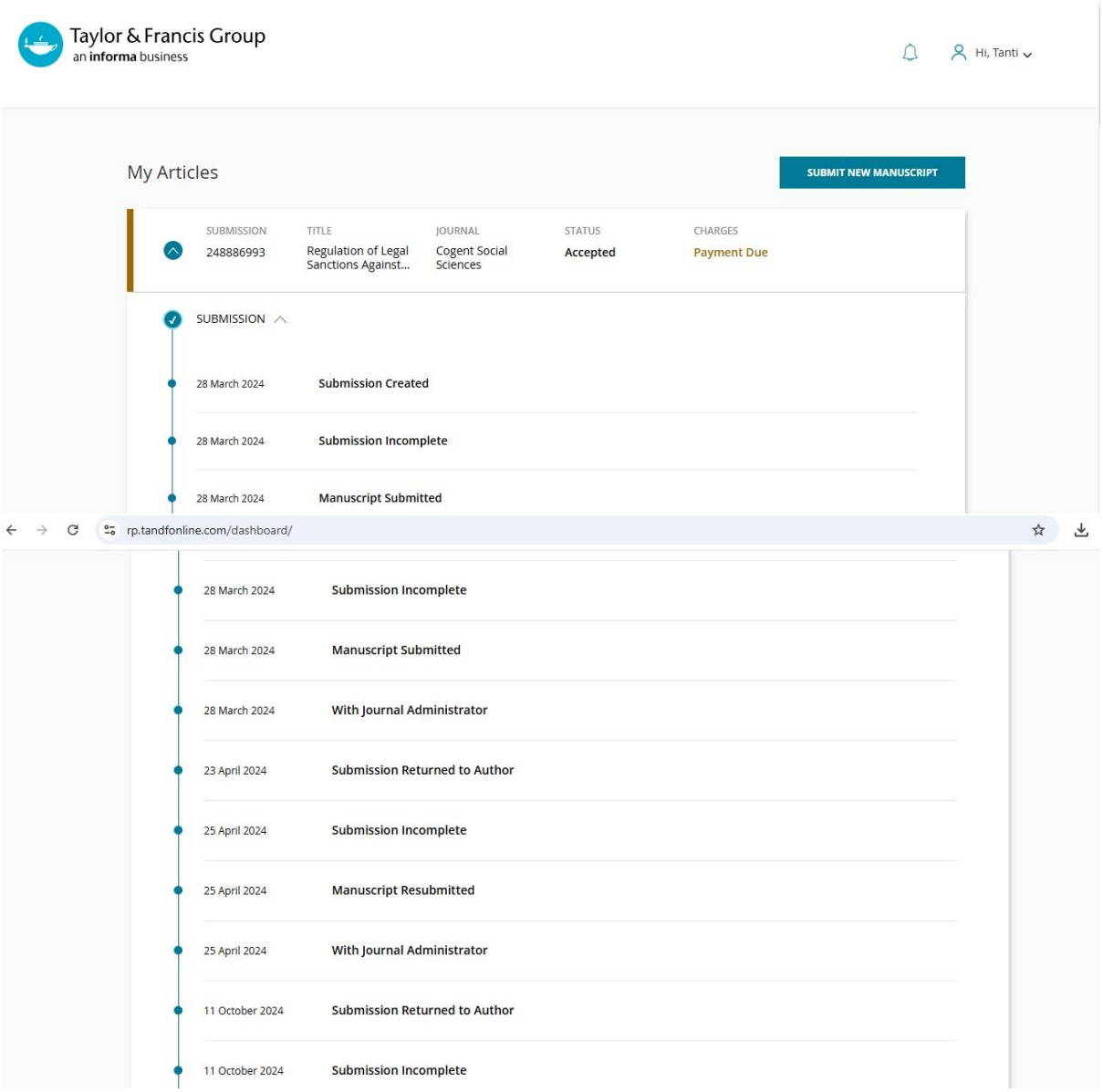
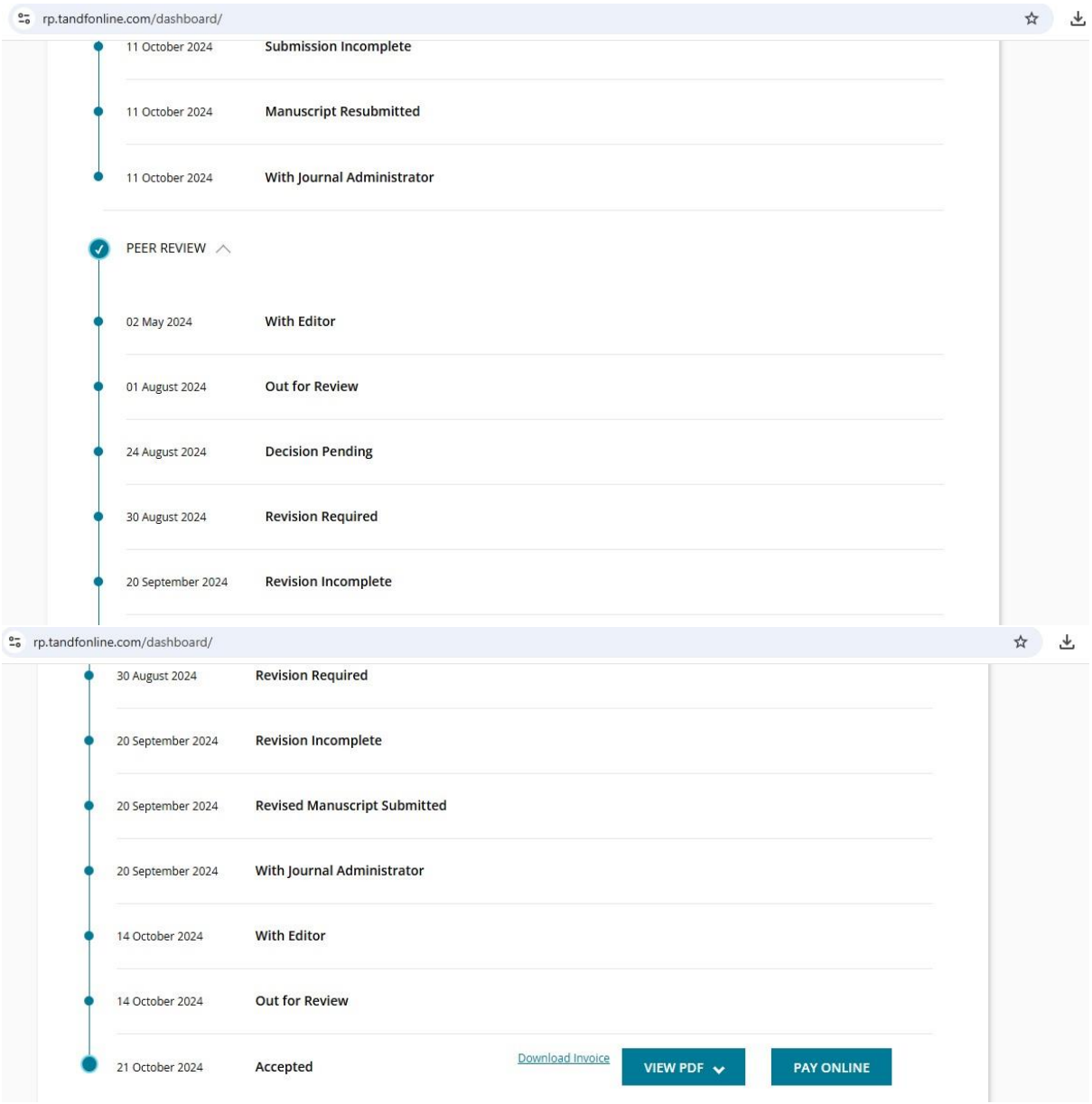
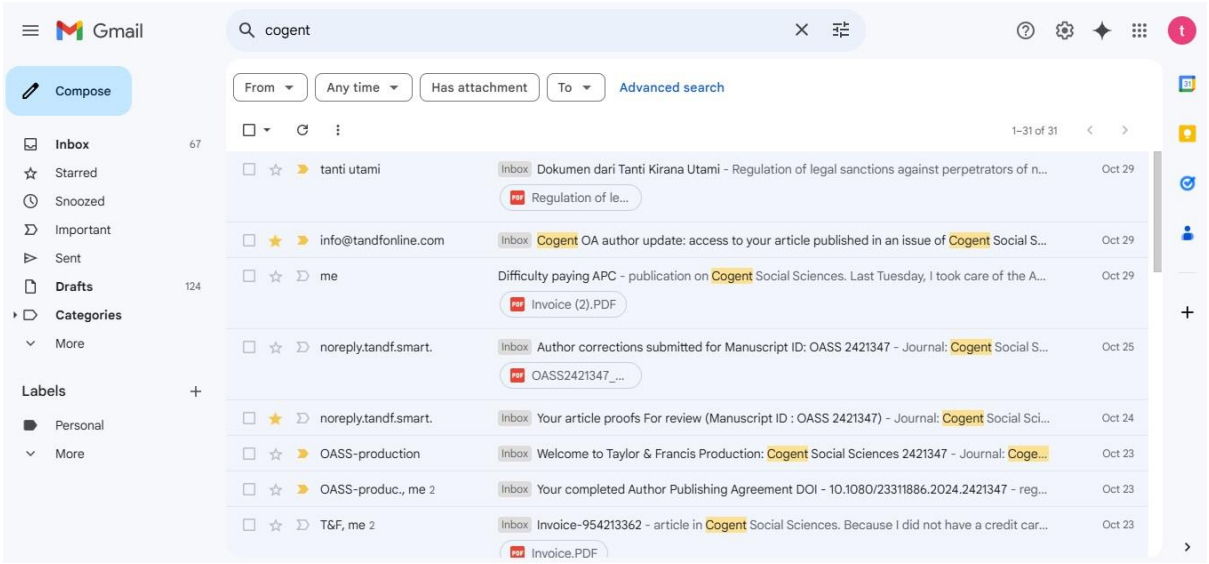
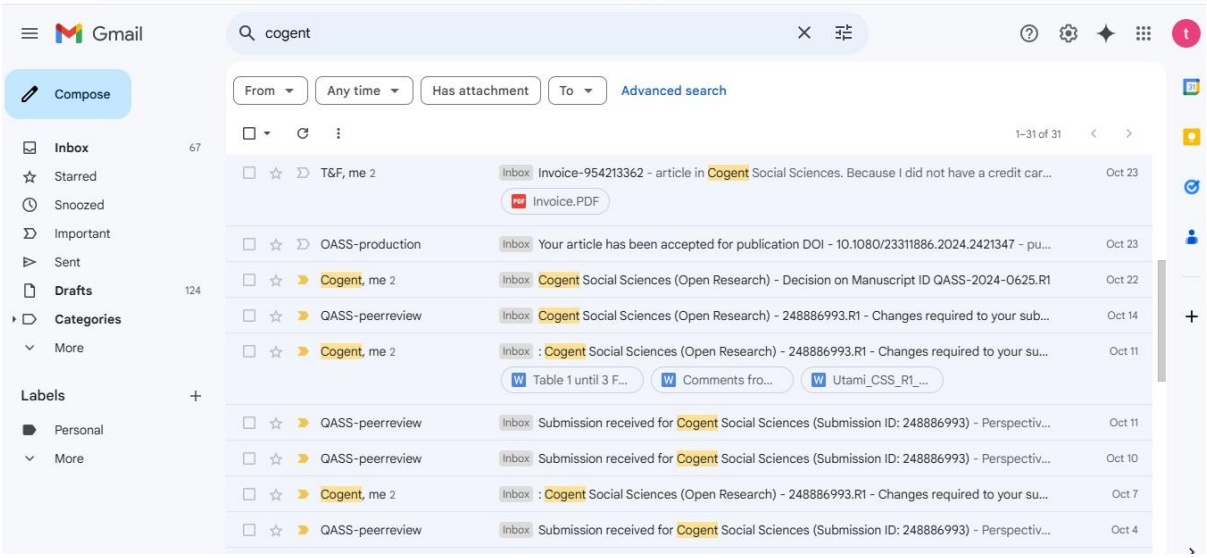
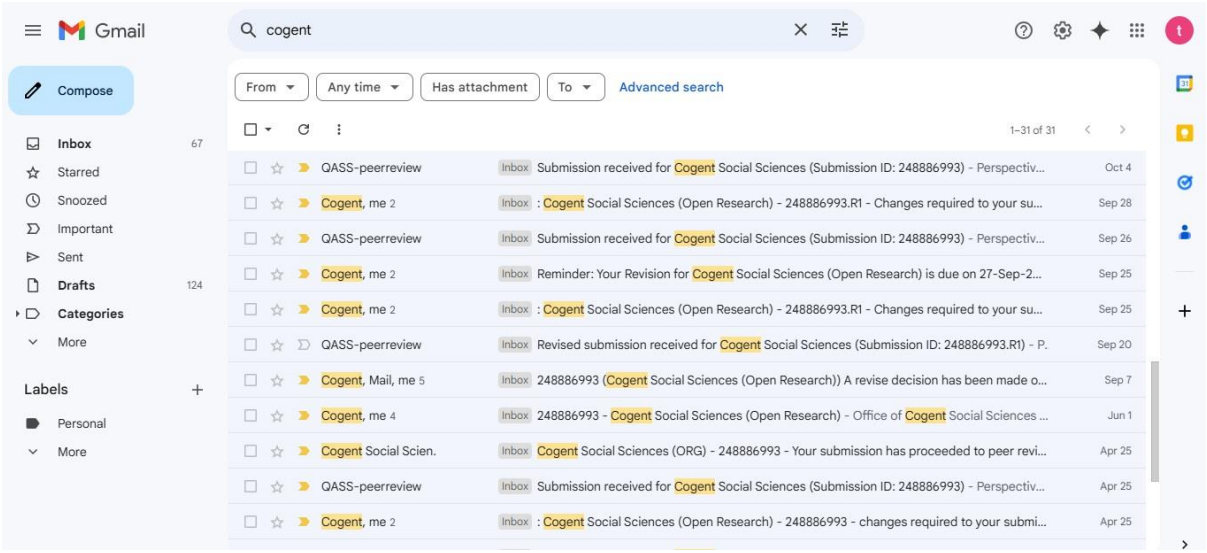

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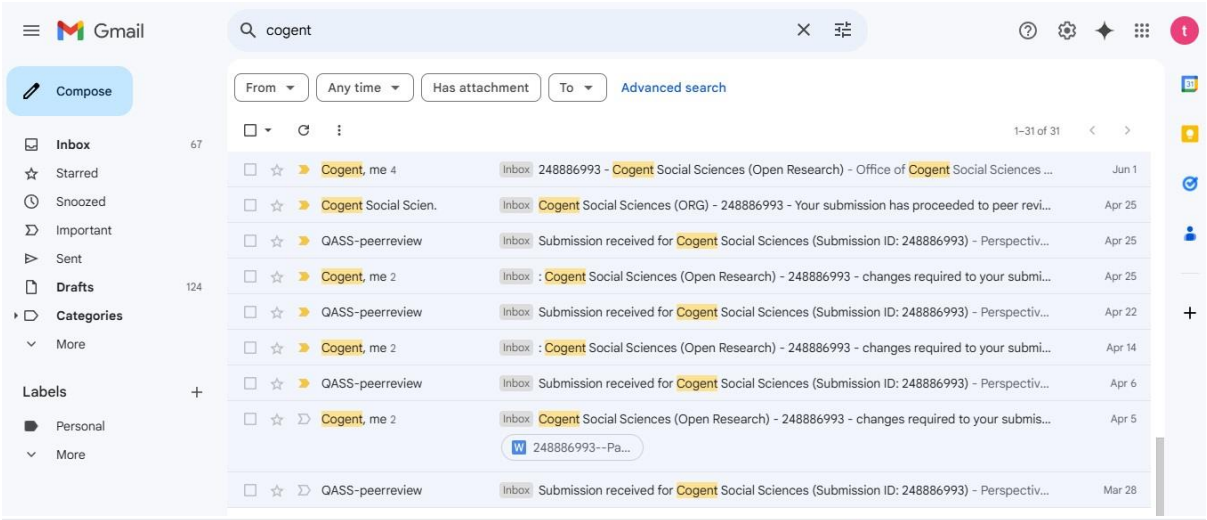

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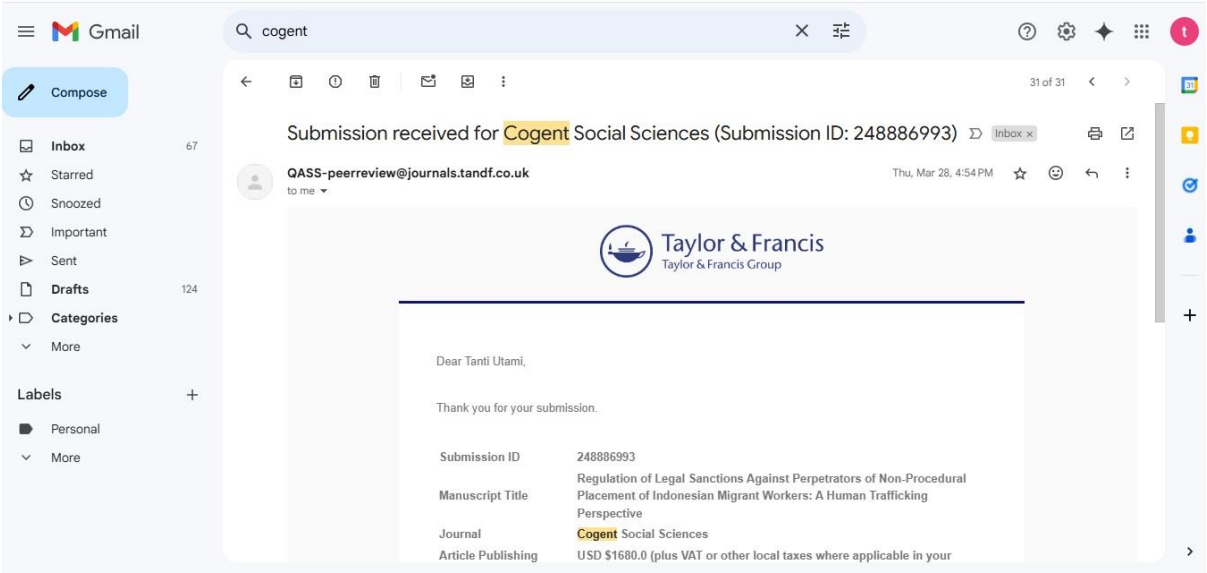
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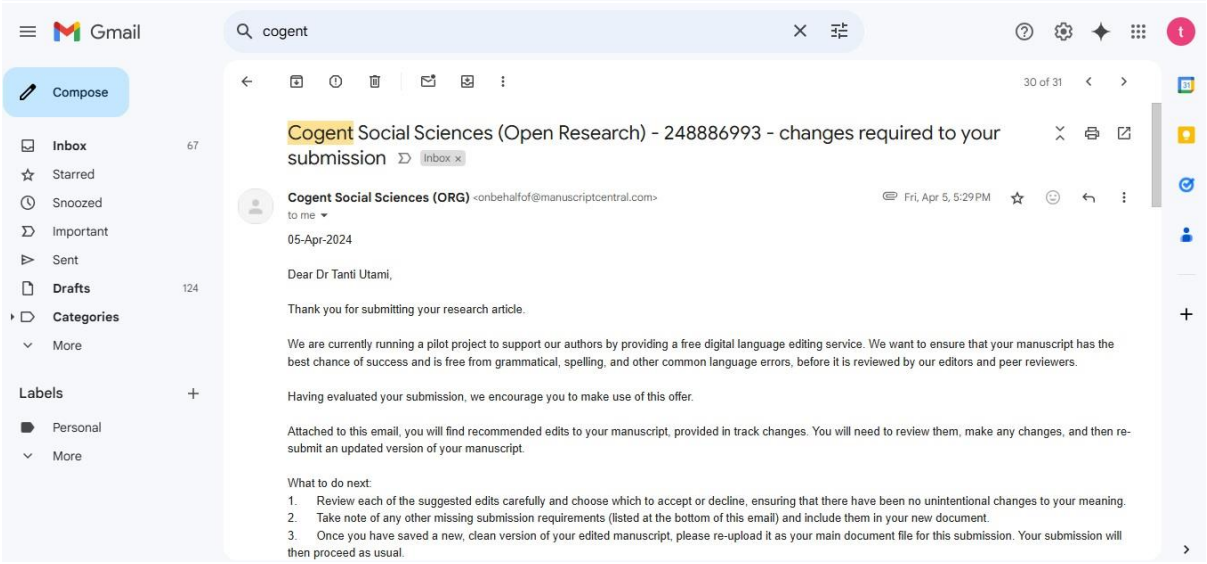

