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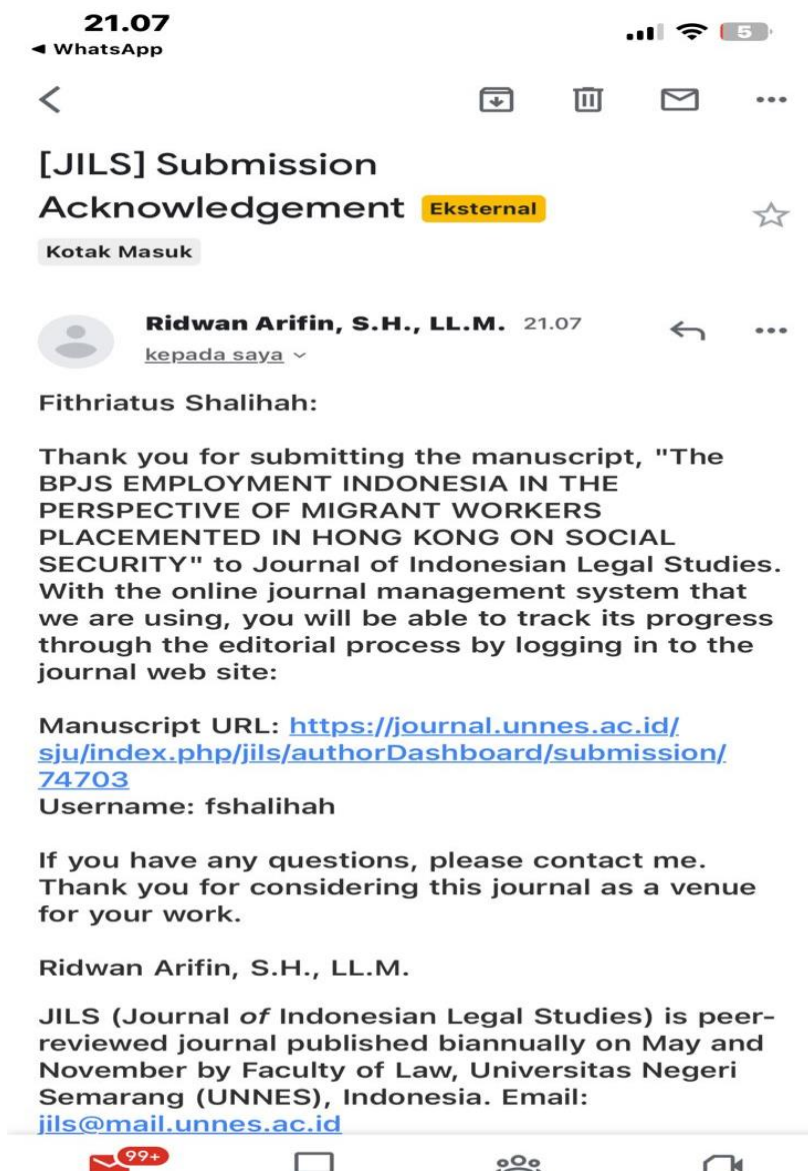
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2. Blind Review Artikel yang di submit pada tanggal 21 September 2023 dengan judul awal
“The BPJS Employment Indonesia in the perspective of
migrant workers placed in hong kong on social
security”

THE BPJS EMPLOYMENT INDONESIA IN THE PERSPECTIVE OF MIGRANT WORKERS PLACEMENED IN HONG KONG ON SOCIAL SECURITY

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Abstract

The results of the National Social Security Council report in 2022 stated that 67.7% of migrant workers working abroad were not registered as BPJS Employment participants, meaning that this report shows the ineffectiveness of the Ministerial Regulation of the Republic of Indonesia Number 18 of 2018 concerning Social Security for Indonesian Migrant Workers. Social security is a form of protection for Indonesian Migrant Workers during the placement or working period if Indonesian Migrant Workers experience a bad risk while working. Overcoming the ineffectiveness of the Minister of Manpower Regulation, the Government of Indonesia revised the Ministerial Regulation in 2023 to increase social security benefits for Indonesian Migrant Workers, becoming Minister of Manpower Regulation Number 4 of 2023. Indonesia is a country that actively sends Indonesian Migrant Workers to work abroad, and one of the most popular destinations is Hong Kong. Hong Kong is one of the destinations for Indonesian Migrant Workers because the Hong Kong Government provides serious protection for foreign workers, and Hong Kong also has unique regulations for foreign workers. This study aims to determine the implementation of Permenaker Number 4 of 2023 and its performance constraints in Hong Kong. This type of research is empirical juridical using primary and secondary data, while the conclusion-drawing technique used is deductive. The population and respondents in this study are Indonesian Migrant Workers from Hong Kong. The results of this study show that migrant workers in Hong Kong after the Minister of Manpower Regulation Number 4 of 2023 are still not interested in registering for Social Security from the Government of Indonesia, and Indonesian Migrant Workers are not willing to be required to register for social security organized by the Government of Indonesia. This is because there is a conflicting government atmosphere. Indonesian Migrant Workers in Hong Kong are more comfortable using insurance provided by employers or employers, so Indonesian Migrant Workers hope that BPJS Employment does not need to be mandatory.

Keywords: Social_Security; Indonesian_Migrant_Workers; Hong_Kong

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I. Introduction

The fifth precept of Pancasila emphasizes social justice for all Indonesian people, which, in this case, is the state's responsibility to realize justice in various matters for all Indonesian people. One of the social justices that all Indonesians deserve is to get a job, as mandated by Article 27 Paragraph (2) of the 1945 Constitution, which reads, "Every citizen has the right to work and a decent living for humanity. The mandate of the 1945 Constitution is, in fact, only a few Indonesian citizens who still need help finding work.¹

The difficulty of finding a job in one's own country is due, among others, to the number of jobs available is not proportional to the domestic labor force, natural factors of a region also affect livelihoods, uneven development between regions, low levels of education, and increasing economic needs, this is what encourages Indonesian citizens to choose to work in other countries or become Indonesian Migrant Workers (PMI).² In addition to the above factors, the difference in economic growth between countries also greatly influences citizens to choose to work in other countries.³

PMI at the juridical level, Article 1 point 2 of Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers (Law No. 18/2017), which has been amended in Law Number 6 of 2023 concerning the Stipulation of Government Regulations instead of Law Number 2 of 2022 concerning Job Creation into Law (Law No. 6/2023) reads, "Indonesian Migrant Workers are every Indonesian citizen who will, or has done work by receiving wages outside the territory of the Republic of Indonesia."

Based on data released by the Indonesian Migrant Workers Protection Agency (BP2MI) in July 2023, PMI placements over the past

¹ Sri Rahmany, "Analisis Faktor-Faktor Yang Mempengaruhi Tenaga Kerja Bekerja Di Luar Negeri Serta Implikasi Terhadap Kesejahteraan Keluarga Dilihat Dari Perspektif Islam," *IqtiSaduna*, 2018, 51–73.

² Anas Anwar Nasirin, "Profesionalisasi Buruh Migran Indonesia (BMI) Dalam Revolusi Industri 4.0," *Jurnal MSDS (Manajemen Sumber Daya Aparatur)* 8, no. 1 (2020): 39–50, <https://doi.org/10.33701/jmsda.v8i1.1174>.

³ Anna Yulia Hartati Defi Ratna Putri, "Faktor Penyebab Meningkatnya Pekerja Migran Indonesia (PMI) Di Korea Selatan Tahun 2017 - 2018," *Kajian Hubungan Internasional* 1, no. 01 (2021): 308–332.

two years have increased over the past two years; this can be seen from July 2021, as many as 4,805 posts in July 2022, as many as 17,884 stations and in July 2023 recorded as many as 25,480 placements, bringing the total PMI placements from January to July 2023 PMI placements to 161,249 posts. In July, PMI placed in the formal sector reached 13,294 orders (52%), while the informal sector reached 12,186 stations (48%). The total number of legal sector placements went to 90,625 posts from January to July, and the informal sector had 70,624 orders.

Data from BP2MI by region, PMI placement from January to July 2023, the number of PMI working in Asia and Africa Region is 150,790 PMI, followed by PMI in Europe and the Middle East Region reaching 9,491 and the Americas and Pacific Region 968. Based on the country for July 2023, the PMI in Taiwan went 7,778 placements, Hong Kong earned 7,248 posts, and Malaysia 6,294 stations. In addition to these three countries, South Korea is a PMI placement country, reaching 874 placements, Japan with 769 orders, Singapore with 645 posts, and Saudi Arabia with 427 stations in July 2023.

One of the favorite destinations for migrant workers to work is Hong Kong.⁴ Data from BP2MI Hong Kong, in the last two years, the placement of PMI to Hong Kong in December 2021 was 4220 (61.5%) or Hong Kong ranks first in PMI destinations, based on BP2MI data released in November 2022, from January to November 2022 the total PMI in placement in Hong Kong reached 54,691 or Hong Kong ranks first with the most PMI placements, while based on data released in July 2023, from January to July the number of PMI placements in Hong Kong reached 40,887 and this places Hong Kong as the third most destination for PMI placements.

The data above explains that only some Indonesian citizens work abroad, especially in Hong Kong. Not without reason, PMI has to work in Hong Kong, one of which is based on the amount of salary that

⁴ Isna Rifka, "5 Negara Jadi Tujuan TKI Terbanyak," Kompas.com, 2021, <https://money.kompas.com/read/2021/12/06/174759226/5-negara-jadi-tujuan-tki-terbanyak?page=all>.

PMI can receive.⁵ Another factor is that the Hong Kong Government protects foreign nationals working in Hong Kong.⁶

Indonesian citizens who work in Hong Kong and other countries not only have an impact on themselves but also have an impact or benefit on the country because every year, they contribute 159 trillion to the country's foreign exchange after the oil and gas sector and above the tourism sector.⁷ Foreign exchange contributed by PMI every year is a driver of the pace of the domestic economy.⁸ Seeing the contribution of Indonesian migrant workers to the country is extraordinary, comparable to the risks that endanger migrant workers (torture, harassment, or murder) that can occur to migrant workers working abroad.⁹ Migrant workers can experience risks that may be bad, so migrant workers need to get extra attention from the Government of Indonesia to ensure the human rights (HAM) of migrant workers are still fulfilled while working abroad, considering that migrant workers must adapt to differences in climate, work ethic, work rules, cultural and language backgrounds.¹⁰ All efforts to guarantee the rights of migrant

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- ⁵ Safyra Primadhyta, "Ketika Gaji Tinggi Pikat Hati Buruh Migran Kerja Di Hong Kong," CNN Indonesia, 2019, <https://www.cnnindonesia.com/ekonomi/20190204171648-92-366435/ketika-gaji-tinggi-pikat-hati-buruh-migran-kerja-di-hong-kong>.
- ⁶ Fithriatus Shalihah, Norma Sari, Rosyidah "Seminar Nasional Hasil Pengabdian Kepada Masyarakat," *Seminar Nasional Pengabdian Kepada Masyarakat* 0, no. 0 (2022): 1012–13, <https://ojs.unm.ac.id/semnaslpm/article/view/18284>.
- ⁷ Titis Anis Fauziah, "Pekerja Migran Indonesia Jadi Penyumbang Devisa Terbesar Kedua Rp 159 Triliun, Kepala BP2MI Ingatkan Pejabat Untuk Tidak Sombong," Kompas.com, 2023, <https://regional.kompas.com/read/2023/01/23/093211978/pekerja-migran-indonesia-jadi-penyumbang-devisa-terbesar-kedua-rp-159>.
- ⁸ Aswatini, "Purna - Pekerja Migran Indonesia (PMI): Peran Dan Kontribusi Dalam Pengembangan Pariwisata Di Daerah Asal," Badan Riset dan Inovasi Nasional, 2023, <https://kependudukan.brin.go.id/kajian-kependudukan/migrasi-penduduk/purna-pekerja-migran-indonesia-pmi-peranan-dan-kontribusi-dalam-pengembangan-pariwisata-di-daerah-asal/>.
- ⁹ Endang Nurdin, "Pekerja Migran Indonesia Yang Selamat Dari 'neraka' Di Malaysia: 'Mengapa Siksa Saya?'" BBC News Indonesia, 2023, <https://www.bbc.com/indonesia/dunia>.
- ¹⁰ I Nyoman Bagus Siddhanta Zulfiandi, Franciscus Anton Wirawan, Nikhen Pratiwi Sekar Tanjung, Roselina Yolanda, M. Zaini, Devi Andrian, Khairina Syafitri, Gilang Amaldi, *Ketenagakerjaan Dalam Data*, ed. Franciscus Anton Wirawan Zulfiandi, *Occupational Therapy: The Official Journal of the Association of Occupational Therapists*,

workers must be pursued by the Government of Indonesia, especially in providing social security for migrant workers.¹¹

According to Article 1 number 18 of Law No. 18/2017, amended in Law No. 6/2023, social security reads, "Social Security is a form of social protection to guarantee all people to be able to meet the basic needs of a decent life." The meaning of the entire article above also includes PMI to be able to access social security organized by the Government of Indonesia.¹² The implementation of social security for prospective migrant workers and migrant workers who will work or have worked in the placement country is a form of state protection against migrant workers.¹³

The mandate of Article 1 number 8 of Law No. 18/2017 is not the reality for PMI; in the middle of last year or precisely in 2022, the National Social Security Council (DJSN) released a report containing data on 6.09 million PMI or as many as 67.7% of PMI have not registered with the Social Security Organizing Agency (BPJS) Employment.¹⁴ Social security is a front line to protect migrant workers who work abroad, because of the dire risks that may occur or be experienced by migrant workers, especially during the placement period to work, so it is necessary to get protection through social security.¹⁵

Previously, there was a Regulation of the Minister of Manpower of the Republic of Indonesia Number 18 of 2018 concerning Social Security for Indonesian Migrant Workers (Permenaker RI No. 18/2018), the existence of this regulation and then based on data from the DJSN made the Ministry of Manpower revise social security regulations for migrant workers, to increase social security benefits for migrant workers, both before leaving, when migrant workers work

4th ed., vol. 20 (Jakarta: Pusat Data dan Teknologi Informasi Ketenagakerjaan, 2021), <https://doi.org/10.1177/030802265702001214>.

¹¹ Lalu Adi Adha, Zaeni Asyhadie, and Rahmawati Kusuma, "Kebijakan Jaminan Sosial Pekerja Migran Indonesia," *Jurnal Risalah Kenotariatan* 1, no. 2 (2020), <https://doi.org/10.29303/risalahkenotariatan.v1i2.13>.

¹² Sony Mardiyanto Timboel Siregar, Indra Munawar, German E.Agent, "Upaya Peningkatan Kepesertaan Dan Manfaat Jaminan Sosial Ketenagakerjaan" (Jakarta, 2020).

¹³ Timboel Siregal, Indra Munaswar, German E.Agent.

¹⁴ Lailatul Anisah, "Penyebab Banyak PMI Belum Mendaftarkan Ke BPJS Ketenagakerjaan," *Kontan.co.id*, 2022, <https://nasional.kontan.co.id/>.

¹⁵ Timboel Siregar, Indra Munawar, German E.Agent, "Upaya Peningkatan Kepesertaan Dan Manfaat Jaminan Sosial Ketenagakerjaan."

abroad and after work, as stated in the Regulation of the Minister of Manpower Number 4 of 2023 (Permenaker No. 4/2023). Then, after the emergence of this latest regulation, it is necessary to see the impact on migrant workers working in Hong Kong related to access to employment security.

The problem of social security for PMI is caused by low data on PMI who register as social security participants; this is a severe problem that needs to be considered by the Government of Indonesia, especially PMI who work in Hong Kong, so it is interesting to study, as for the formulation of the problem, namely:

1. What is the latest social security regulation for migrant workers after the emergence of the Minister of Manpower Regulation Number 4 of 2023 concerning Social Security for Indonesian Migrant Workers?
2. How is the implementation of social security for migrant workers placed in Hong Kong after the emergence of Minister of Manpower Regulation Number 4 of 2023 concerning Social Security for Indonesian Migrant Workers?

The purpose of the study is to analyze and find out the implementation of social security for Hong Kong placement migrant workers after the emergence of the Minister of Manpower Regulation Number 4 of 2023 concerning Social Security for Indonesian Migrant Workers.

A. Research Methods

The research method used is qualitative, with an empirical juridical research type. This research is located in Hong Kong, China, with data collection methods through literature studies and interviews with PMI placement in Hong Kong. This research uses qualitative analysis, which, after obtaining data, is analyzed to find the bright spots of the problem under study. The conclusion of this study is to use the deductive method. The deductive method is a method of concluding from general to specific.

II. Results of Discussion

A. The Latest Regulation of Social Security for Indonesian Migrant Workers After the Emergence of the Minister of Manpower Regulation Number 4 of 2023 concerning Social Security for Indonesian Migrant Workers

Protecting prospective migrant workers is to ensure the fulfillment and enforcement of human rights as citizens and migrant workers and to ensure the legal, economic, social, and family protection of migrant workers.¹⁶ Indonesian migrant workers who work abroad are entitled to legal protection by the state. In the opinion of Philipus M. Hadjon, legal protection involves the recognition of human rights owned by individuals in society. There are two legal protections, according to Philipus M. Hadjon, including preventive and repressive. Preventive legal protection is legal protection that focuses on efforts to prevent violations and efforts to provide limits in carrying out an obligation. In contrast, repressive legal protection (coercion) emphasizes efforts to solve problems.¹⁷ Legal protection the state provides for migrant workers includes protection before, during, and after work. Forms of legal protection for prospective migrant workers include:

- 1). PMI can only work in destination countries that have regulations that protect foreign workers, have a written agreement with the Government of Indonesia, and have a social security or insurance system that can defend foreign workers;
- 2). The central government stops and prohibits the placement of migrant workers in certain countries or positions abroad for reasons, considerations of human rights,

¹⁶ Erna Ratnaningsih, "Paradigma Baru Perlindungan Pekerja Migran Indonesia," Bina Nusantara, 2017, <https://business-law.binus.ac.id/2017/12/31/paradigma-baru-perlindungan-pekerja-migran-indonesia/>.

¹⁷ Philipus M. Hadjon, *Perlindungan Hukum Bagi Rakyat Indonesia* (Surabaya: PT Bina Ilmu, 1987).

security, employment opportunities, and the availability of labor by national needs;

- 3). The government, in stopping and prohibiting the placement of migrant workers, needs to pay attention to considerations and suggestions from several parties and
- 4). The central government sets assignments in certain countries or specific positions.

Social protection for PMI or PMI candidates includes improving the quality of education and training by work standards, increasing the role of accreditation and certification bodies, competent education personnel and trainers, skill improvement services, protection policies for women and children, and the existence of PMI protection centers in PMI placement countries.

Economic protection for PMI and PMI candidates is provided by the central government and local governments by the authority through:

- 1). Money transfer management involving banking or domestic non-bank financial institutions and Country of placement;
- 2). Financial education for migrant workers and families can process the results of Transfer Management and
- 3). Entrepreneurship education.

Thus, regarding social protection arrangements regulated in Law No. 18/2017, Article 35 states further provisions regarding legal protection, social protection, and economic protection for prospective migrant workers and migrant workers. Meanwhile, family protection is included in one of the objectives of PMI protection in Article 3 of Law No. 18/2017. In Law No. 18/20217, PMI family means husband, wife, children, and parents (who have a relationship through determination and decided by the court), whether they are in Indonesian territory or live abroad with PMI.

In addition to legal protection, social protection, economic protection, and family protection of migrant workers, or the protection in Law No. 18/2017, it is also necessary to quote the opinion of Imam Soepomo about worker protection. According to

Imam Soepomo,¹⁸ Worker protection includes 3 (three) things: economic protection, social protection, and technical protection. Economic protection is protection related to providing decent wages for migrant workers by standards, social protection is protection for migrant workers about social security, and technical protection includes occupational safety protection from possible worst risks while working.

All of the above protections are very important for prospective migrant workers and migrant workers who work abroad. Currently, researchers focus on social protection for migrant workers who work abroad, which is related to social security. Social security is essential for migrant workers during the placement period in the placement country if migrant workers experience bad things during work. Based on Lalu Husni's opinion, social security is distinguished in a narrow and broad sense. In a bit of understanding, social security deals with social assistance and insurance in employment protection. The definition of social security broadly includes prevention and development, recovery and healing, and punishment.

The International Covenant on Economic, Social, and Cultural Rights (ICESC) (1966), together with the Universal Declaration of Human Rights (1948) and the International Convention on Civil and Political Rights (1966), make up the International Bill of Human Rights. The Covenants recognize "independent human rights to enjoy civil and political freedom and freedom from fear and human rights to freedom to engage in politics, as well as economic, social and cultural rights." All peoples have the right to self-determination, including the right to determine their political status and freely pursue economic, social, and cultural development". One of the economic rights is the right to work, and everyone has the right to just conditions of work: fair wages ensuring a decent living for himself and his family; equal pay for equal work; safe and healthy working conditions; equal opportunity for everyone to be promoted;

¹⁸ Fithriatus Shalihah and Retno Damarina, "The Urgency of Legal Certainty in the Protection of Domestic Workers in Indonesia: A Study in Yogyakarta City," 2022, <https://doi.org/10.4108/eai.18-9-2022.2326039>.

rest and leisure.¹⁹ Everyone, regardless of citizenship, is entitled to social security, including social insurance; unqualified workers, especially migrant workers in other countries, are also entitled to social security.

The Government of Indonesia ratified the international convention on the *International Covenant on Economic, Social, and Cultural Rights* (ICESCR) on September 30, 2005, into Law Number 11 of 2005 concerning the ratification of the ICESCR or the *International Covenant on Economic, Social and Cultural Rights*. The ratification carried out by the Government of Indonesia has consequences for the protection and respect of human rights, or it can be said that the Government of Indonesia is obliged to carry out the contents of the ICESCR to all citizens in the life of the nation and state.²⁰ The intended citizen can also be interpreted as an Indonesian citizen living in Indonesian territory, including Indonesian citizens working abroad or PMI.

In addition to Indonesia ratifying ICESCR as a country that upholds human rights, Indonesia is also one of the ILO members and also adopted the *International Convention on the Protection of the Rights of Migrant Workers and Members of Their Family (Protection of the Rights of All Migrant Workers and Family Members)* by ratifying it into Law of the Republic of Indonesia Number 6 of 2012 concerning Ratification of the *International Convention of the Protection of the Rights of Migrant Workers and Members of Their Family*.²¹

Article 27 in the *International Convention of The Protection of the Rights of Migrant Workers and Members of Their Family* Also contains related to social security. Article 27, paragraph (1) of the *International Convention of the Protection of the Rights of Migrant Workers and*

¹⁹ Council of Europe Portal, *International Covenant on Economic, Social and Cultural Rights*, COUNCIL OF EUROPE PORTAL, 15 September 2023.

²⁰ DPR RI dan Presiden RI, *Pengesahan International Covenant Economic, Social, and Cultural Rights (Kovenan Internasional Tentang Hak-Hak Ekonomi, Sosial Dan Budaya, (2005)*, <https://peraturan.bpk.go.id/Details/40256/uu-no-11-tahun-2005>.

²¹ DPR RI dan Presiden Republik Indonesia, *Pengesahan International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Konvensi Internasional Mengenai Perlindungan Hak-Hak Seluruh Pekerja Migran Dan Anggota Keluarganya)*, PERATURAN BPK RI 1 (2012), <https://peraturan.bpk.go.id>.

Members of Their Family states, "About social security, migrant workers and members of their families shall enjoy the same treatment as citizens of the State of employment, provided that they meet the requirements established by the provisions of the law in force in that country and the applicable bilateral and multilateral agreements. Officials in the authorities of the country of origin and destination of work may make the necessary arrangements to determine the procedures for implementing this norm". In the content of the article above, it can be interpreted that every migrant worker working in the country of placement is also entitled to social security organized by the government of post for citizens, countries of order, or it can be said that migrant workers in the country of station also have the same rights related to social security in the land of placement of migrant workers.

Article 27(2) of the International Convention of the Protection of the *Rights of Migrant Workers and Members of Their Family* states, "Where applicable legal provisions do not provide benefits to migrant workers and members of their families, States concerned shall seek the possibility of reimbursing the person concerned the number of contributions paid by them about such allowances as applied to citizens his country is in the same situation." *Migrant worker placement countries should seek other alternatives* if they do not have provisions related to social security for migrant workers or a middle way to provide social security for employed migrant workers.

Social security as a social policy is generally implemented in various forms of income benefits directly, which are inseparable from taxation policies and income maintenance. Social security also includes multiple schemes to improve access to essential social services. Social security in the form of income benefits can be called benefits in *cash*, while those in the form of assistance for goods or social services are called *benefits in kind*.²²

The international level of social security is regulated by the International Labour Organization (ILO) Convention Number 102 of 1952, in which everyone gets protection from the National Social Security System (SJSN). ILO Convention Number 102 contains at

²² Akhmad Purnama, "Analisis Perlindungan Jaminan Sosial Bagi Pekerja Informal," *Jurnal PKS* 14, no. 2 (2015): 149-N162.

least 9 (nine) minimum standards that must be implemented by the state in the social security program, including the following:

1. Work Accident Insurance (WAI) includes compensation for heirs due to death while working or while earning a living;
2. Service;
3. Provision of sick benefits to workers;
4. Old Age Guarantee (OAG);
5. Disability compensation;
6. Family benefits or services given to or in the case of children, food, clothing, vacation, or domestic assistance;
7. Care of pregnancy and childbirth (care for before and after birth);
8. Benefits for unemployment and
9. Compensation for heirs due to the worker's death will be given to the widow, spouse, or child of the deceased worker.

ILO is an international organization that focuses on productivity and economic growth. Social security's contribution to economic development through social stability and labor productivity.²³ ILO Convention 102 of 1952 on (Minimum Standards) Social Security also provides for equal treatment of foreign nationals, health services, sickness benefits, unemployment benefits, maternity benefits, disability benefits, heirs' benefits related to joint provisions, other provisions, and final provisions.

ILO mandate number 102 of 1952 concerning minimum social security standards for members of the organization to provide minimum protection to workers. Indonesia organizes the National Social Security System (SJNS).²⁴ This is what encourages the protection of human rights for migrant workers both in the form of

²³ ILO, "Evaluasi Dua Tahun Penerapan Jaminan Sosial Untuk Pekerja Dalam Era Digitalisasi," International Labour Organization, 20217, https://www.ilo.org/jakarta/info/public/pr/WCMS_574167/lang--en/index.htm.

²⁴ Hartini Retnaningsih, "Strategi Sistem Jaminan Sosial Nasional Bidang Ketenagakerjaan Dalam Upaya Perlindungan Pekerja Di Kota Surabaya Dan Kota Pekanbaru," *Aspirasi: Jurnal Masalah-Masalah Sosial* 7, no. 2 (2016): 157–72.

health insurance and in the condition of employment.²⁵ The Indonesian government also has SJSN, which is under the legal umbrella in Law No. 40 of 2004 concerning the National Social Security System (Law No. 40/2004), amended in Law No. 2/2020, then amended in Perpu No. 2/2022 and amended in Law No. 4 of 2023 concerning the Development and Strengthening of the Financial Sector (Law No. 4/2023). As long as the Law No. 40/2004 article is not amended, it remains valid.

Further provisions relating to social security for migrant workers are contained in the ministerial regulation. Permenaker RI No. 18/2018, revised to Permenaker No. 4/2023, is a ministerial regulation regulating social security for prospective migrant workers and migrant workers. PMI and PMI candidates in this ministerial regulation are required to register for social security. Two participation programs must be followed by PMI and PMI candidates, namely Work Accident Insurance (JKK) and Death Insurance (JKM), and there is a recommended program, namely the Old Age Insurance Program (JHT). JKK is regulated in Article 1 Number 8 of Permenaker No. 4/2023, which reads, "Work Accident Insurance herein after abbreviated as JKK is a benefit in the form of cash and health services provided when participants experience a Work Accident or illness caused by the work environment." JKM is contained in Article 1 number 9 of Permenaker No. 4/2018, which reads, "Death Insurance from now on abbreviated as JKM is a cash benefit given to heirs when participants die dimia not due to Work Accidents." JHT, according to Article 1 number 10 of Permenaker No. 4/2023 reads, "Old Age Insurance, here in after abbreviated as JHT, is a cash benefit paid at once when the participant completes the employment agreement and returns to Indonesia, dies, or experiences permanent total disability."

²⁵ BPHN, *Laporan Akhir Analisis Dan Evaluasi Hukum Terkait Sistem Jaminan Sosial Nasional, Kementerian Hukum Dan Hak Asasi Manusia Republik Indonesia*. (Jakarta Timur: Pohon Cahaya, 2020).

The presence of this Permenaker is a manifestation of legal certainty for PMI, whose substance in this Permenaker is the ideal of a law formed (swollen). *Still*, this ideal is different from the expectations of the law itself (*sein*).²⁶ Similarly, Permenaker RI No. 18/2018 related to social security for migrant workers, the programs designed do not run properly; this is evidenced by the results of the DJSN report, which states that more than 50% of migrant workers working abroad are not registered in BPJS Employment participation.

The ineffectiveness of the social security program prompted the government to revise Permenaker RI No. 18/2018 to increase social security benefits for migrant workers. The lack of effectiveness of Permenaker RI No. 18/2018 can be seen in Hong Kong; the average migrant worker in Hong Kong does not or has not registered for social security organized by the Government of Indonesia for several reasons, including because PMI feels that the social security provided by the Government of Indonesia or BPJS Employment does not offer direct benefits to PMI. The purpose of not providing benefits BPJS Employment in Hong Kong cannot be claimed or used by migrant workers in Hong Kong; this makes PMI more comfortable using insurance provided by the Hong Kong Government. The Hong Kong PMI stated that before going to work in Hong Kong, PMI was required to register for BPJS Ketenagakerjaan, but when arriving in Hong Kong, PMI no longer extended its membership as a member of BPJS Ketenagakerjaan, Hong Kong PMI service users or employers before hiring PMI must take care of insurance for PMI, this is also one of the factors PMI is reluctant to use BPJS Ketenagakerjaan.²⁷

²⁶ Fithriatus Shalihah and Retno Damarina, "Problem Hukum Dalam Perlindungan Pekerja Rumah Tangga Di Indonesia," *Jurnal Selat* 10, no. 2 (2023): 131–43, <https://doi.org/10.31629/selat.v10i2.5645>.

²⁷ Fithriatus Shalihah, Norma Sari, Rosyidah, Retno Damarina "Efektivitas Peraturan Menteri Ketenagakerjaan Nomor 18 Tahun 2018 Dalam Penyelenggaraan Jaminan

In response to this, the Government of Indonesia quickly revised Permenaker RI No. 18/2018 to Permenaker No.4/2023 concerning Social Security for Indonesian Migrant Workers. This revision of the Permenaker is an immediate response from the Government of Indonesia to the reality of implementing social security for migrant workers; the existence of Permenaker No.4/2023, the government increases social security benefits.²⁸ The benefits contained in Permenaker No. 4 of 2023 become 21, which initially contained 14.²⁹ The seven new benefits are as follows:³⁰

First, if PMI experiences a work accident in the placement country, they will get medical reimbursement for work accidents of a maximum of Rp. 50 million. *Second*, *homecare* for 1 (one) year with a maximum cost that PMI can get Rp. 20 million. *Third*, PMI also receives a complete replacement of Rp. 2.5 million. *Fourth*, PMI gets a glasses replacement with a maximum cost of Rp. 1 million. *Fifth*, if there are migrant workers who get raped, they will get assistance of Rp. 50 million. *Sixth*, if PMI experiences unilateral termination of employment, PMI will get help from Rp. 1.5 million, and *seventh*, reimbursement of Rp. Twenty-five million if PMI gets placement not by the work agreement and reimbursement of transportation costs of a maximum of Rp. 15 million.

In addition to the seven benefits above, Permenaker No.4/2023 also provides nine additional benefits: if PMI dies, the family will get death compensation, compensation for PMI who experience permanent total disability, which is given periodically,

Sosial Bagi Pekerja Migran Indonesia," in *Diskursus Hukum Ketenagakerjaan Di Indonesia* (Medan: USUPress, 2022), 267.

²⁸ Komisi IX, "Tambah Manfaat Sosial, Legislator Imbau Permenaker Jaminan Sosial PMI Disosialisasikan Secara Masif," DPR.RI, 2023, <https://www.dpr.go.id/berita/detail/id/43956/t/Tambah-Manfaat-Sosial-Legislator-Imbau-Permenaker-Jaminan-Sosial-PMI-Disosialisasikan-Secara-Masif>.

²⁹ Ady Thea DA, "Pemerintah Naikan Manfaat Jaminan Sosial Pekerja," Hukumonline.com, 2023, <https://www.hukumonline.com/berita/a/pemerintah-naikan-manfaat-jaminan-sosial-pekerja-migran-lt6401c9d483a2f/>.

³⁰ Erlang Satya Darmawan, "Permenaker Nomor 4 Tahun 2023 Diterbitkan, Jaminan Untuk PMI Resmi Bertambah," Kompas.com, 2023, <https://nasional.kompas.com/>.

compensation for failing to leave, compensation for failing to be placed, repatriation costs for PMI who have problems, repatriation costs given to PMI who have a work accident, denture replacement costs, and scholarships for PMI children.³¹

The JHT program already exists in Permenaker RI No. 18/2018, but in Permenaker No. 4/2023, there is additional substance in implementing JHT social security. The number of benefits of the JHT program for prospective PMI or PMI is based on the accumulated value of all contributions deposited and the results of their development recorded in the individual accounts of JHT program participants. The story of the importance of JHT program benefits can continue after participants (PMI) terminate the employment agreement, and the help of the JHT program has yet to be paid at once. Related to JHT benefits, it can be given to prospective PMI or PMI if they have entered retirement age, died, or experienced permanent total disability. Regarding the retirement age intended by this latest ministerial regulation, entering the age of 56 (fifty-six) years, PMI candidates who fail to leave are placed in the destination country or stop working. The meaning of PMI that fails to be placed in the destination country or stops working in Permenaker No.4 of 2023 consists of the end of work time stated in the work agreement, experiencing layoffs, PMI resigning, or PMI becoming a foreign national. JHT program participants in preparation for entering retirement, JHT benefits can be partially disbursed to a specific limit if participants have a membership period of at least 10 (ten) years, that is, at most 30% of the amount of JHT, for home ownership or 10% of the amount of JHT for other purposes according to the need to enter retirement age.

The contribution section and payment method contained in Article 18 of Permenaker No. 4 of 2023, all of the above benefits can

³¹ Eqqi Syahputra, "Menaker Terbitkan Permenaker Baru Tentang Jaminan Sosial PMI," CNBC.Indonesia, 2023, <https://www.cnbcindonesia.com/news/20230303160955-4-418700/menaker-terbitkan-permenaker-baru-tentang-jaminan-sosial-pmi>.

be obtained if migrant workers pay contributions by the latest regulation.³² Article 18 of Permenaker No.4/2023 reads:

- 1). Payment of JKK and JKM program contributions for prospective Indonesian Migrant Workers through the Placement Implementer is carried out in stages, provided that:
 - a. protection fee before employment is paid in the amount of Rp37,500.00 (thirty-seven thousand five hundred rupiah); and
 - b. Protection contributions during work and after engagement are paid according to the terms of the employment agreement as follows:
 1. for 24 (twenty-four) months amounting to Rp 332,500.00 (three hundred thirty-two thousand five hundred rupiah);
 2. for 12 (twelve) months amounting to Rp189,000.00 (one hundred eighty-nine thousand rupiah), or
 3. for 6 (six) months amounting to Rp108,000.00 (one hundred eight thousand rupiah);).
- 2). Payment of JKK and JKM program contributions for protection during work and after work for Individual Indonesian Migrant Workers is made at once according to the terms of the work agreement as follows:
 - a. for 24 (twenty-four) months amounting to Rp 332,500.00 (three hundred thirty-two thousand five hundred rupiahs);
 - b. for 12 (twelve) months amounting to Rp189,000.00 (one hundred eighty-nine thousand rupiah), or
 - c. for 6 (six) months amounting to Rp108,000.00 (one hundred eight thousand rupiah);).

³² Erdy Nasrul, "Menaker Dukung Peningkatan Jaminan Sosial Ketenagakerjaan Untuk PMI," *Republika*, 2023, <https://news.republika.co.id/berita/s06iz2451/menaker-dukung-peningkatan-jaminan-sosial-ketenagakerjaan-untuk-pmi-part1>.

If the employment agreement exceeds the period in Article 1 point b above and Paragraph (2), the payment of JKK and JKM social security program contributions will be charged at 13,500 (thirteen thousand five hundred rupiah) every month and paid according to the excess work agreement period.

Claims for work accident insurance for PMI protection during work, according to Permenaker No.4/2023, include the following:

- 1) Reports of work accidents and PMI experiencing work accidents, including acts of physical violence in the placement country, are made using the PMI work accident case report form contained in BPJS Employment regulations and attaching several documents, including:
 - a) BPJS Employment participant card;
 - b) Passport;
 - c) Certificate from employer, Representative of the Republic of Indonesia, Indonesian Trade and Economic Office (ITEO) or government agencies related to employment;
 - d) Medical diagnosis certificate from a hospital or health facility in the PMI placement country;
 - e) Transportation costs in the country of placement;
 - f) A savings account in the name of PMI or another party's account that pays first and
 - g) Evidence or other documents related to PMI's work accidents.
- 2). If the cost of treatment and treatment exceeds Benefit limits from social security and insurance in

The country you're placing in needs to include:

Documents, including the following:

- a). Certificate from insurance at PMI placement countries or government agencies that carry out affairs in the field of labor regarding the amount of reimbursement of medical expenses or treatment that have been paid in the event of a payment dispute;
 - b). Proof of payment for PMI treatment or treatment from the hospital or other health facilities in the PMI placement country; and
 - c). a savings account in the name of the party who first paid for the treatment or treatment.
- 3). If PMI dies due to a work accident, it is necessary to attach the following documents:
- a) Identity card or other proof of identity of the heir;
 - b) PMI family card and PMI heirs;
 - c) Death certificate from a doctor or authorized official;
 - d) Certificate of heirs from the authorized official; and
 - e) savings account in the name of the legal beneficiary.
- 4). A report to obtain reimbursement of transportation costs for the repatriation of Indonesian Migrant Workers who have a Work Accident with a non-deceased condition from the destination country of placement to the area of origin is made using the

benefit application form as stipulated in the BPJS Employment regulations and attaching documents:

- a. BPJS Employment Participant Card;
 - b. Passport;
 - c. Certificate from the employer, Representative of the Republic of Indonesia, KDEI, or agency that organizes government affairs in the field of labor;
 - d. Receipt of payment of transportation costs and air tickets or other transportation from the destination country of placement to the area of origin; and
 - e. Savings account in the name of an Indonesian Migrant Worker.
- 5). Report to get cost assistance ranging from reimbursement of repatriation costs of problematic PMI, transportation for repatriation who have a work accident, PMI who are at risk of failure in placement because it is not PMI's fault, money assistance, and transportation replacement for the installation of PMI that is placed not as in the work agreement, PMI who are laid off due to work accidents, unilateral layoffs received by PMI are not due to work accidents, and JKK program reports for PMI who experience work accidents when PMI returns to the country of origin and returns to the land of placement, need to attach documents :
- a. BPJS Employment PMI participant card;

- b. Passport
- c. Certificate from the employer, Representative of the Republic of Indonesia, KDEI, or agencies that carry out government affairs in the field of labor stating what PMI experienced;
- d. Savings account in the name of an Indonesian Migrant Worker.
- e. Work or placement agreement (reimbursement of transportation costs for problematic repatriation, PMI who is at risk of failure of placement due to PMI's fault, money assistance and transportation reimbursement for the installation of PMI placed not as in the work agreement);
- f. Receipt of payment of transportation costs and airline tickets or other transportation starting from the country of placement to the area of origin of PMI (reimbursement of transportation costs for problematic repatriation, PMI who are at risk of failure of order due to PMI's fault, financial assistance and transportation reimbursement for the installation of PMI placed not as in the employment agreement);

- g. Payment receipts or other documents related to work accidents (JKK program for migrant workers who experience work accidents when PMI returns to their home country and returns to the placement country).
- 6). Reports that PMI can make if PMI is proven to have experienced rape to be able to get financial assistance from BPJS Employment benefits, PMI needs to attach documents:
- a. BPJS Employment PMI Participant Card;
 - b. Passport;
 - c. Letter of results of *visum et reported* examination from a doctor;
 - d. Certificate of Representative of the Republic of Indonesia, Indonesian Trade and Economic Office (KDEI), or government agencies related to the field of employment;
 - e. Savings account in the name of an Indonesian Migrant Worker.

The increase in Permenaker No.4/2023 benefits is not accompanied by an increase in social security program contributions, and this social security program if PMI and PMI candidates register for the JKK program for the claim expiration time to be extended to 5 years, which was initially only two years. After the issuance of Permenaker No.4/2023, the government contains benefits that can improve quality and quantity and is accompanied by no increase in contributions that PMI must pay.³³

³³ Tim TvOne, "Sosialisasi Permenaker Nomor 4 Tahun 2023, Kemnaker : Iuran Tetap, Manfaat Meningkatkan," *tvonenews.com*, 2023, <https://www.tvonenews.com>

In some of the descriptions of the contents of Permenaker No. 4/2023 above, a novelty is intended for PMI and PMI candidates to register to become BPJS Employment participants. Permenaker No. 4/2023 as a replacement for Permenaker RI No. 18/2018, which is considered no longer by the needs and legal developments; therefore, the presence of Permenaker No. 4/2023 is a manifestation of the presence of the state to protect prospective migrant workers and migrant workers.³⁴ Maximum protection for migrant workers is needed by migrant workers, considering that migrant workers are vulnerable to various human rights violations, such as physical violence, verbal violence, human trafficking, and other crimes.³⁵ Minister of Manpower of the Republic of Indonesia, Ida Fauziah, said that the Government of Indonesia has a serious commitment to protect migrant workers, considering the challenges and work environment of migrant workers require extra attention and complexity of problems due to differences in the way of working between countries.³⁶

B. Implementation of Social Security for PMI Placement in Hong Kong After the Emergence of Minister of Manpower Regulation Number 4 of 2023 concerning Social Security for Indonesian Migrant Workers

Hong Kong in 1997 was ceded by the United Kingdom to China, from which Hong Kong became an administrative territory of

.com/berita/nasional/106548-sosialisasi-permenaker-nomor-4-tahun-2023-kemna-ker-iuran-tetap-manfaat-meningkat?page=3.

³⁴ Kementerian Ketenagakerjaan Republik Indonesia, "Menaker Terbitkan Permenaker Baru Tentang Jaminan Sosial Pekerja Migran Indonesia," Indonesia, Kementerian Ketenagakerjaan Republik, 2023, <https://kemnaker.go.id/news/detail/menaker-terbitkan-permenaker-baru-tentang-jaminan-sosial-pekerja-migran-indonesia>.

³⁵ Teddy Unggik, "Sosialisasi Permenaker 4/2023, Kemnaker: Iuran Tetap, Manfaat Meningkatkan," Progresnews.info, 2023, <http://progresnews.info/2023/03/10/sosialisasi-permenaker-42023-kemnaker-iuran-tetap-manfaat-meningkat/>.

³⁶ Erdy Nasrul, "Menaker Dukung Peningkatan Jaminan Sosial Ketenagakerjaan Untuk PMI," Republika, 2023, <https://news.republika.co.id/berita/s06iz2451/menaker-dukung-peningkatan-jaminan-sosial-ketenagakerjaan-untuk-pmi>.

China.³⁷ Hong Kong, because it is considered a particular administrative region of China in terms of foreign affairs and defense, is not liberated by China, so Hong Kong does not have an army. Still, Hong Kong has its government, flag, and currency. Apart from political and defense matters, Hong Kong is experiencing high economic progress or growth; this makes Hong Kong not underestimated economically even though it is only an administrative region by other countries. In 2021, Hong Kong reported that Hong Kong's economic growth reached 7.8%.³⁸ Hong Kong's local population is preoccupied with public affairs, so they do not have time to take care of household affairs, so Hong Kong needs foreign workers to do informal work.³⁹ It is natural that Hong Kong needs foreign workers, which is a factor in PMI working in Hong Kong.⁴⁰

In addition to the relatively significant salary factor working in Hong Kong, another factor that makes PMI work a lot in Hong Kong is that the Hong Kong Government pays attention to, respects, and protects the human rights of foreign workers.⁴¹ The Hong Kong Government has an *Employment Ordinance* ("EO"); in the EO, special rules protect migrant workers.⁴² Regarding work safety, the Hong

³⁷ Kompas.com, "Apa Bedanya China, Taiwan, Hong Kong, Dan Macau?," Kompas.com, 2021, <https://www.kompas.com/stori/read/2021/09/20/140000279/apa-bedanya-china-taiwan-hong-kong-dan-macau?page=all>.

³⁸ Mita Noveria and Hanging Romdiati, "Pandemi Covid-19 Dan Dampak Ekonomi Pada Pekerja Migran Indonesia Dan Keluarganya: Sebuah Kajian Pustaka," *Jurnal Ekonomi Dan Kebijakan Publik* 13, no. 1 (2022): 71–84, <https://doi.org/10.22212/jekp.v13i1.1947>.

³⁹ World Bank Group, "Pekerja Global Indonesia, Antara Peluang & Risiko," Laporan Bank Indonesia, 2017, <https://thedocs.worldbank.org>.

⁴⁰ Handoyo, "Kemenaker : Jumlah Terbanyak PMI Di Hongkong, Taiwan Dan Malaysia," Kontan.Nasional, 2022, <https://nasional.kontan.co.id/news/kemenaker-jumlah-terbanyak-pmi-berada-di-hongkong-taiwan-dan-malaysia>.

⁴¹ Emilius Caesar Alexey, "Hong Kong Jamin Perlindungan Terhadap Pekerja Migran," Kompas.id, 2019, <https://www.kompas.id/baca/utama/2019/01/21/hongkong-jamin-perlindungan-terhadap-pekerja-migran>.

⁴² Fithriatus Shalihah, Norma Sari, "Seminar Nasional Hasil Pengabdian Kepada Masyarakat."

Kong Government is considered to be able to guarantee human rights; besides that, violence or discrimination in Hong Kong against migrant workers is relatively less than in other migrant worker placement countries.⁴³

Hong Kong, although it has a small record of violence and discrimination against migrant workers, does not mean that migrant workers experience no violence and discrimination; some migrant workers who work in Hong Kong experience harassment.⁴⁴ In 2017, there was a case of inhumane, horrific, and degrading persecution of Indonesian migrant workers as human beings working in Hong Kong.⁴⁵ In 2023, there will also be cases of migrant workers being tortured by employers in Hong Kong, beaten with bicycle chains, burned, and attacked with paper-cutting knives, leaving scars and physical trauma.⁴⁶ Indonesian migrant workers who are domestic workers in Hong Kong also experience inhumane treatment by employers.⁴⁷ PMI is also prone to work accidents; a PMI who works in Hong Kong died from the 14th floor due to falling from the 14th floor of the apartment building where his employer was.⁴⁸ The

⁴³ Susilo, "Beberapa Faktor Yang Menentukan TKI Dalam Memilih Negara Tujuan Sebagai Tempat Bekerja, Studi Di Desa Aryojeding Kabupaten Tulungagung," *Jurnal Pendidikan Geografi* 21, no. 2 (2016): 110–19.

⁴⁴ Suci Sekarwati, "Derita PMI Hong Kong Tidur Sekamar Majikan Pekerja Migran Yang Melawan Dengan Tulisan: Gunakan Medsos Untuk Advokasi," *Tempo.Com*, November 2021, https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/genericdocument/wcms_831216.pdf.

⁴⁵ Endang Nurdin, "TKI Di Hong Kong: Angka Penganiayaan Fisik, Seksual Dan Diskriminasi Rasial 'Tinggi,'" *BBC Indonesia*, 2017, <https://www.bbc.com/indonesia/indonesia-42493279>.

⁴⁶ VOA, "Buruh Migran Indonesia Terima Ganti Rugi Rp1,66 Miliar Atas Kasus Pelecehan Di Hong Kong," *Indonesia, Voice of America*, 2023, <https://www.voaindonesia.com/p/3970.html>.

⁴⁷ Langgeng Puji, "Kasus Kekerasan PRT Kembali Terulang Di Hong Kong, Aktivis Beranda Migran Marah," *tvonenews.com*, 2023, <https://www.tvonenews.com/berita/105776-kasus-kekerasan-prt-kembali-terulang-di-hongkong-aktivis-beranda-migran-marah>.

⁴⁸ Christian Ningsih, "Buruh Migran Indonesia Jatuh Dari Lantai 14 Di Hong Kong," *Republika.co.id*, 2019, <https://news.republika.co.id/berita/q3766k459/buruh-migran-indonesia-jatuh-dari-lantai-14-di-hong-kong>.

incident that happened to PMI in Hong Kong did not reduce the intention of workers who wanted to work in Hong Kong; this can be seen from BP2MI data, which states Hong Kong is always included in the three most PMI destination countries.⁴⁹

Based on data from BP2MI from 2015 to 2019, PMI working abroad is consistently above two hundred thousand, but in 2020 and 2021, it decreased due to the impact of the presence of a virus called *Coronavirus Disease 2019 (COVID-19)*.⁵⁰ In January 2020, the *World Health Organization (WHO)* stated that there was a COVID-19 outbreak that appeared in one of the regions in China, where the attack was hazardous for human life. Releasing data from WHO quoted by Kompas.com., stated that COVID-19 caused an international public health crisis called the *Health Emergency of International Concern (PHEIC)*.⁵¹ The existence of this statement from WHO and the symptoms of the spread of COVID-19 have made countries limit people's mobility in and out of countries, including PMI destination countries, so it is natural that in 2020 and 2021, PMI who go abroad has decreased.⁵²

Facing the outbreak, WHO took steps and instructed countries to prevent and reduce the spread of Covid-19 by practicing social distancing. Governments began to implement social restrictions by implementing regional regulations to *lockdowns* to suppress the spread of Covid-19. PMI destination countries started to enforce policies and tighten the entry and exit of people, including Hong Kong, Taiwan, Malaysia, Singapore, South Korea, Saudi

⁴⁹ BP2MI, "Data Penempatan Dan Perlindungan PMI Juli 2023," 2023.

⁵⁰ Gianie, "Dua Sisi Mata Uang Pekerja Migran Indonesia," Kompas.id, 2023, <https://www.kompas.id/baca /riset/2023/06/05/ dua-sisi-mata-uang-pekerja-migran-indonesia>.

⁵¹ WHO TEAM, "COVID-19 Public Health Emergency of International Concern (PHEIC) Global Research and Innovation Forum," WHO, 2020, [https://www .who.int/publications/m/item/covid-19-public-health-emergency-of-international-concern-\(pheic\)-global-research-and-innovation-forum](https://www .who.int/publications/m/item/covid-19-public-health-emergency-of-international-concern-(pheic)-global-research-and-innovation-forum).

⁵² Noveria and Romdiati, "Pandemi Covid-19 Dan Dampak Ekonomi Pada Pekerja Migran Indonesia Dan Keluarganya: Sebuah Kajian Pustaka."

Arabia, Jordan, Kuwait, Italy, England, Spain, France, Poland, and the United States.⁵³

The implications of countries to prevent the spread of COVID-19 have made countries not only think about the health sector but also think about solutions from other affected fields, such as education, social, cultural, and especially the economic sector.⁵⁴ The impact of COVID-19 is categorized as a life event that occurs in humanity which is very fatal; in addition to causing death, it also causes chaos in the lives of humanity.⁵⁵

Due to COVID-19, economic growth has slowed, and companies have begun to experience a decline in revenue, so they have begun to find various ways to save business, starting with layoffs. Based on data from the ILO, full or partial social distancing measures affect almost 81% of the world's workforce.⁵⁶ Victims of termination of employment, to meet the needs of life, are willing to work for low wages; this impact is also felt by migrant workers who work abroad, especially migrant workers who work in the informal sector.⁵⁷ The burden felt by PMI is exacerbated by uncertainty in the placement country, financial shortages, and layoffs due to the pandemic, making PMI's life unclear between choosing to return home or staying in the placement country.⁵⁸

⁵³ Media DPR, "Pandemi, Gus Muhaimin: Negara Harus Hadir Atasi Persoalan Pekerja Migran," Media DPR RI, 2021, <https://emedia.dpr.go.id/>.

⁵⁴ DJKN Kementerian Keuangan Republik Indonesia, "'Sri Mulyani: Kemenkeu Terus Dukung Langkah Penanganan Covid-19," DJKN Kementerian Keuangan Republik Indonesia, 2020.

⁵⁵ K Stroud, "Stressful Life Events and Depression," *Clinical Science Insights: Knowledge Families Count* 14, no. 8 (2020): 1344–45, <https://doi.org/10.1176/appi.ajp.157.8.1344-a>.

⁵⁶ ILO, "ILO: Covid-19 Causes Devastating Losses in Working Hours and Employment," Organization, International Labour, 2020, https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_740893/lang--en/index.htm.

⁵⁷ CNBC Indonesia, "Jerit Kelaparan RKI Di Malaysia Ketika Lockdown," CNBC Indonesia, 2020, <https://www.cnbcindonesia.com/news/20200425210242-4-154459/jerit-kelaparan-tki-di-malaysia-ketika-lockdown>.

⁵⁸ Kementerian Ketenagakerjaan, "Kliping Ketenagakerjaan 15 Juni 2020" (Jakarta, 2020), <https://kabarbisnis.com/read/28100233/banyak-phk-klaim-bpjs->.

The presence of Covid-19 presents its challenges for PMI. During COVID-19, migrant workers lost job opportunities and social assistance constraints from the government, not to mention the problem if migrant workers returning to Indonesia faced stigma and discrimination because they were considered to carry the virus.⁵⁹ For migrant workers who still survive in the placement country, it is also not easy to face the COVID-19 situation, starting from being unable to support themselves and access in and out of the country that does not allow them to return to Indonesia.⁶⁰

Under normal conditions, PMI is always prone to various problems such as depression, excessive workload, physical and sexual violence, and wages sometimes not given by employers; things like this affect PMI's psychological condition.⁶¹ The condition of migrant workers is very vulnerable compared to other working groups, especially for illegal migrant workers.⁶² PMIs have difficulty accessing health services during the COVID-19 pandemic, one of which is because PMIs have not received or are not registered in health insurance. At the same time, illegal migrant workers fear checking themselves (fear of being arrested by law enforcement officials) due to migration problems.⁶³ The Indonesian government has provided access to social security for migrant workers, but the

⁵⁹ Alfian Putra Abdi, "Kelompok Yang Terlupakan : TKI Yang Pulang Saat Pandemi," *tirto.id*, 2020, <https://tirto.id/kelompok-yang-terlupakan-tki-yang-pulang-saat-pandemi-fLwu>.

⁶⁰ UII, "Pusat Studi Hukum UII Soroti Nasib Pekerja Migran Di Tengah Pandemi," Universitas Islam Indonesia, 2020, <https://www.uui.ac.id/pusat-studi-hukum-uui-soroti-nasib-pekerja-migran-di-tengah-pandemi/>.

⁶¹ Department of Psychiatry, *Mental Health in The Times of Covid-19 Pandemic*, National Institute of Mental Health and Neurosciences, Bengaluru, India (Bengaluru: Department of Psychiatry National Institute of Mental Health and Neuro Science, 2020).

⁶² Psychiatry.

⁶³ Wahyu Susilo, Novi Arista, and Zulyani Evi, "Kerentanan Pekerja Migran Indonesia Menghadapi Wabah COVID-19," *CSIS Commentaries DMRU-024-ID*, no. 151 (2020): 1–6.

social security intended by migrant workers is only social security or BPJS Employment.⁶⁴

PMI recorded in April 2020, PMI working in the formal sector reached 632 workers, and the informal sector reached 1,715 workers; based on data from BP2MI, PMI working in the informal sector was three times that of formal sector workers.⁶⁵ The Minister of Manpower to follow up on the handling of migrant workers by issuing Decree of the Minister of Manpower (Kepmenaker) No. 151 of 2020 which states the Temporary Suspension of the Placement of Indonesian Migrant Workers to prevent the spread of Covid-19.⁶⁶

In 2017, the government accommodated the needs of workers, including informal workers and migrant workers, through the issuance of BPJS Ketenagakerjaan. BPJS Ketenagakerjaan is a public legal entity that has four social security programs that have functions to protect all workers.⁶⁷ BPJS provided by the government for PMI does not have social security for health, even though PMI needs health social security; not only that, there are difficulties for PMI to claim social security or BPJS Employment during the Covid-19 pandemic, even though in the Covid-19 pandemic situation the community needs the government's sincerity and seriousness to ensure social welfare for every citizen.⁶⁸

⁶⁴ Nugroho Bangun Witono, "Kebijakan Perlindungan Pekerja Migran Indonesia Dalam Pandemi Covid-19," *Indonesian Journal of Peace and Security Studies (IJPSS)* 3, no. 1 (2021): 34–54, <https://doi.org/10.29303/ijpss.v3i1.57>.

⁶⁵ BP2MI, "Data Penempatan Dan Perlindungan PMI, Periode April 2020," Badan Perlindungan Pekerja Migran Indonesia, 2020, https://bp2mi.go.id/%0Auploads/statistik/images/data_26-05-2020_Laporan_Pengolahan_Data_BNP2TKI_APRIL_fix.pdf.

⁶⁶ Zulyani Evi Wahyu Susilo, Yovi Arista, "Kerentanan Pekerja Migran Indonesia Menghadapi Wabah COVID-19," *Center for Strategic and International Studies*, 2020.

⁶⁷ BPJS Ketenagakerjaan, "BPJS Ketenagakerjaan : Program Jaminan Sosial Tenaga Kerja," Badan Penyelenggara Jaminan Sosial Ketenagakerjaan, 2023, <https://www.bpjsketenagakerjaan.go.id/>.

⁶⁸ Devina, "Data Sudah Lengkap, Klaim BPJS Ketenagakerjaan Tak Ada Kejelasan," *detik.com*, 2020, <https://news.detik.com/suara-pembaca/d-5006577/data-sudah-lengkap-klaim-bpjs-ketenagakerjaan-tak-ada-kejelasan>.

Various kinds of difficulties experienced by migrant workers can be seen from the results of a survey organized by the Human Rights Working Group (HRWG) of the Indonesian Migrant Workers Union (SBMI) and the Migrant Workers Network (JBM) regarding the impact of COVID-19 on migrant workers, especially those experienced by migrant workers in Hong Kong. The Hong Kong government is dealing with the spread of COVID-19 through a tracking policy for people with physical contact with COVID-19-positive people.⁶⁹ the Hong Kong government also imposes mandatory quarantine or isolation for people who contract Covid-19.⁷⁰ The policy taken by the Hong Kong government caused panic for everyone in Hong Kong, especially migrant workers working in Hong Kong.⁷¹ During COVID-19, PMI in Hong Kong received intimidation from employers, and verbal violence, and migrant workers should not ask for time off during the COVID-19 period.⁷² As long as they are not allowed to take holidays during COVID-19, PMIs in Hong Kong are required by employers to continue working overtime by not being paid overtime wages, or PMIs are still carrying out their usual routine before COVID-19 hit Hong Kong. The number of people that must be cared for by PMIs increases because the Hong Kong government lays off work outside the home or office work, so people or employers gather at home and automatically burden PMI's work. When working, PMI must remain hygienic by constantly changing masks, and the employer does not buy the covers

⁶⁹ BBC.com, "Cerita Pekerja Migran Indonesia Di Hong Kong Yang Kena Covid-19 Di Tengah Lonjakan Kasus 'Diintimidasi Majikan' Dan 'Ditelantarkan,'" BBC News Indonesia, 2022.

⁷⁰ Jawahir Gustav Rizal, "Melihat Cara Hong Kong Kendalikan Virus Corona Tanpa Lockdown...," 2020.

⁷¹ Noveria and Romdiati, "Pandemi Covid-19 Dan Dampak Ekonomi Pada Pekerja Migran Indonesia Dan Keluarganya: Sebuah Kajian Pustaka."

⁷² BBC.com, "Cerita Pekerja Migran Indonesia Di Hong Kong Yang Kena Covid-19 Di Tengah Lonjakan Kasus 'Diintimidasi Majikan' Dan 'Ditelantarkan.'"

purchased by PMI, but PMI acknowledges the acts themselves.⁷³ From the description above, it can be said that in the last two years, PMI has experienced a double workload, and there is no time to rest.

Based on the description above, it is an unwanted or unexpected thing that can be experienced by migrant workers at any time, ranging from sexual harassment, physical violence, verbal violence, psychological violence, work accidents, and or even things that threaten the lives of migrant workers in the Hong Kong placement country. Doing work in a foreign country, of course, is not easy because there are many differences in work ethic, culture, working hours, and, most importantly, the language used for daily communication; this is what makes the uncertainty of PMI's life in the country of placement, there are 2 (two) types of uncertainty that PMI can experience, some are speculative or pure uncertainty that can pose risks. There are 2 (two) kinds of risks: fundamental risks and unique risks. Entire risk relates to risks that have a broad impact, such as economic, political, social, security, and defense risks, as well as international, while unique risks are more on an individual, such as the price of objects, failures, and others.⁷⁴ The above risks may approach migrant workers in the country of placement during work, so there is a need for social security protection.⁷⁵ In this case, there is a need for protection that must be provided by the state, in addition to legal protection, economic protection, and family protection of migrant workers, social protection through social security.

The Indonesian government, in terms of social protection, has provided social protection for migrant workers and has even been regulated by Law No. 18/2017, which has been amended into Law No. 6/2023 and related to social security there is a regulation of the

⁷³ Fithriatus Shalihah, Norma Sari, "Seminar Nasional Hasil Pengabdian Kepada Masyarakat."

⁷⁴ Agusmidah Agusmidah, Asri Wijayanti, and Fithriatus Shalihah, *Perlindungan Pekerja Migran Indonesia Berdasarkan UU No. 18 Tahun 2017* (Medan: Yayasan Al-Hayat, 2020).

⁷⁵ Zainal Asikin, *Dasar-Dasar Hukum Perburuhan* (Jakarta: Rajawali Pers, 2016).

minister of workforce itself that regulates social security, namely Permenaker No. 18 / 2018 which has been revised to Permenaker No. 4 / 2023. The government to encourage PMI to participate in BPJS Employment is not easy, so the government requires prospective PMI to register members of BPJS Employment.⁷⁶ The government in Permenaker No.18/2018 has also required prospective PMI and PMI to register for the JKK and JKM guarantee programs, as well as in Article 4 paragraph (1) of Permenaker No.4/2023 which reads, "Prospective Indonesian Migrant Workers or Indonesian Migrant Workers who work abroad must be registered in program participation: a. JKK; and b. JKM".

However, the Indonesian Government's efforts to realize the implementation of social security for migrant workers by revising Permenaker RI No. 18/2018, in which the government increases social security benefits and tries to provide social security alternatives for migrant workers is not that easy, this can be seen from the response of migrant workers, especially migrant workers placement in Hong Kong. After it was revealed in 2022, based on DJSN data, it was stated that more than 50% of PMIs working abroad have yet to be registered as members of BPJS Employment. Hong Kong, one of the most PMI destinations, also revealed that few PMI in Hong Kong still needed to register for BPJS Employment. As explained above, this is related to the low interest of PMI not registering for BPJS Employment because, according to PMI placement in Hong Kong, the benefits of BPJS Employment organized by the Government of Indonesia are less helpful to use in Hong Kong or the benefits are less clear, BPJS Employment is

⁷⁶ CCN Indonesia, "Menaker Wajib Buruh Migran Jadi Peserta Ketenagakerjaan," CNN Indonesia, 2023, <https://www.cnnindonesia.com/ekonomi/20230302171116-92-919996/menaker-wajibkan-buruh-migran-jadi-peserta-bpjs-ketenagakerjaan>.

difficult to claim, and PMI is comfortable using insurance provided by employers or the Hong Kong Government.⁷⁷

Based on research conducted by the author in Hong Kong, after the issuance of Permenaker No.4/2023, migrant workers working in Hong Kong still do not intend to register for social security for several reasons. The excellent response of PMI placement in Hong Kong after the revision of Permenaker RI No.18/2018 to Permenaker No.4/2023, PMI in Hong Kong feels that it has received the attention of the Government of Indonesia, meaning that with the issue of PMI not registering for BPJS Employment membership for other reasons, the government moved quickly by revising social security regulations and increasing social security benefits for PMI. However, not a few PMI placements in Hong Kong after the revision of social security regulations with increased benefits still want to register for BPJS Employment. Not without reason, PMI does not wish to register for BPJS Employment after the issuance of Permenaker No.4/2023 because PMI Hong Kong Indonesian Government regulations require PMI to register for BPJS Employment are contrary to Article 9 letter d of the Regulation of the Indonesian Migrant Workers Protection Agency of the Republic of Indonesia Number 5 of 2022 concerning Amendments to the Regulation of the Indonesian Migrant Workers Protection Agency Number 1 of 2020 concerning Standards, Signing and Verification of the Indonesian Migrant Worker Work Agreement, which reads, "The extension of the Work Agreement as referred to in Article 8 must meet the following requirements: d. extend social security, employment social security, and insurance by the extension period of the Work Agreement". If the article's content above, BP2MI regulations related to the extension of social security provide several options or not necessarily BPJS Employment as the front line of social

⁷⁷ Fithriatus Shalihah, Norma Sari, Rosyidah, "Efektivitas Peraturan Menteri Ketenagakerjaan Nomor 18 Tahun 2018 Dalam Penyelenggaraan Jaminan Sosial Bagi Pekerja Migran Indonesia."

security. PMI considers that the Government of Indonesia does not need to impose or require Hong Kong placement PMI to register for BPJS Employment membership organized by the Government of Indonesia, or it means that based on the BP2MI Regulation above, it is adjusted to the destination country where imposing social security protection for migrant workers does not need to require BPJS Employment, on the contrary, BPJS Employment is better given to PMI placed in countries that do not accommodate social security for migrant workers. PMI Hong Kong believes BPJS Employment is more feasible to apply to places or placement countries or PMI destination countries, such as Macau.

