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**| RESEARCH ARTICLE**

## **Examining Gendered State in Protecting Indonesian Women Migrant Workers in Malaysia and Hong Kong**

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**| ABSTRACT**

This study addresses efforts made by Indonesian government actors in Malaysia and Hong Kong to protect Indonesian women migrant workers in the informal sector working in both countries. Indonesian female migrant workers in Malaysia were numbered the highest in Southeast Asia, while Indonesian female migrant workers in Hong Kong were the highest in Asia. The theories and ideas used in this research are the concepts of countries and migrant workers suggested by Gunawardana with the classification of brokerage, regulatory and protectionist regimes. The increasing number of work-related cases of violence, access to health, and legal protection indicates that the problems faced by Indonesian women migrant workers and the role of government protection remain partially addressed. By using qualitative research methods, and in-depth interviews, the current study found that Indonesian government actors in Malaysia made efforts to protect two women migrant workers who were victims of violence. However, it was not only due to protection efforts but also because of the role that civil society had in their efforts to resolve the cases. Meanwhile, Indonesian government actors in Hong Kong had not performed optimally in seeking protective measures for victims of violence, and there was a dominant protective role maintained by civil society in Hong Kong in regards to the Erwiana case. The domestic recruitment process, which is quite lacking in terms of protection, had an effect on the violence experienced by the two Indonesian female migrant workers in Malaysia and had no effect on the Indonesian female migrant worker in Hong Kong. Based on these findings, it can be concluded that the role of Indonesian government actors in protecting women migrant workers is part of the protectionist regime but is partially executed because they had not been afforded protection since their departure. The novelty of this research is that the role maintained by civil society has led to the shift of the broker regime toward the protectionist. This research discovered a new finding that given the role of civil society and the synergy between government actors and civil society, the role of the Indonesian government is identified to be in the protectionist regime even though it is partial and conditional, namely given the role and participation that civil society holds.

**| KEYWORDS**

Gendered State, Indonesian Government Actors, Indonesian Women Migrant Workers, Protection, Civil Society

**| ARTICLE INFORMATION**

**ACCEPTED:** 28 July 2022

**PUBLISHED:** 03 August 2022

**DOI:** 10.32996/jhsss.2022.4.3.10

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**1. Introduction**

The increase in the number of female migrant workers each year, which is disproportionate to male migrant workers, triggers the feminization of labor migration. Feminization occurs because the majority of labor demographics is mostly occupied by women with conditions attached to women's roles (Arista et al., 2020). However, the feminization of migration is not only seen as an increase in the number of women compared to men in labor migration but also in the types of work women are employed in, i.e., vulnerable and dangerous sectors. This refers to forms of migration involving women and having low wages and employment status, also known as dirty, dangerous, difficult (3D) jobs, which women migrant workers from destination countries avoid as much as possible (Hugo, 2006). One of the vulnerable employment sectors is being the domestic worker.

The Indonesian Migrant Workers Protection Agency (BP2MI) noted that in 2007 there were 2,256 female domestic workers, which increased to 63,903 in 2008 and 52,212 in 2009, then 50,928 in 2010. This number increased dramatically in 2011 to 136,999 female domestic workers and then to 50,062 in 2012. During the 2007-2012 period, women domestic workers numbered 356,360 individuals (BP2MI, 2012). Physical, economic, and psychological violence was commonly experienced by many Indonesian women migrant workers working in the domestic/household sector (informal) following the enactment of Law No. 6 of 2012 concerning the Ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, as well as Law No. 39 of 2004 concerning the Placement and Protection of Indonesian Migrant Workers Abroad (PPTKILN) as the main umbrella for protection policies, violence against women Indonesian migrant workers still persisted. In 2019 there were 276,553 migrant workers, of which 133,993 were formal migrant workers, and 142,560 were informal migrant workers. Based on this figure, the placement of informal Indonesian migrant workers exceeded the number of formal Indonesian migrant workers, wherein the majority of migrant workers were 85,316 men and 191,237 women. Meanwhile, data on grievances relating to services for Indonesian migrant workers through the BP2MI crisis center in 2019 recorded 9,377 cases, the majority of which came from issues such as overstaying, unpaid salaries, illnesses, termination of employment before the work agreement period ended, placement fees exceeding the cost structure and other issues (BP2MI, 2019).

Throughout the January-September 2020 period, the majority of complaints relating to cases of violence came from Indonesian migrant workers working in Malaysia, which amounted to 885 complaints (BP2MI, 2020a). Meanwhile, from 2017 to 2019, the number of complaints relating to cases of violence submitted to BP2MI from Indonesian migrant workers working in Hong Kong was 473. Southeast Asia is one of the world's largest suppliers of female international migrant workers working as domestic workers. Hugo shows the main pattern of movement of women migrant workers from Southeast Asia, where it involved at least more than two million women, mainly from the Philippines, Indonesia, and Thailand (Hugo, 2006).

