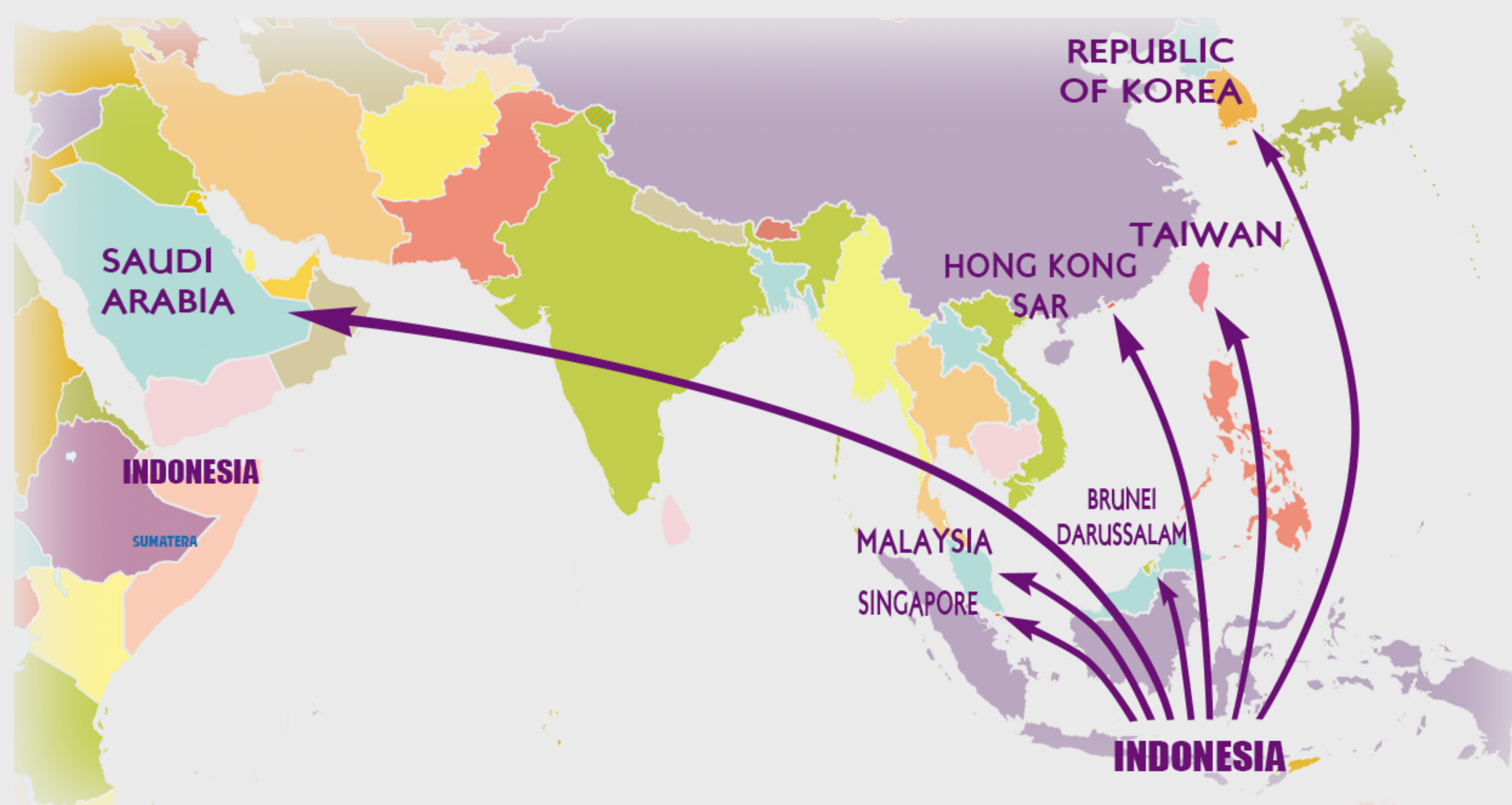


COUNTRY BRIEFER INDONESIA

DECENT WORK FOR WOMEN MIGRANT WORKERS SERIES



BACKGROUND



Poverty is a major driver for migrant workers from Indonesia to go and work abroad. The majority of women migrating from Indonesia work in the care work sector, such as domestic workers or nurses. The labour migration of women for domestic work has grown dramatically since the Asian Financial Crisis in 1997 and remains the dominant type of work for women for the past five years. International labour migration is a significant contributor to the Indonesian economy – the remittances earned by Indonesian migrant workers consistently increased between 2016 and 2018, along with the increasing numbers of labour migration.

COUNTRY OVERVIEW

Main Countries of Destination

Malaysia, Singapore, Hong Kong SAR, Taiwan, Saudi Arabia, Brunei Darussalam, Republic of Korea.¹

Women's share of total migration

41.9 per cent of total migration.²

Main sectors of employment

Domestic work, care-giving

DOMESTIC WORK REMAINS DOMINANT IN THE LABOR MIGRATION OF WOMEN



TOP 10

ASIAN COUNTRIES RECEIVING REMITTANCE FROM MIGRANT WORKERS

MIGRANT WORKERS' CONTRIBUTION TO GDP THROUGH REMITTANCES IN 2018



According to the 2020 World Migration Report by the IOM, Indonesia is among the top 10 Asian countries receiving remittances from migrant workers. Migrant workers contribute significantly to Gross Domestic Product (GDP) in Indonesia through remittances, with the remittances from Indonesian migrant workers increased in 2018 to around \$11 billion.³

However, the contribution of labour migration to employment, economic growth, development and the alleviation of poverty was not recognised; nor the government has maximised the resources to promote access to decent job opportunities, labour rights and social protection for migrant workers and their family members.

Labour migration from Indonesia is characterised as being temporary because most migrants leave with the intention of staying for a limited amount of time to save enough money to purchase a house or pay for the schooling of their children. However, high costs of migration mean that short-term stays often turn into long-term as they are trapped in private debt schemes forced by recruitment agencies or companies.

Countries in the Middle East remain a popular destination for women migrant workers, despite highly publicised accounts of abuse and even execution of workers (Saudi Arabia). Religious affinity makes Middle Eastern countries often more appealing to Muslim Indonesians than other wealthy, non-Muslim majority countries in Asia. It gives workers the opportunity to undertake Hajj pilgrimage, which is seen as bestowing social status back in Indonesia.