The relationship between PMI and the employer (employer) in the country of placement automatically gives rise to rights and obligations; one of the rights that arise for PMI is the right to get social security.⁷⁸ The Consulate General of the Republic of Indonesia (KJRI) requires the purchase of insurance at least 2 (two) months early from the end of the visa, must include employment contract approval insurance, in addition to insurance, must also sign a Letter of Application / Guarantee Letter which is charged to the employer for accommodation and treatment if the worker is chronically or acutely ill. PMI placement in Hong Kong has benefited from insurance provided by employers in Hong Kong and feels that it does not need BPJS Employment; PMI Hong Kong requests that the Government of Indonesia does not need to require all administrative matters by including the requirements for BPJS Employment registration for PMI Hong Kong.

The juridical perspective should be social security or BPJS Employment intended for PMI, not PMI, who pays. Article 30, paragraph (1) of Law No.18/2017, amended in Law No.6/2023, reads, "Indonesian Migrant Workers cannot be charged placement fees."

⁷⁸ Rosi Oktari, "Perkuat Aspek Perlindungan Dan Jamsos Pekerja Migran," Indonesia Baik.id, 2021, <https://indonesiabaik.id/videografis/perkuat-aspek-pelindungan-dan-jamsos-pekerja-migran>.

The above content is in line with Article 3 of the Regulation of the Indonesian Migrant Workers Protection Agency of the Republic of Indonesia Number 9 of 2020 concerning the Exemption of Placement Fees for Indonesian Migrant Workers, which reads, "Indonesian Migrant Workers cannot be charged placement fees," continued Paragraph (2) Placement fees as referred to in Paragraph (1), one of which is related to PMI social security. The content of the above regulation related to placement fees contradicts the provisions for social security payment costs contained in Permenaker No.4/2023.

Social security is one of the human rights of Indonesian citizens contained in Article 28 H of the 1945 Constitution, which reads, "Everyone has the right to social security that allows their full development as a useful human being." The mandate of the article above emphasizes that social security is entitled to everyone, including migrant workers. PMI, as the country's foreign exchange hero, should get extra protection related to social protection.

III. CONCLUSION

The presence of Permenaker No. 4/2023 has several additional social security benefits in the context of protection and services for migrant workers from social or bad risks that occur during their work in the placement country, ranging from work accidents, death and old age. Permenaker No.4/2023 makes the benefits of the social security program increase to 21 risks, of which initially only 14 chances. Some of the benefits of JKK before, during, and after work include health services, compensation in the form of money, assistance, and others. The JKM program provides death benefits, periodic compensation, funeral costs, educational scholarships for PMI children, and several other programs. Not to forget also in this latest ministerial regulation, there is also financial assistance to prospective migrant workers and migrant workers who experience physical violence or rape, service in

ticket replacement costs if the placement is not by the work agreement, financial assistance due to migrant workers being unilaterally laid off, help with treatment and medical expenses for migrant workers due to work accidents in the placement country.

After Permenaker No.4/2023, there still needs to be a solution for increasing BPJS Employment PMI participation in Hong Kong placement. PMI placement in Hong Kong is more convenient using insurance provided by employers or employers than BPJS Employment organized by the Government of Indonesia. According to the Hong Kong placement PMI, Permenaker No.4 of 2023, which requires PMI to register for social security, is contrary to Article 9 letter d of the Regulation of the Indonesian Migrant Workers Protection Agency of the Republic of Indonesia Number 5 of 2022 concerning Amendments to the Regulation of the Indonesian Migrant Workers Protection Agency Number 1 of 2020 concerning Standards, Signing and Verification of Indonesian Migrant Workers Work Agreements, which reads, "The extension of the Work Agreement as referred to in Article 8 must meet the following requirements: d. extend social security, employment social security, and insurance by the extension period of the Work Agreement". In this article, the social security provided is an option, or PMI is not obligated to follow BPJS Employment. PMI placement in Hong Kong hopes that the Indonesian Government does not need to require BPJS Employment registration because those who know about conditions in Hong Kong are PMI, so BPJS Employment should only be an option. The existence of Permenaker No.4/2023 also contradicts Article 30 of Law N.18/2017, where PMI should not be charged placement fees, where one of the placement costs is social security, or it means that PMI should not be burdened with BPJS Employment payment fees.

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3. Keputusan diterima dengan revisi pada pada tanggal 6 November 2023





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74703 Fithriatus Shalihah, Stefan Koos
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[JILS] Editor Decision

2023-11-06 01:53 AM

Fithriatus Shalihah, Stefan Koos:

We have reached a decision regarding your submission to Journal of Indonesian Legal Studies, "BPJS Employment Indonesia in The Perspective of Migrant Workers Placemeted in Hong Kong on Social Security".

Our decision is: **Revision Required**

Ridwan Arifin
Universitas Negeri Semarang
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Hasil review dari reviewer dengan memberikan catatan kepada artikel.

Comment for Refinement (first step)

1. The title of the article should be a maximum of 15 words
2. The issue should be useful for an international audience by capturing or comparing global issues.
3. The abstract should be stand-alone and capture the whole paper, with a maximum of 250 words
4. Keywords maximum five keywords
5. In the introduction, please compare and analyze some related studies, a **minimum of five previous studies.**
6. The length of the article should be a **minimum of 9000 words (not including references)**
7. Please use **Chicago Manual Style (full note) for citation and referencing by Mendeley automatically**
8. At least 35 references, from reputable international journals
9. Please confirm with us concerning international collaboration of your paper: **at least two different countries and a maximum of five authors (have to be fulfilled)**
10. Conclusion: should be only in one paragraph and directly answer the research questions
11. Please modify your paper to our format
12. Please use standard academic English
13. Your paper is related to migrant workers in Hong Kong, therefore, we suggest you add one co-author from Hong Kong affiliation universities.

Additional comment

The title "*BPJS Employment Indonesia in The Perspective of Migrant Workers Placed in Hong Kong on Social Security*" has some issues that could be considered for a negative comment:

1. **Wordiness:** The title is quite lengthy and includes several words that could be condensed for better readability. Conciseness is essential for a title.
2. **Ambiguity:** The title doesn't clearly convey the specific focus or findings of the paper. It mentions BPJS Employment Indonesia and migrant workers in Hong Kong but lacks specificity about the research angle or questions addressed.
3. **Relevance:** While the title mentions BPJS Employment Indonesia, the connection between this organization and migrant workers in Hong Kong on social security isn't immediately evident. The title could be more precise in highlighting the research's relevance and unique contributions.
4. **Grammar:** There is a grammatical error in "Placemeted," which should be "Placed." Attention to correct grammar is important in academic writing.

A revised title that addresses some of these issues could be: "Examining the Role of BPJS Employment Indonesia in Ensuring Social Security for Migrant Workers in Hong Kong." This title is more concise, specific, and highlights the relevance of the research.

4. Hasil revisi di kirim pada tanggal 10 November 2023

Paper hasil revisi dengan judul

**“BPJS EMPLOYMENT INDONESIA IN THE PERSPECTIVE
OF MIGRANT WORKERS PLACEMENED IN HONG KONG
ON SOCIAL SECURITY”**

BPJS EMPLOYMENT INDONESIA IN THE PERSPECTIVE OF MIGRANT WORKERS PLACEMENED IN HONG KONG ON SOCIAL SECURITY

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Abstract

The results of the National Social Security Council report in 2022 stated that 67.7% of migrant workers working abroad were not registered as BPJS Employment participants, meaning that this report shows the ineffectiveness of the Ministerial Regulation of the Republic of Indonesia Number 18 of 2018 concerning Social Security for Indonesian Migrant Workers. Social security is a form of protection for Indonesian Migrant Workers during the placement or working period if Indonesian Migrant Workers experience a bad risk while working. Overcoming the ineffectiveness of the Minister of Manpower Regulation, the Government of Indonesia revised the Ministerial Regulation in 2023 to increase social security benefits for Indonesian Migrant Workers, becoming Minister of Manpower Regulation Number 4 of 2023. Indonesia is a country that actively sends Indonesian Migrant Workers to work abroad, and one of the most popular destinations is Hong Kong. Hong Kong is one of the destinations for Indonesian Migrant Workers because the Hong Kong Government provides serious protection for foreign workers, and Hong Kong also has unique regulations for foreign workers. This study aims to determine the implementation of Permenaker Number 4 of 2023 and its performance constraints in Hong Kong. This type of research is empirical juridical using primary and secondary data, while the conclusion-drawing technique used is deductive. The population and respondents in this study are Indonesian Migrant Workers from Hong Kong. The results of this study show that migrant workers in Hong Kong after the Minister of Manpower Regulation Number 4 of 2023 are still not interested in registering for Social Security from the Government of Indonesia, and Indonesian Migrant Workers are not willing to be required to register for social security organized by the Government of Indonesia. This is because there is a conflicting government atmosphere. Indonesian Migrant Workers in Hong Kong are more comfortable using insurance provided by employers or employers, so Indonesian Migrant Workers hope that BPJS Employment does not need to be mandatory.

Keywords: Social_Security; Indonesian_Migrant_Workers; Hong_Kong

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I. Introduction

The fifth precept of Pancasila emphasizes social justice for all Indonesian people, which, in this case, is the state's responsibility to realize justice in various matters for all Indonesian people. One of the social justices that all Indonesians deserve is to get a job, as mandated by Article 27 Paragraph (2) of the 1945 Constitution, which reads, "Every citizen has the right to work and a decent living for humanity. The mandate of the 1945 Constitution is, in fact, only a few Indonesian citizens who still need help finding work.¹

The difficulty of finding a job in one's own country is due, among others, to the number of jobs available is not proportional to the domestic labor force, natural factors of a region also affect livelihoods, uneven development between regions, low levels of education, and increasing economic needs, this is what encourages Indonesian citizens to choose to work in other countries or become Indonesian Migrant Workers (PMI).² In addition to the above factors, the difference in economic growth between countries also greatly influences citizens to choose to work in other countries.³

PMI at the juridical level, Article 1 point 2 of Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers (Law No. 18/2017), which has been amended in Law Number 6 of 2023 concerning the Stipulation of Government Regulations instead of Law Number 2 of 2022 concerning Job Creation into Law (Law No. 6/2023) reads, "Indonesian Migrant Workers are every Indonesian citizen who will, or has done work by receiving wages outside the territory of the Republic of Indonesia."

Based on data released by the Indonesian Migrant Workers Protection Agency (BP2MI) in July 2023, PMI placements over the past

¹ Sri Rahmany, "Analisis Faktor-Faktor Yang Mempengaruhi Tenaga Kerja Bekerja Di Luar Negeri Serta Implikasi Terhadap Kesejahteraan Keluarga Dilihat Dari Perspektif Islam," *IqtiSaduna*, 2018, 51–73.

² Anas Anwar Nasirin, "Profesionalisasi Buruh Migran Indonesia (BMI) Dalam Revolusi Industri 4.0," *Jurnal MSDS (Manajemen Sumber Daya Aparatur)* 8, no. 1 (2020): 39–50, <https://doi.org/10.33701/jmsda.v8i1.1174>.

³ Anna Yulia Hartati Defi Ratna Putri, "Faktor Penyebab Meningkatnya Pekerja Migran Indonesia (PMI) Di Korea Selatan Tahun 2017 - 2018," *Kajian Hubungan Internasional* 1, no. 01 (2021): 308–332.

two years have increased over the past two years; this can be seen from July 2021, as many as 4,805 posts in July 2022, as many as 17,884 stations and in July 2023 recorded as many as 25,480 placements, bringing the total PMI placements from January to July 2023 PMI placements to 161,249 posts. In July, PMI placed in the formal sector reached 13,294 orders (52%), while the informal sector reached 12,186 stations (48%). The total number of legal sector placements went to 90,625 posts from January to July, and the informal sector had 70,624 orders.

Data from BP2MI by region, PMI placement from January to July 2023, the number of PMI working in Asia and Africa Region is 150,790 PMI, followed by PMI in Europe and the Middle East Region reaching 9,491 and the Americas and Pacific Region 968. Based on the country for July 2023, the PMI in Taiwan went 7,778 placements, Hong Kong earned 7,248 posts, and Malaysia 6,294 stations. In addition to these three countries, South Korea is a PMI placement country, reaching 874 placements, Japan with 769 orders, Singapore with 645 posts, and Saudi Arabia with 427 stations in July 2023.

One of the favorite destinations for migrant workers to work is Hong Kong.⁴ Data from BP2MI Hong Kong, in the last two years, the placement of PMI to Hong Kong in December 2021 was 4220 (61.5%) or Hong Kong ranks first in PMI destinations, based on BP2MI data released in November 2022, from January to November 2022 the total PMI in placement in Hong Kong reached 54,691 or Hong Kong ranks first with the most PMI placements, while based on data released in July 2023, from January to July the number of PMI placements in Hong Kong reached 40,887 and this places Hong Kong as the third most destination for PMI placements.

The data above explains that only some Indonesian citizens work abroad, especially in Hong Kong. Not without reason, PMI has to work in Hong Kong, one of which is based on the amount of salary that

⁴ Isna Rifka, "5 Negara Jadi Tujuan TKI Terbanyak," Kompas.com, 2021, <https://money.kompas.com/read/2021/12/06/174759226/5-negara-jadi-tujuan-tki-terbanyak?page=all>.

PMI can receive.⁵ Another factor is that the Hong Kong Government protects foreign nationals working in Hong Kong.⁶

Indonesian citizens who work in Hong Kong and other countries not only have an impact on themselves but also have an impact or benefit on the country because every year, they contribute 159 trillion to the country's foreign exchange after the oil and gas sector and above the tourism sector.⁷ Foreign exchange contributed by PMI every year is a driver of the pace of the domestic economy.⁸ Seeing the contribution of Indonesian migrant workers to the country is extraordinary, comparable to the risks that endanger migrant workers (torture, harassment, or murder) that can occur to migrant workers working abroad.⁹ Migrant workers can experience risks that may be bad, so migrant workers need to get extra attention from the Government of Indonesia to ensure the human rights (HAM) of migrant workers are still fulfilled while working abroad, considering that migrant workers must adapt to differences in climate, work ethic, work rules, cultural and language backgrounds.¹⁰ All efforts to guarantee the rights of migrant

⁵ Safyra Primadhyta, "Ketika Gaji Tinggi Pikat Hati Buruh Migran Kerja Di Hong Kong," CNN Indonesia, 2019, <https://www.cnnindonesia.com/ekonomi/20190204171648-92-366435/ketika-gaji-tinggi-pikat-hati-buruh-migran-kerja-di-hong-kong>.

⁶ Fithriatus Shalihah, Norma Sari, Rosyidah "Seminar Nasional Hasil Pengabdian Kepada Masyarakat," *Seminar Nasional Pengabdian Kepada Masyarakat* 0, no. 0 (2022): 1012–13, <https://ojs.unm.ac.id/semnaslpm/article/view/18284>.

⁷ Titis Anis Fauziyah, "Pekerja Migran Indonesia Jadi Penyumbang Devisa Terbesar Kedua Rp 159 Triliun, Kepala BP2MI Ingatkan Pejabat Untuk Tidak Sombong," Kompas.com, 2023, <https://regional.kompas.com/read/2023/01/23/093211978/pekerja-migran-indonesia-jadi-penyumbang-devisa-terbesar-kedua-rp-159>.

⁸ Aswatini, "Purna - Pekerja Migran Indonesia (PMI): Peran Dan Kontribusi Dalam Pengembangan Pariwisata Di Daerah Asal," Badan Riset dan Inovasi Nasional, 2023, <https://kependudukan.brin.go.id/kajian-kependudukan/migrasi-penduduk/purna-pekerja-migran-indonesia-pmi-peranan-dan-kontribusi-dalam-pengembangan-pariwisata-di-daerah-asal/>.

⁹ Endang Nurdin, "Pekerja Migran Indonesia Yang Selamat Dari 'neraka' Di Malaysia: 'Mengapa Siksa Saya?'" BBC News Indonesia, 2023, <https://www.bbc.com/indonesia/dunia>.

¹⁰ I Nyoman Bagus Siddhanta Zulfiandi, Franciscus Anton Wirawan, Nikhen Pratiwi Sekar Tanjung, Roselina Yolanda, M. Zaini, Devi Andrian, Khairina Syafitri, Gilang Amaldi, *Ketenagakerjaan Dalam Data*, ed. Franciscus Anton Wirawan Zulfiandi, *Occupational Therapy: The Official Journal of the Association of Occupational Therapists*,

workers must be pursued by the Government of Indonesia, especially in providing social security for migrant workers.¹¹

According to Article 1 number 18 of Law No. 18/2017, amended in Law No. 6/2023, social security reads, "Social Security is a form of social protection to guarantee all people to be able to meet the basic needs of a decent life." The meaning of the entire article above also includes PMI to be able to access social security organized by the Government of Indonesia.¹² The implementation of social security for prospective migrant workers and migrant workers who will work or have worked in the placement country is a form of state protection against migrant workers.¹³

The mandate of Article 1 number 8 of Law No. 18/2017 is not the reality for PMI; in the middle of last year or precisely in 2022, the National Social Security Council (DJSN) released a report containing data on 6.09 million PMI or as many as 67.7% of PMI have not registered with the Social Security Organizing Agency (BPJS) Employment.¹⁴ Social security is a front line to protect migrant workers who work abroad, because of the dire risks that may occur or be experienced by migrant workers, especially during the placement period to work, so it is necessary to get protection through social security.¹⁵

Previously, there was a Regulation of the Minister of Manpower of the Republic of Indonesia Number 18 of 2018 concerning Social Security for Indonesian Migrant Workers (Permenaker RI No. 18/2018), the existence of this regulation and then based on data from the DJSN made the Ministry of Manpower revise social security regulations for migrant workers, to increase social security benefits for migrant workers, both before leaving, when migrant workers work

4th ed., vol. 20 (Jakarta: Pusat Data dan Teknologi Informasi Ketenagakerjaan, 2021), <https://doi.org/10.1177/030802265702001214>.

¹¹ Lalu Adi Adha, Zaeni Asyhadie, and Rahmawati Kusuma, "Kebijakan Jaminan Sosial Pekerja Migran Indonesia," *Jurnal Risalah Kenotariatan* 1, no. 2 (2020), <https://doi.org/10.29303/risalahkenotariatan.v1i2.13>.

¹² Sony Mardiyanto Timboel Siregar, Indra Munawar, German E.Agent, "Upaya Peningkatan Kepesertaan Dan Manfaat Jaminan Sosial Ketenagakerjaan" (Jakarta, 2020).

¹³ Timboel Siregal, Indra Munaswar, German E.Agent.

¹⁴ Lailatul Anisah, "Penyebab Banyak PMI Belum Mendaftarkan Ke BPJS Ketenagakerjaan," *Kontan.co.id*, 2022, <https://nasional.kontan.co.id/>.

¹⁵ Timboel Siregar, Indra Munawar, German E.Agent, "Upaya Peningkatan Kepesertaan Dan Manfaat Jaminan Sosial Ketenagakerjaan."

abroad and after work, as stated in the Regulation of the Minister of Manpower Number 4 of 2023 (Permenaker No. 4/2023). Then, after the emergence of this latest regulation, it is necessary to see the impact on migrant workers working in Hong Kong related to access to employment security.

The problem of social security for PMI is caused by low data on PMI who register as social security participants; this is a severe problem that needs to be considered by the Government of Indonesia, especially PMI who work in Hong Kong, so it is interesting to study, as for the formulation of the problem, namely:

1. What is the latest social security regulation for migrant workers after the emergence of the Minister of Manpower Regulation Number 4 of 2023 concerning Social Security for Indonesian Migrant Workers?
2. How is the implementation of social security for migrant workers placed in Hong Kong after the emergence of Minister of Manpower Regulation Number 4 of 2023 concerning Social Security for Indonesian Migrant Workers?

The purpose of the study is to analyze and find out the implementation of social security for Hong Kong placement migrant workers after the emergence of the Minister of Manpower Regulation Number 4 of 2023 concerning Social Security for Indonesian Migrant Workers.

A. Research Methods

The research method used is qualitative, with an empirical juridical research type. This research is located in Hong Kong, China, with data collection methods through literature studies and interviews with PMI placement in Hong Kong. This research uses qualitative analysis, which, after obtaining data, is analyzed to find the bright spots of the problem under study. The conclusion of this study is to use the deductive method. The deductive method is a method of concluding from general to specific.

II. Results of Discussion

A. The Latest Regulation of Social Security for Indonesian Migrant Workers After the Emergence of the Minister of Manpower Regulation Number 4 of 2023 concerning Social Security for Indonesian Migrant Workers

Protecting prospective migrant workers is to ensure the fulfillment and enforcement of human rights as citizens and migrant workers and to ensure the legal, economic, social, and family protection of migrant workers.¹⁶ Indonesian migrant workers who work abroad are entitled to legal protection by the state. In the opinion of Philipus M. Hadjon, legal protection involves the recognition of human rights owned by individuals in society. There are two legal protections, according to Philipus M. Hadjon, including preventive and repressive. Preventive legal protection is legal protection that focuses on efforts to prevent violations and efforts to provide limits in carrying out an obligation. In contrast, repressive legal protection (coercion) emphasizes efforts to solve problems.¹⁷ Legal protection the state provides for migrant workers includes protection before, during, and after work. Forms of legal protection for prospective migrant workers include:

- 1). PMI can only work in destination countries that have regulations that protect foreign workers, have a written agreement with the Government of Indonesia, and have a social security or insurance system that can defend foreign workers;
- 2). The central government stops and prohibits the placement of migrant workers in certain countries or positions

¹⁶ Erna Ratnaningsih, "Paradigma Baru Perlindungan Pekerja Migran Indonesia," Bina Nusantara, 2017, <https://business-law.binus.ac.id/2017/12/31/paradigma-baru-perlindungan-pekerja-migran-indonesia/>.

¹⁷ Philipus M. Hadjon, *Perlindungan Hukum Bagi Rakyat Indonesia* (Surabaya: PT Bina Ilmu, 1987).

abroad for reasons, considerations of human rights, security, employment opportunities, and the availability of labor by national needs;

- 3). The government, in stopping and prohibiting the placement of migrant workers, needs to pay attention to considerations and suggestions from several parties and
- 4). The central government sets assignments in certain countries or specific positions.

Social protection for PMI or PMI candidates includes improving the quality of education and training by work standards, increasing the role of accreditation and certification bodies, competent education personnel and trainers, skill improvement services, protection policies for women and children, and the existence of PMI protection centers in PMI placement countries.

Economic protection for PMI and PMI candidates is provided by the central government and local governments by the authority through:

- 1). Money transfer management involving banking or domestic non-bank financial institutions and Country of placement;
- 2). Financial education for migrant workers and families can process the results of Transfer Management and
- 3). Entrepreneurship education.

Thus, regarding social protection arrangements regulated in Law No. 18/2017, Article 35 states further provisions regarding legal protection, social protection, and economic protection for prospective migrant workers and migrant workers. Meanwhile, family protection is included in one of the objectives of PMI protection in Article 3 of Law No. 18/2017. In Law No. 18/2017, PMI family means husband, wife, children, and parents (who have a relationship through determination and decided by the court), whether they are in Indonesian territory or live abroad with PMI.

In addition to legal protection, social protection, economic protection, and family protection of migrant workers, or the protection in Law No. 18/2017, it is also necessary to quote the opinion of Imam Soepomo about worker protection. According to

Imam Soepomo,¹⁸ Worker protection includes 3 (three) things: economic protection, social protection, and technical protection. Economic protection is protection related to providing decent wages for migrant workers by standards, social protection is protection for migrant workers about social security, and technical protection includes occupational safety protection from possible worst risks while working.

All of the above protections are very important for prospective migrant workers and migrant workers who work abroad. Currently, researchers focus on social protection for migrant workers who work abroad, which is related to social security. Social security is essential for migrant workers during the placement period in the placement country if migrant workers experience bad things during work. Based on Lalu Husni's opinion, social security is distinguished in a narrow and broad sense. In a bit of understanding, social security deals with social assistance and insurance in employment protection. The definition of social security broadly includes prevention and development, recovery and healing, and punishment.

The International Covenant on Economic, Social, and Cultural Rights (ICESC) (1966), together with the Universal Declaration of Human Rights (1948) and the International Convention on Civil and Political Rights (1966), make up the International Bill of Human Rights. The Covenants recognize "independent human rights to enjoy civil and political freedom and freedom from fear and human rights to freedom to engage in politics, as well as economic, social and cultural rights." All peoples have the right to self-determination, including the right to determine their political status and freely pursue economic, social, and cultural development". One of the economic rights is the right to work, and everyone has the right to just conditions of work: fair wages ensuring a decent living for himself and his family; equal pay for equal work; safe and healthy working conditions; equal opportunity for everyone to be promoted;

¹⁸ Fithriatus Shalihah and Retno Damarina, "The Urgency of Legal Certainty in the Protection of Domestic Workers in Indonesia: A Study in Yogyakarta City," 2022, <https://doi.org/10.4108/eai.18-9-2022.2326039>.

rest and leisure.¹⁹ Everyone, regardless of citizenship, is entitled to social security, including social insurance; unqualified workers, especially migrant workers in other countries, are also entitled to social security.

The Government of Indonesia ratified the international convention on the *International Covenant on Economic, Social, and Cultural Rights* (ICESCR) on September 30, 2005, into Law Number 11 of 2005 concerning the ratification of the ICESCR or the *International Covenant on Economic, Social and Cultural Rights*. The ratification carried out by the Government of Indonesia has consequences for the protection and respect of human rights, or it can be said that the Government of Indonesia is obliged to carry out the contents of the ICESCR to all citizens in the life of the nation and state.²⁰ The intended citizen can also be interpreted as an Indonesian citizen living in Indonesian territory, including Indonesian citizens working abroad or PMI.

In addition to Indonesia ratifying ICESCR as a country that upholds human rights, Indonesia is also one of the ILO members and also adopted the *International Convention on the Protection of the Rights of Migrant Workers and Members of Their Family (Protection of the Rights of All Migrant Workers and Family Members)* by ratifying it into Law of the Republic of Indonesia Number 6 of 2012 concerning Ratification of the *International Convention of the Protection of the Rights of Migrant Workers and Members of Their Family*.²¹

Article 27 in the *International Convention of The Protection of the Rights of Migrant Workers and Members of Their Family* Also contains related to social security. Article 27, paragraph (1) of the *International Convention of the Protection of the Rights of Migrant Workers and*

¹⁹ Council of Europe Portal, *International Covenant on Economic, Social and Cultural Rights*, COUNCIL OF EUROPE PORTAL, 15 September 2023.

²⁰ DPR RI dan Presiden RI, *Pengesahan International Covenant Economic, Social, and Cultural Rights (Kovenan Internasional Tentang Hak-Hak Ekonomi, Sosial Dan Budaya, (2005)*, <https://peraturan.bpk.go.id/Details/40256/uu-no-11-tahun-2005>.

²¹ DPR RI dan Presiden Republik Indonesia, *Pengesahan International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Konvensi Internasional Mengenai Perlindungan Hak-Hak Seluruh Pekerja Migran Dan Anggota Keluarganya)*, PERATURAN BPK RI 1 (2012), <https://peraturan.bpk.go.id>.

Members of Their Family states, "About social security, migrant workers and members of their families shall enjoy the same treatment as citizens of the State of employment, provided that they meet the requirements established by the provisions of the law in force in that country and the applicable bilateral and multilateral agreements. Officials in the authorities of the country of origin and destination of work may make the necessary arrangements to determine the procedures for implementing this norm". In the content of the article above, it can be interpreted that every migrant worker working in the country of placement is also entitled to social security organized by the government of post for citizens, countries of order, or it can be said that migrant workers in the country of station also have the same rights related to social security in the land of placement of migrant workers.

Article 27(2) of the International Convention of the Protection of the *Rights of Migrant Workers and Members of Their Family* states, "Where applicable legal provisions do not provide benefits to migrant workers and members of their families, States concerned shall seek the possibility of reimbursing the person concerned the number of contributions paid by them about such allowances as applied to citizens his country is in the same situation." *Migrant worker placement countries should seek other alternatives* if they do not have provisions related to social security for migrant workers or a middle way to provide social security for employed migrant workers.

Social security as a social policy is generally implemented in various forms of income benefits directly, which are inseparable from taxation policies and income maintenance. Social security also includes multiple schemes to improve access to essential social services. Social security in the form of income benefits can be called benefits in *cash*, while those in the form of assistance for goods or social services are called *benefits in kind*.²²

The international level of social security is regulated by the International Labour Organization (ILO) Convention Number 102 of 1952, in which everyone gets protection from the National Social Security System (SJSN). ILO Convention Number 102 contains at

²² Akhmad Purnama, "Analisis Perlindungan Jaminan Sosial Bagi Pekerja Informal," *Jurnal PKS* 14, no. 2 (2015): 149-N162.

least 9 (nine) minimum standards that must be implemented by the state in the social security program, including the following:

1. Work Accident Insurance (WAI) includes compensation for heirs due to death while working or while earning a living;
2. Service;
3. Provision of sick benefits to workers;
4. Old Age Guarantee (OAG);
5. Disability compensation;
6. Family benefits or services given to or in the case of children, food, clothing, vacation, or domestic assistance;
7. Care of pregnancy and childbirth (care for before and after birth);
8. Benefits for unemployment and
9. Compensation for heirs due to the worker's death will be given to the widow, spouse, or child of the deceased worker.

ILO is an international organization that focuses on productivity and economic growth. Social security's contribution to economic development through social stability and labor productivity.²³ ILO Convention 102 of 1952 on (Minimum Standards) Social Security also provides for equal treatment of foreign nationals, health services, sickness benefits, unemployment benefits, maternity benefits, disability benefits, heirs' benefits related to joint provisions, other provisions, and final provisions.

ILO mandate number 102 of 1952 concerning minimum social security standards for members of the organization to provide minimum protection to workers. Indonesia organizes the National Social Security System (SJNS).²⁴ This is what encourages the protection of human rights for migrant workers both in the form of

²³ ILO, "Evaluasi Dua Tahun Penerapan Jaminan Sosial Untuk Pekerja Dalam Era Digitalisasi," International Labour Organization, 20217, https://www.ilo.org/jakarta/info/public/pr/WCMS_574167/lang--en/index.htm.

²⁴ Hartini Retnaningsih, "Strategi Sistem Jaminan Sosial Nasional Bidang Ketenagakerjaan Dalam Upaya Perlindungan Pekerja Di Kota Surabaya Dan Kota Pekanbaru," *Aspirasi: Jurnal Masalah-Masalah Sosial* 7, no. 2 (2016): 157–72.

health insurance and in the condition of employment.²⁵ The Indonesian government also has SJSN, which is under the legal umbrella in Law No. 40 of 2004 concerning the National Social Security System (Law No. 40/2004), amended in Law No. 2/2020, then amended in Perpu No. 2/2022 and amended in Law No. 4 of 2023 concerning the Development and Strengthening of the Financial Sector (Law No. 4/2023). As long as the Law No. 40/2004 article is not amended, it remains valid.

Further provisions relating to social security for migrant workers are contained in the ministerial regulation. Permenaker RI No. 18/2018, revised to Permenaker No. 4/2023, is a ministerial regulation regulating social security for prospective migrant workers and migrant workers. PMI and PMI candidates in this ministerial regulation are required to register for social security. Two participation programs must be followed by PMI and PMI candidates, namely Work Accident Insurance (JKK) and Death Insurance (JKM), and there is a recommended program, namely the Old Age Insurance Program (JHT). JKK is regulated in Article 1 Number 8 of Permenaker No. 4/2023, which reads, "Work Accident Insurance herein after abbreviated as JKK is a benefit in the form of cash and health services provided when participants experience a Work Accident or illness caused by the work environment." JKM is contained in Article 1 number 9 of Permenaker No. 4/2018, which reads, "Death Insurance from now on abbreviated as JKM is a cash benefit given to heirs when participants die dimia not due to Work Accidents." JHT, according to Article 1 number 10 of Permenaker No. 4/2023 reads, "Old Age Insurance, here in after abbreviated as JHT, is a cash benefit paid at once when the participant completes the employment agreement and returns to Indonesia, dies, or experiences permanent total disability."

²⁵ BPHN, *Laporan Akhir Analisis Dan Evaluasi Hukum Terkait Sistem Jaminan Sosial Nasional, Kementerian Hukum Dan Hak Asasi Manusia Republik Indonesia*. (Jakarta Timur: Pohon Cahaya, 2020).

The presence of this Permenaker is a manifestation of legal certainty for PMI, whose substance in this Permenaker is the ideal of a law formed (swollen). *Still*, this ideal is different from the expectations of the law itself (*sein*).²⁶ Similarly, Permenaker RI No. 18/2018 related to social security for migrant workers, the programs designed do not run properly; this is evidenced by the results of the DJSN report, which states that more than 50% of migrant workers working abroad are not registered in BPJS Employment participation.

The ineffectiveness of the social security program prompted the government to revise Permenaker RI No. 18/2018 to increase social security benefits for migrant workers. The lack of effectiveness of Permenaker RI No. 18/2018 can be seen in Hong Kong; the average migrant worker in Hong Kong does not or has not registered for social security organized by the Government of Indonesia for several reasons, including because PMI feels that the social security provided by the Government of Indonesia or BPJS Employment does not offer direct benefits to PMI. The purpose of not providing benefits BPJS Employment in Hong Kong cannot be claimed or used by migrant workers in Hong Kong; this makes PMI more comfortable using insurance provided by the Hong Kong Government. The Hong Kong PMI stated that before going to work in Hong Kong, PMI was required to register for BPJS Ketenagakerjaan, but when arriving in Hong Kong, PMI no longer extended its membership as a member of BPJS Ketenagakerjaan, Hong Kong PMI service users or employers before hiring PMI must take care of insurance for PMI, this is also one of the factors PMI is reluctant to use BPJS Ketenagakerjaan.²⁷

²⁶ Fithriatus Shalihah and Retno Damarina, "Problem Hukum Dalam Perlindungan Pekerja Rumah Tangga Di Indonesia," *Jurnal Selat* 10, no. 2 (2023): 131–43, <https://doi.org/10.31629/selat.v10i2.5645>.

²⁷ Fithriatus Shalihah, Norma Sari, Rosyidah, Retno Damarina "Efektivitas Peraturan Menteri Ketenagakerjaan Nomor 18 Tahun 2018 Dalam Penyelenggaraan Jaminan

In response to this, the Government of Indonesia quickly revised Permenaker RI No. 18/2018 to Permenaker No.4/2023 concerning Social Security for Indonesian Migrant Workers. This revision of the Permenaker is an immediate response from the Government of Indonesia to the reality of implementing social security for migrant workers; the existence of Permenaker No.4/2023, the government increases social security benefits.²⁸ The benefits contained in Permenaker No. 4 of 2023 become 21, which initially contained 14.²⁹ The seven new benefits are as follows:³⁰

First, if PMI experiences a work accident in the placement country, they will get medical reimbursement for work accidents of a maximum of Rp. 50 million. *Second*, *homecare* for 1 (one) year with a maximum cost that PMI can get Rp. 20 million. *Third*, PMI also receives a complete replacement of Rp. 2.5 million. *Fourth*, PMI gets a glasses replacement with a maximum cost of Rp. 1 million. *Fifth*, if there are migrant workers who get raped, they will get assistance of Rp. 50 million. *Sixth*, if PMI experiences unilateral termination of employment, PMI will get help from Rp. 1.5 million, and *seventh*, reimbursement of Rp. Twenty-five million if PMI gets placement not by the work agreement and reimbursement of transportation costs of a maximum of Rp. 15 million.

In addition to the seven benefits above, Permenaker No.4/2023 also provides nine additional benefits: if PMI dies, the family will get death compensation, compensation for PMI who experience permanent total disability, which is given periodically,

Sosial Bagi Pekerja Migran Indonesia," in *Diskursus Hukum Ketenagakerjaan Di Indonesia* (Medan: USUPress, 2022), 267.

²⁸ Komisi IX, "Tambah Manfaat Sosial, Legislator Imbau Permenaker Jaminan Sosial PMI Disosialisasikan Secara Masif," DPR.RI, 2023, <https://www.dpr.go.id/berita/detail/id/43956/t/Tambah-Manfaat-Sosial-Legislator-Imbau-Permenaker-Jaminan-Sosial-PMI-Disosialisasikan-Secara-Masif>.

²⁹ Ady Thea DA, "Pemerintah Naikan Manfaat Jaminan Sosial Pekerja," Hukumonline.com, 2023, <https://www.hukumonline.com/berita/a/pemerintah-naikan-manfaat-jaminan-sosial-pekerja-migran-lt6401c9d483a2f/>.

³⁰ Erlang Satya Darmawan, "Permenaker Nomor 4 Tahun 2023 Diterbitkan, Jaminan Untuk PMI Resmi Bertambah," Kompas.com, 2023, <https://nasional.kompas.com/>.

compensation for failing to leave, compensation for failing to be placed, repatriation costs for PMI who have problems, repatriation costs given to PMI who have a work accident, denture replacement costs, and scholarships for PMI children.³¹

The JHT program already exists in Permenaker RI No. 18/2018, but in Permenaker No. 4/2023, there is additional substance in implementing JHT social security. The number of benefits of the JHT program for prospective PMI or PMI is based on the accumulated value of all contributions deposited and the results of their development recorded in the individual accounts of JHT program participants. The story of the importance of JHT program benefits can continue after participants (PMI) terminate the employment agreement, and the help of the JHT program has yet to be paid at once. Related to JHT benefits, it can be given to prospective PMI or PMI if they have entered retirement age, died, or experienced permanent total disability. Regarding the retirement age intended by this latest ministerial regulation, entering the age of 56 (fifty-six) years, PMI candidates who fail to leave are placed in the destination country or stop working. The meaning of PMI that fails to be placed in the destination country or stops working in Permenaker No.4 of 2023 consists of the end of work time stated in the work agreement, experiencing layoffs, PMI resigning, or PMI becoming a foreign national. JHT program participants in preparation for entering retirement, JHT benefits can be partially disbursed to a specific limit if participants have a membership period of at least 10 (ten) years, that is, at most 30% of the amount of JHT, for home ownership or 10% of the amount of JHT for other purposes according to the need to enter retirement age.

The contribution section and payment method contained in Article 18 of Permenaker No. 4 of 2023, all of the above benefits can

³¹ Eqqi Syahputra, "Menaker Terbitkan Permenaker Baru Tentang Jaminan Sosial PMI," CNBC.Indonesia, 2023, <https://www.cnbcindonesia.com/news/20230303160955-4-418700/menaker-terbitkan-permenaker-baru-tentang-jaminan-sosial-pmi>.

be obtained if migrant workers pay contributions by the latest regulation.³² Article 18 of Permenaker No.4/2023 reads:

- 1). Payment of JKK and JKM program contributions for prospective Indonesian Migrant Workers through the Placement Implementer is carried out in stages, provided that:
 - a. protection fee before employment is paid in the amount of Rp37,500.00 (thirty-seven thousand five hundred rupiah); and
 - b. Protection contributions during work and after engagement are paid according to the terms of the employment agreement as follows:
 1. for 24 (twenty-four) months amounting to Rp 332,500.00 (three hundred thirty-two thousand five hundred rupiah);
 2. for 12 (twelve) months amounting to Rp189,000.00 (one hundred eighty-nine thousand rupiah), or
 3. for 6 (six) months amounting to Rp108,000.00 (one hundred eight thousand rupiah);).
- 2). Payment of JKK and JKM program contributions for protection during work and after work for Individual Indonesian Migrant Workers is made at once according to the terms of the work agreement as follows:
 - a. for 24 (twenty-four) months amounting to Rp 332,500.00 (three hundred thirty-two thousand five hundred rupiahs);
 - b. for 12 (twelve) months amounting to Rp189,000.00 (one hundred eighty-nine thousand rupiah), or
 - c. for 6 (six) months amounting to Rp108,000.00 (one hundred eight thousand rupiah);).

³² Erdy Nasrul, "Menaker Dukung Peningkatan Jaminan Sosial Ketenagakerjaan Untuk PMI," *Republika*, 2023, <https://news.republika.co.id/berita/s06iz2451/menaker-dukung-peningkatan-jaminan-sosial-ketenagakerjaan-untuk-pmi-part1>.

If the employment agreement exceeds the period in Article 1 point b above and Paragraph (2), the payment of JKK and JKM social security program contributions will be charged at 13,500 (thirteen thousand five hundred rupiah) every month and paid according to the excess work agreement period.

Claims for work accident insurance for PMI protection during work, according to Permenaker No.4/2023, include the following:

- 1) Reports of work accidents and PMI experiencing work accidents, including acts of physical violence in the placement country, are made using the PMI work accident case report form contained in BPJS Employment regulations and attaching several documents, including:
 - a) BPJS Employment participant card;
 - b) Passport;
 - c) Certificate from employer, Representative of the Republic of Indonesia, Indonesian Trade and Economic Office (ITEO) or government agencies related to employment;
 - d) Medical diagnosis certificate from a hospital or health facility in the PMI placement country;
 - e) Transportation costs in the country of placement;
 - f) A savings account in the name of PMI or another party's account that pays first and
 - g) Evidence or other documents related to PMI's work accidents.
- 2). If the cost of treatment and treatment exceeds Benefit limits from social security and insurance in

The country you're placing in needs to include:

Documents, including the following:

- a). Certificate from insurance at PMI placement countries or government agencies that carry out affairs in the field of labor regarding the amount of reimbursement of medical expenses or treatment that have been paid in the event of a payment dispute;
 - b). Proof of payment for PMI treatment or treatment from the hospital or other health facilities in the PMI placement country; and
 - c). a savings account in the name of the party who first paid for the treatment or treatment.
- 3). If PMI dies due to a work accident, it is necessary to attach the following documents:
- a) Identity card or other proof of identity of the heir;
 - b) PMI family card and PMI heirs;
 - c) Death certificate from a doctor or authorized official;
 - d) Certificate of heirs from the authorized official; and
 - e) savings account in the name of the legal beneficiary.
- 4). A report to obtain reimbursement of transportation costs for the repatriation of Indonesian Migrant Workers who have a Work Accident with a non-deceased condition from the destination country of placement to the area of origin is made using the

benefit application form as stipulated in the BPJS Employment regulations and attaching documents:

- a. BPJS Employment Participant Card;
 - b. Passport;
 - c. Certificate from the employer, Representative of the Republic of Indonesia, KDEI, or agency that organizes government affairs in the field of labor;
 - d. Receipt of payment of transportation costs and air tickets or other transportation from the destination country of placement to the area of origin; and
 - e. Savings account in the name of an Indonesian Migrant Worker.
- 5). Report to get cost assistance ranging from reimbursement of repatriation costs of problematic PMI, transportation for repatriation who have a work accident, PMI who are at risk of failure in placement because it is not PMI's fault, money assistance, and transportation replacement for the installation of PMI that is placed not as in the work agreement, PMI who are laid off due to work accidents, unilateral layoffs received by PMI are not due to work accidents, and JKK program reports for PMI who experience work accidents when PMI returns to the country of origin and returns to the land of placement, need to attach documents :
- a. BPJS Employment PMI participant card;

- b. Passport
- c. Certificate from the employer, Representative of the Republic of Indonesia, KDEI, or agencies that carry out government affairs in the field of labor stating what PMI experienced;
- d. Savings account in the name of an Indonesian Migrant Worker.
- e. Work or placement agreement (reimbursement of transportation costs for problematic repatriation, PMI who is at risk of failure of placement due to PMI's fault, money assistance and transportation reimbursement for the installation of PMI placed not as in the work agreement);
- f. Receipt of payment of transportation costs and airline tickets or other transportation starting from the country of placement to the area of origin of PMI (reimbursement of transportation costs for problematic repatriation, PMI who are at risk of failure of order due to PMI's fault, financial assistance and transportation reimbursement for the installation of PMI placed not as in the employment agreement);

- g. Payment receipts or other documents related to work accidents (JKK program for migrant workers who experience work accidents when PMI returns to their home country and returns to the placement country).
- 6). Reports that PMI can make if PMI is proven to have experienced rape to be able to get financial assistance from BPJS Employment benefits, PMI needs to attach documents:
- a. BPJS Employment PMI Participant Card;
 - b. Passport;
 - c. Letter of results of *visum et reported* examination from a doctor;
 - d. Certificate of Representative of the Republic of Indonesia, Indonesian Trade and Economic Office (KDEI), or government agencies related to the field of employment;
 - e. Savings account in the name of an Indonesian Migrant Worker.

The increase in Permenaker No.4/2023 benefits is not accompanied by an increase in social security program contributions, and this social security program if PMI and PMI candidates register for the JKK program for the claim expiration time to be extended to 5 years, which was initially only two years. After the issuance of Permenaker No.4/2023, the government contains benefits that can improve quality and quantity and is accompanied by no increase in contributions that PMI must pay.³³

³³ Tim TvOne, "Sosialisasi Permenaker Nomor 4 Tahun 2023, Kemnaker : Iuran Tetap, Manfaat Meningkatkan," *tvonenews.com*, 2023, <https://www.tvonenews>

In some of the descriptions of the contents of Permenaker No. 4/2023 above, a novelty is intended for PMI and PMI candidates to register to become BPJS Employment participants. Permenaker No. 4/2023 as a replacement for Permenaker RI No. 18/2018, which is considered no longer by the needs and legal developments; therefore, the presence of Permenaker No. 4/2023 is a manifestation of the presence of the state to protect prospective migrant workers and migrant workers.³⁴ Maximum protection for migrant workers is needed by migrant workers, considering that migrant workers are vulnerable to various human rights violations, such as physical violence, verbal violence, human trafficking, and other crimes.³⁵ Minister of Manpower of the Republic of Indonesia, Ida Fauziah, said that the Government of Indonesia has a serious commitment to protect migrant workers, considering the challenges and work environment of migrant workers require extra attention and complexity of problems due to differences in the way of working between countries.³⁶

B. Implementation of Social Security for PMI Placement in Hong Kong After the Emergence of Minister of Manpower Regulation Number 4 of 2023 concerning Social Security for Indonesian Migrant Workers

Hong Kong in 1997 was ceded by the United Kingdom to China, from which Hong Kong became an administrative territory of

.com/berita/nasional/106548-sosialisasi-permenaker-nomor-4-tahun-2023-kemna-ker-iuran-tetap-manfaat-meningkat?page=3.

³⁴ Kementerian Ketenagakerjaan Republik Indonesia, "Menaker Terbitkan Permenaker Baru Tentang Jaminan Sosial Pekerja Migran Indonesia," Indonesia, Kementerian Ketenagakerjaan Republik, 2023, <https://kemnaker.go.id/news/detail/menaker-terbitkan-permenaker-baru-tentang-jaminan-sosial-pekerja-migran-indonesia>.

³⁵ Teddy Unggik, "Sosialisasi Permenaker 4/2023, Kemnaker: Iuran Tetap, Manfaat Meningkatkan," Progresnews.info, 2023, <http://progresnews.info/2023/03/10/sosialisasi-permenaker-42023-kemnaker-iuran-tetap-manfaat-meningkat/>.

³⁶ Erdy Nasrul, "Menaker Dukung Peningkatan Jaminan Sosial Ketenagakerjaan Untuk PMI," Republika, 2023, <https://news.republika.co.id/berita/s06iz2451/menaker-dukung-peningkatan-jaminan-sosial-ketenagakerjaan-untuk-pmi>.

China.³⁷ Hong Kong, because it is considered a particular administrative region of China in terms of foreign affairs and defense, is not liberated by China, so Hong Kong does not have an army. Still, Hong Kong has its government, flag, and currency. Apart from political and defense matters, Hong Kong is experiencing high economic progress or growth; this makes Hong Kong not underestimated economically even though it is only an administrative region by other countries. In 2021, Hong Kong reported that Hong Kong's economic growth reached 7.8%.³⁸ Hong Kong's local population is preoccupied with public affairs, so they do not have time to take care of household affairs, so Hong Kong needs foreign workers to do informal work.³⁹ It is natural that Hong Kong needs foreign workers, which is a factor in PMI working in Hong Kong.⁴⁰

In addition to the relatively significant salary factor working in Hong Kong, another factor that makes PMI work a lot in Hong Kong is that the Hong Kong Government pays attention to, respects, and protects the human rights of foreign workers.⁴¹ The Hong Kong Government has an *Employment Ordinance* ("EO"); in the EO, special rules protect migrant workers.⁴² Regarding work safety, the Hong

³⁷ Kompas.com, "Apa Bedanya China, Taiwan, Hong Kong, Dan Macau?," Kompas.com, 2021, <https://www.kompas.com/stori/read/2021/09/20/140000279/apa-bedanya-china-taiwan-hong-kong-dan-macau?page=all>.

³⁸ Mita Noveria and Hanging Romdiati, "Pandemi Covid-19 Dan Dampak Ekonomi Pada Pekerja Migran Indonesia Dan Keluarganya: Sebuah Kajian Pustaka," *Jurnal Ekonomi Dan Kebijakan Publik* 13, no. 1 (2022): 71–84, <https://doi.org/10.22212/jekp.v13i1.1947>.

³⁹ World Bank Group, "Pekerja Global Indonesia, Antara Peluang & Risiko," Laporan Bank Indonesia, 2017, <https://thedocs.worldbank.org>.

⁴⁰ Handoyo, "Kemenaker : Jumlah Terbanyak PMI Di Hongkong, Taiwan Dan Malaysia," Kontan.Nasional, 2022, <https://nasional.kontan.co.id/news/kemenaker-jumlah-terbanyak-pmi-berada-di-hongkong-taiwan-dan-malaysia>.

⁴¹ Emilius Caesar Alexey, "Hong Kong Jamin Perlindungan Terhadap Pekerja Migran," Kompas.id, 2019, <https://www.kompas.id/baca/utama/2019/01/21/hongkong-jamin-perlindungan-terhadap-pekerja-migran>.

⁴² Fithriatus Shalihah, Norma Sari, "Seminar Nasional Hasil Pengabdian Kepada Masyarakat."

Kong Government is considered to be able to guarantee human rights; besides that, violence or discrimination in Hong Kong against migrant workers is relatively less than in other migrant worker placement countries.⁴³

Hong Kong, although it has a small record of violence and discrimination against migrant workers, does not mean that migrant workers experience no violence and discrimination; some migrant workers who work in Hong Kong experience harassment.⁴⁴ In 2017, there was a case of inhumane, horrific, and degrading persecution of Indonesian migrant workers as human beings working in Hong Kong.⁴⁵ In 2023, there will also be cases of migrant workers being tortured by employers in Hong Kong, beaten with bicycle chains, burned, and attacked with paper-cutting knives, leaving scars and physical trauma.⁴⁶ Indonesian migrant workers who are domestic workers in Hong Kong also experience inhumane treatment by employers.⁴⁷ PMI is also prone to work accidents; a PMI who works in Hong Kong died from the 14th floor due to falling from the 14th floor of the apartment building where his employer was.⁴⁸ The

⁴³ Susilo, "Beberapa Faktor Yang Menentukan TKI Dalam Memilih Negara Tujuan Sebagai Tempat Bekerja, Studi Di Desa Aryojeding Kabupaten Tulungagung," *Jurnal Pendidikan Geografi* 21, no. 2 (2016): 110–19.

⁴⁴ Suci Sekarwati, "Derita PMI Hong Kong Tidur Sekamar Majikan Pekerja Migran Yang Melawan Dengan Tulisan: Gunakan Medsos Untuk Advokasi," *Tempo.Com*, November 2021, https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/genericdocument/wcms_831216.pdf.

⁴⁵ Endang Nurdin, "TKI Di Hong Kong: Angka Penganiayaan Fisik, Seksual Dan Diskriminasi Rasial 'Tinggi,'" *BBC Indonesia*, 2017, <https://www.bbc.com/indonesia/indonesia-42493279>.

⁴⁶ VOA, "Buruh Migran Indonesia Terima Ganti Rugi Rp1,66 Miliar Atas Kasus Pelecehan Di Hong Kong," *Indonesia, Voice of America*, 2023, <https://www.voaindonesia.com/p/3970.html>.

⁴⁷ Langgeng Puji, "Kasus Kekerasan PRT Kembali Terulang Di Hong Kong, Aktivis Beranda Migran Marah," *tvonenews.com*, 2023, <https://www.tvonenews.com/berita/105776-kasus-kekerasan-prt-kembali-terulang-di-hongkong-aktivis-beranda-migran-marah>.

⁴⁸ Christian Ningsih, "Buruh Migran Indonesia Jatuh Dari Lantai 14 Di Hong Kong," *Republika.co.id*, 2019, <https://news.republika.co.id/berita/q3766k459/buruh-migran-indonesia-jatuh-dari-lantai-14-di-hong-kong>.

incident that happened to PMI in Hong Kong did not reduce the intention of workers who wanted to work in Hong Kong; this can be seen from BP2MI data, which states Hong Kong is always included in the three most PMI destination countries.⁴⁹

Based on data from BP2MI from 2015 to 2019, PMI working abroad is consistently above two hundred thousand, but in 2020 and 2021, it decreased due to the impact of the presence of a virus called *Coronavirus Disease 2019 (COVID-19)*.⁵⁰ In January 2020, the *World Health Organization (WHO)* stated that there was a COVID-19 outbreak that appeared in one of the regions in China, where the attack was hazardous for human life. Releasing data from WHO quoted by Kompas.com., stated that COVID-19 caused an international public health crisis called the *Health Emergency of International Concern (PHEIC)*.⁵¹ The existence of this statement from WHO and the symptoms of the spread of COVID-19 have made countries limit people's mobility in and out of countries, including PMI destination countries, so it is natural that in 2020 and 2021, PMI who go abroad has decreased.⁵²

Facing the outbreak, WHO took steps and instructed countries to prevent and reduce the spread of Covid-19 by practicing social distancing. Governments began to implement social restrictions by implementing regional regulations to *lockdowns* to suppress the spread of Covid-19. PMI destination countries started to enforce policies and tighten the entry and exit of people, including Hong Kong, Taiwan, Malaysia, Singapore, South Korea, Saudi

⁴⁹ BP2MI, "Data Penempatan Dan Perlindungan PMI Juli 2023," 2023.

⁵⁰ Gianie, "Dua Sisi Mata Uang Pekerja Migran Indonesia," Kompas.id, 2023, <https://www.kompas.id/baca /riset/2023/06/05/ dua-sisi-mata-uang-pekerja-migran-indonesia>.

⁵¹ WHO TEAM, "COVID-19 Public Health Emergency of International Concern (PHEIC) Global Research and Innovation Forum," WHO, 2020, [https://www .who.int/publications/m/item/covid-19-public-health-emergency-of-international-concern-\(pheic\)-global-research-and-innovation-forum](https://www .who.int/publications/m/item/covid-19-public-health-emergency-of-international-concern-(pheic)-global-research-and-innovation-forum).

⁵² Noveria and Romdiati, "Pandemi Covid-19 Dan Dampak Ekonomi Pada Pekerja Migran Indonesia Dan Keluarganya: Sebuah Kajian Pustaka."

Arabia, Jordan, Kuwait, Italy, England, Spain, France, Poland, and the United States.⁵³

The implications of countries to prevent the spread of COVID-19 have made countries not only think about the health sector but also think about solutions from other affected fields, such as education, social, cultural, and especially the economic sector.⁵⁴ The impact of COVID-19 is categorized as a life event that occurs in humanity which is very fatal; in addition to causing death, it also causes chaos in the lives of humanity.⁵⁵

Due to COVID-19, economic growth has slowed, and companies have begun to experience a decline in revenue, so they have begun to find various ways to save business, starting with layoffs. Based on data from the ILO, full or partial social distancing measures affect almost 81% of the world's workforce.⁵⁶ Victims of termination of employment, to meet the needs of life, are willing to work for low wages; this impact is also felt by migrant workers who work abroad, especially migrant workers who work in the informal sector.⁵⁷ The burden felt by PMI is exacerbated by uncertainty in the placement country, financial shortages, and layoffs due to the pandemic, making PMI's life unclear between choosing to return home or staying in the placement country.⁵⁸

⁵³ Media DPR, "Pandemi, Gus Muhaimin: Negara Harus Hadir Atasi Persoalan Pekerja Migran," Media DPR RI, 2021, <https://emedia.dpr.go.id/>.

⁵⁴ DJKN Kementerian Keuangan Republik Indonesia, "'Sri Mulyani: Kemenkeu Terus Dukung Langkah Penanganan Covid-19," DJKN Kementerian Keuangan Republik Indonesia, 2020.

⁵⁵ K Stroud, "Stressful Life Events and Depression," *Clinical Science Insights: Knowledge Families Count* 14, no. 8 (2020): 1344–45, <https://doi.org/10.1176/appi.ajp.157.8.1344-a>.

⁵⁶ ILO, "ILO: Covid-19 Causes Devastating Losses in Working Hours and Employment," Organization, International Labour, 2020, https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_740893/lang--en/index.htm.

⁵⁷ CNBC Indonesia, "Jerit Kelaparan RKI Di Malaysia Ketika Lockdown," CNBC Indonesia, 2020, <https://www.cnbcindonesia.com/news/20200425210242-4-154459/jerit-kelaparan-tki-di-malaysia-ketika-lockdown>.

⁵⁸ Kementerian Ketenagakerjaan, "Kliping Ketenagakerjaan 15 Juni 2020" (Jakarta, 2020), <https://kabarbisnis.com/read/28100233/banyak-phk-klaim-bpjs->.

The presence of Covid-19 presents its challenges for PMI. During COVID-19, migrant workers lost job opportunities and social assistance constraints from the government, not to mention the problem if migrant workers returning to Indonesia faced stigma and discrimination because they were considered to carry the virus.⁵⁹ For migrant workers who still survive in the placement country, it is also not easy to face the COVID-19 situation, starting from being unable to support themselves and access in and out of the country that does not allow them to return to Indonesia.⁶⁰

Under normal conditions, PMI is always prone to various problems such as depression, excessive workload, physical and sexual violence, and wages sometimes not given by employers; things like this affect PMI's psychological condition.⁶¹ The condition of migrant workers is very vulnerable compared to other working groups, especially for illegal migrant workers.⁶² PMIs have difficulty accessing health services during the COVID-19 pandemic, one of which is because PMIs have not received or are not registered in health insurance. At the same time, illegal migrant workers fear checking themselves (fear of being arrested by law enforcement officials) due to migration problems.⁶³ The Indonesian government has provided access to social security for migrant workers, but the

⁵⁹ Alfian Putra Abdi, "Kelompok Yang Terlupakan : TKI Yang Pulang Saat Pandemi," *tirto.id*, 2020, <https://tirto.id/kelompok-yang-terlupakan-tki-yang-pulang-saat-pandemi-fLwu>.

⁶⁰ UII, "Pusat Studi Hukum UII Soroti Nasib Pekerja Migran Di Tengah Pandemi," Universitas Islam Indonesia, 2020, <https://www.uui.ac.id/pusat-studi-hukum-uui-soroti-nasib-pekerja-migran-di-tengah-pandemi/>.

⁶¹ Department of Psychiatry, *Mental Health in The Times of Covid-19 Pandemic*, National Institute of Mental Health and Neurosciences, Bengaluru, India (Bengaluru: Department of Psychiatry National Institute of Mental Health and Neuro Science, 2020).

⁶² Psychiatry.

⁶³ Wahyu Susilo, Novi Arista, and Zulyani Evi, "Kerentanan Pekerja Migran Indonesia Menghadapi Wabah COVID-19," *CSIS Commentaries DMRU-024-ID*, no. 151 (2020): 1–6.

social security intended by migrant workers is only social security or BPJS Employment.⁶⁴

PMI recorded in April 2020, PMI working in the formal sector reached 632 workers, and the informal sector reached 1,715 workers; based on data from BP2MI, PMI working in the informal sector was three times that of formal sector workers.⁶⁵ The Minister of Manpower to follow up on the handling of migrant workers by issuing Decree of the Minister of Manpower (Kepmenaker) No. 151 of 2020 which states the Temporary Suspension of the Placement of Indonesian Migrant Workers to prevent the spread of Covid-19.⁶⁶

In 2017, the government accommodated the needs of workers, including informal workers and migrant workers, through the issuance of BPJS Ketenagakerjaan. BPJS Ketenagakerjaan is a public legal entity that has four social security programs that have functions to protect all workers.⁶⁷ BPJS provided by the government for PMI does not have social security for health, even though PMI needs health social security; not only that, there are difficulties for PMI to claim social security or BPJS Employment during the Covid-19 pandemic, even though in the Covid-19 pandemic situation the community needs the government's sincerity and seriousness to ensure social welfare for every citizen.⁶⁸

⁶⁴ Nugroho Bangun Witono, "Kebijakan Perlindungan Pekerja Migran Indonesia Dalam Pandemi Covid-19," *Indonesian Journal of Peace and Security Studies (IJPSS)* 3, no. 1 (2021): 34–54, <https://doi.org/10.29303/ijpss.v3i1.57>.

⁶⁵ BP2MI, "Data Penempatan Dan Perlindungan PMI, Periode April 2020," Badan Perlindungan Pekerja Migran Indonesia, 2020, https://bp2mi.go.id/%0Auploads/statistik/images/data_26-05-2020_Laporan_Pengolahan_Data_BNP2TKI_APRIL_fix.pdf.

⁶⁶ Zulyani Evi Wahyu Susilo, Yovi Arista, "Kerentanan Pekerja Migran Indonesia Menghadapi Wabah COVID-19," *Center for Strategic and International Studies*, 2020.

⁶⁷ BPJS Ketenagakerjaan, "BPJS Ketenagakerjaan : Program Jaminan Sosial Tenaga Kerja," Badan Penyelenggara Jaminan Sosial Ketenagakerjaan, 2023, <https://www.bpjsketenagakerjaan.go.id/>.

⁶⁸ Devina, "Data Sudah Lengkap, Klaim BPJS Ketenagakerjaan Tak Ada Kejelasan," *detik.com*, 2020, <https://news.detik.com/suara-pembaca/d-5006577/data-sudah-lengkap-klaim-bpjs-ketenagakerjaan-tak-ada-kejelasan>.

Various kinds of difficulties experienced by migrant workers can be seen from the results of a survey organized by the Human Rights Working Group (HRWG) of the Indonesian Migrant Workers Union (SBMI) and the Migrant Workers Network (JBM) regarding the impact of COVID-19 on migrant workers, especially those experienced by migrant workers in Hong Kong. The Hong Kong government is dealing with the spread of COVID-19 through a tracking policy for people with physical contact with COVID-19-positive people.⁶⁹ the Hong Kong government also imposes mandatory quarantine or isolation for people who contract Covid-19.⁷⁰ The policy taken by the Hong Kong government caused panic for everyone in Hong Kong, especially migrant workers working in Hong Kong.⁷¹ During COVID-19, PMI in Hong Kong received intimidation from employers, and verbal violence, and migrant workers should not ask for time off during the COVID-19 period.⁷² As long as they are not allowed to take holidays during COVID-19, PMIs in Hong Kong are required by employers to continue working overtime by not being paid overtime wages, or PMIs are still carrying out their usual routine before COVID-19 hit Hong Kong. The number of people that must be cared for by PMIs increases because the Hong Kong government lays off work outside the home or office work, so people or employers gather at home and automatically burden PMI's work. When working, PMI must remain hygienic by constantly changing masks, and the employer does not buy the covers

⁶⁹ BBC.com, "Cerita Pekerja Migran Indonesia Di Hong Kong Yang Kena Covid-19 Di Tengah Lonjakan Kasus 'Diintimidasi Majikan' Dan 'Ditelantarkan,'" BBC News Indonesia, 2022.