Malaysia and Hong Kong are destination countries of interest for many Indonesian female migrant workers. BP2MI noted that data on the placement of Indonesian migrant workers by country of destination from 2014 to 2020 is as shown in the table below, wherein Southeast Asian countries were the favorite destination countries for prospective migrant workers, especially for the deployment of female migrant workers;

**Table 1.1 Placement of Indonesian Migrant Workers by Country 2014-2020**

No.	Negara	2014	2015	2016	2017	2018	2019	2020
1.	Malaysia	127,870	97,748	87,623	88,991	90,671	79,663	14,630
2.	Taiwan	82,665	75,304	77,087	62,823	72,373	79,574	34,415
3.	Hong Kong	35,050	15,322	14,434	69,182	73,917	70,840	53,206
4.	Singapura	31,680	20,895	17,700	13,379	18,324	19,354	4,474
5.	Saudi Arabia	44,325	23,000	13,538	6,471	5,894	7,018	1,793
6.	Brunei Darussalam	11,616	9,993	8,152	6,623	5,707	5,639	1,202
7.	Korea Selatan	11,849	5,501	5,912	3,728	6,905	6,193	641
8.	Uni Emirat Arab	17,963	7,619	2,575	1,667	726	578	117

Source: Collected and processed by researchers from the placement and protection data of Indonesian migrant workers, BP2MI 2018, 2019 and 2020 (BP2MI, 2018), (BP2MI, 2019), (BP2MI, 2020b).

Based on the table above, Malaysia maintained its position as the country in Southeast Asia with the highest number of deployed Indonesian migrant workers from 2014-2020, especially in the domestic/household sector. Hong Kong is a country in the Asian region that was also a major destination for prospective migrant workers. Given the numerous complaints relating to cases of violence experienced by women migrant workers in the informal/domestic sector, this paper focuses on the protective role that Indonesian government actors in Malaysia and Hong Kong had over Indonesian women migrant workers working in the domestic sector. Through this paper, the researchers observed and analyzed the role of the state in the gendered state framework, which means the caring state, according to Kymlicka's explanation in her book *Contemporary Political Philosophy* (Kymlicka, 1990), in providing protection for women migrant workers employed in the domestic sector in Malaysia and Hong Kong.

## 2. Methodology

This qualitative research was conducted by using a case study design research method that focuses on the role of Indonesian government actors in providing protection for Indonesian women migrant workers in Malaysia and Hong Kong. The protection aspect was examined by analyzing work relations, access to health, and legal protection. This research is not aimed at conducting

a comparative study of politics<sup>1</sup> (Pennings et al., 2006) on two-state systems regarding the protection extended by Malaysia and Hong Kong to foreign workers but rather focuses on comparing the role of Indonesian government actors in providing protection to their citizens working as migrants in the household sector in both destination countries. In-depth interviews were conducted with various sources mentioned in this article, both government and non-government actors who played a significant role in the efforts of protecting women migrant workers. Data in this study were also collected through a literature study by analyzing policy documents, books, journals, and other websites relevant to the object of study, which is a part of data collection as explained by Yin (Yin, 2011).

### **3. Discussion**

#### ***3.1 The Context of Gendered State in Migration***

According to Steinberger, in the contemporary context, three characteristics of the state can be seen from its activities, authorities, and internal constitution – and it shows that the state is the most prominent on three specific issues, i.e., tolerance, consent, and democracy (Steinberger, 2004). Given such authority, the state has an important role in implementing protection policies, including for Indonesian women migrant workers. Taking the case of Sri Lanka, Gunawardana (2018) explains how the conditions of temporary migrant workers are in the context of a gendered state. Gender itself, as explained by Kymlicka, is not only restricted to the understanding that men and women are viewed differently, but more than that. Based on Gilligan's (1982) study, it is explained that the moral sensibility of men and women tends to develop differently. The concept of justice is more prominent in men (ethic of justice), while the concept of moral/care is more pronounced in women (ethic of care) (Kymlicka, 1990). In Kymlicka's explanation, many feminists subsequently argue that the ethic of care, which was originally developed in the context of personal relationships, actually has considerable significance and should be extended to the public sphere. Accordingly, in this article, the state is positioned as a government institution that must maintain an ethic of care and this is used in the term gendered state as a caring state.

