placement procedures by applicable laws and legal provisions, including falsifying documents and manipulating prospective PMI data, incomplete documents, and ignoring procedures and mechanisms. The PMI placement does not use a work visa.

The rise in non-procedural PMI placements is caused by several factors, such as low education, limited job opportunities in the country, high levels of poverty, limited access to information/lack of public

understanding about PMI placement and protection procedures, persuasion, and sweet promises such as obtaining high salaries with a practical process, including the presence of brokers. The limited access to information, which results in a need for more public understanding regarding procedures for departure, placement, and protection of PMI, impacts the emergence of many brokers or individuals who are ready to take care of non-procedural PMI through inappropriate procedures. Therefore, PMI candidates must be registered in the Computerized Overseas Workforce System (SISKOKTKLN).

The increase in people/individuals involved in non-procedural PMI placement practices is due to economic factors; namely, the perpetrators receive a relatively large commission or service fee from each person who is sent, the perpetrators have a consumerist lifestyle, educational conditions, and knowledge of victims/victims' families who are not aware of the placement. PMI, the victim's economic limitation, means that they are easily persuaded and promised significant wages by the perpetrator.

Several violations were committed by the Private Indonesian Migrant Worker Placement Company (PPTKIS), which has now changed its name to the Indonesian Migrant Worker Placement Company (P3MI).

1. Placement Fees that are Too High (overcharging). The Minister of Manpower and Transmigration Regulation Number 14/MEN/X/2010 regulates the burden of the placement costs that Migrant Workers must bear, including identity documents, health checks, psychology, job training, and work competency certification. Other costs are borne by Indonesian Migrant Worker (PMI) service users. Apart from these costs, migrant workers must bear other costs that are regulated by a ministerial decree. Placement fees were regulated in various Ministerial Decrees, as a reference for the placement of Indonesian migrant workers abroad. The mechanism for paying placement fees for migrant workers has been criticized because placement fees are too high. The government's support for the fate of migrant workers, especially Indonesian migrant workers, has not been optimally implemented. However, many problems still need to be addressed. Case data from the Indonesian Migrant Workers Union (SBMI) from 2015 to 2017 showed 1,501 complaints from various countries. The biggest complaints were related to expensive fees or overcharging. The cause of Overcharging is that Migrant Workers have signed the placement fee or Cost Structure (CS), but PPTKIS or P3MI still ask for additional money from prospective Migrant Workers (PMI) because the CS fee is lower. By contrast, in reality, the CS fee by the Regulation of the Minister of Manpower and Transmigration Number 14/MEN/X/2010 is no longer relevant. There is no synchronization with other regulations, such as the Minister of Health's regulations regarding medical checkups and immigration regulations regarding passports, whereas in the CS, medical fees and passports are no longer covered by these other regulations.
2. Falsification of the Identity of Indonesian Migrant Workers (PMI). The act of forgery is only known in advanced societies, where specific data facilitates the flow of relations in society. Identity falsification/manipulation consists of two syllables. Manipulation is a loan word originating in English: manipulation, which means misuse or misappropriation. In 2020, the Criminal Investigation Agency (Bareskrim) handled cases related to Migrant Worker Identity Falsification carried out by the Indonesian Migrant Worker Placement Company (P3MI), which did not comply with procedures for recruiting prospective Indonesian Migrant Workers (PMI). Of these, there are many prospective Indonesian Migrant Workers (CPMI) or Prospective Indonesian Migrant Workers (CTKI) who are not yet sufficiently old. However, in some PPTKIS/P3MI, many use services to change the age of the E-KTP and family cards, which is one of the requirements for making a passport. In addition, in the maritime sector, especially for fisheries, whether placed domestically or abroad, many companies use the services of individuals or what we could call 'brokers' to create seaman's books and other skills certificates in a way that is against the law or illegal.
3. Indonesian Migrant Workers (PMI) do not receive sufficient job training. Article 12, paragraph 1 of Law Number 13 of 2003 states that employers are responsible for providing job training to improve the competence of workers. However, for entrepreneurs who meet the requirements regulated by the Minister of Manpower, increasing worker competency is an obligation according to Article 12, paragraph 2 of Law Number 13 of 2003. PPTKIS/P3MI are obliged to register with CPMI to participate in work competency training under Article 23 of Regulation Minister Number 22 of 2014. However, in reality, for many companies, to make a profit with little capital and a short time, training programs

to support PMI competency often do not go through the appropriate channels in making CPMI competency certificates; among these cases, CPMI will be sent to the Destination Country; for example, in Taiwan, the CPMI should take part in job and language training, but in reality, the CPMI can leave for the destination country in a short time of around one week. Therefore, from this case example, it can be seen that CPMI or CPTKI cannot learn job and language training in one week because, judging from the CPMI's educational strata, the average is only an elementary school graduate. Thus, it was one of the factors that caused violence against CPMI and CTKI (Eddyono, 2021).

The reason for this is the lack of supervision from the government, which resulted in PPTKIS/P3MI being naughty in sending CPMI and CPTKI, who still had not received sufficient training abroad to meet the PPTKIS/P3MI annual targets. This aligns with what Maksum (2017) conveyed: In ia is a safe place for migrant workers. Still, migrant workers in one country are easily deceived with flattery to be exploited. Human trafficking is not much different in the context of the form of Indonesian human trafficking, which refers little to the global network supported by the use of advances in modern communication technology.

Security measures are needed to save society by expanding the legal network. These steps are best done if a legal system with different types of security is applied. The strategies that can be used are as follows: a) Review of various regulations and development of new laws on non-procedural migrant worker protection; b) Review and strengthening of legalization implementation mechanisms; c) training for government staff on good implementation mechanisms; d) Conducting public education on legal protection and implementation mechanisms for various legal products; e) Establishment of exclusive protection units; f) Development of policies and information centers and village-based and gender-responsive migrant worker and family protection services.

Azis and Wahyudi (2020) provide a review of the obstacles faced by the Indonesian government in dealing with Indonesian Migrant Worker Placement Companies (P3MI) that violate the rules: First, the many confusing legal provisions (redundancy) and duplication of regulations and multiple interpretations that make it difficult to implement. Second, the coordinating institution in law enforcement: a) Overlapping authority and policies of each; b) Weak supervision in line with the government structure; c) Declining authority over the law; d) Injustice for the community; e) Rampant violations and illegal.

Regulations and application of legal sanctions for perpetrators of non-procedural Delivery of Indonesian Migrant Workers linked to human trafficking

Indonesia has had special regulations regarding PMI since Law No. 34 of 2004 concerning the Placement and Protection of Indonesian Workers Abroad (UU PPTKILN). This is the first law to specifically regulate migrant workers. Although the existence of this law was pushed for by non-governmental organizations to overcome the violence and exploitation experienced by migrant workers, especially women, the ratification of this law received criticism, considering that its contents were deemed to prioritize the process of placing PMIs rather than their protection. The existence and implementation of the law are not considered to help women who are non-regular migrant workers (Barid et al., 2022).

This law provides criminal regulations for parties that place migrant workers at work without permission. This law also criminalizes people who place prospective Indonesian Migrant Workers (TKI) in positions or places of work that are contrary to human values and decency. Other crimes that are also regulated in this law include manipulating exam results, not guaranteeing health insurance, the process of transferring Indonesian Migrant Worker Placement Implementation Permits (SIPPTKI) and TKI Mobilization Permits, and placing TKI without documents. Although it does not mention the term illegal undocumented or irregular migrant workers, this article could be a reference point for the non-procedural placement of female migrant workers. However, not all these acts are crimes. However, some are called violations, namely, the placement of TKI without written permission and the placement of TKI or TKI without a Foreign Worker Card (abbreviated as KTKLN).

The 2017 PPMI Law replaced the PPTKILN Law. The 2017 PPMI Law defines migrant workers without distinguishing between procedural and non-procedural statuses. Indonesian Migrant Workers (PMI) are stated as follows: 'every Indonesian citizen who will, is, or has done work for wages outside the territory

of the Republic of Indonesia'. The scope of the PMI in question is threefold: a) Indonesian Migrant Workers who work for legal entity employers, b) Indonesian Migrant Workers who work for individual or household employers, and c) seafarers and fisheries sailors.

This law does not differentiate between PMI status, which includes procedural and non-procedural, as stated in the Migrant Workers Convention (1990) ratified in 2012. This lack of distinction does not necessarily mean that the position of PMI with procedural and non-procedural statuses is different. Even in the process of forming the PPMI Law, it was found that members of the Community Representative Council (DPR) did not want to touch on the issue of non-procedural migrant workers, as they considered the discussion of non-procedural PMI to be very complex (Tan & Shahrullah, 2017). According to them, it would be unwise to open protection expressly because it is feared that it will increase the number of non-procedural PMIs. At that time, DPR members focused on eliminating non-procedural PMI, as this effort was accommodated in the PPMI Law. This is made clear in the table below:

Based on Table 1, the protection regulations for PMI in this law emphasize protection before, during, and after work. In this context, work is emphasized as doing work in a country where you work. From the start, protection has been emphasized by protecting the administrative form, namely, the procurement of complete and valid work documents and determining working conditions. This initial protection process forms the basis for the subsequent protection. Regarding regulations prohibitions and punishments, the law has similarities and differences from those regulated by the PPTKILN Law. The PPMI Law expands the subject of punishment not limited to companies that place PMI but includes individuals and corporations related to 1) prohibition of transferring or reassigning PMI Delivery Permits; 2) prohibition of placing PMI candidates who do not meet health and psychological requirements; and 3) Prohibition of PMI placements that are not by the work agreement. Another difference is that the PPMI Law emphasizes the prohibition of placements, in contrast to statutory regulations. At the same time, the PPTKILN Law has three frameworks: prohibiting placements contrary to humanity, moral norms, and statutory regulations (Eddyono, 2021).