⁷⁰ Jawahir Gustav Rizal, "Melihat Cara Hong Kong Kendalikan Virus Corona Tanpa Lockdown...," 2020.

⁷¹ Noveria and Romdiati, "Pandemi Covid-19 Dan Dampak Ekonomi Pada Pekerja Migran Indonesia Dan Keluarganya: Sebuah Kajian Pustaka."

⁷² BBC.com, "Cerita Pekerja Migran Indonesia Di Hong Kong Yang Kena Covid-19 Di Tengah Lonjakan Kasus 'Diintimidasi Majikan' Dan 'Ditelantarkan.'"

purchased by PMI, but PMI acknowledges the acts themselves.⁷³ From the description above, it can be said that in the last two years, PMI has experienced a double workload, and there is no time to rest.

Based on the description above, it is an unwanted or unexpected thing that can be experienced by migrant workers at any time, ranging from sexual harassment, physical violence, verbal violence, psychological violence, work accidents, and or even things that threaten the lives of migrant workers in the Hong Kong placement country. Doing work in a foreign country, of course, is not easy because there are many differences in work ethic, culture, working hours, and, most importantly, the language used for daily communication; this is what makes the uncertainty of PMI's life in the country of placement, there are 2 (two) types of uncertainty that PMI can experience, some are speculative or pure uncertainty that can pose risks. There are 2 (two) kinds of risks: fundamental risks and unique risks. Entire risk relates to risks that have a broad impact, such as economic, political, social, security, and defense risks, as well as international, while unique risks are more on an individual, such as the price of objects, failures, and others.⁷⁴ The above risks may approach migrant workers in the country of placement during work, so there is a need for social security protection.⁷⁵ In this case, there is a need for protection that must be provided by the state, in addition to legal protection, economic protection, and family protection of migrant workers, social protection through social security.

The Indonesian government, in terms of social protection, has provided social protection for migrant workers and has even been regulated by Law No. 18/2017, which has been amended into Law No. 6/2023 and related to social security there is a regulation of the

⁷³ Fithriatus Shalihah, Norma Sari, "Seminar Nasional Hasil Pengabdian Kepada Masyarakat."

⁷⁴ Agusmidah Agusmidah, Asri Wijayanti, and Fithriatus Shalihah, *Perlindungan Pekerja Migran Indonesia Berdasarkan UU No. 18 Tahun 2017* (Medan: Yayasan Al-Hayat, 2020).

⁷⁵ Zainal Asikin, *Dasar-Dasar Hukum Perburuhan* (Jakarta: Rajawali Pers, 2016).

minister of workforce itself that regulates social security, namely Permenaker No. 18 / 2018 which has been revised to Permenaker No. 4 / 2023. The government to encourage PMI to participate in BPJS Employment is not easy, so the government requires prospective PMI to register members of BPJS Employment.⁷⁶ The government in Permenaker No.18/2018 has also required prospective PMI and PMI to register for the JKK and JKM guarantee programs, as well as in Article 4 paragraph (1) of Permenaker No.4/2023 which reads, "Prospective Indonesian Migrant Workers or Indonesian Migrant Workers who work abroad must be registered in program participation: a. JKK; and b. JKM".

However, the Indonesian Government's efforts to realize the implementation of social security for migrant workers by revising Permenaker RI No. 18/2018, in which the government increases social security benefits and tries to provide social security alternatives for migrant workers is not that easy, this can be seen from the response of migrant workers, especially migrant workers placement in Hong Kong. After it was revealed in 2022, based on DJSN data, it was stated that more than 50% of PMIs working abroad have yet to be registered as members of BPJS Employment. Hong Kong, one of the most PMI destinations, also revealed that few PMI in Hong Kong still needed to register for BPJS Employment. As explained above, this is related to the low interest of PMI not registering for BPJS Employment because, according to PMI placement in Hong Kong, the benefits of BPJS Employment organized by the Government of Indonesia are less helpful to use in Hong Kong or the benefits are less clear, BPJS Employment is

⁷⁶ CCN Indonesia, "Menaker Wajib Buruh Migran Jadi Peserta Ketenagakerjaan," CNN Indonesia, 2023, <https://www.cnnindonesia.com/ekonomi/20230302171116-92-919996/menaker-wajibkan-buruh-migran-jadi-peserta-bpjs-ketenagakerjaan>.

difficult to claim, and PMI is comfortable using insurance provided by employers or the Hong Kong Government.⁷⁷

Based on research conducted by the author in Hong Kong, after the issuance of Permenaker No.4/2023, migrant workers working in Hong Kong still do not intend to register for social security for several reasons. The excellent response of PMI placement in Hong Kong after the revision of Permenaker RI No.18/2018 to Permenaker No.4/2023, PMI in Hong Kong feels that it has received the attention of the Government of Indonesia, meaning that with the issue of PMI not registering for BPJS Employment membership for other reasons, the government moved quickly by revising social security regulations and increasing social security benefits for PMI. However, not a few PMI placements in Hong Kong after the revision of social security regulations with increased benefits still want to register for BPJS Employment. Not without reason, PMI does not wish to register for BPJS Employment after the issuance of Permenaker No.4/2023 because PMI Hong Kong Indonesian Government regulations require PMI to register for BPJS Employment are contrary to Article 9 letter d of the Regulation of the Indonesian Migrant Workers Protection Agency of the Republic of Indonesia Number 5 of 2022 concerning Amendments to the Regulation of the Indonesian Migrant Workers Protection Agency Number 1 of 2020 concerning Standards, Signing and Verification of the Indonesian Migrant Worker Work Agreement, which reads, "The extension of the Work Agreement as referred to in Article 8 must meet the following requirements: d. extend social security, employment social security, and insurance by the extension period of the Work Agreement". If the article's content above, BP2MI regulations related to the extension of social security provide several options or not necessarily BPJS Employment as the front line of social

⁷⁷ Fithriatus Shalihah, Norma Sari, Rosyidah, "Efektivitas Peraturan Menteri Ketenagakerjaan Nomor 18 Tahun 2018 Dalam Penyelenggaraan Jaminan Sosial Bagi Pekerja Migran Indonesia."

security. PMI considers that the Government of Indonesia does not need to impose or require Hong Kong placement PMI to register for BPJS Employment membership organized by the Government of Indonesia, or it means that based on the BP2MI Regulation above, it is adjusted to the destination country where imposing social security protection for migrant workers does not need to require BPJS Employment, on the contrary, BPJS Employment is better given to PMI placed in countries that do not accommodate social security for migrant workers. PMI Hong Kong believes BPJS Employment is more feasible to apply to places or placement countries or PMI destination countries, such as Macau.

The relationship between PMI and the employer (employer) in the country of placement automatically gives rise to rights and obligations; one of the rights that arise for PMI is the right to get social security.⁷⁸ The Consulate General of the Republic of Indonesia (KJRI) requires the purchase of insurance at least 2 (two) months early from the end of the visa, must include employment contract approval insurance, in addition to insurance, must also sign a Letter of Application / Guarantee Letter which is charged to the employer for accommodation and treatment if the worker is chronically or acutely ill. PMI placement in Hong Kong has benefited from insurance provided by employers in Hong Kong and feels that it does not need BPJS Employment; PMI Hong Kong requests that the Government of Indonesia does not need to require all administrative matters by including the requirements for BPJS Employment registration for PMI Hong Kong.

The juridical perspective should be social security or BPJS Employment intended for PMI, not PMI, who pays. Article 30, paragraph (1) of Law No.18/2017, amended in Law No.6/2023, reads, "Indonesian Migrant Workers cannot be charged placement fees."

⁷⁸ Rosi Oktari, "Perkuat Aspek Perlindungan Dan Jamsos Pekerja Migran," Indonesia Baik.id, 2021, <https://indonesiabaik.id/videografis/perkuat-aspek-pelindungan-dan-jamsos-pekerja-migran>.

The above content is in line with Article 3 of the Regulation of the Indonesian Migrant Workers Protection Agency of the Republic of Indonesia Number 9 of 2020 concerning the Exemption of Placement Fees for Indonesian Migrant Workers, which reads, "Indonesian Migrant Workers cannot be charged placement fees," continued Paragraph (2) Placement fees as referred to in Paragraph (1), one of which is related to PMI social security. The content of the above regulation related to placement fees contradicts the provisions for social security payment costs contained in Permenaker No.4/2023.

Social security is one of the human rights of Indonesian citizens contained in Article 28 H of the 1945 Constitution, which reads, "Everyone has the right to social security that allows their full development as a useful human being." The mandate of the article above emphasizes that social security is entitled to everyone, including migrant workers. PMI, as the country's foreign exchange hero, should get extra protection related to social protection.

III. CONCLUSION

The presence of Permenaker No. 4/2023 has several additional social security benefits in the context of protection and services for migrant workers from social or bad risks that occur during their work in the placement country, ranging from work accidents, death and old age. Permenaker No.4/2023 makes the benefits of the social security program increase to 21 risks, of which initially only 14 chances. Some of the benefits of JKK before, during, and after work include health services, compensation in the form of money, assistance, and others. The JKM program provides death benefits, periodic compensation, funeral costs, educational scholarships for PMI children, and several other programs. Not to forget also in this latest ministerial regulation, there is also financial assistance to prospective migrant workers and migrant workers who experience physical violence or rape, service in

ticket replacement costs if the placement is not by the work agreement, financial assistance due to migrant workers being unilaterally laid off, help with treatment and medical expenses for migrant workers due to work accidents in the placement country.

After Permenaker No.4/2023, there still needs to be a solution for increasing BPJS Employment PMI participation in Hong Kong placement. PMI placement in Hong Kong is more convenient using insurance provided by employers or employers than BPJS Employment organized by the Government of Indonesia. According to the Hong Kong placement PMI, Permenaker No.4 of 2023, which requires PMI to register for social security, is contrary to Article 9 letter d of the Regulation of the Indonesian Migrant Workers Protection Agency of the Republic of Indonesia Number 5 of 2022 concerning Amendments to the Regulation of the Indonesian Migrant Workers Protection Agency Number 1 of 2020 concerning Standards, Signing and Verification of Indonesian Migrant Workers Work Agreements, which reads, "The extension of the Work Agreement as referred to in Article 8 must meet the following requirements: d. extend social security, employment social security, and insurance by the extension period of the Work Agreement". In this article, the social security provided is an option, or PMI is not obligated to follow BPJS Employment. PMI placement in Hong Kong hopes that the Indonesian Government does not need to require BPJS Employment registration because those who know about conditions in Hong Kong are PMI, so BPJS Employment should only be an option. The existence of Permenaker No.4/2023 also contradicts Article 30 of Law N.18/2017, where PMI should not be charged placement fees, where one of the placement costs is social security, or it means that PMI should not be burdened with BPJS Employment payment fees.

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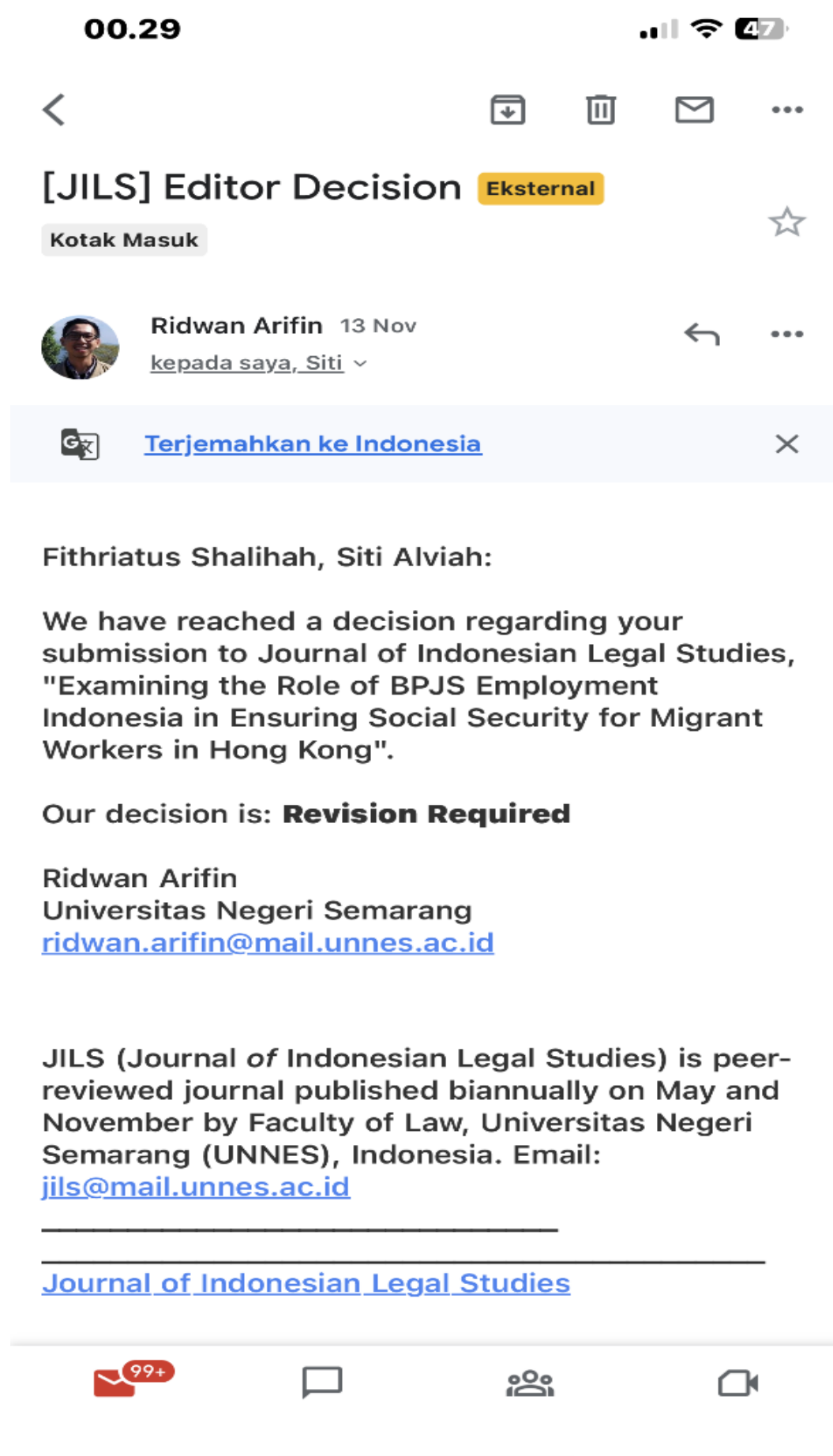
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5. Revisi ke 2 yang di berikan oleh reviewer pada tanggal 13 November 2023



Hasil review dari reviewer dengan memberikan catatan langsung

EXAMINING THE ROLE OF BPJS EMPLOYMENT INDONESIA IN ENSURING SOCIAL SECURITY FOR MIGRANT WORKERS IN HONG KONG

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ABSTRACT

The results of the National Social Security Council report in 2022 stated that 67.7% of PMI who worked abroad were not registered as BPJS Employment participants, meaning that this report shows the ineffectiveness of Ministerial Regulation of the Republic of Indonesia Number 18 of 2018 concerning Social Security for Indonesian Migrant Workers. In fact, social security is a form of protection for Indonesian Migrant Workers. Overcoming the ineffectiveness of the Minister of Manpower Regulation, the Indonesian Government revised the Regulation in 2023 to increase social security benefits for Indonesian Migrant Workers, becoming Minister of Manpower Regulation Number 4 of 2023. The aim of this research is to determine the implementation of Minister of Manpower Regulation Number 4 of 2023 and the obstacles to its implementation. in Hong Kong. This type of research is empirical juridical using primary data and secondary data. The conclusion drawing technique used is deductive. The population and respondents in this study were Indonesian Migrant Workers placed in Hong Kong. The results of this research show that PMIs placed in Hong Kong after Minister of Manpower Regulation Number 4 of 2023 are still less interested in registering for Social Security from the Indonesian Government and Indonesian Migrant Workers are not willing to be required to register for social security provided by the Indonesian Government. This is because there are conflicting government regulations and Indonesian Migrant Workers in Hong Kong are more comfortable using insurance provided by their employers, so Indonesian Migrant Workers hope that BPJS Employment does not need to be mandatory.

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Keywords: Social_Security; Indonesian_Migrant_Workers; Hong_Kong

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INTRODUCTION

The fifth precept of Pancasila emphasizes social justice for all Indonesian people, which, in this case, is the state's responsibility to realize justice in various matters for all Indonesian people. One of the social justices that all Indonesians deserve is to get a job, as mandated by Article 27 Paragraph (2) of the 1945 Constitution, which reads, "Every citizen has the right to work and a decent living for humanity. The mandate of the 1945 Constitution is, in fact, only a few Indonesian citizens who still need help finding work.¹

The difficulty of finding work in one's own country is due, among other things, to the fact that the number of jobs available is not comparable to the domestic workforce², natural factors of a region also affect livelihoods, uneven development between regions, low levels of education, and increasing economic needs, this is what encourages Indonesian citizens to choose to work in other countries or become Indonesian Migrant Workers (PMI).³ In addition to the above factors, the difference in economic growth between countries also greatly influences citizens to choose to work in other countries.⁴

PMI at the juridical level, Article 1 point 2 of Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers (Law No. 18/2017), which has been amended in Law Number 6 of 2023 concerning the Stipulation of Government Regulations instead of Law Number 2 of 2022 concerning Job Creation into Law (Law No. 6/2023) reads, "Indonesian Migrant Workers are every Indonesian citizen who will, or has done work by receiving wages outside the territory of the Republic of Indonesia."

¹ Sri Rahmany, "Analysis of Factors that Influence Workers Working Abroad and the Implications for Family Welfare Seen from an Islamic Perspective," *IqtiSaduna*, 2018, 51–73.

² Tri Sulistiyono et al, "Government Accountability Model for the Protection of Indonesian Migrant Workers in China", *Lex Scientia Law Review* 6, no. 1 (2022): 95, <https://doi.org/10.15294/lesrev.v6i1.55112>

³ Anas Anwar Nasirin, "Professionalization of Indonesian Migrant Workers (BMI) in the Industrial Revolution 4.0," *MSDS Journal (Apparatus Resource Management)* 8, no. 1 (2020): 39–50, <https://doi.org/10.33701/jmsda.v8i1.1174>.

⁴ Anna Yulia Hartati Defi Ratna Putri, "Factors Causing the Increase in Indonesian Migrant Workers (PMI) in South Korea in 2017 - 2018," *International Relations Review* 1, no. 01 (2021): 308–332.

The Centenary Declaration for the Future of Work, adopted by the governments, employers and workers of the International Labour Organization's (ILO) 187 member States at the International Labour Conference in June 2019, provides a roadmap for a human-centred approach to the future of work, and recognizes the urgent need to enhance social protection systems to ensure universal access to adequate, comprehensive and sustainable social protection adapted to the world of work⁵

Based on data released by the Indonesian Migrant Workers Protection Agency (BP2MI) in July 2023, PMI placements over the past two years have increased over the past two years; this can be seen from July 2021, as many as 4,805 posts in July 2022, as many as 17,884 stations and in July 2023 recorded as many as 25,480 placements, bringing the total PMI placements from January to July 2023 PMI placements to 161,249 posts. In July, PMI placed in the formal sector reached 13,294 orders (52%), while the informal sector reached 12,186 stations (48%). The total number of legal sector placements went to 90,625 posts from January to July, and the informal sector had 70,624 orders.

Data from BP2MI by region, PMI placement from January to July 2023, the number of PMI working in Asia and Africa Region is 150,790 PMI, followed by PMI in Europe and the Middle East Region reaching 9,491 and the Americas and Pacific Region 968. Based on the country for July 2023, the PMI in Taiwan went 7,778 placements, Hong Kong earned 7,248 posts, and Malaysia 6,294 stations. In addition to these three countries, South Korea is a PMI placement country, reaching 874 placements, Japan with 769 orders, Singapore with 645 posts, and Saudi Arabia with 427 stations in July 2023.

One of the favorite destinations for migrant workers to work is Hong Kong.⁶ Data from BP2MI Hong Kong, in the last two years, the placement of PMI to Hong Kong in December 2021 was 4220 (61.5%) or Hong Kong ranks first in PMI destinations, based on BP2MI data released in November 2022, from January to November 2022 the total PMI in placement in Hong Kong reached 54,691 or Hong Kong ranks

⁵ Christina, Behrendt, Quynh Anh Nguyen and Uma Rani. Social protection systems and the future of work: Ensuring social security for digital platform workers, International Labour Office, Geneva, Switzerland. *International Social Security Review*, Vol. 72, 3/2019

⁶ Isna Rifka, "5 Countries Are the Most Destinations for Migrant Workers," Kompas.com, 2021, <https://money.kompas.com/read/2021/12/06/174759226/5-negara-jadi-destination-most-tki?page=all>.

first with the most PMI placements, while based on data released in July 2023, from January to July the number of PMI placements in Hong Kong reached 40,887 and this places Hong Kong as the third most destination for PMI placements.

The data above explains that only some Indonesian citizens work abroad, especially in Hong Kong. Not without reason, PMI has to work in Hong Kong, one of which is based on the amount of salary that PMI can receive.⁷ Another factor is that the Hong Kong Government protects foreign nationals working in Hong Kong.⁸

Indonesian citizens who work in Hong Kong and other countries not only have an impact on themselves but also have an impact or benefit on the country because every year, they contribute 159 trillion to the country's foreign exchange after the oil and gas sector and above the tourism sector.⁹ Foreign exchange contributed by PMI every year is a driver of the pace of the domestic economy.¹⁰ Seeing the contribution of Indonesian migrant workers to the country is extraordinary, comparable to the risks that endanger migrant workers (torture, harassment, or murder) that can occur to migrant workers working abroad.¹¹ Migrant workers can experience risks that may be bad, so migrant workers need to get extra attention from the Government of Indonesia to ensure the human rights (HAM) of migrant

⁷ Safyra Primadhyta, "When High Salaries Attract the Hearts of Migrant Workers Working in Hong Kong," CNN Indonesia, 2019, <https://www.cnnindonesia.com/economic/20190204171648-92-366435/when-gaji-tinggi-pikat-hati-migrant-laborers-working-in-hong-kong>.

⁸ Fithriatus Shalihah, Norma Sari, Rosyidah "National Seminar on Results of Community Service," National Seminar on Community Service 0, no. 0 (2022): 1012-13, <https://ojs.unm.ac.id/semnaslpm/article/view/18284>.

⁹ Titis Anis Fauziyah, "Indonesian Migrant Workers Become the Second Largest Foreign Exchange Contributor IDR 159 Trillion, Head of BP2MI Reminds Officials Not to Be Arrogant," Kompas.com, 2023, <https://regional.kompas.com/read/2023/01/23/093211978/pekerja-migran-indonesia-jadi-penyumbang-devisa-terbesar-kedua-rp-159>.

¹⁰ Aswatini, "Retired - Indonesian Migrant Workers (PMI): Role and Contribution in Tourism Development in the Region of Origin," National Research and Innovation Agency, 2023, <https://kependudukan.brin.go.id/kajian-kependudukan/migrasi-penduduk/purna-pekerja-migran-indonesia-pmi-peranan-dan-kontribusi-dalam-pengembangan-pariwisata-di-daerah-asal/>.

¹¹ Endang Nurdin, "Indonesian Migrant Workers Who Survived 'Hell' In Malaysia: 'Why Torture Me?'" BBC News Indonesia, 2023, <https://www.bbc.com/indonesia/dunia>.

workers are still fulfilled while working abroad, considering that migrant workers must adapt to differences in climate, work ethic, work rules, cultural and language backgrounds.¹² All efforts to guarantee the rights of migrant workers must be pursued by the Government of Indonesia, especially in providing social security for migrant workers.¹³

According to Article 1 number 18 of Law No. 18/2017, amended in Law No. 6/2023, social security reads, "Social Security is a form of social protection to guarantee all people to be able to meet the basic needs of a decent life." The meaning of the entire article above also includes PMI to be able to access social security organized by the Government of Indonesia.¹⁴ The implementation of social security for prospective migrant workers and migrant workers who will work or have worked in the placement country is a form of state protection against migrant workers.¹⁵

The mandate of Article 1 number 8 of Law No. 18/2017 is not the reality for PMI; in the middle of last year or precisely in 2022, the National Social Security Council (DJSN) released a report containing data on 6.09 million PMI or as many as 67.7% of PMI have not registered with the Social Security Organizing Agency (BPJS) Employment.¹⁶ Social security is a front line to protect migrant workers who work abroad, because of the dire risks that may occur or be experienced by migrant workers, especially during the placement period to work, so it is necessary to get protection through social security.¹⁷

¹² I Nyoman Bagus Siddhanta Zulfiandi, Franciscus Anton Wirawan, Nikhen Pratiwi Sekar Tanjung, Roselina Yolanda, M. Zaini, Devi Andrian, Khairina Syafitri, Gilang Amaldi, *Employment in Data*, ed. Franciscus Anton Wirawan Zulfiandi, *Occupational Therapy: The Official Journal of the Association of Occupational Therapists*, 4th ed., vol. 20 (Jakarta: Center for Employment Data and Information Technology, 2021), <https://doi.org/10.1177/030802265702001214>.

¹³ Lalu Adi Adha, Zaeni Asyhadie, and Rahmawati Kusuma, "Social Security Policy for Indonesian Migrant Workers," *Journal of Notarial Minutes* 1, no. 2 (2020), <https://doi.org/10.29303/rilahankenotariatan.v1i2.13>.

¹⁴ Sony Mardiyanto Timboel Siregar, Indra Munawar, German E. Agent, "Efforts to Increase Employment Social Security Participation and Benefits" (Jakarta, 2020).

¹⁵ Timboel Siregal, Indra Munaswar, German E. Angent.

¹⁶ Lailatul Anisah, "The Reason Many PMI Have Not Registered with BPJS Employment," *Kontan.co.id*, 2022, <https://nasional.kontan.co.id/>.

¹⁷ Timboel Siregar, Indra Munawar, German E. Agent, "Efforts to Increase Employment Social Security Membership and Benefits."

Previously, there was a Regulation of the Minister of Manpower of the Republic of Indonesia Number 18 of 2018 concerning Social Security for Indonesian Migrant Workers (Permenaker RI No. 18/2018), the existence of this regulation and then based on data from the DJSN made the Ministry of Manpower revise social security regulations for migrant workers, to increase social security benefits for migrant workers, both before leaving, when migrant workers work abroad and after work, as stated in the Regulation of the Minister of Manpower Number 4 of 2023 (Permenaker No. 4/2023). Then, after the emergence of this latest regulation, it is necessary to see the impact on migrant workers working in Hong Kong related to access to employment security.

The problem of social security for PMI is caused by low data on PMI who register as social security participants; this is a severe problem that needs to be considered by the Government of Indonesia, especially PMI who work in Hong Kong, so it is interesting to study, as for the formulation of the problem, namely:

1. What is the latest social security regulation for migrant workers after the emergence of the Minister of Manpower Regulation Number 4 of 2023 concerning Social Security for Indonesian Migrant Workers?
2. How is the implementation of social security for migrant workers placed in Hong Kong after the emergence of Minister of Manpower Regulation Number 4 of 2023 concerning Social Security for Indonesian Migrant Workers?

The purpose of the study is to analyze and find out the implementation of social security for Hong Kong placement migrant workers after the emergence of the Minister of Manpower Regulation Number 4 of 2023 concerning Social Security for Indonesian Migrant Workers.

The research method used is qualitative, with an empirical juridical research type. This research is located in Hong Kong, China, with data collection methods through literature studies and interviews with PMI placement in Hong Kong. This research uses qualitative analysis, which, after obtaining data, is analyzed to find the bright spots of the problem under study. The conclusion of this study is to use the

deductive method. The deductive method is a method of concluding from general to specific.

RESULT AND DISCUSSION

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A. The Latest Regulation of Social Security for Indonesian Migrant Workers After the Emergence of the Minister of Manpower Regulation Number 4 of 2023 concerning Social Security for Indonesian Migrant Workers

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Protecting prospective migrant workers is to ensure the fulfillment and enforcement of human rights as citizens and migrant workers and to ensure the legal, economic, social, and family protection of migrant workers.¹⁸ PMI who work abroad have the right to receive legal protection by the state from all forms of acts such as forced labor, human trafficking, slavery, violence, harassment and all acts that are contrary to human rights.¹⁹ In the opinion of Philipus M. Hadjon, legal protection involves the recognition of human rights owned by individuals in society. There are two legal protections, according to Philipus M. Hadjon, including preventive and repressive. Preventive legal protection is legal protection that focuses on efforts to prevent violations and efforts to provide limits in carrying out an obligation. In contrast, repressive legal protection (coercion) emphasizes efforts to solve problems.²⁰

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¹⁸ Erna Ratnaningsih, "New Paradigm for the Protection of Indonesian Migrant Workers," Bina Nusantara, 2017, <https://business-law.binus.ac.id/2017/12/31/paradigma-baru-perlindungan-pekerja-migrant-indonesia/>.

¹⁹ Wayne Palmer and Antje Missbach, "Enforcing Labor Rights of Irregular Migrants in Indonesia", *Third World Quarterly* 40, no. 5 (2019), <https://doi.org/10.1080/01436597.2018.1522586>

²⁰ Philipus M. Hadjon, *Legal Protection for the Indonesian People* (Surabaya: PT Bina Ilmu, 1987).

Legal protection the state provides for migrant workers includes protection before, during, and after work. Forms of legal protection for prospective migrant workers include:

- 1). PMI can only work in destination countries that have regulations that protect foreign workers, have a written agreement with the Government of Indonesia, and have a social security or insurance system that can defend foreign workers;
- 2). The central government stops and prohibits the placement of migrant workers in certain countries or positions abroad for reasons, considerations of human rights, security, employment opportunities, and the availability of labor by national needs;
- 3). The government, in stopping and prohibiting the placement of migrant workers, needs to pay attention to considerations and suggestions from several parties and
- 4). The central government sets assignments in certain countries or specific positions.

Social protection for PMI or PMI candidates includes improving the quality of education and training by work standards, increasing the role of accreditation and certification bodies, competent education personnel and trainers, skill improvement services, protection policies for women and children, and the existence of PMI protection centers in PMI placement countries.

Economic protection for PMI and PMI candidates is provided by the central government and local governments by the authority through:

- 1). Money transfer management involving banking or domestic non-bank financial institutions and Country of placement;
- 2). Financial education for migrant workers and families can process the results of Transfer Management and
- 3). Entrepreneurship education.

Thus, regarding social protection arrangements regulated in Law No. 18/2017, Article 35 states further provisions regarding legal protection, social protection, and economic protection for prospective migrant workers and migrant workers. Meanwhile, family protection is included in one of the objectives of PMI

protection in Article 3 of Law No. 18/2017. In Law No. 18/2017, PMI family means husband, wife, children, and parents (who have a relationship through determination and decided by the court), whether they are in Indonesian territory or live abroad with PMI.

In addition to legal protection, social protection, economic protection, and family protection of migrant workers, or the protection in Law No. 18/2017, it is also necessary to quote the opinion of Imam Soepomo about worker protection. According to Imam Soepomo,²¹ Worker protection includes 3 (three) things, including economic protection, social protection and technical protection. Economic protection is protection related to providing decent wages for PMI in accordance with standards, social protection is protection for PMI related to social security, and technical protection includes work safety protection from the worst possible risks while working.²²

All of the above protections are very important for prospective migrant workers and migrant workers who work abroad. Currently, researchers focus on social protection for migrant workers who work abroad, which is related to social security. Social security is essential for migrant workers during the placement period in the placement country if migrant workers experience bad things during work. Based on Lalu Husni's opinion, social security is distinguished in a narrow and broad sense. In a bit of understanding, social security deals with social assistance and insurance in employment protection. The definition of social security broadly includes prevention and development, recovery and healing, and punishment.

The International Covenant on Economic, Social, and Cultural Rights (ICESC) (1966), together with the Universal Declaration of Human Rights (1948) and the International Convention on Civil and Political Rights (1966), make up the International Bill of Human Rights. The Covenants recognize "independent human rights to enjoy civil and political freedom and freedom from fear and human

²¹ Fithriatus Shalihah and Retno Damarina, "The Urgency of Legal Certainty in the Protection of Domestic Workers in Indonesia: A Study in Yogyakarta City," 2022, <https://doi.org/10.4108/eai.18-9-2022.2326039>.

²² Ngabidin Nurcahyo, "Labor Legal Protection Based on Legislation in Indonesia, *Jurnal Cakrawala Hukum* 12, no. 1 (2021):72, <https://doi.org/10.26905/idjch.v12i1.5781>

rights to freedom to engage in politics, as well as economic, social and cultural rights." All peoples have the right to self-determination, including the right to determine their political status and freely pursue economic, social, and cultural development". One of the economic rights is the right to work, and everyone has the right to just conditions of work: fair wages ensuring a decent living for himself and his family; equal pay for equal work; safe and healthy working conditions; equal opportunity for everyone to be promoted; rest and leisure.²³ Everyone, regardless of citizenship, is entitled to social security, including social insurance; unqualified workers, especially migrant workers in other countries, are also entitled to social security.

The Government of Indonesia ratified the international convention on the *International Covenant on Economic, Social, and Cultural Rights (ICESCR)* on September 30, 2005, into Law Number 11 of 2005 concerning the ratification of the ICESCR or the *International Covenant on Economic, Social and Cultural Rights*. The ratification carried out by the Government of Indonesia has consequences for the protection and respect of human rights, or it can be said that the Government of Indonesia is obliged to carry out the contents of the ICESCR to all citizens in the life of the nation and state.²⁴ The intended citizen can also be interpreted as an Indonesian citizen living in Indonesian territory, including Indonesian citizens working abroad or PMI.

In addition to Indonesia ratifying ICESCR as a country that upholds human rights, Indonesia is also one of the ILO members and also adopted the *International Convention on the Protection of the Rights of Migrant Workers and Members of Their Family (Protection of the Rights of All Migrant Workers and Family Members)* by ratifying it into Law of the Republic of Indonesia Number 6 of 2012 concerning

²³ Council of Europe Portal, *International Covenant on Economic, Social and Cultural Rights*, COUNCIL OF EUROPE PORTAL, 15 September 2023.

²⁴ DPR RI and President of the Republic of Indonesia, Ratification of the International Covenant on Economic, Social and Cultural Rights (International Covenant on Economic, Social and Cultural Rights, (2005), <https://peraturan.bpk.go.id/Details/40256/uu-no-11-year-2005>.

Ratification of the *International Convention of the Protection of the Rights of Migrant Workers and Members of Their Family*.²⁵

Article 27 in the *International Convention of The Protection of the Rights of Migrant Workers and Members of Their Family* Also contains related to social security. Article 27, paragraph (1) of the *International Convention of the Protection of the Rights of Migrant Workers and Members of Their Family* states, "About social security, migrant workers and members of their families shall enjoy the same treatment as citizens of the State of employment, provided that they meet the requirements established by the provisions of the law in force in that country and the applicable bilateral and multilateral agreements. Officials in the authorities of the country of origin and destination of work may make the necessary arrangements to determine the procedures for implementing this norm". In the content of the article above, it can be interpreted that every migrant worker working in the country of placement is also entitled to social security organized by the government of post for citizens, countries of order, or it can be said that migrant workers in the country of station also have the same rights related to social security in the land of placement of migrant workers.

Article 27(2) of the *International Convention of the Protection of the Rights of Migrant Workers and Members of Their Family* states, "Where applicable legal provisions do not provide benefits to migrant workers and members of their families, States concerned shall seek the possibility of reimbursing the person concerned the number of contributions paid by them about such allowances as applied to citizens his country is in the same situation." *Migrant worker placement countries should seek other alternatives* if they do not have provisions related to social security for migrant workers or a middle way to provide social security for employed migrant workers.

Social security as a social policy is generally implemented in various forms of income benefits directly, which are inseparable from taxation policies and income maintenance. Social security also

²⁵ DPR RI and President of the Republic of Indonesia, Ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (International Convention Concerning the Protection of the Rights of All Migrant Workers and Members of Their Families), BPK RI REGULATION 1 (2012), <https://peraturan.bpk.go.id>.

includes multiple schemes to improve access to essential social services. Social security in the form of income benefits can be called benefits in *cash*, while those in the form of assistance for goods or social services are called *benefits in kind*.²⁶

The international level of social security is regulated by the International Labour Organization (ILO) Convention Number 102 of 1952, in which everyone gets protection from the National Social Security System (SJSN). ILO Convention Number 102 contains at least 9 (nine) minimum standards that must be implemented by the state in the social security program, including the following:

1. Work Accident Insurance (WAI) includes compensation for heirs due to death while working or while earning a living;
2. Service;
3. Provision of sick benefits to workers;
4. Old Age Guarantee (OAG);
5. Disability compensation;
6. Family benefits or services given to or in the case of children, food, clothing, vacation, or domestic assistance;
7. Care of pregnancy and childbirth (care for before and after birth);
8. Benefits for unemployment and
9. Compensation for heirs due to the worker's death will be given to the widow, spouse, or child of the deceased worker.

ILO is an international organization that focuses on productivity and economic growth. Social security's contribution to economic development through social stability and labor productivity.²⁷ ILO Convention 102 of 1952 on (Minimum Standards) Social Security also provides for equal treatment of foreign nationals, health services, sickness benefits, unemployment benefits, maternity

²⁶ Akhmad Purnama, "Analysis of Social Security Protection for Informal Workers," PKS Journal 14, no. 2 (2015): 149-N162.

²⁷ ILO, "Two Year Evaluation of the Implementation of Social Security for Workers in the Digitalization Era," International Labor Organization, 20217, https://www.ilo.org/jakarta/info/public/pr/WCMS_574167/lang--en/index.htm .

benefits, disability benefits, heirs' benefits related to joint provisions, other provisions, and final provisions.

ILO mandate number 102 of 1952 concerning minimum social security standards for members of the organization to provide minimum protection to workers. Indonesia organizes the National Social Security System (SJNS).²⁸ This is what encourages the protection of human rights for migrant workers both in the form of health insurance and in the condition of employment.²⁹ The Indonesian government also has SJSN, which is under the legal umbrella in Law No. 40 of 2004 concerning the National Social Security System (Law No. 40/2004), amended in Law No. 2/2020, then amended in Perpu No. 2/2022 and amended in Law No. 4 of 2023 concerning the Development and Strengthening of the Financial Sector (Law No. 4/2023). As long as the Law No. 40/2004 article is not amended, it remains valid.

Further provisions related to social security for PMI are contained in ministerial regulations. RI Minister of Manpower Regulation No. 18/2018, which has been revised to become Permenaker No.4/2023, is a ministerial regulation that regulates social security for PMI and PMI candidates. PMI and PMI candidates in this ministerial regulation are required to register for social security, there are two participation programs that PMI and PMI candidates must take part in, namely Work Accident Insurance (JKK) and Death Insurance (JKM), and there is a recommended program, namely the Day Guarantee program. Old (JHT).³⁰JKK is regulated in Article 1 Number 8 of Permenaker No. 4/2023, which reads, "Work

²⁸ Hartini Retnaningsih, "Strategy of the National Social Security System in the Employment Sector in Efforts to Protect Workers in the City of Surabaya and Pekanbaru City," *Aspiration: Journal of Social Issues* 7, no. 2 (2016): 157–72.

²⁹ BPHN, *Final Report on Legal Analysis and Evaluation Related to the National Social Security System*, Ministry of Law and Human Rights of the Republic of Indonesia. (East Jakarta: Tree of Light, 2020).

³⁰ Istianah and Johanna Debora Imelda, "Social Protection Model for Female Indonesian Migrant Workers in Hong Kong", *Sosio Conceptia* 10, no. 2 (2021): 115, <https://doi.org/10.33007/ska.v10i2.2222>

Accident Insurance herein after abbreviated as JKK is a benefit in the form of cash and health services provided when participants experience a Work Accident or illness caused by the work environment." JKM is contained in Article 1 number 9 of Permenaker No. 4/2018, which reads, "Death Insurance from now on abbreviated as JKM is a cash benefit given to heirs when participants die dimia not due to Work Accidents." JHT, according to Article 1 number 10 of Permenaker No. 4/2023 reads, "Old Age Insurance, here in after abbreviated as JHT, is a cash benefit paid at once when the participant completes the employment agreement and returns to Indonesia, dies, or experiences permanent total disability."

The presence of this Permenaker is a manifestation of legal certainty for PMI, whose substance in this Permenaker is the ideal of a law formed (*swollen*). *Still*, this ideal is different from the expectations of the law itself (*sein*).³¹ Similarly, Permenaker RI No. 18/2018 related to social security for migrant workers, the programs designed do not run properly; this is evidenced by the results of the DJSN report, which states that more than 50% of migrant workers working abroad are not registered in BPJS Employment participation.

The ineffectiveness of the social security program prompted the government to revise the Republic of Indonesia Minister of Manpower Regulation No. 18/2018 to increase social security benefits for PMI. The lack of effectiveness of RI Minister of Manpower Regulation No. 18/2018 can be seen in Hong Kong, on average PMIs in Hong Kong do not or have not registered for social security provided by the Indonesian Government for several reasons, including because PMIs feel that the social security provided by the Indonesian Government or BPJS Employment does

³¹ Fithriatus Shalihah and Retno Damarina, "Legal Problems in the Protection of Domestic Workers in Indonesia," *Selat Journal* 10, no. 2 (2023): 131–43, <https://doi.org/10.31629/selat.v10i2.5645>.

not provide direct benefits to PMI.³² The purpose of not providing benefits BPJS Employment in Hong Kong cannot be claimed or used by migrant workers in Hong Kong; this makes PMI more comfortable using insurance provided by the Hong Kong Government. The Hong Kong PMI stated that before going to work in Hong Kong, PMI was required to register for BPJS Ketenagakerjaan, but when arriving in Hong Kong, PMI no longer extended its membership as a member of BPJS Ketenagakerjaan, Hong Kong PMI service users or employers before hiring PMI must take care of insurance for PMI, this is also one of the factors PMI is reluctant to use BPJS Ketenagakerjaan.³³

In response to this, the Government of Indonesia quickly revised Permenaker RI No. 18/2018 to Permenaker No.4/2023 concerning Social Security for Indonesian Migrant Workers. This revision of the Permenaker is an immediate response from the Government of Indonesia to the reality of implementing social security for migrant workers; the existence of Permenaker No.4/2023, the government increases social security benefits.³⁴ The benefits contained in Permenaker No. 4 of 2023 become 21, which initially contained 14.³⁵ The seven new benefits are as follows:³⁶

³² Nabiyila Risfa Izzati, "Indonesian Migrant Workers Protection Through the Law Number 18 of 2017: New Direction and Its Implementation Challenges", *Padjadjaran Journal of Law* 6, no. 1 (2019):206, <https://doi.org/10.22304.pjih.v6n1.a10>

³³ Fithriatus Shalihah, Norma Sari, Rosyidah, Retno Damarina "Effectiveness of Minister of Manpower Regulation Number 18 of 2018 in the Implementation of Social Security for Indonesian Migrant Workers," in *Discourse on Employment Law in Indonesia* (Medan: USUPress, 2022), 267.

³⁴ Commission IX, "Add Social Benefits, Legislator Urges Minister of Manpower to Massively Socialize PMI Social Security," DPR.RI, 2023, https://www.dpr.go.id/berita/detail/id/43956/t/Add_Social_Benefits, Legislators Urge Minister of Manpower to Massively Socialize PMI Social Security.

³⁵ Ady Thea DA, "Government Increases Workers' Social Security Benefits," *Hukumonline.com*, 2023, <https://www.Hukumonline.com/berita/a/gov-naikan-besar-jaminan-social-pekerja-migran-lt6401c9d483a2f/>.

³⁶ Erlang Satya Darmawan, "Permenaker Number 4 of 2023 Issued, Guarantees for PMI Officially Increased," *Kompas.com*, 2023, <https://nasional.kompas.com/>.

First, if PMI experiences a work accident in the placement country, they will get medical reimbursement for work accidents of a maximum of Rp. 50 million. *Second*, *homecare* for 1 (one) year with a maximum cost that PMI can get Rp. 20 million. *Third*, PMI also receives a complete replacement of Rp. 2.5 million. *Fourth*, PMI gets a glasses replacement with a maximum cost of Rp. 1 million. *Fifth*, if there are migrant workers who get raped, they will get assistance of Rp. 50 million. *Sixth*, if PMI experiences unilateral termination of employment, PMI will get help from Rp. 1.5 million, and *seventh*, reimbursement of Rp. Twenty-five million if PMI gets placement not by the work agreement and reimbursement of transportation costs of a maximum of Rp. 15 million.

In addition to the seven benefits above, Permenaker No.4/2023 also provides nine additional benefits: if PMI dies, the family will get death compensation, compensation for PMI who experience permanent total disability, which is given periodically, compensation for failing to leave, compensation for failing to be placed, repatriation costs for PMI who have problems, repatriation costs given to PMI who have a work accident, denture replacement costs, and scholarships for PMI children.³⁷

The JHT program already exists in Permenaker RI No. 18/2018, but in Permenaker No. 4/2023, there is additional substance in implementing JHT social security. The number of benefits of the JHT program for prospective PMI or PMI is based on the accumulated value of all contributions deposited and the results of their development recorded in the individual accounts of JHT program participants. The story of the importance of JHT program benefits can continue after participants (PMI) terminate the employment agreement, and the help of the JHT program has yet to

³⁷ Eqqi Syahputra, "Minister of Manpower Issues New Minister of Manpower Regulation on PMI Social Security," CNBC.Indonesia, 2023, <https://www.cnbcindonesia.com/news/20230303160955-4-418700/menaker-terbitkan-permenaker-baru-untuk-jaminan-social-pmi>.

be paid at once. Related to JHT benefits, it can be given to prospective PMI or PMI if they have entered retirement age, died, or experienced permanent total disability. Regarding the retirement age intended by this latest ministerial regulation, entering the age of 56 (fifty-six) years, PMI candidates who fail to leave are placed in the destination country or stop working. The meaning of PMI that fails to be placed in the destination country or stops working in Permenaker No.4 of 2023 consists of the end of work time stated in the work agreement, experiencing layoffs, PMI resigning, or PMI becoming a foreign national. JHT program participants in preparation for entering retirement, JHT benefits can be partially disbursed to a specific limit if participants have a membership period of at least 10 (ten) years, that is, at most 30% of the amount of JHT, for home ownership or 10% of the amount of JHT for other purposes according to the need to enter retirement age.

The contribution section and payment method contained in Article 18 of Permenaker No. 4 of 2023, all of the above benefits can be obtained if migrant workers pay contributions by the latest regulation.³⁸ Article 18 of Permenaker No.4/2023 reads:

- 1). Payment of JKK and JKM program contributions for prospective Indonesian Migrant Workers through the Placement Implementer is carried out in stages, provided that:
 - a. protection fee before employment is paid in the amount of Rp37,500.00 (thirty-seven thousand five hundred rupiah); and
 - b. Protection contributions during work and after engagement are paid according to the terms of the employment agreement as follows:
 1. for 24 (twenty-four) months amounting to Rp 332,500.00 (three hundred thirty-two thousand five hundred rupiah);

³⁸ Erdy Nasrul, "Menaker Supports Increasing Employment Social Security for PMI," *Republika*, 2023, <https://news.republika.co.id/berita/s06iz2451/menaker-dukung-peningkatan-jaminan-social-ketenagakerjaan-untuk-pmi-part1>.

2. for 12 (twelve) months amounting to Rp189,000.00 (one hundred eighty-nine thousand rupiah), or
 3. for 6 (six) months amounting to Rp108,000.00 (one hundred eight thousand rupiah);
- 2). Payment of JKK and JKM program contributions for protection during work and after work for Individual Indonesian Migrant Workers is made at once according to the terms of the work agreement as follows:
- a. for 24 (twenty-four) months amounting to Rp 332,500.00 (three hundred thirty-two thousand five hundred rupiahs);
 - b. for 12 (twelve) months amounting to Rp189,000.00 (one hundred eighty-nine thousand rupiah), or
 - c. for 6 (six) months amounting to Rp108,000.00 (one hundred eight thousand rupiah);

If the employment agreement exceeds the period in Article 1 point b above and Paragraph (2), the payment of JKK and JKM social security program contributions will be charged at 13,500 (thirteen thousand five hundred rupiah) every month and paid according to the excess work agreement period.

Claims for work accident insurance for PMI protection during work, according to Permenaker No.4/2023, include the following:

- 1) Reports of work accidents and PMI experiencing work accidents, including acts of physical violence in the placement country, are made using the PMI work accident case report form contained in BPJS Employment regulations and attaching several documents, including:
 - a) BPJS Employment participant card;
 - b) Passport;
 - c) Certificate from employer, Representative of the Republic of

- Indonesia, Indonesian Trade and Economic Office (ITEO) or government agencies related to employment;
- d) Medical diagnosis certificate from a hospital or health facility in the PMI placement country;
 - e) Transportation costs in the country of placement;
 - f) A savings account in the name of PMI or another party's account that pays first and
 - g) Evidence or other documents related to PMI's work accidents.
- 2). If the cost of treatment and treatment exceeds Benefit limits from social security and insurance in The country you're placing in needs to include: Documents, including the following:
- a). Certificate from insurance at PMI placement countries or government agencies that carry out affairs in the field of labor regarding the amount of reimbursement of medical expenses or treatment that have been paid in the event of a payment dispute;
 - b). Proof of payment for PMI treatment or treatment from the hospital or other health facilities in the PMI placement country; and
 - c). a savings account in the name of the party who first paid for the treatment or treatment.

- 3). If PMI dies due to a work accident, it is necessary to attach the following documents:
 - a) Identity card or other proof of identity of the heir;
 - b) PMI family card and PMI heirs;
 - c) Death certificate from a doctor or authorized official;
 - d) Certificate of heirs from the authorized official; and
 - e) savings account in the name of the legal beneficiary.
- 4). A report to obtain reimbursement of transportation costs for the repatriation of Indonesian Migrant Workers who have a Work Accident with a non-deceased condition from the destination country of placement to the area of origin is made using the benefit application form as stipulated in the BPJS Employment regulations and attaching documents:
 - a. BPJS Employment Participant Card;
 - b. Passport;
 - c. Certificate from the employer, Representative of the Republic of Indonesia, KDEL, or agency that organizes government affairs in the field of labor;
 - d. Receipt of payment of transportation costs and air tickets or other transportation from the destination country of placement to the area of origin; and
 - e. Savings account in the name of an Indonesian Migrant Worker.

5). Report to get cost assistance ranging from reimbursement of repatriation costs of problematic PMI, transportation for repatriation who have a work accident, PMI who are at risk of failure in placement because it is not PMI's fault, money assistance, and transportation replacement for the installation of PMI that is placed not as in the work agreement, PMI who are laid off due to work accidents, unilateral layoffs received by PMI are not due to work accidents, and JKK program reports for PMI who experience work accidents when PMI returns to the country of origin and returns to the land of placement, need to attach documents :

- a. BPJS Employment PMI participant card;
- b. Passport
- c. Certificate from the employer, Representative of the Republic of Indonesia, KDEI, or agencies that carry out government affairs in the field of labor stating what PMI experienced;
- d. Savings account in the name of an Indonesian Migrant Worker.
- e. Work or placement agreement (reimbursement of transportation costs for problematic repatriation, PMI who is at risk of failure of placement due to PMI's fault, money assistance and transportation reimbursement for

- the installation of PMI placed not as in the work agreement);
- f. Receipt of payment of transportation costs and airline tickets or other transportation starting from the country of placement to the area of origin of PMI (reimbursement of transportation costs for problematic repatriation, PMI who are at risk of failure of order due to PMI's fault, financial assistance and transportation reimbursement for the installation of PMI placed not as in the employment agreement);
 - g. Payment receipts or other documents related to work accidents (JKK program for migrant workers who experience work accidents when PMI returns to their home country and returns to the placement country).
- 6). Reports that PMI can make if PMI is proven to have experienced rape to be able to get financial assistance from BPJS Employment benefits, PMI needs to attach documents:
- a. BPJS Employment PMI Participant Card;
 - b. Passport;
 - c. Letter of results of *visum et reported* examination from a doctor;

- d. Certificate of Representative of the Republic of Indonesia, Indonesian Trade and Economic Office (KDEI), or government agencies related to the field of employment;
- e. Savings account in the name of an Indonesian Migrant Worker.

The increase in Permenaker No.4/2023 benefits is not accompanied by an increase in social security program contributions, and this social security program if PMI and PMI candidates register for the JKK program for the claim expiration time to be extended to 5 years, which was initially only two years. After the issuance of Permenaker No.4/2023, the government contains benefits that can improve quality and quantity and is accompanied by no increase in contributions that PMI must pay.³⁹

In some of the descriptions of the contents of Permenaker No. 4/2023 above, a novelty is intended for PMI and PMI candidates to register to become BPJS Employment participants. Permenaker No. 4/2023 as a replacement for Permenaker RI No. 18/2018, which is considered no longer by the needs and legal developments; therefore, the presence of Permenaker No. 4/2023 is a manifestation of the presence of the state to protect prospective migrant workers and migrant workers.⁴⁰ Maximum protection for migrant workers is needed by migrant workers, considering that migrant workers are vulnerable to various human rights violations, such as physical

³⁹ TvOne Team, "Socialization of Minister of Manpower Regulation Number 4 of 2023, Ministry of Manpower: Fixed Contributions, Increased Benefits," tvonenews.com, 2023, <https://www.tvonenews.com/berita/nasional/106548-socialization-permenaker-number-4-in-2023-where-will-fixed-benefit-contributions-increase?page=3>.

⁴⁰ Ministry of Manpower of the Republic of Indonesia, "Ministry of Manpower Issues New Minister of Manpower Regulation Concerning Social Security for Indonesian Migrant Workers," Indonesia, Ministry of Manpower of the Republic, 2023, <https://kemnaker.go.id/news/detail/menaker-terbitkan-permenaker-baru-tangan-Indonesian-migrant-worker-social-security>.

violence, verbal violence, human trafficking, and other crimes.⁴¹ Minister of Manpower of the Republic of Indonesia, Ida Fauziah, said that the Government of Indonesia has a serious commitment to protect migrant workers, considering the challenges and work environment of migrant workers require extra attention and complexity of problems due to differences in the way of working between countries.⁴²

B. Implementation of Social Security for PMI Placement in Hong Kong After the Emergence of Minister of Manpower Regulation Number 4 of 2023 concerning Social Security for Indonesian Migrant Workers

Hong Kong in 1997 was ceded by the United Kingdom to China, from which Hong Kong became an administrative territory of China.⁴³ Hong Kong, because it is considered a particular administrative region of China in terms of foreign affairs and defense, is not liberated by China, so Hong Kong does not have an army. Still, Hong Kong has its government, flag, and currency. Apart from political and defense matters, Hong Kong is experiencing high economic progress or growth; this makes Hong Kong not underestimated economically even though it is only an administrative region by other countries. In 2021, Hong Kong reported that Hong Kong's economic growth reached 7.8%.⁴⁴ Hong

⁴¹ Teddy Unggik, "Socialization of Minister of Manpower Regulation 4/2023, Ministry of Manpower: Fixed Contribution, Increased Benefits," *Progresnews.info*, 2023, <http://progresnews.info/2023/03/10/socialization-permenaker-42023-kemnaker-retirement-fixed-benefit-increases/>.

⁴² Erdy Nasrul, "Menaker Supports Increasing Employment Social Security for PMI," *Republika*, 2023, <https://news.republika.co.id/berita/s06iz2451/menaker-dukung-peningkatan-jaminan-social-ketenagakerjaan-untuk-pmi>.

⁴³ Kompas.com, "What's the Difference Between China, Taiwan, Hong Kong, and Macau?," *Kompas.com*, 2021, <https://www.kompas.com/stori/read/2021/09/20/140000279/apa-bedanya-china-taiwan-hong-kong-and-macau?page=all>.

⁴⁴ Mita Noveria and Hanging Romdiati, "Covid-19 Pandemic and the Economic Impact on Indonesian Migrant Workers and Their Families: A Literature Review," *Journal of*

Kong's local population is preoccupied with public affairs, so they do not have time to take care of household affairs, so Hong Kong needs foreign workers to do informal work.⁴⁵ It is natural that Hong Kong needs foreign workers, which is a factor in PMI working in Hong Kong.⁴⁶

In addition to the relatively significant salary factor working in Hong Kong, another factor that makes PMI work a lot in Hong Kong is that the Hong Kong Government pays attention to, respects, and protects the human rights of foreign workers.⁴⁷ The Hong Kong Government has an *Employment Ordinance* ("EO"); in the EO, special rules protect migrant workers.⁴⁸ Regarding work safety, the Hong Kong Government is considered to be able to guarantee human rights; besides that, violence or discrimination in Hong Kong against migrant workers is relatively less than in other migrant worker placement countries.⁴⁹

Australia, Japan, Hong Kong, and Singapore all reported their first COVID-19 cases in January 2020.⁵⁰ By April 26, 2020, the end of the study period, Australia reported 6714 cases and 83 deaths, with the number of cases reported per day peaking at 500 on March 28. Japan reported 13,441 cases and 372 deaths. Its epidemic peaked on April 17, with 1161 cases reported. Hong Kong reported 1037 cases

Economics and Public Policy 13, no. 1 (2022): 71–84, <https://doi.org/10.22212/jekp.v13i1.1947>.

⁴⁵ World Bank Group, "Indonesian Global Workers, Between Opportunities & Risks," Bank Indonesia Report, 2017, <https://thedocs.worldbank.org>.

⁴⁶ Handoyo, "Ministry of Manpower: Highest Number of PMIs in Hong Kong, Taiwan and Malaysia," Kontan.Nasional, 2022, <https://nasional.kontan.co.id/news/kemenaker-most-pmi-berada-di-hongkong-Taiwan-and-Malaysia>.

⁴⁷ Emilius Caesar Alexey, "Hong Kong Guarantees Protection for Migrant Workers," Kompas.id, 2019, <https://www.kompas.id/baca/utama/2019/01/21/hongkong-jamin-perlindungan-terkerja-migrant>.

⁴⁸ Fithriatus Shalihah, Norma Sari, "National Seminar on Community Service Results."

⁴⁹ Susilo, "Several Factors that Determine TKI in Choosing a Destination Country as a Place to Work, Study in Aryojeding Village, Tulungagung Regency," *Journal of Geography Education* 21, no. 2 (2016): 110–19.

⁵⁰ Johns Hopkins University e Coronavirus Resource Center. Coronavirus resource center [cited 2020 April 28]; Available from: <https://coronavirus.jhu.edu/data>.

and four deaths, with the epidemic peaking with 80 cases reported on March 29. Singapore reported 13,624 cases and 12 deaths, with the number of cases reported per day peaking at 1426 on April 20⁵¹

Hong Kong, although it has a small record of violence and discrimination against migrant workers, does not mean that migrant workers experience no violence and discrimination; some migrant workers who work in Hong Kong experience harassment.⁵² In 2017, there was a case of inhumane, horrific, and degrading persecution of Indonesian migrant workers as human beings working in Hong Kong.⁵³ In 2023, there will also be cases of migrant workers being tortured by employers in Hong Kong, beaten with bicycle chains, burned, and attacked with paper-cutting knives, leaving scars and physical trauma.⁵⁴ Indonesian migrant workers who are domestic workers in Hong Kong also experience inhumane treatment by employers.⁵⁵ PMI is also prone to work accidents; a PMI who works in Hong Kong died from the 14th floor due to falling from the 14th floor of the apartment building where his employer was.⁵⁶ The

⁵¹ Lasry A, Kidder D, Hast M, Poovey J, Sunshine G, Winglee K, et al. Timing of community mitigation and changes in reported COVID-19 and community mobility - four U.S. Metropolitan areas, February 26-April 1, 2020. *MMWR (Morb Mortal Wkly Rep)* 2020;69(15):451e7.

⁵² Suci Sekarwati, "The Suffering of Hong Kong PMI Sleeping in the Same Room with Employers of Migrant Workers Who Fight With Writing: Use Social Media for Advocacy," *Tempo.Com*, November 2021, https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/genericdocument/wcms_831216.pdf.

⁵³ Endang Nurdin, "TKI in Hong Kong: Rates of Physical, Sexual Abuse and Racial Discrimination 'High,'" *BBC Indonesia*, 2017, <https://www.bbc.com/indonesia/indonesia-42493279>.

⁵⁴ VOA, "Indonesian Migrant Workers Receive IDR 1.66 Billion in Compensation for Harassment Cases in Hong Kong," *Indonesia, Voice of America*, 2023, <https://www.voaindonesia.com/p/3970.html>.

⁵⁵ Langgeng Puji, "Domestic Violence Cases Repeat Again in Hong Kong, Home Migrant Activists Angry," *tvonenews.com*, 2023, <https://www.tvonenews.com/berita/105776-cases-prt-violence-again-recurring-in-hongkong-activists-home-angry-migrants>.

⁵⁶ Christian Ningsih, "Indonesian Migrant Workers Fall From the 14th Floor in Hong Kong," *Republika.co.id*, 2019, <https://news.republika.co.id/berita/q3766k459/buruh-migrant-indonesia-fall-dari-14th-floor-in-hong-kong>.

incident that happened to PMI in Hong Kong did not reduce the intention of workers who wanted to work in Hong Kong; this can be seen from BP2MI data, which states Hong Kong is always included in the three most PMI destination countries.⁵⁷

Based on data from BP2MI from 2015 to 2019, PMI working abroad is consistently above two hundred thousand, but in 2020 and 2021, it decreased due to the impact of the presence of a virus called *Coronavirus Disease 2019 (COVID-19)*.⁵⁸

The first cases of this new disease began to appear in December 2019 in the Chinese city of Wuhan. There was one common source of exposure, a seafood market that also sold live animals⁵⁹. The health surveillance authorities were alerted and several measures began to be taken to identify the causative agent of the disease. On December 31 of that same year, China notified the WHO of the outbreak and on the following day the market where the cases had originated was closed⁶⁰. From then onwards, an exponential increase occurred in the number of cases and community transmission was confirmed. Within a short period of time, measures were implemented to restrict travel and the circulation of people, including screening travellers for symptoms, until on January⁶¹, 2020 total lockdown was declared in Wuhan, with no one being allowed to enter or leave the region.

These localized measures were followed by the implementation of similar actions in other Chinese provinces

⁵⁷ BP2MI, "PMI Placement and Protection Data July 2023," 2023.

⁵⁸ Gianie, "Two Sides of the Currency of Indonesian Migrant Workers," Kompas.id, 2023, <https://www.kompas.id/baca/reset/2023/06/05/dua-sisi-mata-uang-pekerja-migrant-Indonesia>.

⁵⁹ Singhal T. A Review of Coronavirus Disease-2019 (COVID-19). *Indian J Pediatr* 2020; 87(4):281-286.

⁶⁰ World Health Organization (WHO). Novel Coronavirus (2019-nCoV) Situation report-5, 25 January 2020. Geneva: WHO; 2020.

⁶¹ Chinazzi M, Davis JT, Ajelli M, Gioannini C, Litvinova M, Merler S, Piontti AP, Mu K, Rossi L, Sun K, Viboud C. The effect of travel restrictions on the spread of the 2019 novel coronavirus (COVID-19) outbreak. *Science* 2020; pii:eaba9757.

affected by the virus, in several other Asian countries, and in other countries around the world. The initial measures focused to a major extent on controlling travel at a time when the majority of cases were imported; however, the measures were progressively ramped up as community transmission was confirmed.

The first three cases of COVID-19 in Europe were recorded in France on January 24, 2020 and the first death in that continent was reported in that same country on February 15⁶². A week later, cases were registered in another eight countries. The epidemic expanded dramatically in Italy, Spain and France, where it rapidly developed into a severe health crisis with many critical cases and deaths, consequently overwhelming healthcare system resources. This accelerated the adoption of control measures, which did not occur simultaneously and varied greatly between countries and between different regions of the same country. However, over time these measures had to be ramped up and strengthened in all countries as the health crisis deteriorated.

Chart 1 summarizes the main interventions adopted by selected European countries based on a study by Imperial College London. Despite some similarities, implementation of the different measures varied, even in relation to the time period between the first initiative and the announcement of total lockdown.