In analyzing the role of the Indonesian government in protecting women migrant workers in the domestic sector, this article used the regime concept based on Gunawardana's explanation by citing Ostner and Lewis (1995), that the regime is widely used to explain how various institutions, norms, rules, principles, and procedures are unified to build a gender regime. Gunawardana classifies three regimes, namely brokerage, regulatory, and protectionist regimes, all of which involve local or global actors, processes, and institutions (Gunawardana, 2018b). A brokerage regime is defined as a state that tries to create opportunities for citizens to migrate and pays attention to remittances from migrant workers. The state has a role in recruiting prospective migrant workers. The regulatory regime is defined as a state that attempts to influence the actions of the recipient country by entering into bilateral agreements such as MoUs and ratifying international conventions on the protection of migrant workers. Meanwhile, in the protectionist regime, citing Franz (2013), in the post-migration context, embassies and consulates have a pivotal role in providing advisory services, advocacy, shelters, and welfare centers.

#### ***3.2 The Role of Indonesian Government Actors in the Brokerage Regime***

The state is the "primary actor in gender power relations". Some forms of protection promised by the state include protecting citizens from one another, protecting privacy rights, protecting property rights, and protecting citizens from external threats (Peterson, 1992). Looking at several cases of violence against women migrant workers in Indonesia, such as Wilfrida and Adelina in Malaysia and Erwiana in Hong Kong, it is important to analyze the protectionary role of Indonesian government actors. Meter & Horn explain that one of the influential factors in policy implementation is the extent to which policy executors participate in the policy-making process (Meter & Horn, 1975). In this paper, the government actors refer to the Consulate General of the Republic of Indonesia (KJRI)/Embassy of the Republic of Indonesia (KBRI), Labor Attaché (Atnaker), and the Indonesian Migrant Workers Protection Agency (BP2MI).

In the flow of Indonesian labor migration, the protection of female Indonesian migrant workers in Malaysia and Hong Kong is inseparable from the recruitment process in Indonesia as part of the broker regime scheme. Citing the explanation given by Hermono, the Indonesian ambassador to Malaysia, asymmetric expectations between employers and workers occur in relation to preparation for departure from the sending country, which subsequently results in the attitude of foreign employers due to the quality of the Indonesian migrant workers employed. Expensive recruitment fees make prospective employers have high expectations of the quality of Indonesian female migrant workers' work at their homes (Hermono, 2021). Wilfrida and Adelina were two female Indonesian migrant workers in Malaysia who did not possess valid documents, certificates from their husbands or

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<sup>1</sup> Political and social comparative research is generally defined in two ways: either by the core subject it considers, which is almost always defined at the level of political and social systems (Lane and Ersson, 1994; Dogan and Pelassy, 1990; Keman, 1997), or through descriptive features, which claims to increase knowledge about politics and society as a process. This description is generally considered to distinguish the comparative approach from other approaches in political and social sciences.

parents, certificates of competence, and adequate work agreements proving that they were migrant workers who left the country by following the procedures required for the domestic sector.

Alex Ong, Migrant CARE's representative in Malaysia, explained that at the beginning of Wilfrida's journey as an Indonesian migrant worker in Malaysia, she was hired by an employer, and because Wilfrida could not work well, the first employer only employed her for ten days. After that, she was hired by an employer who had a history of Parkinson's disease. This was where Wilfrida experienced violence (Ong, 2021). Another victim of violence in Malaysia, Adelina (2018), is a female migrant worker in the domestic sector who experienced violence since the recruitment stage. Adelina was a victim of trafficking in persons (*Tindak Pidana Perdagangan Orang – TPPO*), wherein Adelina's departure route to Malaysia was not as it should be. She departed from Blitar, East Java, to apply for a passport, then she was taken to Batam and went aboard a ferry to Johor Baru, Malaysia. Adelina initially worked in Kuala Lumpur, but she left Malaysia in 2018 for a month due to an overstay issue and re-entered on a visit visa. Given the complicated migration process, the Indonesian Consulate General in Penang explained that Adelina had problems in the placement process in Malaysia; she entered Malaysia using a tourist instead of a work visa, and she was then accommodated by an illegal agent and transferred to a second illegal agent and hired by an employer who committed violence (Kurniati, 2021).

Both recruitment processes indicate that the government did not provide protection measures since the pre-placement period (before departure). Wilfrida and Adelina were dispatched to become women migrant workers in the domestic sector with no prior preparation/training period. Prospective migrant workers have the right to receive training, be given proper work contracts and good protection, as well as government responsibilities, especially from local governments as the party that should be well-informed and aware about the departure of their citizens abroad to become Indonesian migrant workers and about Indonesian labor service companies (*perusahaan jasa tenaga kerja Indonesia – PJTKI*), which are currently called the Indonesian Migrant Worker Placement Company (*perusahaan penempatan pekerja migran Indonesia – P3MI*).

