



Protection and Legal Aid for Women Migrant Workers with Problems in Kuala Lumpur Malaysia

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Abstract

Indonesia is one of the largest migrant worker-sending countries in Southeast Asia, with Malaysia being a major destination. Most of these migrant workers are women working in the informal sector, such as domestic helpers, who are often vulnerable to exploitation and human rights violations. The research on the protection of Indonesian female migrant workers in Malaysia aims to identify the problems faced, analyze the effectiveness of existing policies and programs, and provide recommendations to improve their protection and welfare. This research is important to contribute to improving the system of placement and protection of migrant workers, and to ensure that their rights are respected and protected. The research method used is the normative juristic method, which prioritizes secondary data, but is also complemented by primary data in the form of interviews and discussions with migrant workers who are experiencing legal problems in Kuala Lumpur Malaysia. In conclusion, female migrant workers, especially those working in the informal sector as domestic workers, are highly vulnerable to various forms of human rights violations, including exploitation, physical and psychological violence, sexual harassment, excessive working hours, inadequate wages, and poor working conditions. Illegal status exacerbates vulnerability, as illegal migrant workers do not have the same legal protections as legal migrant workers and are afraid to report abuses they experience.

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1. Introduction

Migrant workers or in the law are called Indonesian workers who work abroad is a phenomenon of Indonesian society that is increasingly prominent. migrant workers can actually be interpreted as people who work outside their city / district or abroad.

Those who work outside the village, but still within the city/district, are not considered migrant workers. This understanding of migrant workers refers to the concept of migration, which is defined as people/groups of people who move from one region/city to another, either within the country or abroad. (Marks et al., 2013)

Migrant workers are people who migrate from their birthplace to another place and then work in the new place for a relatively long period of time, and can even be said to be permanent. Migrant workers include at least two types: internal migrant workers and international migrant workers. Internal migrant workers are associated with urbanization, while international migrant workers are inseparable from globalization. ([Lasimbang et al., 2016](#)).

As of June 2023, 135,791 Indonesian migrant workers were working abroad, of whom 70% (81,866) were women (BP2MI, no date). Compared to May 2021 and 2022, the number of complaints increased in May 2023. Between January and May 2023, most complaints came from Saudi Arabia, Malaysia, and Taiwan, while West Java and Central Java had the highest number of complaints. The most common complaints include requests for repatriation and excessive placement fees ([bp2mi.go.id](#))."

The Indonesian Migrant Workers Union (SBMI) also noted in its annual report in 2020 that there was an increase in cases compared to 2019 with a variety of cases experienced by PMI in the form of physical violence, abuse, sexual harassment, violation of employment contracts, economic exploitation, trafficking in persons to forced disappearance due to criminalization experienced. Solidaritas Perempuan's data further shows the layered violence experienced by Indonesian women migrant workers. Of the 63 cases reported, there were 188 types/forms of cases experienced. The handling of cases also shows that victims of trafficking generally also experience other forms of violence, such as physical violence and withholding of documents. ([solidaritasperempuan \(Woman Solidarity , 2020\)](#)).

It can be temporarily concluded that cases of violence and exploitation against Indonesian Migrant Workers, especially women, have increased from 2019 to 2020. Reports from Indonesian Migrant Workers Union SBMI and women's solidarity show that migrant workers face various forms of rights violations, including physical violence, sexual harassment, economic exploitation, human trafficking, and criminalization. In addition, Woman's Solidarity data reveals that victims of human trafficking often experience multiple forms of violence, such as document retention and physical violence. This confirms that protecting of Indonesian migrant workers is still a major challenge that needs more serious attention.

Based on the problems described above, this paper analyzes the roles and responsibilities of the Indonesian and Malaysian governments in providing legal protection for women migrant workers. Additionally, it examines the protection and legal assistance available to Indonesian women migrant workers facing difficulties in Kuala Lumpur.

The increase in the number of complaints of Indonesian women migrant workers in Malaysia cannot be separated from the MoU period between Indonesia and Malaysia which ended in May 2016. Since then, the memorandum of understanding that became the legal basis for sending migrant workers to Malaysia is no longer valid. In 2016, cases of violence against migrant workers again shocked the public. One of them was the case of migrant worker: Suyantik who was tortured in Malaysia. In the midst of various efforts made by the governments of Indonesia and Malaysia in improving guarantees and protection for Indonesian migrant workers, it turns out that there are still cases of abuse and torture of Indonesian migrant workers in Malaysia and for this case, the government through the Indonesian Embassy has sent a note of protest to Malaysia.