In some countries, the first initiative was to ban mass gatherings of more than 1,000 people; however, this number was subsequently reduced to 500 and then to 50. In other countries, cinemas, restaurants, gyms and places of worship were closed. Germany determined the closure of most non-essential shops and extended the opening times of supermarkets to reduce the number of customers in the stores at the same time. In some countries, stores reserved the

⁶² Spiteri G, Fielding J, Diercke M, Campese C, Enouf V, Gaymard A, Bella A, Sognamiglio P, Moros MJ, Riu-tort AN, Demina YV. First cases of coronavirus disease 2019 (COVID-19) in the WHO European Region, 24 January to 21 February 2020. *Euro Surveill* 2020; 25:9.

rst hours of trading for elderly clients at a high risk of severe disease⁶³.

The closure of schools, a measure adopted in all countries, has been the subject of much de- bate. Children are rarely affected by COVID-19 and the extent to which they develop asymptom- atic infections and transmit the virus is unclear. Although closing schools may have the added bene t of contributing towards ensuring that parents remain at home, this measure may affect the ability of parents, who are health profession- als and whose services are of the utmost impor- tance at this time, to work. Furthermore, other negative effects include an increase in the num- ber of children cared for by elderly grandparents, interruption to the supply of free school meals to vulnerable children and, obviously, the fact that children would be denied their right to for- mal education for months at a time. For these reasons, although schools in Austria, the Neth- erlands and the United Kingdom were closed, an exception was made for the children of key workers such as health professionals. In the United Kingdom, vulnerable children (recipients of social care) were also allowed to attend school. In addition, the government decided that schools could provide meals to children who usually received them free of charge and announced in the media the creation of a national program of food vouchers⁶⁴. In Singapore, although schools remained open, measures were adopted to reduce the size of classes and the number of interclass and interschool activities, while rigorous hygiene measures were implemented and recess and lunch breaks were staggered⁶⁵.

⁶³ Cohen J, Kupferschmidt K. Countries test tac- tics in 'war' against COVID-19. *Science* 2020; 367(6484):1287-1288.

⁶⁴ Mahase E. Covid-19: schools set to close across UK except for children of health and social care workers. *BMJ* 2020; 368:m1140.

⁶⁵ Lee VJ, Chiew CJ, Khong WX. Interrupting transmis- sion of COVID-19: lessons from containment efforts in Singapore. *J Travel Med* 2020; pii:taaa039.

COVID-19 responses undertaken by individual member countries of ASEAN have been tremendously diverse and have ranged from strict lock-down conditions in the highly regulated city-state of Singapore to 'business as usual', especially in rural areas of developing countries with large informal economies such as Laos and Myanmar. Yet ASEAN member countries also have a long history of cross-border cooperation, forged through trade regionalization and economic integration. In the health sector, ASEAN co-operation has been infused into region-wide frameworks including the ASEAN Political-Security Community (APC), ASEAN Economic Community (AEC) and ASEAN Socio-Cultural Community (ASCC)⁶⁶. Through these social-cultural pillars, ASEAN has developed a basic platform for health security cooperation since 1980⁶⁷, as shown, for instance, through ASEAN-level responses to prior pandemics including SARS, H1N1 and MERS-CoV3.

Southeast Asia was one of the first regions affected due to its close geographical proximity and business travel, tourism and supply chain links to China. The first COVID-19 case was reported in Malaysia on 25 January 2020, prior to the upward swing of cases at the end of February 2020⁶⁸.

This pandemic has proven to have a very bad impact, apart from the unexpected negative impact on economic activity⁶⁹. Considering the rapid spread of COVID-19 with the emergence of various variants and mutants, world economic and financial system

⁶⁶ ASEAN Secretariat. Celebrating ASEAN: 50 years of evolution and progress. Association of Southeast Asian nations; 2017.

⁶⁷ Association of Southeast Asean Nations (ASEAN). ASEAN Post-2015 Health Development Agenda 2016-2020. Jakarta; 2018.

⁶⁸ Tang, KHD. (2020). Movement control as an effective measure against COVID-19 spread in Malaysia: an overview. *Zeitschrift fur Gesundheitswissenschaften = Journal of public health*, 1–4. Advance online publication. <https://doi.org/10.1007/s10389-020-01316-w>

⁶⁹ Yilmazkuday, H. (2020). Staying at home works in the fight against COVID-19: International evidence from Google mobility data. *Journal of Human Behavior in Social Environments*, 31(1–4), 210–220. <https://doi.org/10.2139/ssrn.3571708>

indicators show a fluctuating position, especially on the stock market, foreign exchange rates and interest rates⁷⁰.

In January 2020, the *World Health Organization* (WHO) stated that there was a COVID-19 outbreak that appeared in one of the regions in China, where the attack was hazardous for human life. Releasing data from WHO quoted by Kompas.com., stated that COVID-19 caused an international public health crisis called the *Health Emergency of International Concern* (PHEIC).⁷¹ The existence of this statement from WHO and the symptoms of the spread of COVID-19 have made countries limit people's mobility in and out of countries, including PMI destination countries, so it is natural that in 2020 and 2021, PMI who go abroad has decreased.⁷²

The current coronavirus disease 2019 (COVID-19) outbreak is a worldwide emergency, as its rapid spread and high mortality rate has caused severe disruptions.⁷³ The number of people infected with severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2), the causative agent of COVID-19, is rapidly increasing world-wide.⁷⁴ Patients with COVID-19 can develop pneumonia, severe symptoms

⁷⁰ Kartal, M.T., Depren, Ö., & Depren, SK (2020). That Determinants of changes in major stock exchange indices in developing countries: Evidence from Turkey in the era of the COVID-19 pandemic. *Electronic Journal SSRN*. <https://doi.org/10.2139/ssrn.3659154>

⁷¹ WHO TEAM, "COVID-19 Public Health Emergency of International Concern (PHEIC) Global Research and Innovation Forum," WHO, 2020, [https://www.who.int/publications/m/item/covid-19-public-health-emergency-of-international-concern-\(pheic\)-global-research-and-innovation-forum](https://www.who.int/publications/m/item/covid-19-public-health-emergency-of-international-concern-(pheic)-global-research-and-innovation-forum).

⁷² Noveria and Romdiati, "Covid-19 Pandemic and the Economic Impact on Indonesian Migrant Workers and Their Families: A Literature Review."

⁷³ Huang, C. et al. Clinical features of patients infected with 2019 novel coronavirus in Wuhan, China. *Lancet* 395, 497–506 (2020).

⁷⁴ Chen, N. et al. Epidemiological and clinical characteristics of 99 cases of 2019 novel coronavirus pneumonia in Wuhan, China: a descriptive study. *Lancet* 395, 507–513 (2020).

of acute respiratory distress syndrome (ARDS), and multiple organ failure.⁷⁵

Facing the outbreak, WHO took steps and instructed countries to prevent and reduce the spread of Covid-19 by practicing social distancing. Governments began to implement social restrictions by implementing regional regulations to *lockdowns* to suppress the spread of Covid-19. PMI destination countries started to enforce policies and tighten the entry and exit of people, including Hong Kong, Taiwan, Malaysia, Singapore, South Korea, Saudi Arabia, Jordan, Kuwait, Italy, England, Spain, France, Poland, and the United States.⁷⁶

As a result of Covid-19, economic growth has slowed down, companies are starting to experience a decline in income, so they are starting to take various steps to save their business, starting from laying off employees.⁷⁷ The implications of countries to prevent the spread of COVID-19 have made countries not only think about the health sector but also think about solutions from other affected fields, such as education, social, cultural, and especially the economic sector.⁷⁸ The impact of COVID-19 is categorized as a life event that occurs in humanity which is very fatal; in addition to causing death, it also causes chaos in the lives of humanity.⁷⁹

⁷⁵ Wang, D. et al. Clinical characteristics of 138 hospitalized patients with 2019 Novel Coronavirus-infected Pneumonia in Wuhan, China. *JAMA*. 323, 1061–1069 (2020).

⁷⁶ DPR Media, "Pandemic, Gus Muhaimin: The State Must Be Present to Address Migrant Worker Issues," DPR RI Media, 2021, <https://emedia.dpr.go.id/>.

⁷⁷ Ogbole Oganacha O dan Oreoluwa Omotayo Oduniyi, "Worker's Protection in the Covid 19 Era in Nigeria", *Padjadjaran Journal of Law* 8, no. 2 (2021):293-294, <https://doi.org/10.22304/pjih.v8n2.a7>

⁷⁸ DJKN Ministry of Finance of the Republic of Indonesia, "Sri Mulyani: Ministry of Finance Continues to Support Measures to Handle Covid-19," DJKN Ministry of Finance of the Republic of Indonesia, 2020.

⁷⁹ K Stroud, "Stressful Life Events and Depression," *Clinical Science Insights: Knowledge Families Count* 14, no. 8 (2020): 1344–45, <https://doi.org/10.1176/appi.ajp.157.8.1344-a>.

Due to COVID-19, economic growth has slowed, and companies have begun to experience a decline in revenue, so they have begun to find various ways to save business, starting with layoffs. Based on data from the ILO, full or partial social distancing measures affect almost 81% of the world's workforce.⁸⁰ Victims of termination of employment, to meet the needs of life, are willing to work for low wages; this impact is also felt by migrant workers who work abroad, especially migrant workers who work in the informal sector.⁸¹ The burden felt by PMI is exacerbated by uncertainty in the placement country, financial shortages, and layoffs due to the pandemic, making PMI's life unclear between choosing to return home or staying in the placement country.⁸²

The presence of Covid-19 presents its challenges for PMI. During COVID-19, migrant workers lost job opportunities and social assistance constraints from the government, not to mention the problem if migrant workers returning to Indonesia faced stigma and discrimination because they were considered to carry the virus.⁸³ For migrant workers who still survive in the placement country, it is also not easy to face the COVID-19 situation, starting from being unable to support themselves and access in and out of the country that does not allow them to return to Indonesia.⁸⁴

⁸⁰ ILO, "ILO: Covid-19 Causes Devastating Losses in Working Hours and Employment," Organization, International Labour, 2020, https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_740893/lang--en/index.htm.

⁸¹ CNBC Indonesia, "RKT's Screams of Hunger in Malaysia During Lockdown," CNBC Indonesia, 2020, <https://www.cnbcindonesia.com/news/20200425210242-4-154459/jerit-kelaparan-tki-di-malaysia-when-lockdown>.

⁸² Ministry of Manpower, "Employment Clippings 15 June 2020" (Jakarta, 2020), <https://kabarbisnis.com/read/28100233/besar-phk-klaim-bpjs->.

⁸³ Alfian Putra Abdi, "The Forgotten Group: TKI Who Returned Home During the Pandemic," *tirto.id*, 2020, <https://tirto.id/komunikasi-yang-terlupakan-tki-yang-pulang-saat-pandemi-flwu>.

⁸⁴ UII, "UII Center for Legal Studies Highlights the Fate of Migrant Workers in the Midst of the Pandemic," Islamic University of Indonesia, 2020, <https://www.uui.ac.id/Pusat-studi-Hukum-uui-soroti-nasib-pekerja-migrant-in-the-pandemic/>.

Under normal conditions, PMI is always prone to various problems such as depression, excessive workload, physical and sexual violence, and wages sometimes not given by employers; things like this affect PMI's psychological condition.⁸⁵ The condition of migrant workers is very vulnerable compared to other working groups, especially for illegal migrant workers.⁸⁶ PMIs have difficulty accessing health services during the COVID-19 pandemic, one of which is because PMIs have not received or are not registered in health insurance. At the same time, illegal migrant workers fear checking themselves (fear of being arrested by law enforcement officials) due to migration problems.⁸⁷ The Indonesian government has provided access to social security for migrant workers, but the social security intended by migrant workers is only social security or BPJS Employment.⁸⁸

PMI recorded in April 2020, PMI working in the formal sector reached 632 workers, and the informal sector reached 1,715 workers; based on data from BP2MI, PMI working in the informal sector was three times that of formal sector workers.⁸⁹ The Minister of Manpower to follow up on the handling of migrant workers by issuing Decree of the Minister of Manpower (Kepmenaker) No. 151

⁸⁵ Department of Psychiatry, *Mental Health in The Times of Covid-19 Pandemic*, National Institute of Mental Health and Neurosciences, Bengaluru, India (Bengaluru: Department of Psychiatry National Institute of Mental Health and Neuro Science, 2020).

⁸⁶ Psychiatry.

⁸⁷ Wahyu Susilo, Novi Arista, and Zulyani Evi, "Vulnerability of Indonesian Migrant Workers Facing the COVID-19 Outbreak," *CSIS Commentaries DMRU-024-ID*, no. 151 (2020): 1–6.

⁸⁸ Nugroho Bangun Witono, "Indonesian Migrant Worker Protection Policy in the Covid-19 Pandemic," *Indonesian Journal of Peace and Security Studies (IJPSS)* 3, no. 1 (2021): 34–54, <https://doi.org/10.29303/ijpss.v3i1.57>.

⁸⁹ BP2MI, "PMI Placement and Protection Data, April 2020 Period," Indonesian Migrant Worker Protection Agency, 2020, https://bp2mi.go.id/%0Auploads/statistik/images/data_26-05-2020_Laporan_Pengolahan_Data_BNP2TKI_APRIL_fix.pdf.

of 2020 which states the Temporary Suspension of the Placement of Indonesian Migrant Workers to prevent the spread of Covid-19.⁹⁰

In 2017, the government accommodated the needs of workers, including informal workers and migrant workers, through the issuance of BPJS Ketenagakerjaan. BPJS Ketenagakerjaan is a public legal entity that has four social security programs that have functions to protect all workers.⁹¹ BPJS provided by the government for PMI does not have social security for health, even though PMI needs health social security; not only that, there are difficulties for PMI to claim social security or BPJS Employment during the Covid-19 pandemic, even though in the Covid-19 pandemic situation the community needs the government's sincerity and seriousness to ensure social welfare for every citizen.⁹²

The first confirmed case of COVID-19 in Hong Kong was announced on 23 January 2020. In response to the COVID-19 pandemic, the local government has adopted a variety of drastic public health measures, such as compulsory quarantines for people returning from abroad, work from home arrangements, school suspensions, and the shutdown of non-essential services, to mitigate the risks and impact of the disease. In addition, people in Hong Kong have stockpiled surgical masks, rice, toilet paper, and other goods. Such abrupt changes to daily life are risk factors that can substantially affect mental health. Some psychosocial stressors such as health threats to oneself and loved ones are associated with

⁹⁰ Zulyani Evi Wahyu Susilo, Yovi Arista, "Vulnerability of Indonesian Migrant Workers Facing the COVID-19 Outbreak," Center for Strategic and International Studies, 2020.

⁹¹ BPJS Employment, "BPJS Employment: Employment Social Security Program," Employment Social Security Administering Body, 2023, <https://www.bpjsketenagakerjaan.go.id/>.

⁹² Devina, "The data is complete, BPJS Employment claims are unclear," detik.com, 2020, <https://news.detik.com/suara-pembaca/d-5006577/data-sudah-lengkap-klaim-bpjs-ketenagakerjaan-tak-ada-kejelasan>.

pandemics⁹³. There are severe disruptions of routines, separation from family members and friends, shortages of daily necessities, salary deduction, social isolation, and school closure⁹⁴. Psychosocial responses to infectious disease outbreaks are variable and can include feelings of anxiety or weakness, an overestimation of the likelihood of infection, the excessive and inappropriate adoption of precautionary measures and an increased demand for health care services in a time of shortage⁹⁵

As a Special Administrative Region (SAR) of China that operates with autonomy, Hong Kong has adopted far less strict measures to contain COVID-19 than those in mainland China⁹⁶. At the time of writing, the city has never been locked down, and inhabitants have always enjoyed a moderate level of mobility⁹⁷. Compared with other places, such as Singapore, Seoul, London, and Tokyo, Hong Kong has been relatively successful in terms of

⁹³ Taylor, S. *The Psychology of Pandemics: Preparing for the Next Global Outbreak of Infectious Disease*; Cambridge Scholars Publishing: Newcastle upon Tyne, UK, 2019; ISBN 1527541185.

⁹⁴ Koh, D.; Meng, K.L.; Sin, E.C.; Soo, M.K.; Qian, F.; Ng, V.; Ban, H.T.; Kok, S.W.; Wuen, M.C.; Hui, K.T.; et al. Risk perception and impact of severe acute respiratory syndrome (SARS) on work and personal lives of healthcare workers in Singapore: What can we learn? *Med. Care* 2005, 43, 676–682. [CrossRef] [PubMed]

⁹⁵ Rosling, L.; Rosling, M. Pneumonia causes panic in Guangdong province. *BMJ* 2003, 326, 416. [CrossRef] [PubMed]

⁹⁶ Wong, M.C.S., Ng, R.W.Y., Chong, K.C., Lai, C.K.C., Huang, J., Chen, Z., Boon, S.S., Chan, P.K.S., 2020. Stringent containment measures without complete city lockdown to achieve low incidence and mortality across two waves of COVID-19 in Hong Kong. *BMJ Glob. Heal.* 5, e003573 <https://doi.org/10.1136/bmjgh-2020-003573>.

⁹⁷ Wong, S.H., Teoh, J.Y.C., Leung, C.H., Wu, W.K.K., Yip, B.H.K., Wong, M.C.S., Hui, D.S. C., 2020. COVID-19 and public interest in face mask use. *Am. J. Respir. Crit. Care Med.* 202, 453–455. <https://doi.org/10.1164/rccm.202004-1188LE>.

controlling the rate of infections⁹⁸. Comparative discussions of COVID-19-related policies and societal responses have largely focused on the collective memories of combating the outbreak of severe acute respiratory syndrome (SARS) in 2003. That bitter experience might explain both the government and community's preparedness and willingness to respond promptly to contain the threat of COVID-19. Preventive education, publicity, and the introduction of different control measures by the government were identified as important contributors to the success of controlling the 2003 epidemic⁹⁹.

A series of large-scale physical-distancing intervention measures enacted by the Hong Kong government, in addition to prior experiences of virus prevention, made efforts to convince individuals to comply with precautionary measures, such as wearing face masks and washing hands, more effective. This made the government and people believe that it remained possible to maintain daily activities and travel amid the COVID-19 pandemic¹⁰⁰. However, to the best of our knowledge, there has been little research on the relationship between government public policies and community responses, although this could help us better understand how the community and government can work together to combat COVID-19 and similar pandemic events.

As suggested by the WHO (2020a), both government intervention and community engagement play a critical role in the effective implementation of any public health intervention. It is

⁹⁸ Wong, S.Y., Kwok, K.O., Chan, F.K., 2020. What can countries learn from Hong Kong's response to the COVID-19 pandemic? *CMAJ (Can. Med. Assoc. J.)* 192, E511–E515. <https://doi.org/10.1503/cmaj.200563>.

⁹⁹ Hung, L.S., 2003. The SARS epidemic in Hong Kong: what lessons have we learned? *J. R. Soc. Med.* 96, 374–378. <https://doi.org/10.1258/jrsm.96.8.374>.

¹⁰⁰ Kwok, K.O., Li, K.K., Chan, H.H., Yi, Y.Y., Tang, A., Wei, W.L., Wong, Y.S., 2020. Community responses during the early phase of the COVID-19 epidemic in Hong Kong: risk perception, information exposure and preventive measures. *Emerg. Infect. Dis.* <https://doi.org/10.1101/2020.02.26.20028217>.

therefore important to investigate the complementary aspects of public health intervention measures that contributed to the early success of preparing for and responding to the COVID-19 threat¹⁰¹.

The article proceeds by briefly outlining the policy efforts of the Hong Kong SAR (Special Administration Region) government to manage the spread of the COVID-19 virus, including regulatory actions, risk assessment, risk communication (to the public), proactive risk management, border control and travel bans, and economic and budgetary responses. The remainder of the article then details Hong Kong's experience with political crisis and social unrest in 2019–2020 and its more distant experience managing the SARS pandemic in 2003–4, highlighting the role of both these events in helping develop community capacity. The article concludes by discussing how the Hong Kong case illustrates the need for a more comprehensive understanding of capacity that incorporates community capacity as a key agency in enabling societies to successfully manage crisis¹⁰².

Migrants are particularly vulnerable to the direct and indirect effects of the coronavirus disease 2019 (COVID-19) pandemic. The International Organization for Migration (IOM) has found that migrants were often excluded from host country welfare systems, were greatly affected by border closures by limiting their ability to travel between their home and host countries, and that the pandemic was used as an opportunity to foster xenophobic and discriminatory attitudes towards them¹⁰³. Migrants also often face additional

¹⁰¹ World Health Organization, 2020a. Risk Communication and Community Engagement Readiness and Response to Coronavirus Disease (COVID-19): Interim Guidance.

¹⁰² Hartley, Kris and Darryl S. L. Jarvis. Policymaking in a low-trust state: legitimacy, state capacity, and responses to COVID-19 in Hong Kong. *POLICY AND SOCIETY* 2020, VOL. 39, NO. 3, 403–423 <https://doi.org/10.1080/14494035.2020.1783791>

¹⁰³ Guadagno, Lorenzo. 2020. MRS No. 60 – Migrants and the COVID-19 pandemic: An initial analysis, in Migration Research Series.

barriers in accessing healthcare or information about COVID-19 in their host countries, increasing their risk of contracting the disease¹⁰⁴. The financial impact of the pandemic has been forecasted to result in a \$108.6 billion decline in global remittances, assuming recovery within a year, putting remittance-dependant households at risk of falling into poverty¹⁰⁵.

The lack of recognition and supportive policies for migrants can have many physical, mental, social, and economic effects on FDWs. Live-in FDWs tend to work long hours with an unspecified workload while living in the same place that they work in, making it difficult to mentally separate work from private time¹⁰⁶. They are also vulnerable to abuse from their employers due to the unequal power relationship, including verbal abuse and physical assault, and are often unable to negotiate for or assert their rights¹⁰⁷. FDWs often also struggle with the relationships with their families back home. For example, FDWs may perceive that their relatives only value the remittances they send, devaluing the work and sacrifices they are making overseas¹⁰⁸. As FDWs are often visible minorities

¹⁰⁴ Kluge, Hans Henri P, Jakab, Zsuzsanna, Bartovic, Jozef, D'Anna, Veronika, Severoni, Santino, 2020. Refugee and migrant health in the COVID-19 response. *The Lancet* 395 (10232), 1237–1239. doi:10.1016/S0140-6736(20)30791-1.

¹⁰⁵ Takenaka, Aiko Kikkawa, Gaspar, Raymond, Villafuerte, James, Narayanan, Badri, 2020. COVID-19 Impact on International Migration, Remittances, and Recipient Households in Developing Asia. COVID-19 Impact on International Migration, Remittances, and Recipient Households in Developing Asia. Asian Development Bank.

¹⁰⁶ Fong, Eric, Yeoh, Brenda S.A., 2020. Migrant Domestic Workers: Disadvantaged Work, Social Support, and Collective Strategies in East Asia. *American Behavioral Scientist* 64 (6), 703–708. doi:10.1177/0002764220910235.

¹⁰⁷ Cheng, Shu-Ju Ada, 1996. Migrant Women Domestic Helpers in Hong Kong, Singapore and Taiwan: A Comparative Analysis. *Asian and Pacific Migration Journal* 5 (1), 139–152. doi:10.1177/011719689600500107.

¹⁰⁸ Hall, Brian J., Garabiles, Melissa R., Latkin, Carl A., 2019. Work life, relationship, and policy determinants of health and well-being among Filipino domestic Workers in China: a qualitative study. *BMC Public Health* 19 (1). doi:10.1186/s12889-019-6552-4.

within their host country, they may also face discrimination as migrants, minorities, and women¹⁰⁹.

In Hong Kong, FDWs are essential to the functioning of many local families, but they are also regarded as separate from the “real family”¹¹⁰. While they make significant contributions to Hong Kong’s economy, they are still denied economic rights¹¹¹. In 2019, the Immigration Department reported that there were 399,320 FDWs in Hong Kong, with 98.5% of them being women, and most of them coming from the Philippines (55%), Indonesia (43%), or Thailand (0.5%)¹¹². Given the enormous health, economic, and social effects of the COVID-19 pandemic, we sought to explore the effects of the pandemic on FDWs in Hong Kong through in-depth interviews with FDWs and key informants to better understand their experiences. We focused on how this minority population, comprised mostly of women, was disproportionately affected by the pandemic response in terms of their health and economic wellbeing. A greater understanding of the experiences of this vulnerable population can help to guide the policies aimed at mitigating the negative effects of the pandemic on society in Hong Kong and in other areas where there are significant FDW populations.

Various kinds of difficulties experienced by migrant workers can be seen from the results of a survey organized by the Human Rights Working Group (HRWG) of the Indonesian Migrant Workers

¹⁰⁹ Llácer, Alicia, Zunzunegui, María Victoria, del Amo, Julia, Mazarrasa, Lucía, Boluñar, Francisco, 2007. The contribution of a gender perspective to the understanding of migrants’ health. *Journal of Epidemiology and Community Health* 61 (Suppl 2), ii4–ii10. doi:10.1136/jech.2007.061770.

¹¹⁰ Chan, Annie Hau-Nung, 2005. Live-in Foreign Domestic Workers and their Impact on Hong Kong’s Middle Class Families. *Journal of Family and Economic Issues* 26 (4), 509–528. doi:10.1007/s10834-005-7847-4.

¹¹¹ Hung, Jason, 2020. Hong Kong Hurts Itself By Financially Excluding Foreign Domestic Workers. *The Diplomat*.

¹¹² Immigration Department, 2020. Foreign domestic helpers by nationality and sex. Women and Men in Hong Kong: Key Statistics. Census and Statistics Department, Hong Kong Special Administrative Region, Hong Kong W.a.M.i.H.K.K. Statistics.

Union (SBMI) and the Migrant Workers Network (JBM) regarding the impact of COVID-19 on migrant workers, especially those experienced by migrant workers in Hong Kong. The Hong Kong government is dealing with the spread of COVID-19 through a tracking policy for people with physical contact with COVID-19-positive people.¹¹³ The Hong Kong government also imposes mandatory quarantine or isolation for people who contract Covid-19.¹¹⁴ The policy taken by the Hong Kong government caused panic for everyone in Hong Kong, especially migrant workers working in Hong Kong.¹¹⁵ During COVID-19, PMI in Hong Kong received intimidation from employers, and verbal violence, and migrant workers should not ask for time off during the COVID-19 period.¹¹⁶ As long as they are not allowed to take holidays during COVID-19, PMIs in Hong Kong are required by employers to continue working overtime by not being paid overtime wages, or PMIs are still carrying out their usual routine before COVID-19 hit Hong Kong. The number of people that must be cared for by PMIs increases because the Hong Kong government lays off work outside the home or office work, so people or employers gather at home and automatically burden PMI's work. When working, PMI must remain hygienic by constantly changing masks, and the employer does not buy the covers purchased by PMI, but PMI acknowledges the acts themselves.¹¹⁷ From the description above, it can be said that in the last two years, PMI has experienced a double workload, and there is no time to rest.

¹¹³ BBC.com, "Story of Indonesian Migrant Workers in Hong Kong Who Got Covid-19 Amid a Spike in Cases of 'Intimidated by Employers' and 'Abandoned,'" BBC News Indonesia, 2022.

¹¹⁴ Jawahir Gustav Rizal, "Seeing How Hong Kong Controls the Corona Virus Without Lockdown...," 2020.

¹¹⁵ Noveria and Romdiati, "Covid-19 Pandemic and the Economic Impact on Indonesian Migrant Workers and Their Families: A Literature Review."

¹¹⁶ BBC.com, "Story of Indonesian Migrant Workers in Hong Kong Who Got Covid-19 Amid a Spike in Cases of 'Intimidated by Employers' and 'Abandoned.'"

¹¹⁷ Fithriatus Shalihah, Norma Sari, "National Seminar on Community Service Results."

Based on the description above, it is an unwanted or unexpected thing that can be experienced by migrant workers at any time, ranging from sexual harassment, physical violence, verbal violence, psychological violence, work accidents, and or even things that threaten the lives of migrant workers in the Hong Kong placement country. Doing work in a foreign country, of course, is not easy because there are many differences in work ethic, culture, working hours, and, most importantly, the language used for daily communication; this is what makes the uncertainty of PMI's life in the country of placement, there are 2 (two) types of uncertainty that PMI can experience, some are speculative or pure uncertainty that can pose risks. There are 2 (two) kinds of risks: fundamental risks and unique risks. Entire risk relates to risks that have a broad impact, such as economic, political, social, security, and defense risks, as well as international, while unique risks are more on an individual, such as the price of objects, failures, and others.¹¹⁸ The above risks may approach migrant workers in the country of placement during work, so there is a need for social security protection.¹¹⁹ In this case, there is a need for protection that must be provided by the state, in addition to legal protection, economic protection, and family protection of migrant workers, social protection through social security.

The Indonesian government, in terms of social protection, has provided social protection for migrant workers and has even been regulated by Law No. 18/2017, which has been amended into Law No. 6/2023 and related to social security there is a regulation of the minister of workforce itself that regulates social security, namely Permenaker No. 18 / 2018 which has been revised to Permenaker No. 4 / 2023. The government to encourage PMI to participate in BPJS Employment is not easy, so the government requires prospective

¹¹⁸ Agusmidah Agusmidah, Asri Wijayanti, and Fithriatus Shalihah, *Protection of Indonesian Migrant Workers Based on Law no. 18 of 2017* (Medan: Al-Hayat Foundation, 2020).

¹¹⁹ Zainal Asikin, *Basics of Labor Law* (Jakarta: Rajawali Pers, 2016).

PMI to register members of BPJS Employment.¹²⁰ The government in Permenaker No.18/2018 has also required prospective PMI and PMI to register for the JKK and JKM guarantee programs, as well as in Article 4 paragraph (1) of Permenaker No.4/2023 which reads, "Prospective Indonesian Migrant Workers or Indonesian Migrant Workers who work abroad must be registered in program participation: a. JKK; and b. JKM".

However, the Indonesian Government's efforts to realize the implementation of social security for migrant workers by revising Permenaker RI No. 18/2018, in which the government increases social security benefits and tries to provide social security alternatives for migrant workers is not that easy, this can be seen from the response of migrant workers, especially migrant workers placement in Hong Kong. After it was revealed in 2022, based on DJSN data, it was stated that more than 50% of PMIs working abroad have yet to be registered as members of BPJS Employment. Hong Kong, one of the most PMI destinations, also revealed that few PMI in Hong Kong still needed to register for BPJS Employment. As explained above, this is related to the low interest of PMI not registering for BPJS Employment because, according to PMI placement in Hong Kong, the benefits of BPJS Employment organized by the Government of Indonesia are less helpful to use in Hong Kong or the benefits are less clear, BPJS Employment is difficult to claim, and PMI is comfortable using insurance provided by employers or the Hong Kong Government.¹²¹

Based on research conducted by the author in Hong Kong, after the issuance of Permenaker No.4/2023, migrant workers working in Hong Kong still do not intend to register for social

¹²⁰ CCN Indonesia, "Minister of Manpower Obliges Migrant Workers to Become Employment Participants," CNN Indonesia, 2023, <https://www.cnnindonesia.com/Ekonomi/20230302171116-92-919996/menaker-wajibkan-buruh-migran-jadi-peert-bpjs-employment>.

¹²¹ Fithriatus Shalihah, Norma Sari, Rosyidah, "Effectiveness of Minister of Manpower Regulation Number 18 of 2018 in the Implementation of Social Security for Indonesian Migrant Workers."

security for several reasons. The excellent response of PMI placement in Hong Kong after the revision of Permenaker RI No.18/2018 to Permenaker No.4/2023, PMI in Hong Kong feels that it has received the attention of the Government of Indonesia, meaning that with the issue of PMI not registering for BPJS Employment membership for other reasons, the government moved quickly by revising social security regulations and increasing social security benefits for PMI. However, not a few PMI placements in Hong Kong after the revision of social security regulations with increased benefits still want to register for BPJS Employment. Not without reason, PMI does not wish to register for BPJS Employment after the issuance of Permenaker No.4/2023 because PMI Hong Kong Indonesian Government regulations require PMI to register for BPJS Employment are contrary to Article 9 letter d of the Regulation of the Indonesian Migrant Workers Protection Agency of the Republic of Indonesia Number 5 of 2022 concerning Amendments to the Regulation of the Indonesian Migrant Workers Protection Agency Number 1 of 2020 concerning Standards, Signing and Verification of the Indonesian Migrant Worker Work Agreement, which reads, "The extension of the Work Agreement as referred to in Article 8 must meet the following requirements: d. extend social security, employment social security, and insurance by the extension period of the Work Agreement". If the article's content above, BP2MI regulations related to the extension of social security provide several options or not necessarily BPJS Employment as the front line of social security. PMI considers that the Government of Indonesia does not need to impose or require Hong Kong placement PMI to register for BPJS Employment membership organized by the Government of Indonesia, or it means that based on the BP2MI Regulation above, it is adjusted to the destination country where imposing social security protection for migrant workers does not need to require BPJS Employment, on the contrary, BPJS Employment is better given to PMI placed in countries that do not accommodate social security for

migrant workers. PMI Hong Kong believes BPJS Employment is more feasible to apply to places or placement countries or PMI destination countries, such as Macau.

The relationship between PMI and the employer (employer) in the country of placement automatically gives rise to rights and obligations; one of the rights that arise for PMI is the right to get social security.¹²² The Consulate General of the Republic of Indonesia (KJRI) requires the purchase of insurance at least 2 (two) months early from the end of the visa, must include employment contract approval insurance, in addition to insurance, must also sign a Letter of Application / Guarantee Letter which is charged to the employer for accommodation and treatment if the worker is chronically or acutely ill. PMI placement in Hong Kong has benefited from insurance provided by employers in Hong Kong and feels that it does not need BPJS Employment; PMI Hong Kong requests that the Government of Indonesia does not need to require all administrative matters by including the requirements for BPJS Employment registration for PMI Hong Kong.

The juridical perspective should be social security or BPJS Employment intended for PMI, not PMI, who pays. Article 30, paragraph (1) of Law No.18/2017, amended in Law No.6/2023, reads, "Indonesian Migrant Workers cannot be charged placement fees." The above content is in line with Article 3 of the Regulation of the Indonesian Migrant Workers Protection Agency of the Republic of Indonesia Number 9 of 2020 concerning the Exemption of Placement Fees for Indonesian Migrant Workers, which reads, "Indonesian Migrant Workers cannot be charged placement fees," continued Paragraph (2) Placement fees as referred to in Paragraph (1), one of which is related to PMI social security. The content of the above

¹²² Rosi Oktari, "Strengthening the Protection and Social Security Aspects of Migrant Workers," Indonesia Baik.id, 2021, <https://indonesiabaik.id/videografis/perkuat-cepat-pelindungan-dan-jamsos-pekerja-migrant>.

regulation related to placement fees contradicts the provisions for social security payment costs contained in Permenaker No.4/2023.

Social security is one of the human rights of Indonesian citizens contained in Article 28 H of the 1945 Constitution, which reads, "Everyone has the right to social security that allows their full development as a useful human being." The mandate of the article above emphasizes that social security is entitled to everyone, including migrant workers. PMI, as the country's foreign exchange hero, should get extra protection related to social protection.

CONCLUSION

The presence of Minister of Manpower Regulation No. 4/2023 there are several additional social security benefits in the context of protection and services for PMI from social or bad risks that occur during the period of work in the country of placement, starting from work accidents, death and old age. After Minister of Manpower Regulation No.4/2023, it turns out that there is still no solution related to increasing participation in BPJS Employment PMI for Hong Kong placement. PMI placement in Hong Kong is more comfortable using insurance provided by the employer or employer, rather than BPJS Employment which is administered by the Indonesian Government. According to PMI's Hong Kong placement, Minister of Manpower Regulation No. 4 of 2023 which requires PMI to register for social security is contrary to Article 9 letter d of the Indonesian Migrant Worker Protection Agency Regulation of the Republic of Indonesia Number 5 of 2022 concerning Amendments to the Regulation of the Indonesian Migrant Worker Protection Agency Number 1 of 2020 concerning Standards, Signing and Verification of Work Agreements for Indonesian Migrant Workers, which states, "The extension of the Work Agreement as intended in Article 8 must meet the requirements: d. must extend social security, employment

social security, and/or insurance in accordance with the extension period of the Employment Agreement." In this article, the social security provided is an option or there is no obligation for PMI to participate in BPJS Employment. PMI for placement in Hong Kong hopes that the Indonesian government does not need to require BPJS Employment registration, because the one who knows about the conditions in Hong Kong is PMI, so BPJS Employment should only be an option.

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**“EXAMINING THE ROLE OF BPJS EMPLOYMENT
INDONESIA IN ENSURING SOCIAL SECURITY
FOR MIGRANT WORKERS IN HONG KONG”**

EXAMINING THE ROLE OF BPJS EMPLOYMENT INDONESIA IN ENSURING SOCIAL SECURITY FOR MIGRANT WORKERS IN HONG KONG

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ABSTRACT

The results of the National Social Security Council report in 2022 stated that 67.7% of PMI who worked abroad were not registered as BPJS Employment participants, meaning that this report shows the ineffectiveness of Ministerial Regulation of the Republic of Indonesia Number 18 of 2018. In fact, social security is a form of protection for Indonesian Migrant Workers. Overcoming the ineffectiveness of the Minister of Manpower Regulation, the Indonesian Government revised the Regulation in 2023 to increase social security benefits for Indonesian Migrant Workers, becoming Minister of Manpower Regulation Number 4 of 2023. The aim of this research is to determine the implementation of Minister of Manpower Regulation Number 4 of 2023 and the obstacles to its implementation. in Hong Kong. This type of research is empirical juridical using primary data and secondary data. The conclusion drawing technique used is deductive. The population and respondents in this study were Indonesian Migrant Workers placed in Hong Kong. The results of this research show that PMIs placed in Hong Kong after Minister of Manpower Regulation Number 4 of 2023 are still less interested in registering for Social Security from the Indonesian Government and Indonesian Migrant Workers are not willing to be required to register for social security provided by the Indonesian Government. This is because there are conflicting government regulations and Indonesian Migrant Workers in Hong Kong are more comfortable using insurance provided by their employers, so Indonesian Migrant Workers hope that BPJS Employment does not need to be mandatory.

Keywords: Social_Security; Indonesian_Migrant_Workers; Hong_Kong

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INTRODUCTION

The fifth precept of Pancasila emphasizes social justice for all Indonesian people, which, in this case, is the state's responsibility to realize justice in various matters for all Indonesian people. One of the social justices that all Indonesians deserve is to get a job, as mandated by Article 27 Paragraph (2) of the 1945 Constitution, which reads, "Every citizen has the right to work and a decent living for humanity. The mandate of the 1945 Constitution is, in fact, only a few Indonesian citizens who still need help finding work.¹

The difficulty of finding work in one's own country is due, among other things, to the fact that the number of jobs available is not comparable to the domestic workforce², natural factors of a region also affect livelihoods, uneven development between regions, low levels of education, and increasing economic needs, this is what encourages Indonesian citizens to choose to work in other countries or become Indonesian Migrant Workers (PMI).³ In addition to the above factors, the difference in economic growth between countries also greatly influences citizens to choose to work in other countries.⁴

PMI at the juridical level, Article 1 point 2 of Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers (Law No. 18/2017), which has been amended in Law Number 6 of 2023 concerning the Stipulation of Government Regulations instead of Law Number 2 of 2022 concerning Job Creation into Law (Law No. 6/2023) reads, "Indonesian Migrant Workers are every Indonesian citizen who will, or has done work by receiving wages outside the territory of the Republic of Indonesia."

¹ Sri Rahmany, "Analisis Faktor-Faktor Yang Mempengaruhi Tenaga Kerja Bekerja Di Luar Negeri Serta Implikasi Terhadap Kesejahteraan Keluarga Dilihat Dari Perspektif Islam," *IqtiSaduna* 7, no. 1 (2018): 51–73.

² Tri Sulistiyono et al., "Government Accountability Model for the Protection of Indonesian Migrant Workers in China," *Lex Scientia Law Review* 6, no. 1 (2022): 93–120, <https://doi.org/10.15294/lesrev.v6i1.55112>.

³ Anas Anwar Nasirin, "Profesionalisasi Buruh Migran Indonesia (BMI) Dalam Revolusi Industri 4.0," *Jurnal MSDA (Manajemen Sumber Daya Aparatur)* 8, no. 1 (2020): 39–50, <https://doi.org/10.33701/jmsda.v8i1.1174>.

⁴ Defi Ratna Putri and Anna Yulia Hartati, "Faktor Penyebab Meningkatnya Pekerja Migran Indonesia (PMI) Di Korea Selatan Tahun 2017 - 2018," *Kajian Hubungan Internasional* 1, no. 2 (2018): 308–32.

The Centenary Declaration for the Future of Work, adopted by the governments, employers and workers of the International Labour Organization's (ILO) 187 member States at the International Labour Conference in June 2019, provides a roadmap for a human-centred approach to the future of work, and recognizes the urgent need to enhance social protection systems to ensure universal access to adequate, comprehensive and sustainable social protection adapted to the world of work⁵

Based on data released by the Indonesian Migrant Workers Protection Agency (BP2MI) in July 2023, PMI placements over the past two years have increased over the past two years; this can be seen from July 2021, as many as 4,805 posts in July 2022, as many as 17,884 stations and in July 2023 recorded as many as 25,480 placements, bringing the total PMI placements from January to July 2023 PMI placements to 161,249 posts. In July, PMI placed in the formal sector reached 13,294 orders (52%), while the informal sector reached 12,186 stations (48%). The total number of legal sector placements went to 90,625 posts from January to July, and the informal sector had 70,624 orders.

Data from BP2MI by region, PMI placement from January to July 2023, the number of PMI working in Asia and Africa Region is 150,790 PMI, followed by PMI in Europe and the Middle East Region reaching 9,491 and the Americas and Pacific Region 968. Based on the country for July 2023, the PMI in Taiwan went 7,778 placements, Hong Kong earned 7,248 posts, and Malaysia 6,294 stations. In addition to these three countries, South Korea is a PMI placement country, reaching 874 placements, Japan with 769 orders, Singapore with 645 posts, and Saudi Arabia with 427 stations in July 2023.

One of the favorite destinations for migrant workers to work is Hong Kong.⁶ Data from BP2MI Hong Kong, in the last two years, the placement of PMI to Hong Kong in December 2021 was 4220 (61.5%) or Hong Kong ranks first in PMI destinations, based on BP2MI data released in November 2022, from January to November 2022 the total PMI in placement in Hong Kong reached 54,691 or Hong Kong ranks

⁵ Christina Behrendt, Quynh Anh Nguyen, and Uma Rani, "Social Protection System and the Future of Work: Ensuring Social Security for Digital Platform Workers," *International Social Security Review* 72, no. 3 (2019).

⁶ Isna Rifka, "5 Negara Jadi Tujuan TKI Terbanyak," *Kompas.Com*, 2021, <https://money.kompas.com/read/2021/12/06/174759226/5-negara-jadi-tujuan-tki-terbanyak?page=all>.

first with the most PMI placements, while based on data released in July 2023, from January to July the number of PMI placements in Hong Kong reached 40,887 and this places Hong Kong as the third most destination for PMI placements.

The data above explains that only some Indonesian citizens work abroad, especially in Hong Kong. Not without reason, PMI has to work in Hong Kong, one of which is based on the amount of salary that PMI can receive.⁷ Another factor is that the Hong Kong Government protects foreign nationals working in Hong Kong.⁸

Indonesian citizens who work in Hong Kong and other countries not only have an impact on themselves but also have an impact or benefit on the country because every year, they contribute 159 trillion to the country's foreign exchange after the oil and gas sector and above the tourism sector.⁹ Foreign exchange contributed by PMI every year is a driver of the pace of the domestic economy.¹⁰ Seeing the contribution of Indonesian migrant workers to the country is extraordinary, comparable to the risks that endanger migrant workers (torture, harassment, or murder) that can occur to migrant workers working abroad.¹¹ Migrant workers can experience risks that may be bad, so migrant workers need to get extra attention from the Government of Indonesia to ensure the human rights (HAM) of migrant workers are still fulfilled while working abroad, considering that

⁷ Safyra Primadhyta, "Ketika Gaji Tinggi Pikat Hati Buruh Migran Kerja Di Hong Kong," *CNN Indonesia*, 2019, <https://www.cnnindonesia.com/ekonomi/20190204171648-92-366435/ketika-gaji-tinggi-pikat-hati-buruh-migran-kerja-di-hong-kong>.

⁸ Fithriatus Shalihah, Norma Sari, and Rosyidah, "Seminar Nasional Hasil Pengabdian Kepada Masyarakat," in *Seminar Nasional Pengabdian Kepada Masyarakat*, 2022, 1012–13, <https://ojs.unm.ac.id/semnaslpm/article/view/18284>.

⁹ Titis Anis Fauziah, "Pekerja Migran Indonesia Jadi Penyumbang Devisa Terbesar Kedua Rp 159 Triliun, Kepala BP2MI Ingatkan Pejabat Untuk Tidak Sombong," *Kompas.Com*, 2023, <https://regional.kompas.com/read/2023/01/23/093211978/pekerja-migran-indonesia-jadi-penyumbang-devisa-terbesar-kedua-rp-159>.

¹⁰ Aswatini, "Pekerja Migran Indonesia (PMI): Peran Dan Kontribusi Dalam Pengembangan Pariwisata Di Daerah Asal," *Badan Riset Dan Inovasi Nasional*, 2023, <https://kependudukan.brin.go.id/kajian-kependudukan/migrasi-penduduk/purna-pekerja-migran-indonesia-pmi-peranan-dan-kontribusi-dalam-pengembangan-pariwisata-di-daerah-asal/>.

¹¹ Endang Nurdin, "Pekerja Migran Indonesia Yang Selamat Dari 'Neraka' Di Malaysia: 'Mengapa Siksa Saya?'," *BBC News Indonesia*, 2023, <https://www.bbc.com/indonesia/dunia>.

migrant workers must adapt to differences in climate, work ethic, work rules, cultural and language backgrounds.¹² All efforts to guarantee the rights of migrant workers must be pursued by the Government of Indonesia, especially in providing social security for migrant workers.¹³

According to Article 1 number 18 of Law No. 18/2017, amended in Law No. 6/2023, social security reads, "Social Security is a form of social protection to guarantee all people to be able to meet the basic needs of a decent life." The meaning of the entire article above also includes PMI to be able to access social security organized by the Government of Indonesia.¹⁴ The implementation of social security for prospective migrant workers and migrant workers who will work or have worked in the placement country is a form of state protection against migrant workers.¹⁵

The mandate of Article 1 number 8 of Law No. 18/2017 is not the reality for PMI; in the middle of last year or precisely in 2022, the National Social Security Council (DJSN) released a report containing data on 6.09 million PMI or as many as 67.7% of PMI have not registered with the Social Security Organizing Agency (BPJS) Employment.¹⁶ Social security is a front line to protect migrant workers who work abroad, because of the dire risks that may occur or be experienced by migrant workers, especially during the placement period to work, so it is necessary to get protection through social security.¹⁷

Previously, there was a Regulation of the Minister of Manpower of the Republic of Indonesia Number 18 of 2018 concerning

¹² I Nyoman Bagus Siddhanta Zulfiandi, Franciscus Anton Wirawan, Nikhen Pratiwi Sekar Tanjung, Roselina Yolanda, M. Zaini, Devi Andrian, Khairina Syafitri, Gilang Amaldi, *Ketenagakerjaan Dalam Data*, ed. Franciscus Anton Wirawan Zulfiandi, *Occupational Therapy: The Official Journal of the Association of Occupational Therapists*, 4th ed., vol. 20 (Jakarta: Pusat Data dan Teknologi Informasi Ketenagakerjaan, 2021), <https://doi.org/10.1177/030802265702001214>.

¹³ Lalu Adi Adha, Zaeni Asyhadie, and Rahmawati Kusuma, "Kebijakan Jaminan Sosial Pekerja Migran Indonesia," *Jurnal Risalah Kenotariatan* 1, no. 2 (2020), <https://doi.org/10.29303/risalahkenotariatan.v1i2.13>.

¹⁴ Sony Mardiyanto Timboel Siregar, Indra Munawar, German E. Agent, "Upaya Peningkatan Kepesertaan Dan Manfaat Jaminan Sosial Ketenagakerjaan" (Jakarta, 2020).

¹⁵ Timboel Siregal, Indra Munaswar, German E. Angent.

¹⁶ Lailatul Anisah, "Penyebab Banyak PMI Belum Mendaftarkan Ke BPJS Ketenagakerjaan," *Kontan.co.id*, 2022, <https://nasional.kontan.co.id/>.

¹⁷ Timboel Siregar, Indra Munawar, German E. Agent, "Upaya Peningkatan Kepesertaan Dan Manfaat Jaminan Sosial Ketenagakerjaan."

Social Security for Indonesian Migrant Workers (Permenaker RI No. 18/2018), the existence of this regulation and then based on data from the DJSN made the Ministry of Manpower revise social security regulations for migrant workers, to increase social security benefits for migrant workers, both before leaving, when migrant workers work abroad and after work, as stated in the Regulation of the Minister of Manpower Number 4 of 2023 (Permenaker No. 4/2023). Then, after the emergence of this latest regulation, it is necessary to see the impact on migrant workers working in Hong Kong related to access to employment security.

The problem of social security for PMI is caused by low data on PMI who register as social security participants; this is a severe problem that needs to be considered by the Government of Indonesia, especially PMI who work in Hong Kong, so it is interesting to study, as for the formulation of the problem, namely:

1. What is the latest social security regulation for migrant workers after the emergence of the Minister of Manpower Regulation Number 4 of 2023 concerning Social Security for Indonesian Migrant Workers?
2. How is the implementation of social security for migrant workers placed in Hong Kong after the emergence of Minister of Manpower Regulation Number 4 of 2023 concerning Social Security for Indonesian Migrant Workers?

The purpose of the study is to analyze and find out the implementation of social security for Hong Kong placement migrant workers after the emergence of the Minister of Manpower Regulation Number 4 of 2023 concerning Social Security for Indonesian Migrant Workers.

The research method used is qualitative, with an empirical juridical research type. This research is located in Hong Kong, China, with data collection methods through literature studies and interviews with PMI placement in Hong Kong. This research uses qualitative analysis, which, after obtaining data, is analyzed to find the bright spots of the problem under study. The conclusion of this study is to use the deductive method. The deductive method is a method of concluding from general to specific.

A. The Latest Regulation of Social Security for Indonesian Migrant Workers

Protecting prospective migrant workers is to ensure the fulfillment and enforcement of human rights as citizens and migrant workers and to ensure the legal, economic, social, and family protection of migrant workers.¹⁸ PMI who work abroad have the right to receive legal protection by the state from all forms of acts such as forced labor, human trafficking, slavery, violence, harassment and all acts that are contrary to human rights.¹⁹ In the opinion of Philipus M. Hadjon, legal protection involves the recognition of human rights owned by individuals in society. There are two legal protections, according to Philipus M. Hadjon, including preventive and repressive. Preventive legal protection is legal protection that focuses on efforts to prevent violations and efforts to provide limits in carrying out an obligation. In contrast, repressive legal protection (coercion) emphasizes efforts to solve problems.²⁰ Legal protection the state provides for migrant workers includes protection before, during, and after work. Forms of legal protection for prospective migrant workers include:

- 1). PMI can only work in destination countries that have regulations that protect foreign workers, have a written agreement with the Government of Indonesia, and have a social security or insurance system that can defend foreign workers;
- 2). The central government stops and prohibits the placement of migrant workers in certain countries or positions abroad for reasons, considerations of human rights,

¹⁸ Erna Ratnaningsih, "Paradigma Baru Perlindungan Pekerja Migran Indonesia," Bina Nusantara, 2017, <https://business-law.binus.ac.id/2017/12/31/paradigma-baru-perlindungan-pekerja-migran-indonesia/>.

¹⁹ Wayne Palmer and Antje Missbach, "Enforcing Labour Rights of Irregular Migrants in Indonesia," *Third World Quarterly* 40, no. 5 (2019): 908–25, <https://doi.org/10.1080/01436597.2018.1522586>.

²⁰ Philipus M. Hadjon, *Perlindungan Hukum Bagi Rakyat Indonesia* (Surabaya: PT Bina Ilmu, 1987).

security, employment opportunities, and the availability of labor by national needs;

- 3). The government, in stopping and prohibiting the placement of migrant workers, needs to pay attention to considerations and suggestions from several parties and
- 4). The central government sets assignments in certain countries or specific positions.

Social protection for PMI or PMI candidates includes improving the quality of education and training by work standards, increasing the role of accreditation and certification bodies, competent education personnel and trainers, skill improvement services, protection policies for women and children, and the existence of PMI protection centers in PMI placement countries.

Economic protection for PMI and PMI candidates is provided by the central government and local governments by the authority through:

- 1). Money transfer management involving banking or domestic non-bank financial institutions and Country of placement;
- 2). Financial education for migrant workers and families can process the results of Transfer Management and
- 3). Entrepreneurship education.

Thus, regarding social protection arrangements regulated in Law No. 18/2017, Article 35 states further provisions regarding legal protection, social protection, and economic protection for prospective migrant workers and migrant workers. Meanwhile, family protection is included in one of the objectives of PMI protection in Article 3 of Law No. 18/2017. In Law No. 18/20217, PMI family means husband, wife, children, and parents (who have a relationship through determination and decided by the court), whether they are in Indonesian territory or live abroad with PMI.

In addition to legal protection, social protection, economic protection, and family protection of migrant workers, or the protection in Law No. 18/2017, it is also necessary to quote the opinion of Imam Soepomo about worker protection. According to

Imam Soepomo,²¹ Worker protection includes 3 (three) things, including economic protection, social protection and technical protection. Economic protection is protection related to providing decent wages for PMI in accordance with standards, social protection is protection for PMI related to social security, and technical protection includes work safety protection from the worst possible risks while working.²²

All of the above protections are very important for prospective migrant workers and migrant workers who work abroad. Currently, researchers focus on social protection for migrant workers who work abroad, which is related to social security. Social security is essential for migrant workers during the placement period in the placement country if migrant workers experience bad things during work. Based on Lalu Husni's opinion, social security is distinguished in a narrow and broad sense. In a bit of understanding, social security deals with social assistance and insurance in employment protection. The definition of social security broadly includes prevention and development, recovery and healing, and punishment.

The International Covenant on Economic, Social, and Cultural Rights (ICESC) (1966), together with the Universal Declaration of Human Rights (1948) and the International Convention on Civil and Political Rights (1966), make up the International Bill of Human Rights. The Covenants recognize “independent human rights to enjoy civil and political freedom and freedom from fear and human rights to freedom to engage in politics, as well as economic, social and cultural rights.” All peoples have the right to self-determination, including the right to determine their political status and freely pursue economic, social, and cultural development”. One of the economic rights is the right to work, and everyone has the right to just conditions of work: fair wages ensuring a decent living for himself and his family; equal pay for equal work; safe and healthy working conditions; equal opportunity for everyone to be promoted;

²¹ Fithriatus Shalihah and Retno Damarina, “The Urgency of Legal Certainty in the Protection of Domestic Workers in Indonesia: A Study in Yogyakarta City,” 2022, <https://doi.org/10.4108/eai.18-9-2022.2326039>.

²² Ngabidin Nurcahyo, “Perlindungan Hukum Tenaga Kerja Berdasarkan Peraturan Perundang-Undangan Di Indonesia,” *Jurnal Cakrawala Hukum* 12, no. 1 (2021): 69–78, <https://doi.org/10.26905/idjch.v12i1.5781>.

rest and leisure.²³ Everyone, regardless of citizenship, is entitled to social security, including social insurance; unqualified workers, especially migrant workers in other countries, are also entitled to social security.

The Government of Indonesia ratified the international convention on the *International Covenant on Economic, Social, and Cultural Rights* (ICESCR) on September 30, 2005, into Law Number 11 of 2005 concerning the ratification of the ICESCR or the *International Covenant on Economic, Social and Cultural Rights*. The ratification carried out by the Government of Indonesia has consequences for the protection and respect of human rights, or it can be said that the Government of Indonesia is obliged to carry out the contents of the ICESCR to all citizens in the life of the nation and state.²⁴ The intended citizen can also be interpreted as an Indonesian citizen living in Indonesian territory, including Indonesian citizens working abroad or PMI.

In addition to Indonesia ratifying ICESCR as a country that upholds human rights, Indonesia is also one of the ILO members and also adopted the *International Convention on the Protection of the Rights of Migrant Workers and Members of Their Family* (*Protection of the Rights of All Migrant Workers and Family Members*) by ratifying it into Law of the Republic of Indonesia Number 6 of 2012 concerning Ratification of the *International Convention of the Protection of the Rights of Migrant Workers and Members of Their Family*.²⁵

Article 27 in the *International Convention of The Protection of the Rights of Migrant Workers and Members of Their Family* Also contains related to social security. Article 27, paragraph (1) of the *International Convention of the Protection of the Rights of Migrant Workers and*

²³ Council of Europe Portal, *International Covenant on Economic, Social and Cultural Rights*, COUNCIL OF EUROPE PORTAL, 15 September 2023.

²⁴ DPR RI dan Presiden RI, *Pengesahan International Covenant Economic, Social, and Cultural Rights (Kovenan Internasional Tentang Hak-Hak Ekonomi, Sosial Dan Budaya, (2005)*, <https://peraturan.bpk.go.id/Details/40256/uu-no-11-tahun-2005>.

²⁵ DPR RI dan Presiden Republik Indonesia, *Pengesahan International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Konvensi Internasional Mengenai Perlindungan Hak-Hak Seluruh Pekerja Migran Dan Anggota Keluarganya)*, PERATURAN BPK RI 1 (2012), <https://peraturan.bpk.go.id>.

Members of Their Family states, "About social security, migrant workers and members of their families shall enjoy the same treatment as citizens of the State of employment, provided that they meet the requirements established by the provisions of the law in force in that country and the applicable bilateral and multilateral agreements. Officials in the authorities of the country of origin and destination of work may make the necessary arrangements to determine the procedures for implementing this norm". In the content of the article above, it can be interpreted that every migrant worker working in the country of placement is also entitled to social security organized by the government of post for citizens, countries of order, or it can be said that migrant workers in the country of station also have the same rights related to social security in the land of placement of migrant workers.

Article 27(2) of the International Convention of the Protection of the *Rights of Migrant Workers and Members of Their Family* states, "Where applicable legal provisions do not provide benefits to migrant workers and members of their families, States concerned shall seek the possibility of reimbursing the person concerned the number of contributions paid by them about such allowances as applied to citizens his country is in the same situation." *Migrant worker placement countries should seek other alternatives* if they do not have provisions related to social security for migrant workers or a middle way to provide social security for employed migrant workers.

Social security as a social policy is generally implemented in various forms of income benefits directly, which are inseparable from taxation policies and income maintenance. Social security also includes multiple schemes to improve access to essential social services. Social security in the form of income benefits can be called benefits in *cash*, while those in the form of assistance for goods or social services are called *benefits in kind*.²⁶

The international level of social security is regulated by the International Labour Organization (ILO) Convention Number 102 of 1952, in which everyone gets protection from the National Social Security System (SJSN). ILO Convention Number 102 contains at

²⁶ Akhmad Purnama, "Analisis Perlindungan Jaminan Sosial Bagi Pekerja Informal Analyze on Social Insurance and Protection of Informal Workers," *Jurnal PKS* 14, no. 2 (2014): 149–62.

least 9 (nine) minimum standards that must be implemented by the state in the social security program, including the following:

1. Work Accident Insurance (WAI) includes compensation for heirs due to death while working or while earning a living;
2. Service;
3. Provision of sick benefits to workers;
4. Old Age Guarantee (OAG);
5. Disability compensation;
6. Family benefits or services given to or in the case of children, food, clothing, vacation, or domestic assistance;
7. Care of pregnancy and childbirth (care for before and after birth);
8. Benefits for unemployment and
9. Compensation for heirs due to the worker's death will be given to the widow, spouse, or child of the deceased worker.

ILO is an international organization that focuses on productivity and economic growth. Social security's contribution to economic development through social stability and labor productivity.²⁷ ILO Convention 102 of 1952 on (Minimum Standards) Social Security also provides for equal treatment of foreign nationals, health services, sickness benefits, unemployment benefits, maternity benefits, disability benefits, heirs' benefits related to joint provisions, other provisions, and final provisions.

ILO mandate number 102 of 1952 concerning minimum social security standards for members of the organization to provide minimum protection to workers. Indonesia organizes the National Social Security System (SJNS).²⁸ This is what encourages the protection of human rights for migrant workers both in the form of

²⁷ ILO, "Evaluasi Dua Tahun Penerapan Jaminan Sosial Untuk Pekerja Dalam Era Digitalisasi," International Labour Organization, 20217, https://www.ilo.org/jakarta/info/public/pr/WCMS_574167/lang--en/index.htm.

²⁸ Hartini Retnaningsih, "Strategi Sistem Jaminan Sosial Nasional Bidang Ketenagakerjaan Dalam Upaya Perlindungan Pekerja Di Kota Surabaya Dan Kota Pekanbaru," *Aspirasi: Jurnal Masalah-Masalah Sosial* 7, no. 2 (2016): 157–72.

health insurance and in the condition of employment.²⁹ The Indonesian government also has SJSN, which is under the legal umbrella in Law No. 40 of 2004 concerning the National Social Security System (Law No. 40/2004), amended in Law No. 2/2020, then amended in Perpu No. 2/2022 and amended in Law No. 4 of 2023 concerning the Development and Strengthening of the Financial Sector (Law No. 4/2023). As long as the Law No. 40/2004 article is not amended, it remains valid.

Further provisions related to social security for PMI are contained in ministerial regulations. RI Minister of Manpower Regulation No. 18/2018, which has been revised to become Permenaker No.4/2023, is a ministerial regulation that regulates social security for PMI and PMI candidates. PMI and PMI candidates in this ministerial regulation are required to register for social security, there are two participation programs that PMI and PMI candidates must take part in, namely Work Accident Insurance (JKK) and Death Insurance (JKM), and there is a recommended program, namely the Day Guarantee program. Old (JHT).³⁰ JKK is regulated in Article 1 Number 8 of Permenaker No. 4/2023, which reads, "Work Accident Insurance herein after abbreviated as JKK is a benefit in the form of cash and health services provided when participants experience a Work Accident or illness caused by the work environment." JKM is contained in Article 1 number 9 of Permenaker No. 4/2018, which reads, "Death Insurance from now on abbreviated as JKM is a cash benefit given to heirs when participants die dimia not due to Work Accidents." JHT, according to Article 1 number 10 of Permenaker No. 4/2023 reads, "Old Age Insurance, here in after abbreviated as JHT, is a cash benefit paid at once when the

²⁹ Badan Pembinaan Hukum Nasional Kementerian Hukum dan Hak Asasi Manusia, *Laporan Akhir Analisis Dan Evaluasi Hukum Terkait Keimigrasian*, 2020.

³⁰ Istianah and Johanna Debora Imelda, "Social Protection Model for Female Indonesian Migrant Workers in Hong Kong," *Sosio Conceptia* 10, no. 2 (2021): 115, <https://doi.org/https://doi.org/10.33007/ska.v10i2.2222>.

participant completes the employment agreement and returns to Indonesia, dies, or experiences permanent total disability."

The presence of this Permenaker is a manifestation of legal certainty for PMI, whose substance in this Permenaker is the ideal of a law formed (swollen). *Still*, this ideal is different from the expectations of the law itself (*sein*).³¹ Similarly, Permenaker RI No. 18/2018 related to social security for migrant workers, the programs designed do not run properly; this is evidenced by the results of the DJSN report, which states that more than 50% of migrant workers working abroad are not registered in BPJS Employment participation.

The ineffectiveness of the social security program prompted the government to revise the Republic of Indonesia Minister of Manpower Regulation No. 18/2018 to increase social security benefits for PMI. The lack of effectiveness of RI Minister of Manpower Regulation No. 18/2018 can be seen in Hong Kong, on average PMIs in Hong Kong do not or have not registered for social security provided by the Indonesian Government for several reasons, including because PMIs feel that the social security provided by the Indonesian Government or BPJS Employment does not provide direct benefits to PMI.³² The purpose of not providing benefits BPJS Employment in Hong Kong cannot be claimed or used by migrant workers in Hong Kong; this makes PMI more comfortable using insurance provided by the Hong Kong Government. The Hong Kong PMI stated that before going to work in Hong Kong, PMI was required to register for BPJS Ketenagakerjaan, but when arriving in Hong Kong, PMI no longer extended its membership as a member of BPJS Ketenagakerjaan,

³¹ Fithriatus Shalihah and Retno Damarina, "Problem Hukum Dalam Perlindungan Pekerja Rumah Tangga Di Indonesia," *Jurnal Selat* 10, no. 2 (2023): 131–43, <https://doi.org/10.31629/selat.v10i2.5645>.