Meanwhile, Erwiana, an Indonesian female migrant worker in Hong Kong, said that she had attended training for eight months before being sent to Hong Kong by the company (Erwiana, 2021). However, there was a lack of protection by the government and violations committed by Erwiana's agents, wherein all vital documents such as her work contract, passport, and other documents were withheld by her agent, and it was conveyed to Erwiana that all her documents would be returned if her placement fee had been fully paid by deducting her salary (Erwiana, 2021). Meanwhile, in the Employment Ordinance, the government of Hong Kong stipulates that workers may keep their personal belongings such as their passports, identity card, bank card, employment contract, and others. No one, including the employer, is allowed to withhold a worker's personal belongings, and any violation can be reported to the Hong Kong police (Labour Department of Hong Kong, 2021).

The Indonesian Migrant Worker Service Company (PJTKI), which is currently known as the Indonesian Migrant Worker Placement Company (P3MI) after the ratification of the 2017 Law, maintains a Job Training Center (*Balai Latihan Kerja – BLK*), which is intended to train Indonesian migrant worker candidates. Historically, the formation of PJTKI can be initially observed from the presence of PT Bijak (Binajasa Abadikarya) in 1994 during the leadership of Abdul Latief as the minister of manpower during the New Order era. PT Bijak is a private company that functions as a labor dispatcher, and all "partners" working with PT Bijak obtained permission to dispatch Indonesian workers to Malaysia. Employment agencies in Indonesia and Malaysia imposed high fees on employers taking in Indonesian workers (Azmy, 2012). These high costs made employers feel powerful because they have paid quite a sum of money, leading to rude behaviors, and they're committing various acts of violence against women migrant workers in the domestic sector.

The recruitment issue since the beginning of departure shows that the government's protection for women migrant workers remains nominal, even from the early stages of placement. In many cases, the recruitment process for unskilled workers starts in their hometown and is often beyond the reach of the state bureaucracy, except for the local village apparatus, which authorizes the statement of residence for Indonesian foreign migrant workers candidates. The business of foreign migrant workers is initiated in villages (Tirtosudarmo, 2018). Based on Bank Indonesia (BI) data from 2014 to 2019, remittances obtained by the state from Indonesian migrant workers deployed to Malaysia reached Rp. 235,283,814,000,000 (two hundred thirty-five trillion two hundred eighty-three billion eight hundred fourteen million rupiahs) (Indonesia, n.d.). Meanwhile, the remittances sent by Indonesian migrant workers to Hong Kong during the 2014-2019 period amounted to Rp. 70,078,246,000,000 (seventy trillion seventy-eight billion two hundred forty-six million rupiahs).

### **3.3 The Role of Indonesian Government Actors in the Regulatory Regime**

Gunawardana explains that the government in the regulatory regime seeks to protect migrant workers by influencing the destination country to establish a memorandum of understanding (MoU) between the sending and receiving countries. In addition to the MoU, the government also tries to carry out a scheme for the ratification of international conventions (Gunawardana, 2018b), as the Indonesian government had done in 2012 concerning the 1990 international convention on the protection of migrant

workers and their families, which was later ratified into Law No. 6 of 2012 concerning Ratification of the International Convention on Protection Rights of All Migrant Workers and Members of Their Families. In general, state bureaucracies do not want to adopt international conventions that can enhance efforts to protect and strengthen the rights of migrant workers. Collusion between the bureaucracy and labor recruitment agencies has been an open secret that subsequently hinders government regulations on migrant labor issues promoted by international agencies, such as the ILO, in an effort to change the existing fraudulent policies regarding foreign migrants (Tirtosudarmo, 2018).

The implementation of the regulatory regime in protecting Indonesian women migrant workers in Malaysia can be observed from the submission of the MoU scheme between Indonesia and Malaysia, which since the end of the MoU between the two countries in 2016, had not been extended until it was agreed upon in April 2022, six years after the absence of an MoU between the two countries to protect women Indonesian migrant workers in the informal/household sector. The maid online system mechanism, implemented by the Malaysian government as their internal policy, is one of the reasons why the MoU between Indonesia and Malaysia had not been agreed upon. The obstacles found in the MoU between the two countries were explained by Hesti Dewayani from the Indonesian Ministry of Foreign Affairs as a reflection of the Malaysian government's indifferent attitude and the Malaysian government's online maid system policy (Dewayani, 2021).