Malaysia is the main destination country for Indonesian migrant workers. Although many choose Malaysia as a place to try their luck, not a few of the migrant workers in Malaysia get bad treatment from various parties. According to the Director General of Protocol and Consular Affairs, Ministry of Foreign Affairs of the Republic of Indonesia said that in Malaysia there are approximately 15 thousand cases per year, but only 30% of these cases are resolved. ([Siregar et al., 2021](#))

Based on data obtained from the Indonesian Migrant Worker Placement Protection Agency, during the reign of President Jokowi, namely from 2014 to 2019 there was a significant increase in the number of complaints of Indonesian migrant workers at the Crisis Center in Malaysia. Even in 2015 to 2019 Malaysia occupied the first position in complaints of migrant workers. (Wijaya & Buana, 2021) ([Pelayanan Pengaduan PMI Bermasalah \(Crisis Center\) - Badan Perlindungan Pekerja Migran Indonesia, n.d.](#)).

The implementation of the world free market, including the free labour market in Southeast Asia in the era of globalisation, has also contributed to the emergence of various problems and obstacles faced by women migrant workers. Workers from other countries are allowed to enter the labour market in Indonesia, and vice versa; Indonesian workers can also take the opportunity to work in other countries as migrant workers, including women migrant workers.

Globalisation, which began at the end of the 20th century, has indeed created significant developments in all aspects of life, marked by the expansion of production and consumption, the influence of Western culture, and models of political systems that have created a society that knows no boundaries of sovereignty. ([Wijayati & Rahman, 2022](#)) One of the symptoms resulting from the globalisation of the world economy is the changing pattern of labour. Opportunities for the movement of goods and products have now expanded to the movement of human beings who become migrant workers in destination countries. Those who want to improve their level of living then migrate to more developed and more prosperous countries. This then creates a situation where employers can increase their profits by hiring migrant workers from poorer countries, as they can be paid cheaply, especially women migrant workers, because they are more conscientious and less demanding.

The intended protection of Indonesian migrant workers is all efforts to protect the interests of prospective Indonesian migrant workers and / or Indonesian migrant workers and their families in realizing the guaranteed fulfillment of their rights in all activities before work, during work and after work in legal, social economic aspects.

Protection before work is protection from registration to departure. is the overall activity to provide protection while Indonesian migrant workers and their family members are abroad. Protection during work is the overall activity to provide protection while Indonesian migrant workers and their family members are abroad. The definition of protection according to Black's Law Dictionary is aimed at: "to protect a person from further harassment or abusive service of process or discovery" ([Matompo, 2022](#)). In relation to Indonesian migrant workers, some of these provisions are implemented in Law No. 37 of 1999 on Foreign Relations, the International Covenant on Civil and Political Rights (ICCPR) ratified by the Government of Indonesia in Law No. 12 of 2005, the International Convention on the Protection of the Rights of All Migrant Workers and Their Families of 2000, Law No. 16 of 2011 on Legal Aid, and Law No. 18 of 2017 on Worker Protection).

This paper specifically discusses female migrant workers in Malaysia, focusing on the protection of those facing difficulties both during and after employment. Most Indonesian women migrant workers in Malaysia have limited skills and qualifications, making them vulnerable to

exploitation by labor agents in both Indonesia and Malaysia. This often leads to trafficking, forcing them into work that violates human dignity." ([Thomson Reuters, 2021](#); [Natalis & Ispriyarso, 2018](#)).

Research on female workers, particularly those in Kuala Lumpur, Malaysia, is important for several key reasons from economic, social, and policy perspectives. This study is highly relevant and has a broad impact, as female migrant workers from developing countries like Indonesia contribute significantly to both the sending and receiving countries' economies. Additionally, this issue is closely linked to legal protection and worker welfare, gender-related challenges, and their effects on families and communities. It is also connected to state policies on immigration and international relations."