³² Nabiyla Risfa Izzati, "Indonesian Migrant Workers Protection through the Law Number 18 of 2017: New Direction and Its Implementation Challenges," *Padjadjaran Jurnal Ilmu Hukum* 6, no. 1 (2019): 190–210, <https://doi.org/10.22304/pjih.v6n1.a10>.

Hong Kong PMI service users or employers before hiring PMI must take care of insurance for PMI, this is also one of the factors PMI is reluctant to use BPJS Ketenagakerjaan.³³

In response to this, the Government of Indonesia quickly revised Permenaker RI No. 18/2018 to Permenaker No.4/2023 concerning Social Security for Indonesian Migrant Workers. This revision of the Permenaker is an immediate response from the Government of Indonesia to the reality of implementing social security for migrant workers; the existence of Permenaker No.4/2023, the government increases social security benefits.³⁴ The benefits contained in Permenaker No. 4 of 2023 become 21, which initially contained 14.³⁵ The seven new benefits are as follows:³⁶

First, if PMI experiences a work accident in the placement country, they will get medical reimbursement for work accidents of a maximum of Rp. 50 million. *Second*, *homecare* for 1 (one) year with a maximum cost that PMI can get Rp. 20 million. *Third*, PMI also receives a complete replacement of Rp. 2.5 million. *Fourth*, PMI gets a glasses replacement with a maximum cost of Rp. 1 million. *Fifth*, if there are migrant workers who get raped, they will get assistance of Rp. 50 million. *Sixth*, if PMI experiences unilateral termination of employment, PMI will get help from Rp. 1.5 million, and *seventh*, reimbursement of Rp. Twenty-five million if PMI gets placement not by the work agreement and reimbursement of transportation costs of a maximum of Rp. 15 million.

³³ Fithriatus Shalihah et al., *Efektivitas Peraturan Menteri Ketenagakerjaan Nomor 18 Tahun 2018 Dalam Penyelenggaraan Jaminan Sosial Bagi Pekerja Migran Indonesia*, in *Diskursus Hukum Ketenagakerjaan Di Indonesia* (Medan: USUPress, 2022): 267.

³⁴ Komisi IX, "Tambah Manfaat Sosial, Legislator Imbau Permenaker Jaminan Sosial PMI Disosialisasikan Secara Masif," *DPR.RI*, 2023, <https://www.dpr.go.id/berita/detail/id/43956/t/Tambah-Manfaat-Sosial-Legislator-Imbau-Permenaker-Jaminan-Sosial-PMI-Disosialisasikan-Secara-Masif>.

³⁵ Ady Thea DA, "Pemerintah Naikan Manfaat Jaminan Sosial Pekerja," *Hukumonline.Com*, 2023, <https://www.hukumonline.com/berita/a/pemerintah-naikan-manfaat-jaminan-sosial-pekerja-migran-lt6401c9d483a2f/>

³⁶ Erlang Satya Darmawan, "Permenaker Nomor 4 Tahun 2023 Diterbitkan, Jaminan Untuk PMI Resmi Bertambah," *Kompas.Com*, 2023, <https://www.kompas.com>

In addition to the seven benefits above, Permenaker No.4/2023 also provides nine additional benefits: if PMI dies, the family will get death compensation, compensation for PMI who experience permanent total disability, which is given periodically, compensation for failing to leave, compensation for failing to be placed, repatriation costs for PMI who have problems, repatriation costs given to PMI who have a work accident, denture replacement costs, and scholarships for PMI children.³⁷

The JHT program already exists in Permenaker RI No. 18/2018, but in Permenaker No. 4/2023, there is additional substance in implementing JHT social security. The number of benefits of the JHT program for prospective PMI or PMI is based on the accumulated value of all contributions deposited and the results of their development recorded in the individual accounts of JHT program participants. The story of the importance of JHT program benefits can continue after participants (PMI) terminate the employment agreement, and the help of the JHT program has yet to be paid at once. Related to JHT benefits, it can be given to prospective PMI or PMI if they have entered retirement age, died, or experienced permanent total disability. Regarding the retirement age intended by this latest ministerial regulation, entering the age of 56 (fifty-six) years, PMI candidates who fail to leave are placed in the destination country or stop working. The meaning of PMI that fails to be placed in the destination country or stops working in Permenaker No.4 of 2023 consists of the end of work time stated in the work agreement, experiencing layoffs, PMI resigning, or PMI becoming a foreign national. JHT program participants in preparation for entering retirement, JHT benefits can be partially disbursed to a specific limit if participants have a membership period of at least 10 (ten) years,

³⁷ Eqqi Syahputra, "Menaker Terbitkan Permenaker Baru Tentang Jaminan Sosial PMI," *CNBC.Indonesia*, 2023, <https://www.cnbcindonesia.com/news/20230303160955-4-418700/menaker-terbitkan-permenaker-baru-tentang-jaminan-sosial-pmi>

that is, at most 30% of the amount of JHT, for home ownership or 10% of the amount of JHT for other purposes according to the need to enter retirement age.

The contribution section and payment method contained in Article 18 of Permenaker No. 4 of 2023, all of the above benefits can be obtained if migrant workers pay contributions by the latest regulation.³⁸ Article 18 of Permenaker No.4/2023 reads:

- 1). Payment of JKK and JKM program contributions for prospective Indonesian Migrant Workers through the Placement Implementer is carried out in stages, provided that:
 - a. protection fee before employment is paid in the amount of Rp37,500.00 (thirty-seven thousand five hundred rupiah); and
 - b. Protection contributions during work and after engagement are paid according to the terms of the employment agreement as follows:
 1. for 24 (twenty-four) months amounting to Rp 332,500.00 (three hundred thirty-two thousand five hundred rupiah);
 2. for 12 (twelve) months amounting to Rp189,000.00 (one hundred eighty-nine thousand rupiah), or
 3. for 6 (six) months amounting to Rp108,000.00 (one hundred eight thousand rupiah);.
- 2). Payment of JKK and JKM program contributions for protection during work and after work for Individual Indonesian Migrant Workers is made at once according to the terms of the work agreement as follows:
 - a. for 24 (twenty-four) months amounting to Rp 332,500.00 (three hundred thirty-two thousand five hundred rupiahs);

³⁸ Erdy Nasrul, "Menaker Dukung Peningkatan Jaminan Sosial Ketenagakerjaan Untuk PMI," *Republika*, 2023, <https://news.republika.co.id/berita/s06iz2451/menaker-dukung-peningkatan-jaminan-sosial-ketenagakerjaan-untuk-pmi>

- b. for 12 (twelve) months amounting to Rp189,000.00 (one hundred eighty-nine thousand rupiah), or
- c. for 6 (six) months amounting to Rp108,000.00 (one hundred eight thousand rupiah);).

If the employment agreement exceeds the period in Article 1 point b above and Paragraph (2), the payment of JKK and JKM social security program contributions will be charged at 13,500 (thirteen thousand five hundred rupiah) every month and paid according to the excess work agreement period.

Claims for work accident insurance for PMI protection during work, according to Permenaker No.4/2023, include the following:

- 1) Reports of work accidents and PMI experiencing work accidents, including acts of physical violence in the placement country, are made using the PMI work accident case report form contained in BPJS Employment regulations and attaching several documents, including:
 - a) BPJS Employment participant card;
 - b) Passport;
 - c) Certificate from employer, Representative of the Republic of Indonesia, Indonesian Trade and Economic Office (ITEO) or government agencies related to employment;
 - d) Medical diagnosis certificate from a hospital or health facility in the PMI placement country;
 - e) Transportation costs in the country of placement;
 - f) A savings account in the name of PMI or another party's account that pays first and

- g) Evidence or other documents related to PMI's work accidents.
- 2). If the cost of treatment and treatment exceeds Benefit limits from social security and insurance in The country you're placing in needs to include: Documents, including the following:
 - a). Certificate from insurance at PMI placement countries or government agencies that carry out affairs in the field of labor regarding the amount of reimbursement of medical expenses or treatment that have been paid in the event of a payment dispute;
 - b). Proof of payment for PMI treatment or treatment from the hospital or other health facilities in the PMI placement country; and
 - c). a savings account in the name of the party who first paid for the treatment or treatment.
- 3). If PMI dies due to a work accident, it is necessary to attach the following documents:
 - a) Identity card or other proof of identity of the heir;
 - b) PMI family card and PMI heirs;
 - c) Death certificate from a doctor or authorized official;
 - d) Certificate of heirs from the authorized official; and
 - e) savings account in the name of the legal beneficiary.

- 4). A report to obtain reimbursement of transportation costs for the repatriation of Indonesian Migrant Workers who have a Work Accident with a non-deceased condition from the destination country of placement to the area of origin is made using the benefit application form as stipulated in the BPJS Employment regulations and attaching documents:
 - a. BPJS Employment Participant Card;
 - b. Passport;
 - c. Certificate from the employer, Representative of the Republic of Indonesia, KDEI, or agency that organizes government affairs in the field of labor;
 - d. Receipt of payment of transportation costs and air tickets or other transportation from the destination country of placement to the area of origin; and
 - e. Savings account in the name of an Indonesian Migrant Worker.
- 5). Report to get cost assistance ranging from reimbursement of repatriation costs of problematic PMI, transportation for repatriation who have a work accident, PMI who are at risk of failure in placement because it is not PMI's fault, money assistance, and transportation replacement for the installation of PMI that is placed not as in the work agreement, PMI who are laid off due to work accidents, unilateral layoffs received by PMI are not due to work accidents, and JKK program reports for PMI who experience work accidents when PMI returns to the country of origin

and returns to the land of placement, need to attach documents :

- a. BPJS Employment PMI participant card;
- b. Passport
- c. Certificate from the employer, Representative of the Republic of Indonesia, KDEI, or agencies that carry out government affairs in the field of labor stating what PMI experienced;
- d. Savings account in the name of an Indonesian Migrant Worker.
- e. Work or placement agreement (reimbursement of transportation costs for problematic repatriation, PMI who is at risk of failure of placement due to PMI's fault, money assistance and transportation reimbursement for the installation of PMI placed not as in the work agreement);
- f. Receipt of payment of transportation costs and airline tickets or other transportation starting from the country of placement to the area of origin of PMI (reimbursement of transportation costs for problematic repatriation, PMI who are at risk of failure of order due to PMI's fault, financial

assistance and transportation reimbursement for the installation of PMI placed not as in the employment agreement);

- g. Payment receipts or other documents related to work accidents (JKK program for migrant workers who experience work accidents when PMI returns to their home country and returns to the placement country).

6). Reports that PMI can make if PMI is proven to have experienced rape to be able to get financial assistance from BPJS Employment benefits, PMI needs to attach documents:

- a. BPJS Employment PMI Participant Card;
- b. Passport;
- c. Letter of results of *visum et reported* examination from a doctor;
- d. Certificate of Representative of the Republic of Indonesia, Indonesian Trade and Economic Office (KDEI), or government agencies related to the field of employment;
- e. Savings account in the name of an Indonesian Migrant Worker.

The increase in Permenaker No.4/2023 benefits is not accompanied by an increase in social security program contributions, and this social security program if PMI and PMI candidates register for the JKK program for the claim expiration time to be extended to 5 years, which was initially only two years. After the issuance of Permenaker No.4/2023, the government contains

benefits that can improve quality and quantity and is accompanied by no increase in contributions that PMI must pay.³⁹

In some of the descriptions of the contents of Permenaker No. 4/2023 above, a novelty is intended for PMI and PMI candidates to register to become BPJS Employment participants. Permenaker No. 4/2023 as a replacement for Permenaker RI No. 18/2018, which is considered no longer by the needs and legal developments; therefore, the presence of Permenaker No. 4/2023 is a manifestation of the presence of the state to protect prospective migrant workers and migrant workers.⁴⁰ Maximum protection for migrant workers is needed by migrant workers, considering that migrant workers are vulnerable to various human rights violations, such as physical violence, verbal violence, human trafficking, and other crimes.⁴¹ Minister of Manpower of the Republic of Indonesia, Ida Fauziah, said that the Government of Indonesia has a serious commitment to protect migrant workers, considering the challenges and work environment of migrant workers require extra attention and complexity of problems due to differences in the way of working between countries.⁴²

³⁹ Tim TVOne, "Kemnaker: Iuran Tetap, Manfaat Meningkatkan," *Tvonenews.Com*, 2023, <https://www.tvonenews.com/berita/nasional/106548-sosialisasi-permenaker-nomor-4-tahun-2023-kemnaker-iuran-tetap-manfaat-meningkat?page=3>.

⁴⁰ Kementerian Ketenagakerjaan Republik Indonesia, "Menaker Terbitkan Permenaker Baru Tentang Jaminan Sosial Pekerja Migran Indonesia," *Indonesia, Kementerian Ketenagakerjaan Republik*, 2023, <https://kemnaker.go.id/news/detail/menaker-terbitkan-permenaker-baru-tentang-jaminan-sosial-pekerja-migran-indonesia>

⁴¹ Teddy Unggik, "Sosialisasi Permenaker 4/2023, Kemnaker: Iuran Tetap, Manfaat Meningkatkan," *Progresnews.Info*, 2023, <http://progresnews.info/2023/03/10/sosialisasi-permenaker-42023-kemnaker-iuran-tetap-manfaat-meningkat/>

⁴² Nasrul, "Menaker Dukung Peningkatan Jaminan Sosial Ketenagakerjaan Untuk PMI,."

B. Implementation of Social Security for PMI Placement in Hong Kong After the Emergence of Minister of Manpower Regulation Number 4 of 2023 concerning Social Security for Indonesian Migrant Workers

Hong Kong in 1997 was ceded by the United Kingdom to China, from which Hong Kong became an administrative territory of China.⁴³ Hong Kong, because it is considered a particular administrative region of China in terms of foreign affairs and defense, is not liberated by China, so Hong Kong does not have an army. Still, Hong Kong has its government, flag, and currency. Apart from political and defense matters, Hong Kong is experiencing high economic progress or growth; this makes Hong Kong not underestimated economically even though it is only an administrative region by other countries. In 2021, Hong Kong reported that Hong Kong's economic growth reached 7.8%.⁴⁴ Hong Kong's local population is preoccupied with public affairs, so they do not have time to take care of household affairs, so Hong Kong needs foreign workers to do informal work.⁴⁵ It is natural that Hong Kong needs foreign workers, which is a factor in PMI working in Hong Kong.⁴⁶

In addition to the relatively significant salary factor working in Hong Kong, another factor that makes PMI work a lot in Hong Kong is that the Hong Kong Government pays attention to, respects,

⁴³ Kompas.com, "Apa Bedanya China, Taiwan, Hong Kong, Dan Macau?," *Kompas.Com*, 2021. <https://www.kompas.com/stori/read/2021/09/20/140000279/apa-bedanya-china-taiwan-hong-kong-dan-macau?page=all>

⁴⁴ Mita Noveria and Haning Romdiati, "Pandemi Covid-19 Dan Dampak Ekonomi Pada Pekerja Migran Indonesia Dan Keluarganya: Sebuah Kajian Pustaka," *Jurnal Ekonomi Dan Kebijakan Publik* 13, no. 1 (2022): 71–84, <https://doi.org/10.22212/jekp.v13i1.1947>.

⁴⁵ World Bank Group, "Pekerja Global Indonesia, Antara Peluang & Risiko," Laporan Bank Indonesia, 2017, <https://thedocs.worldbank.org>.

⁴⁶ Handoyo, "Kemenaker : Jumlah Terbanyak PMI Di Hongkong, Taiwan Dan Malaysia," *Kontan.Nasional*, 2022, <https://nasional.kontan.co.id/news/kemnaker-jumlah-terbanyak-pmi-berada-di-hongkong-taiwan-dan-malaysia>.

and protects the human rights of foreign workers.⁴⁷ The Hong Kong Government has an *Employment Ordinance* ("EO"); in the EO, special rules protect migrant workers.⁴⁸ Regarding work safety, the Hong Kong Government is considered to be able to guarantee human rights; besides that, violence or discrimination in Hong Kong against migrant workers is relatively less than in other migrant worker placement countries.⁴⁹

Australia, Japan, Hong Kong, and Singapore all reported their first COVID-19 cases in January 2020.⁵⁰ By April 26, 2020, the end of the study period, Australia reported 6714 cases and 83 deaths, with the number of cases reported per day peaking at 500 on March 28. Japan reported 13,441 cases and 372 deaths. Its epidemic peaked on April 17, with 1161 cases reported. Hong Kong reported 1037 cases and four deaths, with the epidemic peaking with 80 cases reported on March 29. Singapore reported 13,624 cases and 12 deaths, with the number of cases reported per day peaking at 1426 on April 20⁵¹

Hong Kong, although it has a small record of violence and discrimination against migrant workers, does not mean that migrant workers experience no violence and discrimination; some migrant workers who work in Hong Kong experience harassment.⁵² In 2017,

⁴⁷ Emilius Caesar Alexey, "Hong Kong Jamin Perlindungan Terhadap Pekerja Migran," *Kompas.Id*, 2019, <https://www.kompas.id/baca/utama/2019/01/21/hongkong-jamin-perlindungan-terhadap-pekerja-migran>

⁴⁸ Shalihah, Sari, and Rosyidah, "Seminar Nasional Hasil Pengabdian Kepada Masyarakat."

⁴⁹ Singgih Susilo, "Beberapa Faktor Yang Menentukan Tki Dalam Memilih Negara Tujuan Sebagai Tempat Bekerja, Studi Di Desa Aryojeding Kabupaten Tulungagung," *Jurnal Pendidikan Geografi* 21, no. 2 (2016): 110–19.

⁵⁰ Johns Hopkins University e Coronavirus Resource Center. Coronavirus resource center [cited 2020 April 28]; Available from: <https://coronavirus.jhu.edu/data>.

⁵¹ Arielle Lasry et al., "Timing of Community Mitigation and Changes in Reported COVID-19 and Community Mobility — Four U.S. Metropolitan Areas, February 26–April 1, 2020," *MMWR. Morbidity and Mortality Weekly Report* 26-April, no. 1 (2020): 451–57, [https://doi.org/2020;69\(15\):451e7](https://doi.org/2020;69(15):451e7).

⁵² Suci Sekarwati, "Derita PMI Hong Kong Tidur Sekamar Majikan Pekerja Migran Yang Melawan Dengan Tulisan: Gunakan Medsos Untuk Advokasi," *Tempo.Com*, n.d., <https://dunia.tempo.co/read/1527347/derita-pmi-hong-kong-tidur-sekamar-bersama-majikan>

there was a case of inhumane, horrific, and degrading persecution of Indonesian migrant workers as human beings working in Hong Kong.⁵³ In 2023, there will also be cases of migrant workers being tortured by employers in Hong Kong, beaten with bicycle chains, burned, and attacked with paper-cutting knives, leaving scars and physical trauma.⁵⁴ Indonesian migrant workers who are domestic workers in Hong Kong also experience inhumane treatment by employers.⁵⁵ PMI is also prone to work accidents; a PMI who works in Hong Kong died from the 14th floor due to falling from the 14th floor of the apartment building where his employer was.⁵⁶ The incident that happened to PMI in Hong Kong did not reduce the intention of workers who wanted to work in Hong Kong; this can be seen from BP2MI data, which states Hong Kong is always included in the three most PMI destination countries.⁵⁷

Based on data from BP2MI from 2015 to 2019, PMI working abroad is consistently above two hundred thousand, but in 2020 and 2021, it decreased due to the impact of the presence of a virus called *Coronavirus Disease 2019 (COVID-19)*.⁵⁸

⁵³ Endang Nurdin, "TKI Di Hong Kong: Angka Penganiayaan Fisik, Seksual Dan Diskriminasi Rasial 'Tinggi,'" *BBC Indonesia*, 2017, <https://www.bbc.com/indonesia/indonesia-42493279>

⁵⁴ VOA, "Buruh Migran Indonesia Terima Ganti Rugi Rp1,66 Miliar Atas Kasus Pelecehan Di Hong Kong," *Indonesia, Voice of America*, 2023, <https://www.voaindonesia.com/a/buruh-migran-indonesia-terima-ganti-rugi-rp1-66-miliar-atas-kasus-pelecehan-di-hong-kong-/6958488.html>

⁵⁵ Langgeng Puji, "Kasus Kekerasan PRT Kembali Terulang Di Hong Kong, Aktivis Beranda Migran Marah," *Tvonenews.Com*, 2023, <https://www.tvonenews.com/berita/105776-kasus-kekerasan-prt-kembali-terulang-di-hongkong-aktivis-beranda-migran-marah>.

⁵⁶ Christian Ningsih, "Buruh Migran Indonesia Jatuh Dari Lantai 14 Di Hong Kong," *Republika.Co.Id*, 2019, <https://news.republika.co.id/berita/q3766k459/buruh-migran-indonesia-jatuh-dari-lantai-14-di-hong-kong>.

⁵⁷ BP2MI, "Data Penempatan Dan Perlindungan PMI Juli 2023," 2023.

⁵⁸ Gianie, "Dua Sisi Mata Uang Pekerja Migran Indonesia," *Kompas.Id*, 2023, <https://www.kompas.id/baca/riset/2023/06/05/dua-sisi-mata-uang-pekerja-migran-indonesia>

The first cases of this new disease began to appear in December 2019 in the Chinese city of Wuhan. There was one common source of exposure, a seafood market that also sold live animals⁵⁹. The health surveillance authorities were alerted and several measures began to be taken to identify the causative agent of the disease. On December 31 of that same year, China notified the WHO of the outbreak and on the following day the market where the cases had originated was closed⁶⁰. From then onwards, an exponential increase occurred in the number of cases and community transmission was confirmed. Within a short period of time, measures were implemented to restrict travel and the circulation of people, including screening travellers for symptoms, until on January⁶¹, 2020 total lockdown was declared in Wuhan, with no one being allowed to enter or leave the region.

These localized measures were followed by the implementation of similar actions in other Chinese provinces affected by the virus, in several other Asian countries, and in other countries around the world. The initial measures focused to a major extent on controlling travel at a time when the majority of cases were imported; however, the measures were progressively ramped up as community transmission was confirmed.

The first three cases of COVID-19 in Europe were recorded in France on January 24, 2020 and the first death in that continent was reported in that same country on February 15⁶². A week later, cases were registered in another eight countries. The epidemic expanded dramatically in Italy, Spain and France, where it rapidly developed into a severe health crisis with many critical cases and deaths, consequently overwhelming healthcare system resources. This

⁵⁹ Tanu Singhal, "A Review of Coronavirus Disease-2019 (COVID-19)," *Indian J Pediatr* 87, no. 4 (2020): 281–86.

⁶⁰ World Health Organization, "Novel Coronavirus," *Situation Report – 13* 13, no. February (2020): 1–7.

⁶¹ Matteo Chinazzi et al., "The Effect of Travel Restrictions on the Spread of the 2019 Novel Coronavirus (COVID-19) Outbreak," . . . *Science*, 2020, <https://doi.org/pii:eaba9757>.

⁶² Gianfranco Spiteri et al., "First Cases of Coronavirus Disease 2019 (COVID-19) in the WHO European Region 24 January to 21 February 2020," *Euro Surveill*, 2023, 25–29.

accelerated the adoption of control measures, which did not occur simultaneously and varied greatly between countries and between different regions of the same country. However, over time these measures had to be ramped up and strengthened in all countries as the health crisis deteriorated.

Chart 1 summarizes the main interventions adopted by selected European countries based on a study by Imperial College London. Despite some similarities, implementation of the different measures varied, even in relation to the time period between the first initiative and the announcement of total lockdown.

In some countries, the first initiative was to ban mass gatherings of more than 1,000 people; however, this number was subsequently reduced to 500 and then to 50. In other countries, cinemas, restaurants, gyms and places of worship were closed. Germany determined the closure of most non-essential shops and extended the opening times of supermarkets to reduce the number of customers in the stores at the same time. In some countries, stores reserved the first hours of trading for elderly clients at a high risk of severe disease⁶³.

The closure of schools, a measure adopted in all countries, has been the subject of much debate. Children are rarely affected by COVID-19 and the extent to which they develop asymptomatic infections and transmit the virus is unclear. Although closing schools may have the added benefit of contributing towards ensuring that parents remain at home, this measure may affect the ability of parents, who are health professionals and whose services are of the utmost importance at this time, to work. Furthermore, other negative effects include an increase in the number of children cared for by elderly grandparents, interruption to the supply of free school meals to vulnerable children and, obviously, the fact that children would be denied their right to formal education for months at a

⁶³ Jon Cohen and Kai Kupferschmidt, "Countries Test Tactics in 'War' against COVID-19," *Science* 367, no. 6484 (2020): 1287–88, <https://doi.org/10.1126/science.367.6484.1287>.

time. For these reasons, although schools in Austria, the Netherlands and the United Kingdom were closed, an exception was made for the children of key workers such as health professionals. In the United Kingdom, vulnerable children (recipients of social care) were also allowed to attend school. In addition, the government decided that schools could provide meals to children who usually received them free of charge and announced in the media the creation of a national program of food vouchers⁶⁴. In Singapore, although schools remained open, measures were adopted to reduce the size of classes and the number of interclass and interschool activities, while rigorous hygiene measures were implemented and recess and lunch breaks were staggered⁶⁵.

COVID-19 responses undertaken by individual member countries of ASEAN have been tremendously diverse and have ranged from strict lock-down conditions in the highly regulated city-state of Singapore to 'business as usual', especially in rural areas of developing countries with large informal economies such as Laos and Myanmar. Yet ASEAN member countries also have a long history of cross-border cooperation, forged through trade regionalization and economic integration. In the health sector, ASEAN co-operation has been infused into region-wide frameworks including the ASEAN Political-Security Community (APC), ASEAN Economic Community (AEC) and ASEAN Socio-Cultural Community (ASCC)⁶⁶. Through these social-cultural pillars, ASEAN has developed a basic platform for health security cooperation since

⁶⁴ Elisabeth Mahase, "Covid-19: Schools Set to Close across UK except for Children of Health and Social Care Workers," *The Bmj* 368 (2020): 1, <https://doi.org/10.1136/bmj.m1140>.

⁶⁵ Vemon J. Lee, Calvin J. Chiew, and Wei Xin Khong, "Interrupting Transmission of COVID-19: Lessons from Containment Efforts in Singapore," *JTM*, 2008, 1–5, <https://doi.org/10.1093/jtm/taaa039>.

⁶⁶ ASEAN Secretariat. Celebrating ASEAN: 50 years of evolution and progress. Association of Southeast Asian nations; 2017.

1980⁶⁷, as shown, for instance, through ASEAN- level responses to prior pandemics including SARS, H1N1 and MERS-CoV3.

Southeast Asia was one of the first regions affected due to its close geographical proximity and business travel, tourism and supply chain links to China. The first COVID-19 case was reported in Malaysia on 25 January 2020, prior to the upward swing of cases at the end of February 2020⁶⁸.

This pandemic has proven to have a very bad impact, apart from the unexpected negative impact on economic activity⁶⁹. Considering the rapid spread of COVID-19 with the emergence of various variants and mutants, world economic and financial system indicators show a fluctuating position, especially on the stock market, foreign exchange rates and interest rates⁷⁰.

In January 2020, the *World Health Organization* (WHO) stated that there was a COVID-19 outbreak that appeared in one of the regions in China, where the attack was hazardous for human life. Releasing data from WHO quoted by Kompas.com., stated that COVID-19 caused an international public health crisis called the *Health Emergency of International Concern* (PHEIC).⁷¹ The existence of this statement from WHO and the symptoms of the spread of COVID-19 have made countries limit people's mobility in and out of

⁶⁷ Australian Government (DFAT), *Pacific Health Development Agenda*, 2014.

⁶⁸ Kuok Ho Daniel Tang, "Movement Control as an Effective Measure against COVID-19 Spread in Malaysia: An Overview," *Zeitschrift Fur Gesundheitswissenschaften = Journal of Public Health* 30, no. 4 (2020): 583–86, <https://doi.org/https://doi.org/10.1007/s10389-020-01316-w>.

⁶⁹ Hakan Yilmazkuday, "International Evidence from Google Mobility Data," *SSRN Electronic Journal*, 2020, 1–18, <https://ssrn.com/abstract=3571708>.

⁷⁰ et al., "The Determinants of Main Stock Exchange Index Changes in Emerging Countries: Evidence from Turkey in COVID-19 Pandemic Age," *Quantitative Finance and Economics* 4, no. 4 (2020): 526–41, <https://doi.org/10.3934/qfe.2020025>.

⁷¹ WHO TEAM, "WHO TEAM, "COVID-19 Public Health Emergency of International Concern (PHEIC) Global Research and Innovation Forum," *WHO*, 2020, [https://www.who.int/publications/m/item/covid-19-public-health-emergency-of-international-concern-\(pheic\)-global-research-and-innovation-forum](https://www.who.int/publications/m/item/covid-19-public-health-emergency-of-international-concern-(pheic)-global-research-and-innovation-forum)

countries, including PMI destination countries, so it is natural that in 2020 and 2021, PMI who go abroad has decreased.⁷²

The current coronavirus disease 2019 (COVID-19) outbreak is a worldwide emergency, as its rapid spread and high mortality rate has caused severe disruptions.⁷³ The number of people infected with severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2), the causative agent of COVID-19, is rapidly increasing world-wide.⁷⁴ Patients with COVID-19 can develop pneumonia, severe symptoms of acute respiratory distress syndrome (ARDS), and multiple organ failure.⁷⁵

Facing the outbreak, WHO took steps and instructed countries to prevent and reduce the spread of Covid-19 by practicing social distancing. Governments began to implement social restrictions by implementing regional regulations to *lockdowns* to suppress the spread of Covid-19. PMI destination countries started to enforce policies and tighten the entry and exit of people, including Hong Kong, Taiwan, Malaysia, Singapore, South Korea, Saudi Arabia, Jordan, Kuwait, Italy, England, Spain, France, Poland, and the United States.⁷⁶

As a result of Covid-19, economic growth has slowed down, companies are starting to experience a decline in income, so they are

⁷² Noveria and Romdiati, "Pandemi Covid-19 Dan Dampak Ekonomi Pada Pekerja Migran Indonesia Dan Keluarganya: Sebuah Kajian Pustaka."

⁷³ Chaolin Huang et al., "Clinical Features of Patients Infected with 2019 Novel Coronavirus in Wuhan, China," *Lancet* 395, no. 10223 (2020): 507–13, [https://doi.org/0.1016/S0140-6736\(20\)30183-5](https://doi.org/0.1016/S0140-6736(20)30183-5).

⁷⁴ Huang et al.

⁷⁵ Dawei Wang, Bo Hu, and Chang Hu, "Clinical Characteristics of 138 Hospitalized Patients with 2019 Novel Coronavirus-Infected Pneumonia in Wuhan, China," *JAMA Network* 323 (2020): 1061–69, <https://doi.org/0.1001/jama.2020.1585>.

⁷⁶ Media DPR, "Pandemi, Gus Muhaimin: Negara Harus Hadir Atasi Persoalan Pekerja Migran," *Media DPR RI*, 2021, <https://www.dpr.go.id/berita/detail/id/34755/t/Pandemi%20Covid-19,%20Gus%20Muhaimin:%20Negara%20Harus%20Hadir%20Atasi%20Persoalan%20Pekerja%20Migran>

starting to take various steps to save their business, starting from laying off employees.⁷⁷ The implications of countries to prevent the spread of COVID-19 have made countries not only think about the health sector but also think about solutions from other affected fields, such as education, social, cultural, and especially the economic sector.⁷⁸ The impact of COVID-19 is categorized as a life event that occurs in humanity which is very fatal; in addition to causing death, it also causes chaos in the lives of humanity.⁷⁹

Due to COVID-19, economic growth has slowed, and companies have begun to experience a decline in revenue, so they have begun to find various ways to save business, starting with layoffs. Based on data from the ILO, full or partial social distancing measures affect almost 81% of the world's workforce.⁸⁰ Victims of termination of employment, to meet the needs of life, are willing to work for low wages; this impact is also felt by migrant workers who work abroad, especially migrant workers who work in the informal sector.⁸¹ The burden felt by PMI is exacerbated by uncertainty in the

⁷⁷ Ogbole Ogancha O and Oreoluwa Omotayo Oduniyi, "Workers' Protection in the Covid-19 Era in Nigeria Perlindungan Pekerja Pada Masa Covid-19 Di Nigeria A . Introduction COVID-19 Is a Global Crisis with Widespread Distortions . 1 Although COVID-19 Originates from the World's Manufacturing Heartland of," *Padjadjaran Journal of Law* 8, no. 2 (2021): 292–312, <https://doi.org/https://doi.org/10.22304/pjih.v8n2.a7>.

⁷⁸ DJKN Kementerian Keuangan Republik Indonesia, "Sri Mulyani: Kemenkeu Terus Dukung Langkah Penanganan Covid-19," *DJKN Kementerian Keuangan Republik Indonesia*, 2020, <https://www.djkn.kemenkeu.go.id/berita/baca/20396/Sri-Mulyani-Kemenkeu-Terus-Dukung-Langkah-Penanganan-COVID-19.html>

⁷⁹ K Stroud, "Stressful Life Events and Depression," *Clinical Science Insights: Knowledge Families Count* 14, no. 8 (2020): 1344–45, <https://doi.org/https://doi.org/10.1176/appi.ajp.157.8.1344-a>.

⁸⁰ ILO, "ILO: Covid-19 Causes Devastating Losses in Working Hours and Employment," *International Labour*, 2020, https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_740893/lang-en/index.htm#:~:text=economy%20and%20employment-,ILO%3A%20COVID%2D19%20causes%20devastating%20losses%20in%20working%20hours%20and,policies%20to%20mitigate%20the%20crisis.

⁸¹ CNBC Indonesia, "Jerit Kelaparan RKI Di Malaysia Ketika Lockdown," *CNBC Indonesia*, 2020, <https://www.cnbcindonesia.com/news/20200425210242-4-154459/jerit-kelaparan-tki-di-malaysia-ketika-lockdown>

placement country, financial shortages, and layoffs due to the pandemic, making PMI's life unclear between choosing to return home or staying in the placement country.⁸²

The presence of Covid-19 presents its challenges for PMI. During COVID-19, migrant workers lost job opportunities and social assistance constraints from the government, not to mention the problem if migrant workers returning to Indonesia faced stigma and discrimination because they were considered to carry the virus.⁸³ For migrant workers who still survive in the placement country, it is also not easy to face the COVID-19 situation, starting from being unable to support themselves and access in and out of the country that does not allow them to return to Indonesia.⁸⁴

Under normal conditions, PMI is always prone to various problems such as depression, excessive workload, physical and sexual violence, and wages sometimes not given by employers; things like this affect PMI's psychological condition.⁸⁵ The condition of migrant workers is very vulnerable compared to other working groups, especially for illegal migrant workers.⁸⁶ PMIs have difficulty accessing health services during the COVID-19 pandemic, one of which is because PMIs have not received or are not registered in health insurance. At the same time, illegal migrant workers fear checking themselves (fear of being arrested by law enforcement

⁸² Kementerian Ketenagakerjaan, "Kliping Ketenagakerjaan 15 Juni 2020," Jakarta, 2020, <https://kabarbisnis.com/read/28100233/banyak-phk-klaim-bpjs->.

⁸³ Alfian Putra Abdi, "Kelompok Yang Terlupakan : TKI Yang Pulang Saat Pandemi," *Tirto,Id*, 2020, <https://tirto.id/kelompok-yang-terlupakan-tki-yang-pulang-saat-pandemi-fLwu>

⁸⁴ UII, "Pusat Studi Hukum UII Soroti Nasib Pekerja Migran Di Tengah Pandemi," *Universitas Islam Indonesia*, 2020, <https://www.uui.ac.id/pusat-studi-hukum-uui-soroti-nasib-pekerja-migran-di-tengah-pandemi/>

⁸⁵ Department of Psychiatry, *Mental Health in The Times of Covid-19 Pandemic*, National Institute of Mental Health and Neurosciences, Bengaluru, India (Bengaluru: Department of Psychiatry National Institute of Mental Health and Neuro Science, 2020).

⁸⁶ Psychiatry.

officials) due to migration problems.⁸⁷ The Indonesian government has provided access to social security for migrant workers, but the social security intended by migrant workers is only social security or BPJS Employment.⁸⁸

PMI recorded in April 2020, PMI working in the formal sector reached 632 workers, and the informal sector reached 1,715 workers; based on data from BP2MI, PMI working in the informal sector was three times that of formal sector workers.⁸⁹ The Minister of Manpower to follow up on the handling of migrant workers by issuing Decree of the Minister of Manpower (Kepmenaker) No. 151 of 2020 which states the Temporary Suspension of the Placement of Indonesian Migrant Workers to prevent the spread of Covid-19.⁹⁰

In 2017, the government accommodated the needs of workers, including informal workers and migrant workers, through the issuance of BPJS Ketenagakerjaan. BPJS Ketenagakerjaan is a public legal entity that has four social security programs that have functions to protect all workers.⁹¹ BPJS provided by the government for PMI does not have social security for health, even though PMI needs health social security; not only that, there are difficulties for PMI to claim social security or BPJS Employment during the Covid-19 pandemic, even though in the Covid-19 pandemic situation the

⁸⁷ Susilo Wahyu, Arista Novi, and Evi Zulyani, "Kerentanan Pekerja Migran Indonesia Menghadapi Wabah COVID-19," *CSIS Commentaries DMRU-024-ID* 151 (2020): 1–6.

⁸⁸ Nugroho Bangun Witono, "Kebijakan Perlindungan Pekerja Migran Indonesia Dalam Pandemi Covid-19," *Indonesian Journal of Peace and Security Studies (IJPSS* 3, no. 1 (2021): 34–54, <https://doi.org/https://doi.org/10.29303/ijpss.v3i1.57>.

⁸⁹ BP2MI, "Data Penempatan Dan Perlindungan PMI, Periode April 2020," Badan Perlindungan Pekerja Migran Indonesia, 2020, https://bp2mi.go.id/%0Auploads/statistik/images/data_26-05-2020_Laporan_Pengolahan_Data_BNP2TKI_APRIL_fix.pdf.

⁹⁰ Zulyani Evi Wahyu Susilo, Yovi Arista, "Kerentanan Pekerja Migran Indonesia Menghadapi Wabah COVID-19," *Center for Strategic and International Studies*, 2020.

⁹¹ BPJS Ketenagakerjaan, "BPJS Ketenagakerjaan : Program Jaminan Sosial Tenaga Kerja," Badan Penyelenggara Jaminan Sosial Ketenagakerjaan, 2023, <https://www.bpjsketenagakerjaan.go.id/>.

community needs the government's sincerity and seriousness to ensure social welfare for every citizen.⁹²

The first confirmed case of COVID-19 in Hong Kong was announced on 23 January 2020. In response to the COVID-19 pandemic, the local government has adopted a variety of drastic public health measures, such as compulsory quarantines for people returning from abroad, work from home arrangements, school suspensions, and the shutdown of non-essential services, to mitigate the risks and impact of the disease. In addition, people in Hong Kong have stockpiled surgical masks, rice, toilet paper, and other goods. Such abrupt changes to daily life are risk factors that can substantially affect mental health. Some psychosocial stressors such as health threats to oneself and loved ones are associated with pandemics⁹³. There are severe disruptions of routines, separation from family members and friends, shortages of daily necessities, salary deduction, social isolation, and school closure⁹⁴. Psychosocial responses to infectious disease outbreaks are variable and can include feelings of anxiety or weakness, an overestimation of the likelihood of infection, the excessive and inappropriate adoption of precautionary measures and an increased demand for health care services in a time of shortage⁹⁵

As a Special Administrative Region (SAR) of China that operates with autonomy, Hong Kong has adopted far less strict measures to contain COVID-19 than those in mainland China⁹⁶. At

⁹² Devina, "Data Sudah Lengkap, Klaim BPJS Ketenagakerjaan Tak Ada Kejelasan," *Detik.Com*, 2020., https://news.detik.com/suara-pembaca/d-5006577/data-sudah-lengkap-klaim-bpjs-ketenagakerjaan-tak-ada-kejelasan#google_vignette

⁹³ S. Taylor, *The Psychology of Pandemics: Preparing for the Next Global Outbreak of Infectious Disease*; (Cambridge Scholars Publishing: Newcastle upon Tyne, 2019).

⁹⁴ D.; Koh et al., "Risk Perception and Impact of Severe Acute Respiratory Syndrome (SARS) on Work and Personal Lives of Healthcare Workers in Singapore: What Can We Learn?," *Med. Care* 43 (2005): 676–82, [https://doi.org/\[CrossRef\] \[PubMed\]](https://doi.org/[CrossRef] [PubMed]).

⁹⁵ L.; Rosling and M. Rosling, "Pneumonia Causes Panic in Guangdong Province," *BMJ* 326 (2003): 416, [https://doi.org/\[CrossRef\] \[PubMed\]](https://doi.org/[CrossRef] [PubMed]).

⁹⁶ M.C.S. Wong et al., "Stringent Containment Measures without Complete City Lockdown to Achieve Low Incidence and Mortality across Two Waves of COVID-19 in Hong

the time of writing, the city has never been locked down, and inhabitants have always enjoyed a moderate level of mobility⁹⁷. Compared with other places, such as Singapore, Seoul, London, and Tokyo, Hong Kong has been relatively successful in terms of controlling the rate of infections⁹⁸. Comparative discussions of COVID-19-related policies and societal responses have largely focused on the collective memories of combating the outbreak of severe acute respiratory syndrome (SARS) in 2003. That bitter experience might explain both the government and community's preparedness and willingness to respond promptly to contain the threat of COVID-19. Preventive education, publicity, and the introduction of different control measures by the government were identified as important contributors to the success of controlling the 2003 epidemic⁹⁹.

A series of large-scale physical-distancing intervention measures enacted by the Hong Kong government, in addition to prior experiences of virus prevention, made efforts to convince individuals to comply with precautionary measures, such as wearing face masks and washing hands, more effective. This made the government and people believe that it remained possible to maintain daily activities and travel amid the COVID-19 pandemic.

¹⁰⁰However, to the best of our knowledge, there has been little research on the relationship between government public policies

Kong," *BMJ Glob. Heal.* 5 (2020), <https://doi.org/e003573> <https://doi.org/10.1136/bmjgh-2020-003573>.

⁹⁷ S.H. Wong et al., "COVID-19 and Public Interest in Face Mask Use. Am.," *J. Respir. Crit. Care Med.* 202 (2020): 453–55, <https://doi.org/https://doi.org/10.1164/rccm.202004-1188LE>.

⁹⁸ S.Y. Wong, K.O. Kwok, and F.K. Chan, "What Can Countries Learn from Hong Kong's Response to the COVID-19 Pandemic?," *CMAJ (Can. Med. Assoc. J.)* 192 (2020): 511–15, <https://doi.org/https://doi.org/10.1503/cmaj.200563>.

⁹⁹ Hung, L.S., "The SARS Epidemic in Hong Kong: What Lessons Have We Learned?," *J. R. Soc. Med.* 96, 2003, 374–78, <https://doi.org/https://doi.org/10.1258/jrsm.96.8.374>.

¹⁰⁰ K.O. Kwok et al., "Community Responses during the Early Phase of the COVID-19 Epidemic in Hong Kong: Risk Perception, Information Exposure and Preventive

and community responses, although this could help us better understand how the community and government can work together to combat COVID-19 and similar pandemic events.

As suggested by the WHO (2020a), both government intervention and community engagement play a critical role in the effective implementation of any public health intervention. It is therefore important to investigate the complementary aspects of public health intervention measures that contributed to the early success of preparing for and responding to the COVID-19 threat¹⁰¹.

The article proceeds by briefly outlining the policy efforts of the Hong Kong SAR (Special Administration Region) government to manage the spread of the COVID-19 virus, including regulatory actions, risk assessment, risk communication (to the public), proactive risk management, border control and travel bans, and economic and budgetary responses. The remainder of the article then details Hong Kong's experience with political crisis and social unrest in 2019–2020 and its more distant experience managing the SARS pandemic in 2003–4, highlighting the role of both these events in helping develop community capacity. The article concludes by discussing how the Hong Kong case illustrates the need for a more comprehensive understanding of capacity that incorporates community capacity as a key agency in enabling societies to successfully manage crisis¹⁰².

Migrants are particularly vulnerable to the direct and indirect effects of the coronavirus disease 2019 (COVID-19) pandemic. The International Organization for Migration (IOM) has found that migrants were often excluded from host country welfare systems,

Measures," *Emerg. Infect. Dis.*, 2020, <https://doi.org/https://doi.org/10.1101/2020.02.26.20028217>.

¹⁰¹ World Health Organization, 2020a. Risk Communication and Community Engagement Readiness and Response to Coronavirus Disease (COVID-19): Interim Guidance.

¹⁰² Kris Hartley and Darryl S. L. Jarvis, "Policymaking in a Low-Trust State: Legitimacy, State Capacity, and Responses to COVID-19 in Hong Kong," *POLICY AND SOCIETY* 39, no. 3 (2020): 403–23, <https://doi.org/https://doi.org/10.1080/14494035.2020.1783791>.

were greatly affected by border closures by limiting their ability to travel between their home and host countries, and that the pandemic was used as an opportunity to foster xenophobic and discriminatory attitudes towards them¹⁰³. Migrants also often face additional barriers in accessing healthcare or information about COVID-19 in their host countries, increasing their risk of contracting the disease¹⁰⁴. The financial impact of the pandemic has been forecasted to result in a \$108.6 billion decline in global remittances, assuming recovery within a year, putting remittance-dependant households at risk of falling into poverty¹⁰⁵.

The lack of recognition and supportive policies for migrants can have many physical, mental, social, and economic effects on FDWs. Live-in FDWs tend to work long hours with an unspecified workload while living in the same place that they work in, making it difficult to mentally separate work from private time¹⁰⁶. They are also vulnerable to abuse from their employers due to the unequal power relationship, including verbal abuse and physical assault, and are often unable to negotiate for or assert their rights.¹⁰⁷ FDWs often also struggle with the relationships with their families back home. For example, FDWs may perceive that their relatives only

¹⁰³ Guadagno, Lorenzo. 2020. MRS No. 60 – Migrants and the COVID-19 pandemic: An initial analysis, in Migration Research Series.

¹⁰⁴ Kluge, Hans Henri P, Jakab, Zsuzsanna, Bartovic, Jozef, D'Anna, Veronika, Severoni, Santino, 2020. Refugee and migrant health in the COVID-19 response. *The Lancet* 395 (10232), 1237–1239. doi:10.1016/S0140-6736(20)30791-1.

¹⁰⁵ Takenaka, Aiko Kikkawa, Gaspar, Raymond, Villafuerte, James, Narayanan, Badri, 2020. COVID-19 Impact on International Migration, Remittances, and Recipient Households in Developing Asia. COVID-19 Impact on International Migration, Remittances, and Recipient Households in Developing Asia. Asian Development Bank.

¹⁰⁶ Eric Fong and S.A. Yeoh, Brenda, "Migrant Domestic Workers: Disadvantaged Work, Social Support, and Collective Strategies in East Asia," *American Behavioral Scientist* 64, no. 6 (2020): 703–8, <https://doi.org/10.1177/0002764220910235>.

¹⁰⁷ Shu-Ju Ada Cheng, "Migrant Women Domestic Helpers in Hong Kong, Singapore and Taiwan: A Comparative Analysis," *Asian and Pacific Migration Journal* 5, no. 1 (1996): 139–52, <https://doi.org/10.1177/011719689600500107>.

value the remittances they send, devaluing the work and sacrifices they are making overseas¹⁰⁸. As FDWs are often visible minorities within their host country, they may also face discrimination as migrants, minorities, and women¹⁰⁹.

In Hong Kong, FDWs are essential to the functioning of many local families, but they are also regarded as separate from the “real family”¹¹⁰. While they make significant contributions to Hong Kong’s economy, they are still denied economic rights¹¹¹. In 2019, the Immigration Department reported that there were 399,320 FDWs in Hong Kong, with 98.5% of them being women, and most of them coming from the Philippines (55%), Indonesia (43%), or Thailand (0.5%)¹¹². Given the enormous health, economic, and social effects of the COVID-19 pandemic, we sought to explore the effects of the pandemic on FDWs in Hong Kong through in-depth interviews with FDWs and key informants to better understand their experiences. We focused on how this minority population, comprised mostly of women, was disproportionately affected by the pandemic response in terms of their health and economic wellbeing. A greater understanding of the experiences of this vulnerable population can help to guide the policies aimed at mitigating the negative effects of

¹⁰⁸ Brian J. Hall, Garabiles, Melissa R., and Carl A Latkin, “Work Life, Relationship, and Policy Determinants of Health and Well-Being among Filipino Domestic Workers in China: A Qualitative Study.,” *BMC Public Health* 19, no. 1 (2019), <https://doi.org/10.1186/s12889-019-6552-4>.

¹⁰⁹ Alicia Llácer et al., “The Contribution of a Gender Perspective to the Understanding of Migrants’ Health.,” *The Contribution of a Gender Perspective to the Understanding of Migrants’ Health. Journal of Epidemiology and Community Health* 61 (Suppl 2), 2007, <https://doi.org/10.1136/jech.2007.061770>.

¹¹⁰ Annie Chan and Hau-Nung, “Live-in Foreign Domestic Workers and Their Impact on Hong Kong’s Middle Class Families,” *Journal of Family and Economic Issues* 26, no. 4 (2005): 509–28, <https://doi.org/10.1007/s10834-005-7847-4>.

¹¹¹ Hung Jason, “Hung, Jason, 2020. Hong Kong Hurts Itself By Financially Excluding Foreign Domestic Workers.,” *The Diplomat*, 2020, <https://thediplomat.com/2020/02/hong-kong-hurts-itself-by-financially-excluding-foreign-domestic-workers/>

¹¹² Immigration Department, 2020. Foreign domestic helpers by nationality and sex. Women and Men in Hong Kong: Key Statistics. Census and Statistics Department, Hong Kong Special Administrative Region, Hong Kong W.a.M.i.H.K.K. Statistics.

the pandemic on society in Hong Kong and in other areas where there are significant FDW populations.

Various kinds of difficulties experienced by migrant workers can be seen from the results of a survey organized by the Human Rights Working Group (HRWG) of the Indonesian Migrant Workers Union (SBMI) and the Migrant Workers Network (JBM) regarding the impact of COVID-19 on migrant workers, especially those experienced by migrant workers in Hong Kong. The Hong Kong government is dealing with the spread of COVID-19 through a tracking policy for people with physical contact with COVID-19-positive people.¹¹³ the Hong Kong government also imposes mandatory quarantine or isolation for people who contract Covid-19.¹¹⁴ The policy taken by the Hong Kong government caused panic for everyone in Hong Kong, especially migrant workers working in Hong Kong.¹¹⁵ During COVID-19, PMI in Hong Kong received intimidation from employers, and verbal violence, and migrant workers should not ask for time off during the COVID-19 period.¹¹⁶ As long as they are not allowed to take holidays during COVID-19, PMIs in Hong Kong are required by employers to continue working overtime by not being paid overtime wages, or PMIs are still carrying out their usual routine before COVID-19 hit Hong Kong. The number of people that must be cared for by PMIs increases because the Hong Kong government lays off work outside the home or office work, so people or employers gather at home and automatically burden PMI's work. When working, PMI must remain hygienic by constantly

¹¹³ BBC, "Cerita Pekerja Migran Indonesia Di Hong Kong Yang Kena Covid-19 Di Tengah Lonjakan Kasus 'Diintimidasi Majikan' Dan 'Ditelantarkan,'" *BBC Indonesia*, 2022, <https://www.bbc.com/indonesia/dunia-60418516>

¹¹⁴ Jawahir Gustav Rizal, "Melihat Cara Hong Kong Kendalikan Virus Corona Tanpa Lockdown...," 2020.

¹¹⁵ Noveria and Romdiati, "Pandemi Covid-19 Dan Dampak Ekonomi Pada Pekerja Migran Indonesia Dan Keluarganya: Sebuah Kajian Pustaka."

¹¹⁶ BBC, "Cerita Pekerja Migran Indonesia Di Hong Kong Yang Kena Covid-19 Di Tengah Lonjakan Kasus 'Diintimidasi Majikan' Dan 'Ditelantarkan,'" *BBC Indonesia*, 2022, <https://www.bbc.com/indonesia/dunia-60418516>

changing masks, and the employer does not buy the covers purchased by PMI, but PMI acknowledges the acts themselves.¹¹⁷ From the description above, it can be said that in the last two years, PMI has experienced a double workload, and there is no time to rest.

Based on the description above, it is an unwanted or unexpected thing that can be experienced by migrant workers at any time, ranging from sexual harassment, physical violence, verbal violence, psychological violence, work accidents, and or even things that threaten the lives of migrant workers in the Hong Kong placement country. Doing work in a foreign country, of course, is not easy because there are many differences in work ethic, culture, working hours, and, most importantly, the language used for daily communication; this is what makes the uncertainty of PMI's life in the country of placement, there are 2 (two) types of uncertainty that PMI can experience, some are speculative or pure uncertainty that can pose risks. There are 2 (two) kinds of risks: fundamental risks and unique risks. Entire risk relates to risks that have a broad impact, such as economic, political, social, security, and defense risks, as well as international, while unique risks are more on an individual, such as the price of objects, failures, and others.¹¹⁸ The above risks may approach migrant workers in the country of placement during work, so there is a need for social security protection.¹¹⁹ In this case, there is a need for protection that must be provided by the state, in addition to legal protection, economic protection, and family protection of migrant workers, social protection through social security.

The Indonesian government, in terms of social protection, has provided social protection for migrant workers and has even been regulated by Law No. 18/2017, which has been amended into Law No. 6/2023 and related to social security there is a regulation of the

¹¹⁷ Shalihah, Sari, and Rosyidah, "Seminar Nasional Hasil Pengabdian Kepada Masyarakat."

¹¹⁸ Agus Midah, Asri Wijayanti, and Fithriatus Shalihah, *Perlindungan Pekerja Migran Indonesia Berdasarkan UU No. 18 Tahun 2017* (Medan: Yayasan Al-Hayat, 2020).

¹¹⁹ Zainal Asikin, *Dasar-Dasar Hukum Perburuhan* (Jakarta: Rajawali Pers, 2016).

minister of workforce itself that regulates social security, namely Permenaker No. 18 / 2018 which has been revised to Permenaker No. 4 / 2023. The government to encourage PMI to participate in BPJS Employment is not easy, so the government requires prospective PMI to register members of BPJS Employment.¹²⁰ The government in Permenaker No.18/2018 has also required prospective PMI and PMI to register for the JKK and JKM guarantee programs, as well as in Article 4 paragraph (1) of Permenaker No.4/2023 which reads, "Prospective Indonesian Migrant Workers or Indonesian Migrant Workers who work abroad must be registered in program participation: a. JKK; and b. JKM".

However, the Indonesian Government's efforts to realize the implementation of social security for migrant workers by revising Permenaker RI No. 18/2018, in which the government increases social security benefits and tries to provide social security alternatives for migrant workers is not that easy, this can be seen from the response of migrant workers, especially migrant workers placement in Hong Kong. After it was revealed in 2022, based on DJSN data, it was stated that more than 50% of PMIs working abroad have yet to be registered as members of BPJS Employment. Hong Kong, one of the most PMI destinations, also revealed that few PMI in Hong Kong still needed to register for BPJS Employment. As explained above, this is related to the low interest of PMI not registering for BPJS Employment because, according to PMI placement in Hong Kong, the benefits of BPJS Employment organized by the Government of Indonesia are less helpful to use in Hong Kong or the benefits are less clear, BPJS Employment is

¹²⁰ CNN, "Menaker Wajib Buruh Migran Jadi Peserta Ketenagakerjaan," *CNN Indonesia*, 2023, <https://www.cnnindonesia.com/ekonomi/20230302171116-92-919996/menaker-wajibkan-buruh-migran-jadi-peserta-bpjs-ketenagakerjaan>

difficult to claim, and PMI is comfortable using insurance provided by employers or the Hong Kong Government.¹²¹

Based on research conducted by the author in Hong Kong, after the issuance of Permenaker No.4/2023, migrant workers working in Hong Kong still do not intend to register for social security for several reasons. The excellent response of PMI placement in Hong Kong after the revision of Permenaker RI No.18/2018 to Permenaker No.4/2023, PMI in Hong Kong feels that it has received the attention of the Government of Indonesia, meaning that with the issue of PMI not registering for BPJS Employment membership for other reasons, the government moved quickly by revising social security regulations and increasing social security benefits for PMI. However, not a few PMI placements in Hong Kong after the revision of social security regulations with increased benefits still want to register for BPJS Employment. Not without reason, PMI does not wish to register for BPJS Employment after the issuance of Permenaker No.4/2023 because PMI Hong Kong Indonesian Government regulations require PMI to register for BPJS Employment are contrary to Article 9 letter d of the Regulation of the Indonesian Migrant Workers Protection Agency of the Republic of Indonesia Number 5 of 2022 concerning Amendments to the Regulation of the Indonesian Migrant Workers Protection Agency Number 1 of 2020 concerning Standards, Signing and Verification of the Indonesian Migrant Worker Work Agreement, which reads, "The extension of the Work Agreement as referred to in Article 8 must meet the following requirements: d. extend social security, employment social security, and insurance by the extension period of the Work Agreement". If the article's content above, BP2MI regulations related to the extension of social security provide several options or not necessarily BPJS Employment as the front line of social

¹²¹ Shalihah et al., *Efektivitas Peraturan Menteri Ketenagakerjaan Nomor 18 Tahun 2018 Dalam Penyelenggaraan Jaminan Sosial Bagi Pekerja Migran Indonesia*, in *Diskursus Hukum Ketenagakerjaan Di Indonesia*.

security. PMI considers that the Government of Indonesia does not need to impose or require Hong Kong placement PMI to register for BPJS Employment membership organized by the Government of Indonesia, or it means that based on the BP2MI Regulation above, it is adjusted to the destination country where imposing social security protection for migrant workers does not need to require BPJS Employment, on the contrary, BPJS Employment is better given to PMI placed in countries that do not accommodate social security for migrant workers. PMI Hong Kong believes BPJS Employment is more feasible to apply to places or placement countries or PMI destination countries, such as Macau.

The relationship between PMI and the employer (employer) in the country of placement automatically gives rise to rights and obligations; one of the rights that arise for PMI is the right to get social security.¹²² The Consulate General of the Republic of Indonesia (KJRI) requires the purchase of insurance at least 2 (two) months early from the end of the visa, must include employment contract approval insurance, in addition to insurance, must also sign a Letter of Application / Guarantee Letter which is charged to the employer for accommodation and treatment if the worker is chronically or acutely ill. PMI placement in Hong Kong has benefited from insurance provided by employers in Hong Kong and feels that it does not need BPJS Employment; PMI Hong Kong requests that the Government of Indonesia does not need to require all administrative matters by including the requirements for BPJS Employment registration for PMI Hong Kong.

The juridical perspective should be social security or BPJS Employment intended for PMI, not PMI, who pays. Article 30, paragraph (1) of Law No.18/2017, amended in Law No.6/2023, reads, "Indonesian Migrant Workers cannot be charged placement fees."

¹²² Rosi Oktari, "Perkuat Aspek Perlindungan Dan Jamsos Pekerja Migran," *Indonesiabaik.Id*, 2021, <https://indonesiabaik.id/videografis/perkuat-aspek-pelindungan-dan-jamsos-pekerja-migran>

The above content is in line with Article 3 of the Regulation of the Indonesian Migrant Workers Protection Agency of the Republic of Indonesia Number 9 of 2020 concerning the Exemption of Placement Fees for Indonesian Migrant Workers, which reads, "Indonesian Migrant Workers cannot be charged placement fees," continued Paragraph (2) Placement fees as referred to in Paragraph (1), one of which is related to PMI social security. The content of the above regulation related to placement fees contradicts the provisions for social security payment costs contained in Permenaker No.4/2023.

Social security is one of the human rights of Indonesian citizens contained in Article 28 H of the 1945 Constitution, which reads, "Everyone has the right to social security that allows their full development as a useful human being." The mandate of the article above emphasizes that social security is entitled to everyone, including migrant workers. PMI, as the country's foreign exchange hero, should get extra protection related to social protection.

CONCLUSION

The presence of Minister of Manpower Regulation No. 4/2023 there are several additional social security benefits in the context of protection and services for PMI from social or bad risks that occur during the period of work in the country of placement, starting from work accidents, death and old age. After Minister of Manpower Regulation No.4/2023, it turns out that there is still no solution related to increasing participation in BPJS Employment PMI for Hong Kong placement. PMI placement in Hong Kong is more comfortable using insurance provided by the employer or employer, rather than BPJS Employment which is administered by the Indonesian Government. According to PMI's Hong Kong placement, Minister of Manpower Regulation No. 4 of 2023 which requires PMI to register for social security is contrary to Article 9 letter d of the

Indonesian Migrant Worker Protection Agency Regulation of the Republic of Indonesia Number 5 of 2022 concerning Amendments to the Regulation of the Indonesian Migrant Worker Protection Agency Number 1 of 2020 concerning Standards, Signing and Verification of Work Agreements for Indonesian Migrant Workers, which states, "The extension of the Work Agreement as intended in Article 8 must meet the requirements: d. must extend social security, employment social security, and/or insurance in accordance with the extension period of the Employment Agreement." In this article, the social security provided is an option or there is no obligation for PMI to participate in BPJS Employment. PMI for placement in Hong Kong hopes that the Indonesian government does not need to require BPJS Employment registration, because the one who knows about the conditions in Hong Kong is PMI, so BPJS Employment should only be an option.

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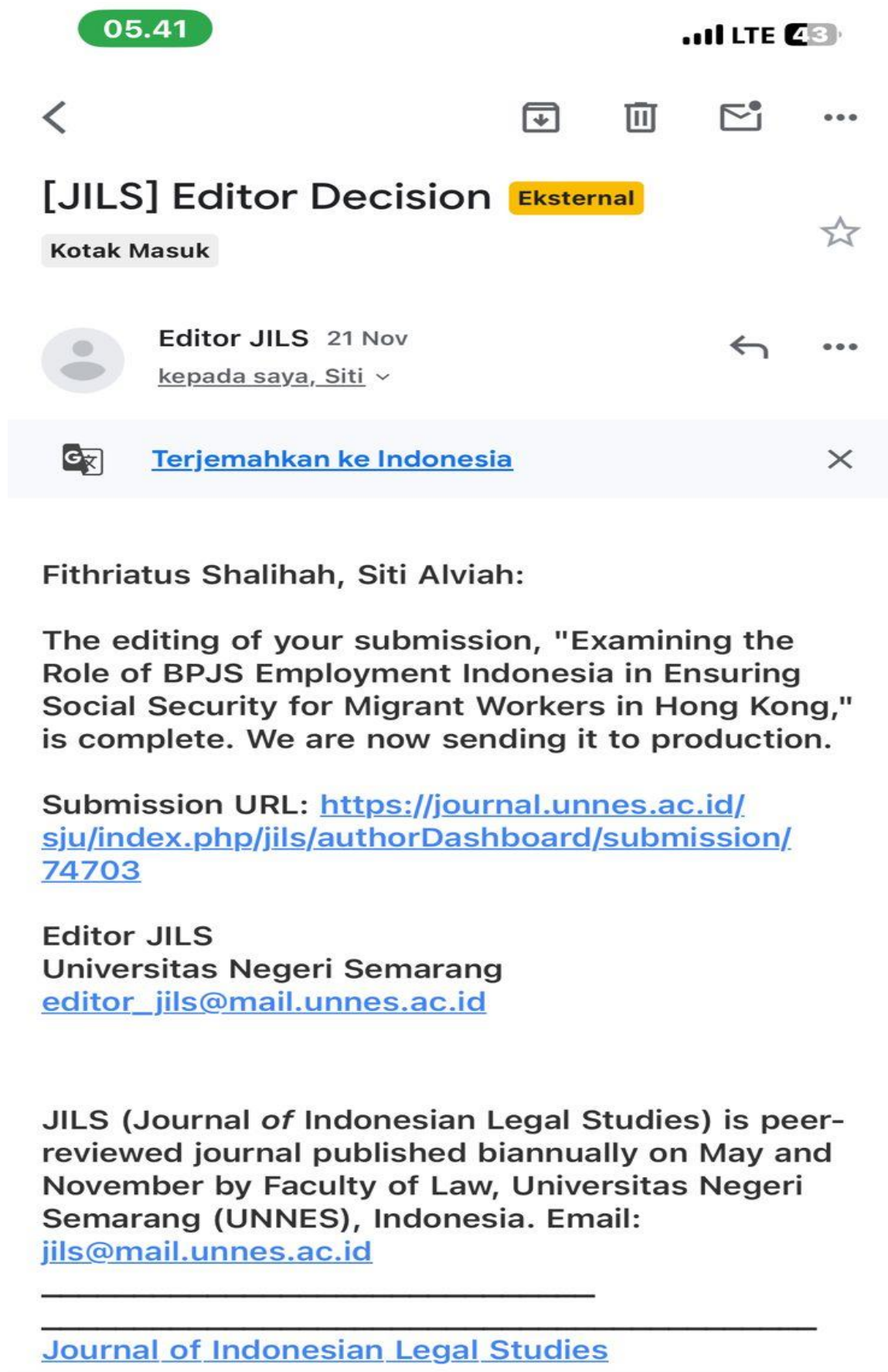
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Examining the Role of BPJS Employment Indonesia in Ensuring Social Security for Migrant Workers in Hong Kong

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ABSTRACT

The 2022 National Social Security Council report exposes a concerning reality 67.7% of Indonesian Migrant Workers (PMI) abroad remain unenrolled in the BPJS Employment program, signaling a significant shortfall in the effectiveness of Republic of Indonesia Ministerial Regulation No. 18 of 2018. Despite the crucial role of social security for PMIs, the existing regulatory framework lacks the efficacy needed for comprehensive protection. In response, the Indonesian Government addressed this issue in 2023 by amending the regulation, leading to the issuance of Minister of Manpower Regulation No. 4 of 2023, with the aim of fortifying social security provisions for PMIs. This research assesses the implementation of Minister of Manpower Regulation No. 4 of 2023, with a specific focus on its impact in Hong Kong. Utilizing an empirical juridical approach and drawing on both primary and secondary data, the study investigates the attitudes of



Indonesian Migrant Workers in Hong Kong. Employing a deductive approach, the study's respondents comprise Indonesian Migrant Workers in Hong Kong. Despite the regulatory amendment, the findings reveal limited interest among Indonesian Migrant Workers in Hong Kong to register for the government-provided social security program. This reluctance is rooted in conflicting government regulations, as workers exhibit a preference for employer-provided insurance. Consequently, Indonesian Migrant Workers express a distinct preference for the non-mandatory status of BPJS Employment, aspiring to rely on employer-provided insurance without compulsory enrollment.