Apart from that, this law also introduces new prohibitions, which include: a) providing incorrect information in filling out each document required in the migration process; b) Placement that is not by the work agreement is detrimental; c) Placement to certain countries that are declared closed for placement; d) PMI placement without a PMI Handover Permit; e) Placement of PMI without going to a country where there is no agreement between the Republic of Indonesia and that country; and e) does not have a social or insurance system that protects foreign workers.

The PPMI Law also makes government officials legal subjects who can be punished for all types of crimes above, emphasizing the abuse of their power. Efforts to eliminate non-regular PMI can be seen from the numerous prohibitions contained in this law. However, the target of the PPMI Law covers all parties, including the PMI, who provide incorrect information while filling out the documents. In

Table 1. Protection in Law No. 18 of 2017 concerning the Protection of Indonesian Migrant Workers.

Protection of Indonesian Migrant Workers		
Pre-Employment (Before Work)	During Work	Post Work
1. Administrative: completeness and validity of placement documents and determining conditions and terms of employment (Nuraeny, 2023). 2. Technical: a) Providing outreach and information dissemination; b) Improving the quality of PMI candidates through education and job training; c) Social Security; d) Facilitate the fulfillment of the rights of PMI Candidates; e) Strengthening the role of functional delivery employees; f) Placement services in one-stop integrated services for PMI placement and protection; and g) Guidance and supervision (Eddyono, 2021).	1. Data collection and registration by the labor attaché or appointed foreign service official; 2. Monitoring and evaluation of employers, jobs, and working conditions; 3. Facilitate the fulfillment of PMI rights; 4. Facilitate the resolution of employment cases; 5. Providing consular services; 6. Assistance, mediation, advocacy, and provision of legal assistance in the form of facilitating advocate services by the Central Government or Representatives of the Republic of Indonesia, as well as guardianship following local state law; 7. Guidance for PMI; and 8. Facilitate repatriation (Anggreini & Herlina, 2019).	1. Facilitate return to the area of origin; 2. Completion of PMI rights that have not been fulfilled; 3. Facilitate the management of sick and deceased PMI; 4. Social rehabilitation and social reintegration; and 5. Empowerment of PMI and their families (Dananjaya & Marsaulina, 2020).

Source: Eddyono (2021), Anggreini and Herlina (2019), Nuraeny (2023), and Dananjaya and Marsaulina (2020) (Data Processed, 2024).

addition, the PPMI Law also decriminalizes several acts prohibited in the PPTKILN Law, which include: a) Placement of PMI candidates who do not have a Foreign Worker Card (abbreviated as KTKLN); b) Employing PMI candidates who are currently undergoing education and training; and c) Detention of PMI departures who do not meet the document requirements.

Since the existence of Law No. 21 of 2007 concerning Human Trafficking, it should be considered necessary for protecting female migrant workers who experience exploitation or fraud during the migration process. This law combines several types of human trafficking in which human trafficking aims to exploit a person/group of people. Exploitation in the context of human trafficking includes a) sexual exploitation in the form of prostitution or sexual exploitation; b) exploitation or use of a person's energy to work in the form of forced service, slavery, or practices similar to slavery, oppression including physical use of a person; and c) exploitation of reproductive organs and transplantation of organs or body tissue of a person (Mihardi, 2020).

This exploitation is performed to obtain benefits from the person being exploited through material or immaterial benefits. Law No. 21 of 2007 clearly states that the various exploitations carried out above are crimes in which perpetrators can be punished with criminal penalties. Punishment includes a) Recruit, transporting, harboring, sending, transferring, or receiving someone; b) by the threat of violence, use of force, kidnapping, confinement, forgery, fraud, abuse of power or vulnerable position, debt bondage or providing payments or benefits; c) despite obtaining the consent of the person who has control over another person; d) for exploitative purposes (Vicky & Rahaditya, 2022).

This law also punishes officials who abuse their powers, resulting in trafficking crimes. In the context of non-procedural migrant workers, the practice of human trafficking often occurs through falsifying identities and fraud, which is often carried out with the lure or promise of good work or wages and working conditions that will be provided (Grange, 2005). Abuse or vulnerable positions often occur, such as being provided with funds or bailing out to finance document processing and placement. As shown in the table below:

Based on Table 2, sanctions related to individuals or corporations that have the opportunity to send non-procedural migrant workers based on Law No. 21 of 2007 are subject to criminal sanctions with a minimum of 3 (three) years in prison and a minimum of IDR 120,000,000.00 (one hundred and twenty million rupiahs) and a maximum of IDR 600,000,000.00 (six hundred million rupiahs). Meanwhile, individuals or corporations that are proven to have assisted to facilitate the crime of human trafficking can be punished with a minimum of 1 (one) year in prison and a maximum of 7 (seven) years and a fine of at least IDR 40,000,000.00 (forty million rupiah) and a maximum of IDR 280,000,000.00 (two hundred and eighty million rupiah). Not only the Law but Law No. 6 of 2011 concerning immigration also regulates sanctions related to the opportunity to send non-procedural migrant workers. This is explained in more detail in the following table:

Based on Table 3, Law no. 6 of 2011 concerning immigration regulates procedures for crossing Indonesian borders, the requirements for crossing Indonesian borders, including documents required to be owned, the process of obtaining records, and the authority of immigration, including revoking travel documents. In the context of women's non-regular migrant workers, there are regulations regarding preventive measures, repressive measures, and criminal regulations for attempts to smuggle and trade people across national borders. Punishment is regulated in this law for immigration crimes, including transnational crimes such as smuggling and trafficking. Immigration crimes connected to the issue of women non-regular migrant workers include unprocedural entry or exit without going through an immigration inspection (Article 113). This law elaborates many crimes related to travel documents, which include (Articles 123-130) including making fake or falsifying travel documents, Visas or Entry Certificates, or Stay Permits: a) using fake or falsified Travel Documents, b) providing invalid data or incorrect information to obtain Travel Documents, c) have or use 2 (two) or more Republic of Indonesia Travel Documents of the same type and all of them are still valid, d) falsify or create false Travel Documents, e) keeping false or falsified Travel Documents, f) destroy, change, add, reduce, or remove, either in whole or in part, the information or stamps contained in the Travel Document, and g) control other people's travel documents (Anggreini & Herlina, 2019).

Some of the prohibitions also emphasize crimes committed to oneself or others. This means that this law could enforce female non-regular migrant workers on travel documents or other parties who hold

Table 2. Prohibitions and Sanctions Related to the Opportunity for Non-Procedural Migrant Workers based on Law No. 21 of 2007.