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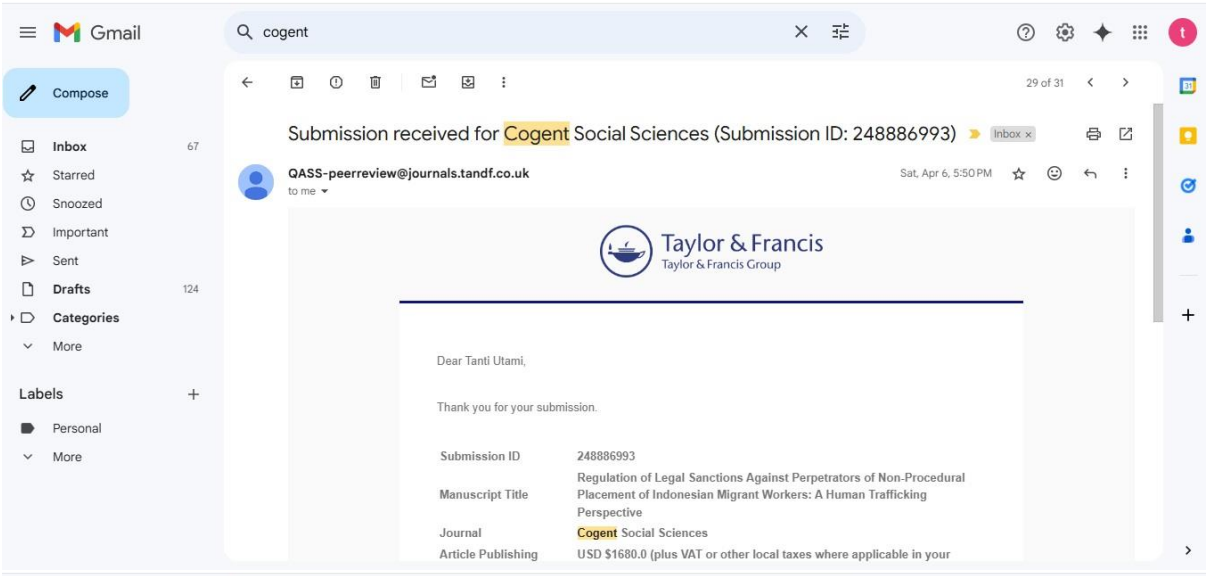
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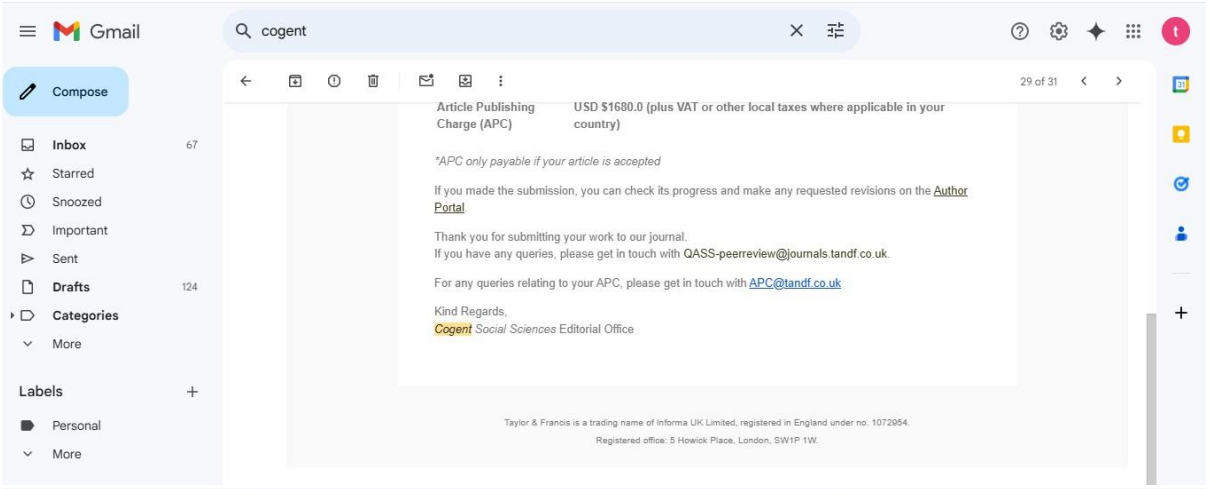
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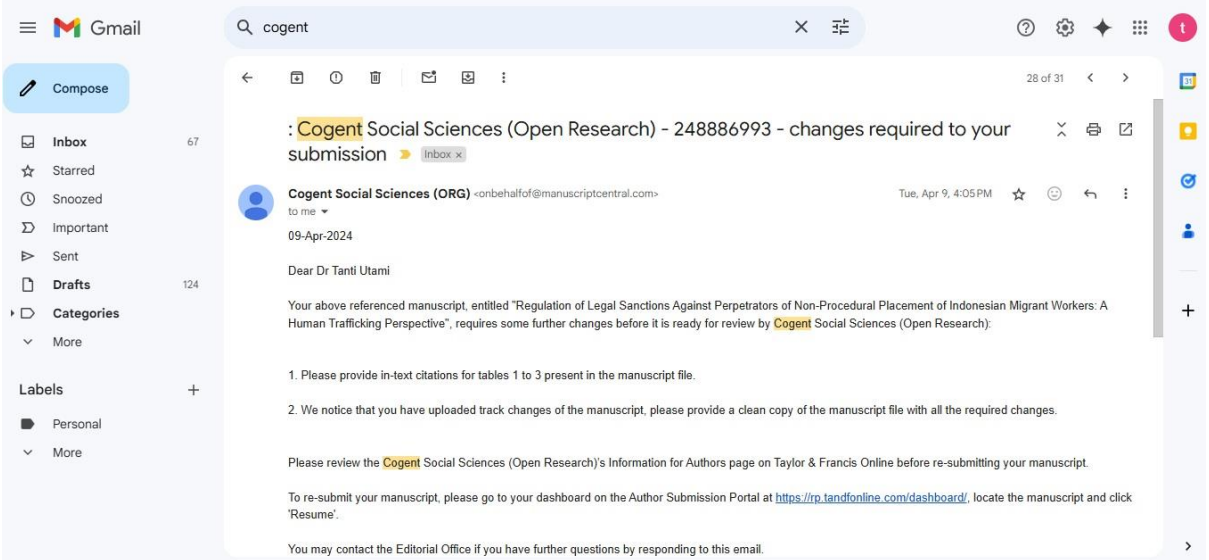
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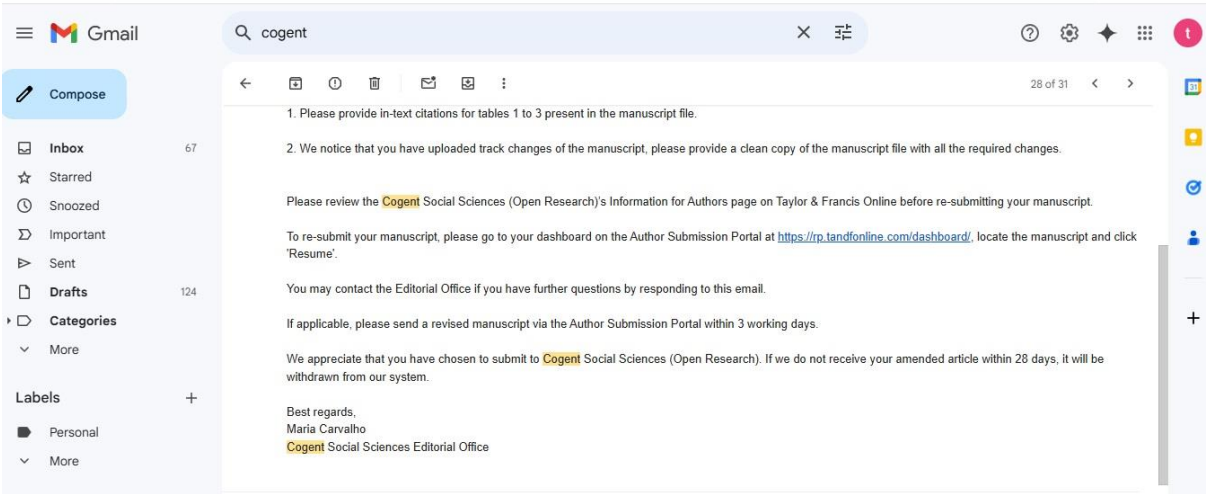


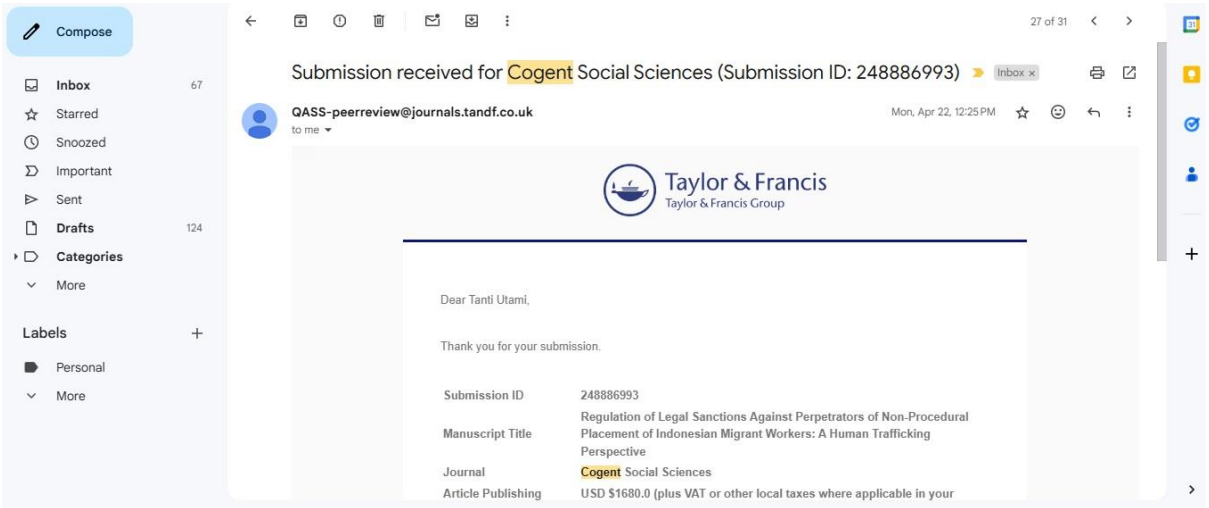
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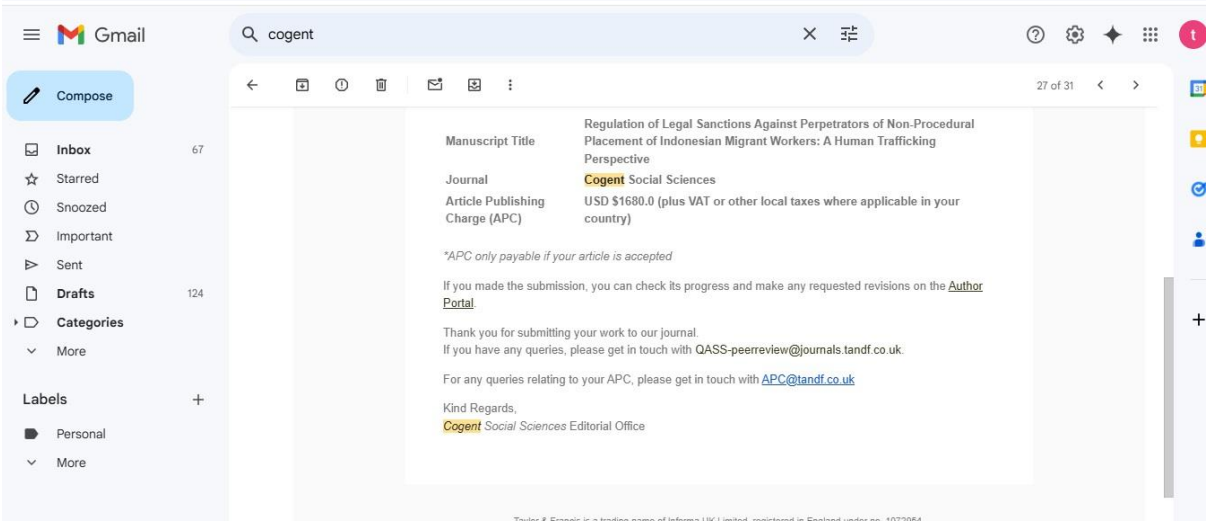

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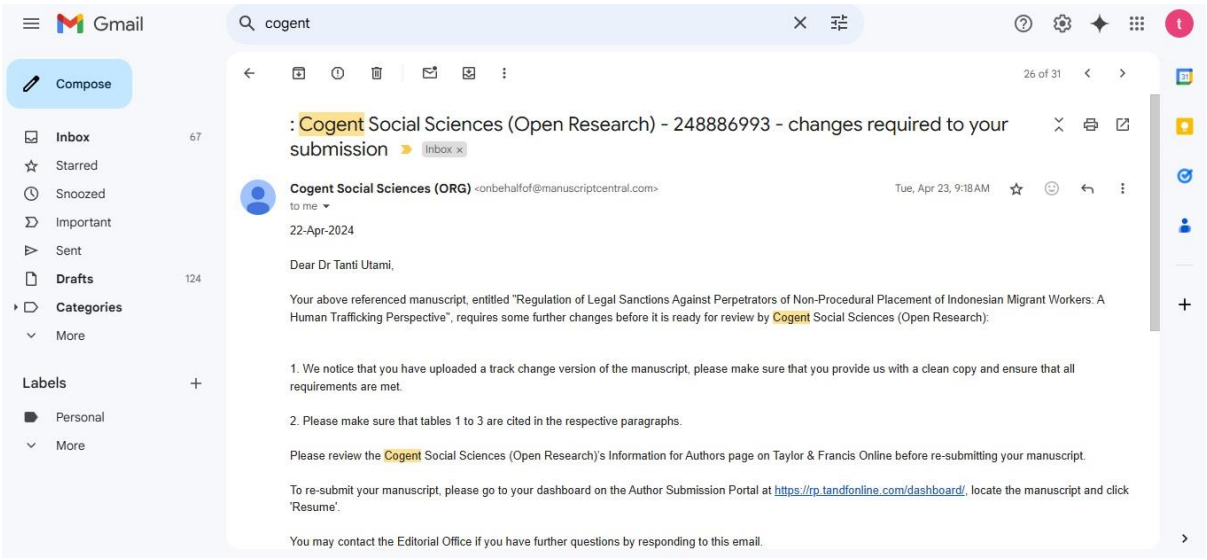

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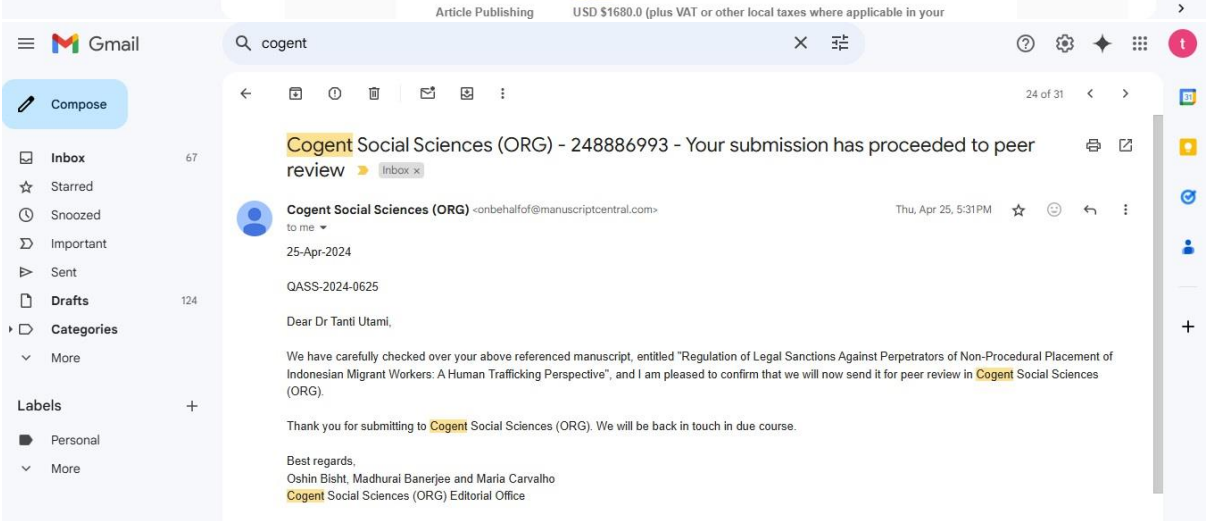

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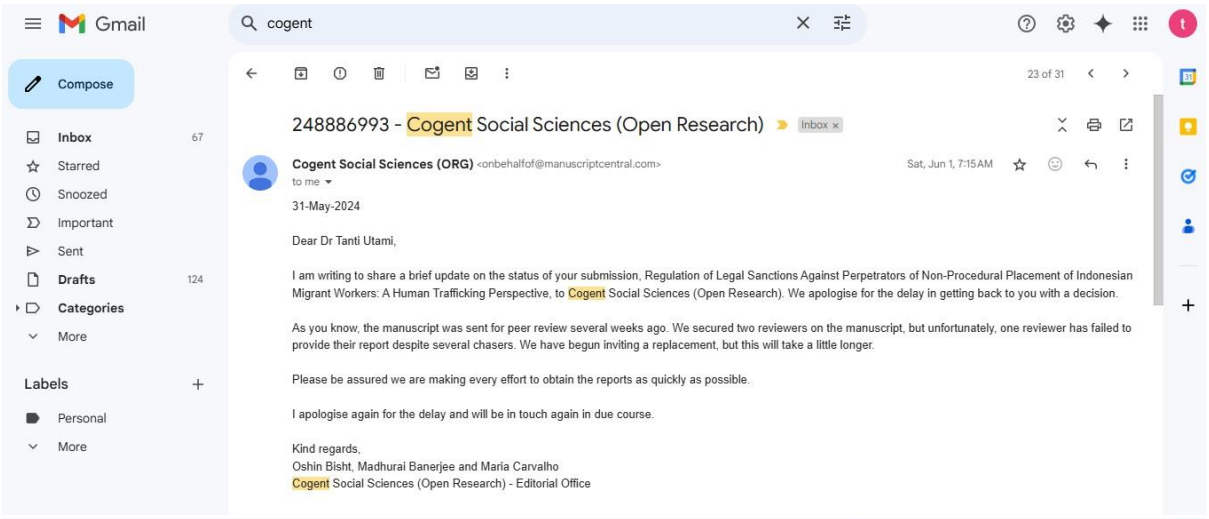

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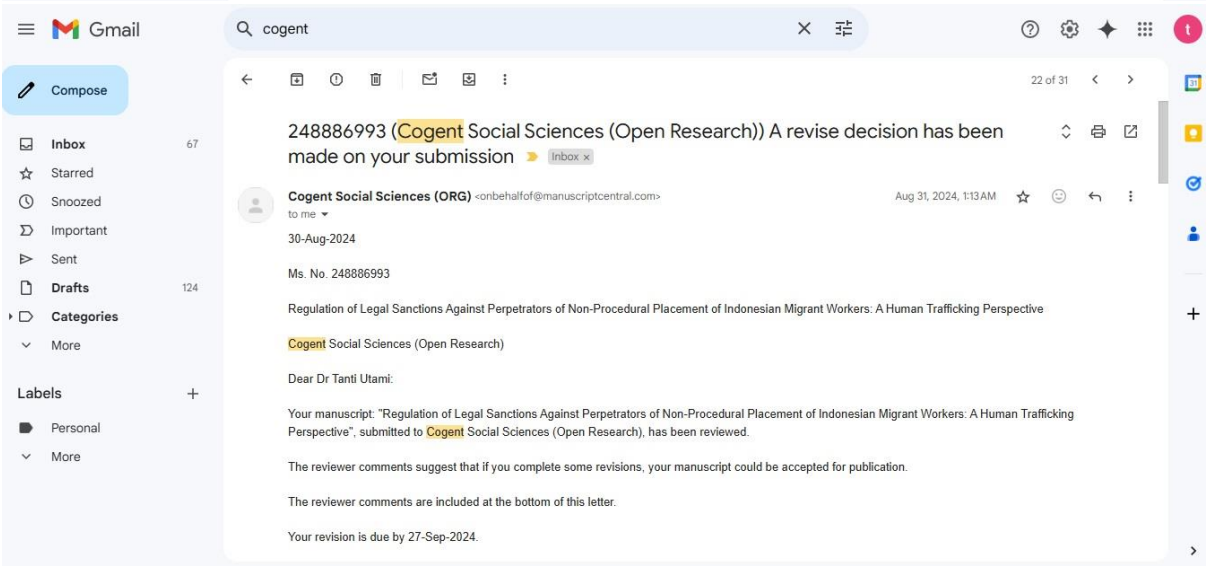

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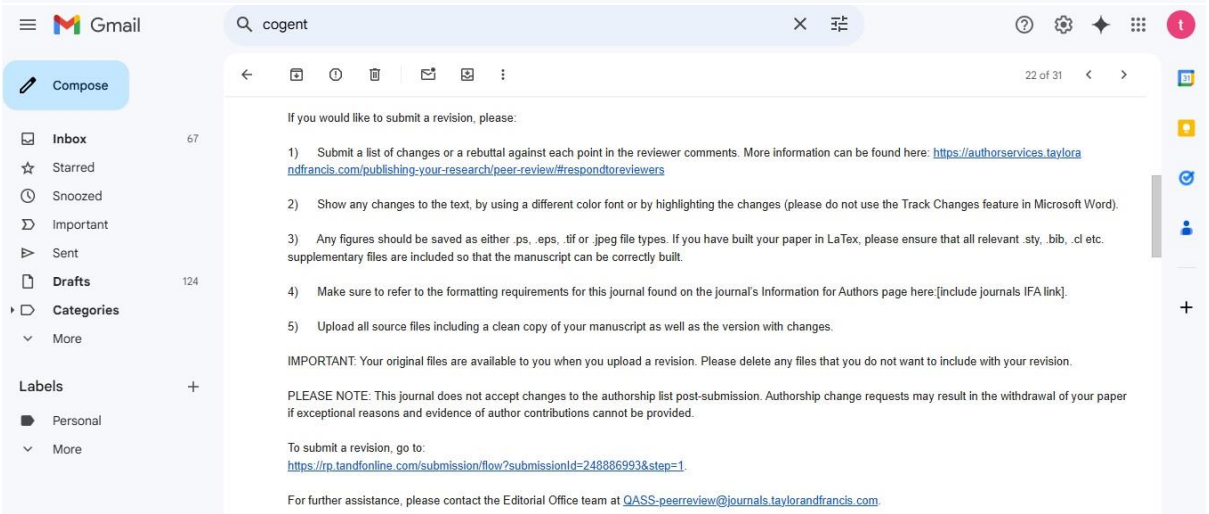

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Tue, Apr 23, 9:18 AM
22-Apr-2024
Dear Dr Tanti Utami,
Your above referenced manuscript, entitled "Regulation of Legal Sanctions Against Perpetrators of Non-Procedural Placement of Indonesian Migrant Workers: A Human Trafficking Perspective", requires some further changes before it is ready for review by Cogent Social Sciences (Open Research):
1. We notice that you have uploaded a track change version of the manuscript, please make sure that you provide us with a clean copy and ensure that all requirements are met.
2. Please make sure that tables 1 to 3 are cited in the respective paragraphs.
Please review the Cogent Social Sciences (Open Research)'s Information for Authors page on Taylor & Francis Online before re-submitting your manuscript.
To re-submit your manuscript, please go to your dashboard on the Author Submission Portal at https://rp.tandfonline.com/dashboard/, locate the manuscript and click 'Resume'.
You may contact the Editorial Office if you have further questions by responding to this email.