Keywords: Social Security, Indonesian Migrant Workers, Migrant Worker's Protection, BPJS

INTRODUCTION

The fifth precept of Pancasila emphasizes social justice for all Indonesian people, which, in this case, is the state's responsibility to realize justice in various matters for all Indonesian people. One of the social justices that all Indonesians deserve is to get a job, as mandated by Article 27 Paragraph (2) of the 1945 Constitution, which reads, "Every citizen has the right to work and a decent living for humanity. The mandate of the 1945 Constitution is, in fact, only a few Indonesian citizens who still need help finding work.¹

¹ Sri Rahmany, "Analisis Faktor-Faktor Yang Mempengaruhi Tenaga Kerja Bekerja Di Luar Negeri Serta Implikasi Terhadap Kesejahteraan Keluarga Dilihat Dari Perspektif Islam," *Iqtisaduna* 7, no. 1 (2018): 51–73. Furthermore, it is also

The difficulty of finding work in one's own country is due, among other things, to the fact that the number of jobs available is not comparable to the domestic workforce², natural factors of a region also affect livelihoods, uneven development between regions, low levels of education, and increasing economic needs, this is what encourages Indonesian citizens to choose to work in other countries or become Indonesian Migrant Workers (PMI).³ In addition to the

highlighted that this constitutional provision emphasizes the fundamental right of every Indonesian citizen to pursue gainful employment and to enjoy a standard of living that befits human dignity. However, the practical application of this constitutional mandate reveals a disparity, as only a limited portion of the Indonesian population still requires assistance in securing employment. In other words, while the constitutional framework guarantees the right to work for all citizens, the actual need for employment support is concentrated among a specific group within the population. This study highlights the complex interplay between constitutional principles and the socio-economic realities faced by certain segments of the Indonesian citizenry. The constitutional commitment to the right to work underscores the government's obligation to create conditions conducive to employment opportunities for all citizens, even as efforts may need to be targeted to address the unique challenges faced by those who still require assistance in finding suitable employment. As such, it emphasizes the importance of aligning policies and initiatives with the broader constitutional goals of providing meaningful work opportunities and decent living standards for every Indonesian citizen. *See also* Anis Widyawati, "Legal Protection Model for Indonesian Migrant Workers." *Journal of Indonesian Legal Studies* 3, no. 2 (2018): 291-304; Fatimatul Uluwiyah, "The Voice of Indonesian Migrant Workers Abroad: How is the Legal Assistance for Them?." *The Indonesian Journal of International Clinical Legal Education* 3, no. 3 (2021): 257-266; Ragil Putri Amalia Solekhah, and Novita Intan'Aina Salsabila. "Protecting Our Migrant Workers from Violence: How the Legal Protection System Works?." *Law Research Review Quarterly* 9, no. 1 (2023): 89-106.

² Tri Sulistiyono et al., "Government Accountability Model for the Protection of Indonesian Migrant Workers in China," *Lex Scientia Law Review* 6, no. 1 (2022): 93-120,.

³ Anas Anwar Nasirin, "Profesionalisasi Buruh Migran Indonesia (BMI) Dalam Revolusi Industri 4.0," *Jurnal MSDA (Manajemen Sumber Daya Aparatur)* 8, no. 1 (2020): 39-50.

above factors, the difference in economic growth between countries also greatly influences citizens to choose to work in other countries.⁴

PMI at the juridical level, Article 1 point 2 of Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers (Law No. 18/2017), which has been amended in Law Number 6 of 2023 concerning the Stipulation of Government Regulations instead of Law Number 2 of 2022 concerning Job Creation into Law (Law No. 6/2023) reads, "Indonesian Migrant Workers are every Indonesian citizen who will, or has done work by receiving wages outside the territory of the Republic of Indonesia."

The Centenary Declaration for the Future of Work, adopted by the governments, employers and workers of the International Labour Organization's (ILO) 187 member States at the International Labour Conference in June 2019, provides a roadmap for a human-centred approach to the future of work, and recognizes the urgent need to enhance social protection systems to ensure universal access to adequate, comprehensive and sustainable social protection adapted to the world of work⁵

Based on data released by the Indonesian Migrant Workers Protection Agency (BP2MI) in July 2023, PMI placements over the past two years have increased over the past two years; this can be seen from July 2021, as many as 4,805 posts in July 2022, as many as 17,884 stations and in July 2023 recorded as many as 25,480 placements, bringing the total PMI placements from January to July 2023 PMI placements to 161,249 posts. In July, PMI placed in the formal sector reached 13,294 orders (52%), while the informal sector reached 12,186

⁴ Defi Ratna Putri and Anna Yulia Hartati, "Faktor Penyebab Meningkatnya Pekerja Migran Indonesia (PMI) Di Korea Selatan Tahun 2017 - 2018," *Kajian Hubungan Internasional* 1, no. 2 (2018): 308–32.

⁵ Christina Behrendt, Quynh Anh Nguyen, and Uma Rani, "Social Protection System and the Future of Work: Ensuring Social Security for Digital Platform Workers," *International Social Security Review* 72, no. 3 (2019): 17-41.

stations (48%). The total number of legal sector placements went to 90,625 posts from January to July, and the informal sector had 70,624 orders.

Data from BP2MI by region, PMI placement from January to July 2023, the number of PMI working in Asia and Africa Region is 150,790 PMI, followed by PMI in Europe and the Middle East Region reaching 9,491 and the Americas and Pacific Region 968. Based on the country for July 2023, the PMI in Taiwan went 7,778 placements, Hong Kong earned 7,248 posts, and Malaysia 6,294 stations. In addition to these three countries, South Korea is a PMI placement country, reaching 874 placements, Japan with 769 orders, Singapore with 645 posts, and Saudi Arabia with 427 stations in July 2023.

One of the favorite destinations for migrant workers to work is Hong Kong.⁶ Data from BP2MI Hong Kong, in the last two years, the placement of PMI to Hong Kong in December 2021 was 4220 (61.5%) or Hong Kong ranks first in PMI destinations, based on BP2MI data released in November 2022, from January to November 2022 the total PMI in placement in Hong Kong reached 54,691 or Hong Kong ranks first with the most PMI placements, while based on data released in July 2023, from January to July the number of PMI placements in Hong Kong reached 40,887 and this places Hong Kong as the third most destination for PMI placements.

The data above explains that only some Indonesian citizens work abroad, especially in Hong Kong. Not without reason, PMI has to work in Hong Kong, one of which is based on the amount of salary

⁶ Isna Rifka, "5 Negara Jadi Tujuan TKI Terbanyak," *Kompas.Com*, 2021, <https://money.kompas.com/read/2021/12/06/174759226/5-negara-jadi-tujuan-tki-terbanyak?page=all>.

that PMI can receive.⁷ Another factor is that the Hong Kong Government protects foreign nationals working in Hong Kong.⁸

Indonesian citizens who work in Hong Kong and other countries not only have an impact on themselves but also have an impact or benefit on the country because every year, they contribute 159 trillion to the country's foreign exchange after the oil and gas sector and above the tourism sector.⁹ Foreign exchange contributed by PMI every year is a driver of the pace of the domestic economy.¹⁰ Seeing the contribution of Indonesian migrant workers to the country is extraordinary, comparable to the risks that endanger migrant workers (torture, harassment, or murder) that can occur to migrant workers working abroad.¹¹ Migrant workers can experience risks that may be bad, so migrant workers need to get extra attention from the Government of Indonesia to ensure the human rights of migrant workers are still fulfilled while working abroad, considering that

⁷ Safyra Primadhyta, "Ketika Gaji Tinggi Pikat Hati Buruh Migran Kerja Di Hong Kong," *CNN Indonesia*, 2019, <https://www.cnnindonesia.com/ekonomi/20190204171648-92-366435/ketika-gaji-tinggi-pikat-hati-buruh-migran-kerja-di-hong-kong>.

⁸ Fithriatus Shalihah, Norma Sari, and Rosyidah, "Perlindungan Hukum Pekerja Migran Indonesia (PMI) Sektor Informal pada Masa Penempatan di Hong Kong China," *Prosiding Seminar Nasional Hasil Pengabdian Kepada Masyarakat Universitas Ahmad Dahlan 4* (2022): 1012–1013.

⁹ Titis Anis Fauziah, "Pekerja Migran Indonesia Jadi Penyumbang Devisa Terbesar Kedua Rp 159 Triliun, Kepala BP2MI Ingatkan Pejabat Untuk Tidak Sombong," *KOMPAS*, 2023, <https://regional.kompas.com/read/2023/01/23/093211978/pekerja-migran-indonesia-jadi-penyumbang-devisa-terbesar-kedua-rp-159>.

¹⁰ Aswatini Aswatini, "Pekerja Migran Indonesia (PMI): Peran Dan Kontribusi Dalam Pengembangan Pariwisata Di Daerah Asal," *Badan Riset dan Inovasi Nasional*, 2023, <https://kependudukan.brin.go.id/kajian-kependudukan/migrasi-penduduk/purna-pekerja-migran-indonesia-pmi-peranan-dan-kontribusi-dalam-pengembangan-pariwisata-di-daerah-asal/>.

¹¹ Endang Nurdin, "Pekerja Migran Indonesia Yang Selamat Dari 'Neraka' Di Malaysia: 'Mengapa Siksa Saya?'," *BBC News Indonesia*, 2023, <https://www.bbc.com/indonesia/dunia>.

migrant workers must adapt to differences in climate, work ethic, work rules, cultural and language backgrounds¹² All efforts to guarantee the rights of migrant workers must be pursued by the Government of Indonesia, especially in providing social security for migrant workers.¹³

According to Article 1 number 18 of Law No. 18 of 2017, amended in Law No. 6 of 2023, social security reads, "Social Security is a form of social protection to guarantee all people to be able to meet the basic needs of a decent life." The meaning of the entire article above also includes PMI to be able to access social security organized by the Government of Indonesia.¹⁴ The implementation of social security for prospective migrant workers and migrant workers who will work or have worked in the placement country is a form of state protection against migrant workers.¹⁵

The mandate of Article 1 number 8 of Law No. 18/2017 is not the reality for PMI; in the middle of last year or precisely in 2022, the National Social Security Council (DJSN) released a report containing data on 6.09 million PMI or as many as 67.7% of PMI have not registered with the Social Security Organizing Agency (BPJS)

¹² I Nyoman Bagus Siddhanta Zulfiandi, Franciscus Anton Wirawan, Nikhen Pratiwi Sekar Tanjung, Roselina Yolanda, M. Zaini, Devi Andrian, Khairina Syafitri, Gilang Amaldi, *Ketenagakerjaan dalam Data*, ed. Franciscus Anton Wirawan Zulfiandi, *Occupational Therapy: The Official Journal of the Association of Occupational Therapists*, 4th ed., vol. 20 (Jakarta: Pusat Data dan Teknologi Informasi Ketenagakerjaan, 2021).

¹³ Lalu Adi Adha, Zaeni Asyhadie, and Rahmawati Kusuma, "Kebijakan Jaminan Sosial Pekerja Migran Indonesia," *Jurnal Risalah Kenotariatan* 1, no. 2 (2020): 170-192.

¹⁴ Sony Mardiyanto Timboel Siregar, Indra Munawar, German E. Agent. *Upaya Peningkatan Kepesertaan dan Manfaat Jaminan Sosial Ketenagakerjaan*. (Jakarta: Friedrich-Ebert-Stiftung, 2020). Available online at <https://library.fes.de/pdf-files/bueros/indonesien/19688.pdf>

¹⁵ Siregal, Munaswar, and Angent.

Employment.¹⁶ Social security is a front line to protect migrant workers who work abroad, because of the dire risks that may occur or be experienced by migrant workers, especially during the placement period to work, so it is necessary to get protection through social security.¹⁷

Previously, there was a Regulation of the Minister of Manpower of the Republic of Indonesia Number 18 of 2018 concerning Social Security for Indonesian Migrant Workers (Permenaker RI No. 18/2018), the existence of this regulation and then based on data from the DJSN made the Ministry of Manpower revise social security regulations for migrant workers, to increase social security benefits for migrant workers, both before leaving, when migrant workers work abroad and after work, as stated in the Regulation of the Minister of Manpower Number 4 of 2023 (Permenaker No. 4/2023). Then, after the emergence of this latest regulation, it is necessary to see the impact on migrant workers working in Hong Kong related to access to employment security.

The critical issue of social security for Indonesian migrant workers (PMI) is primarily rooted in the dearth of accurate data concerning PMI participants within the social security system. This deficiency in information underscores a pressing problem that demands immediate attention from the Indonesian Government, particularly in the case of PMI working in Hong Kong. Consequently, a thorough examination of this matter becomes imperative. The research problem can be articulated in the following manner:

¹⁶ Lailatul Anisah, "Penyebab Banyak PMI Belum Mendaftarkan Ke BPJS Ketenagakerjaan," *KONTAN*, 28 June (2022). Retrieved from <https://nasional.kontan.co.id/news/ini-penyebab-banyak-pmi-belum-mendaftar-ke-bpjs-ketenagakerjaan>

¹⁷ Siregar Munawar, and Agent. *Upaya Peningkatan Kepesertaan dan Manfaat Jaminan Sosial Ketenagakerjaan*.

The first facet involves investigating the current regulations governing social security for migrant workers in the aftermath of the introduction of Minister of Manpower Regulation Number 4 of 2023, specifically tailored to address the unique needs of Indonesian Migrant Workers. In addition, the second dimension entails scrutinizing the practical implementation of social security measures for migrant workers in Hong Kong subsequent to the enforcement of Minister of Manpower Regulation Number 4 of 2023, which specifically focuses on the social security framework for Indonesian Migrant Workers.

The primary objective of this study is to conduct a comprehensive analysis of the implementation of social security measures for Indonesian migrant workers placed in Hong Kong following the enactment of Minister of Manpower Regulation Number 4 of 2023, which specifically addresses the social security framework for Indonesian Migrant Workers. Employing a qualitative approach, the research adopts an empirical juridical research type. The study is geographically situated in Hong Kong, China, and relies on data collection methods involving literature reviews and interviews with Indonesian migrant workers placed in Hong Kong. Utilizing qualitative analysis, the obtained data is scrutinized to illuminate key aspects of the research problem. The study concludes using the deductive method, a systematic approach that derives specific conclusions from general principles.

SOCIAL SECURITY FOR INDONESIAN MIGRANT WORKERS: UNRAVELING THE LATEST REGULATION

Protecting prospective migrant workers is to ensure the fulfillment and enforcement of human rights as citizens and migrant workers and to ensure the legal, economic, social, and family protection of migrant workers.¹⁸ PMI who work abroad have the right to receive legal protection by the state from all forms of acts such as forced labor, human trafficking, slavery, violence, harassment and all acts that are contrary to human rights.¹⁹

Some scholars assert that legal protection revolves around the acknowledgment of individual human rights within society, delineating two primary categories: preventive and repressive measures. Preventive legal protection focuses on averting violations and establishing boundaries for fulfilling obligations, while repressive legal protection, or coercion, is geared towards issue resolution.²⁰

¹⁸ Erna Ratnaningsih, "Paradigma Baru Perlindungan Pekerja Migran Indonesia," Bina Nusantara, 2017, <https://business-law.binus.ac.id/2017/12/31/paradigma-baru-perlindungan-pekerja-migran-indonesia/>.

¹⁹ Wayne Palmer and Antje Missbach, "Enforcing Labour Rights of Irregular Migrants in Indonesia," *Third World Quarterly* 40, no. 5 (2019): 908–25,

²⁰ Philipus M. Hadjon, *Perlindungan Hukum Bagi Rakyat Indonesia* (Surabaya: PT Bina Ilmu, 1987). See also Nur Putri Hidayah, "Comparative study of legal protection for migrant workers in participation of social security programs in Indonesia and Singapore." *Legality: Jurnal Ilmiah Hukum* 28, no. 1 (2020): 47-59; Darminoto Hartono, and Indranila Kustarini Samsuria. "Legal protection of Indonesian migrant workers: international law, National regulations and contemporary problems." *International Journal of Criminology and Sociology* 10 (2021): 859-865; Ved P. Nanda, "The Protection of the Rights of Migrant Workers: Unfinished Business." *Asian and Pacific Migration Journal* 2, no. 2 (1993): 161-177.

The legal shelter extended by the state to migrant workers spans pre-employment, during employment, and post-employment periods. Critical components of legal protection for prospective migrant workers include their restricted engagement exclusively in destination countries equipped with protective regulations for foreign workers, a formal agreement with the Government of Indonesia, and a robust social security or insurance system dedicated to safeguarding foreign workers.

Moreover, the central government wields the authority to cease and prohibit the placement of migrant workers in specific countries or positions abroad. This decision-making process involves considerations such as human rights, security, employment opportunities, and aligning with national labor needs. In this regulatory framework, the government is obligated to heed insights and recommendations from diverse stakeholders. Additionally, the central government assumes the responsibility of designating specific assignments in predetermined countries or positions, thereby shaping a comprehensive legal protection framework for the welfare and rights of Indonesian migrant workers.

Social protection for Indonesian migrant workers (PMI) and prospective PMI candidates entails a multifaceted approach. This involves enhancing the quality of education and training through adherence to work standards, bolstering the influence of accreditation and certification bodies, ensuring the competence of education personnel and trainers, providing skill improvement services, implementing protection policies specifically tailored for women and children, and establishing dedicated PMI protection centers within the countries where PMI are placed. This comprehensive strategy aims to fortify the social safeguards surrounding PMI, fostering a supportive environment that prioritizes education, skills

development, and the overall well-being of migrant workers and potential candidates.

The central government and local governments jointly administer economic protection measures for Indonesian migrant workers (PMI) and prospective PMI candidates. This oversight encompasses various facets facilitated by the authorities, including the management of money transfers involving both banking and domestic non-bank financial institutions, as well as coordination with the destination country.²¹

Furthermore, economic protection extends to financial education initiatives designed for migrant workers and their families. These programs aim to empower individuals to navigate and make informed decisions about the outcomes of money transfer management. Additionally, entrepreneurship education is integrated into the economic protection framework, enabling PMI and their families to cultivate business skills and explore entrepreneurial opportunities. Through these comprehensive measures, the government seeks to enhance economic resilience and financial well-being for Indonesian migrant workers and those aspiring to work abroad.²²

²¹ See Muhammad Azzam Alfarizi, Ridha Nikmatus Syahada, and Lisa Arianti Kusuma Dewi. "Tinjauan Yuridis terhadap Peran Kerja Sama Imigrasi dalam Perlindungan Hukum Pekerja Migran Indonesia." *Jurnal Syntax Transformation* 2, no. 4 (2021): 508-523; Istianah Istianah, and Johanna Debora Imelda. "Mekanisme Perlindungan Sosial Bagi Pekerja Migran Indonesia (PMI) Perempuan Di Hongkong." *Sosio Konsepsia: Jurnal Penelitian dan Pengembangan Kesejahteraan Sosial* 10, no. 2 (2021): 111-121.

²² See Rosita Tandos. "Developing A Model for Women Economic Empowerment for Indonesian Former Migrant Workers." *Asian Social Work Journal* 7, no. 4 (2022): 23-38; Rani Kumala Sari, Sjamsiar Sjamsuddin, and Suryadi Suryadi. "The Implementation of Empowerment Program for Indonesian Ex-Migrant Workers to Improve Their Welfare." *Wacana Journal of Social and Humanity Studies* 24, no. 4 (2021): 200-206.

Thus, regarding social protection arrangements regulated in Law No. 18/2017, Article 35 states further provisions regarding legal protection, social protection, and economic protection for prospective migrant workers and migrant workers. Meanwhile, family protection is included in one of the objectives of PMI protection in Article 3 of Law No. 18/2017. In Law No. 18/20217, PMI family means husband, wife, children, and parents (who have a relationship through determination and decided by the court), whether they are in Indonesian territory or live abroad with PMI.

In addition to legal protection, social protection, economic protection, and family protection of migrant workers, or the protection in Law No. 18/2017, it is also necessary to quote the opinion of Imam Soepomo about worker protection. According to Imam Soepomo,²³ Worker protection includes 3 (three) things, including economic protection, social protection and technical protection. Economic protection is protection related to providing decent wages for PMI in accordance with standards, social protection is protection for PMI related to social security, and technical protection includes work safety protection from the worst possible risks while working.²⁴

All of the above protections are very important for prospective migrant workers and migrant workers who work abroad. Currently, researchers focus on social protection for migrant workers who work abroad, which is related to social security. Social security is essential

²³ Fithriatus Shalihah and Retno Damarina, "The Urgency of Legal Certainty in the Protection of Domestic Workers in Indonesia: A Study in Yogyakarta City," *Proceedings of the 1st International Conference on Social-Humanities in Maritime and Border Area, SHIMBA 2022, 18-20 September 2022, Tanjung Pinang, Kep. Riau Province, Indonesia: SHIMBA 2022*. European Alliance for Innovation, 2022. <https://doi.org/10.4108/eai.18-9-2022.2326039>.

²⁴ Ngabidin Nurcahyo, "Perlindungan Hukum Tenaga Kerja Berdasarkan Peraturan Perundang-Undangan Di Indonesia," *Jurnal Cakrawala Hukum* 12, no. 1 (2021): 69–78, <https://doi.org/10.26905/idjch.v12i1.5781>.

for migrant workers during the placement period in the placement country if migrant workers experience bad things during work. Based on Lalu Husni's opinion, social security is distinguished in a narrow and broad sense. In a bit of understanding, social security deals with social assistance and insurance in employment protection. The definition of social security broadly includes prevention and development, recovery and healing, and punishment.

The International Covenant on Economic, Social, and Cultural Rights (ICESC) (1966), together with the Universal Declaration of Human Rights (1948) and the International Convention on Civil and Political Rights (1966), make up the International Bill of Human Rights. The Covenants recognize “independent human rights to enjoy civil and political freedom and freedom from fear and human rights to freedom to engage in politics, as well as economic, social and cultural rights.” All peoples have the right to self-determination, including the right to determine their political status and freely pursue economic, social, and cultural development”. One of the economic rights is the right to work, and everyone has the right to just conditions of work: fair wages ensuring a decent living for himself and his family; equal pay for equal work; safe and healthy working conditions; equal opportunity for everyone to be promoted; rest and leisure.²⁵ Everyone, regardless of citizenship, is entitled to social security, including social insurance; unqualified workers, especially migrant workers in other countries, are also entitled to social security.

The Government of Indonesia ratified the international convention on the International *Covenant* on Economic, Social, and Cultural Rights (ICESCR) on September 30, 2005, into Law Number 11 of 2005 concerning the ratification of the ICESCR or the *International Covenant on Economic, Social and Cultural Rights*. The ratification

²⁵ Council of Europe Portal, *International Covenant on Economic, Social and Cultural Rights*, Council of Europe Portal.

carried out by the Government of Indonesia has consequences for the protection and respect of human rights, or it can be said that the Government of Indonesia is obliged to carry out the contents of the ICESCR to all citizens in the life of the nation and state.²⁶ The intended citizen can also be interpreted as an Indonesian citizen living in Indonesian territory, including Indonesian citizens working abroad or PMI.

In addition to Indonesia ratifying ICESCR as a country that upholds human rights, Indonesia is also one of the ILO members and also adopted the International Convention on the Protection of the Rights of *Migrant Workers and Members of Their Family (Protection of the Rights of All Migrant Workers and Family Members)* by ratifying it into Law of the Republic of Indonesia Number 6 of 2012 concerning Ratification of the *International Convention of the Protection of the Rights of Migrant Workers and Members of Their Family*.²⁷

Article 27 in the *International Convention of The Protection of the Rights of Migrant Workers and Members of Their Family* Also contains related to social security. Article 27, paragraph (1) of the *International Convention of the Protection of the Rights of Migrant Workers and Members of Their Family* states, "About social security, migrant workers and members of their families shall enjoy the same treatment as citizens of

²⁶ Republic of Indonesia. *Undang-Undang Nomor 11 Tahun 2005 Tentang Pengesahan International Covenant Economic, Social, and Cultural Rights (Kovenan Internasional Tentang Hak-Hak Ekonomi, Sosial dan Budaya [Law Number 11 of 2005 concerning Ratification of the International Covenant on Economic, Social and Cultural Rights]*. (Jakarta: Sekretariat Negara, 2005).

²⁷ Republic of Indonesia. *Undang-Undang Nomor 6 Tahun 2012 Tentang Pengesahan International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Konvensi Internasional Mengenai Perlindungan Hak-Hak Seluruh Pekerja Migran dan Anggota Keluarganya) Law Number 6 of 2012 concerning Ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*. (Jakarta: Sekretariat Negara, 2012).

the State of employment, provided that they meet the requirements established by the provisions of the law in force in that country and the applicable bilateral and multilateral agreements. Officials in the authorities of the country of origin and destination of work may make the necessary arrangements to determine the procedures for implementing this norm". In the content of the article above, it can be interpreted that every migrant worker working in the country of placement is also entitled to social security organized by the government of post for citizens, countries of order, or it can be said that migrant workers in the country of station also have the same rights related to social security in the land of placement of migrant workers.

Article 27(2) of the International Convention of the Protection of the *Rights of Migrant Workers and Members of Their Family* states, "Where applicable legal provisions do not provide benefits to migrant workers and members of their families, States concerned shall seek the possibility of reimbursing the person concerned the number of contributions paid by them about such allowances as applied to citizens his country is in the same situation." *Migrant worker placement countries should seek other alternatives* if they do not have provisions related to social security for migrant workers or a middle way to provide social security for employed migrant workers.

Social security as a social policy is generally implemented in various forms of income benefits directly, which are inseparable from taxation policies and income maintenance. Social security also includes multiple schemes to improve access to essential social services. Social security in the form of income benefits can be called

benefits in *cash*, while those in the form of assistance for goods or social services are called *benefits in kind*.²⁸

The international level of social security is regulated by the International Labour Organization (ILO) Convention Number 102 of 1952, in which everyone gets protection from the National Social Security System (SJSN). ILO Convention Number 102 contains at least 9 (nine) minimum standards that must be implemented by the state in the social security program, including the following:

1. Work Accident Insurance (WAI) includes compensation for heirs due to death while working or while earning a living;
2. Service;
3. Provision of sick benefits to workers;
4. Old Age Guarantee (OAG);
5. Disability compensation;
6. Family benefits or services given to or in the case of children, food, clothing, vacation, or domestic assistance;
7. Care of pregnancy and childbirth (care for before and after birth);
8. Benefits for unemployment and
9. Compensation for heirs due to the worker's death will be given to the widow, spouse, or child of the deceased worker.

ILO is an international organization that focuses on productivity and economic growth. Social security's contribution to economic development through social stability and labor productivity.²⁹ ILO Convention 102 of 1952 on (Minimum Standards) Social Security also provides for equal treatment of foreign nationals, health services, sickness benefits, unemployment benefits, maternity

²⁸ Akhmad Purnama, "Analisis Perlindungan Jaminan Sosial Bagi Pekerja Informal Analyze on Social Insurance and Protection of Informal Workers," *Jurnal PKS* 14, no. 2 (2014): 149–62.

²⁹ ILO, "Evaluasi Dua Tahun Penerapan Jaminan Sosial Untuk Pekerja Dalam Era Digitalisasi," *Press Release International Labour Organization*, 2017, https://www.ilo.org/jakarta/info/public/pr/WCMS_574167/lang--en/index.htm.

benefits, disability benefits, heirs' benefits related to joint provisions, other provisions, and final provisions.

ILO mandate number 102 of 1952 concerning minimum social security standards for members of the organization to provide minimum protection to workers. Indonesia organizes the National Social Security System (SJNS).³⁰ This is what encourages the protection of human rights for migrant workers both in the form of health insurance and in the condition of employment.³¹ The Indonesian government also has SJSN, which is under the legal umbrella in Law No. 40 of 2004 concerning the National Social Security System (Law No. 40/2004), amended in Law No. 2/2020, then amended in Perpu No. 2/2022 and amended in Law No. 4 of 2023 concerning the Development and Strengthening of the Financial Sector (Law No. 4/2023). As long as the Law No. 40/2004 article is not amended, it remains valid.

Further provisions related to social security for PMI are contained in ministerial regulations. RI Minister of Manpower Regulation No. 18/2018, which has been revised to become Permenaker No.4 of 2023, is a ministerial regulation that regulates social security for PMI and PMI candidates. PMI and PMI candidates in this ministerial regulation are required to register for social security, there are two participation programs that PMI and PMI candidates must take part in, namely Work Accident Insurance (JKK) and Death Insurance (JKM), and there is a recommended program, namely the Retirement Assurance (*Jaminan Hari Tua*, hereinafter as

³⁰ Hartini Retnaningsih, "Strategi Sistem Jaminan Sosial Nasional Bidang Ketenagakerjaan Dalam Upaya Perlindungan Pekerja Di Kota Surabaya Dan Kota Pekanbaru," *Aspirasi: Jurnal Masalah-Masalah Sosial* 7, no. 2 (2016): 157–72.

³¹ Badan Pembinaan Hukum Nasional Kementerian Hukum dan Hak Asasi Manusia, *Laporan Akhir Analisis Dan Evaluasi Hukum Terkait Keimigrasian*, 2020.

JHT).³² JKK is regulated in Article 1 Number 8 of Permenaker No. 4/2023, which reads, "*Work Accident Insurance herein after abbreviated as JKK is a benefit in the form of cash and health services provided when participants experience a Work Accident or illness caused by the work environment.*" JKM is contained in Article 1 number 9 of Permenaker No. 4/2018, highlighted that Death Insurance, henceforth referred to as JKM, is a financial indemnity provided to beneficiaries in the event of a participant's demise, excluding cases attributed to work-related accidents. JHT, according to Article 1 number 10 of Permenaker No. 4/2023 reads, "*Old Age Insurance, here in after abbreviated as JHT, is a cash benefit paid at once when the participant completes the employment agreement and returns to Indonesia, dies, or experiences permanent total disability.*"

The presence of this Permenaker is a manifestation of legal certainty for PMI, whose substance in this Permenaker is the ideal of a law formed (*swollen*). *Still*, this ideal is different from the expectations of the law itself (*sein*).³³ Similarly, Permenaker RI No. 18/2018 related to social security for migrant workers, the programs designed do not run properly; this is evidenced by the results of the DJSN report, which states that more than 50% of migrant workers working abroad are not registered in BPJS Employment participation.

The ineffectiveness of the social security program prompted the government to revise the Republic of Indonesia Minister of Manpower Regulation No. 18/2018 to increase social security benefits for PMI. The lack of effectiveness of RI Minister of Manpower Regulation No. 18/2018 can be seen in Hong Kong, on average PMIs

³² Istianah Istianah and Johanna Debora Imelda, "Social Protection Model for Female Indonesian Migrant Workers in Hong Kong," *Sosio Conceptia* 10, no. 2 (2021). <https://doi.org/10.33007/ska.v10i2.2222>.

³³ Fithriatus Shalihah and Retno Damarina, "Problem Hukum Dalam Perlindungan Pekerja Rumah Tangga Di Indonesia," *Jurnal Selat* 10, no. 2 (2023): 131–43, <https://doi.org/10.31629/selat.v10i2.5645>.

in Hong Kong do not or have not registered for social security provided by the Indonesian Government for several reasons, including because PMIs feel that the social security provided by the Indonesian Government or BPJS Employment does not provide direct benefits to PMI.³⁴ The purpose of not providing benefits BPJS Employment in Hong Kong cannot be claimed or used by migrant workers in Hong Kong; this makes PMI more comfortable using insurance provided by the Hong Kong Government. The Hong Kong PMI stated that before going to work in Hong Kong, PMI was required to register for BPJS Employment (*BPJS Ketenagakerjaan*), but when arriving in Hong Kong, PMI no longer extended its membership as a member of BPJS Employment, Hong Kong PMI service users or employers before hiring PMI must take care of insurance for PMI, this is also one of the factors PMI is reluctant to use BPJS Employment.³⁵

In response to this, the Government of Indonesia quickly revised Permenaker RI No. 18/2018 to Permenaker No.4/2023 concerning Social Security for Indonesian Migrant Workers. This revision of the Permenaker is an immediate response from the Government of Indonesia to the reality of implementing social security for migrant workers; the existence of Permenaker No.4/2023, the government increases social security benefits.³⁶ The benefits contained in

³⁴ Nabiyla Risfa Izzati, "Indonesian Migrant Workers Protection through the Law Number 18 of 2017: New Direction and Its Implementation Challenges," *Padjadjaran Jurnal Ilmu Hukum* 6, no. 1 (2019): 190–210, <https://doi.org/10.22304/pjih.v6n1.a10>.

³⁵ Fithriatus Shalihah et al., *Efektivitas Peraturan Menteri Ketenagakerjaan Nomor 18 Tahun 2018 Dalam Penyelenggaraan Jaminan Sosial Bagi Pekerja Migran Indonesia*, in *Diskursus Hukum Ketenagakerjaan Di Indonesia* (Medan: USU Press, 2022): 267.

³⁶ Komisi IX, "Tambah Manfaat Sosial, Legislator Imbau Permenaker Jaminan Sosial PMI Disosialisasikan Secara Masif," *Online DPR RI*, 2023, retrieved from <https://www.dpr.go.id/berita/detail/id/43956/t/Tambah-Manfaat-Sosial-Legislator-Imbau-Permenaker-Jaminan-Sosial-PMI-Disosialisasikan-Secara-Masif>.

Permenaker No. 4 of 2023 become 21, which initially contained 14.³⁷ The seven new benefits are as follows:³⁸

First, if PMI experiences a work accident in the placement country, they will get medical reimbursement for work accidents of a maximum of Rp. 50 million. *Second*, *homecare* for 1 (one) year with a maximum cost that PMI can get Rp. 20 million. *Third*, PMI also receives a complete replacement of Rp. 2.5 million. *Fourth*, PMI gets a glasses replacement with a maximum cost of Rp. 1 million. *Fifth*, if there are migrant workers who get raped, they will get assistance of Rp. 50 million. *Sixth*, if PMI experiences unilateral termination of employment, PMI will get help from Rp. 1.5 million, and *seventh*, reimbursement of Rp. Twenty-five million if PMI gets placement not by the work agreement and reimbursement of transportation costs of a maximum of Rp. 15 million.

In addition to the seven benefits above, Permenaker No.4/2023 also provides nine additional benefits: if PMI dies, the family will get death compensation, compensation for PMI who experience permanent total disability, which is given periodically, compensation for failing to leave, compensation for failing to be placed, repatriation costs for PMI who have problems, repatriation costs given to PMI who have a work accident, denture replacement costs, and scholarships for PMI children.³⁹

³⁷ Ady Thea DA, "Pemerintah Naikan Manfaat Jaminan Sosial Pekerja," *Hukum Online*, 2023, from <https://www.hukumonline.com/berita/a/pemerintah-naikan-manfaat-jaminan-sosial-pekerja-migran-lt6401c9d483a2f/>

³⁸ Erlang Satya Darmawan, "Permenaker Nomor 4 Tahun 2023 Diterbitkan, Jaminan Untuk PMI Resmi Bertambah," *KOMPAS*, 2023, retrieved from <https://www.kompas.com>

³⁹ Eqqi Syahputra, "Menaker Terbitkan Permenaker Baru Tentang Jaminan Sosial PMI," *CNBC Indonesia*, 2023, retrieved from <https://www.cnbcindonesia.com/news/20230303160955-4-418700/menaker-terbitkan-permenaker-baru-tentang-jaminan-sosial-pmi>

The JHT program already exists in Permenaker RI No. 18/2018, but in Permenaker No. 4/2023, there is additional substance in implementing JHT social security. The number of benefits of the JHT program for prospective PMI or PMI is based on the accumulated value of all contributions deposited and the results of their development recorded in the individual accounts of JHT program participants. The story of the importance of JHT program benefits can continue after participants (PMI) terminate the employment agreement, and the help of the JHT program has yet to be paid at once. Related to JHT benefits, it can be given to prospective PMI or PMI if they have entered retirement age, died, or experienced permanent total disability. Regarding the retirement age intended by this latest ministerial regulation, entering the age of 56 (fifty-six) years, PMI candidates who fail to leave are placed in the destination country or stop working. The meaning of PMI that fails to be placed in the destination country or stops working in Permenaker No.4 of 2023 consists of the end of work time stated in the work agreement, experiencing layoffs, PMI resigning, or PMI becoming a foreign national. JHT program participants in preparation for entering retirement, JHT benefits can be partially disbursed to a specific limit if participants have a membership period of at least 10 (ten) years, that is, at most 30% of the amount of JHT, for home ownership or 10% of the amount of JHT for other purposes according to the need to enter retirement age.

The contribution section and payment method contained in Article 18 of Permenaker No. 4 of 2023, all of the above benefits can be obtained if migrant workers pay contributions by the latest regulation.⁴⁰ Article 18 of Permenaker No.4/2023 reads:

⁴⁰ Erdy Nasrul, "Menaker Dukung Peningkatan Jaminan Sosial Ketenagakerjaan Untuk PMI," *REPUBLIKA*, 2023, retrieved from

1. Payment of JKK and JKM program contributions for prospective Indonesian Migrant Workers through the Placement Implementer is carried out in stages, provided that:
 - a. protection fee before employment is paid in the amount of Rp37,500.00 (thirty-seven thousand five hundred rupiah); and
 - b. Protection contributions during work and after engagement are paid according to the terms of the employment agreement as follows:
 - 1) for 24 (twenty-four) months amounting to Rp 332,500.00 (three hundred thirty-two thousand five hundred rupiah);
 - 2) for 12 (twelve) months amounting to Rp189,000.00 (one hundred eighty-nine thousand rupiah), or
 - 3) for 6 (six) months amounting to Rp108,000.00 (one hundred eight thousand rupiah);).
2. Payment of JKK and JKM program contributions for protection during work and after work for Individual Indonesian Migrant Workers is made at once according to the terms of the work agreement as follows:
 - a. for 24 (twenty-four) months amounting to Rp 332,500.00 (three hundred thirty-two thousand five hundred rupiahs);
 - b. for 12 (twelve) months amounting to Rp189,000.00 (one hundred eighty-nine thousand rupiah), or
 - c. for 6 (six) months amounting to Rp108,000.00 (one hundred eight thousand rupiah);).

If the employment agreement exceeds the period in Article 1 point b above and Paragraph (2), the payment of JKK and JKM social security program contributions will be charged at 13,500 (thirteen thousand five hundred rupiah) every month and paid according to the excess work agreement period.

<https://news.republika.co.id/berita/s06iz2451/menaker-dukung-peningkatan-jaminan-sosial-ketenagakerjaan-untuk-pmi>

Claims for work accident insurance for PMI protection during work, according to Permenaker No.4/2023, include the following:

1. Reports of work accidents and PMI experiencing work accidents, including acts of physical violence in the placement country, are made using the PMI work accident case report form contained in BPJS Employment regulations and attaching several documents, including:
 - a. BPJS Employment participant card;
 - b. Passport;
 - c. Certificate from employer, Representative of the Republic of Indonesia, Indonesian Trade and Economic Office (ITEO) or government agencies related to employment;
 - d. Medical diagnosis certificate from a hospital or health facility in the PMI placement country;
 - e. Transportation costs in the country of placement;
 - f. A savings account in the name of PMI or another party's account that pays first and
 - g. Evidence or other documents related to PMI's work accidents.
2. If the cost of treatment and treatment exceeds Benefit limits from social security and insurance in the Country you're placing in needs to include Documents, including the following:
 - a. Certificate from insurance at PMI placement countries or government agencies that carry out affairs in the field of labor regarding the amount of reimbursement of medical expenses or treatment that have been paid in the event of a payment dispute;
 - b. Proof of payment for PMI treatment or treatment from the hospital or other health facilities in the PMI placement country; and

- c. a savings account in the name of the party who first paid for the treatment or treatment.
3. If PMI dies due to a work accident, it is necessary to attach the following documents:
 - a. Identity card or other proof of identity of the heir;
 - b. PMI family card and PMI heirs;
 - c. Death certificate from a doctor or authorized official;
 - d. Certificate of heirs from the authorized official; and
 - e. savings account in the name of the legal beneficiary.
4. A report to obtain reimbursement of transportation costs for the repatriation of Indonesian Migrant Workers who have a Work Accident with a non-deceased condition from the destination country of placement to the area of origin is made using the benefit application form as stipulated in the BPJS Employment regulations and attaching documents:
 - a. BPJS Employment Participant Card;
 - b. Passport;
 - c. Certificate from the employer, Representative of the Republic of Indonesia, KDEI, or agency that organizes government affairs in the field of labor;
 - d. Receipt of payment of transportation costs and air tickets or other transportation from the destination country of placement to the area of origin; and
 - e. Savings account in the name of an Indonesian Migrant Worker.
 - f. Report to get cost assistance ranging from reimbursement of repatriation costs of problematic PMI, transportation for repatriation who have a work accident, PMI who are at risk of failure in placement because it is not PMI's fault, money assistance, and transportation replacement for the installation of PMI that is placed not as in the work

agreement, PMI who are laid off due to work accidents, unilateral layoffs received by PMI are not due to work accidents, and JKK program reports for PMI who experience work accidents when PMI returns to the country of origin and returns to the land of placement, need to attach documents :

- 1) BPJS Employment PMI participant card;
- 2) Passport
- 3) Certificate from the employer, Representative of the Republic of Indonesia, KDEI, or agencies that carry out government affairs in the field of labor stating what PMI experienced;
- 4) Savings account in the name of an Indonesian Migrant Worker.
- 5) Work or placement agreement (reimbursement of transportation costs for problematic repatriation, PMI who is at risk of failure of placement due to PMI's fault, money assistance and transportation reimbursement for the installation of PMI placed not as in the work agreement);
- 6) Receipt of payment of transportation costs and airline tickets or other transportation starting from the country of placement to the area of origin of PMI (reimbursement of transportation costs for problematic repatriation, PMI who are at risk of failure of order due to PMI's fault, financial assistance and transportation reimbursement for the installation of PMI placed not as in the employment agreement);
- 7) Payment receipts or other documents related to work accidents (JKK program for migrant workers who

experience work accidents when PMI returns to their home country and returns to the placement country).

- 8) Reports that PMI can make if PMI is proven to have experienced rape to be able to get financial assistance from BPJS Employment benefits, PMI needs to attach documents:
 - a. BPJS Employment PMI Participant Card;
 - b. Passport;
 - c. Letter of results of *visum et reported* examination from a doctor;
 - d. Certificate of Representative of the Republic of Indonesia, Indonesian Trade and Economic Office (KDEI), or government agencies related to the field of employment;
 - e. Savings account in the name of an Indonesian Migrant Worker.

The increase in Permenaker No.4/2023 benefits is not accompanied by an increase in social security program contributions, and this social security program if PMI and PMI candidates register for the JKK program for the claim expiration time to be extended to 5 years, which was initially only two years. After the issuance of Permenaker No.4/2023, the government contains benefits that can improve quality and quantity and is accompanied by no increase in contributions that PMI must pay.⁴¹

In some of the descriptions of the contents of Permenaker No. 4/2023 above, a novelty is intended for PMI and PMI candidates to register to become BPJS Employment participants. Permenaker No.

⁴¹ TVOne, "Kemnaker : Iuran Tetap, Manfaat Meningkatkan," *TVOne News Online*, 2023, retrieved from <https://www.tvonenews.com/berita/nasional/106548-sosialisasi-permenaker-nomor-4-tahun-2023-kemnaker-iuran-tetap-manfaat-meningkat?page=3>.

4/2023 as a replacement for Permenaker RI No. 18/2018, which is considered no longer by the needs and legal developments; therefore, the presence of Permenaker No. 4/2023 is a manifestation of the presence of the state to protect prospective migrant workers and migrant workers.⁴² Maximum protection for migrant workers is needed by migrant workers, considering that migrant workers are vulnerable to various human rights violations, such as physical violence, verbal violence, human trafficking, and other crimes.⁴³ Minister of Manpower of the Republic of Indonesia, Ida Fauziah, said that the Government of Indonesia has a serious commitment to protect migrant workers, considering the challenges and work environment of migrant workers require extra attention and complexity of problems due to differences in the way of working between countries.⁴⁴

In accordance with the provisions of the law in force in the Republic of Indonesia, every Prospective Indonesian Migrant Worker and Indonesian Migrant Worker is obliged to become a participant in the Social Security Administering Body for Indonesian Migrant Workers. In the implementation procedures, since the recruitment of prospective Indonesian Migrant Workers, they have been registered long ago, but there is no notification or understanding of what insurance is. Insurance is self-protection that is paid and has

⁴² Kementerian Ketenagakerjaan Republik Indonesia, "Menaker Terbitkan Permenaker Baru Tentang Jaminan Sosial Pekerja Migran Indonesia," *Indonesia, Kementerian Ketenagakerjaan Republik*, 2023, retrieved from <https://kemnaker.go.id/news/detail/menaker-terbitkan-permenaker-baru-tentang-jaminan-sosial-pekerja-migran-indonesia>

⁴³ Teddy Unggik, "Sosialisasi Permenaker 4/2023, Kemnaker: Iuran Tetap, Manfaat Meningkatkan," *Progresnews.Info*, 2023, retrieved from <http://progresnews.info/2023/03/10/sosialisasi-permenaker-42023-kemnaker-iuran-tetap-manfaat-meningkat/>

⁴⁴ Nasrul, "Menaker Dukung Peningkatan Jaminan Sosial Ketenagakerjaan Untuk PMI,."

appropriate services from products designed by premium selling companies and within a certain period of time. This insurance or premium can be terminated immediately and can also be terminated early by the premium owner provided that the provisions apply. If it is terminated earlier than the expiry date at least 1 month earlier there must be notification to the insurance company or your sales agent so that the process of terminating the service continues.

However, within the Social Security Administration, there is a notable absence of such regulations. This absence not only undermines the efficiency of the insurance system but also transforms non-renewal or discontinuation into a potential penalty. If the premium payments lapse or are not activated, there may be consequences. The question arises: *should the responsibility for the Social Security Administration for Workers fall upon the individual or the employer?*

According to prevailing national laws in Indonesia, for legally employed workers under a contract, it is the obligation of the employer and the company to deduct premiums from their wages. However, Indonesian Migrant Workers have distinct considerations, guided by specific regulations that the government deems necessary for the welfare and protection of Indonesian Migrant Workers.

The weaknesses of the Social Security Administering Agency for Indonesian Migrant Workers are inappropriate socialization, unsatisfactory service and a work team that gives an unprofessional image. The Social Security Administering Agency for Indonesian Migrant Workers has a very good program, but it cannot be implemented abroad, not because there are no offices abroad, but because Indonesian Migrant Workers located in Hong Kong do not need it or even do not meet the needs of Indonesian Migrant Workers.

Insurance is a premium that we can buy if: it suits our financial condition and helps when needed. Why is it that in Hong Kong

insurance for Indonesian Migrant Workers specifically only has Plan A & Plan B. When talking about prices and services, it goes back to the Insurance company, but for Domestic Helpers / Indonesian Migrant Workers in the Household sector, the type of insurance is Fixed under the law. state law. The Social Security Administering Agency injures Indonesian Migrant Workers due to direct coercion of having to use the product without giving them a choice and penalties that should not be carried out. The Social Security Administering Body for Indonesian Migrant Workers cannot be mandatory because its function is not optimal, it is not beneficial for Indonesian Migrant Workers themselves considering that it only applies if the incident is not based on work accidents and death. Meanwhile, when compared to the types and insurance services in the All In One Service destination country, why will Indonesian Migrant Workers still prefer services in the destination country and which is more profitable, the costs are borne by the Employer or Employer. In fact, apart from insurance for Hong Kong Indonesian Migrant Workers, as long as the legal and contract visa is valid, Indonesian Migrant Workers are entitled to subsidized treatment from the state through state hospitals. There are many gaps in services and programs that need to be corrected by the Social Security Administering Body itself if it wants to protect Indonesian Migrant Workers. If the services and programs are limited, then you should not force your will, unless the programs and services are extensive and provide more benefits, please. Not only because the price is cheap and payment is only 350,000 rupiah or only \$150 HKD, not only because it is easy to pay via M-Banking and other remittance services, not only does it have to have an office in the destination country as the facilities and facilities Indonesian Migrant Workers need.

If it is aimed at facilitating and implementing it, the Indonesian Migrant Worker Protection Agency should carry out a review of the

Legality Procedures for work permits by Indonesian Migrant Workers who are clearly obliged to use the UP3TKI service, thereby requiring UP3TKI to renew the Indonesian Migrant Worker Social Security Administering Agency which already has it. For those who have not yet registered, the agency and UP3TKI are obliged to collaborate with business partners through the Agency Code of Ethics from the Indonesian Consulate General in Hong Kong, where: The Agency is obliged to allocate registration fees for the Social Security Administering Body for Indonesian Migrant Workers through the financial administration of the Employer's financing. The Agency is also obliged to report if the worker's contract is terminated. both Indonesian Migrant Workers and Employers are not active in the Social Security Administering Agency for Indonesian Migrant Workers while waiting for the Employer's name change. There is an update service for changing the Employer's name and updates per address queue can be done through the system within a maximum period of 14 days and a maximum of 7 working days for approval. These adjustments must be adopted from the system to facilitate claims and also facilitate treatment services if Indonesian Migrant Workers have to transfer to another hospital but outside their domicile address.

If these 4 things are not possible then the Social Security Administering Agency's services are a failure, both the Social Security Administering Agency for Indonesian Migrant Workers and Health. This is why the Government is obliged to re-evaluate so that there is no overlap between Social Security and Social Insurance. KIS should actually be programmed to automatically connect with the NIK of every Indonesian citizen, remembering that the allocation funds from taxes and coverage should be 98%, not 100% without payment like CPF for medical subsidies in other developed countries. The arrangements for the Social Security Administering Body for

Indonesian Migrant Workers must be reviewed again for workers abroad, not within the country or prospective Indonesian Migrant Workers.

SOCIAL SECURITY FOR INDONESIAN MIGRANT WORKERS IN HONG KONG: AFTER MANPOWER REGULATION NO. 4 OF 2023

Hong Kong in 1997 was ceded by the United Kingdom to China, from which Hong Kong became an administrative territory of China.⁴⁵ Hong Kong, because it is considered a particular administrative region of China in terms of foreign affairs and defense, is not liberated by China, so Hong Kong does not have an army. Still, Hong Kong has its government, flag, and currency. Apart from political and defense matters, Hong Kong is experiencing high economic progress or growth; this makes Hong Kong not underestimated economically even though it is only an administrative region by other countries. In 2021, Hong Kong reported that Hong Kong's economic growth reached 7.8%.⁴⁶ Hong Kong's local population is preoccupied with public affairs, so they do not have time to take care of household

⁴⁵ Widya Lestari Ningsih, Nibras Nada Nailufar. "Apa Bedanya China, Taiwan, Hong Kong, Dan Macau?," *KOMPAS*, 2021. Retrieved from <https://www.kompas.com/stori/read/2021/09/20/140000279/apa-bedanya-china-taiwan-hong-kong-dan-macau?page=all>

⁴⁶ Mita Noveria and Haning Romdiati, "Pandemi Covid-19 Dan Dampak Ekonomi Pada Pekerja Migran Indonesia Dan Keluarganya: Sebuah Kajian Pustaka," *Jurnal Ekonomi Dan Kebijakan Publik* 13, no. 1 (2022): 71–84, <https://doi.org/10.22212/jekp.v13i1.1947>.

affairs, so Hong Kong needs foreign workers to do informal work.⁴⁷ It is natural that Hong Kong needs foreign workers, which is a factor in PMI working in Hong Kong.⁴⁸

In addition to the relatively significant salary factor working in Hong Kong, another factor that makes PMI work a lot in Hong Kong is that the Hong Kong Government pays attention to, respects, and protects the human rights of foreign workers.⁴⁹ The Hong Kong Government has an *Employment Ordinance* ("EO"); in the EO, special rules protect migrant workers.⁵⁰ Regarding work safety, the Hong Kong Government is considered to be able to guarantee human rights; besides that, violence or discrimination in Hong Kong against migrant workers is relatively less than in other migrant worker placement countries.⁵¹

Australia, Japan, Hong Kong, and Singapore all reported their first COVID-19 cases in January 2020.⁵² By April 26, 2020, the end of the study period, Australia reported 6714 cases and 83 deaths, with the number of cases reported per day peaking at 500 on March 28. Japan reported 13,441 cases and 372 deaths. Its epidemic peaked on

⁴⁷ World Bank Group, "Pekerja Global Indonesia, Antara Peluang & Risiko," Laporan Bank Indonesia, 2017, <https://thedocs.worldbank.org/>.

⁴⁸ Handoyo, "Kemenaker : Jumlah Terbanyak PMI Di Hongkong, Taiwan Dan Malaysia," *KONTAN*, 2022, <https://nasional.kontan.co.id/news/kemnaker-jumlah-terbanyak-pmi-berada-di-hongkong-taiwan-dan-malaysia>.

⁴⁹ Emilius Caesar Alexey, "Hong Kong Jamin Perlindungan Terhadap Pekerja Migran," *KOMPAS*, 2019, <https://www.kompas.id/baca/utama/2019/01/21/hongkong-jamin-perlindungan-terhadap-pekerja-migran>

⁵⁰ Shalihah, Sari, and Rosyidah, "Seminar Nasional Hasil Pengabdian Kepada Masyarakat."

⁵¹ Singgih Susilo, "Beberapa Faktor Yang Menentukan Tki Dalam Memilih Negara Tujuan Sebagai Tempat Bekerja, Studi Di Desa Aryojeding Kabupaten Tulungagung," *Jurnal Pendidikan Geografi* 21, no. 2 (2016): 110–19.

⁵² Johns Hopkins University e Coronavirus Resource Center. *Coronavirus resource center*. Available from: <https://coronavirus.jhu.edu/data>.

April 17, with 1161 cases reported. Hong Kong reported 1037 cases and four deaths, with the epidemic peaking with 80 cases reported on March 29. Singapore reported 13,624 cases and 12 deaths, with the number of cases reported per day peaking at 1426 on April 20⁵³

Hong Kong, although it has a small record of violence and discrimination against migrant workers, does not mean that migrant workers experience no violence and discrimination; some migrant workers who work in Hong Kong experience harassment.⁵⁴ In 2017, there was a case of inhumane, horrific, and degrading persecution of Indonesian migrant workers as human beings working in Hong Kong.⁵⁵ In 2023, there will also be cases of migrant workers being tortured by employers in Hong Kong, beaten with bicycle chains, burned, and attacked with paper-cutting knives, leaving scars and physical trauma.⁵⁶ Indonesian migrant workers who are domestic workers in Hong Kong also experience inhumane treatment by employers.⁵⁷ PMI is also prone to work accidents; a PMI who works

⁵³ Arielle Lasry et al., "Timing of Community Mitigation and Changes in Reported COVID-19 and Community Mobility — Four U.S. Metropolitan Areas, February 26–April 1, 2020," *MMWR. Morbidity and Mortality Weekly Report* 26-April, no. 1 (2020): 451–57, [https://doi.org/2020;69\(15\):451e7](https://doi.org/2020;69(15):451e7).

⁵⁴ Suci Sekarwati, "Derita PMI Hong Kong Tidur Sekamar Majikan Pekerja Migran Yang Melawan Dengan Tulisan: Gunakan Medsos Untuk Advokasi," *Tempo.Com*, n.d., <https://dunia.tempo.co/read/1527347/derita-pmi-hong-kong-tidur-sekamar-bersama-majikan>

⁵⁵ Endang Nurdin, "TKI Di Hong Kong : Angka Penganiayaan Fisik, Seksual Dan Diskriminasi Rasial 'Tinggi,'" *BBC Indonesia*, 2017, <https://www.bbc.com/indonesia/indonesia-42493279>

⁵⁶ VOA, "Buruh Migran Indonesia Terima Ganti Rugi Rp1,66 Miliar Atas Kasus Pelecehan Di Hong Kong," *Indonesia, Voice of America*, 2023, <https://www.voaindonesia.com/a/buruh-migran-indonesia-terima-ganti-rugi-rp1-66-miliar-atas-kasus-pelecehan-di-hong-kong-/6958488.html>

⁵⁷ Langgeng Puji, "Kasus Kekerasan PRT Kembali Terulang Di Hong Kong, Aktivis Beranda Migran Marah," *Tvonenews.Com*, 2023, <https://www.tvonenews.com/berita/105776-kasus-kekerasan-prt-kembali-terulang-di-hongkong-aktivis-beranda-migran-marah>.

in Hong Kong died from the 14th floor due to falling from the 14th floor of the apartment building where his employer was.⁵⁸ The incident that happened to PMI in Hong Kong did not reduce the intention of workers who wanted to work in Hong Kong; this can be seen from BP2MI data, which states Hong Kong is always included in the three most PMI destination countries.⁵⁹

Based on data from BP2MI from 2015 to 2019, PMI working abroad is consistently above two hundred thousand, but in 2020 and 2021, it decreased due to the impact of the presence of a virus called *Coronavirus Disease 2019* (COVID-19).⁶⁰ The initial cases of this novel disease emerged in December 2019 in Wuhan, China, with a common exposure source being a seafood market selling live animals.⁶¹ Health surveillance authorities took notice and initiated measures to identify the disease's causative agent. By December 31 of that year, China reported the outbreak to the WHO, prompting the closure of the implicated market the next day. Subsequently, there was a sharp rise in cases, confirming community transmission. Swift measures, including travel restrictions and people circulation controls, were enforced. On January, 2020⁶², Wuhan underwent a total lockdown, prohibiting entry or exit from the region.

⁵⁸ Christian Ningsih, "Buruh Migran Indonesia Jatuh Dari Lantai 14 Di Hong Kong," *Republika*, 2019, <https://news.republika.co.id/berita/q3766k459/buruh-migran-indonesia-jatuh-dari-lantai-14-di-hong-kong>.

⁵⁹ BP2MI, "Data Penempatan Dan Perlindungan PMI Juli 2023," 2023.

⁶⁰ Gianie, "Dua Sisi Mata Uang Pekerja Migran Indonesia," *KOMPAS*, 2023, <https://www.kompas.id/baca/riset/2023/06/05/dua-sisi-mata-uang-pekerja-migran-indonesia>

⁶¹ Tanu Singhal, "A Review of Coronavirus Disease-2019 (COVID-19)," *Indian Journal of Pediatrics* 87, no. 4 (2020): 281–86.

⁶² Matteo Chinazzi et al., "The Effect of Travel Restrictions on the Spread of the 2019 Novel Coronavirus (COVID-19) Outbreak," . . . *Science*, 2020, <https://doi.org/pii:eaba9757>.

These localized measures were followed by the implementation of similar actions in other Chinese provinces affected by the virus, in several other Asian countries, and in other countries around the world. The initial measures focused to a major extent on controlling travel at a time when the majority of cases were imported; however, the measures were progressively ramped up as community transmission was confirmed.

The first three cases of COVID-19 in Europe were recorded in France on January 24, 2020 and the first death in that continent was reported in that same country on February 15⁶³. A week later, cases were registered in another eight countries. The epidemic expanded dramatically in Italy, Spain and France, where it rapidly developed into a severe health crisis with many critical cases and deaths, consequently overwhelming healthcare system resources. This accelerated the adoption of control measures, which did not occur simultaneously and varied greatly between countries and between different regions of the same country. However, over time these measures had to be ramped up and strengthened in all countries as the health crisis deteriorated.

Chart 1 summarizes the main interventions adopted by selected European countries based on a study by Imperial College London. Despite some similarities, implementation of the different measures varied, even in relation to the time period between the first initiative and the announcement of total lockdown.

In some countries, the first initiative was to ban mass gatherings of more than 1,000 people; however, this number was subsequently reduced to 500 and then to 50. In other countries, cinemas, restaurants, gyms and places of worship were closed. Germany

⁶³ Gianfranco Spiteri et al., "First Cases of Coronavirus Disease 2019 (COVID-19) in the WHO European Region 24 January to 21 February 2020," *Euro Surveill*, 2023, 25–29.

determined the closure of most non-essential shops and extended the opening times of supermarkets to reduce the number of customers in the stores at the same time. In some countries, stores reserved the first hours of trading for elderly clients at a high risk of severe disease⁶⁴.

The closure of schools, a measure adopted in all countries, has been the subject of much de- bate. Children are rarely affected by COVID-19 and the extent to which they develop asymptomatic infections and transmit the virus is unclear. Although closing schools may have the added bene t of contributing towards ensuring that parents remain at home, this measure may affect the ability of parents, who are health professionals and whose services are of the utmost importance at this time, to work. Furthermore, other negative effects include an increase in the number of children cared for by elderly grandparents, interruption to the supply of free school meals to vulnerable children and, obviously, the fact that children would be denied their right to for- mal education for months at a time. For these reasons, although schools in Austria, the Netherlands and the United Kingdom were closed, an exception was made for the children of key workers such as health professionals. In the United Kingdom, vulnerable children (recipients of social care) were also allowed to attend school. In addition, the government decided that schools could provide meals to children who usually received them free of charge and announced in the media the creation of a national program of food vouchers⁶⁵. In Singapore, although schools remained open, measures were adopted to reduce the size of classes and the number of interclass and interschool activities, while rigorous hygiene

⁶⁴ Jon Cohen and Kai Kupferschmidt, "Countries Test Tac- Tics in 'War' against COVID-19," *Science* 367, no. 6484 (2020): 1287–88, <https://doi.org/10.1126/science.367.6484.1287>.

⁶⁵ Elisabeth Mahase, "Covid-19: Schools Set to Close across UK except for Children of Health and Social Care Workers," *The Bmj* 368 (2020): 1, <https://doi.org/10.1136/bmj.m1140>.

measures were implemented and recess and lunch breaks were staggered⁶⁶.