MIDDLE EAST REMAIN A POPULAR DESTINATION FOR WOMEN MIGRANT WORKERS DUE TO RELIGIOUS AFFINITY



THE STATE OF 'DECENT WORK' FOR WOMEN IN INDONESIA

High rates of poverty, inequality and lack of decent work opportunities at home are major drivers of outward migration for women workers from Indonesia. As in achieving the decent work agenda of migrant workers, the Indonesian government is committed to implementing the Sustainable Development Goals (SDGs) agenda with a specific target of 10.7^{4*} and Goal 8^{5**}

However, instead of creating the enabling environment for decent work, in 2020, the Indonesian government issued an executive order to attract foreign investment to generate economic growth, and to 'cut red tape' by creating the omnibus law as a way to amend 79 existing laws, including Indonesia's pro-labour laws. The Omnibus Law contains harmful articles that directly affect rural, indigenous, migrant and urban poor women as well as women workers as it will further increase the risk of land grabbing, threaten environmental sustainability, and deprive women of their rights to livelihood, decent work and a living wage.⁶



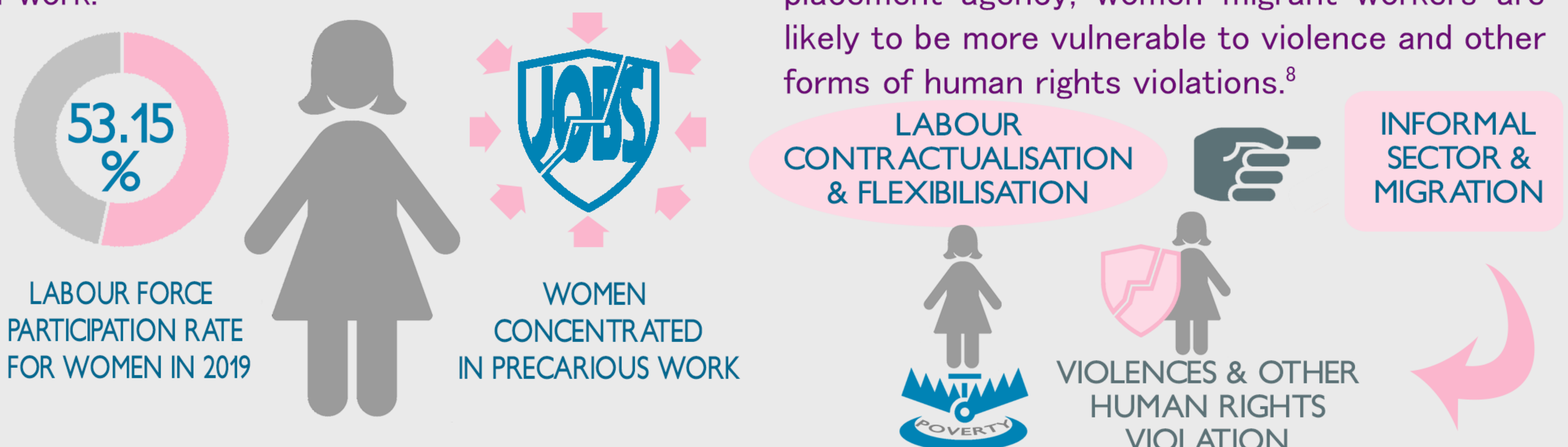
FULL AND PRODUCTIVE EMPLOYMENT



According to the Global Economy data 1990–2019, the highest participation of women in the labour forces in Indonesia is 53.15 per cent in 2019.⁷

Although the number of women's participation in the labour market has increased slightly, it appears that the majority of women are concentrated in precarious and vulnerable types of work.

Contractualisation and the flexibilisation of labour do not help workers to attain a better job. Instead, it threatens workers' welfare and traps them further into poverty. Over time, these situations trigger women to move to the informal sector and migrate to work hardly with any labour and social protections. Due to the lack of clarity in the regulatory framework on the labour inspection and the license of Indonesian migrant workers placement agency, women migrant workers are likely to be more vulnerable to violence and other forms of human rights violations.⁸



* The SDG Goal 10.7 is to facilitate orderly, safe, regular and responsible migration, and mobility of people, including through the implementation of planned and well-managed migration policies