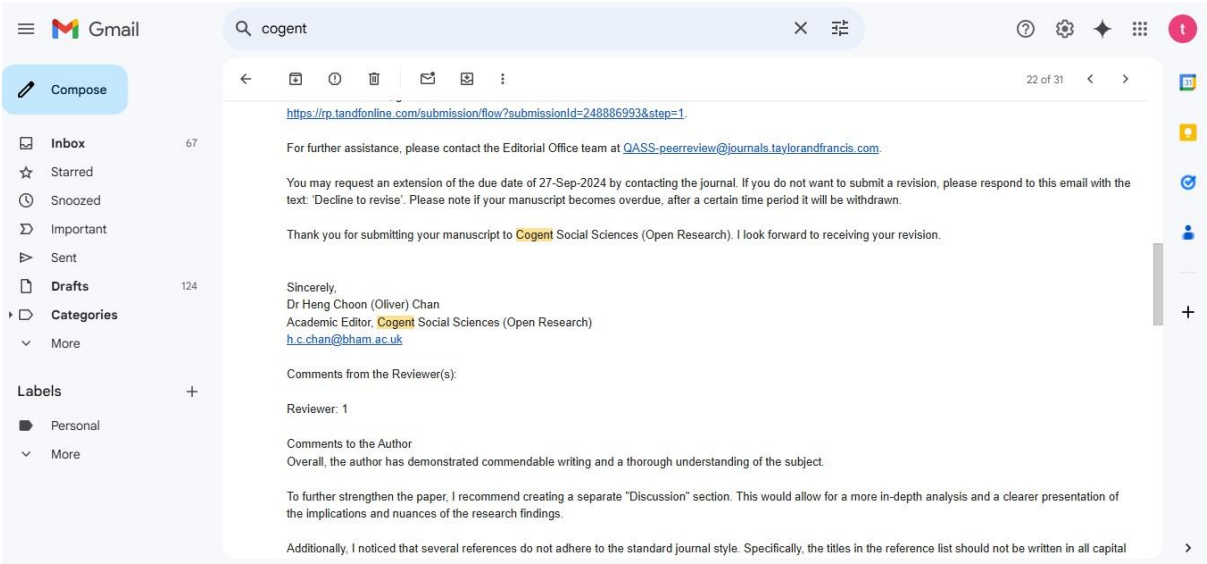

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Submission received for Cogent Social Sciences (Submission ID: 248886993)
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Thu, Apr 25, 11:21 AM
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Dear Tanti Utami,
Thank you for your submission.
Submission ID 248886993
Manuscript Title Regulation of Legal Sanctions Against Perpetrators of Non-Procedural Placement of Indonesian Migrant Workers: A Human Trafficking Perspective
Journal Cogent Social Sciences
Article Publishing USD $1680.0 (plus VAT or other local taxes where applicable in your

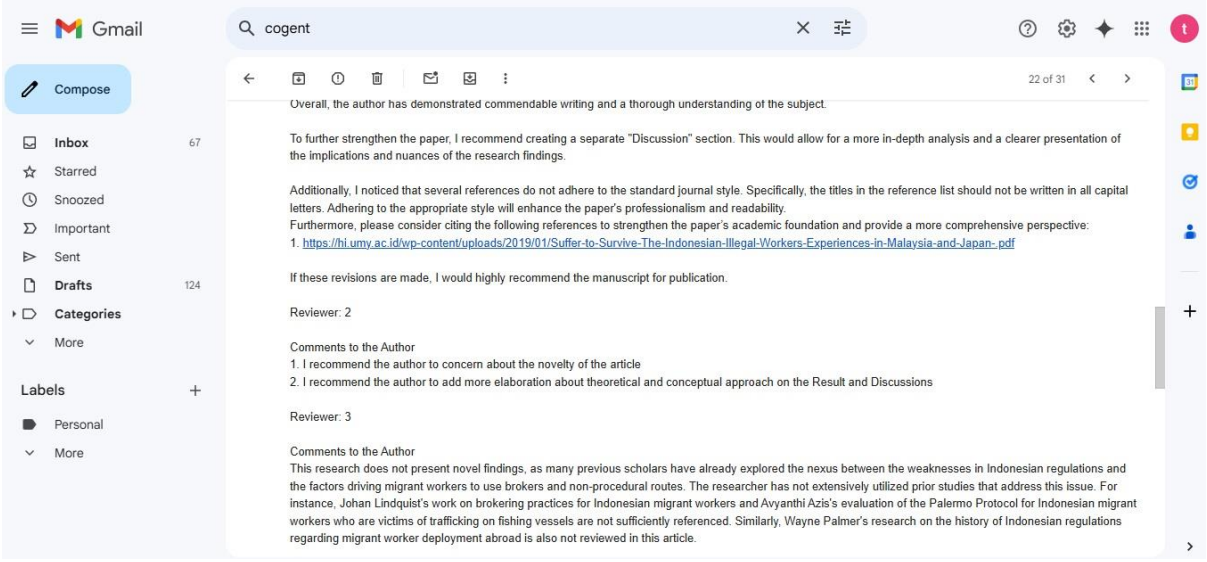

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Cogent Social Sciences (ORG) - 248886993 - Your submission has proceeded to peer review
Inbox ×
Cogent Social Sciences (ORG) <onbehalfof@manuscriptcentral.com>
to me
Thu, Apr 25, 5:31 PM
25-Apr-2024
QASS-2024-0625
Dear Dr Tanti Utami,
We have carefully checked over your above referenced manuscript, entitled "Regulation of Legal Sanctions Against Perpetrators of Non-Procedural Placement of Indonesian Migrant Workers: A Human Trafficking Perspective", and I am pleased to confirm that we will now send it for peer review in Cogent Social Sciences (ORG).
Thank you for submitting to Cogent Social Sciences (ORG). We will be back in touch in due course.
Best regards,
Oshin Bisht, Madhurai Banerjee and Maria Carvalho
Cogent Social Sciences (ORG) Editorial Office

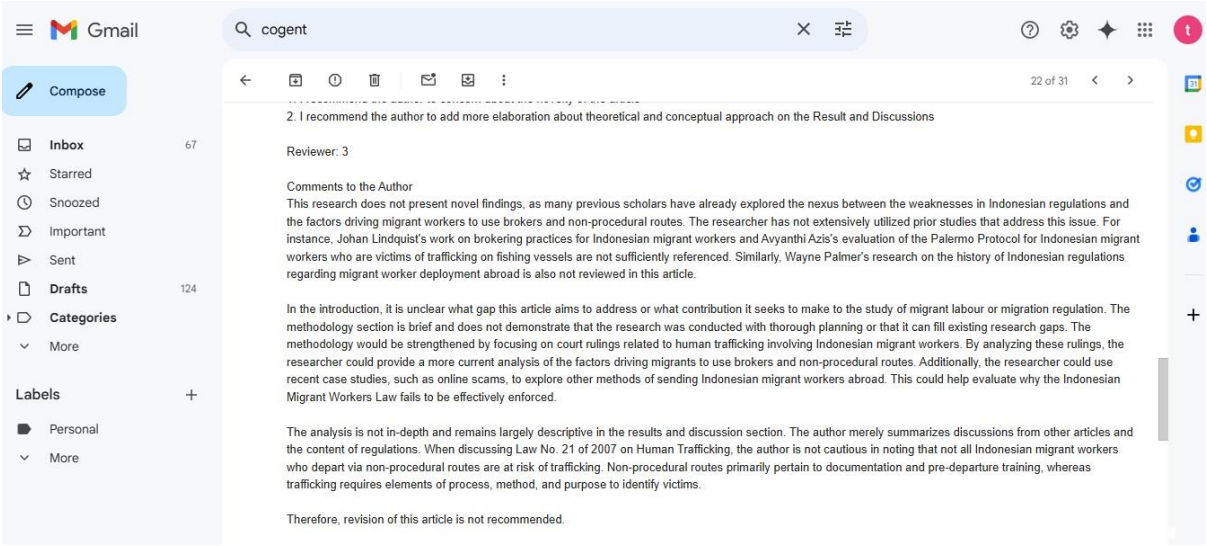

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248886993 - Cogent Social Sciences (Open Research)
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Cogent Social Sciences (ORG) <onbehalfof@manuscriptcentral.com>
to me
Sat, Jun 1, 7:15 AM
31-May-2024
Dear Dr Tanti Utami,
I am writing to share a brief update on the status of your submission, Regulation of Legal Sanctions Against Perpetrators of Non-Procedural Placement of Indonesian Migrant Workers: A Human Trafficking Perspective, to Cogent Social Sciences (Open Research). We apologise for the delay in getting back to you with a decision.
As you know, the manuscript was sent for peer review several weeks ago. We secured two reviewers on the manuscript, but unfortunately, one reviewer has failed to provide their report despite several chasers. We have begun inviting a replacement, but this will take a little longer.
Please be assured we are making every effort to obtain the reports as quickly as possible.
I apologise again for the delay and will be in touch again in due course.
Kind regards,
Oshin Bisht, Madhurai Banerjee and Maria Carvalho
Cogent Social Sciences (Open Research) - Editorial Office

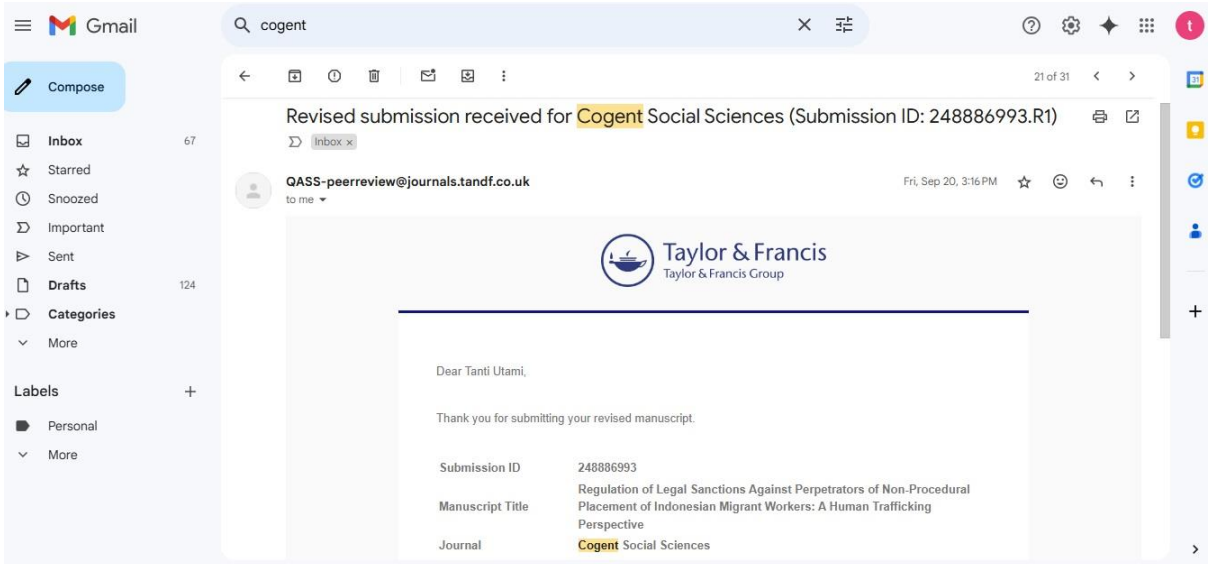

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248886993 (Cogent Social Sciences (Open Research)) A revise decision has been made on your submission
Inbox ×
Cogent Social Sciences (ORG) <onbehalfof@manuscriptcentral.com>
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Aug 31, 2024, 1:13 AM
30-Aug-2024
Ms. No. 248886993
Regulation of Legal Sanctions Against Perpetrators of Non-Procedural Placement of Indonesian Migrant Workers: A Human Trafficking Perspective
Cogent Social Sciences (Open Research)
Dear Dr Tanti Utami:
Your manuscript: "Regulation of Legal Sanctions Against Perpetrators of Non-Procedural Placement of Indonesian Migrant Workers: A Human Trafficking Perspective", submitted to Cogent Social Sciences (Open Research), has been reviewed.
The reviewer comments suggest that if you complete some revisions, your manuscript could be accepted for publication.
The reviewer comments are included at the bottom of this letter.
Your revision is due by 27-Sep-2024.

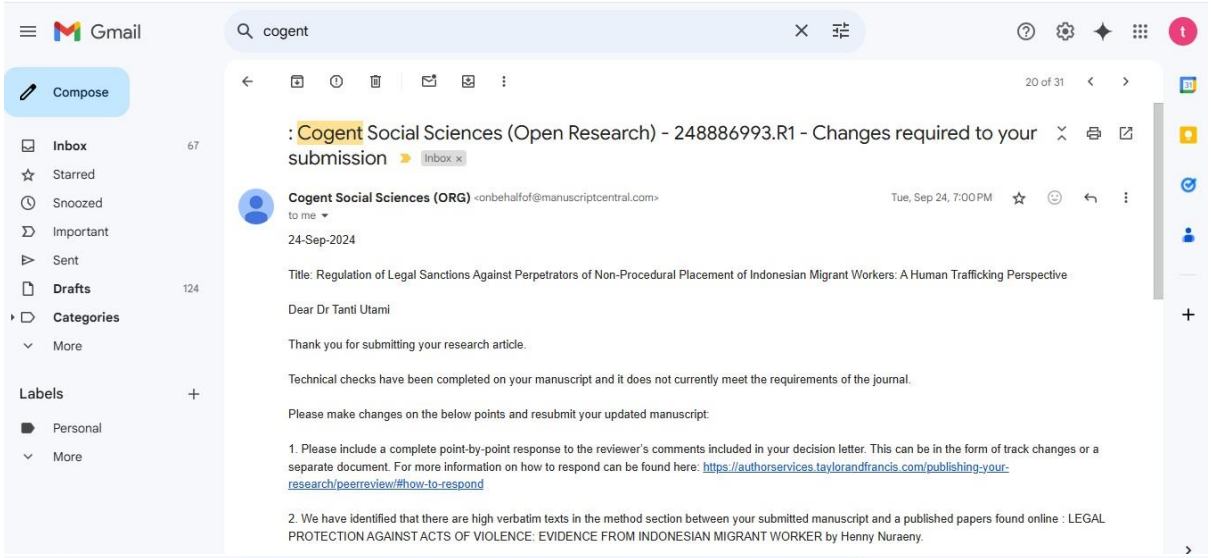

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If you would like to submit a revision, please:
1) Submit a list of changes or a rebuttal against each point in the reviewer comments. More information can be found here: https://authorservices.taylorandfrancis.com/publishing-your-research/peer-review/#respondtoreviewers
2) Show any changes to the text, by using a different color font or by highlighting the changes (please do not use the Track Changes feature in Microsoft Word).
3) Any figures should be saved as either .ps, .eps, .tif or .jpeg file types. If you have built your paper in LaTex, please ensure that all relevant .sty, .bib, .cl etc. supplementary files are included so that the manuscript can be correctly built.
4) Make sure to refer to the formatting requirements for this journal found on the journal's Information for Authors page here:[include journals IFA link].
5) Upload all source files including a clean copy of your manuscript as well as the version with changes.
IMPORTANT: Your original files are available to you when you upload a revision. Please delete any files that you do not want to include with your revision.
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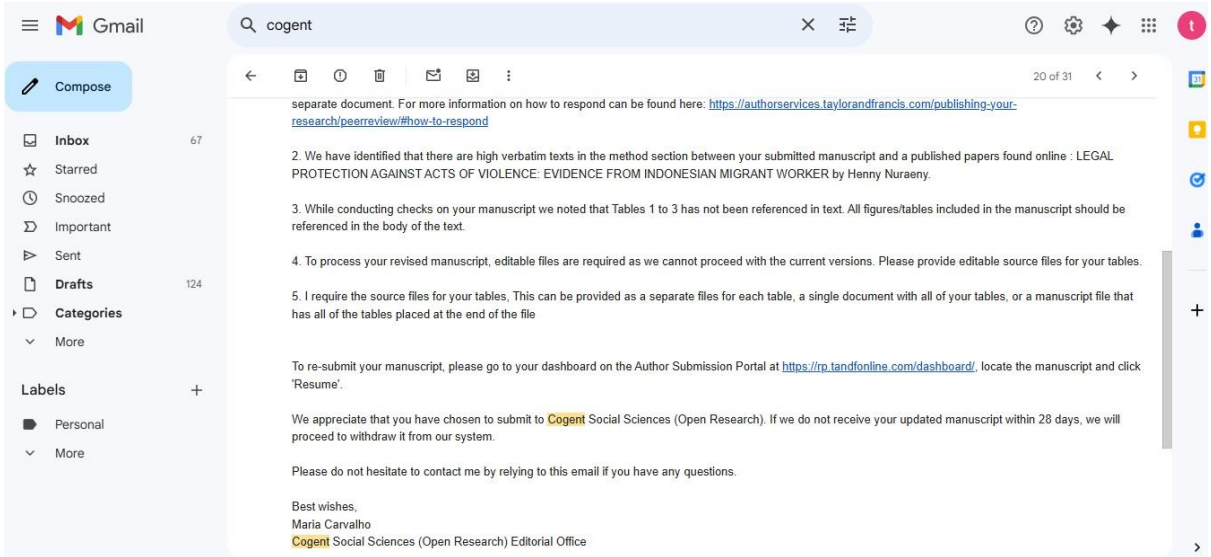

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For further assistance, please contact the Editorial Office team at QASS-peerreview@journals.taylorandfrancis.com.
You may request an extension of the due date of 27-Sep-2024 by contacting the journal. If you do not want to submit a revision, please respond to this email with the text: 'Decline to revise'. Please note if your manuscript becomes overdue, after a certain time period it will be withdrawn.
Thank you for submitting your manuscript to Cogent Social Sciences (Open Research). I look forward to receiving your revision.
Sincerely,
Dr Heng Choon (Oliver) Chan
Academic Editor, Cogent Social Sciences (Open Research)
h.c.chan@bham.ac.uk
Comments from the Reviewer(s):
Reviewer: 1
Comments to the Author
Overall, the author has demonstrated commendable writing and a thorough understanding of the subject.
To further strengthen the paper, I recommend creating a separate "Discussion" section. This would allow for a more in-depth analysis and a clearer presentation of the implications and nuances of the research findings.
Additionally, I noticed that several references do not adhere to the standard journal style. Specifically, the titles in the reference list should not be written in all capital

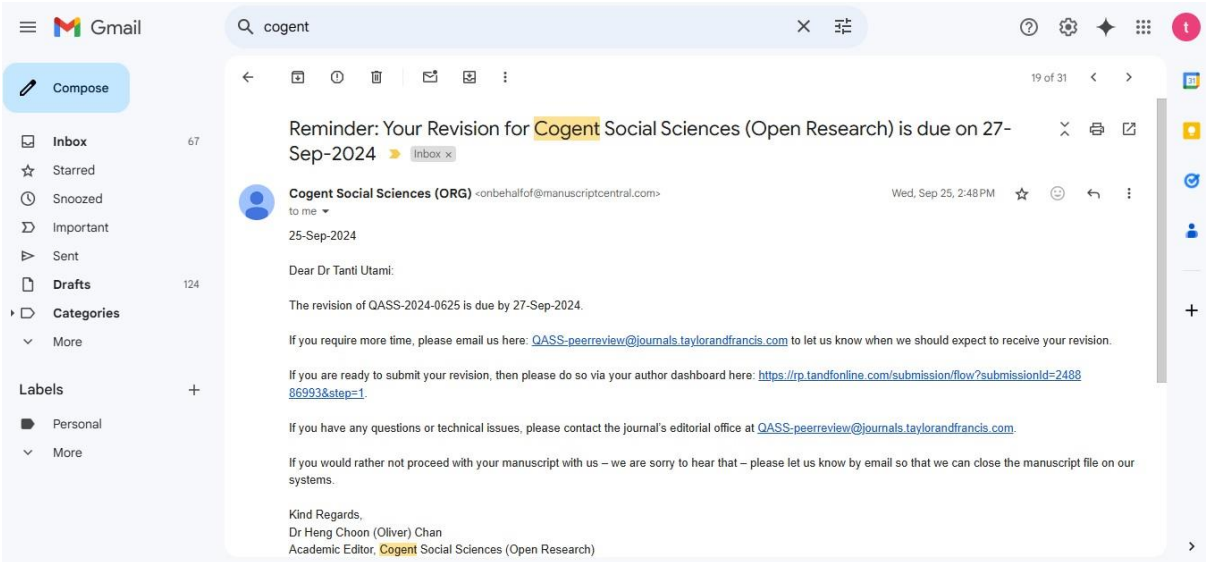

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Additionally, I noticed that several references do not adhere to the standard journal style. Specifically, the titles in the reference list should not be written in all capital letters. Adhering to the appropriate style will enhance the paper's professionalism and readability.
Furthermore, please consider citing the following references to strengthen the paper's academic foundation and provide a more comprehensive perspective:
1. https://hi.umy.ac.id/wp-content/uploads/2019/01/Suffer-to-Survive-The-Indonesian-Illegal-Workers-Experiences-in-Malaysia-and-Japan-.pdf
If these revisions are made, I would highly recommend the manuscript for publication.
Reviewer: 2
Comments to the Author
1. I recommend the author to concern about the novelty of the article
2. I recommend the author to add more elaboration about theoretical and conceptual approach on the Result and Discussions
Reviewer: 3
Comments to the Author
This research does not present novel findings, as many previous scholars have already explored the nexus between the weaknesses in Indonesian regulations and the factors driving migrant workers to use brokers and non-procedural routes. The researcher has not extensively utilized prior studies that address this issue. For instance, Johan Lindquist's work on brokering practices for Indonesian migrant workers and Avyanthi Azis's evaluation of the Palermo Protocol for Indonesian migrant workers who are victims of trafficking on fishing vessels are not sufficiently referenced. Similarly, Wayne Palmer's research on the history of Indonesian regulations regarding migrant worker deployment abroad is also not reviewed in this article.