2. Literature Review

Legal protection for female workers is basically quite a lot both nationally and internationally. In addition, the problem will also be analyzed based on the theory of human rights and the theory of gender justice. The concept is an effort to provide equal justice for both genders. In order to ensure that these efforts are fair, it is necessary to eliminate actions that socially and historically can prevent women and men from playing a role and feeling the output of the roles they have played.

As human beings, women migrant workers have fundamental rights that must be fulfilled. Human rights are fundamental rights that must be obtained by everyone, including Indonesian women who are migrant workers ([Lasimbang et al., 2016](#)), whose human rights should be protected based on the basic principles of respect for human dignity, equality and non-discrimination.

Second, they are inalienable. Human rights are inherent in every individual from birth, and throughout life. These human rights cannot be taken away from an individual forever. Third, they cannot be separated. Human rights are interconnected and complementary to one another. Therefore, no human right is considered more important than another. Every human being has their own human rights. All human rights must be obtained by a person, without compromising the human rights of others. If every human being has human rights, it means that both men and women have the same human rights and should not be discriminated against. Thus, it can be understood that women migrant workers have human rights that must be obtained, such as the right to life, the right to get food and drink, the right to work, and so on. ([Matompo, 2022](#))

There are several International Conventions that discuss the protection of female workers. Here are some of the important ones:

- ILO Convention No. 100 of 1951 concerning Equal Remuneration: This Convention emphasizes the principle of equal remuneration for male and female workers for work of equal value. It aims to prevent wage discrimination based on sex.
- ILO Convention No. 183 of 2000 on Maternity Protection: This convention provides protection for female workers during pregnancy, childbirth and after childbirth. Some of its key points include:
 - Adequate maternity leave.
 - Protection against termination of employment due to pregnancy or childbirth.
 - the right to return to the same or equivalent work after leave.
 - Health and safety protection for pregnant and lactating mothers.
- ILO No. 190 of 2019 on the Elimination of Violence and Harassment in the World of Work: This Convention recognizes that violence and harassment in the workplace can have a

disproportionate impact on women. It calls on countries to adopt measures to prevent and address violence and harassment in the world of work, including gender-based violence and harassment.

- ILO Convention No. 189 of 2011 on Decent Work for Domestic Workers: Although not exclusively for women, this convention is particularly relevant since the majority of domestic workers are women. It sets minimum standards for the protection of domestic workers, including working hours, minimum wages, and decent working conditions.
- CEDAW (Convention on the Elimination of All Forms of Discrimination against Women): This convention generally addresses the elimination of all forms of discrimination against women, including in the field of employment. CEDAW emphasizes the importance of gender equality in employment opportunities, wages, promotions, and working conditions.

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) is an international treaty that has been ratified by the Indonesian nation through Law Number 7 of 1984 concerning the Ratification of the Convention on the Elimination of All Forms of Discrimination Against Women on 24 July 1984. ([Women and Gender Studies UI, 2020, n.d.](#))

Especially for women in CEDAW there is what is called affirmative action which is stated in Article 4 paragraph (2) which reads: ‘the taking of special measures by States Parties, including measures contained in this Convention, aimed at protecting pregnancy, shall not be considered as discrimination’. Affirmative Action which is the embodiment of Article 4 has the meaning of positive discrimination or discrimination against women.

Special measures taken to accelerate the achievement of justice and equality between men and women. Affirmative policies aim to promote equal opportunities for every citizen, especially women who belong to groups vulnerable to marginalisation. For this reason, when women experience matters specifically related to their reproductive functions, such as pregnancy, menstruation, miscarriage and others. ([Abdul-Rahman et al., 2012](#)).

Law No. 39/1999 on Human Rights regulates the guarantee of basic human rights, including the right not to be tortured, not to be discriminated against, and to have equal rights before the law. This also applies to women migrant workers. Article 49 Paragraph (2) of Law Number 39 Year 1999 on Human Rights has specifically regulated the rights of women/women, especially in the field of employment, which states that: ‘Women are entitled to special protection in the performance of their work or profession against matters that may threaten their safety and/or health relating to the reproductive function of women.’