** The SDG Goal 8 is to promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all

THE STATE OF 'DECENT WORK' FOR WOMEN IN INDONESIA

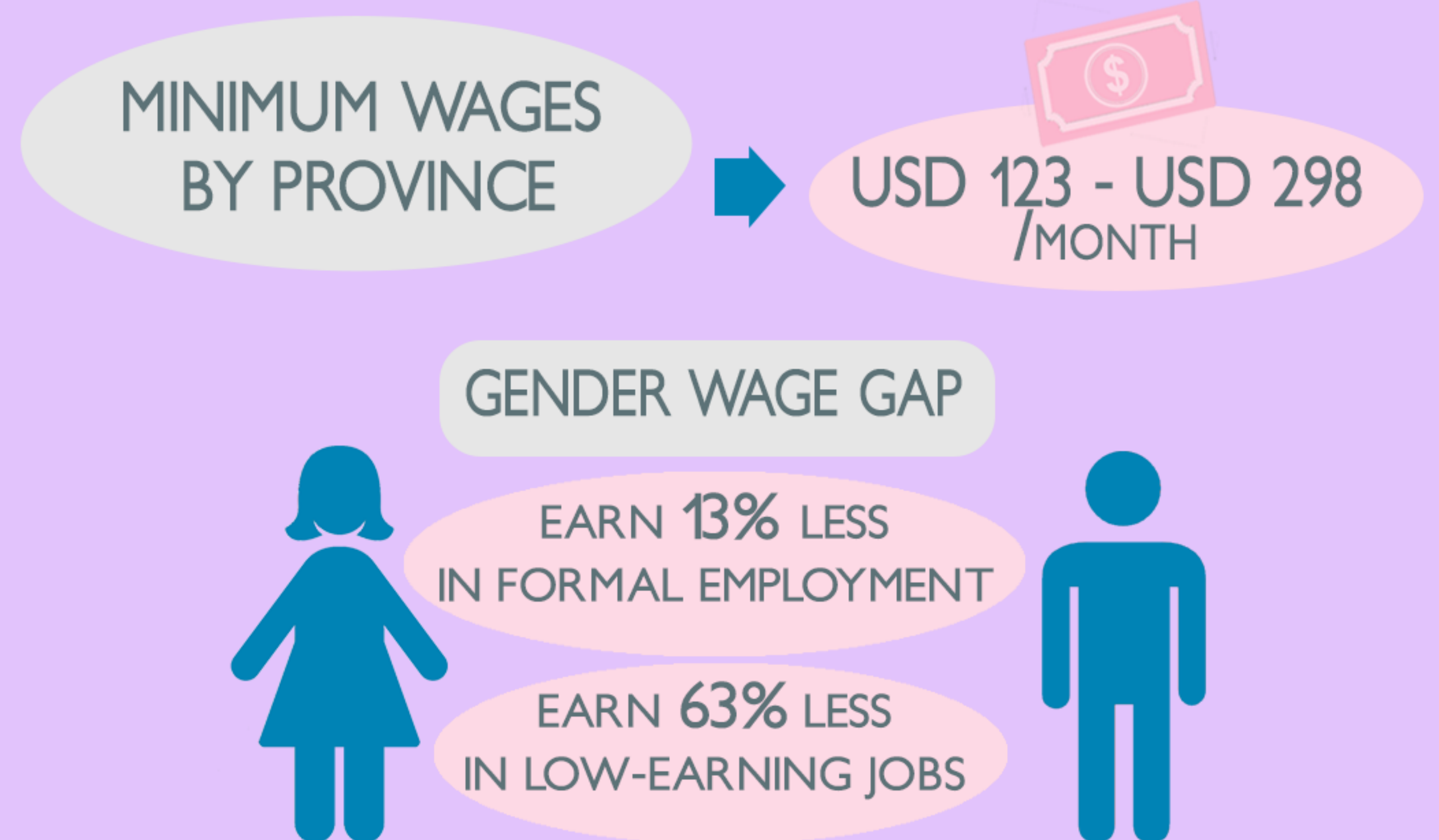
MINIMUM WAGE



Due to significant regional variation, Indonesia's minimum wages are fixed at the provincial level by district wage councils throughout the 34 provinces.⁹ In 2020, the province of Jakarta continues to have the highest monthly minimum wage at IDR 4,200,000 (USD 298) whereas Central Java province has the lowest at IDR 1,742,00 (USD123) per month.

Increase in real wages in comparison to minimum wage has been slow. The share of casual employees whose monthly earnings were less than two-thirds of the median earnings has increased in the last 15 years for both men and women. There are significant wage differentials between men and women and this is particularly the case for casual employment, where most women are employed.

Women with formal employment make 13 per cent less than men in similar jobs. The gender wage gap is even larger in low-earning jobs where women earn about 63 per cent less on average than male workers.¹⁰ The minimum wage policy has also been inadequate to protect formal sector employees due to non-compliance by businesses and lack of enforcement by the government.

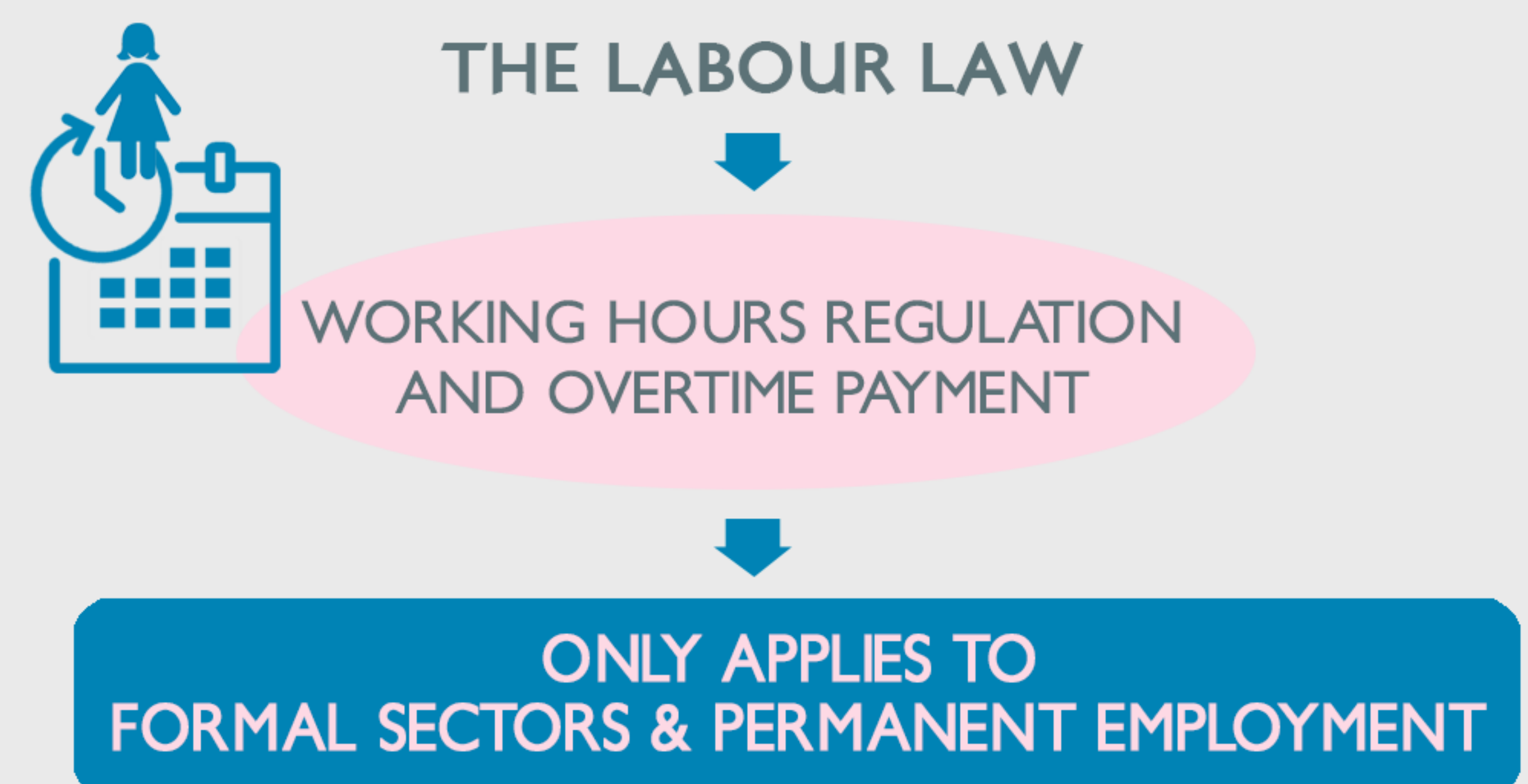


WORKING HOURS



The Indonesian Labour Law has stated that regular working hours are limited to 40 hours per week. Any work beyond 40 hours is considered overtime and entitled to overtime payment¹¹. According to the law, employers requiring overtime work must provide employees adequate time for rest and meal breaks. Employers are required to provide drinks and nutritious food of at least 1,400 calories to workers who work overtime for three or more hours. This cannot be replaced with money.¹² However, this law only applies to formal sectors and permanent employment.

Industries which consider providing vital and crucial services, such as health services, transportation services, tourism, transportation, electricity, conservation groups and related industries are excluded from this regulation.



RIGHTS AT WORK



While women's participation in the formal economy, politics and management has increased over the years, significant challenges remain in expanding education and employment opportunities for women, ensuring equal pay for work of equal value and increasing the meaningful protection for overseas migrant workers, especially domestic workers.