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In the introduction, it is unclear what gap this article aims to address or what contribution it seeks to make to the study of migrant labour or migration regulation. The methodology section is brief and does not demonstrate that the research was conducted with thorough planning or that it can fill existing research gaps. The methodology would be strengthened by focusing on court rulings related to human trafficking involving Indonesian migrant workers. By analyzing these rulings, the researcher could provide a more current analysis of the factors driving migrants to use brokers and non-procedural routes. Additionally, the researcher could use recent case studies, such as online scams, to explore other methods of sending Indonesian migrant workers abroad. This could help evaluate why the Indonesian Migrant Workers Law fails to be effectively enforced.
The analysis is not in-depth and remains largely descriptive in the results and discussion section. The author merely summarizes discussions from other articles and the content of regulations. When discussing Law No. 21 of 2007 on Human Trafficking, the author is not cautious in noting that not all Indonesian migrant workers who depart via non-procedural routes are at risk of trafficking. Non-procedural routes primarily pertain to documentation and pre-departure training, whereas trafficking requires elements of process, method, and purpose to identify victims.
Therefore, revision of this article is not recommended.

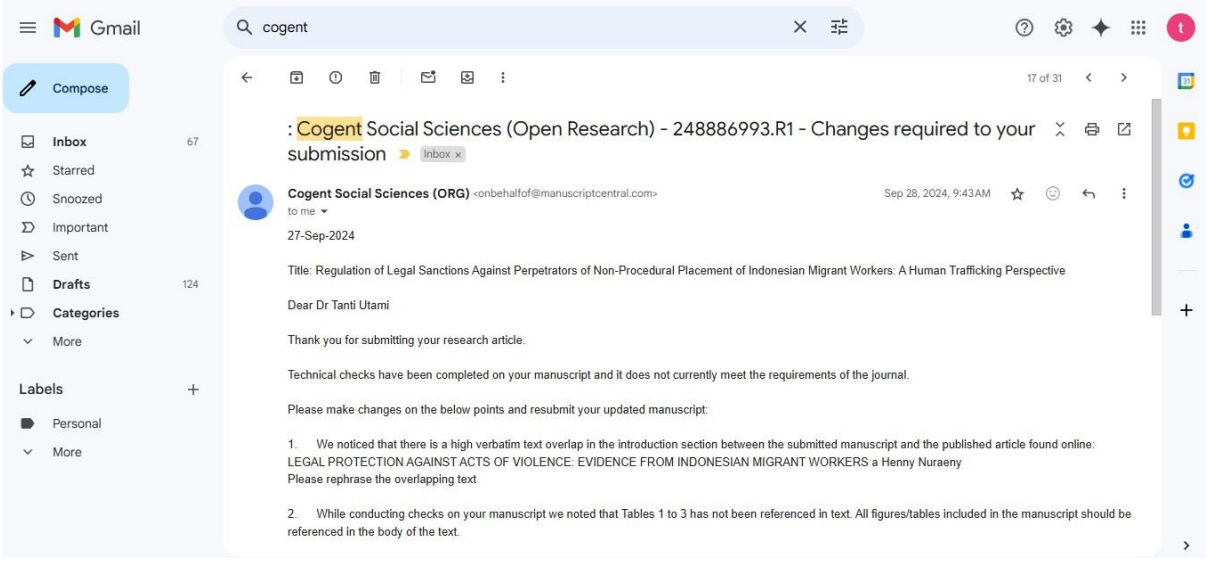

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Dear Tanti Utami,
Thank you for submitting your revised manuscript.
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Manuscript Title Regulation of Legal Sanctions Against Perpetrators of Non-Procedural Placement of Indonesian Migrant Workers: A Human Trafficking Perspective
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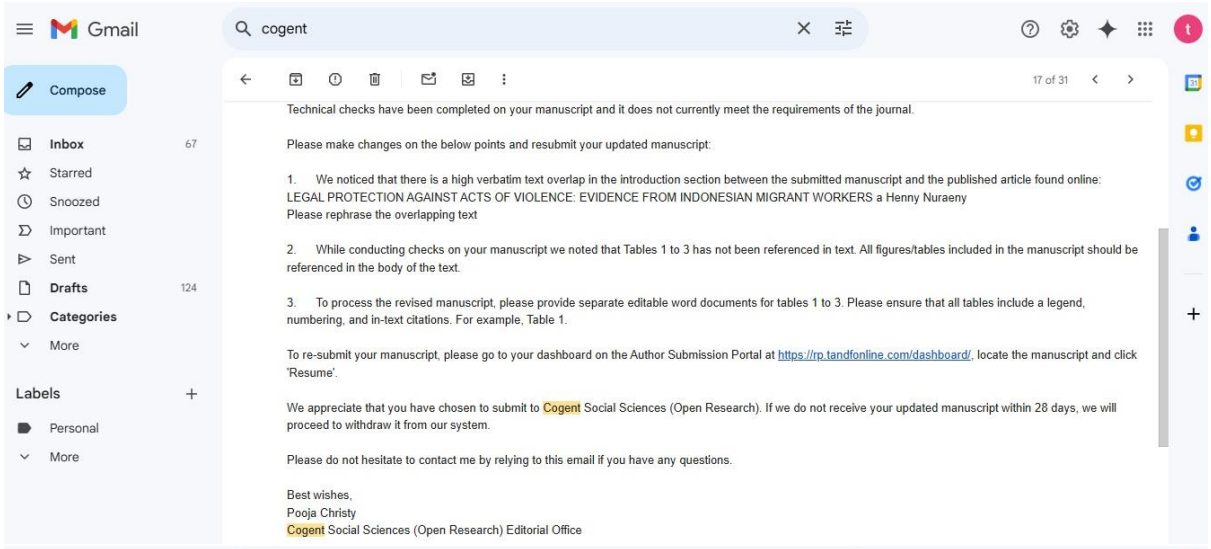

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24-Sep-2024
Title: Regulation of Legal Sanctions Against Perpetrators of Non-Procedural Placement of Indonesian Migrant Workers: A Human Trafficking Perspective
Dear Dr Tanti Utami
Thank you for submitting your research article.
Technical checks have been completed on your manuscript and it does not currently meet the requirements of the journal.
Please make changes on the below points and resubmit your updated manuscript:
1. Please include a complete point-by-point response to the reviewer's comments included in your decision letter. This can be in the form of track changes or a separate document. For more information on how to respond can be found here: https://authorservices.taylorandfrancis.com/publishing-your-research/peerreview/#how-to-respond
2. We have identified that there are high verbatim texts in the method section between your submitted manuscript and a published papers found online : LEGAL PROTECTION AGAINST ACTS OF VIOLENCE: EVIDENCE FROM INDONESIAN MIGRANT WORKER by Henny Nuraeny.

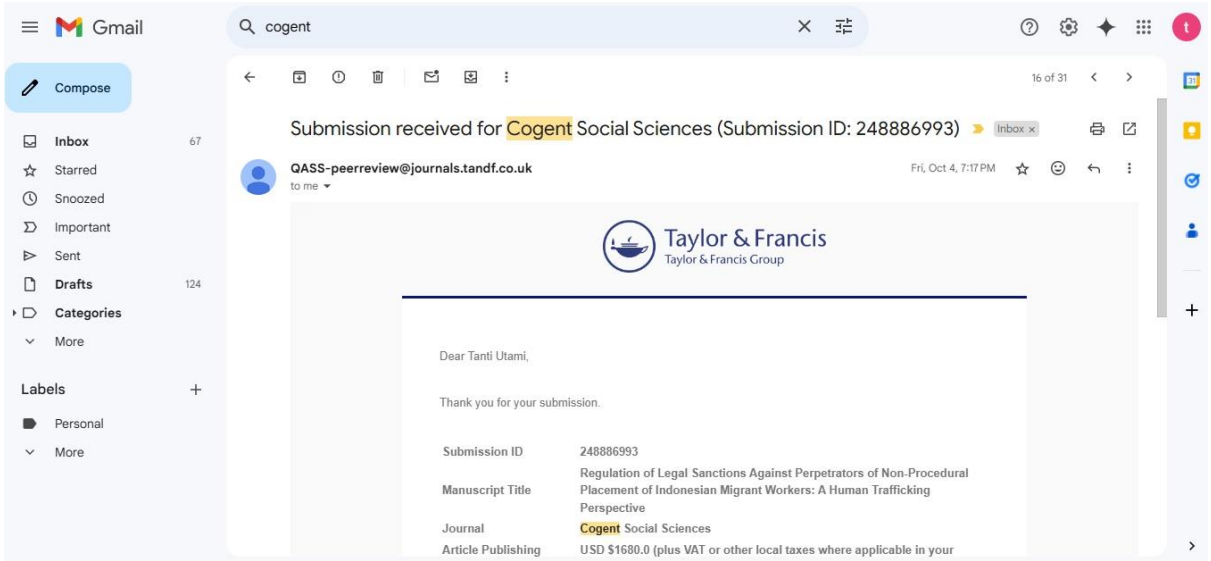

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4. To process your revised manuscript, editable files are required as we cannot proceed with the current versions. Please provide editable source files for your tables.
5. I require the source files for your tables, This can be provided as a separate files for each table, a single document with all of your tables, or a manuscript file that has all of the tables placed at the end of the file
To re-submit your manuscript, please go to your dashboard on the Author Submission Portal at https://rp.tandfonline.com/dashboard/, locate the manuscript and click 'Resume'.
We appreciate that you have chosen to submit to Cogent Social Sciences (Open Research). If we do not receive your updated manuscript within 28 days, we will proceed to withdraw it from our system.
Please do not hesitate to contact me by relying to this email if you have any questions.
Best wishes,
Maria Carvalho
Cogent Social Sciences (Open Research) Editorial Office

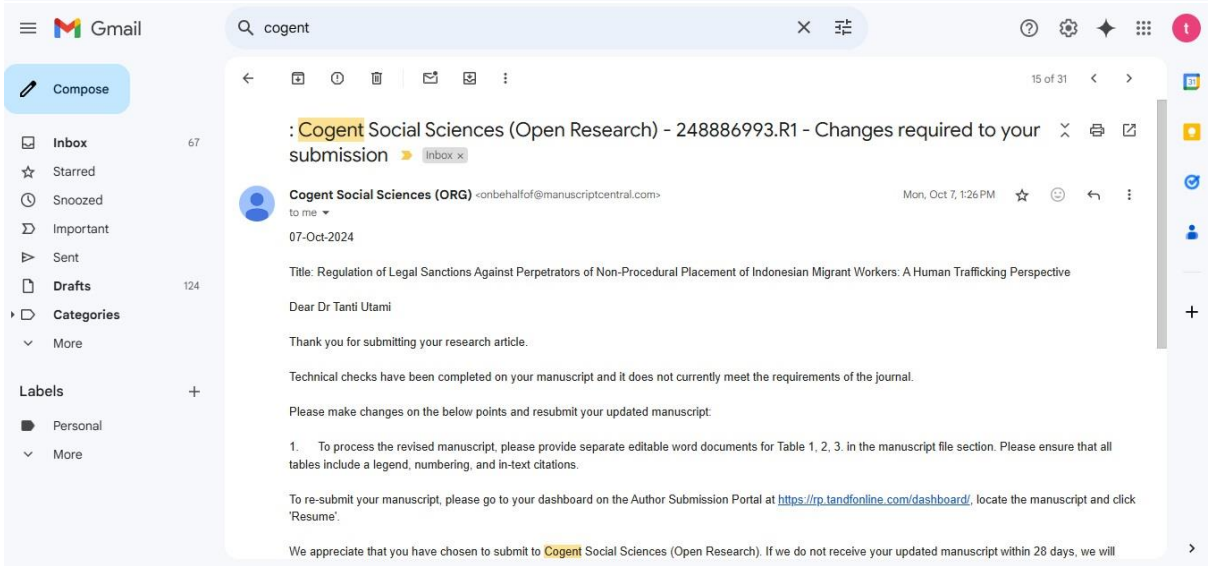

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If you are ready to submit your revision, then please do so via your author dashboard here: https://rp.tandfonline.com/submission/flow?submissionId=248886993&step=1.
If you have any questions or technical issues, please contact the journal's editorial office at QASS-peerreview@journals.taylorandfrancis.com.
If you would rather not proceed with your manuscript with us – we are sorry to hear that – please let us know by email so that we can close the manuscript file on our systems.
Kind Regards,
Dr Heng Choon (Oliver) Chan
Academic Editor, Cogent Social Sciences (Open Research)

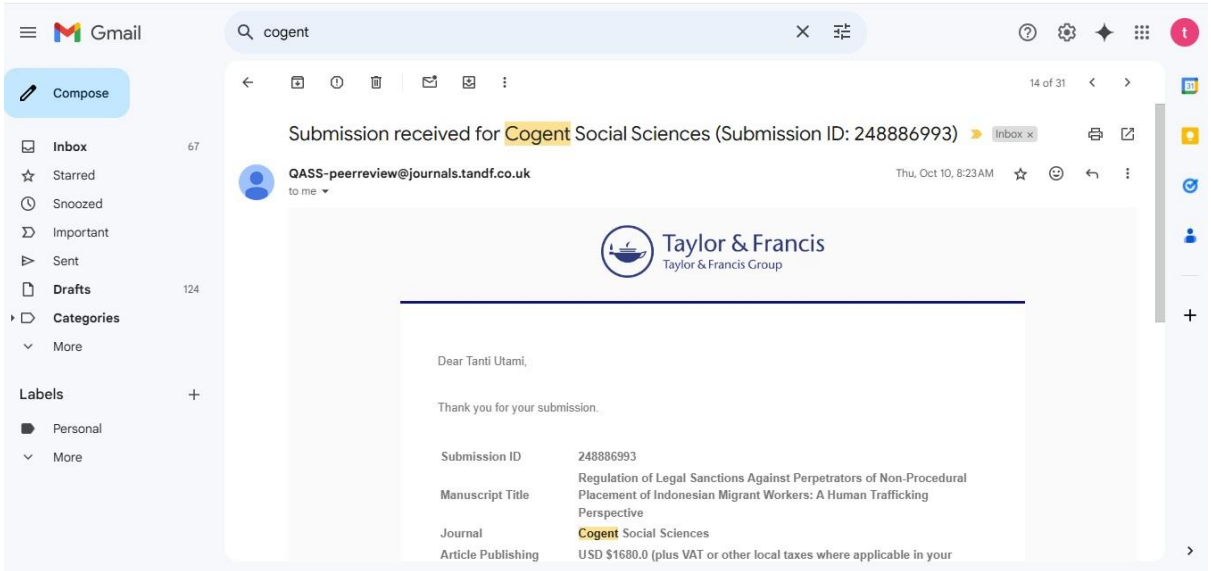

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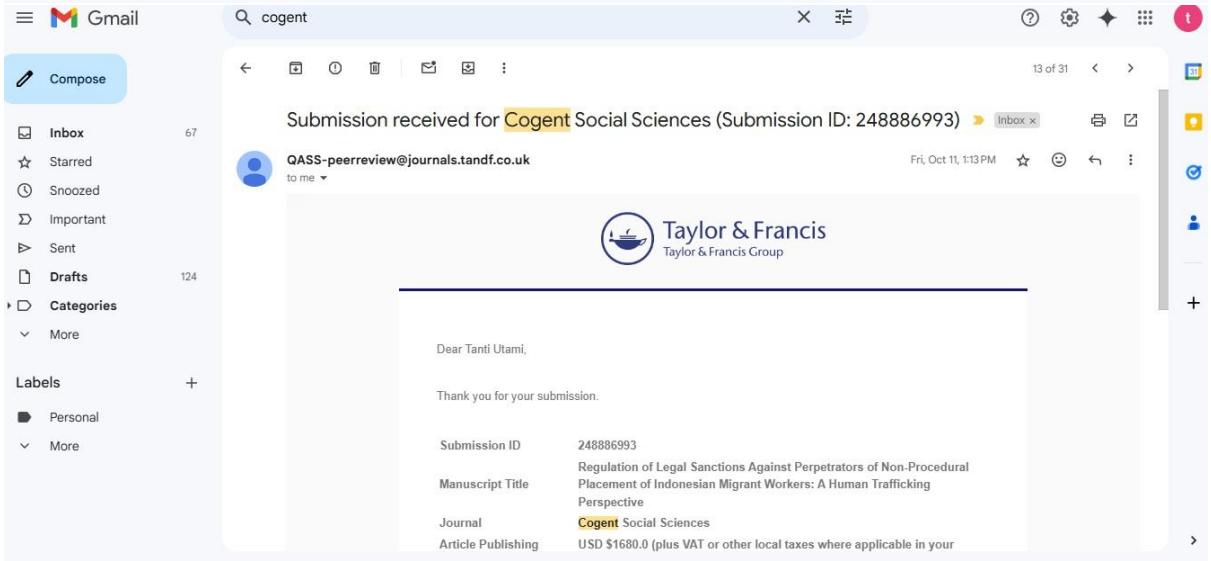

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Sep 28, 2024, 9:43 AM
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Title: Regulation of Legal Sanctions Against Perpetrators of Non-Procedural Placement of Indonesian Migrant Workers: A Human Trafficking Perspective
Dear Dr Tanti Utami
Thank you for submitting your research article.
Technical checks have been completed on your manuscript and it does not currently meet the requirements of the journal.
Please make changes on the below points and resubmit your updated manuscript:
1. We noticed that there is a high verbatim text overlap in the introduction section between the submitted manuscript and the published article found online:
LEGAL PROTECTION AGAINST ACTS OF VIOLENCE: EVIDENCE FROM INDONESIAN MIGRANT WORKERS a Henny Nuraeny
Please rephrase the overlapping text
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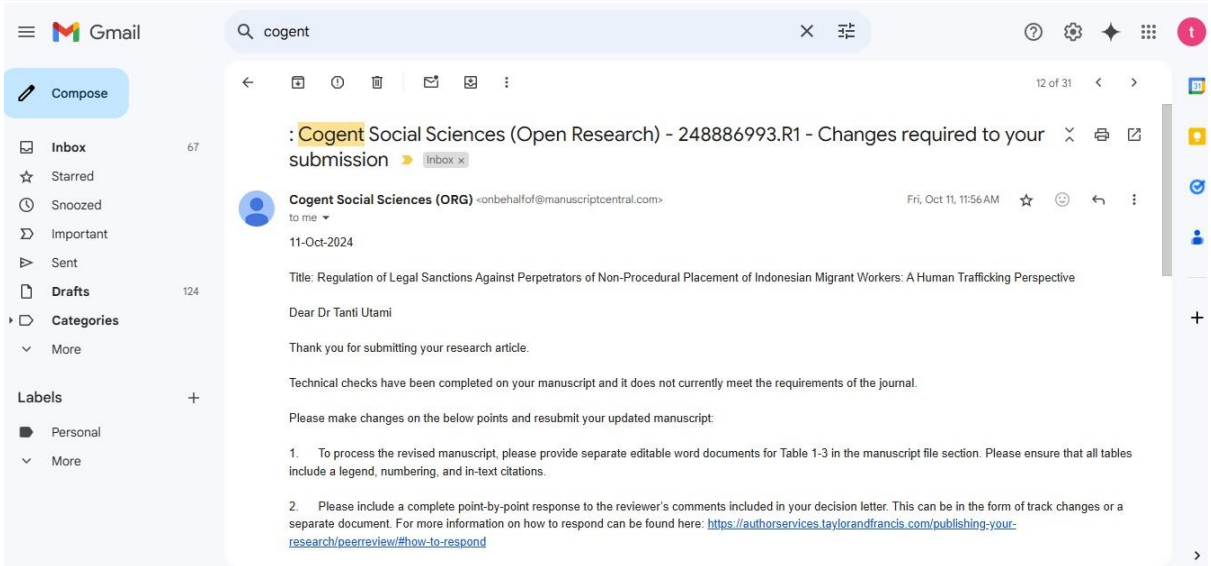