Meanwhile, Law No. 18/2017 on the Protection of Indonesian Migrant Workers is also the main legal basis that comprehensively regulates the protection of Indonesian migrant workers, including women migrant workers. This law regulates various aspects, from pre-placement, placement, to post-placement, which include:

- Pre-employment time: Includes pre-departure information and training, medical check-ups, and paperwork.
- During employment: Covers safe and decent placement, guaranteed legal protection, and access to health services and legal aid.
- Post-employment period: Covers return facilitation, social and economic reintegration, and complaint handling.

Government Regulation No. 4/2013 on the Implementation of Law No. 39/2004 on the Placement and Protection of Indonesian Migrant Workers Abroad (still partially in effect): Although Law No. 39 of 2004 has been replaced by Law No. 18 of 2017, some provisions in this PP are still valid as long as they do not conflict with the new law. ([Rosalina & Setyawanta, 2020](#)).

In terms of theory, the work of women is also analysed based on the views or values of Islam and human rights and a little bit of gender justice theory. Gender according to Jary and Jary, in Dictionary of Sociology ([Dictionary of Sociology - Oxford Reference, 3rd Ed, n.d.](#)), Gender is not only indicated for women, but for men and women. It is this distinction between gender and sex that causes problems. The confusion and misunderstanding in society about social constructs is so deep-rooted that people consider this as culture. ([Hanapi, 2015](#)) This difference in gender will actually not cause problems in society as long as it does not create gender injustice. However, in reality, this gender difference creates gender injustice for men and especially for women. Gender injustice affects men and women who are victims of the systems and structures that are in place in society.

Gender inequality is often felt in the field of labour, both in developed countries and in developing countries including Indonesia. The occurrence of a gender gap in the world of work can be influenced by the employer's institution or because it is influenced by social culture. The gender gap is influenced by institutions because there is still an assumption that the level of education and work experience possessed by female workers is lower than male workers, the exclusivity of certain jobs that are considered less suitable for female workers to enter, and the stigma that is still often attached that women are less productive than male workers ([Nuraeni & Lilin Suryono, 2021](#)). Gender inequality is often felt in the field of labor, both in developed countries and in developing countries including Indonesia. The occurrence of a gender gap in the world of work can be influenced by the employer's institution or because it is influenced by social culture. The gender gap is influenced by institutions because there is still an assumption that the level of education and work experience possessed by female workers is lower than male workers, the exclusivity of certain jobs that are considered less suitable for female workers to enter, and the stigma that is still often attached that women are less productive than male workers.

In gender justice theory, gender roles are divided into productive roles, reproductive roles and social roles. Gender equality is one of the basic rights of every human being. Gender is the differentiation of roles, attributes, traits, attitudes and behaviors that grow and develop in society. However, in reality, until now, women are often considered weak and only become complementary figures. Moreover, there is a mindset that the role of women is limited to working in the kitchen, well, taking care of the family and children, so that in the end the role outside of that becomes unimportant ([Nuraeni & Lilin Suryono, 2021](#)). The term gender equality is often associated with the terms discrimination against women, subordination, oppression, unfair behavior and the like. Gender discrimination causes vulnerability to women and/or girls and has the potential for violence against women in various areas of life. ([Sundry & Muslikhah, 2024](#)).

Indonesia has taken various steps in implementing the ILO Convention, CEDAW, and national laws and regulations to protect female migrant workers, especially those working in Malaysia. However, there are still many challenges in its implementation, especially in terms of supervision, access to justice, and the effectiveness of bilateral cooperation. Further efforts are still needed, such as strengthening the agreement with Malaysia, improving the complaint mechanism, and providing stronger legal protection for female migrant workers.

3. Methodology

This research is legal research, which examines from a legal point of view using a normative juridical approach method, because the problem under study is analyzed based on theory and legislation. Normative legal research is library research, which is research conducted from secondary data but only 30% of these cases are resolved., consisting of primary, secondary and tertiary legal materials. (Thomson Reuters, 2021) The research specification used is descriptive analytical, which describes the data qualitatively, after which the materials will be.

4. Results And Discussion

1. The Roles and Responsibilities of the Governments of Indonesia and Malaysia in Providing Legal Protection for Female Migrant Workers.