COVID-19 responses undertaken by individual member countries of ASEAN have been tremendously diverse and have ranged from strict lock-down conditions in the highly regulated city-state of Singapore to 'business as usual', especially in rural areas of developing countries with large informal economies such as Laos and Myanmar. Yet ASEAN member countries also have a long history of cross-border cooperation, forged through trade regionalization and economic integration. In the health sector, ASEAN co-operation has been infused into region-wide frameworks including the ASEAN Political-Security Community (APC), ASEAN Economic Community (AEC) and ASEAN Socio-Cultural Community (ASCC)⁶⁷. Through these social-cultural pillars, ASEAN has developed a basic platform for health security cooperation since 1980⁶⁸, as shown, for instance, through ASEAN-level responses to prior pandemics including SARS, H1N1 and MERS-CoV3.

Southeast Asia was one of the first regions affected due to its close geographical proximity and business travel, tourism and supply chain links to China. The first COVID-19 case was reported in Malaysia on 25 January 2020, prior to the upward swing of cases at the end of February 2020⁶⁹.

⁶⁶ Vemon J. Lee, Calvin J. Chiew, and Wei Xin Khong, "Interrupting Transmission of COVID-19: Lessons from Containment Efforts in Singapore," *JTM*, 2008, 1–5, <https://doi.org/10.1093/jtm/taaa039>.

⁶⁷ ASEAN Secretariat. *Celebrating ASEAN: 50 years of evolution and progress*. Association of Southeast Asian nations; 2017.

⁶⁸ Australian Government (DFAT), *Pacific Health Development Agenda*, 2014.

⁶⁹ Kuok Ho Daniel Tang, "Movement Control as an Effective Measure against COVID-19 Spread in Malaysia: An Overview," *Zeitschrift Fur Gesundheitswissenschaften = Journal of Public Health* 30, no. 4 (2020): 583–86, <https://doi.org/10.1007/s10389-020-01316-w>.

This pandemic has proven to have a very bad impact, apart from the unexpected negative impact on economic activity⁷⁰. Considering the rapid spread of COVID-19 with the emergence of various variants and mutants, world economic and financial system indicators show a fluctuating position, especially on the stock market, foreign exchange rates and interest rates⁷¹.

In January 2020, the *World Health Organization* (WHO) stated that there was a COVID-19 outbreak that appeared in one of the regions in China, where the attack was hazardous for human life. Releasing data from WHO quoted by Kompas.com., stated that COVID-19 caused an international public health crisis called the *Health Emergency of International Concern* (PHEIC).⁷² The existence of this statement from WHO and the symptoms of the spread of COVID-19 have made countries limit people's mobility in and out of countries, including PMI destination countries, so it is natural that in 2020 and 2021, PMI who go abroad has decreased.⁷³

The current coronavirus disease 2019 (COVID-19) outbreak is a worldwide emergency, as its rapid spread and high mortality rate has caused severe disruptions.⁷⁴ The number of people infected with

⁷⁰ Hakan Yilmazkuday, "International Evidence from Google Mobility Data," *SSRN Electronic Journal*, 2020, 1–18, <https://ssrn.com/abstract=3571708>.

⁷¹ Kartal, Mustafa Tefvik, Özer Depren, and Serpil Kilic Depren. "The Determinants of Main Stock Exchange Index Changes in Emerging Countries: Evidence from Turkey in COVID-19 Pandemic Age," *Quantitative Finance and Economics* 4, no. 4 (2020): 526–41, <https://doi.org/10.3934/qfe.2020025>.

⁷² WHO, "COVID-19 Public Health Emergency of International Concern (PHEIC) Global Research and Innovation Forum," WHO, 2020, [https://www.who.int/publications/m/item/covid-19-public-health-emergency-of-international-concern-\(pheic\)-global-research-and-innovation-forum](https://www.who.int/publications/m/item/covid-19-public-health-emergency-of-international-concern-(pheic)-global-research-and-innovation-forum)

⁷³ Noveria and Romdiati, "Pandemi Covid-19 Dan Dampak Ekonomi Pada Pekerja Migran Indonesia dan Keluarganya: Sebuah Kajian Pustaka."

⁷⁴ Chaolin Huang et al., "Clinical Features of Patients Infected with 2019 Novel Coronavirus in Wuhan, China," *Lancet* 395, no. 10223 (2020): 507–13, [https://doi.org/0.1016/S0140-6736\(20\)30183-5](https://doi.org/0.1016/S0140-6736(20)30183-5).

severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2), the causative agent of COVID-19, is rapidly increasing world-wide.⁷⁵ Patients with COVID-19 can develop pneumonia, severe symptoms of acute respiratory distress syndrome (ARDS), and multiple organ failure.⁷⁶

Facing the outbreak, WHO took steps and instructed countries to prevent and reduce the spread of Covid-19 by practicing social distancing. Governments began to implement social restrictions by implementing regional regulations to *lockdowns* to suppress the spread of Covid-19. PMI destination countries started to enforce policies and tighten the entry and exit of people, including Hong Kong, Taiwan, Malaysia, Singapore, South Korea, Saudi Arabia, Jordan, Kuwait, Italy, England, Spain, France, Poland, and the United States.⁷⁷

As a result of Covid-19, economic growth has slowed down, companies are starting to experience a decline in income, so they are starting to take various steps to save their business, starting from laying off employees.⁷⁸ The implications of countries to prevent the spread of COVID-19 have made countries not only think about the

⁷⁵ Huang et al.

⁷⁶ Dawei Wang, Bo Hu, and Chang Hu, "Clinical Characteristics of 138 Hospitalized Patients with 2019 Novel Coronavirus-Infected Pneumonia in Wuhan, China," *JAMA Network* 323 (2020): 1061–69, <https://doi.org/0.1001/jama.2020.1585>.

⁷⁷ Media DPR, "Pandemi, Gus Muhaimin: Negara Harus Hadir Atasi Persoalan Pekerja Migran," *Media DPR RI*, 2021, <https://www.dpr.go.id/berita/detail/id/34755/t/Pandemi%20Covid-19,%20Gus%20Muhaimin:%20Negara%20Harus%20Hadir%20Atasi%20Persoalan%20Pekerja%20Migran>

⁷⁸ Oduniyi, Oreoluwa Omotayo. "Workers' Protection in the Covid-19 Era in Nigeria." *PADJADJARAN Jurnal Ilmu Hukum (Journal of Law)* 8, no. 2 (2021): 292-312

health sector but also think about solutions from other affected fields, such as education, social, cultural, and especially the economic sector.⁷⁹ The impact of COVID-19 is categorized as a life event that occurs in humanity which is very fatal; in addition to causing death, it also causes chaos in the lives of humanity.⁸⁰

Due to COVID-19, economic growth has slowed, and companies have begun to experience a decline in revenue, so they have begun to find various ways to save business, starting with layoffs. Based on data from the ILO, full or partial social distancing measures affect almost 81% of the world's workforce.⁸¹ Victims of termination of employment, to meet the needs of life, are willing to work for low wages; this impact is also felt by migrant workers who work abroad, especially migrant workers who work in the informal sector.⁸² The burden felt by PMI is exacerbated by uncertainty in the placement country, financial shortages, and layoffs due to the pandemic, making

⁷⁹ DJKN Kementerian Keuangan Republik Indonesia, "Sri Mulyani: Kemenkeu Terus Dukung Langkah Penanganan Covid-19," *DJKN Kementerian Keuangan Republik Indonesia*, 2020, <https://www.djkn.kemenkeu.go.id/berita/baca/20396/Sri-Mulyani-Kemenkeu-Terus-Dukung-Langkah-Penanganan-COVID-19.html>

⁸⁰ K Stroud, "Stressful Life Events and Depression," *Clinical Science Insights: Knowledge Families Count* 14, no. 8 (2020): 1344–45, <https://doi.org/https://doi.org/10.1176/appi.ajp.157.8.1344-a>.

⁸¹ ILO, "ILO: Covid-19 Causes Devastating Losses in Working Hours and Employment," *International Labour*, 2020, https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_740893/lang--en/index.htm#:~:text=economy%20and%20employment,ILO%3A%20COVID%2D19%20causes%20devastating%20losses%20in%20working%20hours%20and,policies%20to%20mitigate%20the%20crisis.

⁸² CNBC Indonesia, "Jerit Kelaparan RKI Di Malaysia Ketika Lockdown," *CNBC Indonesia*, 2020, <https://www.cnbcindonesia.com/news/20200425210242-4-154459/jerit-kelaparan-tki-di-malaysia-ketika-lockdown>

PMI's life unclear between choosing to return home or staying in the placement country.⁸³

The presence of Covid-19 presents its challenges for PMI. During COVID-19, migrant workers lost job opportunities and social assistance constraints from the government, not to mention the problem if migrant workers returning to Indonesia faced stigma and discrimination because they were considered to carry the virus.⁸⁴ For migrant workers who still survive in the placement country, it is also not easy to face the COVID-19 situation, starting from being unable to support themselves and access in and out of the country that does not allow them to return to Indonesia.⁸⁵

Under normal conditions, PMI is always prone to various problems such as depression, excessive workload, physical and sexual violence, and wages sometimes not given by employers; things like this affect PMI's psychological condition.⁸⁶ The condition of migrant workers is very vulnerable compared to other working groups, especially for illegal migrant workers.⁸⁷ PMIs have difficulty accessing health services during the COVID-19 pandemic, one of which is because PMIs have not received or are not registered in health insurance. At the same time, illegal migrant workers fear

⁸³ Kementerian Ketenagakerjaan, "Kliping Ketenagakerjaan 15 Juni 2020," Jakarta, 2020, <https://kabarbisnis.com/read/28100233/banyak-phk-klaim-bpjs->.

⁸⁴ Alfian Putra Abdi, "Kelompok Yang Terlupakan: TKI Yang Pulang Saat Pandemi," *Tirto, Id*, 2020, <https://tirto.id/kelompok-yang-terlupakan-tki-yang-pulang-saat-pandemi-fLwu>

⁸⁵ UII, "Pusat Studi Hukum UII Soroti Nasib Pekerja Migran Di Tengah Pandemi," *Universitas Islam Indonesia*, 2020, <https://www.uui.ac.id/pusat-studi-hukum-uui-soroti-nasib-pekerja-migran-di-tengah-pandemi/>

⁸⁶ Department of Psychiatry, *Mental Health in The Times of Covid-19 Pandemic*, National Institute of Mental Health and Neurosciences, Bengaluru, India (Bengaluru: Department of Psychiatry National Institute of Mental Health and Neuro Science, 2020).

⁸⁷ Psychiatry.

checking themselves (fear of being arrested by law enforcement officials) due to migration problems.⁸⁸ The Indonesian government has provided access to social security for migrant workers, but the social security intended by migrant workers is only social security or BPJS Employment.⁸⁹

PMI recorded in April 2020, PMI working in the formal sector reached 632 workers, and the informal sector reached 1,715 workers; based on data from BP2MI, PMI working in the informal sector was three times that of formal sector workers.⁹⁰ The Minister of Manpower to follow up on the handling of migrant workers by issuing Decree of the Minister of Manpower (Kepmenaker) No. 151 of 2020 which states the Temporary Suspension of the Placement of Indonesian Migrant Workers to prevent the spread of Covid-19.⁹¹

In 2017, the government accommodated the needs of workers, including informal workers and migrant workers, through the issuance of BPJS Ketenagakerjaan. BPJS Ketenagakerjaan is a public legal entity that has four social security programs that have functions to protect all workers.⁹² BPJS provided by the government for PMI

⁸⁸ Susilo Wahyu, Arista Novi, and Evi Zulyani, "Kerentanan Pekerja Migran Indonesia Menghadapi Wabah COVID-19," *CSIS Commentaries DMRU-024-ID 151* (2020): 1–6.

⁸⁹ Nugroho Bangun Witono, "Kebijakan Perlindungan Pekerja Migran Indonesia Dalam Pandemi Covid-19," *Indonesian Journal of Peace and Security Studies (IJPSS)* 3, no. 1 (2021): 34–54, <https://doi.org/https://doi.org/10.29303/ijpss.v3i1.57>.

⁹⁰ BP2MI, "Data Penempatan Dan Perlindungan PMI, Periode April 2020," Badan Perlindungan Pekerja Migran Indonesia, 2020, https://bp2mi.go.id/%0Auploads/statistik/images/data_26-05-2020_Laporan_Pengolahan_Data_BNP2TKI_APRIL_fix.pdf.

⁹¹ Zulyani Evi Wahyu Susilo, Yovi Arista, "Kerentanan Pekerja Migran Indonesia Menghadapi Wabah COVID-19," *Center for Strategic and International Studies*, 2020.

⁹² BPJS Ketenagakerjaan, "BPJS Ketenagakerjaan: Program Jaminan Sosial Tenaga Kerja," Badan Penyelenggara Jaminan Sosial Ketenagakerjaan, 2023, <https://www.bpjsketenagakerjaan.go.id/>.

does not have social security for health, even though PMI needs health social security; not only that, there are difficulties for PMI to claim social security or BPJS Employment during the Covid-19 pandemic, even though in the Covid-19 pandemic situation the community needs the government's sincerity and seriousness to ensure social welfare for every citizen.⁹³

The first confirmed case of COVID-19 in Hong Kong was announced on 23 January 2020. In response to the COVID-19 pandemic, the local government has adopted a variety of drastic public health measures, such as compulsory quarantines for people returning from abroad, work from home arrangements, school suspensions, and the shutdown of non-essential services, to mitigate the risks and impact of the disease. In addition, people in Hong Kong have stockpiled surgical masks, rice, toilet paper, and other goods. Such abrupt changes to daily life are risk factors that can substantially affect mental health. Some psychosocial stressors such as health threats to oneself and loved ones are associated with pandemics⁹⁴. There are severe disruptions of routines, separation from family members and friends, shortages of daily necessities, salary deduction, social isolation, and school closure⁹⁵. Psychosocial responses to infectious disease outbreaks are variable and can include feelings of anxiety or weakness, an overestimation of the likelihood of infection, the excessive and inappropriate adoption of precautionary measures

⁹³ Devina, "Data Sudah Lengkap, Klaim BPJS Ketenagakerjaan Tak Ada Kejelasan," *Detik.Com*, 2020., https://news.detik.com/suara-pembaca/d-5006577/data-sudah-lengkap-klaim-bpjs-ketenagakerjaan-tak-ada-kejelasan#google_vignette

⁹⁴ Choi, J., and S. Taylor. "The psychology of pandemics: Preparing for the next global outbreak of infectious disease." *Asian Communication Research* 17, no. 2 (2020): 98-103.

⁹⁵ Koh, David, et al. "Risk perception and impact of severe acute respiratory syndrome (SARS) on work and personal lives of healthcare workers in Singapore what can we learn?." *Medical Care* (2005): 676-682.

and an increased demand for health care services in a time of shortage⁹⁶

As a Special Administrative Region (SAR) of China that operates with autonomy, Hong Kong has adopted far less strict measures to contain COVID-19 than those in mainland China⁹⁷. At the time of writing, the city has never been locked down, and inhabitants have always enjoyed a moderate level of mobility⁹⁸. Compared with other places, such as Singapore, Seoul, London, and Tokyo, Hong Kong has been relatively successful in terms of controlling the rate of infections⁹⁹. Comparative discussions of COVID-19-related policies and societal responses have largely focused on the collective memories of combating the outbreak of severe acute respiratory syndrome (SARS) in 2003. That bitter experience might explain both the government and community's preparedness and willingness to respond promptly to contain the threat of COVID-19. Preventive education, publicity, and the introduction of different control measures by the government were identified as important contributors to the success of controlling the 2003 epidemic¹⁰⁰

A series of large-scale physical-distancing intervention measures enacted by the Hong Kong government, in addition to prior

⁹⁶ Lesley Rosling and M. Rosling, "Pneumonia Causes Panic in Guangdong Province," *BMJ* 326 (2003): 416.

⁹⁷ M.C.S. Wong et al., "Stringent Containment Measures without Complete City Lockdown to Achieve Low Incidence and Mortality across Two Waves of COVID-19 in Hong Kong," *BMJ Glob. Heal.* 5 (2020), <https://doi.org/e003573> <https://doi.org/10.1136/bmjgh-2020-003573>.

⁹⁸ Wong, Sunny H., et al. "COVID-19 and public interest in face mask use." *American Journal of Respiratory and Critical Care Medicine* 202, no. 3 (2020): 453-455.

⁹⁹ Wong, Samuel YS, Kin On Kwok, and Francis KL Chan. "What can countries learn from Hong Kong's response to the COVID-19 pandemic?." *CMAJ* 192, no. 19 (2020): E511-E515.

¹⁰⁰ Hung, Lee Shiu. "The SARS epidemic in Hong Kong: what lessons have we learned?." *Journal of the Royal Society of Medicine* 96, no. 8 (2003): 374-378.

experiences of virus prevention, made efforts to convince individuals to comply with precautionary measures, such as wearing face masks and washing hands, more effective. This made the government and people believe that it remained possible to maintain daily activities and travel amid the COVID-19 pandemic

¹⁰¹However, to the best of our knowledge, there has been little research on the relationship between government public policies and community responses, although this could help us better understand how the community and government can work together to combat COVID-19 and similar pandemic events.

As suggested by the WHO, both government intervention and community engagement play a critical role in the effective implementation of any public health intervention. It is therefore important to investigate the complementary aspects of public health intervention measures that contributed to the early success of preparing for and responding to the COVID-19 threat¹⁰².

The article proceeds by briefly outlining the policy efforts of the Hong Kong SAR (Special Administration Region) government to manage the spread of the COVID-19 virus, including regulatory actions, risk assessment, risk communication (to the public), proactive risk management, border control and travel bans, and economic and budgetary responses. The remainder of the article then details Hong Kong's experience with political crisis and social unrest in 2019–2020 and its more distant experience managing the SARS pandemic in 2003–4, highlighting the role of both these events in helping develop

¹⁰¹ K.O. Kwok et al., "Community Responses during the Early Phase of the COVID-19 Epidemic in Hong Kong: Risk Perception, Information Exposure and Preventive Measures," *Emerg. Infect. Dis.*, 2020, <https://doi.org/https://doi.org/10.1101/2020.02.26.20028217>.

¹⁰² World Health Organization, 2020a. Risk Communication and Community Engagement Readiness and Response to Coronavirus Disease (COVID-19): Interim Guidance.

community capacity. The article concludes by discussing how the Hong Kong case illustrates the need for a more comprehensive understanding of capacity that incorporates community capacity as a key agency in enabling societies to successfully manage crisis¹⁰³.

Migrants are particularly vulnerable to the direct and indirect effects of the coronavirus disease 2019 (COVID-19) pandemic. The International Organization for Migration (IOM) has found that migrants were often excluded from host country welfare systems, were greatly affected by border closures by limiting their ability to travel between their home and host countries, and that the pandemic was used as an opportunity to foster xenophobic and discriminatory attitudes towards them.¹⁰⁴ Migrants also often face additional barriers in accessing healthcare or information about COVID-19 in their host countries, increasing their risk of contracting the disease.¹⁰⁵ The economic repercussions of the pandemic are anticipated to lead to a projected decline of \$108.6 billion in global remittances, under the assumption of a one-year recovery period. This decline poses a significant risk to households dependent on remittances, increasing their vulnerability to poverty.¹⁰⁶

The lack of recognition and supportive policies for migrants can have many physical, mental, social, and economic effects on FDWs.

¹⁰³ Kris Hartley and Darryl S. L. Jarvis, "Policymaking in a Low-Trust State: Legitimacy, State Capacity, and Responses to COVID-19 in Hong Kong," *POLICY AND SOCIETY* 39, no. 3 (2020): 403–23, <https://doi.org/https://doi.org/10.1080/14494035.2020.1783791>.

¹⁰⁴ Guadagno, Lorenzo. 2020. MRS No. 60 – Migrants and the COVID-19 pandemic: An initial analysis, in Migration Research Series.

¹⁰⁵ Kluge, Hans Henri P, Jakab, Zsuzsanna, Bartovic, Jozef, D'Anna, Veronika, Severoni, Santino, 2020. Refugee and migrant health in the COVID-19 response. *The Lancet* 395 (10232), 1237–1239. doi:10.1016/S0140-6736(20)30791-1.

¹⁰⁶ Takenaka, Aiko Kikkawa, Gaspar, Raymond, Villafuerte, James, Narayanan, Badri, *COVID-19 Impact on International Migration, Remittances, and Recipient Households in Developing Asia*. (Asian Development Bank, 2020).

Live-in FDWs tend to work long hours with an unspecified workload while living in the same place that they work in, making it difficult to mentally separate work from private time¹⁰⁷. They are also vulnerable to abuse from their employers due to the unequal power relationship, including verbal abuse and physical assault, and are often unable to negotiate for or assert their rights.¹⁰⁸ FDWs often also struggle with the relationships with their families back home. For example, FDWs may perceive that their relatives only value the remittances they send, devaluing the work and sacrifices they are making overseas¹⁰⁹. As FDWs are often visible minorities within their host country, they may also face discrimination as migrants, minorities, and women¹¹⁰.

In Hong Kong, FDWs are essential to the functioning of many local families, but they are also regarded as separate from the “real family”.¹¹¹ While they make significant contributions to Hong Kong’s economy, they are still denied economic rights.¹¹² In 2019, the

¹⁰⁷ Eric Fong and S.A. Yeoh, Brenda, “Migrant Domestic Workers: Disadvantaged Work, Social Support, and Collective Strategies in East Asia,” *American Behavioral Scientist* 64, no. 6 (2020): 703–8, <https://doi.org/10.1177/0002764220910235>.

¹⁰⁸ Shu-Ju Ada Cheng, “Migrant Women Domestic Helpers in Hong Kong, Singapore and Taiwan: A Comparative Analysis,” *Asian and Pacific Migration Journal* 5, no. 1 (1996): 139–52, <https://doi.org/10.1177/011719689600500107>.

¹⁰⁹ Brian J. Hall, Garabiles, Melissa R., and Carl A Latkin, “Work Life, Relationship, and Pol- icy Determinants of Health and Well-Being among Filipino Domestic Workers in China: A Qualitative Study.,” *BMC Public Health* 19, no. 1 (2019), <https://doi.org/10.1186/s12889-019-6552-4>.

¹¹⁰ Alicia Llácer et al., “The Contribution of a Gender Perspective to the Understanding of Migrants’ Health.,” *The Contribution of a Gender Perspective to the Understanding of Migrants’ Health. Journal of Epidemiology and Community Health* 61 (Suppl 2), 2007, <https://doi.org/ii4-ii10>. doi:10.1136/jech.2007.061770.

¹¹¹ Annie Chan and Hau-Nung, “Live-in Foreign Domestic Workers and Their Impact on Hong Kong’s Middle Class Families,” *Journal of Family and Economic Issues* 26, no. 4 (2005): 509–28, <https://doi.org/10.1007/s10834-005-7847-4>.

¹¹² Hung Jason, “Hung, Jason, 2020. Hong Kong Hurts Itself By Financially Excluding Foreign Domestic Workers.,” *The Diplomat*, 2020, <https://thediplomat.com/2020/02/hong-kong-hurts-itself-by-financially-excluding-foreign-domestic-workers/>

Immigration Department reported that there were 399,320 FDWs in Hong Kong, with 98.5% of them being women, and most of them coming from the Philippines (55%), Indonesia (43%), or Thailand (0.5%)¹¹³ Given the enormous health, economic, and social effects of the COVID-19 pandemic, we sought to explore the effects of the pandemic on FDWs in Hong Kong through in-depth interviews with FDWs and key informants to better understand their experiences. We focused on how this minority population, comprised mostly of women, was disproportionately affected by the pandemic response in terms of their health and economic wellbeing. A greater understanding of the experiences of this vulnerable population can help to guide the policies aimed at mitigating the negative effects of the pandemic on society in Hong Kong and in other areas where there are significant FDW populations.

Various kinds of difficulties experienced by migrant workers can be seen from the results of a survey organized by the Human Rights Working Group (HRWG) of the Indonesian Migrant Workers Union (SBMI) and the Migrant Workers Network (JBM) regarding the impact of COVID-19 on migrant workers, especially those experienced by migrant workers in Hong Kong. The Hong Kong government is dealing with the spread of COVID-19 through a tracking policy for people with physical contact with COVID-19-positive people.¹¹⁴ , the Hong Kong government also imposes mandatory quarantine or isolation for people who contract Covid-

¹¹³ Immigration Department, 2020. Foreign domestic helpers by nationality and sex. Women and Men in Hong Kong: Key Statistics. Census and Statistics Department, Hong Kong Special Administrative Region, Hong Kong W.a.M.i.H.K.K. Statistics.

¹¹⁴ BBC, "Cerita Pekerja Migran Indonesia Di Hong Kong Yang Kena Covid-19 Di Tengah Lonjakan Kasus 'Diintimidasi Majikan' Dan 'Ditелantarkan,'" *BBC Indonesia*, 2022, <https://www.bbc.com/indonesia/dunia-60418516>

19.¹¹⁵ The policy taken by the Hong Kong government caused panic for everyone in Hong Kong, especially migrant workers working in Hong Kong.¹¹⁶ During COVID-19, PMI in Hong Kong received intimidation from employers, and verbal violence, and migrant workers should not ask for time off during the COVID-19 period.¹¹⁷ As long as they are not allowed to take holidays during COVID-19, PMIs in Hong Kong are required by employers to continue working overtime by not being paid overtime wages, or PMIs are still carrying out their usual routine before COVID-19 hit Hong Kong. The number of people that must be cared for by PMIs increases because the Hong Kong government lays off work outside the home or office work, so people or employers gather at home and automatically burden PMI's work. When working, PMI must remain hygienic by constantly changing masks, and the employer does not buy the covers purchased by PMI, but PMI acknowledges the acts themselves.¹¹⁸ From the description above, it can be said that in the last two years, PMI has experienced a double workload, and there is no time to rest.

Based on the description above, it is an unwanted or unexpected thing that can be experienced by migrant workers at any time, ranging from sexual harassment, physical violence, verbal violence, psychological violence, work accidents, and or even things that threaten the lives of migrant workers in the Hong Kong placement country. Doing work in a foreign country, of course, is not easy

¹¹⁵ Jawahir Gustav Rizal, "Melihat Cara Hong Kong Kendalikan Virus Corona Tanpa Lockdown...," 2020.

¹¹⁶ Noveria and Romdiati, "Pandemi Covid-19 Dan Dampak Ekonomi Pada Pekerja Migran Indonesia Dan Keluarganya: Sebuah Kajian Pustaka."

¹¹⁷ BBC, "Cerita Pekerja Migran Indonesia Di Hong Kong Yang Kena Covid-19 Di Tengah Lonjakan Kasus 'Diintimidasi Majikan' Dan 'Ditlantarkan,'" *BBC Indonesia*, 2022, <https://www.bbc.com/indonesia/dunia-60418516>

¹¹⁸ Shalihah, Sari, and Rosyidah, "Seminar Nasional Hasil Pengabdian Kepada Masyarakat."

because there are many differences in work ethic, culture, working hours, and, most importantly, the language used for daily communication; this is what makes the uncertainty of PMI's life in the country of placement, there are 2 (two) types of uncertainty that PMI can experience, some are speculative or pure uncertainty that can pose risks. There are 2 (two) kinds of risks: fundamental risks and unique risks. Entire risk relates to risks that have a broad impact, such as economic, political, social, security, and defense risks, as well as international, while unique risks are more on an individual, such as the price of objects, failures, and others.¹¹⁹ The above risks may approach migrant workers in the country of placement during work, so there is a need for social security protection.¹²⁰ In this case, there is a need for protection that must be provided by the state, in addition to legal protection, economic protection, and family protection of migrant workers, social protection through social security.

The Indonesian government, in terms of social protection, has provided social protection for migrant workers and has even been regulated by Law No. 18/2017, which has been amended into Law No. 6/2023 and related to social security there is a regulation of the minister of workforce itself that regulates social security, namely Permenaker No. 18 / 2018 which has been revised to Permenaker No. 4 / 2023. The government to encourage PMI to participate in BPJS Employment is not easy, so the government requires prospective PMI to register members of BPJS Employment.¹²¹ The government in Permenaker No.18/2018 has also required prospective PMI and PMI

¹¹⁹ Agus Midah, Asri Wijayanti, and Fithriatus Shalihah, *Perlindungan Pekerja Migran Indonesia Berdasarkan UU No. 18 Tahun 2017* (Medan: Yayasan Al-Hayat, 2020).

¹²⁰ Zainal Asikin, *Dasar-Dasar Hukum Perburuhan* (Jakarta: Rajawali Pers, 2016).

¹²¹ CNN, "Menaker Wajib Buruh Migran Jadi Peserta Ketenagakerjaan," *CNN Indonesia*, 2023, <https://www.cnnindonesia.com/ekonomi/20230302171116-92-919996/menaker-wajibkan-buruh-migran-jadi-peserta-bpjs-ketenagakerjaan>

to register for the JKK and JKM guarantee programs, as well as in Article 4 paragraph (1) of Permenaker No.4/2023 which reads, "Prospective Indonesian Migrant Workers or Indonesian Migrant Workers who work abroad must be registered in program participation: a. JKK; and b. JKM".

However, the Indonesian Government's efforts to realize the implementation of social security for migrant workers by revising Permenaker RI No. 18/2018, in which the government increases social security benefits and tries to provide social security alternatives for migrant workers is not that easy, this can be seen from the response of migrant workers, especially migrant workers placement in Hong Kong. After it was revealed in 2022, based on DJSN data, it was stated that more than 50% of PMIs working abroad have yet to be registered as members of BPJS Employment. Hong Kong, one of the most PMI destinations, also revealed that few PMI in Hong Kong still needed to register for BPJS Employment. As explained above, this is related to the low interest of PMI not registering for BPJS Employment because, according to PMI placement in Hong Kong, the benefits of BPJS Employment organized by the Government of Indonesia are less helpful to use in Hong Kong or the benefits are less clear, BPJS Employment is difficult to claim, and PMI is comfortable using insurance provided by employers or the Hong Kong Government.¹²²

Based on research conducted by the author in Hong Kong, after the issuance of Permenaker No.4/2023, migrant workers working in Hong Kong still do not intend to register for social security for several reasons. The excellent response of PMI placement in Hong Kong after the revision of Permenaker RI No.18/2018 to Permenaker No.4/2023, PMI in Hong Kong feels that it has received the attention of the

¹²² Shalihah et al., *Efektivitas Peraturan Menteri Ketenagakerjaan Nomor 18 Tahun 2018 Dalam Penyelenggaraan Jaminan Sosial Bagi Pekerja Migran Indonesia,* in *Diskursus Hukum Ketenagakerjaan Di Indonesia.*

Government of Indonesia, meaning that with the issue of PMI not registering for BPJS Employment membership for other reasons, the government moved quickly by revising social security regulations and increasing social security benefits for PMI. However, not a few PMI placements in Hong Kong after the revision of social security regulations with increased benefits still want to register for BPJS Employment. Not without reason, PMI does not wish to register for BPJS Employment after the issuance of Permenaker No.4/2023 because PMI Hong Kong Indonesian Government regulations require PMI to register for BPJS Employment are contrary to Article 9 letter d of the Regulation of the Indonesian Migrant Workers Protection Agency of the Republic of Indonesia Number 5 of 2022 concerning Amendments to the Regulation of the Indonesian Migrant Workers Protection Agency Number 1 of 2020 concerning Standards, Signing and Verification of the Indonesian Migrant Worker Work Agreement, which reads, "The extension of the Work Agreement as referred to in Article 8 must meet the following requirements: d. extend social security, employment social security, and insurance by the extension period of the Work Agreement". If the article's content above, BP2MI regulations related to the extension of social security provide several options or not necessarily BPJS Employment as the front line of social security. PMI considers that the Government of Indonesia does not need to impose or require Hong Kong placement PMI to register for BPJS Employment membership organized by the Government of Indonesia, or it means that based on the BP2MI Regulation above, it is adjusted to the destination country where imposing social security protection for migrant workers does not need to require BPJS Employment, on the contrary, BPJS Employment is better given to PMI placed in countries that do not accommodate social security for migrant workers. PMI Hong Kong believes BPJS Employment is more

feasible to apply to places or placement countries or PMI destination countries, such as Macau.

The relationship between PMI and the employer (employer) in the country of placement automatically gives rise to rights and obligations; one of the rights that arise for PMI is the right to get social security.¹²³ The Consulate General of the Republic of Indonesia (KJRI) requires the purchase of insurance at least 2 (two) months early from the end of the visa, must include employment contract approval insurance, in addition to insurance, must also sign a Letter of Application / Guarantee Letter which is charged to the employer for accommodation and treatment if the worker is chronically or acutely ill. PMI placement in Hong Kong has benefited from insurance provided by employers in Hong Kong and feels that it does not need BPJS Employment; PMI Hong Kong requests that the Government of Indonesia does not need to require all administrative matters by including the requirements for BPJS Employment registration for PMI Hong Kong.

The juridical perspective should be social security or BPJS Employment intended for PMI, not PMI, who pays. Article 30, paragraph (1) of Law No.18/2017, amended in Law No.6/2023, reads, "Indonesian Migrant Workers cannot be charged placement fees." The above content is in line with Article 3 of the Regulation of the Indonesian Migrant Workers Protection Agency of the Republic of Indonesia Number 9 of 2020 concerning the Exemption of Placement Fees for Indonesian Migrant Workers, which reads, "Indonesian Migrant Workers cannot be charged placement fees," continued Paragraph (2) Placement fees as referred to in Paragraph (1), one of which is related to PMI social security. The content of the above

¹²³ Rosi Oktari, "Perkuat Aspek Perlindungan Dan Jamsos Pekerja Migran," *Indonesiabaik.Id*, 2021, <https://indonesiabaik.id/videografis/perkuat-aspek-pelindungan-dan-jamsos-pekerja-migran>

regulation related to placement fees contradicts the provisions for social security payment costs contained in Permenaker No.4/2023.

Social security is one of the human rights of Indonesian citizens contained in Article 28 H of the 1945 Constitution, which reads, "Everyone has the right to social security that allows their full development as a useful human being." The mandate of the article above emphasizes that social security is entitled to everyone, including migrant workers. PMI, as the country's foreign exchange hero, should get extra protection related to social protection.

CONCLUSION

In conclusion, Minister of Manpower Regulation No. 4/2023 introduced additional social security benefits to protect and support Indonesian Migrant Workers (PMI) during their placement, addressing risks such as work accidents, death, and old age. However, despite these enhancements, the study reveals a persistent challenge regarding the low participation of PMI in BPJS Employment for placements in Hong Kong. The findings underscore that PMIs in Hong Kong often prefer employer-provided insurance over BPJS Employment administered by the Indonesian Government. Furthermore, there is a discrepancy between Minister of Manpower Regulation No. 4/2023 and the Indonesian Migrant Worker Protection Agency Regulation, indicating that the mandatory registration for social security contradicts existing regulations, which consider social security participation as an option for PMI. In light of PMIs' insights and the unique conditions in Hong Kong, the study recommends reconsidering the mandatory requirement for BPJS Employment registration, advocating for it to be an optional measure rather than

an obligation. This approach aligns with the regulations stating that social security for PMI is an option rather than a mandatory obligation under specific circumstances, acknowledging the nuanced perspectives of PMIs and fostering a more flexible and adaptable regulatory framework.

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*We do not condone,
we do not tolerate any
mistreatment of any
migrant.*

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ABSTRACT

The 2022 National Social Security Council report reveals that 67.7% of Indonesian Migrant Workers (PMI) abroad are not enrolled in the BPJS Employment program, indicating the ineffectiveness of Republic of Indonesia Ministerial Regulation No. 18 of 2018. While social security is crucial for PMIs, the current regulatory framework falls short in ensuring comprehensive protection. In response, the Indonesian Government amended the regulation in 2023, resulting in Minister of Manpower Regulation No. 4 of 2023 aiming to enhance social security for PMIs. This research assesses the implementation of Minister of Manpower Regulation No. 4 of 2023, focusing on Hong Kong. Employing an empirical juridical approach with primary and secondary data, the study investigates the attitudes of Indonesian Migrant Workers in Hong Kong. The deductive approach is used to draw conclusions, with the study's respondents being Indonesian Migrant Workers in Hong Kong. Despite the regulatory amendment, the findings reveal limited interest among Indonesian Migrant Workers in Hong Kong to register for government-provided social security. Reluctance stems from conflicting government regulations, as workers prefer employer-provided insurance. Consequently, Indonesian Migrant Workers express a preference for the non-mandatory status of BPJS Employment, hoping to rely on employer-provided insurance without compulsory enrollment.

Keywords: Social_Security; Indonesian_Migrant_Workers; Hong_Kong

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INTRODUCTION

⁶ The fifth precept of Pancasila emphasizes social justice for all Indonesian people, which, in this case, is the state's responsibility to realize justice in various matters for all Indonesian people. One of the social justices that all Indonesians deserve is to get a job, as mandated by Article 27 Paragraph (2) of the 1945 Constitution, which reads, "Every citizen has the right to work and a decent living for humanity. The mandate of the 1945 Constitution is, in fact, only a few Indonesian citizens who still need help finding work."¹

The difficulty of finding work in one's own country is due, among other things, to the fact that the number of jobs available is not comparable to the domestic workforce², natural factors of a region also affect livelihoods, uneven development between regions, low levels of education, and increasing economic needs, this is what encourages Indonesian citizens to choose to work in other countries or become Indonesian Migrant Workers (PMI).³ In addition to the above factors, the difference in economic growth between countries also greatly influences citizens to choose to work in other countries.⁴

PMI at the juridical level, Article 1 point 2 of Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers (Law No. 18/2017), which has been amended in Law Number 6 of 2023 concerning the Stipulation of Government Regulations instead of Law Number 2 of 2022 concerning Job Creation into Law (Law No. 6/2023) reads, "Indonesian Migrant Workers are every Indonesian citizen who will, or has done work by receiving wages outside the territory of the Republic of Indonesia."

¹ Sri Rahmany, "Analisis Faktor-Faktor Yang Mempengaruhi Tenaga Kerja Bekerja Di Luar Negeri Serta Implikasi Terhadap Kesejahteraan Keluarga Dilihat Dari Perspektif Islam," *IqtiSaduna* 7, no. 1 (2018): 51–73.

² Tri Sulistiyono et al., "Government Accountability Model for the Protection of Indonesian Migrant Workers in China," *Lex Scientia Law Review* 6, no. 1 (2022): 93–120, <https://doi.org/10.15294/lesrev.v6i1.55112>.

³ Anas Anwar Nasirin, "Profesionalisasi Buruh Migran Indonesia (BMI) Dalam Revolusi Industri 4.0," *Jurnal MSDA (Manajemen Sumber Daya Aparatur)* 8, no. 1 (2020): 39–50, <https://doi.org/10.33701/jmsda.v8i1.1174>.

⁴ Defi Ratna Putri and Anna Yulia Hartati, "Faktor Penyebab Meningkatnya Pekerja Migran Indonesia (PMI) Di Korea Selatan Tahun 2017 - 2018," *Kajian Hubungan Internasional* 1, no. 2 (2018): 308–32.

The Centenary Declaration for the Future of Work, adopted by the governments, employers and workers of the International Labour Organization's (ILO) 187 member States at the International Labour Conference in June 2019, provides a roadmap for a human-centred approach to the future of work, and recognizes the urgent need to enhance social protection systems to ensure universal access to adequate, comprehensive and sustainable social protection adapted to the world of work⁵

Based on data released by the Indonesian Migrant Workers Protection Agency (BP2MI) in July 2023, PMI placements over the past two years have increased over the past two years; this can be seen from July 2021, as many as 4,805 posts in July 2022, as many as 17,884 stations and in July 2023 recorded as many as 25,480 placements, bringing the total PMI placements from January to July 2023 PMI placements to 161,249 posts. In July, PMI placed in the formal sector reached 13,294 orders (52%), while the informal sector reached 12,186 stations (48%). The total number of legal sector placements went to 90,625 posts from January to July, and the informal sector had 70,624 orders.

Data from BP2MI by region, PMI placement from January to July 2023, the number of PMI working in Asia and Africa Region is 150,790 PMI, followed by PMI in Europe and the Middle East Region reaching 9,491 and the Americas and Pacific Region 968. Based on the country for July 2023, the PMI in Taiwan went 7,778 placements, Hong Kong earned 7,248 posts, and Malaysia 6,294 stations. In addition to these three countries, South Korea is a PMI placement country, reaching 874 placements, Japan with 769 orders, Singapore with 645 posts, and Saudi Arabia with 427 stations in July 2023.

One of the favorite destinations for migrant workers to work is Hong Kong.⁶ Data from BP2MI Hong Kong, in the last two years, the placement of PMI to Hong Kong in December 2021 was 4220 (61.5%) or Hong Kong ranks first in PMI destinations, based on BP2MI data released in November 2022, from January to November 2022 the total PMI in placement in Hong Kong reached 54,691 or Hong Kong ranks

⁵ Christina Behrendt, Quynh Anh Nguyen, and Uma Rani, "Social Protection System and the Future of Work: Ensuring Social Security for Digital Platform Workers," *International Social Security Review* 72, no. 3 (2019).

⁶ Isna Rifka, "5 Negara Jadi Tujuan TKI Terbanyak," *Kompas.Com*, 2021, <https://money.kompas.com/read/2021/12/06/174759226/5-negara-jadi-tujuan-tki-terbanyak?page=all>.

first with the most PMI placements, while based on data released in July 2023, from January to July the number of PMI placements in Hong Kong reached 40,887 and this places Hong Kong as the third most destination for PMI placements.

The data above explains that only some Indonesian citizens work abroad, especially in Hong Kong. Not without reason, PMI has to work in Hong Kong, one of which is based on the amount of salary that PMI can receive.⁷ Another factor is that the Hong Kong Government protects foreign nationals working in Hong Kong.⁸

Indonesian citizens who work in Hong Kong and other countries not only have an impact on themselves but also have an impact or benefit on the country because every year, they contribute 159 trillion to the country's foreign exchange after the oil and gas sector and above the tourism sector.⁹ Foreign exchange contributed by PMI every year is a driver of the pace of the domestic economy.¹⁰ Seeing the contribution of Indonesian migrant workers to the country is extraordinary, comparable to the risks that endanger migrant workers (torture, harassment, or murder) that can occur to migrant workers working abroad.¹¹ Migrant workers can experience risks that may be bad, so migrant workers need to get extra attention from the Government of Indonesia to ensure the human rights (HAM) of migrant workers are still fulfilled while working abroad, considering that

⁷ Safyra Primadhyta, "Ketika Gaji Tinggi Pikat Hati Buruh Migran Kerja Di Hong Kong," *CNN Indonesia*, 2019, <https://www.cnnindonesia.com/ekonomi/20190204171648-92-366435/ketika-gaji-tinggi-pikat-hati-buruh-migran-kerja-di-hong-kong>.

⁸ Fithriatus Shalihah, Norma Sari, and Rosyidah, "Seminar Nasional Hasil Pengabdian Kepada Masyarakat," in *Seminar Nasional Pengabdian Kepada Masyarakat*, 2022, 1012–13, <https://ojs.unm.ac.id/semnaslpm/article/view/18284>.

⁹ Titis Anis Fauziah, "Pekerja Migran Indonesia Jadi Penyumbang Devisa Terbesar Kedua Rp 159 Triliun, Kepala BP2MI Ingatkan Pejabat Untuk Tidak Sombong," *Kompas.Com*, 2023, <https://regional.kompas.com/read/2023/01/23/093211978/pekerja-migran-indonesia-jadi-penyumbang-devisa-terbesar-kedua-rp-159>.

¹⁰ Aswatini, "Pekerja Migran Indonesia (PMI): Peran Dan Kontribusi Dalam Pengembangan Pariwisata Di Daerah Asal," *Badan Riset Dan Inovasi Nasional*, 2023, <https://kependudukan.brin.go.id/kajian-kependudukan/migrasi-penduduk/purna-pekerja-migran-indonesia-pmi-peranan-dan-kontribusi-dalam-pengembangan-pariwisata-di-daerah-asal/>.

¹¹ Endang Nurdin, "Pekerja Migran Indonesia Yang Selamat Dari 'Neraka' Di Malaysia: 'Mengapa Siksa Saya?'," *BBC News Indonesia*, 2023, <https://www.bbc.com/indonesia/dunia>.

migrant workers must adapt to differences in climate, work ethic, work rules, cultural and language backgrounds.¹² All efforts to guarantee the rights of migrant workers must be pursued by the Government of Indonesia, especially in providing social security for migrant workers.¹³

According to Article 1 number 18 of Law No. 18/2017, amended in Law No. 6/2023, social security reads, "Social Security is a form of social protection to guarantee all people to be able to meet the basic needs of a decent life." The meaning of the entire article above also includes PMI to be able to access social security organized by the Government of Indonesia.¹⁴ The implementation of social security for prospective migrant workers and migrant workers who will work or have worked in the placement country is a form of state protection against migrant workers.¹⁵

The mandate of Article 1 number 8 of Law No. 18/2017 is not the reality for PMI; in the middle of last year or precisely in 2022, the National Social Security Council (DJSN) released a report containing data on 6.09 million PMI or as many as 67.7% of PMI have not registered with the Social Security Organizing Agency (BPJS) Employment.¹⁶ Social security is a front line to protect migrant workers who work abroad, because of the dire risks that may occur or be experienced by migrant workers, especially during the placement period to work, so it is necessary to get protection through social security.¹⁷

Previously, there was a Regulation of the Minister of Manpower of the Republic of Indonesia Number 18 of 2018 concerning

¹² I Nyoman Bagus Siddhanta Zulfiandi, Franciscus Anton Wirawan, Nikhen Pratiwi Sekar Tanjung, Roselina Yolanda, M. Zaini, Devi Andrian, Khairina Syafitri, Gilang Amaldi, *Ketenagakerjaan Dalam Data*, ed. Franciscus Anton Wirawan Zulfiandi, *Occupational Therapy: The Official Journal of the Association of Occupational Therapists*, 4th ed., vol. 20 (Jakarta: Pusat Data dan Teknologi Informasi Ketenagakerjaan, 2021), <https://doi.org/10.1177/030802265702001214>.

¹³ Lalu Adi Adha, Zaeni Asyhadie, and Rahmawati Kusuma, "Kebijakan Jaminan Sosial Pekerja Migran Indonesia," *Jurnal Risalah Kenotariatan* 1, no. 2 (2020), <https://doi.org/10.29303/risalahkenotariatan.v1i2.13>.

¹⁴ Sony Mardiyanto Timboel Siregar, Indra Munawar, German E. Agent, "Upaya Peningkatan Kepesertaan Dan Manfaat Jaminan Sosial Ketenagakerjaan" (Jakarta, 2020).

¹⁵ Timboel Siregal, Indra Munaswar, German E. Angent.

¹⁶ Lailatul Anisah, "Penyebab Banyak PMI Belum Mendaftarkan Ke BPJS Ketenagakerjaan," *Kontan.co.id*, 2022, <https://nasional.kontan.co.id/>.

¹⁷ Timboel Siregar, Indra Munawar, German E. Agent, "Upaya Peningkatan Kepesertaan Dan Manfaat Jaminan Sosial Ketenagakerjaan."

Social Security for Indonesian Migrant Workers (Permenaker RI No. 18/2018), the existence of this regulation and then based on data from the DJSN made the Ministry of Manpower revise social security regulations for migrant workers, to increase social security benefits for migrant workers, both before leaving, when migrant workers work abroad and after work, as stated in the Regulation of the Minister of Manpower Number 4 of 2023 (Permenaker No. 4/2023). Then, after the emergence of this latest regulation, it is necessary to see the impact on migrant workers working in Hong Kong related to access to employment security.

The problem of social security for PMI is caused by low data on PMI who register as social security participants; this is a severe problem that needs to be considered by the Government of Indonesia, especially PMI who work in Hong Kong, so it is interesting to study, as for the formulation of the problem, namely:

1. What is the latest social security regulation for migrant workers after the emergence of the Minister of Manpower Regulation Number 4 of 2023 concerning Social Security for Indonesian Migrant Workers?
2. How is the implementation of social security for migrant workers placed in Hong Kong after the emergence of Minister of Manpower Regulation Number 4 of 2023 concerning Social Security for Indonesian Migrant Workers?

The purpose of the study is to analyze and find out the implementation of social security for Hong Kong placement migrant workers after the emergence of the Minister of Manpower Regulation Number 4 of 2023 concerning Social Security for Indonesian Migrant Workers.

The research method used is qualitative, with an empirical juridical research type. This research is located in Hong Kong, China, with data collection methods through literature studies and interviews with PMI placement in Hong Kong. This research uses qualitative analysis, which, after obtaining data, is analyzed to find the bright spots of the problem under study. The conclusion of this study is to use the deductive method. The deductive method is a method of concluding from general to specific.

A. The Latest Regulation of Social Security for Indonesian Migrant Workers

Protecting prospective migrant workers is to ensure the fulfillment and enforcement of human rights as citizens and migrant workers and to ensure the legal, economic, social, and family protection of migrant workers.¹⁸ PMI who work abroad have the right to receive legal protection by the state from all forms of acts such as forced labor, human trafficking, slavery, violence, harassment and all acts that are contrary to human rights.¹⁹ In the opinion of Philipus M. Hadjon, legal protection involves the recognition of human rights owned by individuals in society. There are two legal protections, according to Philipus M. Hadjon, including preventive and repressive. Preventive legal protection is legal protection that focuses on efforts to prevent violations and efforts to provide limits in carrying out an obligation. In contrast, repressive legal protection (coercion) emphasizes efforts to solve problems.²⁰ Legal protection the state provides for migrant workers includes protection before, during, and after work. Forms of legal protection for prospective migrant workers include:

- 1). PMI can only work in destination countries that have regulations that protect foreign workers, have a written agreement with the Government of Indonesia, and have a social security or insurance system that can defend foreign workers;
- 2). The central government stops and prohibits the placement of migrant workers in certain countries or positions abroad for reasons, considerations of human rights,

¹⁸ Erna Ratnaningsih, "Paradigma Baru Perlindungan Pekerja Migran Indonesia," Bina Nusantara, 2017, <https://business-law.binus.ac.id/2017/12/31/paradigma-baru-perlindungan-pekerja-migran-indonesia/>.

¹⁹ Wayne Palmer and Antje Missbach, "Enforcing Labour Rights of Irregular Migrants in Indonesia," *Third World Quarterly* 40, no. 5 (2019): 908–25, <https://doi.org/10.1080/01436597.2018.1522586>.

²⁰ Philipus M. Hadjon, *Perlindungan Hukum Bagi Rakyat Indonesia* (Surabaya: PT Bina Ilmu, 1987).

security, employment opportunities, and the availability of labor by national needs;

- 3). The government, in stopping and prohibiting the placement of migrant workers, needs to pay attention to considerations and suggestions from several parties and
- 4). The central government sets assignments in certain countries or specific positions.

Social protection for PMI or PMI candidates includes improving the quality of education and training by work standards, increasing the role of accreditation and certification bodies, competent education personnel and trainers, skill improvement services, protection policies for women and children, and the existence of PMI protection centers in PMI placement countries.

Economic protection for PMI and PMI candidates is provided by the central government and local governments by the authority through:

- 1). Money transfer management involving banking or domestic non-bank financial institutions and Country of placement;
- 2). Financial education for migrant workers and families can process the results of Transfer Management and
- 3). Entrepreneurship education.

Thus, regarding social protection arrangements regulated in Law No. 18/2017, Article 35 states further provisions regarding legal protection, social protection, and economic protection for prospective migrant workers and migrant workers. Meanwhile, family protection is included in one of the objectives of PMI protection in Article 3 of Law No. 18/2017. In Law No. 18/20217, PMI family means husband, wife, children, and parents (who have a relationship through determination and decided by the court), whether they are in Indonesian territory or live abroad with PMI.

In addition to legal protection, social protection, economic protection, and family protection of migrant workers, or the protection in Law No. 18/2017, it is also necessary to quote the opinion of Imam Soepomo about worker protection. According to

Imam Soepomo,²¹ Worker protection includes 3 (three) things, including economic protection, social protection and technical protection. Economic protection is protection related to providing decent wages for PMI in accordance with standards, social protection is protection for PMI related to social security, and technical protection includes work safety protection from the worst possible risks while working.²²

All of the above protections are very important for prospective migrant workers and migrant workers who work abroad. Currently, researchers focus on social protection for migrant workers who work abroad, which is related to social security. Social security is essential for migrant workers during the placement period in the placement country if migrant workers experience bad things during work. Based on Lalu Husni's opinion, social security is distinguished in a narrow and broad sense. In a bit of understanding, social security deals with social assistance and insurance in employment protection. The definition of social security broadly includes prevention and development, recovery and healing, and punishment.

The International Covenant on Economic, Social, and Cultural Rights (ICESC) (1966), together with the Universal Declaration of Human Rights (1948) and the International Convention on Civil and Political Rights (1966), make up the International Bill of Human Rights. The Covenants recognize "independent human rights to enjoy civil and political freedom and freedom from fear and human rights to freedom to engage in politics, as well as economic, social and cultural rights." All peoples have the right to self-determination, including the right to determine their political status and freely pursue economic, social, and cultural development". One of the economic rights is the right to work, and everyone has the right to just conditions of work: fair wages ensuring a decent living for himself and his family; equal pay for equal work; safe and healthy working conditions; equal opportunity for everyone to be promoted;

²¹ Fithriatus Shalihah and Retno Damarina, "The Urgency of Legal Certainty in the Protection of Domestic Workers in Indonesia: A Study in Yogyakarta City," 2022, <https://doi.org/10.4108/eai.18-9-2022.2326039>.

²² Ngabidin Nurcahyo, "Perlindungan Hukum Tenaga Kerja Berdasarkan Peraturan Perundang-Undangan Di Indonesia," *Jurnal Cakrawala Hukum* 12, no. 1 (2021): 69–78, <https://doi.org/10.26905/idjch.v12i1.5781>.

rest and leisure.²³ Everyone, regardless of citizenship, is entitled to social security, including social insurance; unqualified workers, especially migrant workers in other countries, are also entitled to social security.

The Government of Indonesia ratified the international convention on the *International Covenant on Economic, Social, and Cultural Rights (ICESCR)* on September 30, 2005, into Law Number 11 of 2005 concerning the ratification of the ICESCR or the *International Covenant on Economic, Social and Cultural Rights*. The ratification carried out by the Government of Indonesia has consequences for the protection and respect of human rights, or it can be said that the Government of Indonesia is obliged to carry out the contents of the ICESCR to all citizens in the life of the nation and state.²⁴ The intended citizen can also be interpreted as an Indonesian citizen living in Indonesian territory, including Indonesian citizens working abroad or PMI.

In addition to Indonesia ratifying ICESCR as a country that upholds human rights, Indonesia is also one of the ILO members and also adopted the *International Convention on the Protection of the Rights of Migrant Workers and Members of Their Family (Protection of the Rights of All Migrant Workers and Family Members)* by ratifying it into Law of the Republic of Indonesia Number 6 of 2012 concerning Ratification of the *International Convention of the Protection of the Rights of Migrant Workers and Members of Their Family*.²⁵

Article 27 in the *International Convention of The Protection of the Rights of Migrant Workers and Members of Their Family* Also contains related to social security. Article 27, paragraph (1) of the *International Convention of the Protection of the Rights of Migrant Workers and*

²³ Council of Europe Portal, *International Covenant on Economic, Social and Cultural Rights*, COUNCIL OF EUROPE PORTAL, 15 September 2023.

²⁴ DPR RI dan Presiden RI, *Pengesahan International Covenant Economic, Social, and Cultural Rights (Kovenan Internasional Tentang Hak-Hak Ekonomi, Sosial Dan Budaya)*, (2005), <https://peraturan.bpk.go.id/Details/40256/uu-no-11-tahun-2005>.

²⁵ DPR RI dan Presiden Republik Indonesia, *Pengesahan International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Konvensi Internasional Mengenai Perlindungan Hak-Hak Seluruh Pekerja Migran Dan Anggota Keluarganya)*, PERATURAN BPK RI 1 (2012), <https://peraturan.bpk.go.id>.

Members of Their Family states, "About social security, migrant workers and members of their families shall enjoy the same treatment as citizens of the State of employment, provided that they meet the requirements established by the provisions of the law in force in that country and the applicable bilateral and multilateral agreements. Officials in the authorities of the country of origin and destination of work may make the necessary arrangements to determine the procedures for implementing this norm". In the content of the article above, it can be interpreted that every migrant worker working in the country of placement is also entitled to social security organized by the government of post for citizens, countries of order, or it can be said that migrant workers in the country of station also have the same rights related to social security in the land of placement of migrant workers.

Article 27(2) of the International Convention of the Protection of the *Rights of Migrant Workers and Members of Their Family* states, "Where applicable legal provisions do not provide benefits to migrant workers and members of their families, States concerned shall seek the possibility of reimbursing the person concerned the number of contributions paid by them about such allowances as applied to citizens his country is in the same situation." *Migrant worker placement countries should seek other alternatives* if they do not have provisions related to social security for migrant workers or a middle way to provide social security for employed migrant workers.

Social security as a social policy is generally implemented in various forms of income benefits directly, which are inseparable from taxation policies and income maintenance. Social security also includes multiple schemes to improve access to essential social services. Social security in the form of income benefits can be called benefits in *cash*, while those in the form of assistance for goods or social services are called *benefits in kind*.²⁶

The international level of social security is regulated by the International Labour Organization (ILO) Convention Number 102 of 1952, in which everyone gets protection from the National Social Security System (SJSN). ILO Convention Number 102 contains at

²⁶ Akhmad Purnama, "Analisis Perlindungan Jaminan Sosial Bagi Pekerja Informal Analyze on Social Insurance and Protection of Informal Workers," *Jurnal PKS* 14, no. 2 (2014): 149–62.

least 9 (nine) minimum standards that must be implemented by the state in the social security program, including the following:

1. Work Accident Insurance (WAI) includes compensation for heirs due to death while working or while earning a living;
2. Service;
3. Provision of sick benefits to workers;
4. Old Age Guarantee (OAG);
5. Disability compensation;
6. Family benefits or services given to or in the case of children, food, clothing, vacation, or domestic assistance;
7. Care of pregnancy and childbirth (care for before and after birth);
8. Benefits for unemployment and
9. Compensation for heirs due to the worker's death will be given to the widow, spouse, or child of the deceased worker.

ILO is an international organization that focuses on productivity and economic growth. Social security's contribution to economic development through social stability and labor productivity.²⁷ ILO Convention 102 of 1952 on (Minimum Standards) Social Security also provides for equal treatment of foreign nationals, health services, sickness benefits, unemployment benefits, maternity benefits, disability benefits, heirs' benefits related to joint provisions, other provisions, and final provisions.

ILO mandate number 102 of 1952 concerning minimum social security standards for members of the organization to provide minimum protection to workers. Indonesia organizes the National Social Security System (SJNS).²⁸ This is what encourages the protection of human rights for migrant workers both in the form of

²⁷ ILO, "Evaluasi Dua Tahun Penerapan Jaminan Sosial Untuk Pekerja Dalam Era Digitalisasi," International Labour Organization, 20217, https://www.ilo.org/jakarta/info/public/pr/WCMS_574167/lang-en/index.htm.

²⁸ Hartini Retnaningsih, "Strategi Sistem Jaminan Sosial Nasional Bidang Ketenagakerjaan Dalam Upaya Perlindungan Pekerja Di Kota Surabaya Dan Kota Pekanbaru," *Aspirasi: Jurnal Masalah-Masalah Sosial* 7, no. 2 (2016): 157-72.

health insurance and in the condition of employment.²⁹ The Indonesian government also has SJSN, which is under the legal umbrella in Law No. 40 of 2004 concerning the National Social Security System (Law No. 40/2004), amended in Law No. 2/2020, then amended in Perpu No. 2/2022 and amended in Law No. 4 of 2023 concerning the Development and Strengthening of the Financial Sector (Law No. 4/2023). As long as the Law No. 40/2004 article is not amended, it remains valid.

Further provisions related to social security for PMI are contained in ministerial regulations. RI Minister of Manpower Regulation No. 18/2018, which has been revised to become Permenaker No.4/2023, is a ministerial regulation that regulates social security for PMI and PMI candidates. PMI and PMI candidates in this ministerial regulation are required to register for social security, there are two participation programs that PMI and PMI candidates must take part in, namely Work Accident Insurance (JKK) and Death Insurance (JKM), and there is a recommended program, namely the Day Guarantee program. Old (JHT).³⁰ JKK is regulated in Article 1 Number 8 of Permenaker No. 4/2023, which reads, "Work Accident Insurance herein after abbreviated as JKK is a benefit in the form of cash and health services provided when participants experience a Work Accident or illness caused by the work environment." JKM is contained in Article 1 number 9 of Permenaker No. 4/2018, which reads, "Death Insurance from now on abbreviated as JKM is a cash benefit given to heirs when participants die dimia not due to Work Accidents." JHT, according to Article 1 number 10 of Permenaker No. 4/2023 reads, "Old Age Insurance, here in after abbreviated as JHT, is a cash benefit paid at once when the

²⁹ Badan Pembinaan Hukum Nasional Kementerian Hukum dan Hak Asasi Manusia, *Laporan Akhir Analisis Dan Evaluasi Hukum Terkait Keimigrasian*, 2020.

³⁰ Istianah and Johanna Debora Imelda, "Social Protection Model for Female Indonesian Migrant Workers in Hong Kong," *Sosio Conceptia* 10, no. 2 (2021): 115, <https://doi.org/https://doi.org/10.33007/ska.v10i2.2222>.

participant completes the employment agreement and returns to Indonesia, dies, or experiences permanent total disability."

The presence of this Permenaker is a manifestation of legal certainty for PMI, whose substance in this Permenaker is the ideal of a law formed (*swollen*). *Still*, this ideal is different from the expectations of the law itself (*sein*).³¹ Similarly, Permenaker RI No. 18/2018 related to social security for migrant workers, the programs designed do not run properly; this is evidenced by the results of the DJSN report, which states that more than 50% of migrant workers working abroad are not registered in BPJS Employment participation.

The ineffectiveness of the social security program prompted the government to revise the Republic of Indonesia Minister of Manpower Regulation No. 18/2018 to increase social security benefits for PMI. The lack of effectiveness of RI Minister of Manpower Regulation No. 18/2018 can be seen in Hong Kong, on average PMIs in Hong Kong do not or have not registered for social security provided by the Indonesian Government for several reasons, including because PMIs feel that the social security provided by the Indonesian Government or BPJS Employment does not provide direct benefits to PMI.³² The purpose of not providing benefits BPJS Employment in Hong Kong cannot be claimed or used by migrant workers in Hong Kong; this makes PMI more comfortable using insurance provided by the Hong Kong Government. The Hong Kong PMI stated that before going to work in Hong Kong, PMI was required to register for BPJS Ketenagakerjaan, but when arriving in Hong Kong, PMI no longer extended its membership as a member of BPJS Ketenagakerjaan,

³¹ Fithriatus Shalihah and Retno Damarina, "Problem Hukum Dalam Perlindungan Pekerja Rumah Tangga Di Indonesia," *Jurnal Selat* 10, no. 2 (2023): 131–43, <https://doi.org/10.31629/selat.v10i2.5645>.

³² Nabiyla Risfa Izzati, "Indonesian Migrant Workers Protection through the Law Number 18 of 2017: New Direction and Its Implementation Challenges," *Padjadjaran Jurnal Ilmu Hukum* 6, no. 1 (2019): 190–210, <https://doi.org/10.22304/pjih.v6n1.a10>.

Hong Kong PMI service users or employers before hiring PMI must take care of insurance for PMI, this is also one of the factors PMI is reluctant to use BPJS Ketenagakerjaan.³³

In response to this, the Government of Indonesia quickly revised Permenaker RI No. 18/2018 to Permenaker No.4/2023 concerning Social Security for Indonesian Migrant Workers. This revision of the Permenaker is an immediate response from the Government of Indonesia to the reality of implementing social security for migrant workers; the existence of Permenaker No.4/2023, the government increases social security benefits.³⁴ The benefits contained in Permenaker No. 4 of 2023 become 21, which initially contained 14.³⁵ The seven new benefits are as follows:³⁶

First, if PMI experiences a work accident in the placement country, they will get medical reimbursement for work accidents of a maximum of Rp. 50 million. *Second*, *homecare* for 1 (one) year with a maximum cost that PMI can get Rp. 20 million. *Third*, PMI also receives a complete replacement of Rp. 2.5 million. *Fourth*, PMI gets a glasses replacement with a maximum cost of Rp. 1 million. *Fifth*, if there are migrant workers who get raped, they will get assistance of Rp. 50 million. *Sixth*, if PMI experiences unilateral termination of employment, PMI will get help from Rp. 1.5 million, and *seventh*, reimbursement of Rp. Twenty-five million if PMI gets placement not by the work agreement and reimbursement of transportation costs of a maximum of Rp. 15 million.