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To re-submit your manuscript, please go to your dashboard on the Author Submission Portal at https://rp.tandfonline.com/dashboard/, locate the manuscript and click 'Resume'.
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Best wishes,
Pooja Christy
Cogent Social Sciences (Open Research) Editorial Office


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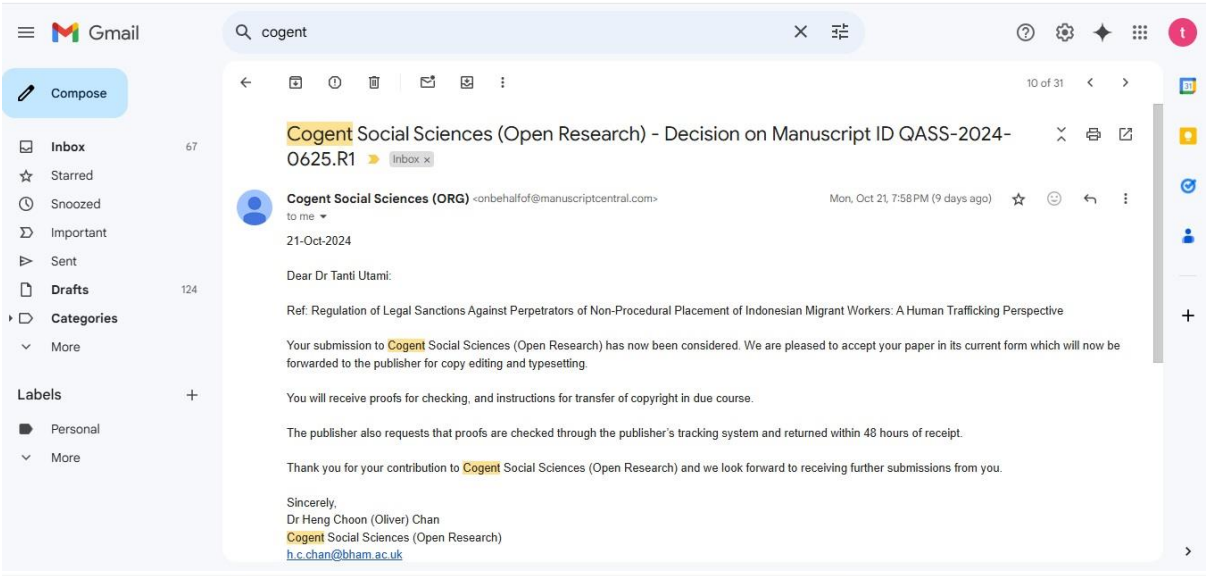
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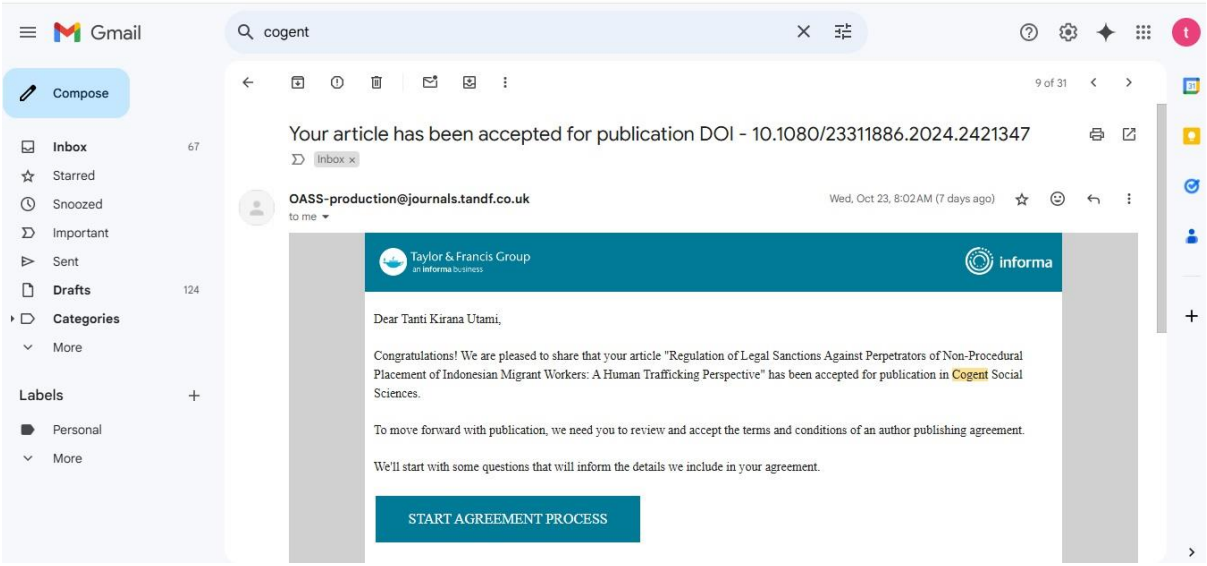
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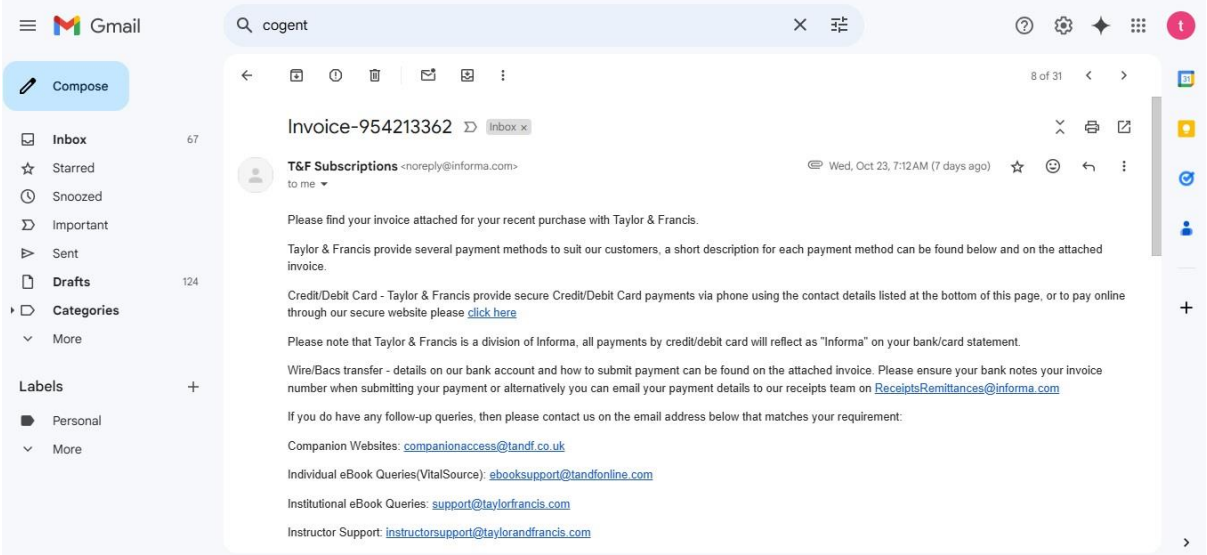
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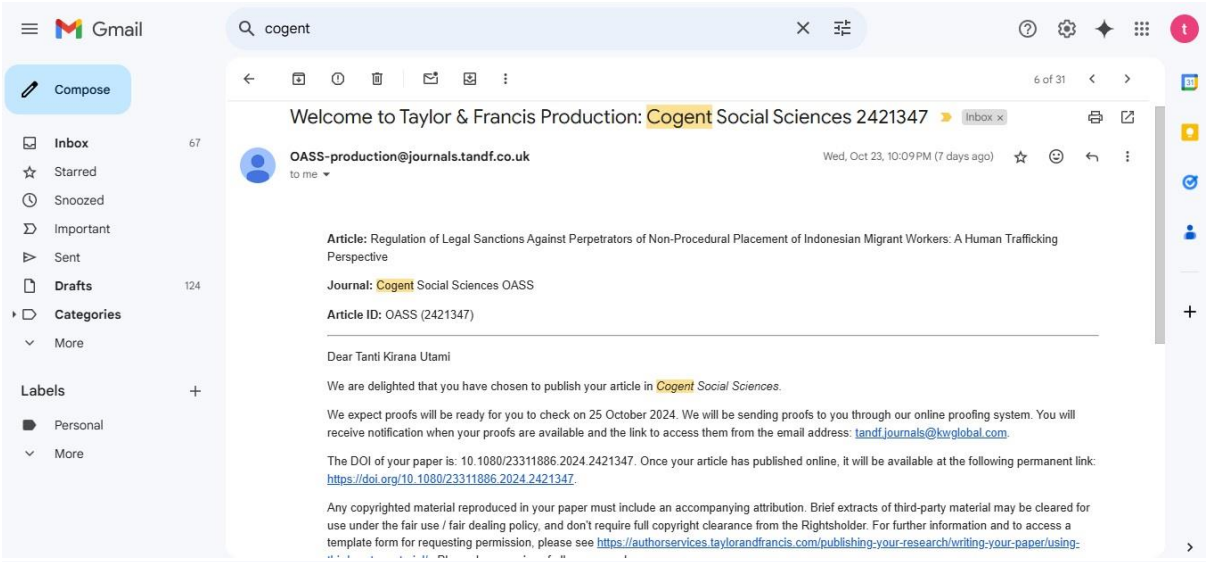
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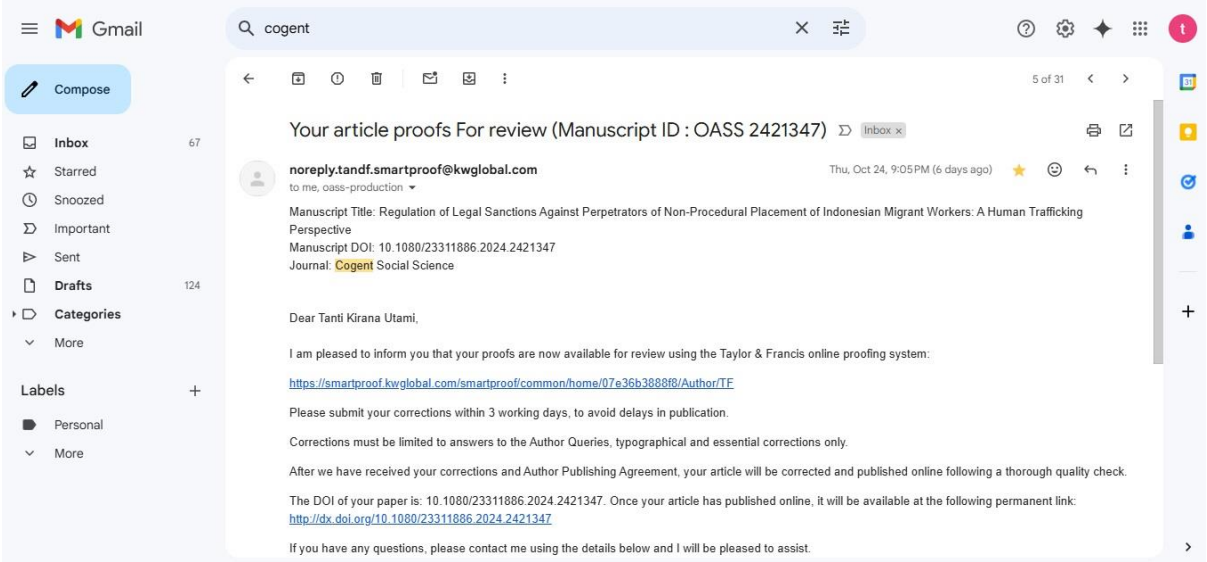
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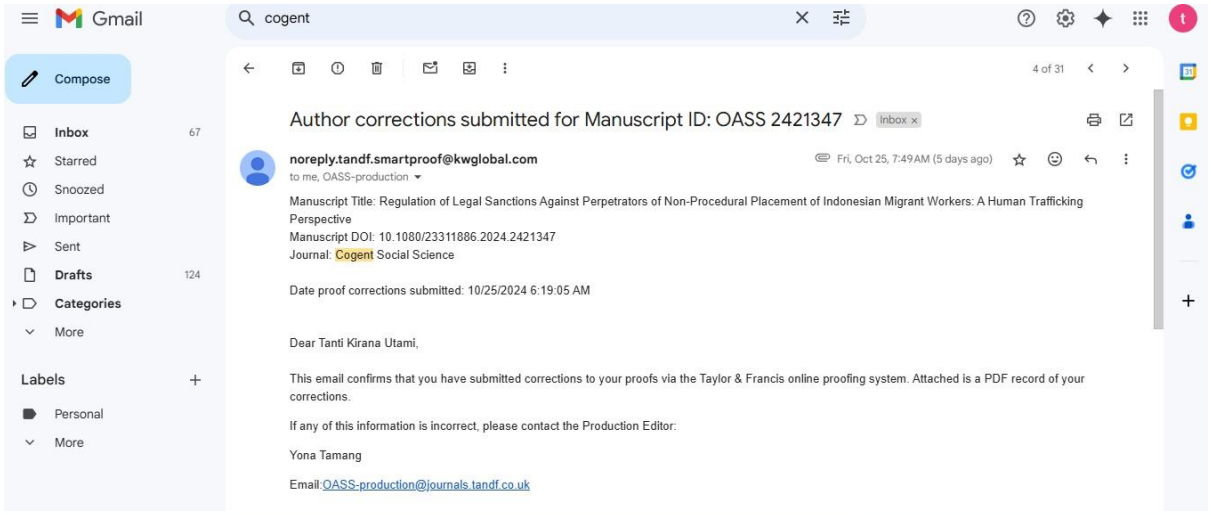
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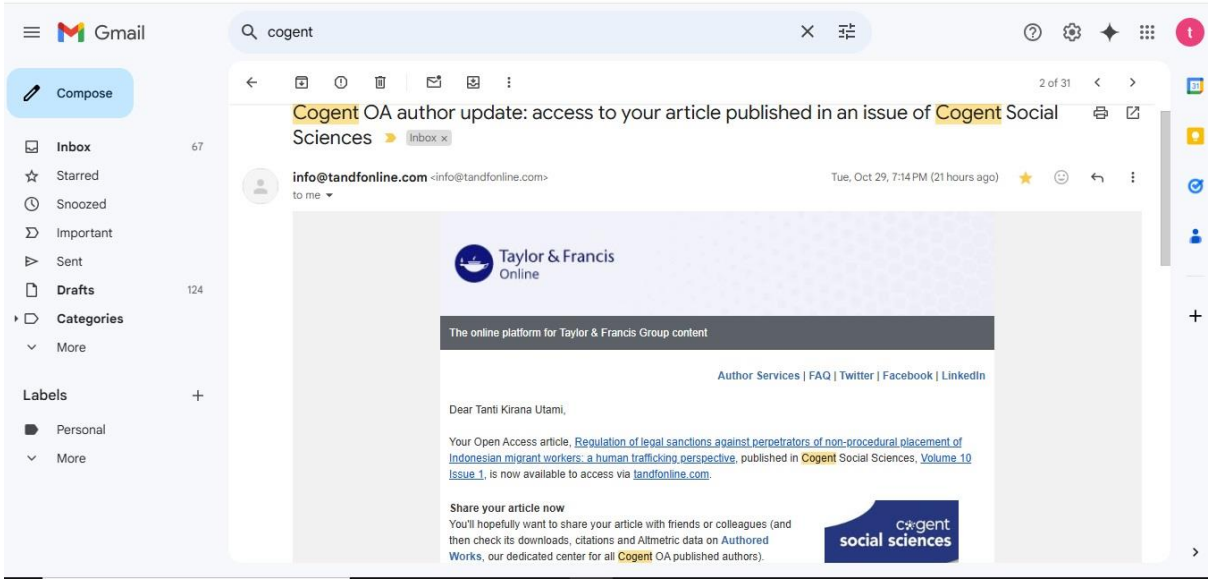
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ABSTRACT

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

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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
Fakultas Hukum Universitas Suryakancana
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ABSTRACT
The program for placing Indonesian Migrant Workers (abbreviated as PMI) abroad is one of the efforts to overcome the problem of unemployment. The government has made regulations regarding the mechanism for placing Indonesian migrant workers. However, there is still non-procedural placement of Indonesian migrant workers, giving rise to new problems in handling it. This research 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 qualitative with a 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 uses 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; they can also be subject to Law Number 21 of 2007 concerning the Eradication of Criminal Acts of Trafficking in Persons (abbreviated as 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, which applies sanctions in the form of coercive actions. The provisions explaining the law in 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 also 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 by placing 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). To solve existing problems, it is hoped that sending migrant workers will be an alternative solution to the problem. On the one hand, remittances are an essential indicator for the economy of migrant worker families in the migrant worker's home village.

The high number of Indonesian citizens interested in becoming migrant workers, supported by the factors above, means that many agencies providing migration work are starting to emerge (Bulan, 2021). On the other hand, the emergence of migrant job providers currently cannot be trusted with 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 taking

training first to be able to meet the requirements by the provisions as PMI (Febrianti & Afifah, 2023).

The large number of crimes that occur among migrant workers is a risk of 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 non-compliance with the requirements and procedures set out in the laws in force in Indonesia (Farbenblum et al., 2013).

The presence of irregular migrant workers is predicted to be quite large. The International Organization for Migration reports that there are around 58 million irregular/undocumented migrant workers. They are considered 'illegal' migrant workers because of several conditions, such as entering a country not by the procedures established by immigration law in that country, they are in a country but exceeding the period permitted by a visa, and travel document (passport) is no longer valid, or because they work without being registered as workers by labor law in a foreign country (Soulina & Yovani, 2020). This data is relatively high; at least a third of the world's migrant worker population reaches 150.3 million (Kusdarini et al., 2021).

Indonesia contributes data on non-regular migrant workers at the global level. The World Bank notes that 9 million Indonesian migrant workers work abroad, with the main destinations being Malaysia, Saudi Arabia, China, Hong Kong, and Singapore, where 48% of Indonesian Migrant Workers migrate non-procedurally. It is estimated that 70 percent of non-procedural migrant workers are women. Indonesia is the second largest country in Southeast Asia after the Philippines, with a sender of more than 25 migrant workers. It can be seen from data from the Indonesian Migrant Worker Protection Agency (abbreviated as BP2MI) that starting from early January to September 2022, there have been 122,870 people placed in various countries (Noor, 2023). The data obtained differs significantly from previous years, especially during the COVID-19 pandemic, where sending migrant workers was very limited. The average number of people currently registering are graduates from Senior High Schools (SMA).

The increasing number of interested migrant workers also benefits the government because it can help reduce the number of unemployed people and increase the amount of foreign exchange. Prospective migrant workers think working abroad is profitable because they get much better wages than in Indonesia. However, they need to think about the high risks they will experience (Dananjaya, 2020). he risks that will be experienced include violence, human trafficking, sexual exploitation, unpaid wages according to the work agreement, and very long working hours.

Based on the risks experienced by migrant workers, BP2MI has received complaints from Indonesian Migrant Workers (PMI) in various countries regarding the problems they experienced while working abroad. Currently, BP2MI has notified PMI complaints from January to September 2022, namely from Saudi Arabia as much as 29.5% with a total of 50 complaints, Malaysia as much as 16.5% with a total of 28 complaints, Taiwan as much as 10.6% with the number of 18 complaints, the UAE as much as 7% with a total of 12 complaints, Poland as much as 6% with a total of 10 complaints, and other countries as much as 30.4% with a total of 51 complaints. The complaints consisted of 102 illegal migrant workers, 83 complaints about unpaid salaries, 93 complaints of deaths in the destination country, 13 complaints of violence, and also 40 people of human trafficking. Of the many complaints received, they are legal workers or what could be called non-procedural workers. This is closely related to PMI's departure until they arrive at the destination country, where they are trapped in the game between brokers (Firdaus & Simangunsong, 2023).

Brokers have routes across various countries that are easy to travel, so they can convince local people to manage departures to work abroad. It has been regulated in Article 72 letter (b) of Law Number 18 of 2017 concerning the prohibition of placement in closed countries, and prospective migrant workers must be placed in countries by the work agreement. This has also been regulated as in Article 71 of the Law Number 18 of 2017 (Dewi et al., 2021). Prospective migrant workers whose departure is illegal can still leave because they use fake documents that brokers from migrant worker-sending companies have prepared. Non-procedural migrant workers are very vulnerable to dangerous risks such as violence, human trafficking, and sexual exploitation, not to mention if they work for a company abroad. There is an inspection of the data collection of their citizens, the authorities can arrest non-procedural migrant workers—the person responsible for collecting resident data (Zamhir et al., 2023). It should be remembered that non-procedural migrant workers do not have official documents, so 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 by Article 7 of Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers.

To protect Indonesian migrant workers abroad, the government issued Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers and various other regulations that regulate the placement mechanism for Indonesian migrant workers. This is done to protect migrant workers from becoming victims of human trafficking, victims of violence, and victims of other crimes. Despite this, the fact is that there are still many placements of Indonesian migrant workers that are carried out without fulfilling the procedures set out in statutory regulations. This has become the government's concern, and it is trying to provide a deterrent effect to perpetrators of non-procedural PMI placement. Based on the problems above, researchers are interested in studying more deeply regarding law enforcement for perpetrators of non-procedural PMI placement by limiting it to what factors support perpetrators to carry out non-procedural PMI placement and how legal sanctions are applied to perpetrators of non-procedural PMI placement in Indonesia.