Anis Hidayah from the NGO Migrant Care saw that the Indonesian government had actually tried to build negotiations with Malaysia, but there were obstacles in the field. While the delegates sent from the Indonesian side were echelon 1 officials, ambassadors, and the like, the Malaysian government only sent echelon 4 representatives who had no authority to make decisions. Thus, he saw an asymmetrical process in the efforts to negotiate the MoU (Hidayah, 2021). The MoU between the two countries regulates the granting of vacation rights, salaries that migrant workers are entitled to, and allowing passports and documents to be kept by migrant workers, which are not regulated in the Malaysian government's 1955 Manpower Act. Meanwhile, in the case of the Hong Kong government, no MoU between Indonesia and Hong Kong on the protection of women migrant workers in the domestic sector is available. It is true that the Hong Kong government has regulated provisions on holidays, insurance, and remuneration for domestic migrant workers, but working hours and adequate accommodation and sustenance have not been specified in its Employment Ordinance. The violence committed against Wilfrida, Adelina, and Erwiana in terms of work relations, access to health, and legal protection is a reflection of how agreements between the two countries, between the sender and the recipient, are a vital part of the regulatory regime.

Regarding the employment contract, which is a crucial document for Indonesian migrant worker candidates, citing the explanation given by Pei Chia Lan, who studied domestic migrant workers in Taiwan, it is mentioned that in the contractual work system and the Asian migration circle, both employers and workers rely on private agents as intermediaries, wherein domestic agents collaborate with foreign agents (Lan, 2006). Intermediary agents have an essential role in migration flows, and government oversight of agents must be effective. It must also be specified in the MoU between the two countries, especially Malaysia because it is not stipulated in the Manpower Act. It is important for the Indonesian government to have an MoU with Hong Kong as the host country because even though they have a domestic worker protection scheme through the Employment Ordinance, it does not regulate working hours, adequate accommodation, and sustenance, which should have been specified in an agreement between the two countries in the form of an MoU. In the regulatory context, not only the government, civil society/NGOs in Hong Kong are struggling to initiate the presence of an employment agency, which means a regulatory scheme to impose sanctions on agencies. Eni Letari from International Migrant Alliance (IMA) said that the regulation was established by the Hong Kong government following Erwiana's case, and there were demands and aspirations made by migrant worker organizations (Lestari, 2021).

The difference between the existing regulatory regimes observed within the Indonesian government and that of Sri Lanka, which was the case analyzed by Gunawardana, is that civil society in Indonesia pushed the government to ratify the 1990 international convention on the protection of migrant workers and their families, which was later officiated by the government as Law No. 6 of 2012 concerning the Ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. This is also the case with the extension of the MoU between the Indonesian and Malaysian governments for the protection of migrant workers in the domestic sector. This differs from Sri Lanka's conditions, where the government provides no space for civil society and workers to participate.

#### ***3.4 The Role of Indonesian Government Actors in the Protectionist Regime: Partial***

According to Gunawardana (2018), the state protectionist regime is manifested as an effort by the state to protect workers from various forms of loss. Citing Frantz (2013), Gunawardana discusses that in the post-migration context (when the migrant worker is already in the destination country), embassies and consulates play an important role in providing consulting services, and advocacy, shelters, and welfare centers (Gunawardana, 2018b). The protection shown and carried out by Indonesian government actors in Malaysia for the two Indonesian female migrant workers in aspects of protecting employment relations, access to health, and legal

protection was not an instant process. Wilfrida was abused by her employer in 2010 and was later imprisoned for allegedly causing her employer's death, which was an act of self-defense against the violent behavior her employer committed against her. Wilfrida was later acquitted in 2014 due to the efforts made by civil society, which continued to voice their stance and opinions, as well as the synergy between civil society and the Indonesian government at the time in their effort to free Wilfrida. The government's move at the time was seen as an improvement in its performance of protecting women migrant workers. The state carried out protection, diplomacy, and communication with the Malaysian government in an effort to free Wilfrida, synergizing with Migrant Care and other migrant worker activists.

Migrant Care initiated the change.org online petition and collaborated with legislative members as well as religious and community leaders coming from Wilfrida's regional origin in the effort to release her. Following Wilfrida's acquittal in 2014, the Indonesian Embassy and the Indonesian Consulate General accompanied Wilfrida because she had not been able to return to Indonesia. The existing law in the locality stipulated that Wilfrida must initially receive a pardon from the Sultan of Kelantan for her actions, which resulted in the death of a citizen before she could return to Indonesia. Other cases of violence against women Indonesian migrant workers in Malaysia also occurred. Victims such as Nirmala Bonat (2004), Ceriyati (2007), Siti Hajar (2009), and Meriance Kabu (2014) were identified when the Indonesian government implemented the 2004 Law, the old law revised by the 2017 Law. Following the enactment of Law No. 18 of 2017 regarding PPMI, which specifies more provisions about the role or authority of each government unit, from the subnational to the central governments, as well as the division of tasks among institutions, the protective role of the Indonesian government can be said to have begun to be implemented, although it is still on a case-by-case basis and in a partial manner. The integration of protection for women migrant workers from the pre-departure stage to their arrival and stay in the destination country and then following their return to their hometown has not yet been realized in the Indonesian labor migration flow.