Arrangement		
No	Sentencing	Penalty
1	This law states that the legal subject is every person, which can be individuals and corporations. This law outlines the various exploitations in which the perpetrators can be punished with criminal penalties. Punishment includes people who commit recruiting, transporting, harboring, sending, transferring, or receiving someone with threats of violence, use of violence, kidnapping, confinement, forgery, fraud, abuse of power or a vulnerable position, debt bondage, or providing payments or benefits, despite obtaining the consent of a person who has control over another person for exploitation (Dananjaya & Marsaulina, 2020).	Sentenced to a minimum imprisonment of 3 (three) years and a minimum of IDR 120,000,000.00 (one hundred and twenty million rupiah) and a maximum of IDR 600,000,000.00 (six hundred million rupiahs) (Article 2) (Anggreini & Herlina, 2019).
2	This law provides punishment for anyone who takes Indonesian citizens outside the territory of the Republic of Indonesia to exploit them outside the territory of the Republic of Indonesia (Dananjaya & Marsaulina, 2020).	Sentenced to imprisonment for a minimum of 3 (three) years and a maximum of 15 (fifteen) years and a fine of at least IDR 120,000,000.00 (one hundred and twenty million rupiahs) and a maximum of IDR 600,000,000.00 (six hundred million rupiahs) (Article 4) (Nuraeny, 2023).
3	Every person who uses or exploits or is a victim of a criminal act of trafficking in persons using sexual intercourse or other obscene acts with a victim of a criminal act of trafficking in persons employs a victim of a criminal act of trafficking in persons to continue the practice of exploitation or takes advantage of the proceeds of a criminal act of trafficking in persons (Article 12) (Eddyono, 2021).	Sentenced with imprisonment as the same as the provisions in Article 2, Article 3, Article 4, Article 5, and Article 6, namely imprisonment for a minimum of 3 (three) years and a minimum of IDR 120,000,000.00 (one hundred and twenty million rupiah) and a maximum a lot of IDR 600,000,000.00 (six hundred million rupiahs) (Article 12) (Nuraeny, 2023).
4	Every person who plans or carries out an evil conspiracy to commit the crime of trafficking in persons (Article 11) (Eddyono, 2021).	Sentenced to imprisonment is the same as the provisions in Article 2, Article 3, Article 4, Article 5, and Article 6 (Nuraeny, 2023).
5	This law also explains other criminal acts related to trafficking in persons, namely for every person who provides or enters false information in state documents or other documents or falsifies state documents or other documents to facilitate the crime of trafficking in persons (Eddyono, 2021).	Sentenced to imprisonment for a minimum of 1 (one) year and a maximum of 7 (seven) years and a fine of at least IDR 40,000,000.00 (forty million rupiahs) and a maximum of IDR 280,000,000.00 (two hundred and eighty million rupiahs) (Article 19) (Nuraeny, 2023).
6	Any person who gives false testimony presents false evidence or false evidence or unlawfully influences witnesses at a court hearing for the Crime of Human Trafficking (Eddyono, 2021).	Sentenced to imprisonment for a minimum of 1 (one) year and a maximum of 7 (seven) years and a fine of at least IDR 40,000,000.00 (forty million rupiahs) and a maximum of IDR 280,000,000.00 (two hundred and eighty million rupiahs) (Article 20) (Nuraeny, 2023).
7	Any person who intentionally prevents obstructs, or thwarts, directly or indirectly, the investigation, prosecution, and examination at the trial of a suspect, defendant, or witness in the Crime of Human Trafficking case (Anggreini & Herlina, 2019).	Sentenced to imprisonment for a minimum of 1 (one) year and a maximum of 5 (five) years and a fine of at least IDR 40,000,000.00 (forty million rupiahs) and a maximum of IDR 20,000,000.00 (two hundred million rupiahs) (Article 22) (Anggreini & Herlina, 2019).
8	Consent of victims of human trafficking does not eliminate prosecution for criminal acts of human trafficking (Article 26) (Eddyono, 2021).	
9	The perpetrator of the criminal act of trafficking in persons loses his right to collect debts or other agreements against the victim if the debt or other agreement is used to exploit the victim (Article 27) (Eddyono, 2021).	

Source: Eddyono (2021), Anggreini and Herlina (2019), Nuraeny (2023), and Dananjaya and Marsaulina (2020) (Data Processed, 2024).

migrant worker travel documents (Khalid & Savirah, 2022). Regarding cross-border smuggling crimes, the Immigration Law regulates the criminal act of smuggling as an act aimed at seeking profit, either directly or indirectly, for oneself or another person by bringing a person or group of people, organized or unorganized, or ordering another person to bring a person or group of people, whether organized or unorganized, into the Indonesian Territory or out of the Indonesian Territory and/or into the territory of another country, where the person does not have the right to enter the territory legally, either by using valid documents, fake documents, or without using Travel Documents (Mahardika & Wicaksono, 2020).

Important elements in smuggling are a) the aim of making a profit, b) bringing or ordering people, individually or in groups, c) leaving or entering Indonesian Territory, d) with the situation, and d) not having legal rights/valid or fake documents/or without travel documents. Smuggling in the law, referring to Bassiouni, emphasizes illegal entry. Valid documents are important in smuggling. The sanctions vary unprocedural entry or exit without going through immigration inspection and means of transport that

Table 3. Prohibitions and Sanctions Related to the Opportunity for Non-Procedural Migrant Workers in Law No. 6 of 2011 concerning Immigration.

No	Arrangement	
	Sentencing	Sentencing
1	This law regulates immigration crimes, including transnational crimes, which include smuggling and human trafficking. Immigration crimes that are related to the issue of non-procedural female migrant workers include unprocedural entry or exit without going through an immigration inspection (Nuraeny, 2023).	Sentenced to a maximum imprisonment of 1 (one) year or a maximum fine of IDR 100,000,000.00 (one hundred million rupiahs) (Article 113) (Nuraeny, 2023).
2	This law imposes penalties on those responsible for transportation who enter or leave Indonesian territory with means of transportation that do not go through immigration checkpoints. This can be experienced by non-regular migrant workers who use their means of transportation (Anggreini & Herlina, 2019).	Sentenced to a maximum imprisonment of 1 (one) year or a maximum fine of IDR 100,000,000.00 (one hundred million rupiahs) (Article 114) (Anggreini & Herlina, 2019).
3	The Immigration Law elaborates on crimes related to travel documents (Articles 123-130), which include: 1. Make fake or falsified travel documents, Visas Entry Certificates, or Stay Permits; 2. Using false or falsified Travel Documents; 3. Providing invalid data or incorrect information to obtain Travel Documents; 4. Have or use 2 (two) or more Republic of Indonesia Travel Documents of the same type, and all of them are still valid; 5. Forging or creating false Travel Documents; 6. Keeping fake or falsified Travel Documents to use them yourself or someone else; 7. Damage, change, add, reduce, or remove, either in whole or in part, the information or stamps contained in the Travel Document; 8. Mastering other people's travel documents (Eddyono, 2021).	1. Making fake or falsifying travel documents, Visas Entry Certificates or Stay Permits is punishable by a maximum imprisonment of 5 (five) years and a maximum fine of IDR 500,000,000.00 (five hundred million rupiahs) (Article 123); 2. Providing invalid data or incorrect information to obtain Travel Documents is subject to a maximum imprisonment of 5 (five) years and a maximum fine of IDR 500,000,000.00 (five hundred million rupiahs) (Article 126 letter c); 3. Possessing or using 2 (two) or more Republic of Indonesia Travel Documents of the same type and all of them are still valid is subject to a maximum imprisonment of 5 (five) years and a maximum fine of IDR 500,000,000.00 (five hundred million rupiahs) (Article 126 letter d); 4. Keeping false or falsified travel documents to use them yourself or someone else is punishable by imprisonment for a maximum of 5 (five) years and a fine of a maximum of IDR 500,000,000.00 (five hundred million rupiahs) (Article 127); 5. Keeping false or falsified travel documents is punishable by a maximum imprisonment of 5 (five) years and a maximum fine of IDR 500,000,000.00 (five hundred million rupiahs) (Article 128); 6. Tampering with, changing, adding to, reducing or removing, in whole or in part, information or stamps contained in a Travel Document is punishable by a maximum imprisonment of 5 (five) years and a maximum fine of IDR 500,000,000.00 (five hundred million rupiahs) (Article 129); 7. Possessing another person's travel documents is punishable by a maximum imprisonment of 2 (two) years or a maximum fine of IDR 200,000,000.00 (two hundred million rupiahs) (Article 130) (Eddyono, 2021).

Source: Eddyono (2021), Anggreini and Herlina (2019), and Nuraeny (2023).
(Data Processed, 2024).

carry transportation as a mode of smuggling is punished with an alternative crime, namely imprisonment for a maximum of one year or a maximum fine of 100 million. Crimes related to documents are punished with an accumulative sentence, namely, a maximum of five years in prison and a fine of 500 million rupiah (Daud & Sopoyono, 2019).

Law in Indonesia does not make the existence of non-procedural migrant workers explicit but prevents the existence of non-procedural migrant workers by making prohibitions contained in different laws, both in the Human Trafficking Law, the Immigration Law, and the PPMI Law (Yuliani & Rasalwati, 2020). The three existing regulations stipulate that perpetrators violate the prohibition of both individual and corporate actors. The acts regulated are varied, but in the three laws, some acts are regulated, namely, providing false information, falsifying or creating fake travel documents, and entering or leaving without documents. In the Human Trafficking Law, this act is placed as part of the human trafficking act, whereas in the PPMI Law, the act can be a separate crime. In contrast, in the Immigration Law, it is placed either as a separate crime or a crime combined with a practice of smuggling or human trafficking.

However, since the existence of the Human Trafficking Law, the focus of the government and law enforcement has been more on handling sexual exploitation rather than on human trafficking in the context of labor exploitation. Before the Human Trafficking Law came into existence, Presidential Decree

Number 88 of 2002 on the National Action Plan for the Elimination of Trafficking in Women and Children also laid down the framework for human trafficking not only in the context of prostitution, but also adopted legal and illegal migrant workers' children, mail-order brides, domestic servants, begging, pornography, drug trafficking, organ sales, and other forms of exploitation.

Based on Bal and Palmer's analysis (2020), protection for Indonesian Migrant Workers (PMI) is needed, which is very important for the government to pay attention to, legally and illegally. One of the efforts the government will implement to protect the PMI is to start by making a bilateral agreement with a country that the PMI will target. The agreement made through negotiations between countries will later result in a Memorandum of Understanding (MoU). Although an MoU has been made that has been agreed upon by both parties between countries, the problems received by PMI still occur very often. In addition to the MoU agreement, the Indonesian government drafts laws and regulations concerning employment standards. The government has implemented several ways to collaborate with various government agencies, both local governments and central governments, to overcome problems that occur with PMI. The government has stipulated Law Number 18 of 2017 concerning protecting Indonesian Migrant Workers. It includes social security protection implemented by insurance companies and joined insurance companies through forms of protection consisting of pre-placement, during placement, and post-placement.