THE STATE OF 'DECENT WORK' FOR WOMEN IN INDONESIA

SOCIAL PROTECTION



In 2004, Indonesia launched the Law on National Social Security Systems. The law mandates universal coverage of social security with compulsory contributions and programmes on health insurance, work accident insurance, old-age pension and life insurance. Unemployment insurance is not included in this scheme. Government expenditure on social security has increased. For instance, the total social protection spending was 15.4 per cent of total national budget in 2016, up from 10.7 per cent in 2012.¹³ However, significant deficits remain in getting employees on board into the programme.

In 2015, a social security scheme for non-employee was launched to cover informal workers and self-employed workers. However, the participation rate of the non-employee scheme is low. As of September 2019, only 4 to 5 million informal workers – out of more than 70 million informal workers nationwide – had signed up for the scheme.¹⁴

All Indonesian migrant workers are required to be members of social insurance for employment (BPJS Ketenagakerjaan) to cover: Work Injury Accident Benefit, Survivors Benefit, old age and Disability Insurance and elderly pension.¹⁵

Although data is lacking on access to maternity benefits, region-specific surveys find that only around 50–60 per cent of formal sector workers and 15–21 per cent of informal sector workers enjoy maternity benefits.¹⁶ Considering the overrepresentation of women in informal employment, this reveals a serious deficit in the provision of maternity rights and benefits.



UP TO 2019,
ONLY 4-5 MILLION OUT OF 70 MILLION
INFORMAL WORKERS SIGNED UP
THE SOCIAL SECURITY SCHEME

PROMOTION OF SOCIAL DIALOGUE



Indonesia has ratified the relevant main ILO Conventions on freedom of association and right to organise. By 2004, several acts had been passed regulating issues including unions, collective bargaining, employment and social security. These laws appear to provide for far-reaching protection, but the problem lies in the implementation. There are several cases of targeted attack and arrest on trade unions and striking workers by the security forces.¹⁷

On 23 January 2018, the National Army of Indonesia and the Indonesian Police signed a memorandum of understanding (MoU) to strengthen the army's role in suppressing labour disputes and demonstrations. The involvement of the military in handling protests and labour strikes has become official which infringes upon the citizens' rights to freedom of expression and on the workers' right to strike.¹⁸

The number of trade unions is on the decline and the rate of union density is also low at around 12 per cent of all employees.¹⁹

CASES OF
ATTACK AND ARREST ON
TRADE UNION & STRIKING WORKERS

MILITARY INVOLVEMENT
REINFORCED



CHALLENGES FACED BY INDONESIAN WOMEN MIGRANT WORKERS

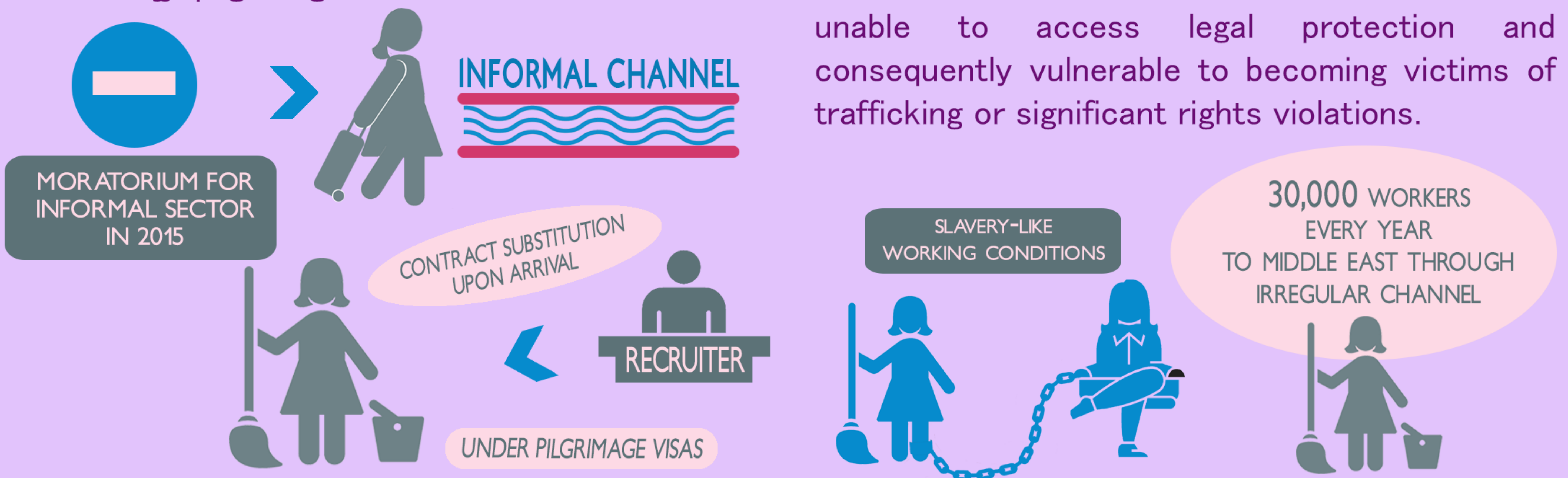
BANS FORCING WOMEN TO USE INFORMAL CHANNELS



The ban on labour migration to the Middle East announced in 2015 failed to stop the actual migration of workers. Since the 2015 moratorium, recruiters engaged in contract substitution – recruiting women for roles in the formal sector such as manufacturing, construction and healthcare but actually employing them in the informal sector as domestic workers upon arrival. Many Indonesian domestic workers are also entering Saudi Arabia under hajj (pilgrimage) visas.²⁰

Since the ban has opened up new, irregular channels of migration, it has made Indonesian domestic workers less safe. The Middle East is already known to be a difficult context for many migrant workers. By removing official channels for recourse from migrant domestic workers, the ban allows employers to hold their employees that can constitute slavery like (working) conditions.

Estimated 30,000 workers were dispatched every year to work in Middle East countries through the irregular channels as a result of the imposition of the ban. Without legal documents, workers are unable to access legal protection and consequently vulnerable to becoming victims of trafficking or significant rights violations.