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 protecting Indonesian migrant workers linked to human trafficking. Based on Law Number 18 of 2017 and Law No. 21 of 2007. This research uses secondary data, including primary legal materials, secondary legal materials, and tertiary legal materials, namely statutory regulations, books, scientific articles, data taken from websites/internet, etc. The data collection technique used is library research.

RESULT AND DISCUSSIONS

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

The large population is disproportionate to the 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. Migration of workers is an essential economic activity for sending and receiving countries. The high migration flow in this region is caused by countries that are economically dependent on migrant workers. Receiving countries are dependent on migrant workers for the mobilization of the economy, which can be seen from the high number of migrant workers in the country (Muthia, 2020).

The increase in Indonesian citizens becoming migrant workers and looking for work abroad in both the formal and informal sectors from year to year is due to various reasons, including domestic unemployment, insufficient domestic employment opportunities, disparities in global/regional economic growth, advances in transportation technology and information, the right to work abroad. The pull factor that exists abroad in the form of higher wages makes workers interested in working abroad. Working abroad has a positive side, namely overcoming some of the 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 placements of Indonesian Migrant Workers up to June 2023 illustrates 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 in the informal sector, 8,743 placements (45%) (Firdaus & Simangunsong, 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 details of 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 are 1,848 placements. Based on the Placement Scheme for the Company's Own Benefits (abbreviated as UKPS), there are 17 placements. Complaint data increased in June 2023 compared to June 2021 and 2022. Most complaints in June 2023 came from Saudi Arabia, Malaysia and Hong Kong, while 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 that exceed 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 the rules. This is what is called non-procedural PMI placement, whose victims have the possibility of becoming victims of human trafficking, victims of violence, or victims of other crimes. 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. PMI placement does not use a work visa.

The rise in non-procedural PMI placements is caused by several factors, namely 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 getting 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. So, PMI candidates need to be registered in the Computerized Overseas Workforce System (abbreviated as 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, the

educational conditions and knowledge of victims/victims' families who are not aware of the placement. PMI, the victim's economic limitations mean they are easily persuaded and promised significant wages by the perpetrator.

There were several violations committed by the Private Indonesian Migrant Worker Placement Company (abbreviated as PPTKIS), which has now changed its name to the Indonesian Migrant Worker Placement Company (abbreviated as P3MI) and the factors that caused the violations include:

1. Placement Fees that are Too High (Overcharging). Minister of Manpower and Transmigration Regulation Number 14/MEN /X/2010 regulates the burden of placement costs that Migrant Workers must bear, including identity documents, health checks, psychology, job training, and work competency certification. Some other costs are borne by Indonesian Migrant Worker (PMI) service users. Apart from these costs, other costs must be borne by migrant workers, which are regulated by a ministerial decree. Placement fees have been 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 the placement fees are too high. The government's support for the fate of migrant workers, especially Indonesian migrant workers, has not been implemented optimally. Many problems still need to be accommodated. Case data from the Indonesian Migrant Workers Union (SBMI) from 2015 to 2017 showed 1,501 complaints from various countries. The biggest complaint is 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 less. In 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 making passports, whereas in the CS, medical fees and passports are no longer covered by these other regulations;
2. Falsifying the Identity of Indonesian Migrant Workers (PMI). The act of forgery is only known in advanced societies, where specific data facilitates relations flow in society. Identity falsification/manipulation consists of two syllables: identity falsification/manipulation. Manipulation is a loan word originating from English: manipulation, which means misuse or misappropriation. In 2020, the Criminal Investigation Agency (abbreviated as 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 some of them, there are many prospective Indonesian Migrant Workers (CPMI) or Prospective Indonesian Migrant Workers (CTKI) who are not yet old enough. However, in some PPTKIS/P3MI, many use services to change the age on E-KTP and family cards, which is one of the requirements for making a Passport. Apart from that, 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 enough 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 their workers. However, for entrepreneurs who meet the requirements regulated by the Minister of Manpower's decision, 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 take part in work competency training by Article 23 of the Regulation Minister Number 22 of 2014. However, in reality, many companies, in order 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, 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. So, from this case example, it can be seen that CPMI or CPTKI cannot learn job and language training in one week because, judging from CPMI's educational strata, the average is only an elementary school graduate. So, that became one of the factors that caused violence against CPMI and CTKI (Eddyono, 2021).

The cause of 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 enough training abroad to meet PPTKIS/P3MI's annual targets.

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 (abbreviated as UU PPTKILN). This law is the first law to regulate migrant workers specifically. Although the existence of this law was pushed for its existence 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 of the law and the implementation of this law are considered not to help women who are non-regular migrant workers (Barid et al., 2022).

This law provides criminal regulations for parties who place migrant workers to work without permission. This law also criminalizes people who place prospective Indonesian Migrant Workers (abbreviated as 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 (abbreviated as SIPPTKI) and TKI Mobilization Permits, placing TKI without documents. Even though 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 of the above 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 existence of the PPTKILN Law. The 2017 PPMI Law defines migrant workers without distinguishing procedural or non-procedural status. In this law, 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 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 status is different. Even in the process of forming the PPMI Law, it was found that members of the Community Representative Council (abbreviated as DPR) did not want to

touch on the issue of non-procedural migrant workers, considering that they considered the discussion of non-procedural PMI to be very complex (Tan & Shahrullah, 2017). According to them, it would be unwise to expressly open protection 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.

The protection regulations for PMI in this law emphasize protection before, during, and after work. In this context, work is emphasized on doing work in the 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 and conditions. This initial protection process becomes the basis for subsequent protection.

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. 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.	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.	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.

Regarding regulations regarding 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; 3) Prohibition of PMI placements that are not by the work agreement. Another difference is that the PPMI Law emphasizes the prohibition of placements contrary to statutory regulations.

At the same time, the PPTKILN Law has three frameworks: prohibiting placements that are 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 which 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; 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 with an emphasis on 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 PMI, who provide incorrect information while filling out documents. Apart from that, 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; c) Detention of PMI departures who do not meet the document requirements.

Since the existence of Law No. 21 of 2007 concerning Human Trafficking, the law 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 where 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; c) Exploitation of reproductive organs, transplantation of organs and/or body tissue of a person (Mihardi, 2020).

This exploitation is done 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 whose perpetrators can be punished with criminal penalties. Punishment includes people who: a) Recruit, transport, harbor, send, transfer, or receive someone; b) By 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 power, resulting in trafficking crimes. In the context of non-procedural migrant workers, the practice of human trafficking often occurs using 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 bailed out to finance the document processing and placement process. As in the example 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	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

	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	600,000,000.00 (six hundred million rupiah) (Article 2)
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	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 rupiah) and a maximum of IDR 600,000,000.00 (six hundred million rupiah) (Article 4)
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)	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)
4	Every person who plans or carries out an evil conspiracy to commit the crime of trafficking in persons (Article 11)	Sentenced to imprisonment as the same as the provisions in Article 2, Article 3, Article 4, Article 5 and Article 6
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	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 rupiah) and a maximum of IDR 280,000,000.00 (two hundred and eighty million rupiah) (Article 19)
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	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 rupiah) and a maximum of IDR 280,000,000.00 (two hundred and eighty million rupiah) (Article 20)
7	Any person who intentionally prevents, obstructs, or thwarts, directly or indirectly, the investigation, prosecution, and examination at the trial of a suspect,	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 rupiah) and

	defendant, or witness in the Crime of Human Trafficking case	a maximum of IDR 20,000,000.00 (two hundred million rupiah) (Article 22)
8	Consent of victims of human trafficking does not eliminate prosecution for criminal acts of human trafficking (Article 26)	
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)	

Law no. 6 of 2011 concerning Immigration regulates procedures for crossing Indonesian borders, the requirements for crossing Indonesian borders, including the 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 in people across national borders.

Punishment is regulated in this law for immigration crimes, including transnational crimes, which include smuggling and trafficking in persons. Immigration crimes that are 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; g) control other people's travel documents (Anggreini & Herlina, 2019).

Some of the above prohibitions also emphasize crimes committed for oneself or others. This means that this law could ensnare female non-regular migrant workers about 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, whether 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 or fake documents or without using Travel Documents (Mahardika & Wicaksono, 2020).

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	Sentenced to a maximum imprisonment of 1 (one) year and/or a maximum fine of IDR 100,000,000.00 (one hundred million rupiah) (Article 113)

	issue of non-procedural female migrant workers include unprocedural entry or exit without going through an immigration inspection.	
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	Sentenced to a maximum imprisonment of 1 (one) year and/or a maximum fine of IDR 100,000,000.00 (one hundred million rupiah) (Article 114)
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.	a. 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); 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 rupiah) (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 rupiah) (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 rupiah) (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 rupiah) (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)

Important elements in smuggling are a) the aim of making a profit; b) bringing or order people, individually or in groups; c) leaving or entering Indonesian Territory; d) with the situation; do not have legal rights/valid or fake documents/or without travel documents. Smuggling in the law, referring to Bassiouni, emphasizes illegal entry or entry. Valid documents are an important issue 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 are punished with an alternative crime, namely imprisonment for a maximum of 1 year or a maximum fine of 100 million. Crimes related to documents are punished with an accumulative sentence, namely a maximum of 5 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 exists to prevent 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 there are perpetrators who violate the prohibition, 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, while 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 as 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 looking at 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 had also laid down the framework for human trafficking not solely in the context of prostitution but also adopted legal and illegal migrant workers children, mail-order brides, domestic servants, begging, pornography industry, drug trafficking and organ sales and other forms of exploitation.

CONCLUSION

A migrant worker is someone who looks for work outside the country intending to earn income for daily life within a time limit that has been 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, namely low education, limited employment 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 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/victim's family, and the victim's economic limitations. Then, 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 placement 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 be subject to imprisonment or fines.

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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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ABSTRACT

The program for placing Indonesian Migrant Workers (abbreviated as PMI) abroad is one of the efforts to overcome the problem of unemployment. The government has enactedmade regulations regarding the placementmechanism offor placing Indonesian migrant workers. However, there is still a non-procedural placement forof Indonesian migrant workers, giving rise to new problems in handling it. This studyresearch 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 qualitative with 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,; whichthey can also be subject to Law Number 21 of 2007 concerning the Eradication of Criminal Acts of Trafficking in Persons (abbreviated as PTPPO), which is subject to legal sanctions of imprisonment or fines.

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

Commented [P1]: Conventions: Abbreviations are usually defined at the first use in the abstract. Check whether 'PMI' should be defined here.

INTRODUCTION

Law is understood as a coercive order, thatwhich applies sanctions in the form of coercive actions. The provisions explaining the law in 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 also 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 toby placeing 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). To solve existing problems, it is hoped that sending migrant workers will be an alternative solution to the problem. On the one hand, remittances are an essential indicator offor the economy of migrant worker families in the migrant workers'worker's home villages.

The high number of Indonesian citizens interested in becoming migrant workers, supported by the above factors above, means that many agencies providing migration work are starting to emerge (Bulan, 2021). On the other hand, the emergence of migrant job providers currently cannot be trusted by withe 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 ~~taking~~ training first ~~to be able~~ to meet the requirements of~~by~~ the provisions as PMI ~~-~~(Febrianti & Afifah, 2023).

The large number of crimes that occur among migrant workers is a risk for~~of~~ 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 non~~-~~compliance with the requirements and procedures set out in the laws in force in Indonesia ~~-~~(Farbenblum et al., 2013).

The number~~presence~~ of irregular migrant workers is predicted to be quite large. The International Organization for Migration reports that there are approximately~~around~~ 58 million irregular or ~~/~~undocumented migrant workers. They are considered 'illegal' migrant workers because of several conditions, such as entering a country not by the procedures established by immigration law in that country, they are in a country but exceeding the period permitted by a visa, and travel document (passport) is no longer valid, or because they work without being registered as workers by labor law in a foreign country ~~-~~(Soulina & Yovani, 2020). These~~This~~ data are~~is~~ relatively high; at least a third of the world's migrant worker population reaches 150.3 million ~~-~~(Kusdarini et al., 2021).

Indonesia contributes data on non-regular migrant workers at a~~the~~ global level. The World Bank notes that nine~~9~~ million Indonesian migrant workers work abroad, with the main destinations being Malaysia, Saudi Arabia, China, Hong Kong, and Singapore, where 48% of Indonesian Migrant Workers migrate non-procedurally. It is estimated that 70 percent of non-procedural migrant workers are women. Indonesia is the second largest country in Southeast Asia after the Philippines, with ~~a sender of~~ more than 25 migrant workers. It can be seen from data from the Indonesian Migrant Worker Protection Agency (~~abbreviated as~~ BP2MI), which~~that~~ started~~ing~~ from early January to September 2022, that there have been 122,870 people ~~placed~~ in various countries ~~-~~(Noor, 2023). The data obtained differ~~s~~ significantly from previous years, especially during the COVID-19 pandemic, when~~re~~ sending migrant workers was very limited. The average number of people currently registered~~ing~~ is~~are~~ graduates of~~from~~ Senior High Schools (SMA).

The increasing number of interested migrant workers also benefits the government because it can help reduce the number of unemployed people and increase ~~the amount of~~ foreign exchange. Prospective migrant workers think that working abroad is profitable because they receive~~get~~ much better wages than they do in Indonesia. However, they must consider~~need to think about~~ the high risks that they will experience ~~-~~(Dananjaya, 2020). The risks that will be experienced include violence, human trafficking, sexual exploitation, unpaid wages according to ~~the~~ work agreements, and very long working hours.

Based on the risks experienced by migrant workers, BP2MI has received complaints from Indonesian Migrant Workers (PMI) in various countries regarding the problems they experienced while working abroad. Currently, BP2MI has notified PMI complaints from January to September 2022, namely from Saudi Arabia as much as 29.5% with a total of 50 complaints, Malaysia as much as 16.5% with a total of 28 complaints, Taiwan as much as 10.6% with ~~the number of~~ 18 complaints, the UAE as much as 7% with ~~a total of~~ 12 complaints, Poland as much as 6% with ~~a total of~~ 10 complaints, and ~~other countries~~ as many~~much~~ as 30.4% with ~~a total of~~ 51 complaints. The complaints consisted of 102 illegal migrant workers, 83 complaints about unpaid salaries, 93 complaints of deaths in the destination country, 13 complaints of violence, and ~~also~~ 40 complaints~~people~~ of human trafficking. Of the many complaints received, they wea~~a~~re legal workers, or what could be called non-procedural workers. This is closely related to the PMI's departure until they arrive at the destination country, where they are trapped in the game between brokers (Nuraeny, 2023).

Brokers have routes across various countries that are easy to travel; thus, so they can convince local people to manage departures to work abroad. It has been regulated in Article 72 letter (b) of Law Number 18 of 2017 concerning the prohibition of placement in closed countries, and prospective migrant workers must be placed in countries by the work agreement. This has also been regulated, as in Article 71 of the Law Number 18 of 2017 (Dewi et al., 2021). Prospective migrant workers whose departure is illegal can still leave because they use fake documents prepared bythat brokers from migrant worker-sending companies have prepared. Non-procedural migrant workers are very vulnerable to dangerous risks such as violence, human trafficking, and sexual exploitation, not to mention if they work for a company abroad. There is an inspection of the data collection of their citizens, whichthe authorities can arrest non-procedural migrant workers—the persons responsible for collecting resident data (Zamhir et al., 2023). It should be remembered that non-procedural migrant workers do not have official documents; therefore, so 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 underby Article 7 of Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers.

To protect Indonesian migrant workers abroad, the government issued Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers and various other regulations that regulate the placement mechanism for Indonesian migrant workers. This is done to protect migrant workers from becoming victims of human trafficking, victims of violence, and victims of other crimes. Despite this, the fact is that there are still many placements of Indonesian migrant workers whothat doare carried notout without fulfilling the procedures set out in statutory regulations. This has become the government's concern, and it is trying to provide a deterrent effect to perpetrators of non-procedural PMI placement. Based on the problems above, researchers are interested in studying more deeply regarding law enforcement for perpetrators of non-procedural PMI placement by limiting it to what factors support perpetrators into carrying out non-procedural PMI placement, and how legal sanctions are applied to perpetrators of non-procedural PMI placement in Indonesia.

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 protecting Indonesian migrant workers linked to human trafficking. Based on Law No.Number 18 of 2017 and Law No. 21 of 2007. This research uses secondary data, including primary legal materials, secondary legal materials, and tertiary legal materials, namely statutory regulations, books, scientific articles, and data taken from websites/thewebsites/internet Internet, etc. LibraryThe data researchcollection wastechnique used as the data-collectionis library techniqueresearch.

RESULT AND DISCUSSIONS

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

The large population is disproportionate to the 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 duecaused toby countries that are economically dependent on migrant workers. Receiving countries are dependent on migrant workers for economicthe

mobilization ~~of the economy~~, 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 ~~from year to year~~ 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. 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 ~~of the~~ 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~~s~~ 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 ~~in the informal sector,~~ 8,743 placements (45%) were placed in the informal sector(Firdaus & Simangunsong, 2023).

Based on the G to G Program placement scheme (PMI placement with the g~~G~~overnment ~~-~~ to g ~~G~~overnment 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 ~~details of~~ 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 p~~P~~rivate ~~-~~ to p ~~P~~rivate or company-to-company scheme. This placement is carried out by the Indonesian Migrant Worker Placement Company (P3MI) with the a~~A~~gency 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 wea~~a~~re 1,848 placements. Based on the Placement Scheme for the Company's Own Benefits (~~abbreviated as~~ UKPS), there wea~~a~~re 17 placements. Complaint data increased in June 2023 compared with~~to~~ June 2021 and 2022. Most complaints in June 2023 came from Saudi Arabia, Malaysia, and Hong Kong, whereas~~while~~ 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 ~~that~~ 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, ~~victims of~~ violence, or ~~victims of~~ other crimes. The n~~N~~on-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~~namely~~ 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~~getting~~ 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~~So~~, PMI candidates must~~need~~

to be registered in the Computerized Overseas Workforce System (abbreviated as 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, the educational conditions, and knowledge of victims/victims' families who are not aware of the placement. PMI, the victim's economic limitations, means that they are easily persuaded and promised significant wages by the perpetrator.

There Were several violations were committed by the Private Indonesian Migrant Worker Placement Company (abbreviated as PPTKIS), which has now changed its name to the Indonesian Migrant Worker Placement Company (abbreviated as P3MI). and the factors that caused the violations include:

1. Placement Fees that are Too High (oOvercharging). 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. Some Oother costs are borne by Indonesian Migrant Worker (PMI) service users. Apart from these costs, migrantother workerscosts must bearbe borne otherby migrant costsworkers, thatwhich are regulated by a ministerial decree. Placement fees werehave been 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 the placement fees are too high. The government's support for the fate of migrant workers, especially Indonesian migrant workers, has not been optimally implemented optimally. However, mMany problems still need to be addressedaccommodated. Case data from the Indonesian Migrant Workers Union (SBMI) from 2015 to 2017 showed 1,501 complaints from various countries. The biggest complaints wereis 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 lowerless. ByIn 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 making passports, whereas in the CS, medical fees and passports are no longer covered by these other regulations.;
2. Falsification ofFalsifying the Identity of Indonesian Migrant Workers (PMI). The act of forgery is only known in advanced societies, where specific data facilitates therelations flow of relations in society. Identity falsification/manipulation consists of two syllables: identity falsification/manipulation. Manipulation is a loan word originating infrom English: manipulation, which means misuse or misappropriation. In 2020, the Criminal Investigation Agency (abbreviated as 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 thesesome of them, there are many prospective Indonesian Migrant Workers (CPMI) or Prospective Indonesian Migrant Workers (CTKI) who are not yet sufficiently old enough. However, in some PPTKIS/P3MI, many use services to change the age ofn the E-KTP and family cards, which is one of the requirements for making a pPassport. InApart from additionthat, 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 sufficientenough 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 their workers. However, for entrepreneurs who meet the requirements regulated by the Minister of Manpower's decision, 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 take participate in work competency training underby Article 23 of the Regulation Minister Number 22 of 2014. However, in reality, many companies, in order 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. ThereforeSo, 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. ThusSo, itthat wasbecame one of the factors that caused violence against CPMI and CTKI (Eddyono, 2021).

The reasoncause forof 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 sufficientenough training abroad to meet the PPTKIS/P3MI's annual targets.

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 (abbreviated as UU PPTKILN). This law is the first law to specifically regulate migrant workers specifically. Although the existence of this law was pushed for its existence 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 of the law and the implementation of theis law are not considered not to help women who are non-regular migrant workers (Barid et al., 2022).

This law provides criminal regulations for parties thatwho place migrant workers atto work without permission. This law also criminalizes people who place prospective Indonesian Migrant Workers (abbreviated as 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 (abbreviated as SIPPTKI) and TKI Mobilization Permits, and placing TKI without documents. Even 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 of thes above 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 existence of the PPTKILN Law. The 2017 PPMI Law defines migrant workers without distinguishing between procedural andor non-procedural statuses. In this law, 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) sSeafarers 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 (abbreviated as DPR) did not want to touch on the issue of non-procedural migrant workers, asconsidering that they considered the discussion of non-procedural PMI to be very complex (Tan & Shahrullah, 2017). According to them, it would be unwise to expressly 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.