Conclusion

A migrant worker is someone who looks for work outside the country intending to earn income for daily life within a time limit determined following the work agreement. Every year, interest in PMI increases both procedurally and non-procedurally, resulting in increasing problems faced by PMI, such as violence, human trafficking, the death of migrant workers in destination countries, and the recruitment of undocumented or illegal workers. Non-procedural PMI placement is caused by several factors, such as low education, limited employment opportunities in the country, high levels of poverty, limited access to information/lack of public understanding of PMI placement and protection procedures, persuasion, and sweet promises such as getting a high salary with a practical process, including the presence of brokers. Meanwhile, the increase in people/individuals involved in non-procedural PMI placement practices is due to economic factors; namely, the perpetrators receive a fairly large commission or service fee from each person who is sent, the perpetrators have a consumerist lifestyle, the educational conditions and knowledge of the victim's family, and the victim's economic limitations. Several violations were committed by the Indonesian Migrant Worker Placement Company (P3MI), namely: 1) Placement fees that were too high (overcharging); 2) falsifying the identity of Indonesian Migrant Workers (PMI); and 3) Indonesian Migrant Workers (PMI) do not receive enough job training. Furthermore, perpetrators of non-procedural PMI placements can be charged under Law Number 18 of 2017 concerning PPMI. They can also be subject to Law Number 21 of 2007 concerning the Eradication of the Crime of Human Trafficking and imprisonment or fines.

Disclosure statement

No potential conflict of interest was reported by the author(s).

About the author

Tanti Kirana Utami is an Associate Professor in the field of Law and currently actively teaches at the Faculty of Law, Universitas Suryakencana. Apart from that, she is actively a partner with the regional government to resolve several legal problems in the region, especially with aspects of legal administration. She has also produced several books and scientific articles from his research on Law.

Data availability statement

The data supporting this study's findings are available from the corresponding author, upon reasonable request.

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Tanti Kirana Utami_Regulation of Legal Sanctions Against Perpetrators of Non-Procedural Placement of Indonesian Migrant Workers: A Human Trafficking Perspective

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Regulation of Legal Sanctions Against Perpetrators of Non-Procedural Placement of Indonesian Migrant Workers: A Human Trafficking Perspective

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Tanti Kirana Utami

Faculty of Law Universitas Suryakancana
kireinatanti78@gmail.com

Abstract

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The program for placing Indonesian Migrant Workers abroad is one of the efforts to overcome the problem of unemployment. The government has enacted regulations regarding the placement of Indonesian migrant workers. However, there is still a non-procedural placement for Indonesian migrant workers, giving rise to new problems in handling it. This study aims to analyze the factors that encourage perpetrators to carry out the non-procedural placement of migrant workers and the application of legal sanctions for perpetrators. The research method uses a qualitative normative juridical approach, which looks at problems from the study of legal materials such as books or articles that discuss research themes as references for primary and secondary legal materials. The data analysis technique used was descriptive analysis. The results of this research show that the increase in people or individuals involved in non-procedural PMI placement practices is due to economic factors; namely, the perpetrators receive a relatively large commission or service fee from each person who is sent, the perpetrators have a consumerist lifestyle, the educational conditions and knowledge of the victim or victim's family, and the victim's economic limitations. Perpetrators of non-procedural PMI placement can be charged, apart from Law Number 18 of 2017 concerning PPMI, which can also be subject to Law Number 21 of 2007 concerning the Eradication of Criminal Acts of Trafficking in Persons (PTPPO), which is subject to legal sanctions of imprisonment or fines.

Keywords: Migrant Workers, Law, Illegal, Sanctions, Human Trafficking.

Introduction

Law is understood as a coercive order that applies sanctions as coercive action. The provisions explaining the law will appear as a statement that under certain conditions, which are also determined by that legal order, specific coercive actions are also determined by that order. The problem of migrant workers continues to influence Indonesia's employment conditions, primarily related to the management, placement, and protection of migrant workers abroad. The government's way to reduce the unemployment rate is to place workers abroad as Indonesian migrant workers (Muthia, 2020). Several problems are on the government's agenda that must be resolved. Among these problems are the lack of job opportunities, the low economic level of society, and the low competitiveness of Indonesian migrant workers; these are serious problems that must be resolved (Sulaksono, 2018). Sending migrant workers is hoped to be an alternative solution to existing problems. On one hand, remittances are an essential indicator of the economy of migrant worker families in their home villages.

The high number of Indonesian citizens interested in becoming migrant workers, supported by the above factors, means that many agencies providing migration work are starting to emerge (Bulan, 2021). On the other hand, the emergence of migrant job providers cannot be trusted for the 100% safety of their workers. The broker agents that are emerging at the moment are taking advantage of the situation of high demand for workers with worrying economic conditions and the lack of education of prospective migration workers so that prospective migration workers prefer

to take shortcuts by using brokers rather than training first to meet the requirements of the provisions as PMI (Febrianti & Afifah, 2023).

The large number of crimes that occur among migrant workers is a risk for the creation of non-procedural migration workers by broker agents, who bring workers without going through proper procedures (Indrayani Arief, 2021). Risks such as fraud, violence, exploitation, human smuggling, human trafficking, and even murder can occur among Indonesian migrant workers who are victims of noncompliance with the requirements and procedures set out in the laws in force in Indonesia (Farbenblum et al., 2013).

One estimate puts the number of unauthorized migrant laborers at around ten thousand. There are about 58 million unauthorized or irregular migrant laborers, according to the International Organization for Migration. They are classified as "illegal" migrant workers for a number of reasons, including the fact that they entered the country without following the legal procedures set forth by the immigration laws of that nation, that they have been there longer than allowed by a visa, that their travel document (passport) is no longer valid, or that they are employed in a foreign country without being registered as employees under local labor laws (Souline & Yovani, 2020). These data are relatively high; at least a third of the world's migrant worker population reaches 150.3 million (Kusdarini et al., 2021).

Global data on migrant workers who are not regular contributors is provided by Indonesia. According to the World Bank, nine million Indonesians are employed overseas. The majority of these workers travel non-procedurally, to countries like Malaysia, Singapore, China, Hong Kong, Saudi Arabia. Women make up an estimated 70% of non-procedural migrant laborers. Indonesia is the second largest country in Southeast Asia after the Philippines, with more than 25 migrant workers. It can be shown from data from the Indonesian Migrant Worker Protection Agency (BP2MI), which started from early January to September 2022, that there have been 122,870 people in various nations (Noor, 2023). The data acquired are very different from those from prior years, particularly during the COVID-19 epidemic, when there was a severe shortage of migrant laborers. Senior High School graduates make up the majority of those who register on average.

The government gains from the growing pool of prospective migrant laborers since it can lower the unemployment rate and boost foreign exchange. Because they earn significantly more money abroad than they do at home in Indonesia, prospective migrant workers believe that working there is profitable. But they have to take into account the significant hazards they will face (Dananjaya, 2020). The risks that will be experienced include violence, human trafficking, sexual exploitation, unpaid wages according to work agreements, and very long working hours.

Owing to the risks incurred by migrant laborers, BP2MI has been contacted by Indonesian PMI abroad who have complained about issues they had while working overseas. According to BP2MI, PMI complaints were reported from January to September 2022. The largest number of complaints, 29.5%, came from Saudi Arabia; the largest number, 16.5%, came from Malaysia; the largest number, 10.6%, came from Taiwan; the largest number, 7%, came from the UAE; the smallest number, 6%, came from Poland; and the largest number, 30.4%, came from the UAE. There were 40 accusations of human trafficking, 93 allegations of deaths in the country of destination, 102 complaints about unlawful migrant workers, and 83 complaints about underpaid salaries. Of the many complaints received, they were legal workers, or what could be called non-procedural workers. This has a lot to do with how the PMI leaves and gets caught up in the broker game when they get to the destination nation (Nuraeny, 2023).

Brokers can persuade locals to handle departures to work overseas because they have easy-to-travel routes across many nations. The Law Number 18 of 2017's Article 72(b) regulates the prohibition of placing migrant workers in restricted countries. Prospective migrant workers must be placed in countries specified in their employment agreement. Additionally, this has been regulated, as stated in Law Number 18 of 2017's Article 71 (Dewi et al., 2021). Because they employ fictitious documents created by brokers from migrant worker-sending companies, prospective migrant workers whose departure is illegal can nonetheless depart. In addition to working overseas, non-procedural migrant workers run the risk of being victims of assault, human trafficking, and sexual exploitation. The people in charge of gathering resident data non-procedural migrant workers can be arrested during an inspection of the data collection of their nationals (Zamhir et al., 2023). It should be remembered that non-procedural migrant workers do not have official documents; therefore, for those who experience violence or other risks abroad, the Indonesian government finds it very difficult to provide legal protection to non-procedural migrant workers (Puanandini, 2020). This differs from legal or procedural migrant workers; if they experience violence or have their rights confiscated by their employers, they will receive legal protection under Article 7 of Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers.