The problems faced by the women workers met at the shelter at the Indonesian Embassy in Kuala Lumpur can be described as follows:

Number	Problems encountered	Total number of Female migrant workers	Causes	Description
1	No immigration documents	12 People	a. Immigration documents withheld by employer Immigration documents are detained and taken abroad by the employer b. Passport is overdue c. Abusing visa-free tourist visits	Still awaiting resolution by the Embassy of the Republic of Indonesia
2	Wages are not paid by the employer	6 people	Unclear employment agreement	Under settlement and negotiation by the Embassy and Migrant Care
3	Working time is erratic (sometimes 11 pm still working)	4 People	Employers use illegal migrant workers because they do not have passports and work visas	In the process of requesting rights arising from termination of employment
4	The type of work is not in accordance with the agreement	7 people	Unwritten employment agreement	
5	Running away from employers due to physical and mental stress	10 people	Employers consider workers unskilled and difficult to adjust	Waiting to be repatriated by the Indonesian government

From the table above, it can be seen that the Indonesian women migrant workers who were successfully met in Kuala Lumpur all need assistance both from the government and from parties who have access to provide assistance, both legal and social and economic assistance.

Every State is obliged to provide special protection so that the protection should not be considered as a form of discrimination for men, because the protection is solely given to protect women in passing

through their pregnancy because they are in a physically weaker position when pregnant, therefore it is necessary to get special treatment from the government. That is what is called Affirmative Action (positive discrimination).([Abdul-Rahman et al., 2012](#)).

The Indonesian government has made sufficient efforts to protect female workers and reduce gender disparities by ratifying international laws and creating national legal products. The protection provided by the government includes occupational safety and health, freedom of association and democracy in the workplace, protection against discrimination and protection of the fulfillment of basic workers' rights. ([Rohmany et al., 2023](#))

According to Migrant CARE, the weak protection and supervision of domestic workers, taking one of the countries receiving Indonesian migrant workers, namely in Malaysia, is because domestic workers are not protected by law in Malaysia, namely the 1955 Labor Act. To protect Indonesian migrant workers in the domestic sector such as domestic helpers can be done through work contracts based on the MoU between the governments of Indonesia and Malaysia, but until 2019 there has been no MoU between the two countries regarding the protection of domestic helpers, causing the lack of protection of domestic helpers who come from Indonesia in Malaysia.

Unlike informal female migrant workers, those who work in the formal sector usually get problems when they work in Malaysia. The problem that often occurs is that they are caught by immigration raids even though they depart officially and have a clear work contract. The problem arises because Indonesian migrant workers are placed by agents not in companies that are in accordance with work permits, but in company branches because many of the agencies in Malaysia do not only have one company but many branches. This causes the migrant worker to be considered in violation of the Malaysian Immigration Act for working not in accordance with the work permit. ([Harruma, 2022](#))

In fact, in the oppressive experiences of the women migrant workers (Indonesia) discussed earlier, these rights were taken away from them. The deprivation of their human rights occurs when they are oppressed, whether in the form of marginalization, cultural imperialism, exploitation, violence, and powerlessness. Furthermore, women migrant workers also have human rights as women. Women's human rights are regulated in the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). CEDAW regulates various human rights that women must obtain, ranging from employment, education, health, marriage, to the right to the body. ([CCedaw, 18 December 1979](#) _ [OHCHR, n.d.](#))

Female workers abroad, it shows that there are weaknesses in the government in providing this protection due to several factors, one of which is the factor of the worker placement system that has not been established (steady and fixed), bureaucracy and administrative problems ([Lee, 2014](#)).

2. The Protection and Legal Aid to Indonesian Women Migrant Workers In Trouble In Kuala Lumpur

Protection of Indonesian Migrant Workers, ([Farida, 2020](#)) both legal and illegal is a priority that must be carried out by the Government of Indonesia. (Farida, 2020) Efforts to provide protection are carried out by the government in various ways. The establishment of regulations and the implementation of cooperation and synergy between government agencies are some of the things that are done. However, information about the efforts made by the Government of Indonesia in providing protection to Indonesian Migrant Workers, both covering regulations and cooperation is still very

limited, especially cooperation in the field of immigration. This information is considered very important to be known by the wider community, especially the younger generation as a form of knowledge about the problems of Indonesian Migrant Workers which until now have not been resolved, despite various efforts.