The protection regulations for PMI in this law emphasize protection before, during, and after work. In this context, work is emphasized asoon doing work in athe 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 and conditions. This initial protection process formsbecomes the basis for the subsequent protection.

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. 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)	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;	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.

Guidance and supervision.	7. Guidance for PMI; and 8. Facilitate repatriation.	

Regarding regulations regarding 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) pProhibition of transferring or reassigning PMI Delivery Permits; 2) pProhibition 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 contrastry to statutory regulations. At the same time, the PPTKILN Law has three frameworks: prohibiting placements that are contrary to humanity, moral norms, and statutory regulations (Eddyono, 2021).

Apart from that, this law also introduces new prohibitions, which include: a) pProviding 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 thatwhich 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, with an emphasis on 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. InApart from additionthat, 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, itthe law 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 whichere human trafficking aims to exploit a person/group of people. Exploitation in the context of human trafficking includes a) sSexual exploitation in the form of prostitution or sexual exploitation; b) eExploitation 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) eExploitation of reproductive organs and, transplantation of organs and/or body tissue of a person (Mihardi, 2020).

This exploitation is performeddone 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 whichose perpetrators can be punished with criminal penalties. Punishment includes people who: a) Recruit, transport, harbor, send, transfer, or receive someone; b) bBy threat of violence, use of force, kidnapping, confinement, forgery, fraud, abuse of power or vulnerable position, debt bondage, or providing payments or benefits; c) dDespite obtaining the consent of the person who has control over another person; d) fFor 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 throughusing 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 bailinged out to finance the document processing and placement process. As shown in the example 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	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 rupiah) (Article 2)
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	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 rupiah) and a maximum of IDR 600,000,000.00 (six hundred million rupiah) (Article 4)
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)	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)
4	Every person who plans or carries out an evil conspiracy to commit the crime of trafficking in persons (Article 11)	Sentenced to imprisonment as the same as the provisions in Article 2, Article 3, Article 4, Article 5 and Article 6
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	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 rupiah) and a maximum of IDR 280,000,000.00

	documents or other documents to facilitate the crime of trafficking in persons	(two hundred and eighty million rupiah) (Article 19)
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	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 rupiah) and a maximum of IDR 280,000,000.00 (two hundred and eighty million rupiah) (Article 20)
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	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 rupiah) and a maximum of IDR 20,000,000.00 (two hundred million rupiah) (Article 22)
8	Consent of victims of human trafficking does not eliminate prosecution for criminal acts of human trafficking (Article 26)	
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)	

Law no. 6 of 2011 concerning iImmigration regulates procedures for crossing Indonesian borders, the requirements for crossing Indonesian borders, including the documents required to be owned, the process of obtaining records, and the authority of iImmigration, 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 in people across national borders.

Punishment is regulated in this law for immigration crimes, including transnational crimes, suwhich asinclude smuggling and trafficking in persons. Immigration crimes that are 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 above prohibitions also emphasize crimes committed tofor oneself or others. This means that this law could enforceensnare female non-regular migrant workers onabout 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, whether 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 t~~T~~erritory of another country, where the person does not have the right to enter the t~~T~~erritory legally, either by using valid documents~~, or~~ fake documents, or without using Travel Documents ~~(~~Mahardika & Wicaksono, 2020).

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.	Sentenced to a maximum imprisonment of 1 (one) year and/or a maximum fine of IDR 100,000,000.00 (one hundred million rupiah) (Article 113)
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	Sentenced to a maximum imprisonment of 1 (one) year and/or a maximum fine of IDR 100,000,000.00 (one hundred million rupiah) (Article 114)
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;	a. 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); 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 rupiah) (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

	h. Mastering other people's travel documents.	imprisonment for a maximum of 5 (five) years and a fine of a maximum of IDR 500,000,000.00 (five hundred million rupiah) (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 rupiah) (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 rupiah) (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)

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)~~do~~ not having~~e~~ legal rights/valid or fake documents/or without travel documents. Smuggling in the law, referring to Bassiouni, emphasizes illegal ~~entry or~~ entry. Valid documents are ~~an~~ important ~~issue~~ 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 are punished with an alternative crime, namely imprisonment for a maximum of one~~1~~ year or a maximum fine of 100 million. Crimes related to documents are punished with an accumulative sentence, namely, a maximum of five~~5~~ 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 ~~exists to~~ 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 ~~there are~~ perpetrators ~~who~~ 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~~while~~ 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~~as~~ 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~~looking at~~ 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 ~~had~~ also laid down the framework for human trafficking not only~~solely~~ in the context of prostitution, but also adopted legal and illegal migrant workers' children, mail-order brides, domestic servants, begging, pornography ~~industry~~, drug trafficking, ~~and~~ organ sales, and other forms of exploitation.

CONCLUSION

A migrant worker is someone who looks for work outside the country intending to earn income for daily life within a time limit ~~that has been~~ 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~~namely~~ low education, limited employment opportunities in the country, high levels of poverty, limited access to information/lack of public understanding of~~about~~ 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'~~/victim's~~ family, and the victim's economic limitations. ~~Then,~~ S~~s~~everal violations were committed by the Indonesian Migrant Worker Placement Company (P3MI), namely: 1) Placement fees that were too high (o~~O~~vercharging); 2) f~~F~~alsifying 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 ~~be subject to~~ imprisonment or fines.

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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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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 (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 in the form of coercive action~~s~~. 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). To solve existing problems, it is hoped that sending migrant workers will be an alternative solution. On one hand, remittances are an essential indicator of the economy of migrant worker families in migrant workers' 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 by 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 forof 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 non-compliance with the requirements and procedures set out in the laws in force in Indonesia (Farbenblum et al., 2013).

The number of irregular migrant workers is predicted to be quite large. The International Organization for Migration reports that there are approximately 58 million irregular or undocumented migrant workers. They are considered 'illegal' migrant workers because of several conditions, such as entering a country not by the procedures established by immigration law in that country, they are in a country but exceeding the period permitted by a visa, and travel document (passport) is no longer valid, or because they work without being registered as workers by labor law in a foreign country (Soulina & 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).

Indonesia contributes data on non-regular migrant workers at a global level. The World Bank notes that nine million Indonesian migrant workers work abroad, with the main destinations being Malaysia, Saudi Arabia, China, Hong Kong, and Singapore, where 48% of Indonesian Migrant Workers migrate non-procedurally. It is estimated that 70 percent of non-procedural migrant workers are women. Indonesia is the second largest country in Southeast Asia after the Philippines, with more than 25 migrant workers. It can be seen 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 countries (Noor, 2023). The data obtained differ significantly from previous years, especially during the COVID-19 pandemic, when sending migrant workers was very limited. The average number of people currently registered is graduates of Senior High Schools (SMA).

The increasing number of interested migrant workers also benefits the government because it can help reduce the number of unemployed people and increase foreign exchange. Prospective migrant workers think that working abroad is profitable because they receive much better wages than they do in Indonesia. However, they must consider the high risks that they will experience (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.

Based on the risks experienced by migrant workers, BP2MI has received complaints from Indonesian Migrant Workers (PMI) in various countries regarding the problems they experienced while working abroad. Currently, BP2MI has notified PMI complaints from January to September 2022, namely from Saudi Arabia as much as 29.5% with a total of 50 complaints, Malaysia as much as 16.5% with a total of 28 complaints, Taiwan as much as 10.6% with 18 complaints, the UAE as much as 7% with 12 complaints, Poland as much as 6% with 10 complaints, and as many as 30.4% with 51 complaints. The complaints consisted of 102 illegal migrant workers, 83 complaints about unpaid salaries, 93 complaints of deaths in the destination country, 13 complaints of violence, and 40 complaints of human trafficking. Of the many complaints received, they were legal workers, or what could be called non-procedural workers. This is closely related to the PMI's departure until they arrive at the destination country, where they are trapped in the game between brokers (Nuraeny, 2023).

Brokers have routes across various countries that are easy to travel; thus, they can convince local people to manage departures to work abroad. It has been regulated in Article 72 (b) of Law Number 18 of 2017 concerning the prohibition of placement in closed countries, and prospective migrant workers must be placed in countries by the work agreement. This has also been regulated, as in Article 71 of Law Number 18 of 2017 –(Dewi et al., 2021). Prospective migrant workers whose departure is illegal can still leave because they use fake documents prepared by brokers from migrant worker-sending companies. Non-procedural migrant workers are vulnerable to dangerous risks such as violence, human trafficking, and sexual exploitation, not to mention if they work abroad. There is an inspection of the data collection of their citizens, which can arrest non-procedural migrant workers—the persons responsible for collecting resident data –(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.

To protect Indonesian migrant workers abroad, the government issued Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers and various other regulations that regulate the placement mechanism for Indonesian migrant workers. This is done to protect migrant workers from becoming victims of human trafficking, violence, and other crimes. Despite this, there are still many Indonesian migrant workers who do not fulfill the procedures set out in statutory regulations. This has become the government's concern, and it is trying to provide a deterrent effect to perpetrators of non-procedural PMI placement. Based on the problems above, researchers are interested in studying law enforcement for perpetrators of non-procedural PMI placement by limiting it to what factors support perpetrators in carrying out non-procedural PMI placement, and how legal sanctions are applied to perpetrators of non-procedural PMI placement in Indonesia.

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 legal materials, secondary legal materials, and tertiary legal materials, namely statutory regulations, books, scientific articles, and data taken from websites/the Internet. Library research was used as the data-collection technique.

RESULT AND 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. 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~~s~~, 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.

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.

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.

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. 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	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	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 (Nuraeny, 2023).

integrated services for PMI placement and protection; and g) Guidance and supervision (Anggreini & Herlina, 2019).	Representatives of the Republic of Indonesia, as well as guardianship following local state law; 7. Guidance for PMI; and 8. Facilitate repatriation (Nuraeny, 2023).	

Regarding regulations regarding 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 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 example 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	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 rupiah) (Article 2)
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	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 rupiah) and a maximum of IDR 600,000,000.00 (six hundred million rupiah) (Article 4)
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	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

	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)	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)
4	Every person who plans or carries out an evil conspiracy to commit the crime of trafficking in persons (Article 11)	Sentenced to imprisonment as the same as the provisions in Article 2, Article 3, Article 4, Article 5 and Article 6
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	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 rupiah) and a maximum of IDR 280,000,000.00 (two hundred and eighty million rupiah) (Article 19)
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	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 rupiah) and a maximum of IDR 280,000,000.00 (two hundred and eighty million rupiah) (Article 20)
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	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 rupiah) and a maximum of IDR 20,000,000.00 (two hundred million rupiah) (Article 22)
8	Consent of victims of human trafficking does not eliminate prosecution for criminal acts of human trafficking (Article 26)	
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)	

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).

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.	Sentenced to a maximum imprisonment of 1 (one) year or a maximum fine of IDR 100,000,000.00 (one hundred million rupiah) (Article 113)
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	Sentenced to a maximum imprisonment of 1 (one) year or a maximum fine of IDR 100,000,000.00 (one hundred million rupiah) (Article 114)

	experienced by non-regular migrant workers who use their means of transportation	
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.	a. 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); 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 rupiah) (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 rupiah) (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 rupiah) (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 rupiah) (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).

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.

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.

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About the authors
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Data availability statement
The data that support the findings of this study are available from the corresponding author, upon reasonable request.

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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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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 (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~~s~~. 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). To solve existing problems, it is hoped that sending migrant workers will be an alternative solution. On one hand, remittances are an essential indicator of the economy of migrant worker families in migrant workers' 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 by 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 forof 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 non-compliance with the requirements and procedures set out in the laws in force in Indonesia (Farbenblum et al., 2013).

The number of irregular migrant workers is predicted to be quite large. The International Organization for Migration reports that there are approximately 58 million irregular or /undocumented migrant workers. They are considered 'illegal' migrant workers because of several conditions, such as entering a country not by the procedures established by immigration law in that country, they are in a country but exceeding the period permitted by a visa, and travel document (passport) is no longer valid, or because they work without being registered as workers by labor law in a foreign country (Soulina & 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).

Indonesia contributes data on non-regular migrant workers at a global level. The World Bank notes that nine million Indonesian migrant workers work abroad, with the main destinations being Malaysia, Saudi Arabia, China, Hong Kong, and Singapore, where 48% of Indonesian Migrant Workers migrate non-procedurally. It is estimated that 70 percent of non-procedural migrant workers are women. Indonesia is the second largest country in Southeast Asia after the Philippines, with more than 25 migrant workers. It can be seen 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 countries (Noor, 2023). The data obtained differ significantly from previous years, especially during the COVID-19 pandemic, when sending migrant workers was very limited. The average number of people currently registered is graduates of Senior High Schools (SMA).

The increasing number of interested migrant workers also benefits the government because it can help reduce the number of unemployed people and increase foreign exchange. Prospective migrant workers think that working abroad is profitable because they receive much better wages than they do in Indonesia. However, they must consider the high risks that they will experience (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.

Based on the risks experienced by migrant workers, BP2MI has received complaints from Indonesian Migrant Workers (PMI) in various countries regarding the problems they experienced while working abroad. Currently, BP2MI has notified PMI complaints from January to September 2022, namely from Saudi Arabia as much as 29.5% with a total of 50 complaints, Malaysia as much as 16.5% with a total of 28 complaints, Taiwan as much as 10.6% with 18 complaints, the UAE as much as 7% with 12 complaints, Poland as much as 6% with 10 complaints, and as many as 30.4% with 51 complaints. The complaints consisted of 102 illegal migrant workers, 83 complaints about unpaid salaries, 93 complaints of deaths in the destination country, 13 complaints of violence, and 40 complaints of human trafficking. Of the many complaints received, they were legal workers, or what could be called non-procedural workers. This is closely related to the PMI's departure until they arrive at the destination country, where they are trapped in the game between brokers (Nuraeny, 2023).

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Titled Legal Protection Against Acts of Violence; evidence from Indonesian migrant workers.
https://doi.org/10.55908/sdgs.v11i11.
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Brokers have routes across various countries that are easy to travel; thus, they can convince local people to manage departures to work abroad. It has been regulated in Article 72 (b) of Law Number 18 of 2017 concerning the prohibition of placement in closed countries, and prospective migrant workers must be placed in countries by the work agreement. This has also been regulated, as in Article 71 of Law Number 18 of 2017 (Dewi et al., 2021). Prospective migrant workers whose departure is illegal can still leave because they use fake documents prepared by brokers from migrant worker-sending companies. Non-procedural migrant workers are vulnerable to dangerous risks such as violence, human trafficking, and sexual exploitation, not to mention if they work abroad. There is an inspection of the data collection of their citizens, which can arrest non-procedural migrant workers—the persons responsible for collecting resident data (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.

To protect Indonesian migrant workers abroad, the government issued Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers and various other regulations that regulate the placement mechanism for Indonesian migrant workers. This is done to protect migrant workers from becoming victims of human trafficking, violence, and other crimes. Despite this, there are still many Indonesian migrant workers who do not fulfill the procedures set out in statutory regulations. This has become the government's concern, and it is trying to provide a deterrent effect to perpetrators of non-procedural PMI placement. Based on the problems above, researchers are interested in studying law enforcement for perpetrators of non-procedural PMI placement by limiting it to what factors support perpetrators in carrying out non-procedural PMI placement, and how legal sanctions are applied to perpetrators of non-procedural PMI placement in Indonesia.

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 legal materials, secondary legal materials, and tertiary legal materials, namely statutory regulations, books, scientific articles, and data taken from websites/the Internet. Library research was used as the data-collection technique.

RESULT AND 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. 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 limitations, 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.

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.

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.

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. 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	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	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.

integrated services for PMI placement and protection; and g) Guidance and supervision.	7. Representatives of the Republic of Indonesia, as well as guardianship following local state law; 8. Guidance for PMI; and 9. Facilitate repatriation.	

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

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Regarding regulations regarding 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 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 example 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	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 rupiah) (Article 2)
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	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 rupiah) and a maximum of IDR 600,000,000.00 (six hundred million rupiah) (Article 4)
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	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

	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)	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)
4	Every person who plans or carries out an evil conspiracy to commit the crime of trafficking in persons (Article 11)	Sentenced to imprisonment as the same as the provisions in Article 2, Article 3, Article 4, Article 5 and Article 6
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	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 rupiah) and a maximum of IDR 280,000,000.00 (two hundred and eighty million rupiah) (Article 19)
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	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 rupiah) and a maximum of IDR 280,000,000.00 (two hundred and eighty million rupiah) (Article 20)
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	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 rupiah) and a maximum of IDR 20,000,000.00 (two hundred million rupiah) (Article 22)
8	Consent of victims of human trafficking does not eliminate prosecution for criminal acts of human trafficking (Article 26)	
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)	

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

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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).

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.	Sentenced to a maximum imprisonment of 1 (one) year or a maximum fine of IDR 100,000,000.00 (one hundred million rupiah) (Article 113)
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	Sentenced to a maximum imprisonment of 1 (one) year or a maximum fine of IDR 100,000,000.00 (one hundred million rupiah) (Article 114)

	experienced by non-regular migrant workers who use their means of transportation	
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.	a. 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); 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 rupiah) (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 rupiah) (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 rupiah) (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 rupiah) (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).

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

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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.

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.

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Data availability statement
The data that support the findings of this study are available from the corresponding author, upon reasonable request.

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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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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 (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). To solve existing problems, it is hoped that sending migrant workers will be an alternative solution. On one hand, remittances are an essential indicator of the economy of migrant worker families in migrant workers' 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 by 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).

The number of irregular migrant workers is predicted to be quite large. The International Organization for Migration reports that there are approximately 58 million irregular or undocumented migrant workers. They are considered 'illegal' migrant workers because of several conditions, such as entering a country not by the procedures established by immigration law in that country, they are in a country but exceeding the period permitted by a visa, and travel document (passport) is no longer valid, or because they work without being registered as workers by labor law in a foreign country (Soulina & 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).

Indonesia contributes data on non-regular migrant workers at a global level. The World Bank notes that nine million Indonesian migrant workers work abroad, with the main destinations being Malaysia, Saudi Arabia, China, Hong Kong, and Singapore, where 48% of Indonesian Migrant Workers migrate non-procedurally. It is estimated that 70 percent of non-procedural migrant workers are women. Indonesia is the second largest country in Southeast Asia after the Philippines, with more than 25 migrant workers. It can be seen 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 countries (Noor, 2023). The data obtained differ significantly from previous years, especially during the COVID-19 pandemic, when sending migrant workers was very limited. The average number of people currently registered is graduates of Senior High Schools (SMA).

The increasing number of interested migrant workers also benefits the government because it can help reduce the number of unemployed people and increase foreign exchange. Prospective migrant workers think that working abroad is profitable because they receive much better wages than they do in Indonesia. However, they must consider the high risks that they will experience (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.

Based on the risks experienced by migrant workers, BP2MI has received complaints from Indonesian Migrant Workers (PMI) in various countries regarding the problems they experienced while working abroad. Currently, BP2MI has notified PMI complaints from January to September 2022, namely from Saudi Arabia as much as 29.5% with a total of 50 complaints, Malaysia as much as 16.5% with a total of 28 complaints, Taiwan as much as 10.6% with 18 complaints, the UAE as much as 7% with 12 complaints, Poland as much as 6% with 10 complaints, and as many as 30.4% with 51 complaints. The complaints consisted of 102 illegal migrant workers, 83 complaints about unpaid salaries, 93 complaints of deaths in the destination country, 13 complaints of violence, and 40 complaints of human trafficking. Of the many complaints received, they were legal workers, or what could be called non-procedural workers. This is closely related to the PMI's departure until they arrive at the destination country, where they are trapped in the game between brokers (Nuraeny, 2023).

Brokers have routes across various countries that are easy to travel; thus, they can convince local people to manage departures to work abroad. It has been regulated in Article 72 (b) of Law Number 18 of 2017 concerning the prohibition of placement in closed countries, and prospective migrant workers must be placed in countries by the work agreement. This has also been regulated, as in Article 71 of Law Number 18 of 2017 (Dewi et al., 2021). Prospective migrant workers whose departure is illegal can still leave because they use fake documents prepared by brokers from migrant worker-sending companies. Non-procedural migrant workers are vulnerable to dangerous risks such as violence, human trafficking, and sexual exploitation, not to mention if they work abroad. There is an inspection of the data collection of their citizens, which can arrest non-procedural migrant workers—the persons responsible for collecting resident data (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.

To protect Indonesian migrant workers abroad, the government issued Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers and various other regulations that regulate the placement mechanism for Indonesian migrant workers. This is done to protect migrant workers from becoming victims of human trafficking, violence, and other crimes. Despite this, there are still many Indonesian migrant workers who do not fulfill the procedures set out in statutory regulations. This has become the government's concern, and it is trying to provide a deterrent effect to perpetrators of nonprocedural PMI placement. Based on the problems above, researchers are interested in studying law enforcement for perpetrators of non-procedural PMI placement by limiting it to what factors support perpetrators in carrying out non-procedural PMI placement, and how legal sanctions are applied to perpetrators of non-procedural PMI placement in Indonesia.

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 legal materials, secondary legal materials, and tertiary legal materials, namely statutory regulations, books, scientific articles, and data taken from websites/the Internet. Library research was used as the data-collection technique.

RESULT AND 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. 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.

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.

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.

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	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	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).

services in one-stop integrated services for PMI placement and protection; and g) Guidance and supervision (Eddyono, 2021).	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).	