The government published Law Number 18 of 2017 about the Protection of Indonesian Migrant Workers and several other laws that control the placement process for Indonesian migrant workers in order to protect them while they are working overseas. This is done to keep migrant workers safe from crimes like as assault and human trafficking. Even so, a large number of migrant workers from Indonesia continue to violate the formalities outlined in legally mandated laws. The government is now concerned about this and is working to dissuade those who engage in nonprocedural PMI placement from doing so.

Previous research on non-procedural migrant workers has been conducted by previous researchers, including Lindquist (2017), who researched the transfer of migrant workers in the Indonesia-Malaysia palm oil complex. This study concluded that there was a dichotomy between smooth mobility and infrastructure through a case study of the recruitment of migrant workers from Indonesia to the Malaysian palm oil industry. This study emphasizes that the mobility of brokers causes various obstacles that ultimately form a socio-technical system that can be understood in terms of migration infrastructure. Furthermore, research was conducted by Azis and Wahyudi (2020), who conducted research on imperfect protocols in reflecting the experience of human trafficking in migrant fishermen in Indonesia. This study provides an accurate assessment of the transnational recruitment system, forced labor offshore, and the post-trafficking stage. Thus, the last stage is where male victims' complaints are located. This study's results also combined previous calls for more recognition and incorporation of migrant rights, especially labor rights, in anti-human trafficking efforts. Research on the experiences of non-procedural migrant workers working in Malaysia and Japan was conducted by Maksum and Surwandono (2017); the results of the study concluded that illegal Indonesian workers in Malaysia have faced three situations, namely being sued, exploited, and humiliated. While in Japan, some Indonesian workers are interested in getting better salaries, but they have to face risks. The Japanese also recognize the great contribution of migrant workers, including illegal Indonesian workers, to Japan's national development. However, most illegal Indonesian workers consider the Malaysian or Japanese governments to be slightly positive. Research to determine the management of migrant workers in Indonesia was conducted by Bal and Palmer (2020); the results of this study concluded that there are several things better to understand the broader problem of labor migration in Indonesia,

namely: 1) disputed governance issues and transnational advocacy; 2) the often debated relationship between remittances and development; and 26) problems arising from the multi-directional nature of labor migration. Finally, research on legal protection for 4 Indonesian migrant workers against acts of violence they experience conducted by Henny (2023), this study concluded that the protection provided by the government to migrant workers who experience violence can be carried out during pre-placement, placement, and post-placement, as well as the government's handling of migrant workers that must be carried out for Indonesian Migrant Workers both procedurally and non-procedurally because the state is obliged to fulfill the legal protection rights of every citizen.

Based on the research problem and several previous studies, the researcher is interested in studying more deeply the law enforcement for perpetrators of non-procedural PMI placement by limiting it to the factors that support the perpetrators to carry out non-procedural PMI placement and how legal sanctions are applied to perpetrators of non-procedural PMI placement in Indonesia, which of course is different from several previous studies.

Method 4

The method used in this research is a normative juridical research method with descriptive-analytical research specifications, namely, studying and analyzing the non-procedural sending of Indonesian migrant workers and providing an objective picture relating to law enforcement against 63 perpetrators of criminal acts that protect Indonesian migrant workers 1 linked to human trafficking. Based on Law No. 18 of 2017 and Law No. 21 of 2007. This research uses secondary data, including primary, secondary, and tertiary legal materials, statutory regulations, books, scientific articles, and 60 data from websites/the Internet. Library research was used as the data-collection technique. Meanwhile, the data analysis technique used is qualitative analysis, namely describing and interpreting data in the form of good and correct sentences to obtain short answers that are formulated deductively, or, in other words, expressing and understanding the truth of the problem and discussion by interpreting data received from the study's results. The legal material is described in sentences arranged in detail, systematically, and analyzed to facilitate the drawing of a conclusion.

Discussions 20

Factors and Violations of Non-Procedural Placement of Indonesian Migrant Workers

The large population is disproportionate to available jobs, which causes poverty and the inability to meet their living needs and livelihoods, thus requiring most Indonesian people to move to other countries to get work abroad (Firdaus & Simangunsong, 2023). Migration of workers is an essential economic activity for sending and receiving countries. The high migration flow in this region is due to countries that are economically dependent on migrant workers 58. Receiving countries are dependent on migrant workers for economic mobilization, which can be seen from the high number of migrant workers in the country (Muthia, 2020).

37 The yearly increase in Indonesian citizens becoming migrant workers and looking for work abroad in both the formal and informal sectors is due to various reasons, including domestic unemployment, insufficient domestic employment opportunities, disparities in global and regional economic growth, advances in transportation technology and information, and the right to work abroad (Lindquist, 2012). The pull factor that exists abroad in the form of higher wages makes workers more interested in working abroad. Working abroad has a positive side, namely,

overcoming some unemployment problems in the country. On the other hand, there is a negative side in ²¹ form of the risk of possible inhumane treatment of PMI (Febrianti & Afifah, 2023).¹

Data on the placements of Indonesian Migrant Workers up to June 2023 illustrate that the number of placements of Indonesian Migrant Workers has increased over the last two years; namely, in June 2023, placements reached 20,388; in June 2022, there were 15,700 placements; and in June 2021, there were 6,661 placements. In June 2023, the majority of Indonesian Migrant Workers were placed in the formal sector, with 11,645 placements (55%), while 8,743 placements (45%) were placed in the informal sector (Nuraeny, 2023).

Based on the G to G P ⁴⁶ram placement scheme (PMI placement with the government-to-government scheme through the Indonesian Migrant Worker Protection Agency (BP2MI)), the number of Indonesian Migrant Workers placed by BP2MI in June 2023 was 963 placements, with 652 placements to South Korea, 311 placements to Japan in June 2023, and 0 placements to Germany. Meanwhile, based on the P-to-P placement scheme (PMI placement with a private-to-private or company-to-company scheme. This placement is carried out by the Indonesian Migrant Worker Placement Company (P3MI) with the agency in the ⁴⁵destination country. Previously, P3MI was known as PJTKI or PPTKIS). P3MI placed 15,301 Indonesian Migrant Workers. Based on the Individual Placement Scheme, there were 1,848 placements. Based on the Placement Scheme for the Company's Own Benefits (UKPS), there were ⁷ placements. Complaint data increased in June 2023 compared with June 2021 and 2022. Most complaints in June 2023 came from Saudi Arabia, Malaysia, and Hong Kong, whereas West Java and Central Java were the provinces with the highest complaints in June 2023. The most common complaints include Indonesian Migrant Workers wanting to be repatriated and placement costs exceeding the fee structure.

The stages of PMI placement, as regulated in Article 9 of Government Regulation Number 10 of 2020, often need to be followed according to these rules. This is what is called non-procedural PMI placement, whose victims have the possibility of becoming victims of human trafficking, v²⁰ence, or other crimes. The non-procedural placement of migrant workers is the placement of Indonesian citizens who work abroad without going through correct PMI placement procedures by applicable laws and legal provisions, including falsifying documents and manipulating prospective PMI data, incomplete documents, and ignoring procedures and mechanisms. The PMI placement does not use a work visa. ⁷⁵

The rise in non-procedural PMI placements is caused by several factors, such as low education, limited job opportunities in the country, high levels of poverty, limited access to information/lack of public understanding about PMI placement and protection procedures, persuasion, and sweet promises such as obtaining high salaries with a practical process., including the presence of brokers. The limited access to information, which results in a need for more public understanding regarding procedures for departure, placement, and protection of PMI, impacts the emergence of many brokers or individuals who are ready to take care of non-procedural PMI through inappropriate procedures. Therefore, PMI candidates must be registered in the Computerized Overseas Workforce System (SISKOKTKLN).

The increase in people/individuals involved in non-procedural PMI placement practices is due to economic factors; namely, the perpetrators receive a relatively large commission or service fee from each person who is sent, the perpetrators have a consumerist lifestyle, educational conditions, and knowledge of victims/victims' families who are not aware of the placement. PMI, the victim's economic limitation, means that they are easily persuaded and promised significant wages by the perpetrator.