In the case of violence against Indonesian women migrant workers in Hong Kong, Erwiana as a victim of violence said that although the Indonesian government did play a role, it was minimal and slow running compared to the actions/efforts taken/made by organizations (Erwiana, 2021). Even though the Hong Kong government already has an Employment Ordinance as a policy that includes a protection clause for domestic migrant workers, specifications relating to working hours and proper accommodation have not been incorporated into it. As such, the MoU or agreement between the two countries, i.e., Indonesia and Hong Kong, needs to be settled in terms of working hours other than the provision on holidays, which has been regulated by Hong Kong. In terms of labor migration, Oishi explains that the policies made by each country, both sending and receiving countries, contribute to the ongoing migration phenomenon (Oishi, 2005).

Sectoral egos or silo mentality and debates between the roles and responsibilities of BNP2TKI, which is currently named BP2MI, and the Indonesian Ministry of Manpower, remain in place. Such silo mentality or sectoral ego has hampered efforts to handle cases and protect Indonesian women migrant workers. The government remains responsive and takes action when cases occur without preparing a scheme for preventing vulnerable cases of violence against women migrant workers in the domestic sector, both in Malaysia and Hong Kong as the host countries for the majority of migrant worker candidates. The handling of the Wilfrida and Adelina cases in Malaysia and Erwiana in Hong Kong involved a time-consuming process, even since the implementation of Law No. 39 of 2004 on PPTKILN until Law No. 18 of 2017 on PPMI.

In terms of legal protection, the Indonesian government has tried to resolve the legal case against Adelina's employer, who committed acts of violence that resulted in her death, and the legal settlement of Erwiana's employer in Hong Kong. Migrant Care and Tenaganita, as civil society organizations in Indonesia and Malaysia, participated in safeguarding the legal process against Adelina's employer. However, after a long legal process since Adelina's death in 2018, the Federal Court of Malaysia, which is equivalent to the Supreme Court in Indonesia, approved the release of Adelina's employer in June 2022. The panel of judges rejected the public prosecutor's request to overturn the decision of the High Court (Kompas.com, 2022). This proves that the quality of protection policies in destination/host countries also has an influence on acts of violence against women migrant workers, including in ongoing legal processes. The Malaysian government needs to improve the legal system so that it is oriented toward the protection of migrant workers and not only paying attention to the interests of their users/employers.

On the one hand, although the Hong Kong government already has a mechanism for regulating domestic migrant workers and a transparent legal process in place, the execution of sentences against employers remains sluggish. The sentencing verdict for Erwiana's employer in Hong Kong was relatively fast, one year after the violence against Erwiana incident in 2015, not only due to the protective role of the government but also because of the dominance of civil society's active role in both Hong Kong and Indonesia, which held demonstrations, carried out advocacy, and engaged in communications with the Hong Kong government and the global mass media network to participate in safeguarding the settlement of the Erwiana case. Meanwhile, in terms of the Indonesian government actors, as Rajagukguk said that the consular function at the Indonesian Embassy and the Indonesian Consulate General played a more vital role in resolving cases of violence against women migrant workers in the domestic sector,

including escorting legal processes, compared to the attaché. Indonesian labor attaches in Malaysia have a greater role in the mechanism for fulfilling the general rights of Indonesian migrant workers in terms of wages and coordination in the labor sector with the government of the migrant workers' host countries (Rajagukguk, 2021).

Indonesian government actors in Hong Kong in the post-migration protectionist regime had indeed provided assistance in cases, extended legal protection, and communicated with the Hong Kong government. However, the dominance of the protective role was mostly carried out by civil society in Hong Kong by conducting demonstrations, advocacy, mentoring PMI, and lobbying the Hong Kong government to initiate an Employment Agency, which was later approved and ratified by the Hong Kong government in 2017.

Thus, following the enactment of Law No. 18 of 2017 concerning PPMI, it does not mean that violence against female Indonesian migrant workers in the domestic sector has not occurred at all, but the protection efforts shown and made by Indonesian government actors in resolving cases of violence after the implementation of Law No. 18 of 2017 concerning PPMI is already better than protection efforts made during the implementation of Law No. 39 of 2004 concerning PPTKILN. However, the existing form of protection observed thus far has been due to the synergy and active role of civil society during the resolution of cases of violence against migrant domestic workers. This is apparent from the role of civil society in Hong Kong in their efforts to resolve the Erwiana case and the active participation of civil society in Indonesia and Malaysia in resolving Wilfrida and Adelina's cases. The Indonesian Embassy/KJRI, in collaboration with BP2MI, carried out protective measures that can be seen in the context of assisting case resolution, such as helping victims to be given their entitled salary rights by their employers, communicating with agencies, and even searching for valid data on victims.