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

Regarding regulations regarding 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 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 example 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 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	Sentenced with imprisonment as the same as the provisions in Article 2, Article 3, Article 4, Article 5, and Article 6, namely

	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).	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 & Herlina (2019), Nuraeny (2023), and Dananjaya (2020) (Data Processed, 2024)

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).

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	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).

	without going through an immigration inspection (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: 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, 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); 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)

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.

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.

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Data availability statement

The data that support the findings of this study are available from the corresponding author, upon reasonable request.

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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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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 (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).

The number of irregular migrant workers is predicted to be quite large. The International Organization for Migration reports that there are approximately 58 million irregular or undocumented migrant workers. They are considered 'illegal' migrant workers because of several conditions, such as entering a country not by the procedures established by immigration law in that country, they are in a country but exceeding the period permitted by a visa, and travel document (passport) is no longer valid, or because they work without being registered as workers by labor law in a foreign country (Soulina & 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).

Indonesia contributes data on non-regular migrant workers at a global level. The World Bank notes that nine million Indonesian migrant workers work abroad, with the main destinations being Malaysia, Saudi Arabia, China, Hong Kong, and Singapore, where 48% of Indonesian Migrant Workers migrate non-procedurally. It is estimated that 70 percent of non-procedural migrant workers are women. Indonesia is the second largest country in Southeast Asia after the Philippines, with more than 25 migrant workers. It can be seen 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 countries (Noor, 2023). The data obtained differ significantly from previous years, especially during the COVID-19 pandemic, when sending migrant workers was very limited. The average number of registered people is Senior High School graduates (SMA).

The increasing number of interested migrant workers also benefits the government because it can help reduce the number of unemployed people and increase foreign exchange. Prospective migrant workers think that working abroad is profitable because they receive much better wages than they do in Indonesia. However, they must consider the high risks that they will experience (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.

Based on the risks experienced by migrant workers, BP2MI has received complaints from Indonesian Migrant Workers (PMI) in various countries regarding the problems they experienced while working abroad. Currently, BP2MI has notified PMI complaints from January to September 2022, namely from Saudi Arabia as much as 29.5% with a total of 50 complaints, Malaysia as much as 16.5% with a total of 28 complaints, Taiwan as much as 10.6% with 18 complaints, the UAE as much as 7% with 12 complaints, Poland as much as 6% with 10 complaints, and as many as 30.4% with 51 complaints. The complaints consisted of 102 illegal migrant workers, 83 complaints about unpaid salaries, 93 complaints of deaths in the destination country, 13 complaints of violence, and 40 complaints of human trafficking. Of the many complaints received, they were legal workers, or what could be called non-procedural workers. This is closely related to the PMI's departure until they arrive at the destination country, where they are trapped in the game between brokers (Nuraeny, 2023).

Brokers have routes across various countries that are easy to travel; thus, they can convince local people to manage departures to work abroad. It has been regulated in Article 72 (b) of Law Number 18 of 2017 concerning the prohibition of placement in closed countries, and prospective migrant workers must be placed in countries by the work agreement. This has also been regulated, as in Article 71 of Law Number 18 of 2017 (Dewi et al., 2021). Prospective migrant workers whose departure is illegal can still leave because they use fake documents prepared by brokers from migrant worker-sending companies. Non-procedural migrant workers are vulnerable to dangerous risks such as violence, human trafficking, and sexual exploitation, not to mention if they work abroad. There is an inspection of the data collection of their citizens, which can arrest non-procedural migrant workers—the persons responsible for collecting resident data (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.

To protect Indonesian migrant workers abroad, the government issued Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers and various other regulations that regulate the placement mechanism for Indonesian migrant workers. This is done to protect migrant workers from becoming victims of human trafficking, violence, and other crimes. Despite this, there are still many Indonesian migrant workers who do not fulfill the procedures set out in statutory regulations. This has become the government's concern, and it is trying to provide a deterrent effect to perpetrators of nonprocedural PMI placement.

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 3) problems arising from the multi-directional nature of labor migration.

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 legal materials, secondary legal materials, and tertiary legal materials, namely statutory regulations, books, scientific articles, and data taken 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 obtained 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. 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 and Suwardono (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.

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.

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).	

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

Regarding regulations regarding 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 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 example 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 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 & Herlina (2019), Nuraeny (2023), and Dananjaya (2020) (Data Processed, 2024)

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).

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	Sentenced to a maximum imprisonment of 1 (one) year or a maximum fine of IDR

	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).	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: 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, 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); 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)

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, 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.

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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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Answers to the Reviewers

Comments from the Reviewer(s):

Reviewer: 1	**Answer**:
Comments to the Author Overall, the author has demonstrated commendable writing and a thorough understanding of the subject.	
To further strengthen the paper, I recommend creating a separate "Discussion" section. This would allow for a more in-depth analysis and a clearer presentation of the implications and nuances of the research findings.	Fixed using yellow line. On page 4.
Additionally, I noticed that several references do not adhere to the standard journal style. Specifically, the titles in the reference list should not be written in all capital letters. Adhering to the appropriate style will enhance the paper's professionalism and readability.	Fixed using yellow line. In the references section.
Furthermore, please consider citing the following references to strengthen the paper's academic foundation and provide a more comprehensive perspective: 1. https://hi.umy.ac.id/wp-content/uploads/2019/01/Suffer-to-Survive-The-Indonesian-Illegal-Workers-Experiences-in-Malaysia-and-Japan-.pdf	Added using the yellow line. On pages 3 and 17.
If these revisions are made, I would highly recommend the manuscript for publication.	
Reviewer: 2	**Answer**:
Comments to the Author 1. I recommend the author to concern about the novelty of the article	Fixed using the green line on page 4.
2. I recommend the author to add more elaboration about theoretical and conceptual approach on the Result and Discussions	Added using the green line on page 7.
Reviewer: 3	**Answer**:
Comments to the Author This research does not present novel findings, as many previous scholars have already explored the nexus between the weaknesses in Indonesian regulations and the factors driving migrant workers to use brokers and non-procedural routes. The researcher has not extensively utilized prior	Fixed using red lines on pages 3, 4, 7, 15, 16, 17.

studies that address this issue. For instance, Johan Lindquist's work on brokering practices for Indonesian migrant workers and Avyanthi Azis's evaluation of the Palermo Protocol for Indonesian migrant workers who are victims of trafficking on fishing vessels are not sufficiently referenced. Similarly, Wayne Palmer's research on the history of Indonesian regulations regarding migrant worker deployment abroad is also not reviewed in this article. In the introduction, it is unclear what gap this article aims to address or what contribution it seeks to make to the study of migrant labour or migration regulation. The methodology section is brief and does not demonstrate that the research was conducted with thorough planning or that it can fill existing research gaps. The methodology would be strengthened by focusing on court rulings related to human trafficking involving Indonesian migrant workers. By analyzing these rulings, the researcher could provide a more current analysis of the factors driving migrants to use brokers and non-procedural routes. Additionally, the researcher could use recent case studies, such as online scams, to explore other methods of sending Indonesian migrant workers abroad. This could help evaluate why the Indonesian Migrant Workers Law fails to be effectively enforced. The analysis is not in-depth and remains largely descriptive in the results and discussion section. The author merely summarizes discussions from other articles and the content of regulations. When discussing Law No. 21 of 2007 on Human Trafficking, the author is not cautious in noting that not all Indonesian migrant workers who depart via non-procedural routes are at risk of trafficking. Non-procedural routes primarily pertain to documentation and pre-departure training, whereas trafficking requires elements of process, method, and purpose to identify victims. Therefore, revision of this article is not recommended.	Fixed using red lines on page 4. Fixed using red lines on pages 7, and 15.
Improvements from the editor	

1. We noticed that there is a high verbatim text overlap in the introduction section between the submitted manuscript and the published article found online: LEGAL PROTECTION AGAINST ACTS OF VIOLENCE: EVIDENCE FROM INDONESIAN MIGRANT WORKERS a Henny Nuraeny Please rephrase the overlapping text	Fixed using grey lines on pages 2, 3, 9, 12 and 14.
2. While conducting checks on your manuscript we noted that Tables 1 to 3 has not been referenced in text. All figures/tables included in the manuscript should be referenced in the body of the text.	
3. To process the revised manuscript, please provide separate editable word documents for tables 1 to 3. Please ensure that all tables include a legend, numbering, and in-text citations. For example, Table 1.	It has been fixed and sent to the system

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

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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 (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).

The number of irregular migrant workers is predicted to be quite large. The International Organization for Migration reports that there are approximately 58 million irregular or undocumented migrant workers. They are considered 'illegal' migrant workers because of several conditions, such as entering a country not by the procedures established by immigration law in that country, they are in a country but exceeding the period permitted by a visa, and travel document (passport) is no longer valid, or because they work without being registered as workers by labor law in a foreign country (Soulina & 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).

Indonesia contributes data on non-regular migrant workers at a global level. The World Bank notes that nine million Indonesian migrant workers work abroad, with the main destinations being Malaysia, Saudi Arabia, China, Hong Kong, and Singapore, where 48% of Indonesian Migrant Workers migrate non-procedurally. It is estimated that 70 percent of non-procedural migrant workers are women. Indonesia is the second largest country in Southeast Asia after the Philippines, with more than 25 migrant workers. It can be seen 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 countries (Noor, 2023). The data obtained differ significantly from previous years, especially during the COVID-19 pandemic, when sending migrant workers was very limited. The average number of registered people is Senior High School graduates (SMA).

The increasing number of interested migrant workers also benefits the government because it can help reduce the number of unemployed people and increase foreign exchange. Prospective migrant workers think that working abroad is profitable because they receive much better wages than they do in Indonesia. However, they must consider the high risks that they will experience (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.

Based on the risks experienced by migrant workers, BP2MI has received complaints from Indonesian Migrant Workers (PMI) in various countries regarding the problems they experienced while working abroad. Currently, BP2MI has notified PMI complaints from January to September 2022, namely from Saudi Arabia as much as 29.5% with a total of 50 complaints, Malaysia as much as 16.5% with a total of 28 complaints, Taiwan as much as 10.6% with 18 complaints, the UAE as much as 7% with 12 complaints, Poland as much as 6% with 10 complaints, and as many as 30.4% with 51 complaints. The complaints consisted of 102 illegal migrant workers, 83 complaints about unpaid salaries, 93 complaints of deaths in the destination country, 13 complaints of violence, and 40 complaints of human trafficking. Of the many complaints received, they were legal workers, or what could be called non-procedural workers. This is closely related to the PMI's departure until they arrive at the destination country, where they are trapped in the game between brokers (Nuraeny, 2023).

Brokers have routes across various countries that are easy to travel; thus, they can convince local people to manage departures to work abroad. It has been regulated in Article 72 (b) of Law Number 18 of 2017 concerning the prohibition of placement in closed countries, and prospective migrant workers must be placed in countries by the work agreement. This has also been regulated, as in Article 71 of Law Number 18 of 2017 (Dewi et al., 2021). Prospective migrant workers whose departure is illegal can still leave because they use fake documents prepared by brokers from migrant worker-sending companies. Non-procedural migrant workers are vulnerable to dangerous risks such as violence, human trafficking, and sexual exploitation, not to mention if they work abroad. There is an inspection of the data collection of their citizens, which can arrest non-procedural migrant workers—the persons responsible for collecting resident data (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.

To protect Indonesian migrant workers abroad, the government issued Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers and various other regulations that regulate the placement mechanism for Indonesian migrant workers. This is done to protect migrant workers from becoming victims of human trafficking, violence, and other crimes. Despite this, there are still many Indonesian migrant workers who do not fulfill the procedures set out in statutory regulations. This has become the government's concern, and it is trying to provide a deterrent effect to perpetrators of nonprocedural PMI placement.

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 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 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

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 and Suwardono (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.

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.

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	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;	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).

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).	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).	

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

Regarding regulations regarding 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 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 example 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	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

	exploit them outside the territory of the Republic of Indonesia (Dananjaya, 2020).	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 & Herlina (2019), Nuraeny (2023), and Dananjaya (2020) (Data Processed, 2024)

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).

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: 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;	a. 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); 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

h. Mastering other people's travel documents (Eddyono, 2021).	(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)

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, 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.

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

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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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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 (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).

The number of irregular migrant workers is predicted to be quite large. The International Organization for Migration reports that there are approximately 58 million irregular or undocumented migrant workers. They are considered 'illegal' migrant workers because of several conditions, such as entering a country not by the procedures established by immigration law in that country, they are in a country but exceeding the period permitted by a visa, and travel document (passport) is no longer valid, or because they work without being registered as workers by labor law in a foreign country (Soulina & 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).

Indonesia contributes data on non-regular migrant workers at a global level. The World Bank notes that nine million Indonesian migrant workers work abroad, with the main destinations being Malaysia, Saudi Arabia, China, Hong Kong, and Singapore, where 48% of Indonesian Migrant Workers migrate non-procedurally. It is estimated that 70 percent of non-procedural migrant workers are women. Indonesia is the second largest country in Southeast Asia after the Philippines, with more than 25 migrant workers. It can be seen 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 countries (Noor, 2023). The data obtained differ significantly from previous years, especially during the COVID-19 pandemic, when sending migrant workers was very limited. The average number of registered people is Senior High School graduates (SMA).

The increasing number of interested migrant workers also benefits the government because it can help reduce the number of unemployed people and increase foreign exchange. Prospective migrant workers think that working abroad is profitable because they receive much better wages than they do in Indonesia. However, they must consider the high risks that they will experience (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.

Based on the risks experienced by migrant workers, BP2MI has received complaints from Indonesian Migrant Workers (PMI) in various countries regarding the problems they experienced while working abroad. Currently, BP2MI has notified PMI complaints from January to September 2022, namely from Saudi Arabia as much as 29.5% with a total of 50 complaints, Malaysia as much as 16.5% with a total of 28 complaints, Taiwan as much as 10.6% with 18 complaints, the UAE as much as 7% with 12 complaints, Poland as much as 6% with 10 complaints, and as many as 30.4% with 51 complaints. The complaints consisted of 102 illegal migrant workers, 83 complaints about unpaid salaries, 93 complaints of deaths in the destination country, 13 complaints of violence, and 40 complaints of human trafficking. Of the many complaints received, they were legal workers, or what could be called non-procedural workers. This is closely related to the PMI's departure until they arrive at the destination country, where they are trapped in the game between brokers (Nuraeny, 2023).

Brokers have routes across various countries that are easy to travel; thus, they can convince local people to manage departures to work abroad. It has been regulated in Article 72 (b) of Law Number 18 of 2017 concerning the prohibition of placement in closed countries, and prospective migrant workers must be placed in countries by the work agreement. This has also been regulated, as in Article 71 of Law Number 18 of 2017 (Dewi et al., 2021). Prospective migrant workers whose departure is illegal can still leave because they use fake documents prepared by brokers from migrant worker-sending companies. Non-procedural migrant workers are vulnerable to dangerous risks such as violence, human trafficking, and sexual exploitation, not to mention if they work abroad. There is an inspection of the data collection of their citizens, which can arrest non-procedural migrant workers—the persons responsible for collecting resident data (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.

To protect Indonesian migrant workers abroad, the government issued Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers and various other regulations that regulate the placement mechanism for Indonesian migrant workers. This is done to protect migrant workers from becoming victims of human trafficking, violence, and other crimes. Despite this, there are still many Indonesian migrant workers who do not fulfill the procedures set out in statutory regulations. This has become the government's concern, and it is trying to provide a deterrent effect to perpetrators of nonprocedural PMI placement.

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 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 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

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 and Suwardono (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.

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.

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	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;	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).

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).	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).	

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

Regarding regulations regarding 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 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 example 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	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

	exploit them outside the territory of the Republic of Indonesia (Dananjaya, 2020).	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 & Herlina (2019), Nuraeny (2023), and Dananjaya (2020) (Data Processed, 2024)

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).

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: 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;	a. 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); 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

h. Mastering other people's travel documents (Eddyono, 2021).	(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)

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, 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.

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

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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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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 (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 (Soulina & 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, 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 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 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

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 and Suwardono (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:

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).	

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 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 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:

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 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 & 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).

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, 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); 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, 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.

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

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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, 2020).

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

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 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 & Herlina (2019), Nuraeny (2023), and Dananjaya (2020) (Data Processed, 2024)

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: 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;	a. 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); 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

	h. Mastering other people's travel documents (Eddyono, 2021).	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)

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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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Answers to the Reviewers

Comments from the Reviewer(s):

Reviewer: 1 Comments to the Author Overall, the author has demonstrated commendable writing and a thorough understanding of the subject. To further strengthen the paper, I recommend creating a separate "Discussion" section. This would allow for a more in-depth analysis and a clearer presentation of the implications and nuances of the research findings. Additionally, I noticed that several references do not adhere to the standard journal style. Specifically, the titles in the reference list should not be written in all capital letters. Adhering to the appropriate style will enhance the paper's professionalism and readability. Furthermore, please consider citing the following references to strengthen the paper's academic foundation and provide a more comprehensive perspective: 1. https://hi.umy.ac.id/wp-content/uploads/2019/01/Suffer-to-Survive-The-Indonesian-Illegal-Workers-Experiences-in-Malaysia-and-Japan-.pdf If these revisions are made, I would highly recommend the manuscript for publication.	**Answer**: Fixed using yellow line. On page 4. Fixed using yellow line. In the references section. Added using the yellow line. On pages 3 and 17.
Reviewer: 2 Comments to the Author 1. I recommend the author to concern about the novelty of the article 2. I recommend the author to add more elaboration about theoretical and conceptual approach on the Result and Discussions	**Answer**: Fixed using the green line on page 4. Added using the green line on page 7.
Reviewer: 3 Comments to the Author This research does not present novel findings, as many previous scholars have already explored the nexus between the weaknesses in Indonesian regulations and the factors driving migrant workers to use brokers and non-procedural routes. The researcher has not extensively utilized prior	**Answer**: Fixed using red lines on pages 3, 4, 7, 15, 16, 17.

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studies that address this issue. For instance, Johan Lindquist's work on brokering practices for Indonesian migrant workers and Avyanthi Azis's evaluation of the Palermo Protocol for Indonesian migrant workers who are victims of trafficking on fishing vessels are not sufficiently referenced. Similarly, Wayne Palmer's research on the history of Indonesian regulations regarding migrant worker deployment abroad is also not reviewed in this article. In the introduction, it is unclear what gap this article aims to address or what contribution it seeks to make to the study of migrant labour or migration regulation. The methodology section is brief and does not demonstrate that the research was conducted with thorough planning or that it can fill existing research gaps. The methodology would be strengthened by focusing on court rulings related to human trafficking involving Indonesian migrant workers. By analyzing these rulings, the researcher could provide a more current analysis of the factors driving migrants to use brokers and non-procedural routes. Additionally, the researcher could use recent case studies, such as online scams, to explore other methods of sending Indonesian migrant workers abroad. This could help evaluate why the Indonesian Migrant Workers Law fails to be effectively enforced. The analysis is not in-depth and remains largely descriptive in the results and discussion section. The author merely summarizes discussions from other articles and the content of regulations. When discussing Law No. 21 of 2007 on Human Trafficking, the author is not cautious in noting that not all Indonesian migrant workers who depart via non-procedural routes are at risk of trafficking. Non-procedural routes primarily pertain to documentation and pre-departure training, whereas trafficking requires elements of process, method, and purpose to identify victims. Therefore, revision of this article is not recommended.	Fixed using red lines on page 4. Fixed using red lines on pages 7, and 15.
Improvements from the editor	

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1. We noticed that there is a high verbatim text overlap in the introduction section between the submitted manuscript and the published article found online: LEGAL PROTECTION AGAINST ACTS OF VIOLENCE: EVIDENCE FROM INDONESIAN MIGRANT WORKERS a Henny Nuraeny Please rephrase the overlapping text	Fixed using grey lines on pages 2, 3, 9, 12 and 14.
2. While conducting checks on your manuscript we noted that Tables 1 to 3 has not been referenced in text. All figures/tables included in the manuscript should be referenced in the body of the text.	
3. To process the revised manuscript, please provide separate editable word documents for tables 1 to 3. Please ensure that all tables include a legend, numbering, and in-text citations. For example, Table 1.	It has been fixed and sent to the system

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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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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 (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

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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 (Soulina & 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, 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).

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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,

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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 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

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,

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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.

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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

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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 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

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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).

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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).	

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 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 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)

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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:

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 of at least IDR 120,000,000.00 (one hundred and twenty million rupiahs) and a maximum of IDR 600,000,000.00 (six

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		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).

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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, 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); 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);

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	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).

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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

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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.

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

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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 (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 (Soulina & 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, 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 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 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

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 and Suwardono (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:

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).	

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 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 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:

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 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 & 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).

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, 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); 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, 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.

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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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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 (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 (Soulina & 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, 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 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 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

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 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, 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 and Suwardono (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:

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).	

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 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 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:

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 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 & 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).

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, 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); 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 transportation 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, 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.

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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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Tanti Kirana Utami

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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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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 (PTPPO), 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

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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 (Soulina & 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 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.

Data availability statement

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

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

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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 (PTPPO), 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

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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 (Soulina & 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).

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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.

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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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 (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 (Soulina & 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, 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 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 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

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 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, 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 and Suwardono (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:

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).	

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 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 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:

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 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 & 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).

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, 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); 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 transportation 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, 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.

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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.

Data availability statement

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

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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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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 (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 (Soulina & 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, 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 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 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

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 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, 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 and Suwardono (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:

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).	

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 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 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:

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 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 & 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).

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, 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); 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 transportation 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, 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.

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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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