

## STRENGTHENING SOCIAL PROTECTION FOR INDONESIAN MIGRANT WORKERS: ADDRESSING GAPS AND CHALLENGES IN THE NATIONAL SECURITY SYSTEM

Ismi Pratiwi Podungge\*, Nanik Prasetyoningsih

Master's program in law, Universitas Muhammadiyah Yogyakarta, Yogyakarta, Indonesia

\*ismi.pratiwi.psc24@mail.umy.ac.id

### Abstract

Indonesian Migrant Workers (PMI) are citizens who work outside Indonesia, often facing significant legal and social challenges. One of the key issues is the lack of social security coverage, with 67.7% of migrant workers not enrolled in the BPJS Employment program. The Indonesian government's Regulation of the Minister of Manpower No. 4 of 2023 aims to enhance social security for migrant workers by mandating their participation in BPJS Employment. However, various obstacles, such as overlapping regulations and workers' preference for employer-provided insurance, persist. This study evaluates the alignment of this regulation with the principles of the National Social Security System (SJSN), focusing on its effectiveness in providing social protection to migrant workers. The analysis utilizes the theoretical frameworks of welfare state theory, social justice, and human rights to assess the extent to which the regulation fulfills its obligations. The findings show that while Permenaker No. 4 of 2023 offers more comprehensive benefits and extends protection from pre-placement to post-placement, it still faces issues such as inequitable contribution distribution and insufficient transparency. The research highlights that the regulation, although progressive, does not fully implement the principles of SJSN, particularly in terms of fairness and state responsibility. To achieve greater social justice, the study recommends strengthening regulatory mechanisms, ensuring fair contribution sharing, and improving information access and oversight. This research contributes to the understanding of the regulatory improvements needed to enhance the social security coverage for Indonesian migrant workers.

**Keywords:** Indonesian Migrant Workers; Social Security; BPJS Employment; Regulation of the Minister of Manpower No. 4 of 2023; National Social Security System.

### A. Introduction

Indonesian Migrant Workers are any Indonesian citizens who have worked, are currently working, or have worked outside the territory of Indonesia, receiving wages for a certain period of time, as explained in Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers, Article 1, Paragraph 4. Indonesian migrant workers (PMI) are a group that is vulnerable to various legal and social problems in the destination country (Anaf et al., 2022; Arisman & Jaya, 2020; Farida, 2025; Palmer, 2018). To maintain the welfare and ensure the fulfillment of the rights of migrant workers, legal protection is crucial (Izzati, 2019). One of the key issues is the social security for Indonesian Migrant Workers (PMI), a crucial matter that warrants attention from the Indonesian government. According to a report by the National Social Security Council (DJSN) in 2022, it was recorded that as many as 67.7% of migrant workers working abroad have not been registered in the BPJS Employment program, indicating a significant lack of effectiveness in existing regulations (Shalihah & Alviah, 2023). It reflects the imperfection of the social protection

system for migrant workers who are at risk of suffering losses due to their inability to access adequate social security.

To overcome this problem, the Government of Indonesia has issued Regulation of the Minister of Manpower No. 4 of 2023, which aims to improve and strengthen social security for migrant workers, as well as increase participation in the BPJS Employment program (Shalihah & Alviah, 2023). However, the implementation of this regulation faces various obstacles such as regulatory disharmony and inadequate protection mechanisms (Wiratama et al., 2023). There is still hesitation among migrant workers to enroll in the government-provided social security program. Many of them prefer insurance provided by their employers (Shalihah & Alviah, 2023), as shown in the data on Indonesian Migrant Worker Complaints in a publication report by the Indonesian Migrant Workers Protection Agency (BP2MI) in Table 1.