Indonesian Migrant Workers, both legal and illegal, are a priority that must be carried out by the Government of Indonesia. Law No. 18/2017 provides Social Security protection for Indonesian Migrant Workers which has been implemented by insurance companies incorporated in an insurance consortium with protection programs including pre-placement, placement period, and post-placement protection. This law emphasizes and gives a greater role to the government and reduces the role of the private sector in the placement and protection of Indonesian Migrant Workers.

One of the human rights inherent in every individual, which is regulated in CEDAW is the right to the body. Women have the right to their own bodies, to feel free and safe. The human right to the body means that women must be free from all forms of exploitation of their bodies, avoid practices that turn them into property, and avoid physical, mental and sexual violence. Sadly, as previously explained, sexual violence and sexual exploitation have deprived women Indonesian migrant workers of their human rights over their bodies. With these conditions, it can be seen that the five forms of oppression against women Indonesian migrant workers have deprived them of their rights, both as human beings and as women. Therefore, there needs to be an affirmation in order to protect women migrant workers.

One of these affirmations is through legislation that can guarantee the fulfillment of their rights. Many people are of the view that Law No. 18/2017 on the Protection of Indonesian Migrant Workers has better accommodated the fulfillment of the rights of Indonesian migrant workers compared to the previous law, namely Law No. 39/2004 on the Placement and Protection of Indonesian Workers Abroad (Law of PPTKILN). If the Law of PPTKILN tends to position migrant workers only as commodities that are placed in a job, the PPMI Law is considered more capable of protecting the rights of migrant workers.

Regarding the position of women in the world of work, it has given birth to a variety of fundamental and interesting questions to be debated. First, there are still perspectives from some religious circles that tend to be contaminated by patriarchal culture, thus placing the position of women discriminatively below men. Secondly, it is still limited to domestic or household areas only, so that if there are women's activities that play a role and activities outside the domestic domain, it is considered as unusual.

Muhammad Daud Ali in his book *Islamic Law*, argues that Islamic law is a law that comes from and is part of the religion of Islam. Furthermore, the term Islamic law may be used for Islamic fiqh law or Islamic sharia law. Islamic law in the meaning of Islamic fiqh law is a law that is sourced and channeled from Islamic sharia law contained in the Koran and Sunnah of the Prophet Muhammad, developed through *ijtihad* by scholars or Islamic jurists who are qualified to do *ijtihad* in ways that have been determined. Islam has bestowed glory on all human beings on this earth regardless of gender, race and ethnicity. ([Francis et al., 2018](#)) This means that the glory that Islam bestows on women is an integral part of the glory that is also bestowed on all humanity. ([Hajir Mutawakkil, 2014](#)). In Islam, there are values that respect gender equality and recognize the potential of women in various fields. ([Hanapi, 2015](#)) ([Farida, 2020](#)).

More explicitly, if it is related to the concept of justice in Islam, the principle of justice cannot be separated from the teachings of tawhid. Tawhid is the act of affirming that Allah is One, the absolute and transcendent Creator, the Ruler of all that exists, while others are His creatures or creations. Allah the Creator has an entity that is clearly different from His creatures. This distinction has the consequence that no one is equal to God, while all humans (men and women) are equal as His creatures. All human activities will be bound and live life in accordance with God's will. All of them have the same duties and responsibilities. What distinguishes them is the value of their piety.

Women workers are even more vulnerable, because their departure abroad is mostly not supported by adequate expertise, so that most of the female workers who work are more in the informal sector, as is often found in Malaysia. ([Cao & Mukherjee, 2018](#)). Problems that occur with Indonesian workers, especially female workers who work as domestic workers.

This problem arises due to several factors; namely cultural factors, where the placement of migrant workers is carried out in countries that are not friendly to women; factors of the economic system adopted by a country, under the auspices of the capitalism system ([Natalis and Ispriyarso, 2018](#)). Labor migration can benefit women through economic and socio-cultural empowerment. Unfortunately, the migration experience is not always safe for women migrant workers. Due to their dual vulnerability as migrants and women, they are still disproportionately affected by various risks arising from their mobility.