Several violations were committed⁷⁴ by the Private Indonesian Migrant Worker Placement Company (PPTKIS), which has now changed its name to the Indonesian Migrant Worker Placement Company (P3MI).²²

1. Placement Fees that are Too High (overcharging). The Minister of Manpower and Transmigration Regulation Number 14/MEN/X/2010 regulates the burden of the placement costs that Migrant Workers must bear, including identity documents, health checks, psychology, job training, and work competency certification. Other costs are borne by Indonesian Migrant Worker (PMI) service users. Apart from these costs, migrant workers must bear other costs that are regulated by a ministerial decree. Placement fees were regulated in various Ministerial Decrees, as a reference for the placement of Indonesian migrant workers abroad. The mechanism for paying placement fees for migrant workers has⁵⁵ been criticized because placement fees are too high. The government's support for the fate of migrant workers, especially Indonesian migrant workers, has not¹⁸ been optimally implemented. However, many problems still need to be addressed. Case data from the Indonesian Migrant Workers Union (SBMI) from 2015 to 2017 showed 1,501 complaints from various countries. The biggest complaints were related to expensive fees or overcharging. The cause of Overcharging is that Migrant Workers have signed the placement fee or Cost Structure (CS), but PPTKIS or P3MI still ask for additional money from prospective Migrant²² Workers (PMI) because the CS fee is lower. By contrast, in reality, the CS fee by the Regulation of the Minister of Manpower and Transmigration Number 14/MEN/X/2010 is no longer relevant. There is no synchronization with other regulations, such as the Minister of Health's regulations regarding medical checkups and immigration regulations regarding passports, whereas in the CS, medical fees and passports are no longer¹ covered by these other regulations.
2. Falsification of the Identity of Indonesian Migrant Workers (PMI). The act of forgery is only known in advanced societies, where specific data facilitates the flow of relations in society. Identity falsification/manipulation consists of two syllables. Manipulation is a loan word originating in English: manipulation, which means misuse or misappropriation. In 2020, the Criminal Investigat¹⁴ Agency (Bareskrim) handled cases related to Migrant Worker Identity Falsification carried out by the Indonesian Migrant Worker Placement Company (P3MI), which did not comply with procedures for²³ recruiting prospective Indonesian Migrant Workers (PMI). Of these, there are many prospective Indonesian Migrant Workers (CPMI) or Prospective Indonesian Migrant Workers (CTKI) who are not yet sufficiently old. However, in some PPTKIS/P3MI, many use services to change the age of the E-KTP and family cards, which is one of the requirements for making a passport. In addition, in the maritime sector, especially for fisheries, whether placed domestically or abroad, many companies use the services of individuals or what we could call "brokers" to create seaman's books and other skills certificates in a way that is against the law or illegal.
3. Indonesian Migrant Workers (PMI) do⁴¹ not receive sufficient job training. Article 12, paragraph 1 of Law Number 13 of 2003 states that employers are responsible for providing job training to improve the competence of workers. However, for entrepreneurs who meet the requirements³⁵ regulated by the Minister of Manpower, increasing worker competency is an obligation according to Article 12, paragraph 2 of Law Number 13 of 2003. PPTKIS/P3MI are obliged to register with CPMI to participate in work competency training under Article 23 of Regulation Minister Number 22 of 2014. However, in reality, for many companies, to make a profit with little capital and a short time, training programs

to support PMI competency often do not go through the appropriate channels in making CPMI competency certificates; among these cases, CPMI will be sent to the Destination Country; for example, in Taiwan, the CPMI should take part in job and language training, but in reality, the CPMI can leave for the destination country in a short time of around one week. Therefore, from this case example, it can be seen that CPMI or CPTKI cannot learn job and language training in one week because, judging from the CPMI's educational strata, the average is only an elementary school graduate. Thus, it was one of the factors that caused violence against CPMI and CTKI (Eddyono, 2021).

The reason for this is the lack of supervision from the government, which resulted in PPTKIS/P3MI being naughty in sending CPMI and CPTKI, who still had not received sufficient training abroad to meet the PPTKIS/P3MI annual targets. This aligns with what Maksum and Suwardono (2017) conveyed: In ia is a safe place for migrant workers. Still, migrant workers in one cour⁶⁸ are easily deceived with flattery to be exploited. Human trafficking is not much different in the context of the form of Indonesian human trafficking, which refers little to the global network supported by the use of advances in modern communication technology.

Security measures are needed to save society by expanding the le¹² network. These steps are best done if a legal system with different types of security is applied. The strategies that can be used are as follows: a) Review of various regulations and development of new laws on non-procedural mi¹²igrant worker protection; b) Review and strengthening of legalization implementation mechanisms; c) training for government staff on good implementation mecl¹²isms; d) Conducting public education on legal protection and implementation mechanisms for various legal products; e) Establishment of exclusive protection units; f) Development of policies and information centers and village-based and gender-responsive migrant worker and ⁸¹nily protection services.

Azis and Wahyudi ⁶⁵020) provide a review of the obstacles faced by the Indonesian government in dealing with Indonesian Migrant Worker Placement Companies (P3MI) that violate the rules: First, the many confusing legal provisions (redundancy) and duplication of regulations and multiple interpretations that make it difficult to implement. Second, the coordinating institution in law enforcement: a) Overlapping authority and policies of each; b) Weak supervision in line with the government structure; c) Declining authority over the law; d) Injustice for the community; e) Rampant violations and illegal.

Regulations and Application of Legal Sanctions for Perpetrators of Non-Procedural Delivery of Indonesian Migrant Workers Linked to Human Trafficking⁴⁰

Indonesia has had special regulations regarding PMI since Law No. 34 of 2004 concerning the Placement and Prote³⁰on of Indonesian Workers Abroad (UU PPTKILN). This is the first law to specifically regulate migrant workers. Although the existence of this law was pushed for by non-governmental organizations to overcome the violence and exploitation experienced by migrant workers, especially women, the ratification of this law received criticism, considering that its contents were deemed to prioritize the process of placing PMIs rather than their protection. The existence and implementation of the law are not considered to help women who are non-regular migrant workers (Barid et al., 2022).

This law provides criminal regulations for parties that place migrant workers at work without permission. This law also criminalizes people who place prospective Indonesian Migrant Workers (TKI) in positions or places of work that are contrary to human values and decency. Other crimes that are also regulated in this law include manipulating exam results, not guaranteeing health insurance, the process of transferring Indonesian Migrant Worker Placement

Implementation Permits (SIPPTKI) and TKI Mobilization Permits, and placing TKI without documents. Although it does not mention the term illegal undocumented or irregular migrant workers, this article could be a reference point for the non-procedural placement of female migrant workers. However, not all these acts are crimes. However, some are called violations, namely, the placement of TKI without written permission and the placement of TKI or TKI without a Foreign Worker Card (abbreviated as KTKLN).

The 2017 PPMI Law replaced the PPTKILN Law. The 2017 PPMI Law defines migrant workers without distinguishing between procedural and non-procedural statuses. Indonesian Migrant Workers (PMI) are stated as follows: "every Indonesian citizen who will, is, or has done work for wages outside the territory of the Republic of Indonesia". The scope of the PMI in question is threefold: a) Indonesian Migrant Workers who work for legal entity employers, b) Indonesian Migrant Workers who work for individual or household employers, and c) seafarers and fisheries sailors.

This law does not differentiate between PMI status, which includes procedural and non-procedural, as stated in the Migrant Workers Convention (1990) ratified in 2012. This lack of distinction does not necessarily mean that the position of PMI with procedural and non-procedural statuses is different. Even in the process of forming the PPMI Law, it was found that members of the Community Representative Council (DPR) did not want to touch on the issue of non-procedural migrant workers, as they considered the discussion of non-procedural PMI to be very complex (Tan & Shahrullah, 2017). According to them, it would be unwise to open protection expressly because it is feared that it will increase the number of non-procedural PMIs. At that time, DPR members focused on eliminating non-procedural PMI, as this effort was accommodated in the PPMI Law. This is made clear in the table below:

**Table 1 Protection in Law No. 18 of 2017
concerning the Protection of Indonesian Migrant Workers**

Protection of Indonesian Migrant Workers		
Pre-Employment (Before Work)	During Work	Post Work
1. Administrative: completeness and validity of placement documents and determining conditions and terms of employment (Nuraeny, 2023). 2. Technical: a) Providing outreach and information dissemination; b) Improving the quality of PMI candidates through education and job training; c) Social Security; d) Facilitate the fulfillment of the rights of PMI Candidates; e) Strengthening the role of	1. Data collection and registration by the labor attaché or appointed foreign service official; 2. Monitoring and evaluation of employers, jobs, and working conditions; 3. Facilitate the fulfillment of PMI rights; 4. Facilitate the resolution of employment cases; 5. Providing consular services; 6. Assistance, mediation, advocacy, and provision of legal assistance in the form of facilitating	1. Facilitate return to the area of origin; 2. Completion of PMI rights that have not been fulfilled; 3. Facilitate the management of sick and deceased PMI; 4. Social rehabilitation and social reintegration; and 5. Empowerment of PMI and their families (Dananjaya, 2020).

functional delivery employees; f) Placement services in one-stop integrated services for PMI placement and protection; and g) Guidance and supervision (Eddyono, 2021).	advocate services by the Central Government or Representatives of the Republic of Indonesia, as well as guardianship following local state law; 7. Guidance for PMI; and 8. Facilitate repatriation (Anggreini & Herlina, 2019).
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Source: Eddyono (2021), Anggreini & Herlina (2019), Nuraeny (2023), and Dananjaya (2020) (Data Processed, 2024)

Based on Table 1, the protection regulations for PMI in this law emphasize protection before, during, and after work. In this context, work is emphasized as doing work in a country where you work. From the start, protection has been emphasized by protecting the administrative form, namely, the procurement of complete and valid work documents and determining working conditions. This initial protection process forms the basis for the subsequent protection. Regarding regulations 174 prohibitions and punishments, the law has similarities and differences from those regulated by the PPTKILN Law. The PPMI Law expands the subject of punishment not limited to companies that place PMI but includes individuals and corporations related to 1) prohibition of transferring or reassigning PMI Delivery Permits; 2) prohibition of placing PMI candidates who do not meet health and psychological requirements; and 3) Prohibition of PMI placements that are not by the work agreement. Another difference is that the PPMI Law emphasizes the prohibition of placements, in contrast to statutory regulations. At the same time, the PPTKILN Law has three frameworks: prohibiting placements contrary to humanity, moral norms, and statutory regulations (Eddyono, 2021).