³³ Fithriatus Shalihah et al., *Efektivitas Peraturan Menteri Ketenagakerjaan Nomor 18 Tahun 2018 Dalam Penyelenggaraan Jaminan Sosial Bagi Pekerja Migran Indonesia*, in *Diskursus Hukum Ketenagakerjaan Di Indonesia* (Medan: USUPress, 2022): 267.

³⁴ Komisi IX, "Tambah Manfaat Sosial, Legislasi Imbau Permenaker Jaminan Sosial PMI Disosialisasikan Secara Masif," *DPR.RI*, 2023, <https://www.dpr.go.id/berita/detail/id/43956/t/Tambah-Manfaat-Sosial-Legislator-Imbau-Permenaker-Jaminan-Sosial-PMI-Disosialisasikan-Secara-Masif>.

³⁵ Ady Thea DA, "Pemerintah Naikan Manfaat Jaminan Sosial Pekerja," *Hukumonline.Com*, 2023, <https://www.hukumonline.com/berita/a/pemerintah-naikan-manfaat-jaminan-sosial-pekerja-migran-1t6401c9d483a2f/>

³⁶ Erlang Satya Darmawan, "Permenaker Nomor 4 Tahun 2023 Diterbitkan, Jaminan Untuk PMI Resmi Bertambah," *Kompas.Com*, 2023, <https://www.kompas.com>

In addition to the seven benefits above, Permenaker No.4/2023 also provides nine additional benefits: if PMI dies, the family will get death compensation, compensation for PMI who experience permanent total disability, which is given periodically, compensation for failing to leave, compensation for failing to be placed, repatriation costs for PMI who have problems, repatriation costs given to PMI who have a work accident, denture replacement costs, and scholarships for PMI children.³⁷

The JHT program already exists in Permenaker RI No. 18/2018, but in Permenaker No. 4/2023, there is additional substance in implementing JHT social security. The number of benefits of the JHT program for prospective PMI or PMI is based on the accumulated value of all contributions deposited and the results of their development recorded in the individual accounts of JHT program participants. The story of the importance of JHT program benefits can continue after participants (PMI) terminate the employment agreement, and the help of the JHT program has yet to be paid at once. Related to JHT benefits, it can be given to prospective PMI or PMI if they have entered retirement age, died, or experienced permanent total disability. Regarding the retirement age intended by this latest ministerial regulation, entering the age of 56 (fifty-six) years, PMI candidates who fail to leave are placed in the destination country or stop working. The meaning of PMI that fails to be placed in the destination country or stops working in Permenaker No.4 of 2023 consists of the end of work time stated in the work agreement, experiencing layoffs, PMI resigning, or PMI becoming a foreign national. JHT program participants in preparation for entering retirement, JHT benefits can be partially disbursed to a specific limit if participants have a membership period of at least 10 (ten) years,

³⁷ Eqqi Syahputra, "Menaker Terbitkan Permenaker Baru Tentang Jaminan Sosial PMI," *CNBC.Indonesia*, 2023, <https://www.cnbcindonesia.com/news/20230303160955-4-418700/menaker-terbitkan-permenaker-baru-tentang-jaminan-sosial-pmi>

that is, at most 30% of the amount of JHT, for home ownership or 10% of the amount of JHT for other purposes according to the need to enter retirement age.

The contribution section and payment method contained in Article 18 of Permenaker No. 4 of 2023, all of the above benefits can be obtained if migrant workers pay contributions by the latest regulation.³⁸ Article 18 of Permenaker No.4/2023 reads:

- 1). Payment of JKK and JKM program contributions for prospective Indonesian Migrant Workers through the Placement Implementer is carried out in stages, provided that:
 - a. protection fee before employment is paid in the amount of Rp37,500.00 (thirty-seven thousand five hundred rupiah); and
 - b. Protection contributions during work and after engagement are paid according to the terms of the employment agreement as follows:
 1. for 24 (twenty-four) months amounting to Rp 332,500.00 (three hundred thirty-two thousand five hundred rupiah);
 2. for 12 (twelve) months amounting to Rp189,000.00 (one hundred eighty-nine thousand rupiah), or
 3. for 6 (six) months amounting to Rp108,000.00 (one hundred eight thousand rupiah);
- 2). Payment of JKK and JKM program contributions for protection during work and after work for Individual Indonesian Migrant Workers is made at once according to the terms of the work agreement as follows:
 - a. for 24 (twenty-four) months amounting to Rp 332,500.00 (three hundred thirty-two thousand five hundred rupiahs);

³⁸ Erdy Nasrul, "Menaker Dukung Peningkatan Jaminan Sosial Ketenagakerjaan Untuk PMI," *Republika*, 2023, <https://news.republika.co.id/berita/s06iz2451/menaker-dukung-peningkatan-jaminan-sosial-ketenagakerjaan-untuk-pmi>

- b. for 12 (twelve) months amounting to Rp189,000.00 (one hundred eighty-nine thousand rupiah), or
- c. for 6 (six) months amounting to Rp108,000.00 (one hundred eight thousand rupiah);).

If the employment agreement exceeds the period in Article 1 point b above and Paragraph (2), the payment of JKK and JKM social security program contributions will be charged at 13,500 (thirteen thousand five hundred rupiah) every month and paid according to the excess work agreement period.

Claims for work accident insurance for PMI protection during work, according to Permenaker No.4/2023, include the following:

- 1) Reports of work accidents and PMI experiencing work accidents, including acts of physical violence in the placement country, are made using the PMI work accident case report form contained in BPJS Employment regulations and attaching several documents, including:
 - a) BPJS Employment participant card;
 - b) Passport;
 - c) Certificate from employer, Representative of the Republic of Indonesia, Indonesian Trade and Economic Office (ITEO) or government agencies related to employment;
 - d) Medical diagnosis certificate from a hospital or health facility in the PMI placement country;
 - e) Transportation costs in the country of placement;
 - f) A savings account in the name of PMI or another party's account that pays first and

- g) Evidence or other documents related to PMI's work accidents.
- 2). If the cost of treatment and treatment exceeds Benefit limits from social security and insurance in The country you're placing in needs to include: Documents, including the following:
 - a). Certificate from insurance at PMI placement countries or government agencies that carry out affairs in the field of labor regarding the amount of reimbursement of medical expenses or treatment that have been paid in the event of a payment dispute;
 - b). Proof of payment for PMI treatment or treatment from the hospital or other health facilities in the PMI placement country; and
 - c). a savings account in the name of the party who first paid for the treatment or treatment.
- 3). If PMI dies due to a work accident, it is necessary to attach the following documents:
 - a) Identity card or other proof of identity of the heir;
 - b) PMI family card and PMI heirs;
 - c) Death certificate from a doctor or authorized official;
 - d) Certificate of heirs from the authorized official; and
 - e) savings account in the name of the legal beneficiary.

- 4). A report to obtain reimbursement of transportation costs for the repatriation of Indonesian Migrant Workers who have a Work Accident with a non-deceased condition from the destination country of placement to the area of origin is made using the benefit application form as stipulated in the BPJS Employment regulations and attaching documents:
 - a. BPJS Employment Participant Card;
 - b. Passport;
 - c. Certificate from the employer, Representative of the Republic of Indonesia, KDEI, or agency that organizes government affairs in the field of labor;
 - d. Receipt of payment of transportation costs and air tickets or other transportation from the destination country of placement to the area of origin; and
 - e. Savings account in the name of an Indonesian Migrant Worker.
- 5). Report to get cost assistance ranging from reimbursement of repatriation costs of problematic PMI, transportation for repatriation who have a work accident, PMI who are at risk of failure in placement because it is not PMI's fault, money assistance, and transportation replacement for the installation of PMI that is placed not as in the work agreement, PMI who are laid off due to work accidents, unilateral layoffs received by PMI are not due to work accidents, and JKK program reports for PMI who experience work accidents when PMI returns to the country of origin

and returns to the land of placement, need to attach documents :

- a. BPJS Employment PMI participant card;
- b. Passport
- c. Certificate from the employer, Representative of the Republic of Indonesia, KDEI, or agencies that carry out government affairs in the field of labor stating what PMI experienced;
- d. Savings account in the name of an Indonesian Migrant Worker.
- e. Work or placement agreement (reimbursement of transportation costs for problematic repatriation, PMI who is at risk of failure of placement due to PMI's fault, money assistance and transportation reimbursement for the installation of PMI placed not as in the work agreement);
- f. Receipt of payment of transportation costs and airline tickets or other transportation starting from the country of placement to the area of origin of PMI (reimbursement of transportation costs for problematic repatriation, PMI who are at risk of failure of order due to PMI's fault, financial

assistance and transportation reimbursement for the installation of PMI placed not as in the employment agreement);

- g. Payment receipts or other documents related to work accidents (JKK program for migrant workers who experience work accidents when PMI returns to their home country and returns to the placement country).

6). Reports that PMI can make if PMI is proven to have experienced rape to be able to get financial assistance from BPJS Employment benefits, PMI needs to attach documents:

- a. BPJS Employment PMI Participant Card;
- b. Passport;
- c. Letter of results of *visum et reported* examination from a doctor;
- d. Certificate of Representative of the Republic of Indonesia, Indonesian Trade and Economic Office (KDEI), or government agencies related to the field of employment;
- e. Savings account in the name of an Indonesian Migrant Worker.

The increase in Permenaker No.4/2023 benefits is not accompanied by an increase in social security program contributions, and this social security program if PMI and PMI candidates register for the JKK program for the claim expiration time to be extended to 5 years, which was initially only two years. After the issuance of Permenaker No.4/2023, the government contains

benefits that can improve quality and quantity and is accompanied by no increase in contributions that PMI must pay.³⁹

In some of the descriptions of the contents of Permenaker No. 4/2023 above, a novelty is intended for PMI and PMI candidates to register to become BPJS Employment participants. Permenaker No. 4/2023 as a replacement for Permenaker RI No. 18/2018, which is considered no longer by the needs and legal developments; therefore, the presence of Permenaker No. 4/2023 is a manifestation of the presence of the state to protect prospective migrant workers and migrant workers.⁴⁰ Maximum protection for migrant workers is needed by migrant workers, considering that migrant workers are vulnerable to various human rights violations, such as physical violence, verbal violence, human trafficking, and other crimes.⁴¹ Minister of Manpower of the Republic of Indonesia, Ida Fauziah, said that the Government of Indonesia has a serious commitment to protect migrant workers, considering the challenges and work environment of migrant workers require extra attention and complexity of problems due to differences in the way of working between countries.⁴²

In accordance with the provisions of the law in force in the Republic of Indonesia, every Prospective Indonesian Migrant Worker and Indonesian Migrant Worker is obliged to become a participant in the Social Security Administering Body for Indonesian Migrant Workers. In the implementation procedures, since the recruitment of prospective Indonesian Migrant Workers, they have

³⁹ Tim TVOne, "Kemnaker : Iuran Tetap, Manfaat Meningkatkan," *Tvonenews.Com*, 2023, <https://www.tvonenews.com/berita/nasional/106548-sosialisasi-permenaker-nomor-4-tahun-2023-kemnaker-iuran-tetap-manfaat-meningkat?page=3>.

⁴⁰ Kementerian Ketenagakerjaan Republik Indonesia, "Menaker Terbitkan Permenaker Baru Tentang Jaminan Sosial Pekerja Migran Indonesia," *Indonesia, Kementerian Ketenagakerjaan Republik*, 2023, <https://kemnaker.go.id/news/detail/menaker-terbitkan-permenaker-baru-tentang-jaminan-sosial-pekerja-migran-indonesia>

⁴¹ Teddy Unggik, "Sosialisasi Permenaker 4/2023, Kemnaker : Iuran Tetap, Manfaat Meningkatkan," *Progresnews.Info*, 2023, <http://progresnews.info/2023/03/10/sosialisasi-permenaker-42023-kemnaker-iuran-tetap-manfaat-meningkat/>

⁴² Nasrul, "Menaker Dukung Peningkatan Jaminan Sosial Ketenagakerjaan Untuk PMI,"

been registered long ago, but there is no notification or understanding of what insurance is. Insurance is self-protection that is paid and has appropriate services from products designed by premium selling companies and within a certain period of time. This insurance or premium can be terminated immediately and can also be terminated early by the premium owner provided that the provisions apply. If it is terminated earlier than the expiry date at least 1 month earlier there must be notification to the insurance company or your sales agent so that the process of terminating the service continues.

However, in the Social Security Administering Agency there is no such regulation, so it automatically weakens the insurance system service and even makes it a penalty or penalty if it is not renewed/not continued if one day the premium number is continued or activated. Should the Social Security Administering Agency for Workers be the responsibility of the individual or the employer?

So, based on the national law that applies in Indonesia, for legal workers who have a work contract, it should be the employer's and company's obligation to deduct from their wages. However, specifically for Indonesian Migrant Workers, it has its own specifics which according to the government are in the interests of Indonesian Migrant Workers and a necessity on the basis of protection.

The weaknesses of the Social Security Administering Agency for Indonesian Migrant Workers are inappropriate socialization, unsatisfactory service and a work team that gives an unprofessional image. The Social Security Administering Agency for Indonesian Migrant Workers has a very good program, but it cannot be implemented abroad, not because there are no offices abroad, but because Indonesian Migrant Workers located in Hong Kong do not need it or even do not meet the needs of Indonesian Migrant Workers.

Insurance is a premium that we can buy if: it suits our financial condition and helps when needed. Why is it that in Hong

Kong insurance for Indonesian Migrant Workers specifically only has Plan A & Plan B. When talking about prices and services, it goes back to the Insurance company, but for Domestic Helpers / Indonesian Migrant Workers in the Household sector, the type of insurance is Fixed under the law. state law. The Social Security Administering Agency injures Indonesian Migrant Workers due to direct coercion of having to use the product without giving them a choice and penalties that should not be carried out. The Social Security Administering Body for Indonesian Migrant Workers cannot be mandatory because its function is not optimal, it is not beneficial for Indonesian Migrant Workers themselves considering that it only applies if the incident is not based on work accidents and death. Meanwhile, when compared to the types and insurance services in the All In One Service destination country, why will Indonesian Migrant Workers still prefer services in the destination country and which is more profitable, the costs are borne by the Employer or Employer. In fact, apart from insurance for Hong Kong Indonesian Migrant Workers, as long as the legal and contract visa is valid, Indonesian Migrant Workers are entitled to subsidized treatment from the state through state hospitals. There are many gaps in services and programs that need to be corrected by the Social Security Administering Body itself if it wants to protect Indonesian Migrant Workers. If the services and programs are limited, then you should not force your will, unless the programs and services are extensive and provide more benefits, please. Not only because the price is cheap and payment is only 350,000 rupiah or only \$150 HKD, not only because it is easy to pay via M-Banking and other remittance services, not only does it have to have an office in the destination country as the facilities and facilities Indonesian Migrant Workers need.

If it is aimed at facilitating and implementing it, the Indonesian Migrant Worker Protection Agency should carry out a review of the Legality Procedures for work permits by Indonesian

Migrant Workers who are clearly obliged to use the UP3TKI service, thereby requiring UP3TKI to renew the Indonesian Migrant Worker Social Security Administering Agency which already has it. For those who have not yet registered, the agency and UP3TKI are obliged to collaborate with business partners through the Agency Code of Ethics from the Indonesian Consulate General in Hong Kong, where: The Agency is obliged to allocate registration fees for the Social Security Administering Body for Indonesian Migrant Workers through the financial administration of the Employer's financing. The Agency is also obliged to report if the worker's contract is terminated. both Indonesian Migrant Workers and Employers are not active in the Social Security Administering Agency for Indonesian Migrant Workers while waiting for the Employer's name change. There is an update service for changing the Employer's name and updates per address queue can be done through the system within a maximum period of 14 days and a maximum of 7 working days for approval. These adjustments must be adopted from the system to facilitate claims and also facilitate treatment services if Indonesian Migrant Workers have to transfer to another hospital but outside their domicile address.

If these 4 things are not possible then the Social Security Administering Agency's services are a failure, both the Social Security Administering Agency for Indonesian Migrant Workers and Health. This is why the Government is obliged to re-evaluate so that there is no overlap between Social Security and Social Insurance. KIS should actually be programmed to automatically connect with the NIK of every Indonesian citizen, remembering that the allocation funds from taxes and coverage should be 98%, not 100% without payment like CPF for medical subsidies in other developed countries. The arrangements for the Social Security Administering Body for Indonesian Migrant Workers must be reviewed again for workers abroad, not within the country or prospective Indonesian Migrant Workers.

B. Implementation of Social Security for PMI Placement in Hong Kong After the Emergence of Minister of Manpower Regulation Number 4 of 2023 concerning Social Security for Indonesian Migrant Workers

Hong Kong in 1997 was ceded by the United Kingdom to China, from which Hong Kong became an administrative territory of China.⁴³ Hong Kong, because it is considered a particular administrative region of China in terms of foreign affairs and defense, is not liberated by China, so Hong Kong does not have an army. Still, Hong Kong has its government, flag, and currency. Apart from political and defense matters, Hong Kong is experiencing high economic progress or growth; this makes Hong Kong not underestimated economically even though it is only an administrative region by other countries. In 2021, Hong Kong reported that Hong Kong's economic growth reached 7.8%.⁴⁴ Hong Kong's local population is preoccupied with public affairs, so they do not have time to take care of household affairs, so Hong Kong needs foreign workers to do informal work.⁴⁵ It is natural that Hong Kong needs foreign workers, which is a factor in PMI working in Hong Kong.⁴⁶

In addition to the relatively significant salary factor working in Hong Kong, another factor that makes PMI work a lot in Hong Kong is that the Hong Kong Government pays attention to, respects,

⁴³ Kompas.com, "Apa Bedanya China, Taiwan, Hong Kong, Dan Macau?," *Kompas.Com*, 2021. <https://www.kompas.com/stori/read/2021/09/20/140000279/apa-bedanya-china-taiwan-hong-kong-dan-macau?page=all>

⁴⁴ Mita Noveria and Haning Romdiati, "Pandemi Covid-19 Dan Dampak Ekonomi Pada Pekerja Migran Indonesia Dan Keluarganya: Sebuah Kajian Pustaka," *Jurnal Ekonomi Dan Kebijakan Publik* 13, no. 1 (2022): 71–84, <https://doi.org/10.22212/jekp.v13i1.1947>.

⁴⁵ World Bank Group, "Pekerja Global Indonesia, Antara Peluang & Risiko," Laporan Bank Indonesia, 2017, <https://thedocs.worldbank.org>.

⁴⁶ Handoyo, "Kemenaker: Jumlah Terbanyak PMI Di Hongkong, Taiwan Dan Malaysia," *Kontan.Nasional*, 2022, <https://nasional.kontan.co.id/news/kemenaker-jumlah-terbanyak-pmi-berada-di-hongkong-taiwan-dan-malaysia>.

and protects the human rights of foreign workers.⁴⁷ The Hong Kong Government has an *Employment Ordinance* ("EO"); in the EO, special rules protect migrant workers.⁴⁸ Regarding work safety, the Hong Kong Government is considered to be able to guarantee human rights; besides that, violence or discrimination in Hong Kong against migrant workers is relatively less than in other migrant worker placement countries.⁴⁹

Australia, Japan, Hong Kong, and Singapore all reported their first COVID-19 cases in January 2020.⁵⁰ By April 26, 2020, the end of the study period, Australia reported 6714 cases and 83 deaths, with the number of cases reported per day peaking at 500 on March 28. Japan reported 13,441 cases and 372 deaths. Its epidemic peaked on April 17, with 1161 cases reported. Hong Kong reported 1037 cases and four deaths, with the epidemic peaking with 80 cases reported on March 29. Singapore reported 13,624 cases and 12 deaths, with the number of cases reported per day peaking at 1426 on April 20⁵¹

Hong Kong, although it has a small record of violence and discrimination against migrant workers, does not mean that migrant workers experience no violence and discrimination; some migrant workers who work in Hong Kong experience harassment.⁵² In 2017,

⁴⁷ Emilius Caesar Alexey, "Hong Kong Jamin Perlindungan Terhadap Pekerja Migran," *Kompas.Id*, 2019, <https://www.kompas.id/baca/utama/2019/01/21/hongkong-jamin-perlindungan-terhadap-pekerja-migran>

⁴⁸ Shalihah, Sari, and Rosyidah, "Seminar Nasional Hasil Pengabdian Kepada Masyarakat."

⁴⁹ Singgih Susilo, "Beberapa Faktor Yang Menentukan Tki Dalam Memilih Negara Tujuan Sebagai Tempat Bekerja, Studi Di Desa Aryojeding Kabupaten Tulungagung," *Jurnal Pendidikan Geografi* 21, no. 2 (2016): 110–19.

⁵⁰ Johns Hopkins University e Coronavirus Resource Center. Coronavirus resource center [cited 2020 April 28]; Available from: <https://coronavirus.jhu.edu/data>.

⁵¹ Arielle Lasry et al., "Timing of Community Mitigation and Changes in Reported COVID-19 and Community Mobility – Four U.S. Metropolitan Areas, February 26–April 1, 2020," *MMWR. Morbidity and Mortality Weekly Report* 26-April, no. 1 (2020): 451–57, [https://doi.org/2020;69\(15\):451e7](https://doi.org/2020;69(15):451e7).

⁵² Suci Sekarwati, "Derita PMI Hong Kong Tidur Sekamar Majikan Pekerja Migran Yang Melawan Dengan Tulisan: Gunakan Medsos Untuk Advokasi," *Tempo.Com*, n.d.,

there was a case of inhumane, horrific, and degrading persecution of Indonesian migrant workers as human beings working in Hong Kong.⁵³ In 2023, there will also be cases of migrant workers being tortured by employers in Hong Kong, beaten with bicycle chains, burned, and attacked with paper-cutting knives, leaving scars and physical trauma.⁵⁴ Indonesian migrant workers who are domestic workers in Hong Kong also experience inhumane treatment by employers.⁵⁵ PMI is also prone to work accidents; a PMI who works in Hong Kong died from the 14th floor due to falling from the 14th floor of the apartment building where his employer was.⁵⁶ The incident that happened to PMI in Hong Kong did not reduce the intention of workers who wanted to work in Hong Kong; this can be seen from BP2MI data, which states Hong Kong is always included in the three most PMI destination countries.⁵⁷

Based on data from BP2MI from 2015 to 2019, PMI working abroad is consistently above two hundred thousand, but in 2020 and 2021, it decreased due to the impact of the presence of a virus called *Coronavirus Disease 2019 (COVID-19)*.⁵⁸

<https://dunia.tempo.co/read/1527347/derita-pmi-hong-kong-tidur-sekamar-bersama-majikan>

⁵³ Endang Nurdin, "TKI Di Hong Kong: Angka Penganiayaan Fisik, Seksual Dan Diskriminasi Rasial 'Tinggi,'" *BBC Indonesia*, 2017, <https://www.bbc.com/indonesia/indonesia-42493279>

⁵⁴ VOA, "Buruh Migran Indonesia Terima Ganti Rugi Rp1,66 Miliar Atas Kasus Pelecehan Di Hong Kong," *Indonesia, Voice of America*, 2023, <https://www.voaindonesia.com/a/buruh-migran-indonesia-terima-ganti-rugi-rp1-66-miliar-atas-kasus-pelecehan-di-hong-kong-/6958488.html>

⁵⁵ Langgeng Puji, "Kasus Kekerasan PRT Kembali Terulang Di Hong Kong, Aktivis Beranda Migran Marah," *Tvonenews.Com*, 2023, <https://www.tvonenews.com/berita/105776-kasus-kekerasan-prt-kembali-terulang-di-hongkong-aktivis-beranda-migran-marah>.

⁵⁶ Christian Ningsih, "Buruh Migran Indonesia Jatuh Dari Lantai 14 Di Hong Kong," *Republika.Co.Id*, 2019, <https://news.republika.co.id/berita/q3766k459/buruh-migran-indonesia-jatuh-dari-lantai-14-di-hong-kong>.

⁵⁷ BP2MI, "Data Penempatan Dan Perlindungan PMI Juli 2023," 2023.

⁵⁸ Gianie, "Dua Sisi Mata Uang Pekerja Migran Indonesia," *Kompas.Id*, 2023, <https://www.kompas.id/baca/riset/2023/06/05/dua-sisi-mata-uang-pekerja-migran-indonesia>

The first cases of this new disease began to appear in December 2019 in the Chinese city of Wuhan. There was one common source of exposure, a seafood market that also sold live animals⁵⁹. The health surveillance authorities were alerted and several measures began to be taken to identify the causative agent of the disease. On December 31 of that same year, China notified the WHO of the outbreak and on the following day the market where the cases had originated was closed⁶⁰. From then onwards, an exponential increase occurred in the number of cases and community transmission was confirmed. Within a short period of time, measures were implemented to restrict travel and the circulation of people, including screening travellers for symptoms, until on January⁶¹, 2020 total lockdown was declared in Wuhan, with no one being allowed to enter or leave the region.

These localized measures were followed by the implementation of similar actions in other Chinese provinces affected by the virus, in several other Asian countries, and in other countries around the world. The initial measures focused to a major extent on controlling travel at a time when the majority of cases were imported; however, the measures were progressively ramped up as community transmission was confirmed.

The first three cases of COVID-19 in Europe were recorded in France on January 24, 2020 and the first death in that continent was reported in that same country on February 15⁶². A week later, cases were registered in another eight countries. The epidemic expanded dramatically in Italy, Spain and France, where it rapidly developed into a severe health crisis with many critical cases and deaths,

⁵⁹ Tanu Singhal, "A Review of Coronavirus Disease-2019 (COVID-19)," *Indian J Pediatr* 87, no. 4 (2020): 281–86.

⁶⁰ World Health Organization, "Novel Coronavirus," *Situation Report – 13* 13, no. February (2020): 1–7.

⁶¹ Matteo Chinazzi et al., "The Effect of Travel Restrictions on the Spread of the 2019 Novel Coronavirus (COVID-19) Outbreak," . . *Science*, 2020, <https://doi.org/pii:eaba9757>.

⁶² Gianfranco Spiteri et al., "First Cases of Coronavirus Disease 2019 (COVID-19) in the WHO European Region 24 January to 21 February 2020," *Euro Surveill*, 2023, 25–29.

consequently overwhelming healthcare system resources. This accelerated the adoption of control measures, which did not occur simultaneously and varied greatly between countries and between different regions of the same country. However, over time these measures had to be ramped up and strengthened in all countries as the health crisis deteriorated.

Chart 1 summarizes the main interventions adopted by selected European countries based on a study by Imperial College London. Despite some similarities, implementation of the different measures varied, even in relation to the time period between the first initiative and the announcement of total lockdown.

In some countries, the first initiative was to ban mass gatherings of more than 1,000 people; however, this number was subsequently reduced to 500 and then to 50. In other countries, cinemas, restaurants, gyms and places of worship were closed. Germany determined the closure of most non-essential shops and extended the opening times of supermarkets to reduce the number of customers in the stores at the same time. In some countries, stores reserved the first hours of trading for elderly clients at a high risk of severe disease⁶³.

The closure of schools, a measure adopted in all countries, has been the subject of much debate. Children are rarely affected by COVID-19 and the extent to which they develop asymptomatic infections and transmit the virus is unclear. Although closing schools may have the added benefit of contributing towards ensuring that parents remain at home, this measure may affect the ability of parents, who are health professionals and whose services are of the utmost importance at this time, to work. Furthermore, other negative effects include an increase in the number of children cared for by elderly grandparents, interruption to the supply of free school meals to vulnerable children and, obviously, the fact that children

⁶³ Jon Cohen and Kai Kupferschmidt, "Countries Test Tactics in 'War' against COVID-19," *Science* 367, no. 6484 (2020): 1287–88, <https://doi.org/10.1126/science.367.6484.1287>.

would be denied their right to formal education for months at a time. For these reasons, although schools in Austria, the Netherlands and the United Kingdom were closed, an exception was made for the children of key workers such as health professionals. In the United Kingdom, vulnerable children (recipients of social care) were also allowed to attend school. In addition, the government decided that schools could provide meals to children who usually received them free of charge and announced in the media the creation of a national program of food vouchers⁶⁴. In Singapore, although schools remained open, measures were adopted to reduce the size of classes and the number of interclass and interschool activities, while rigorous hygiene measures were implemented and recess and lunch breaks were staggered⁶⁵.

COVID-19 responses undertaken by individual member countries of ASEAN have been tremendously diverse and have ranged from strict lockdown conditions in the highly regulated city-state of Singapore to 'business as usual', especially in rural areas of developing countries with large informal economies such as Laos and Myanmar. Yet ASEAN member countries also have a long history of cross-border cooperation, forged through trade regionalization and economic integration. In the health sector, ASEAN cooperation has been infused into region-wide frameworks including the ASEAN Political-Security Community (APC), ASEAN Economic Community (AEC) and ASEAN Socio-Cultural Community (ASCC)⁶⁶. Through these social-cultural pillars, ASEAN has developed a basic platform for health security cooperation since

⁶⁴ Elisabeth Mahase, "Covid-19: Schools Set to Close across UK except for Children of Health and Social Care Workers," *The Bmj* 368 (2020): 1, <https://doi.org/10.1136/bmj.m1140>.

⁶⁵ Vemon J. Lee, Calvin J. Chiew, and Wei Xin Khong, "Interrupting Transmission of COVID-19: Lessons from Containment Efforts in Singapore," *JTM*, 2008, 1-5, <https://doi.org/10.1093/jtm/taaa039>.

⁶⁶ ASEAN Secretariat. Celebrating ASEAN: 50 years of evolution and progress. Association of Southeast Asian nations; 2017.

1980⁶⁷, as shown, for instance, through ASEAN- level responses to prior pandemics including SARS, H1N1 and MERS-CoV3.

Southeast Asia was one of the first regions affected due to its close geographical proximity and business travel, tourism and supply chain links to China. The first COVID-19 case was reported in Malaysia on 25 January 2020, prior to the upward swing of cases at the end of February 2020⁶⁸.

This pandemic has proven to have a very bad impact, apart from the unexpected negative impact on economic activity⁶⁹. Considering the rapid spread of COVID-19 with the emergence of various variants and mutants, world economic and financial system indicators show a fluctuating position, especially on the stock market, foreign exchange rates and interest rates⁷⁰.

In January 2020, the *World Health Organization* (WHO) stated that there was a COVID-19 outbreak that appeared in one of the regions in China, where the attack was hazardous for human life. Releasing data from WHO quoted by Kompas.com., stated that COVID-19 caused an international public health crisis called the *Health Emergency of International Concern* (PHEIC).⁷¹ The existence of this statement from WHO and the symptoms of the spread of COVID-19 have made countries limit people's mobility in and out of

⁶⁷ Australian Government (DFAT), *Pacific Health Development Agenda*, 2014.

⁶⁸ Kuok Ho Daniel Tang, "Movement Control as an Effective Measure against COVID-19 Spread in Malaysia: An Overview," *Zeitschrift Fur Gesundheitswissenschaften = Journal of Public Health* 30, no. 4 (2020): 583–86, <https://doi.org/https://doi.org/10.1007/s10389-020-01316-w>.

⁶⁹ Hakan Yilmazkuday, "International Evidence from Google Mobility Data," *SSRN Electronic Journal*, 2020, 1–18, <https://ssrn.com/abstract=3571708>.

⁷⁰ et al., "The Determinants of Main Stock Exchange Index Changes in Emerging Countries: Evidence from Turkey in COVID-19 Pandemic Age," *Quantitative Finance and Economics* 4, no. 4 (2020): 526–41, <https://doi.org/10.3934/qfe.2020025>.

⁷¹ WHO TEAM, "WHO TEAM, "COVID-19 Public Health Emergency of International Concern (PHEIC) Global Research and Innovation Forum," *WHO*, 2020, [https://www.who.int/publications/m/item/covid-19-public-health-emergency-of-international-concern-\(pheic\)-global-research-and-innovation-forum](https://www.who.int/publications/m/item/covid-19-public-health-emergency-of-international-concern-(pheic)-global-research-and-innovation-forum)

countries, including PMI destination countries, so it is natural that in 2020 and 2021, PMI who go abroad has decreased.⁷²

The current coronavirus disease 2019 (COVID-19) outbreak is a worldwide emergency, as its rapid spread and high mortality rate has caused severe disruptions.⁷³ The number of people infected with severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2), the causative agent of COVID-19, is rapidly increasing world-wide.⁷⁴ Patients with COVID-19 can develop pneumonia, severe symptoms of acute respiratory distress syndrome (ARDS), and multiple organ failure.⁷⁵

Facing the outbreak, WHO took steps and instructed countries to prevent and reduce the spread of Covid-19 by practicing social distancing. Governments began to implement social restrictions by implementing regional regulations to *lockdowns* to suppress the spread of Covid-19. PMI destination countries started to enforce policies and tighten the entry and exit of people, including Hong Kong, Taiwan, Malaysia, Singapore, South Korea, Saudi Arabia, Jordan, Kuwait, Italy, England, Spain, France, Poland, and the United States.⁷⁶

As a result of Covid-19, economic growth has slowed down, companies are starting to experience a decline in income, so they are

⁷² Noveria and Romdiati, "Pandemi Covid-19 Dan Dampak Ekonomi Pada Pekerja Migran Indonesia Dan Keluarganya: Sebuah Kajian Pustaka."

⁷³ Chaolin Huang et al., "Clinical Features of Patients Infected with 2019 Novel Coronavirus in Wuhan, China," *Lancet* 395, no. 10223 (2020): 507–13, [https://doi.org/10.1016/S0140-6736\(20\)30183-5](https://doi.org/10.1016/S0140-6736(20)30183-5).

⁷⁴ Huang et al.

⁷⁵ Dawei Wang, Bo Hu, and Chang Hu, "Clinical Characteristics of 138 Hospitalized Patients with 2019 Novel Coronavirus-Infected Pneumonia in Wuhan, China," *JAMA Network* 323 (2020): 1061–69, <https://doi.org/10.1001/jama.2020.1585>.

⁷⁶ Media DPR, "Pandemi, Gus Muhaimin: Negara Harus Hadir Atasi Persoalan Pekerja Migran," *Media DPR RI*, 2021, <https://www.dpr.go.id/berita/detail/id/34755/t/Pandemi%20Covid-19,%20Gus%20Muhaimin:%20Negara%20Harus%20Hadir%20Atasi%20Persoalan%20Pekerja%20Migran>

starting to take various steps to save their business, starting from laying off employees.⁷⁷ The implications of countries to prevent the spread of COVID-19 have made countries not only think about the health sector but also think about solutions from other affected fields, such as education, social, cultural, and especially the economic sector.⁷⁸ The impact of COVID-19 is categorized as a life event that occurs in humanity which is very fatal; in addition to causing death, it also causes chaos in the lives of humanity.⁷⁹

Due to COVID-19, economic growth has slowed, and companies have begun to experience a decline in revenue, so they have begun to find various ways to save business, starting with layoffs. Based on data from the ILO, full or partial social distancing measures affect almost 81% of the world's workforce.⁸⁰ Victims of termination of employment, to meet the needs of life, are willing to work for low wages; this impact is also felt by migrant workers who work abroad, especially migrant workers who work in the informal sector.⁸¹ The burden felt by PMI is exacerbated by uncertainty in the

⁷⁷ Ogbole Ogancha O and Oreoluwa Omotayo Oduniyi, "Workers' Protection in the Covid-19 Era in Nigeria Perlindungan Pekerja Pada Masa Covid-19 Di Nigeria A . Introduction COVID-19 Is a Global Crisis with Widespread Distortions . 1 Although COVID-19 Originates from the World ' s Manufacturing Heartland of," *Padjadjaran Journal of Law* 8, no. 2 (2021): 292–312, <https://doi.org/https://doi.org/10.22304/pjih.v8n2.a7>.

⁷⁸ DJKN Kementerian Keuangan Republik Indonesia, "Sri Mulyani: Kemenkeu Terus Dukung Langkah Penanganan Covid-19," *DJKN Kementerian Keuangan Republik Indonesia*, 2020, <https://www.djkn.kemenkeu.go.id/berita/baca/20396/Sri-Mulyani-Kemenkeu-Terus-Dukung-Langkah-Penanganan-COVID-19.html>

⁷⁹ K Stroud, "Stressful Life Events and Depression," *Clinical Science Insights: Knowledge Families Count* 14, no. 8 (2020): 1344–45, <https://doi.org/https://doi.org/10.1176/appi.ajp.157.8.1344-a>.

⁸⁰ ILO, "ILO: Covid-19 Causes Devastating Losses in Working Hours and Employment," *International Labour*, 2020, https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_740893/lang--en/index.htm#:~:text=economy%20and%20employment-,ILO%3A%20COVID%2D19%20causes%20devastating%20losses%20in%20working%20hours%20and,policies%20to%20mitigate%20the%20crisis.

⁸¹ CNBC Indonesia, "Jerit Kelaparan RKI Di Malaysia Ketika Lockdown," *CNBC Indonesia*, 2020, <https://www.cnbcindonesia.com/news/20200425210242-4-154459/jerit-kelaparan-tki-di-malaysia-ketika-lockdown>

placement country, financial shortages, and layoffs due to the pandemic, making PMI's life unclear between choosing to return home or staying in the placement country.⁸²

The presence of Covid-19 presents its challenges for PMI. During COVID-19, migrant workers lost job opportunities and social assistance constraints from the government, not to mention the problem if migrant workers returning to Indonesia faced stigma and discrimination because they were considered to carry the virus.⁸³ For migrant workers who still survive in the placement country, it is also not easy to face the COVID-19 situation, starting from being unable to support themselves and access in and out of the country that does not allow them to return to Indonesia.⁸⁴

Under normal conditions, PMI is always prone to various problems such as depression, excessive workload, physical and sexual violence, and wages sometimes not given by employers; things like this affect PMI's psychological condition.⁸⁵ The condition of migrant workers is very vulnerable compared to other working groups, especially for illegal migrant workers.⁸⁶ PMIs have difficulty accessing health services during the COVID-19 pandemic, one of which is because PMIs have not received or are not registered in health insurance. At the same time, illegal migrant workers fear checking themselves (fear of being arrested by law enforcement

⁸² Kementerian Ketenagakerjaan, "Kliping Ketenagakerjaan 15 Juni 2020," Jakarta, 2020, <https://kabarbisnis.com/read/28100233/banyak-phk-klaim-bpjs->.

⁸³ Alfian Putra Abdi, "Kelompok Yang Terlupakan : TKI Yang Pulang Saat Pandemi," *Tirto*, 2020, <https://tirto.id/kelompok-yang-terlupakan-tki-yang-pulang-saat-pandemi-fLwu>

⁸⁴ UII, "Pusat Studi Hukum UII Soroti Nasib Pekerja Migran Di Tengah Pandemi," *Universitas Islam Indonesia*, 2020, <https://www.uui.ac.id/pusat-studi-hukum-uui-soroti-nasib-pekerja-migran-di-tengah-pandemi/>

⁸⁵ Department of Psychiatry, *Mental Health in The Times of Covid-19 Pandemic*, National Institute of Mental Health and Neurosciences, Bengaluru, India (Bengaluru: Department of Psychiatry National Institute of Mental Health and Neuro Science, 2020).

⁸⁶ Psychiatry.

officials) due to migration problems.⁸⁷ The Indonesian government has provided access to social security for migrant workers, but the social security intended by migrant workers is only social security or BPJS Employment.⁸⁸

PMI recorded in April 2020, PMI working in the formal sector reached 632 workers, and the informal sector reached 1,715 workers; based on data from BP2MI, PMI working in the informal sector was three times that of formal sector workers.⁸⁹ The Minister of Manpower to follow up on the handling of migrant workers by issuing Decree of the Minister of Manpower (Kepmenaker) No. 151 of 2020 which states the Temporary Suspension of the Placement of Indonesian Migrant Workers to prevent the spread of Covid-19.⁹⁰

In 2017, the government accommodated the needs of workers, including informal workers and migrant workers, through the issuance of BPJS Ketenagakerjaan. BPJS Ketenagakerjaan is a public legal entity that has four social security programs that have functions to protect all workers.⁹¹ BPJS provided by the government for PMI does not have social security for health, even though PMI needs health social security; not only that, there are difficulties for PMI to claim social security or BPJS Employment during the Covid-19 pandemic, even though in the Covid-19 pandemic situation the

⁸⁷ Susilo Wahyu, Arista Novi, and Evi Zulyani, "Kerentanan Pekerja Migran Indonesia Menghadapi Wabah COVID-19," *CSIS Commentaries DMRU-024-ID* 151 (2020): 1–6.

⁸⁸ Nugroho Bangun Witono, "Kebijakan Perlindungan Pekerja Migran Indonesia Dalam Pandemi Covid-19," *Indonesian Journal of Peace and Security Studies (IJPSS* 3, no. 1 (2021): 34–54, <https://doi.org/https://doi.org/10.29303/ijpss.v3i1.57>.

⁸⁹ BP2MI, "Data Penempatan Dan Perlindungan PMI, Periode April 2020," Badan Perlindungan Pekerja Migran Indonesia, 2020, https://bp2mi.go.id/%0Auploads/statistik/images/data_26-05-2020_Laporan_Pengolahan_Data_BNP2TKI_APRIL_fix.pdf.

⁹⁰ Zulyani Evi Wahyu Susilo, Yovi Arista, "Kerentanan Pekerja Migran Indonesia Menghadapi Wabah COVID-19," *Center for Strategic and International Studies*, 2020.

⁹¹ BPJS Ketenagakerjaan, "BPJS Ketenagakerjaan : Program Jaminan Sosial Tenaga Kerja," Badan Penyelenggara Jaminan Sosial Ketenagakerjaan, 2023, <https://www.bpjsketenagakerjaan.go.id/>.

community needs the government's sincerity and seriousness to ensure social welfare for every citizen.⁹²

The first confirmed case of COVID-19 in Hong Kong was announced on 23 January 2020. In response to the COVID-19 pandemic, the local government has adopted a variety of drastic public health measures, such as compulsory quarantines for people returning from abroad, work from home arrangements, school suspensions, and the shutdown of non-essential services, to mitigate the risks and impact of the disease. In addition, people in Hong Kong have stockpiled surgical masks, rice, toilet paper, and other goods. Such abrupt changes to daily life are risk factors that can substantially affect mental health. Some psychosocial stressors such as health threats to oneself and loved ones are associated with pandemics⁹³. There are severe disruptions of routines, separation from family members and friends, shortages of daily necessities, salary deduction, social isolation, and school closure⁹⁴. Psychosocial responses to infectious disease outbreaks are variable and can include feelings of anxiety or weakness, an overestimation of the likelihood of infection, the excessive and inappropriate adoption of precautionary measures and an increased demand for health care services in a time of shortage⁹⁵

As a Special Administrative Region (SAR) of China that operates with autonomy, Hong Kong has adopted far less strict measures to contain COVID-19 than those in mainland China⁹⁶. At

⁹² Devina, "Data Sudah Lengkap, Klaim BPJS Ketenagakerjaan Tak Ada Kejelasan," *Detik.Com*, 2020., https://news.detik.com/suara-pembaca/d-5006577/data-sudah-lengkap-klaim-bpjs-ketenagakerjaan-tak-ada-kejelasan#google_vignette

⁹³ S. Taylor, *The Psychology of Pandemics: Preparing for the Next Global Outbreak of Infectious Disease*; (Cambridge Scholars Publishing: Newcastle upon Tyne, 2019).

⁹⁴ D.; Koh et al., "Risk Perception and Impact of Severe Acute Respiratory Syndrome (SARS) on Work and Personal Lives of Healthcare Workers in Singapore: What Can We Learn?," *Med. Care* 43 (2005): 676–82, [https://doi.org/\[CrossRef\]](https://doi.org/[CrossRef]) [PubMed].

⁹⁵ L.; Rosling and M. Rosling, "Pneumonia Causes Panic in Guangdong Province," *BMJ* 326 (2003): 416, [https://doi.org/\[CrossRef\]](https://doi.org/[CrossRef]) [PubMed].

⁹⁶ M.C.S. Wong et al., "Stringent Containment Measures without Complete City Lockdown to Achieve Low Incidence and Mortality across Two Waves of COVID-19 in Hong

the time of writing, the city has never been locked down, and inhabitants have always enjoyed a moderate level of mobility⁹⁷. Compared with other places, such as Singapore, Seoul, London, and Tokyo, Hong Kong has been relatively successful in terms of controlling the rate of infections⁹⁸. Comparative discussions of COVID-19-related policies and societal responses have largely focused on the collective memories of combating the outbreak of severe acute respiratory syndrome (SARS) in 2003. That bitter experience might explain both the government and community's preparedness and willingness to respond promptly to contain the threat of COVID-19. Preventive education, publicity, and the introduction of different control measures by the government were identified as important contributors to the success of controlling the 2003 epidemic⁹⁹.

A series of large-scale physical-distancing intervention measures enacted by the Hong Kong government, in addition to prior experiences of virus prevention, made efforts to convince individuals to comply with precautionary measures, such as wearing face masks and washing hands, more effective. This made the government and people believe that it remained possible to maintain daily activities and travel amid the COVID-19 pandemic.

¹⁰⁰However, to the best of our knowledge, there has been little research on the relationship between government public policies

Kong," *BMJ Glob. Heal.* 5 (2020), <https://doi.org/e003573> <https://doi.org/10.1136/bmjgh-2020-003573>.

⁹⁷ S.H. Wong et al., "COVID-19 and Public Interest in Face Mask Use. Am.," *J. Respir. Crit. Care Med.* 202 (2020): 453–55, <https://doi.org/https://doi.org/10.1164/rccm.202004-1188LE>.

⁹⁸ S.Y. Wong, K.O. Kwok, and F.K. Chan, "What Can Countries Learn from Hong Kong's Response to the COVID-19 Pandemic?," *CMAJ (Can. Med. Assoc. J.)* 192 (2020): 511–15, <https://doi.org/https://doi.org/10.1503/cmaj.200563>.

⁹⁹ Hung, L.S., "The SARS Epidemic in Hong Kong: What Lessons Have We Learned?," *J. R. Soc. Med.* 96, 2003, 374–78, <https://doi.org/https://doi.org/10.1258/jrsm.96.8.374>.

¹⁰⁰ K.O. Kwok et al., "Community Responses during the Early Phase of the COVID-19 Epidemic in Hong Kong: Risk Perception, Information Exposure and Preventive

and community responses, although this could help us better understand how the community and government can work together to combat COVID-19 and similar pandemic events.

As suggested by the WHO (2020a), both government intervention and community engagement play a critical role in the effective implementation of any public health intervention. It is therefore important to investigate the complementary aspects of public health intervention measures that contributed to the early success of preparing for and responding to the COVID-19 threat¹⁰¹.

The article proceeds by briefly outlining the policy efforts of the Hong Kong SAR (Special Administration Region) government to manage the spread of the COVID-19 virus, including regulatory actions, risk assessment, risk communication (to the public), proactive risk management, border control and travel bans, and economic and budgetary responses. The remainder of the article then details Hong Kong's experience with political crisis and social unrest in 2019–2020 and its more distant experience managing the SARS pandemic in 2003–4, highlighting the role of both these events in helping develop community capacity. The article concludes by discussing how the Hong Kong case illustrates the need for a more comprehensive understanding of capacity that incorporates community capacity as a key agency in enabling societies to successfully manage crisis¹⁰².

Migrants are particularly vulnerable to the direct and indirect effects of the coronavirus disease 2019 (COVID-19) pandemic. The International Organization for Migration (IOM) has found that

Measures," *Emerg. Infect. Dis.*, 2020, <https://doi.org/https://doi.org/10.1101/2020.02.26.20028217>.

¹⁰¹ World Health Organization, 2020a. Risk Communication and Community Engagement Readiness and Response to Coronavirus Disease (COVID-19): Interim Guidance.

¹⁰² Kris Hartley and Darryl S. L. Jarvis, "Policymaking in a Low-Trust State: Legitimacy, State Capacity, and Responses to COVID-19 in Hong Kong," *POLICY AND SOCIETY* 39, no. 3 (2020): 403–23, <https://doi.org/https://doi.org/10.1080/14494035.2020.1783791>.

migrants were often excluded from host country welfare systems, were greatly affected by border closures by limiting their ability to travel between their home and host countries, and that the pandemic was used as an opportunity to foster xenophobic and discriminatory attitudes towards them¹⁰³. Migrants also often face additional barriers in accessing healthcare or information about COVID-19 in their host countries, increasing their risk of contracting the disease¹⁰⁴. The financial impact of the pandemic has been forecasted to result in a \$108.6 billion decline in global remittances, assuming recovery within a year, putting remittance-dependant households at risk of falling into poverty¹⁰⁵.

The lack of recognition and supportive policies for migrants can have many physical, mental, social, and economic effects on FDWs. Live-in FDWs tend to work long hours with an unspecified workload while living in the same place that they work in, making it difficult to mentally separate work from private time¹⁰⁶. They are also vulnerable to abuse from their employers due to the unequal power relationship, including verbal abuse and physical assault, and are often unable to negotiate for or assert their rights.¹⁰⁷ FDWs often also struggle with the relationships with their families back home. For example, FDWs may perceive that their relatives only

¹⁰³ Guadagno, Lorenzo. 2020. MRS No. 60 – Migrants and the COVID-19 pandemic: An initial analysis, in Migration Research Series.

¹⁰⁴ Kluge, Hans Henri P, Jakab, Zsuzsanna, Bartovic, Jozef, D’Anna, Veronika, Severoni, Santino, 2020. Refugee and migrant health in the COVID-19 response. *The Lancet* 395 (10232), 1237–1239. doi:10.1016/S0140-6736(20)30791-1.

¹⁰⁵ Takenaka, Aiko Kikkawa, Gaspar, Raymond, Villafuerte, James, Narayanan, Badri, 2020. COVID-19 Impact on International Migration, Remittances, and Recipient Households in Developing Asia. COVID-19 Impact on International Migration, Remittances, and Recipient Households in Developing Asia. Asian Development Bank.

¹⁰⁶ Eric Fong and S.A. Yeoh, Brenda, “Migrant Domestic Workers: Disadvantaged Work, Social Support, and Collective Strategies in East Asia,” *American Behavioral Scientist* 64, no. 6 (2020): 703–8, <https://doi.org/10.1177/0002764220910235>.

¹⁰⁷ Shu-Ju Ada Cheng, “Migrant Women Domestic Helpers in Hong Kong, Singapore and Taiwan: A Comparative Analysis,” *Asian and Pacific Migration Journal* 5, no. 1 (1996): 139–52, <https://doi.org/10.1177/011719689600500107>.

value the remittances they send, devaluing the work and sacrifices they are making overseas¹⁰⁸. As FDWs are often visible minorities within their host country, they may also face discrimination as migrants, minorities, and women¹⁰⁹.

In Hong Kong, FDWs are essential to the functioning of many local families, but they are also regarded as separate from the “real family”¹¹⁰. While they make significant contributions to Hong Kong’s economy, they are still denied economic rights¹¹¹. In 2019, the Immigration Department reported that there were 399,320 FDWs in Hong Kong, with 98.5% of them being women, and most of them coming from the Philippines (55%), Indonesia (43%), or Thailand (0.5%)¹¹². Given the enormous health, economic, and social effects of the COVID-19 pandemic, we sought to explore the effects of the pandemic on FDWs in Hong Kong through in-depth interviews with FDWs and key informants to better understand their experiences. We focused on how this minority population, comprised mostly of women, was disproportionately affected by the pandemic response in terms of their health and economic wellbeing. A greater understanding of the experiences of this vulnerable population can

¹⁰⁸ Brian J. Hall, Garabiles, Melissa R., and Carl A Latkin, “Work Life, Relationship, and Policy Determinants of Health and Well-Being among Filipino Domestic Workers in China: A Qualitative Study,” *BMC Public Health* 19, no. 1 (2019), <https://doi.org/10.1186/s12889-019-6552-4>.

¹⁰⁹ Alicia Llácer et al., “The Contribution of a Gender Perspective to the Understanding of Migrants’ Health,” *The Contribution of a Gender Perspective to the Understanding of Migrants’ Health. Journal of Epidemiology and Community Health* 61 (Suppl 2), 2007, <https://doi.org/10.1136/jech.2007.061770>.

¹¹⁰ Annie Chan and Hau-Nung, “Live-in Foreign Domestic Workers and Their Impact on Hong Kong’s Middle Class Families,” *Journal of Family and Economic Issues* 26, no. 4 (2005): 509–28, <https://doi.org/10.1007/s10834-005-7847-4>.

¹¹¹ Hung Jason, “Hung, Jason, 2020. Hong Kong Hurts Itself By Financially Excluding Foreign Domestic Workers,” *The Diplomat*, 2020, <https://thediplomat.com/2020/02/hong-kong-hurts-itself-by-financially-excluding-foreign-domestic-workers/>

¹¹² Immigration Department, 2020. Foreign domestic helpers by nationality and sex. Women and Men in Hong Kong: Key Statistics. Census and Statistics Department, Hong Kong Special Administrative Region, Hong Kong W.a.M.i.H.K.K. Statistics.

help to guide the policies aimed at mitigating the negative effects of the pandemic on society in Hong Kong and in other areas where there are significant FDW populations.

Various kinds of difficulties experienced by migrant workers can be seen from the results of a survey organized by the Human Rights Working Group (HRWG) of the Indonesian Migrant Workers Union (SBMI) and the Migrant Workers Network (JBM) regarding the impact of COVID-19 on migrant workers, especially those experienced by migrant workers in Hong Kong. The Hong Kong government is dealing with the spread of COVID-19 through a tracking policy for people with physical contact with COVID-19-positive people.¹¹³ The Hong Kong government also imposes mandatory quarantine or isolation for people who contract Covid-19.¹¹⁴ The policy taken by the Hong Kong government caused panic for everyone in Hong Kong, especially migrant workers working in Hong Kong.¹¹⁵ During COVID-19, PMI in Hong Kong received intimidation from employers, and verbal violence, and migrant workers should not ask for time off during the COVID-19 period.¹¹⁶ As long as they are not allowed to take holidays during COVID-19, PMIs in Hong Kong are required by employers to continue working overtime by not being paid overtime wages, or PMIs are still carrying out their usual routine before COVID-19 hit Hong Kong. The number of people that must be cared for by PMIs increases because the Hong Kong government lays off work outside the home or office work, so people or employers gather at home and automatically burden PMI's

¹¹³ BBC, "Cerita Pekerja Migran Indonesia Di Hong Kong Yang Kena Covid-19 Di Tengah Lonjakan Kasus 'Diintimidasi Majikan' Dan 'Ditelantarkan,'" *BBC Indonesia*, 2022, <https://www.bbc.com/indonesia/dunia-60418516>

¹¹⁴ Jawahir Gustav Rizal, "Melihat Cara Hong Kong Kendalikan Virus Corona Tanpa Lockdown...," 2020.

¹¹⁵ Noveria and Romdiati, "Pandemi Covid-19 Dan Dampak Ekonomi Pada Pekerja Migran Indonesia Dan Keluarganya: Sebuah Kajian Pustaka."

¹¹⁶ BBC, "Cerita Pekerja Migran Indonesia Di Hong Kong Yang Kena Covid-19 Di Tengah Lonjakan Kasus 'Diintimidasi Majikan' Dan 'Ditelantarkan,'" *BBC Indonesia*, 2022, <https://www.bbc.com/indonesia/dunia-60418516>

work. When working, PMI must remain hygienic by constantly changing masks, and the employer does not buy the covers purchased by PMI, but PMI acknowledges the acts themselves.¹¹⁷ From the description above, it can be said that in the last two years, PMI has experienced a double workload, and there is no time to rest.

Based on the description above, it is an unwanted or unexpected thing that can be experienced by migrant workers at any time, ranging from sexual harassment, physical violence, verbal violence, psychological violence, work accidents, and or even things that threaten the lives of migrant workers in the Hong Kong placement country. Doing work in a foreign country, of course, is not easy because there are many differences in work ethic, culture, working hours, and, most importantly, the language used for daily communication; this is what makes the uncertainty of PMI's life in the country of placement, there are 2 (two) types of uncertainty that PMI can experience, some are speculative or pure uncertainty that can pose risks. There are 2 (two) kinds of risks: fundamental risks and unique risks. Entire risk relates to risks that have a broad impact, such as economic, political, social, security, and defense risks, as well as international, while unique risks are more on an individual, such as the price of objects, failures, and others.¹¹⁸ The above risks may approach migrant workers in the country of placement during work, so there is a need for social security protection.¹¹⁹ In this case, there is a need for protection that must be provided by the state, in addition to legal protection, economic protection, and family protection of migrant workers, social protection through social security.

The Indonesian government, in terms of social protection, has provided social protection for migrant workers and has even been regulated by Law No. 18/2017, which has been amended into Law

¹¹⁷ Shalihah, Sari, and Rosyidah, "Seminar Nasional Hasil Pengabdian Kepada Masyarakat."

¹¹⁸ Agus Midah, Asri Wijayanti, and Fithriatus Shalihah, *Perlindungan Pekerja Migran Indonesia Berdasarkan UU No. 18 Tahun 2017* (Medan: Yayasan Al-Hayat, 2020).

¹¹⁹ Zainal Asikin, *Dasar-Dasar Hukum Perburuhan* (Jakarta: Rajawali Pers, 2016).

No. 6/2023 and related to social security there is a regulation of the minister of workforce itself that regulates social security, namely Permenaker No. 18 / 2018 which has been revised to Permenaker No. 4 / 2023. The government to encourage PMI to participate in BPJS Employment is not easy, so the government requires prospective PMI to register members of BPJS Employment.¹²⁰ The government in Permenaker No.18/2018 has also required prospective PMI and PMI to register for the JKK and JKM guarantee programs, as well as in Article 4 paragraph (1) of Permenaker No.4/2023 which reads, "Prospective Indonesian Migrant Workers or Indonesian Migrant Workers who work abroad must be registered in program participation: a. JKK; and b. JKM".

However, the Indonesian Government's efforts to realize the implementation of social security for migrant workers by revising Permenaker RI No. 18/2018, in which the government increases social security benefits and tries to provide social security alternatives for migrant workers is not that easy, this can be seen from the response of migrant workers, especially migrant workers placement in Hong Kong. After it was revealed in 2022, based on DJSN data, it was stated that more than 50% of PMIs working abroad have yet to be registered as members of BPJS Employment. Hong Kong, one of the most PMI destinations, also revealed that few PMI in Hong Kong still needed to register for BPJS Employment. As explained above, this is related to the low interest of PMI not registering for BPJS Employment because, according to PMI placement in Hong Kong, the benefits of BPJS Employment organized by the Government of Indonesia are less helpful to use in Hong Kong or the benefits are less clear, BPJS Employment is

¹²⁰ CNN, "Menaker Wajib Buruh Migran Jadi Peserta Ketenagakerjaan," *CNN Indonesia*, 2023, <https://www.cnnindonesia.com/ekonomi/20230302171116-92-919996/menaker-wajibkan-buruh-migran-jadi-peserta-bpjs-ketenagakerjaan>

difficult to claim, and PMI is comfortable using insurance provided by employers or the Hong Kong Government.¹²¹

Based on research conducted by the author in Hong Kong, after the issuance of Permenaker No.4/2023, migrant workers working in Hong Kong still do not intend to register for social security for several reasons. The excellent response of PMI placement in Hong Kong after the revision of Permenaker RI No.18/2018 to Permenaker No.4/2023, PMI in Hong Kong feels that it has received the attention of the Government of Indonesia, meaning that with the issue of PMI not registering for BPJS Employment membership for other reasons, the government moved quickly by revising social security regulations and increasing social security benefits for PMI. However, not a few PMI placements in Hong Kong after the revision of social security regulations with increased benefits still want to register for BPJS Employment. Not without reason, PMI does not wish to register for BPJS Employment after the issuance of Permenaker No.4/2023 because PMI Hong Kong Indonesian Government regulations require PMI to register for BPJS Employment are contrary to Article 9 letter d of the Regulation of the Indonesian Migrant Workers Protection Agency of the Republic of Indonesia Number 5 of 2022 concerning Amendments to the Regulation of the Indonesian Migrant Workers Protection Agency Number 1 of 2020 concerning Standards, Signing and Verification of the Indonesian Migrant Worker Work Agreement, which reads, "The extension of the Work Agreement as referred to in Article 8 must meet the following requirements: d. extend social security, employment social security, and insurance by the extension period of the Work Agreement". If the article's content above, BP2MI regulations related to the extension of social security provide several options or not necessarily BPJS Employment as the front line of social

¹²¹ Shalihah et al., *Efektivitas Peraturan Menteri Ketenagakerjaan Nomor 18 Tahun 2018 Dalam Penyelenggaraan Jaminan Sosial Bagi Pekerja Migran Indonesia,* in *Diskursus Hukum Ketenagakerjaan Di Indonesia.*

security. PMI considers that the Government of Indonesia does not need to impose or require Hong Kong placement PMI to register for BPJS Employment membership organized by the Government of Indonesia, or it means that based on the BP2MI Regulation above, it is adjusted to the destination country where imposing social security protection for migrant workers does not need to require BPJS Employment, on the contrary, BPJS Employment is better given to PMI placed in countries that do not accommodate social security for migrant workers. PMI Hong Kong believes BPJS Employment is more feasible to apply to places or placement countries or PMI destination countries, such as Macau.

The relationship between PMI and the employer (employer) in the country of placement automatically gives rise to rights and obligations; one of the rights that arise for PMI is the right to get social security.¹²² The Consulate General of the Republic of Indonesia (KJRI) requires the purchase of insurance at least 2 (two) months early from the end of the visa, must include employment contract approval insurance, in addition to insurance, must also sign a Letter of Application / Guarantee Letter which is charged to the employer for accommodation and treatment if the worker is chronically or acutely ill. PMI placement in Hong Kong has benefited from insurance provided by employers in Hong Kong and feels that it does not need BPJS Employment; PMI Hong Kong requests that the Government of Indonesia does not need to require all administrative matters by including the requirements for BPJS Employment registration for PMI Hong Kong.

The juridical perspective should be social security or BPJS Employment intended for PMI, not PMI, who pays. Article 30, paragraph (1) of Law No.18/2017, amended in Law No.6/2023, reads, "Indonesian Migrant Workers cannot be charged placement fees."

¹²² Rosi Oktari, "Perkuat Aspek Perlindungan Dan Jamsos Pekerja Migran," *Indonesiabaik.Id*, 2021, <https://indonesiabaik.id/videografis/perkuat-aspek-pelindungan-dan-jamsos-pekerja-migran>

The above content is in line with Article 3 of the Regulation of the Indonesian Migrant Workers Protection Agency of the Republic of Indonesia Number 9 of 2020 concerning the Exemption of Placement Fees for Indonesian Migrant Workers, which reads, "Indonesian Migrant Workers cannot be charged placement fees," continued Paragraph (2) Placement fees as referred to in Paragraph (1), one of which is related to PMI social security. The content of the above regulation related to placement fees contradicts the provisions for social security payment costs contained in Permenaker No.4/2023.

Social security is one of the human rights of Indonesian citizens contained in Article 28 H of the 1945 Constitution, which reads, "Everyone has the right to social security that allows their full development as a useful human being." The mandate of the article above emphasizes that social security is entitled to everyone, including migrant workers. PMI, as the country's foreign exchange hero, should get extra protection related to social protection.

CONCLUSION

The presence of Minister of Manpower Regulation No. 4/2023 there are several additional social security benefits in the context of protection and services for PMI from social or bad risks that occur during the period of work in the country of placement, starting from work accidents, death and old age. After Minister of Manpower Regulation No.4/2023, it turns out that there is still no solution related to increasing participation in BPJS Employment PMI for Hong Kong placement. PMI placement in Hong Kong is more comfortable using insurance provided by the employer or employer, rather than BPJS Employment which is administered by the Indonesian Government. According to PMI's Hong Kong placement, Minister of Manpower Regulation No. 4 of 2023 which requires PMI to register for social security is contrary to Article 9 letter d of the

Indonesian Migrant Worker Protection Agency Regulation of the Republic of Indonesia Number 5 of 2022 concerning Amendments to the Regulation of the Indonesian Migrant Worker Protection Agency Number 1 of 2020 concerning Standards, Signing and Verification of Work Agreements for Indonesian Migrant Workers, which states, "The extension of the Work Agreement as intended in Article 8 must meet the requirements: d. must extend social security, employment social security, and/or insurance in accordance with the extension period of the Employment Agreement." In this article, the social security provided is an option or there is no obligation for PMI to participate in BPJS Employment. PMI for placement in Hong Kong hopes that the Indonesian government does not need to require BPJS Employment registration, because the one who knows about the conditions in Hong Kong is PMI, so BPJS Employment should only be an option.

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