**Table 1.**  
**Complaints of Indonesian Migrant Workers from 2021 to 2024**

No	Category: Special	2021	2022	2023	2024	Sum
1	PMI fails to depart	105	125	270	154	654
2	PMI Wants to Be Repatriated	292	216	193	266	967
3	Placement costs exceed the cost structure	30	59	175	42	306
4	Job opportunity scams	19	68	90	59	236
5	Unpaid salary	140	58	44	116	358
6	Sick/hospitalized PMI	22	22	42	36	122
7	Died in the destination country	112	63	41	46	262
8	Detention of passports or other documents by P3MI	23	46	40	39	148
9	PMI in custody/detention process	14	22	30	24	90
10	Sick	33	34	27	36	130
11	Communication Breakdown	31	38	34	24	127
12	Trafficking in persons	6	15	23	24	68
13	Debts and receivables between CPMI and P3MI	8	24	20	16	68
14	Termination of employment before the end of the employment agreement	4	2	18	21	45
15	Work not in accordance with the employment contract	11	7	17	46	81
16	Salary deduction exceeds the provisions	10	5	14	9	38
17	Die	18	38	14	49	119
18	Placement Failed	0	0	13	21	34
19	Depression/Mental illness	0	0	8	9	17
20	Social Security for Indonesian Migrant Workers	0	0	8	76	84
21	Other	143	263	134	206	746
<b>Sum</b>		<b>1.031</b>	<b>1.142</b>	<b>1.251</b>	<b>1.358</b>	<b>4.782</b>

Source: <https://bp2mi.go.id/statistik-penempatan>, (this data was processed on March 20, 2025)

Table 1 shows that complaints related to Social Security for Indonesian Migrant Workers have increased from year to year, and there has even been a significant increase from 2023 to 2024. The National Social Security System (SJSN) is a government program that aims to provide guarantees of social protection and welfare for all citizens, as mandated by the Constitution of the Republic of Indonesia 1945, especially Article 28 H paragraph (2) and paragraph (3) which explains that everyone has the right to convenience and special treatment in order to get the same benefits and the right to social security, also in Article 34 paragraph (2) and paragraph (3) which stipulates that the State must establish a social security system that is sustainable, and covers all citizens and provides adequate health facilities and public services. To realize the mandate of the constitution,

Law No. 40 of 2004 concerning SJSN and Law No. 24 of 2011 concerning the Social Security Administration Agency (BPJS) were issued, which significantly changed the way social security programs are implemented in Indonesia. Furthermore, as a form of further implementation and expansion of protection, especially for vulnerable groups such as Indonesian Migrant Workers (PMI), the government issued Regulation of the Minister of Manpower (Permenaker) No. 4 of 2023 which regulates the employment social security program for migrant workers, including protection from pre-placement, placement period, to post-placement, so that it is in line with the principles of social justice and the mandate of the constitution.

In organizing these Social Security programs, especially in the field of employment, it is based on the principles of Social Security, namely cooperation, non-profit, openness, prudence, accountability, portability, compulsory membership, trust funds, and the management of the guarantee fund, including the establishment of the Social Security program for migrant workers. The main principles of the SJSN include compulsory participation, fair health coverage, and contributions proportional to income (Murty et al., 2024). The application of these principles aims to achieve welfare and social justice for all citizens, including migrant workers. However, various obstacles, such as overlapping regulations, employer-provided insurance preferences, and a lack of awareness and literacy regarding BPJS benefits, still hinder migrant workers' access to social security (Zen & Dita, 2018).

The theory of the welfare state involves government efforts to improve the welfare of the community. This theory refers to a system in which the state is responsible for providing various forms of social protection to its citizens, as manifested in social security managed by BPJS, which offers a range of facilities and benefits to the community (Suryana et al., 2023). The state plays not only the role of regulator, but also as an organizer of fair and equitable social protection. John Rawls's theory of social justice asserts that fair public policy is the policy that provides the greatest benefit to the most disadvantaged groups (Kumolosari & Sumodiningrat, 2024). Thus, social security policies for migrant workers should be designed to favor the protection of those who need it most. In addition, the right to social security is part of human rights (HR) that are universally guaranteed in the Universal Declaration of Human Rights and the International Covenant on Economic, Social, and Cultural Rights (ICESCR), which has been ratified by Indonesia (Prasetyo, 2021). Within this framework, the provision of social security for migrant workers is not merely an administrative policy, but a means of fulfilling the country's constitutional obligations.