The provision of inadequate wages or salaries to women migrant workers is experienced by many women workers who work in Malaysia, if analyzed, the causes include the fact that migrant workers often do not pay attention to work agreements, and some even enter into employment relationships without a work agreement. In cases encountered by several female migrant workers who later complained to the Indonesian embassy in Kuala Lumpur, they were not paid their salaries for up to 9 months, and they found it difficult to leave the house, especially coupled with the Covid 19 disease outbreak making their employers confine them at home, whereas Islam pays high attention to workers' wages related to a sense of justice and humanity which is the core of religious teachings, so that no party is harmed, especially workers. ([Noorhasanah, 2020](#))

Working time for women workers also has implications for the safety of these women workers, many women workers work without clear working hours, while the company or employer does not provide facilities that support the comfort and safety of women, causing its own problems that are also encountered. Each of these conditions if linked to the constitution or Constitution in Indonesia, the rights of women and men workers are not differentiated and have been regulated.

The equal rights of male workers and female workers are guaranteed by the 1945 Constitution of the Republic of Indonesia (UUD 1945) Article 28D paragraph (2) which states that people have the right to work and receive fair and appropriate compensation and treatment in labor relations. In this case the state guarantees fair treatment of workers, both in terms of the type of work, placement of positions in work, and the provision of wages. The same thing has also been regulated in Islam such as some of the rights possessed by workers in Islam, namely: Receive appropriate wages wages are materials that are paid as a reward for services or pay for labor that has been expended to do something. Wages are the price of labor paid for services in production. In Islam, wages are one of the elements of ijarah in addition to the other three elements, namely the contracting person (aqid), the object of the contract (ma'qud alaih), and the benefit, and the determination of work wages,

working hours, leave and others are elements that must be mentioned in the employment agreement. ([Gregory, 2017](#))

Protection of Indonesian migrant workers is all efforts to protect the interests of prospective Indonesian migrant workers and / or Indonesian female migrant workers and their families in realizing guaranteed fulfillment of their rights in all activities before work, during work and after work in legal, social economic aspects.

5. Conclusion

Basically, the Indonesian government has demonstrated its responsibility towards female migrant workers, both through legislation and through agreements with countries receiving Indonesian workers, such as Malaysia. However, in law enforcement, there are still many obstacles, both from the implementation of regulations by the government which is not very serious, from the workers themselves who have legal problems and are not skilled enough, and from the Malaysian government itself which is not consistent in implementing the MoU that has been signed together.

Protection and legal assistance for female workers in Kuala Lumpur is carried out, among others, by the Indonesian Embassy in Kuala Lumpur, Malaysia through the Employment Attaché, but often encounter obstacles with the difficulty of communicating with employers for workers in trouble. Assistance provided by other non-governmental parties is very limited in access because it is hampered by bureaucratic problems

The law on the protection of migrant workers in Indonesia should specifically regulate the protection of Indonesian women migrant workers, in addition to the number of female migrant workers who dominate the number of Indonesian migrant workers, but in terms of needs and social construction, women have differences with male migrant workers. Such as the placement of female migrant workers in a recipient country with a culture that is not friendly to female workers, besides the needs of women such as reproductive health.

Migration flows related to Indonesian labor, especially women, require the Indonesian government to be at the forefront of protecting the rights of women migrant workers. There are many studies on women migrant workers, but until now the existing situation shows stagnation and challenges, especially those related to efforts to realize the rights of women migrant workers. For this reason, a legal policy direction is needed that provides a special position for women migrant workers. Both in domestic regulations and agreements or treaties with receiving countries.

The rights of women migrant workers include the right to decent remuneration, working time and rest time, social security and other normative rights must be protected not only according to positive law but also Islam is more explicitly explained in various verses in the Qur'an, so that there is no longer any doubt that women can work outside the home with all the rules that respect their honor as human beings and as workers without discrimination.