In terms of health, although Wilfrida and Adelina did not have insurance, the Indonesian government, as well as the Malaysian government, were both involved in taking care of their medical and hospital needs, arranging for the return of bodies, and providing assistance to migrant workers. In terms of legal protection, Indonesian government actors in Malaysia initiated for lawyers to be present, provided assistance during hearings, and completed case investigations, as is the case with Adelina, which is still ongoing since her death in 2018.

#### **4. Research Findings**

By observing how the government has carried out protection efforts from the pre-placement stage or before the migrant worker candidates' deployment, cases of violence against women migrant workers certainly require efforts that are not partial; it should be done in a comprehensive manner. There were differences between Malaysia and Hong Kong in the context of Indonesian government actors' role in protecting women migrant workers in the domestic sector in terms of employment relations, health, and legal protection in the destination countries. There was synergy and cooperation between Indonesian government actors in Malaysia and civil society such as Migrant Care and Tenaganita in resolving the Wilfrida and Adelina cases in Malaysia. The government made protective efforts, but they were not alone since there was active participation from civil society. Meanwhile, in the case of Hong Kong, Indonesian government actors at the Consulate General took specific measures to protect them, but they had not been optimal. There was a dominance of protective measures taken by civil society organizations such as the International Migrant Alliance (IMA) and the Indonesian Migrant Workers Network (JBMI) in an effort to resolve the case of violence against Erwiana. There was no synergy and cooperation between Indonesian government actors in Hong Kong and civil society in resolving the Erwiana case. Although there were protective measures, the steps taken by the government in protecting migrant workers were merely partial protection because they were not comprehensive, i.e., from the time the prospective migrant workers were dispatched from the sending country. This research does, indeed, focus on the steps taken by Indonesian government actors in protecting Indonesian migrant workers in the host countries, but the protection cannot be assessed partially; it must begin from the time of departure.

The role of Migrant CARE and Tenaganita in resolving cases of Indonesian women migrant workers in Malaysia shows that non-state actors wield considerable power in their efforts to protect migrant workers. Michele Ford explains in her book that Indonesia is home to dozens of non-government organizations (NGOs) concerned with international labor migration and among the first NGOs showing concerns about this issue was Women's Solidarity for Human Rights, which remained operational from 1990 to 1998 (Ford, 2019).

The gendered state, which is defined as a caring state, as explained by Kymlicka, is apparent in the protective role of Indonesian government actors in Malaysia and Hong Kong, although there were differences between the two. This article is not intended to compare both countries, but the research findings show that Indonesian government actors in Malaysia played a protective role in resolving the cases of violence experienced by Wilfrida and Adelina. According to Alex Ong, the representative of Migrant Care in Malaysia, the support given by Indonesians and Malaysians alike, the pressure from Malaysia, the international community, NGOs, and the Indonesian government helped resolve the Wilfrida case properly. Although currently, the legal process carried out

by the Malaysian government through the decision of the Malaysian Federal Court is to authorize the release of Adelina's employer. This indicates that the struggle to secure government protection for problems experienced by women migrant workers remains far from where it should be. Meanwhile, Indonesian government actors in Hong Kong had not been optimal in carrying out their protective role in the Erwiana case, and there was a dominant protective role assumed by civil society. Although the Consulate General explained that they coordinated with civil society in handling the case, there was indeed a debate in the process of handling the Erwiana case, as explained by Walangitan (Walangitan, 2021).

Thus, this study complements Gunawardana's explanation regarding the role of government actors in protecting temporary migrant workers (Gunawardana, 2018a) or those discussed in this study as domestic migrant workers. Gunawardana did not explain that, in the context of protective measures, the government does not stand alone to achieve a successful policy, yet there are other actors aside from the government, i.e., civil society participating in governance, including in promoting measures to resolve cases of violence against migrant workers. The participation of government actors in case handling efforts has an effect on the successful implementation of protection policies, as described by Van Meter & Van Horn. However, the component of labor protection provision has not been conducted fully, it remains partially executed, and the contribution made by the *atnaker* to resolve the two cases of women migrant workers, Wilfrida and Adelina, was still minimal.