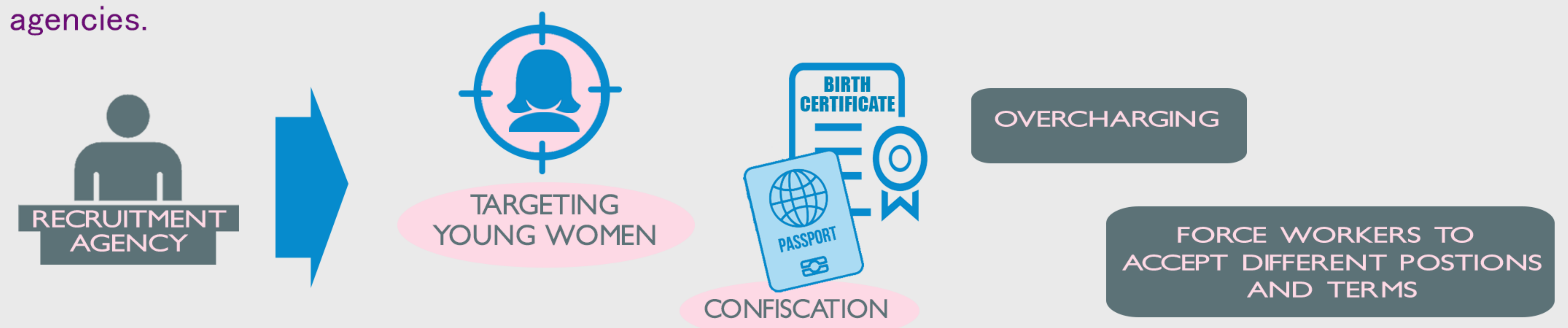


UNSCRUPULOUS RECRUITMENT AGENCIES AND EXCESSIVE FEES



Evidence indicates that recruitment agencies in Indonesia engage in a range of exploitative behaviour with respect to women migrant workers. Targeting of young women is commonplace, with recruiters waiting outside of school gates looking to recruit young women.

The agencies often forcibly withhold these documents in order to manipulate workers who express doubt during the migration process or force them to pay exorbitant fees (up to USD 2,250) if the woman changes her mind and decides not to migrate. When the woman is found to be pregnant in a medical checkup during the recruitment process, the agencies can demand a steep cancellation fee. Withholding documents are also used by recruiters to force women to accept positions with terms and conditions that are different from those originally discussed.²¹



CHALLENGES FACED BY INDONESIAN WOMEN MIGRANT WORKERS

UNSCRUPULOUS RECRUITMENT AGENCIES AND EXCESSIVE FEES

Migrant women have also reported being abused by recruitment agencies before departure, ranging from being confined in the agency centre during training, forced contraceptive injections, forced haircuts, verbal abuse, inadequate food provision and threats regarding their applications. Only a small fraction of workers were provided signed contracts and insurance cards that are mandatory by law.²²

The high cost of migration imposed by recruitment companies forces many Indonesian women to return repeatedly to overseas employment. A recent study²³ by the Justice Centre Hong Kong found that migrant domestic workers with excessive recruitment debt were six times more likely to be in forced labour, and Indonesian workers were 70 per cent more likely to be in a situation of forced labour than non-Indonesian workers.²⁴



LABOUR EXPLOITATION AND ABUSE

The high-profile case of domestic worker Erwiana Sulistyarningsih in Hong Kong sheds a light on the rampant abuse Indonesian migrant workers face in destination countries. Reports by human rights organisations have described widespread verbal, physical and psychological abuse suffered by Indonesian domestic workers. The exploitation of workers is exacerbated by migration policies of destination countries. For example, the 'kafala' system that operates in many Middle Eastern countries binds the workers to their visa sponsors, making it impossible for them to change employers even in the case of abuse. Migrant domestic workers are also not covered by domestic labour laws in most destination countries, which makes it difficult for them to seek recourse. While these practices are especially prevalent in the Middle East, they also occur to an alarming extent in East Asian countries, as the Erwiana case shows.²⁵

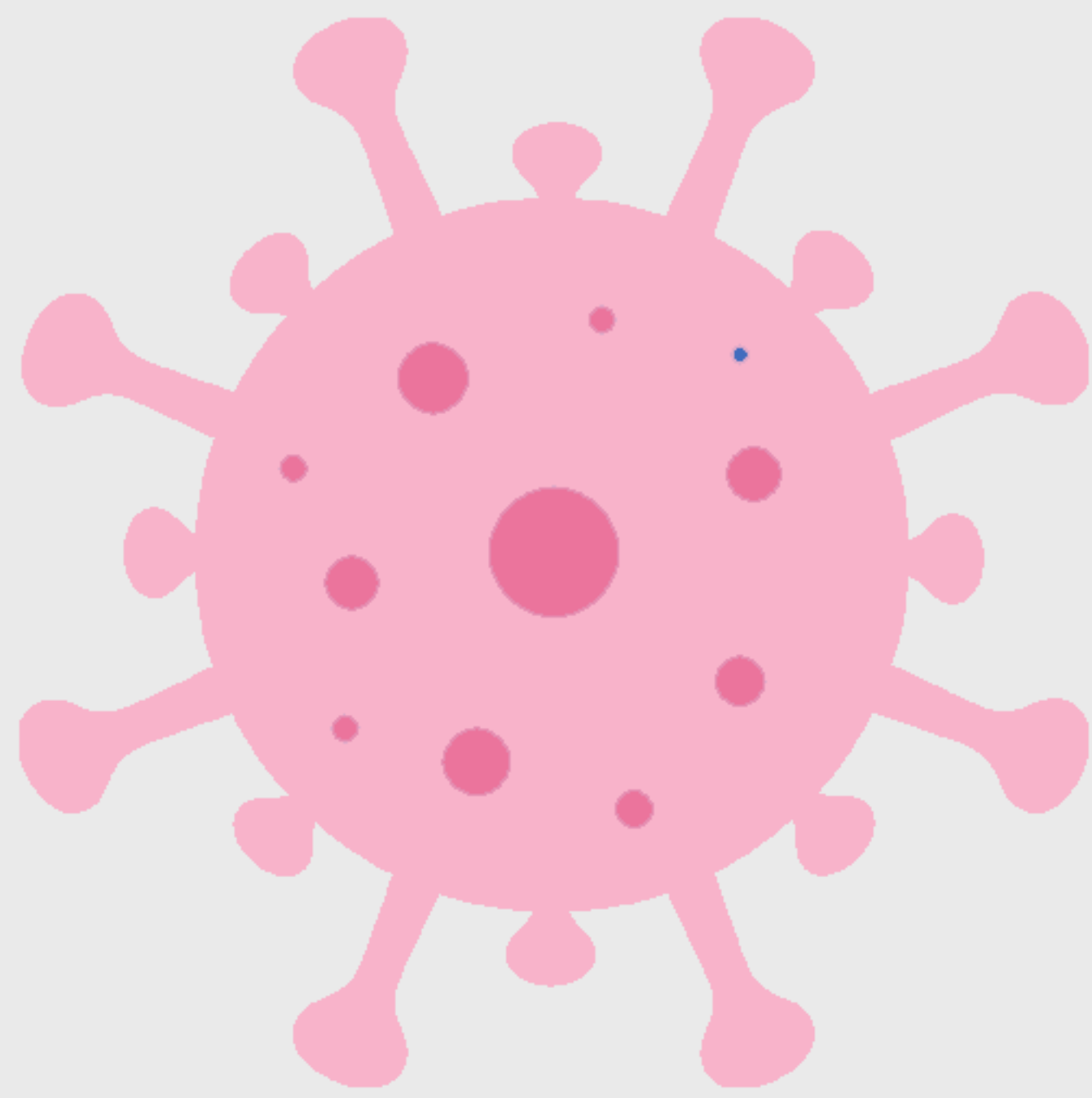
Furthermore, in many cases, identity documents are being confiscated by the agencies until the full repayment of debts has been made.²⁶ Worse, because of the pressure applied by recruitment agencies to secure new working contracts, domestic workers sometimes see their contract abruptly end after they have finally paid off their debt and begun to receive a salary.²⁷