Apart from that, this law also introduces new prohibitions, which include: a) providing incorrect information in filling out each document required in the migration process; b) Placement that is not by the work agreement is detrimental; c) Placement to certain countries that are declared closed for placement; d) PMI placement without a PMI Handover Permit; e) Placement of PMI without going to a 47 ntry where there is no agreement between the Republic of Indonesia and that country; and e) does not have a social or insurance system that protects foreign workers.

The PPMI Law also makes government officials legal subjects who can be punished for all types of crimes above, emphasizing the abuse of their power. Efforts to eliminate non-regular PMI can be seen from the numerous prohibitions contained in this law. However, the target of the PPMI Law covers all parties, including the PMI, who provide incorrect information while filling out the documents. In addition, the PPMI Law also decriminalizes several acts prohibited in the PPTKILN Law, which include: a) Placement of PMI candidates who do not have a Foreign Worker Card (abbreviated as KTKLN); b) Employing PMI car 56 lates who are currently undergoing education and training; and c) Detention 72 PMI departures who do not meet the document requirements.

Since the existence of Law No. 21 of 2007 concerning Human Trafficking, it should be considered necessary for protecting female migrant workers who 9 experience exploitation or fraud during the migration process. This law combines several types of hum 9 trafficking in which human trafficking aims to exploit a person/ 9 oup of people. Exploitation in the context of human trafficking includes a) sexual exploitation in the form of prostitution or sexual exploitation; b)

exploitation or use of a person's energy to work in the form of forced service, slavery, or practices similar to slavery, oppression including physical use of a person; and c) exploitation of reproductive organs and transplantation of organs or body tissue of a person (Mihardi, 2020).

This exploitation is performed to obtain benefits from the person being exploited through material or immaterial benefits. Law No. 21 of 2007 clearly states that the various exploitations carried out above are crimes in which perpetrators can be punished with criminal penalties. Punishment includes a) Recruit, transporting, harboring, sending, transferring, or receiving someone; b) by the threat of violence, use of force, kidnapping, confinement, forgery, fraud, abuse of power or vulnerable position, debt bondage or providing payments or benefits; c) despite obtaining the consent of the person who has control over another person; d) for exploitative purposes (Vicky & Rahaditya, 2022).

This law also punishes officials who abuse their powers, resulting in trafficking crimes. In the context of non-procedural migrant workers, the practice of man trafficking often occurs through falsifying identities and fraud, which is often carried out with the lure or promise of good work or wages and working conditions that will be provided (Grange, 2005). Abuse or vulnerable positions often occur, such as being provided with funds or bailing out to finance document processing and placement. As shown in the table below:

Table 2 Prohibitions and Sanctions Related to the Opportunity for Non-Procedural Migrant Workers based on Law No. 21 of 2007

No	Arrangement	
	Sentencing	Penalty
1	This law states that the legal subject is every person, which can be individuals and corporations. This law outlines the various exploitations in which the perpetrators can be punished with criminal penalties. Punishment includes people who commit recruiting, transporting, harboring, sending, transferring, or receiving someone with threats of violence, use of violence, kidnapping, confinement, forgery, fraud, abuse of power or a vulnerable position, debt bondage, or providing payments or benefits, despite obtaining the consent of a person who has control over another person for exploitation (Dananjaya, 2020).	Sentenced to a minimum imprisonment of 3 (three) years and a minimum of IDR 120,000,000.00 (one hundred and twenty million rupiah) and a maximum of IDR 600,000,000.00 (six hundred million rupiahs) (Article 2) (Anggreini & Herlina, 2019).
2	This law provides punishment for anyone who takes Indonesian citizens outside the territory of the Republic of Indonesia to exploit them outside the territory of the Republic of Indonesia (Dananjaya, 2020).	Sentenced to imprisonment for a minimum of 3 (three) years and a maximum of 15 (fifteen) years and a fine at least IDR 120,000,000.00 (one hundred and twenty million rupiahs) and a maximum of IDR 600,000,000.00 (six

	hundred million rupiahs) (Article 4) (Nuraeny, 2023).
3 Every person ⁶² who uses or exploits or is a victim of a criminal act of trafficking in persons using sexual intercourse or other ⁴⁴ scene acts with a victim of a criminal act of trafficking in persons employs a victim of a criminal act of trafficking in persons to continue the practice of exploitation ⁴⁴ or takes advantage of the proceeds of a criminal act of trafficking in persons (Article 12) (Eddyono, 2021).	Sentenced with imprisonment as the same as the provisions in Article 2, Article 3, Article 4, Article 5, and Article 6, namely ⁶⁶ imprisonment for a minimum of 3 (three) years and a minimum of IDR 120,000,000.00 (one hundred and twenty million rupiah) and a maximum a lot of IDR 600,000,000.00 (six hundred million rupiahs) (Article 12) (Nuraeny, 2023).
4 Every person who plans or carries out an evil conspiracy to commit the crime of trafficking in persons (Article 11) (Eddyono, 2021).	Sentenced to imprisonment ²³ is the same as the provisions in Article 2, Article 3, Article 4, Article 5, and Article 6 (Nuraeny, 2023).
5 This law also explains other criminal acts related to trafficking in persons, namely for every person who provides or enters false information in state documents or other documents or falsifies state ³⁸ documents or other documents to facilitate the crime of trafficking in persons (Eddyono, 2021).	¹³ ntenced to imprisonment for a ³⁹ minimum of 1 (one) year and a maximum of 7 (seven) years and a fine of at least IDR 40,000,000.00 (forty million rupiahs) and a maximum of IDR 280,000,000.00 (two hundred and eighty million rupiahs) (Article 19) (Nuraeny, 2023).
6 Any person who gives false testimony presents false evidence or false evidence or unlawfully influences witnesses at a court hearing for the Crime of Human Trafficking (Eddyono, 2021).	¹³ ntenced to imprisonment for a ³⁹ minimum of 1 (one) year and a maximum of 7 (seven) years and a fine of at least ¹⁶ IDR 40,000,000.00 (forty million rupiahs) and a maximum of IDR 280,000,000.00 (two hundred and eighty million rupiahs) (Article 20) (Nuraeny, 2023).
7 Any person who intentionally prevents obstructs, or thwarts, directly or indirectly, the investigation, prosecution, and examination at the trial of a suspect, defendant, or witness in the Crime of Human Trafficking case (Anggreini & Herlina, 2019).	¹³ ntenced to imprisonment for a ⁵ minimum of 1 (one) year and a maximum of 5 (five) years and a fine of at least IDR 40,000,000.00 (forty million rupiahs) and a maximum of IDR 20,000,000.00 (two hundred million rupiahs) (Article 22) (Anggreini & Herlina, 2019).

8	Consent of victims of human trafficking does not eliminate prosecution for criminal acts of human trafficking (Article 26) (Eddyono, 2021).
9	The perpetrator of the criminal act of trafficking in persons loses his right to collect debts or other agreements against the victim if the debt or other agreement is used to exploit the victim (Article 27) (Eddyono, 2021).

Source: Eddyono (2021), Anggreini & Herlina (2019), Nuraeny (2023), and Dananjaya (2020) (Data Processed, 2024)

Based on Table 2, sanctions related to individuals or corporations that have the opportunity to send non-procedural migrant workers based on Law No. 21 of 2007 are subject to criminal sanctions with a minimum of 3 (three) years in prison and a minimum of IDR 120,000,000.00 (one hundred and twenty million rupiahs) and a maximum of IDR 600,000,000.00 (six hundred million rupiahs). Meanwhile, individuals or corporations that are proven to have assisted to facilitate the crime of human trafficking can be punished with a minimum of 1 (one) year in prison and a maximum of 7 (seven) years and a fine of at least IDR 40,000,000.00 (forty million rupiah) and a maximum of IDR 280,000,000.00 (two hundred and eighty million rupiah). Not only the Law but Law No. 6 of 2011 concerning immigration also regulates sanctions related to the opportunity to send non-procedural migrant workers. This is explained in more detail in the following table:

Table 3 Prohibitions and Sanctions Related to the Opportunity for Non-Procedural Migrant Workers in Law No. 6 of 2011 concerning Immigration

No	Arrangement	
	Sentencing	Sentencing
1	This law regulates immigration crimes, including transnational crimes, which include smuggling and human trafficking. Immigration crimes that are related to the issue of non-procedural female migrant workers include unprocedural entry or exit without going through an immigration inspection (Nuraeny, 2023).	Sentenced to a maximum imprisonment of 1 (one) year or a maximum fine of IDR 100,000,000.00 (one hundred million rupiahs) (Article 113) (Nuraeny, 2023).
2	This law imposes penalties on those responsible for transportation who enter or leave Indonesian territory with means of transportation that do not go through immigration checkpoints. This can be experienced by non-regular migrant workers who use their means of transportation (Anggreini & Herlina, 2019).	Sentenced to a maximum imprisonment of 1 (one) year or a maximum fine of IDR 100,000,000.00 (one hundred million rupiahs) (Article 114) (Anggreini & Herlina, 2019).