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References

- Abdul-Rahman, H., Wang, C., Wood, L. C., & Low, S. F. (2012). Negative impact induced by foreign workers: Evidence in Malaysian construction sector. *Habitat International*, 36(4), 433–443. <https://doi.org/10.1016/j.habitatint.2012.03.002>
- Cao, J., & Mukherjee, A. (2018). Foreign direct investment, unionized labour markets, and welfare. *International Review of Economics & Finance*, 58, 330–339. <https://doi.org/10.1016/j.iref.2018.04.004>
- United Nations. (1979, December 18). *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*. OHCHR. <https://www.ohchr.org/en/treaty-bodies/cedaw>
- Farida, D. N. (2020). The Influence of Gender Diversity, Nationality, and Education of the Board of Directors on CSR in Indonesia Sharia Banking. *Amwaluna: Jurnal Ekonomi Dan Keuangan Syariah*, 4(2), 260–275. <https://doi.org/10.29313/amwaluna.v4i2.5475>
- Francis, B. B., Kim, I., Wang, B., & Zhang, Z. (2018). Labor law and innovation revisited. *Journal of Banking and Finance*, 94, 1–15. <https://doi.org/10.1016/j.jbankfin.2018.06.007>
- Gregory, R. F. (2017). Encountering Religion in the Workplace. In *Encountering Religion in the Workplace*. <https://doi.org/10.7591/9780801460746>
- Hanapi, A. (2015). Peran Perempuan Dalam Islam. *Gender Equality: Internasional Journal of Child and Gender Studies*, 1(1), 15–26.
- Harruma, I. (2022, April 25). Pekerja migran Indonesia: Masalah dan upaya perlindungannya. *Kompas.com*. <https://nasional.kompas.com/read/2022/04/25/01150041/pekerja-migran-indonesia--masalah-dan-upaya-perlindungannya>
- Lasimbang, H. B., Tong, W. T., & Low, W. Y. (2016). Migrant workers in Sabah, East Malaysia: The importance of legislation and policy to uphold equity on sexual and reproductive health and rights. *Best Practice and Research: Clinical Obstetrics and Gynaecology*, 32. <https://doi.org/10.1016/j.bpobgyn.2015.08.015>
- Lee, J. (2014). The transfer of workers within multinationals and ownership of foreign affiliates. *Economics Letters*, 125(2), 149–152. <https://doi.org/10.1016/j.econlet.2014.08.026>
- Marks, E., Olsen, A., Ramasamy, N., Rose, R. C., Kumar, N., Ramasamy, N., Daud, Z., Tumin, S., Kumar Moona Haji Mohamed, R., Ramendran SPR, C., & Yacob, P. (2013). The Impact of Employment of Foreign Workers: Local Employability and Trade Union Roles in Malaysia. *International Journal of Academic Research in Business and Social Sciences*, 4(3), 2222–6990. <https://doi.org/10.14197/atr.20121557>
- Matompo, O. S. (2022). Legal Protection of Indonesian Migrant Workers based on The Job

Creation Law. *Jurnal Justiciabelen*, 5(2). <https://doi.org/10.30587/justiciabelen.v5i2.5021>

Noorhasanah, N. (2020). Hak Pendapatan Pekerja Perempuan dalam Al-Qur'an. *Khazanah Theologia*, 2(2), 111–118. <https://doi.org/10.15575/kt.v2i2.9207>

Nuraeni, Y., & Lilin Suryono, I. (2021). Analisis Kesetaraan Gender dalam Bidang Ketenagakerjaan Di Indonesia. *Nakhoda: Jurnal Ilmu Pemerintahan*, 20(1), 68–79. <https://doi.org/10.35967/njip.v20i1.134>

Pelayanan Pengaduan PMI Bermasalah (Crisis Center) - Badan Perlindungan Pekerja Migran Indonesia. (n.d.).

Siregar, P. P., Sutan, R., & Baharudin, A. (2021). Prevalence of stress, anxiety and depression among Indonesian immigrant workers in Malaysia. *Bali Medical Journal*, 10(2). <https://doi.org/10.15562/BMJ.V10I2.1961>

Solidaritas Perempuan. (2020). Potret kebijakan dan pelanggaran HAM terhadap pekerja migran Indonesia sepanjang 2020. *Solidaritasperempuan.org*. <https://solidaritasperempuan.org>

Sundry, R. I., & Muslikhah, U. (2024). State Responsibility in Protecting Indonesian Migrant Workers as Fulfillment of Human Rights Jurnal Ius Constituendum. *Ius Constituendum*, 1(18), 432. <https://doi.org/10.26623/jic.v9i3.9183>

Wijayati, D. T., & Rahman, Z. (2022). The Role Of Islamic Leadership On Work Engagement In The Industrial Revolution 4.0: Work Ethic As Intervening Variable. *Amwaluna: Jurnal Ekonomi Dan Keuangan Syariah*, 6(1), 128–142. <https://doi.org/10.29313/amwaluna.v6i1.8899>