CHALLENGES FACED BY INDONESIA WOMEN MIGRANT WORKERS

IMPACT OF COVID-19

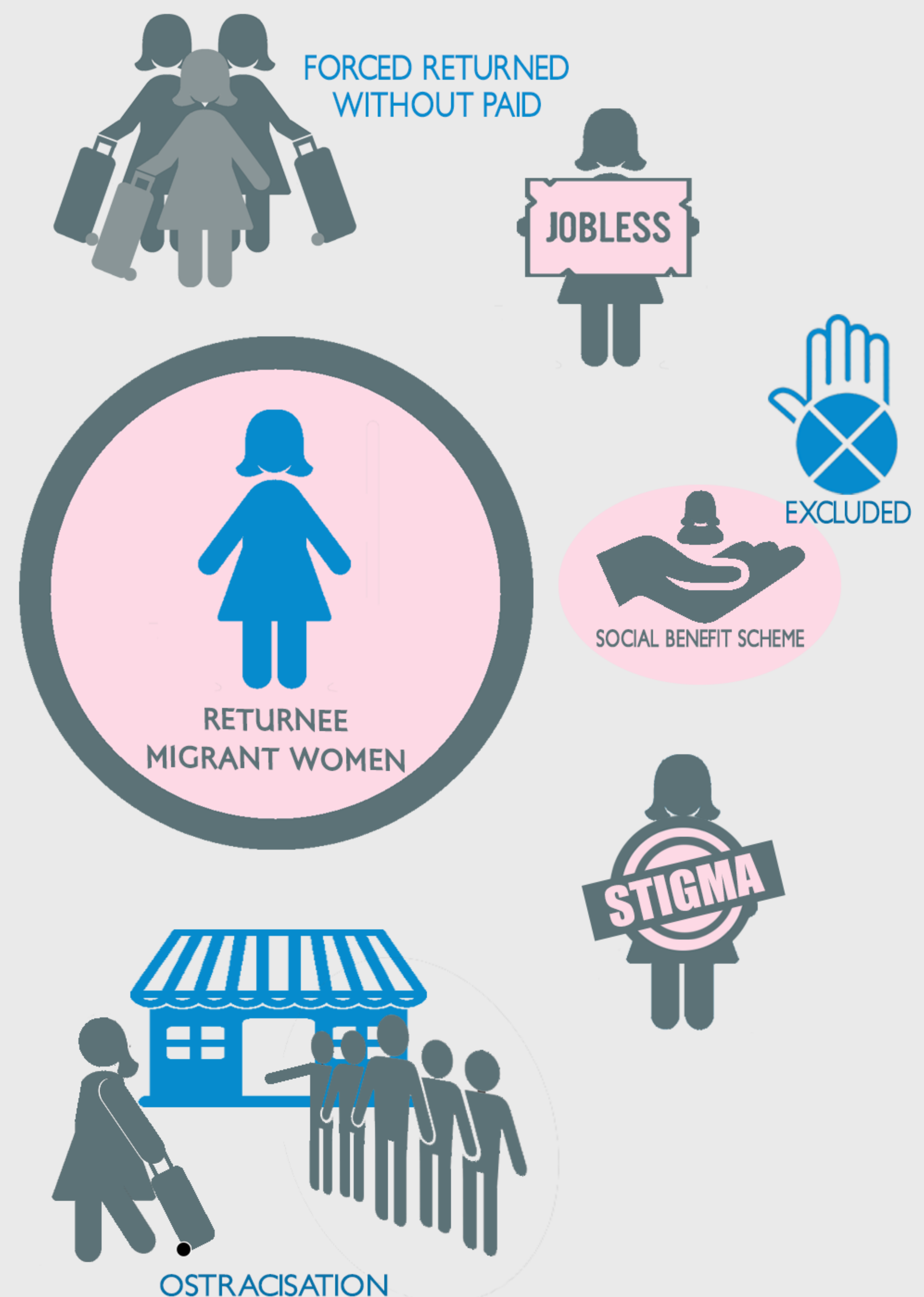
ON INDONESIAN WOMEN MIGRANT WORKERS



By July 2020, almost 24,000 women migrant workers returned to Indonesia from countries affected by the pandemic.²⁸ However, the actual number of returnees is likely to be higher if to include the migrant workers who have returned through irregular means. Indonesian migrant workers have been significantly impacted economically by the pandemic, with many reporting to have been forced to return without their full salaries being paid by their employers, according to case records taken at government transit shelters.

Returned migrant workers faced a range of challenges upon returning home. They are not included in the statistics of newly unemployed Indonesians affected by the pandemic, and as a result, encounter barriers in accessing social benefit schemes. They also face stigma upon returning to their home communities. The social ostracisation, economic pressure and lack of social safety net are likely to drive many migrant workers to attempt to migrate abroad again through irregular means. This significantly raises the risk of human trafficking for migrant workers, especially as international mobility becomes more restricted.

The government of Indonesia has cancelled formal placement services for returning or aspiring migrant workers in order to reduce exposure to COVID-19 and protect workers from limited access to health services overseas. However, this negatively impacts the livelihood options for many Indonesians and further increases the risk of workers choosing irregular channels or falling victim to human traffickers.²⁹



LAW AND POLICIES ON MIGRANT WORKERS' RIGHTS

The Ministry of Manpower (MOM) is responsible for matters related to labour and migration. The Indonesian Migrant Workers Protection Agency (BP2MI) is the government agency tasked with the implementation of policies on the placement and protection of migrant workers. Indonesian law No.18/2017 on Protection of the Indonesian Migrant Workers as a revision of Law No.39/2004 (Placement and Protection of Indonesian Workers Abroad) provides the main legal framework for the government's regulation of the migration process.

FOREIGN EMPLOYMENT

Indonesian Law No.13/2003 on Employment states that everybody who is available for a job shall have equal rights and opportunities to choose a job, get a job, or move to another job and earn decent income irrespective of whether they are employed at home or abroad. Job placement shall be directed to a place where people are available for work in the right job or position which best suits their skills, trade, capability, talents, interest and ability by observing their dignity and rights as human beings as well as providing them with legal protection.