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- 3 The Immigration Law elaborates on crimes related to travel documents (Articles 123-130), which include:
- a. Make fake or falsified travel documents, Visas Entry Certificates, or Stay Permits;
 - b. Using false or falsified Travel Documents;
 - c. Providing invalid data or incorrect information to obtain Travel Documents;
 - d. Have or use 2 (two) or more Republic of Indonesia Travel Documents of the same type, and all of them are still valid;
 - e. Forging or creating false Travel Documents;
 - f. Keeping fake or falsified Travel Documents to use them yourself or someone else;
 - g. Damage, change, add, reduce, or remove, either in whole or in part, the information or stamps contained in the Travel Document;
 - h. Mastering other people's travel documents (Eddyono, 2021).
-
- a. Making fake or falsifying travel documents, Visa Entry Certificates or Stay Permits is punishable by a maximum imprisonment of 5 (five) years and a maximum fine of IDR 500,000,000.00 (five hundred million rupiahs) (Article 123);
 - b. Providing invalid data or incorrect information to obtain Travel Documents is subject to a maximum imprisonment of 5 (five) years and a maximum fine of IDR 500,000,000.00 (five hundred million rupiahs) (Article 126 letter c);
 - c. Possessing or using 2 (two) or more Republic of Indonesia Travel Documents of the same type and all of them are still valid is subject to a maximum imprisonment of 5 (five) years and a maximum fine of IDR 500,000,000.00 (five hundred million rupiahs) (Article 126 letter d);
 - d. Keeping false or falsified travel documents to use them yourself or someone else is punishable by imprisonment for a maximum of 5 (five) years and a fine of a maximum of IDR 500,000,000.00 (five hundred million rupiahs) (Article 127);
 - e. Keeping false or falsified travel documents is punishable by a maximum imprisonment of 5 (five) years and a maximum fine of IDR 500,000,000.00 (five hundred million rupiahs) (Article 128);
 - f. Tampering with, changing, adding to, reducing or removing, in whole or in part, information or stamps contained in a Travel Document is punishable by a maximum imprisonment of 5 (five) years and a maximum fine of IDR 500,000,000.00 (five hundred million rupiahs) (Article 129);
-

g. Possessing another person's travel documents is punishable by a maximum imprisonment of 2 (two) years or a maximum fine of IDR 200,000,000.00 (two hundred million rupiahs) (Article 130) (Eddyono, 2021).

Source: Eddyono (2021), Anggreini & Herlina (2019), and Nuraeny (2023)
(Data Processed, 2024)

Based on Table 3, Law no. 6 of 2011 concerning immigration regulates procedures for crossing Indonesian borders, the requirements for crossing Indonesian borders, including documents required to be owned, the process of obtaining records, and the authority of immigration, including revoking travel documents. In the context of women's non-regular migrant workers, there are regulations regarding preventive measures, repressive measures, and criminal regulations for attempts to smuggle and trade people across national borders. Punishment is regulated in this law for immigration crimes, including transnational crimes such as smuggling and trafficking. Immigration crimes connected to the issue of women non-regular migrant workers include unprocedural entry or exit without going through an immigration inspection (Article 113). This law elaborates many crimes related to travel documents, which include (Articles 123-130) including making fake or falsifying travel documents, Visas or Entry Certificates, or Stay Permits: a) using fake or falsified Travel Documents, b) providing invalid data or incorrect information to obtain Travel Documents, c) have or use 2 (two) or more Republic of Indonesia Travel Documents of the same type and all of them are still valid, d) falsify or create false Travel Documents, e) keeping false or falsified Travel Documents, f) destroy, change, add, reduce, or remove, either in whole or in part, the information or stamps contained in the Travel Document, and g) control other people's travel documents (Anggreini & Herlina, 2019).

Some of the prohibitions also emphasize crimes committed to oneself or others. This means that this law could enforce female non-regular migrant workers on travel documents or other parties who hold migrant worker travel documents (Khalid & Savirah, 2022). Regarding cross-border smuggling crimes, the Immigration Law regulates the criminal act of smuggling as an act aimed at seeking profit, either directly or indirectly, for oneself or another person by bringing a person or group of people, organized or unorganized, or ordering another person to bring a person or group of people, whether organized or unorganized, into the Indonesian Territory or out of the Indonesian Territory and/or into the territory of another country, where the person does not have the right to enter the territory legally, either by using valid documents, fake documents, or without using Travel Documents (Mahardika & Wicaksono, 2020).

Important elements in smuggling are a) the aim of making a profit, b) bringing or ordering people, individually or in groups, c) leaving or entering Indonesian Territory, d) with the situation, and d) not having legal rights/valid or fake documents/or without travel documents. Smuggling in the law, referring to Bassiouni, emphasizes illegal entry. Valid documents are important in smuggling. The sanctions vary unprocedural entry or exit without going through immigration inspection and means of transport that carry transportation as a mode of smuggling is punished with an alternative crime, namely imprisonment for a maximum of one year or a maximum fine of 100 million. Crimes related to documents are punished with an accumulative sentence, namely, a maximum of five years in prison and a fine of 500 million rupiah (Daud & Sopoyono, 2019).

Law in Indonesia does not make the existence of non-procedural migrant workers explicit but prevents the existence of non-procedural migrant workers by making prohibitions contained in different laws, both in the Human Trafficking Law, the Immigration Law, and the PPMI Law (Yuliani & Rasalwati, 2020). The three existing regulations stipulate that perpetrators violate the prohibition of both individual and corporate actors. The acts regulated are varied, but in the three laws, some acts are regulated, namely, providing false information, falsifying or creating fake travel documents, and entering or leaving without documents. In the Human Trafficking Law, this act is placed as part of the human trafficking act, whereas in the PPMI Law, the act can be a separate crime. In contrast, in the Immigration Law, it is placed either as a separate crime or a crime combined with a practice of smuggling or human trafficking.

However, since the existence of the Human Trafficking Law, the focus of the government and law enforcement has been more on handling sexual exploitation rather than on human trafficking in the context of labor exploitation. Before the Human Trafficking Law came into existence, Presidential Decree Number 88 of 2002 on the National Action Plan for the Elimination of Trafficking in Women and Children also laid down the framework for human trafficking not only in the context of prostitution, but also adopted legal and illegal migrant workers' children, mail-order brides, domestic servants, begging, pornography, drug trafficking, organ sales, and other forms of exploitation.

Based on Bal and Palmer's analysis (2020), protection for Indonesian Migrant Workers (PMI) is needed, which is very important for the government to pay attention to, legally and illegally. One of the efforts the government will implement to protect the PMI is to start by making a bilateral agreement with a country that the PMI will target. The agreement made through negotiations between countries will later result in a Memorandum of Understanding (MoU). Although an MoU has been made that has been agreed upon by both parties between countries, the problems received by PMI still occur very often. In addition to the MoU agreement, the Indonesian government drafts laws and regulations concerning employment standards. The government has implemented several ways to collaborate with various government agencies, local governments and central governments, to overcome problems that occur with PMI. The government has stipulated Law Number 18 of 2017 concerning protecting Indonesian Migrant Workers. It includes social security protection implemented by insurance companies and joined insurance companies through forms of protection consisting of pre-placement, during placement, and post-placement.

CONCLUSION

A migrant worker is someone who looks for work outside the country intending to earn income for daily life within a time limit determined following the work agreement. Every year, interest in PMI increases both procedurally and non-procedurally, resulting in increasing problems faced by PMI, such as violence, human trafficking, the death of migrant workers in destination countries, and the recruitment of undocumented or illegal workers. Non-procedural PMI placement is caused by several factors, such as low education, limited employment opportunities in the country, high levels of poverty, limited access to information/lack of public understanding of PMI placement and protection procedures, persuasion, and sweet promises such as getting a high salary with a practical process, including the presence of brokers. Meanwhile, the increase in people/individuals involved in non-procedural PMI placement practices is due to economic factors; namely, the perpetrators receive a fairly large commission or service fee from each person who is sent, the perpetrators have a consumerist lifestyle, the educational conditions and knowledge of the victim's

family, and the victim's economic limitations. Several violations were committed by the Indonesian Migrant Worker Placement Company (PMI), namely: 1) Placement fees that were too high (overcharging); 2) falsifying the identity of Indonesian Migrant Workers (PMI); and 3) Indonesian Migrant Workers (PMI) do not receive enough job training. Furthermore, perpetrators of non-procedural PMI placements can be charged under Law Number 18 of 2017 concerning PPMI. They can also be subject to Law Number 21 of 2007 concerning the Eradication of the Crime of Human Trafficking and imprisonment or fines.

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About the authors

Tanti Kirana Utami is an Associate Professor in the field of Law and currently actively teaches at the Faculty of Law, Universitas Suryakancana. Apart from that, she is actively a partner with the regional government to resolve several legal problems in the region, especially with aspects of legal administration. She has also produced several books and scientific articles from his research on Law.

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Data availability statement

The data supporting this study's findings are available from the corresponding author, upon reasonable request.

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