A comparison of the roles that Indonesian government actors in Malaysia and Indonesian government actors in Hong Kong played in the effort to protect Indonesian women migrant workers in the domestic sector as victims of violence is presented in the table below:

**Table 1.2 Comparison of Indonesian Labor Migration Conditions in Malaysia and Hong Kong**

Conditions	Malaysia	Hong Kong
Indonesian Government Actors in Malaysia and Indonesian Government Actors in Hong Kong.	Indonesian government actors in Malaysia played an active role in the two cases but did not stand alone, synergizing with civil society to resolve cases.  The protective role of the Indonesian government was partial protectionist when observed from the departure of prospective Indonesian migrant workers, indicating that it has not provided full protection.	The role of Indonesian government actors in Hong Kong had not been optimal despite efforts to protect and resolve cases of violence. There was a dominant role of civil society.
NGO/Civil Society Actors	The role of NGO actors through Migrant Care and Tenaganita was very active and contributed to the resolution of cases of violence against Indonesian women migrant workers.	The role of NGO actors through IMA and JBMI was very active and contributed to the resolution of cases of violence against Indonesian women migrant workers.
Synergy between Indonesian Government Actors and NGOs/Civil Society	There was a synergy between the Indonesian government and civil society in resolving cases.	There was no cooperation and synergy between the Indonesian government and civil society, and NGOs dominated the protective measures for resolving cases of violence against Indonesian women migrant workers.
Labor Migration Policy in Host Countries	The Malaysian government has a labor policy specified in the Employment Act 1955, but the	The Hong Kong government has a protection policy for migrant workers called the Employment



	protection of domestic migrant workers is not included.	Ordinance, which includes domestic migrant workers.
The Effect of Domestic Recruitment Processes on Violence against Indonesian Women Migrant Workers	The domestic recruitment process has an effect on acts of violence experienced by Indonesian women migrant workers.	The recruitment process has no effect on the acts of violence experienced by Indonesian women migrant workers. Thus, the employers' attitude also influences the acts of violence Indonesian women migrant workers experience.

Source: data processed by researchers based on research findings and interviews with various sources throughout the research, 2021

The comparison of the roles of Indonesian government actors in Malaysia and Hong Kong, as described in the table above, also affects the outcome of the implementation of protection policies for Indonesian women migrant workers in the two countries. Not only the role of Indonesian government actors, but the quality of policies on the protection of migrant workers in the destination/host countries also influences the protection migrant workers to enjoy. The quality of domestic recruitment also contributes to the incidence of violence committed against women migrant workers in destination countries.

**5. Conclusion**

The current study found that the Embassy of the Republic of Indonesia in Kuala Lumpur and the Consulate General of the Republic of Indonesia in Johor Bahru and Penang played their respective role and participated in protecting Wilfrida and Adelina as migrant workers who were victims of violence in Malaysia. However, the protective role assumed by Indonesian government actors in Malaysia and the protection extended to both of them cannot be separated from the history of the implementation of protection policies, wherein after the revision of the old law into a new law in 2017, the role of Indonesian government actors in destination countries had improved. However, the government has not afforded full protection on account of the fact that protection for migrant workers is not initiated since their departure, so it is still at the stage of partial protection and conducted on a case-by-case basis. On the other hand, although the Consulate General of the Republic of Indonesia in Hong Kong played their role in protecting Erwiana, the steps taken were not optimal, and there was a dominance of protective measures taken by civil society. Comparatively speaking, Indonesian government actors in Malaysia had synergy and cooperated with civil society in taking protective measures, whereas Indonesian government actors in Hong Kong did not have good synergy and cooperation with civil society.

Consequently, the protective role assumed by Indonesian government actors is not achieved by the government alone in the protectionist regime of Gunawardana. The success of measures to protect women migrant workers was due to the active role of civil society in resolving both cases in Malaysia and Hong Kong. Labor migration policies in Malaysia and Hong Kong also influenced the mechanisms for protecting women migrant workers. The Malaysian government does not regulate the protection of domestic migrant workers in the Employment Act 1955, while the Hong Kong government regulates the protection of women migrant workers in the domestic sector in the Employment Ordinance, although it does not regulate working hours and decent accommodation.

Therefore, the protective role observed in the two cases in Malaysia, and the one case in Hong Kong was relatively dependent on the role of a strong civil society. Government protection is considered partial because, despite the protection efforts made by the Indonesian Embassy/KJRI in collaboration with BP2MI, it has not been a comprehensive effort from the start, i.e., during the domestic process in the sending country. The state still indicates a tendency to handle cases as they occur instead of focusing on preventing cases as a measure to implement protection policies. The limitation of this study is that it is more about analyzing the policies of receiving countries that affect the protection of women migrant workers in the domestic sector. These limitations can be filled by other researchers for future research by focusing on an in-depth analysis of the quality of the recipient country's policies. Protection for women migrant workers cannot only come from the sending country but must be both the sending and the receiving countries.

**Funding:** This research received no external funding from any institutions or organizations for the submitted work.

**Conflict of Interest:** The authors declare no conflict of interest that are relevant to the content of this manuscript.

**Publisher's Note:** All claims expressed in this article are solely those of the authors and do not necessarily represent those of their affiliated organizations, or those of the publisher, the editors and the reviewers.

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