RECRUITMENT

All migrating workers are required to go through the government agency, government-approved private recruitment agency (PPPMI), and private companies who send workers to work for their own company abroad. The approved recruitment agencies are allowed to seek job opportunities, placement and to solve the problems. The direct recruitment of migrant workers by private recruitment agencies is no longer permitted under the law No. 18/2017. However, in practice, the recruitment of migrant workers remains outsourced to local brokers who are not monitored by the government.

EDUCATION AND TRAINING

Migrant workers must undertake pre-departure training, work related assessments and physical and mental health examinations to ensure fitness for their particular area of employment at the government training centre or accredited private training centre. After the completion of training, workers will receive a work certificate. Obligation of migrant workers to report to the Indonesian Embassy once they arrive in the country of destination still remains in the law No.18/2017.

LAW AND POLICIES ON MIGRANT WORKERS' RIGHTS

SOCIAL PROTECTION

Social security schemes for migrant workers are regulated in the law No.18/2017 through three programmes that provide migrants with work related accident benefit, compensation for death due to work accident and provident fund benefit. This law also regulates the insurance funds management from the consortium to the state owned enterprises (BPJS).

There are certain conditions required by this law that discriminate the undocumented migrant workers in accessing the social security. Workers must be registered in the government database and able to present official and verified documents to benefit from social security.

OVERSEAS SUPPORT

The Indonesian government provides temporary shelter at its embassy for migrant workers and to channel resources into creating crisis centres for victims of violence in Indonesia, including returning migrant workers. Under the Law No.18/2017, the central and local governments are responsible for looking after the settlement of the migrant worker's unfulfilled rights, social rehabilitation and reintegration, the repatriation of sick or dead migrant workers, and the empowerment of migrant workers and their families.

REPATRIATION AND REINTEGRATION

The Ministry of Social Affairs (Kemensos) provides domestic or transnational repatriation of migrants with problems to their province of origin. Special circumstances that apply here are:

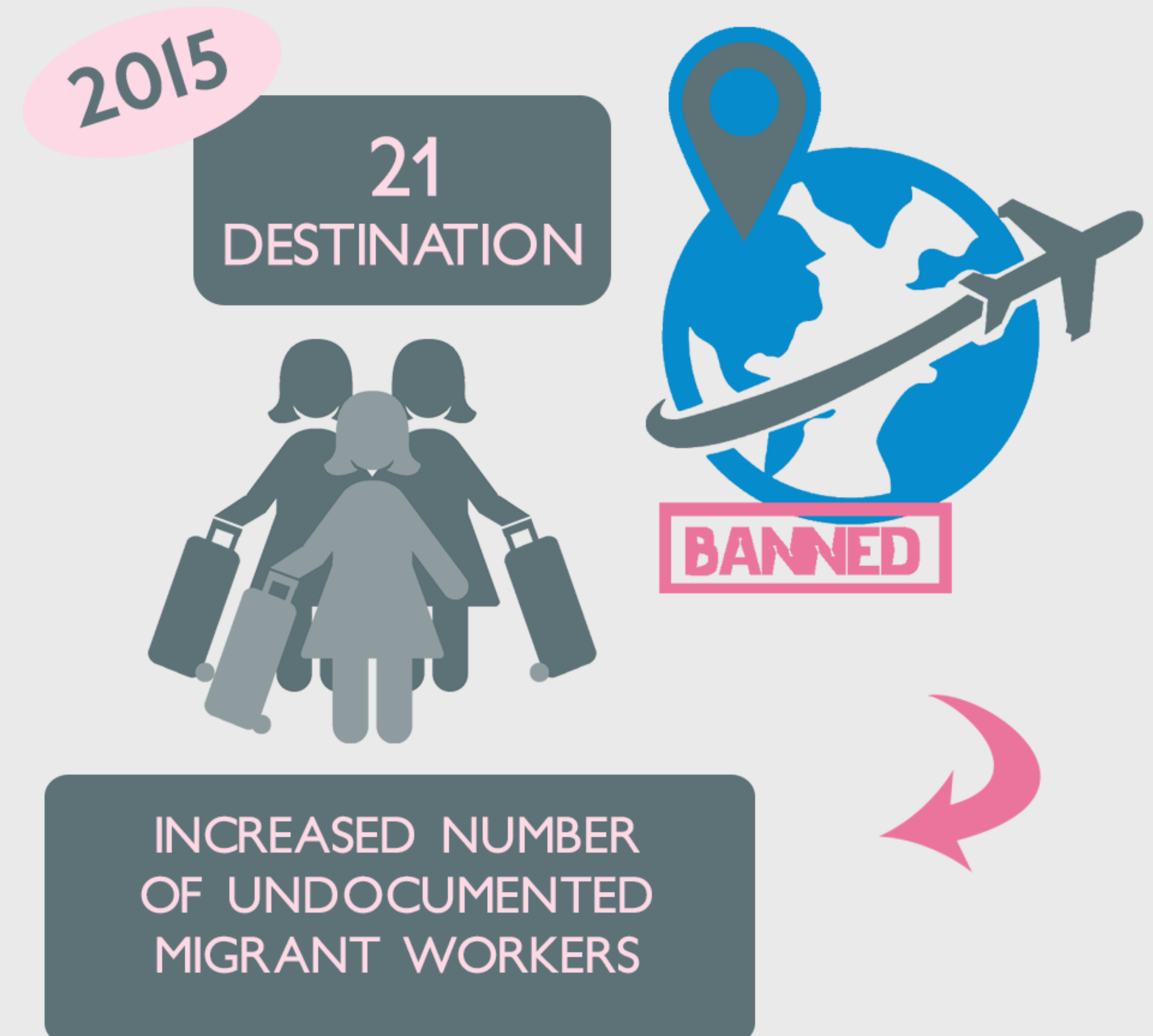
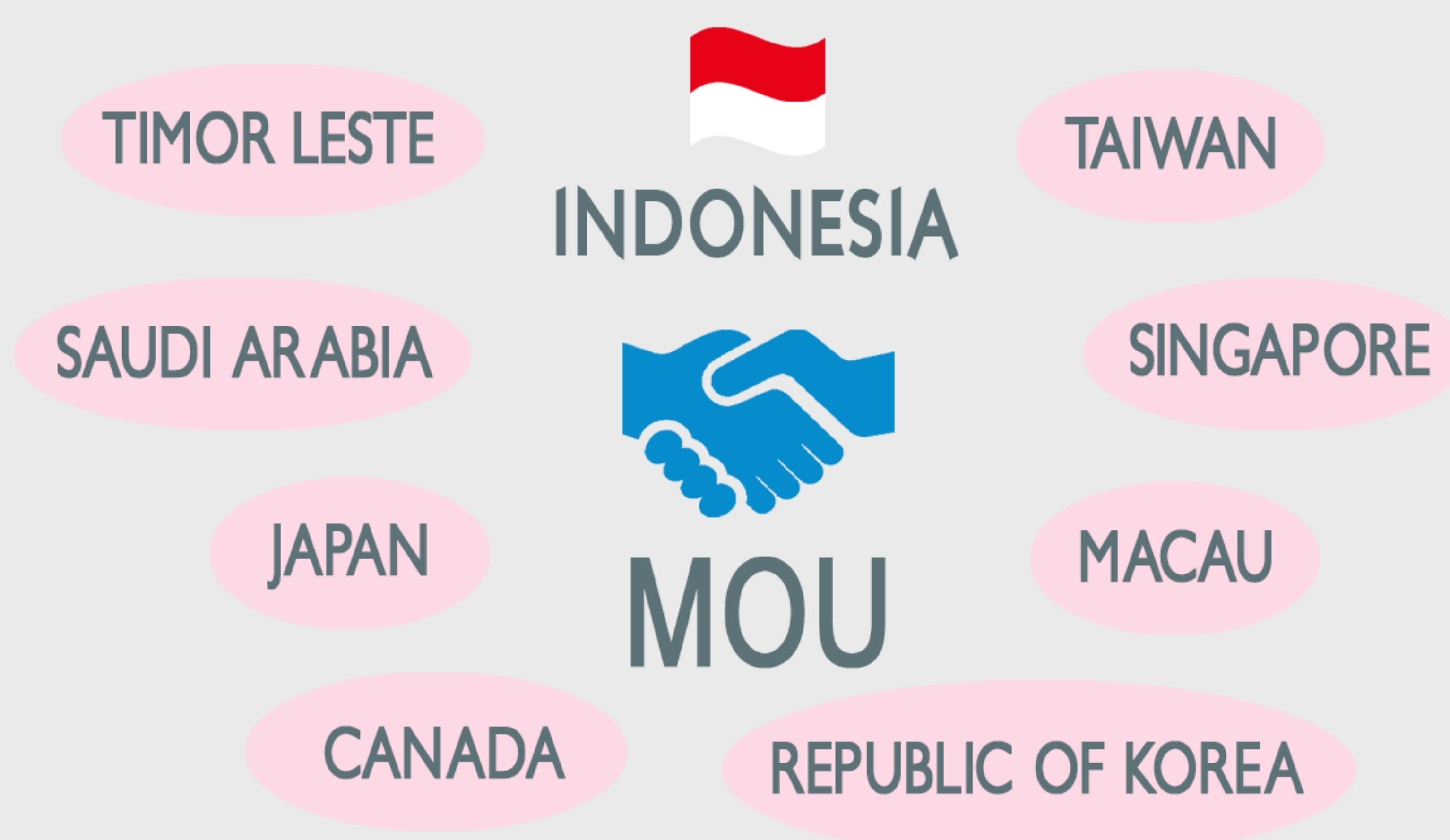
- (i) natural disasters, plagues, or wars in the destination countries;
- (ii) massive deportation from the destination countries; and
- (iii) failure of the destination countries to protect migrants.

Deportation usually occurs when migrants do not have the required work permit or legal documents. BNP2TKI runs a regular based programme- the Empowerment for Return Migrants Post-employment Program, which includes financial literacy activities, practical entrepreneurship technical training.

MEMORANDUM OF UNDERSTANDING (MOU'S), BILATERAL AGREEMENTS AND BANS

The government of Indonesia currently has an MoU or other bilateral or regional agreements with the following countries/territories: Taiwan, Republic of Korea, Canada, Macau, Singapore, Japan, Saudi Arabia and Timor-Leste. These agreements allow the Indonesian government to negotiate on employment conditions for its migrant workers. Officially, Indonesia only deploys workers to countries that the government has an agreement with or has regulations to protect migrants. However, in reality, many migrant workers are found to be working in countries where the government has no agreements or no regulations on migrant protection.

In 2015, the government of Indonesia imposed a ban on migration of domestic workers to 21 destinations, mostly in the Middle East. This ban was a response to the abuse of women domestic workers and the execution of two migrant workers in Saudi Arabia on murder charges. However, research conducted after the ban found that it only served to increase the number of undocumented workers, rather than stem the flow of women migrant workers to the Middle East.³⁰



The ban was revoked in 2018 by the Manpower Ministry Decree No. 291/2018 that regulates guidelines for the placement and protection of Indonesian migrants in the Kingdom of Saudi Arabia through a one-channel system. This regulation was adopted by the government with the consideration that there has been an improved system to protect Indonesian migrant workers through an MoU with Saudi Arabia. The government limits the number of placement countries in this regulation and enforces strict selection for workers. Unfortunately, the government still provides a portion of authority to private recruitment agencies in its implementation, increasing the risk of possible rights violations against migrant workers.

STATUS OF RATIFICATION OF INTERNATIONAL INSTRUMENT AND CONVENTIONS

NAME	ADOPTION STATUS
INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR)	✓
INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (ICESCR)*	✓
INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION (ICERD)**	✓
CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW)	✓
INTERNATIONAL CONVENTION ON THE PROTECTION OF THE RIGHTS OF ALL MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES (ICMW)	✓
ILO 29 FORCED LABOUR CONVENTION	✓
ILO 87 CONVENTION ON FREEDOM OF ASSOCIATION AND PROTECTION OF THE RIGHT TO ORGANISE	✓
ILO 97 MIGRATION FOR EMPLOYMENT CONVENTION	✗
ILO 98 CONVENTION ON RIGHT TO ORGANISE AND COLLECTIVE BARGAINING	✓
ILO 100 CONVENTION ON EQUAL REMUNERATION	✓
ILO 105 ABOLITION OF FORCED LABOUR CONVENTION	✓
ILO 111 DISCRIMINATION IN EMPLOYMENT AND OCCUPATION CONVENTION	✓
ILO 143 MIGRANT WORKERS (SUPPLEMENTARY PROVISIONS) CONVENTION	✗
ILO 156 WORKERS WITH FAMILY RESPONSIBILITIES CONVENTION	✗
ILO 181 ON PRIVATE EMPLOYMENT AGENCIES CONVENTION	✗
ILO 183 MATERNITY PROTECTION CONVENTION	✗
ILO 189 DOMESTIC WORKERS CONVENTION	✗
ILO 190 VIOLENCE AND HARASSMENT CONVENTION	✗

- ✓ Signed and Ratified
- ✗ Not ratified
- * Acceded in 2006
- ** Acceded in 1999

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