In recent years, studies on social security for Indonesian Migrant Workers (PMI) have been growing, along with increasing attention to the protection of migrant workers' rights in destination countries. Several researchers with diverse focuses have conducted studies on social security for Indonesian Migrant Workers (PMI). In 2021, Juliantoro et al. reviewed Permenaker No. 18 of 2018, which has not provided effective protection due to weak supervision, overlapping authority, and the number of migrant workers who remain unprotected (Juliantoro et al., 2020). In 2023, Sari, in her study, emphasized that the benefits of social security programs, such as JKK, JHT, and JKM, are real; however, their implementation is constrained by manual claim mechanisms and access difficulties in destination countries (Yunita Ratna Sari, 2024). To date, no studies related to Permenaker No. 4 of 2023 have been identified.

This study aims to evaluate the suitability of the Regulation of the Minister of Manpower (Permenaker) No. 4 of 2023 with the principles of the National Social Security System (SJSN) in providing social protection for Indonesian migrant workers (PMI) by using the theoretical approach of the welfare state, social justice, and human rights approach. The contribution of this research is to enrich the understanding of the effectiveness of the latest regulatory changes in the Indonesian social security system for migrant workers. By evaluating the suitability of social security in Permenaker No. 4 of 2023 to the principles of SJSN, this study provides insight into the regulatory improvements needed to increase social security coverage for migrant workers. In

addition, this study highlights the challenges and gaps that still exist in the current system, providing a basis for future policy recommendations.

Research on PMI social security has been widely analyzed from various perspectives. This research offers a novelty in the form of an in-depth analysis that has not been discussed in previous research, specifically examining the suitability of the principles of the social security system in the PMI social security program, as regulated in Permenaker No. 4 of 2023.

## **B. Method**

This study adopts a doctrinal legal research design that integrates both the statute approach and the conceptual approach to assess the regulation of social security for Indonesian migrant workers under the Regulation of the Minister of Manpower No. 4 of 2023 (Permenaker No. 4/2023). The statute approach involves a systematic examination of the relevant legal framework, particularly Permenaker No. 4/2023 and the National Social Security System Law, to analyse their structure, normative content, and legal implications. Through this approach, the research scrutinises whether the provisions governing migrant worker protection reflect the legal mandates established within Indonesia's broader social security architecture. Complementing this, the conceptual approach—following Ibrahim (2007)—evaluates the extent to which the regulation aligns with fundamental principles of the Social Security System (SJSN), such as mandatory participation, equitable and inclusive coverage, and contributions proportional to income. This dual-method examination allows the study to move beyond textual interpretation and assess the substantive coherence between the regulatory instrument and the normative ideals of the national social security framework.

To support this analysis, the study relies primarily on legal materials—statutes, regulations, and official documents—consistent with doctrinal research that prioritizes primary sources (Butarbutar, 2018). These are supplemented by a structured literature review that draws on scholarly publications, books, and legal commentaries to contextualize the regulation within broader debates on labour protection and social security policy. The literature review also helps identify conceptual insights and interpretive challenges documented in previous studies, strengthening the analytical foundation of the research. By examining the substance of Permenaker No. 4/2023 alongside related regulations, the study evaluates whether the existing legal provisions effectively operationalize SJSN principles for Indonesian migrant workers. Through this integrated doctrinal and conceptual assessment, the research aims to provide a clear and evidence-based understanding of the regulation's strengths, gaps, and potential areas for legal refinement to enhance fairness, coverage, and compliance within the migrant worker social security system.

## **C. Results and Discussion**

### **1. Social Security System for Indonesian Migrant Workers (PMI)**

The social security system for Indonesian migrant workers is an important aspect in protecting the rights granted by the state to citizens who are currently working abroad or have completed their work abroad (Hidayah, 2020). This social security includes protection against work risks such as accidents, deaths, termination of employment, and other social risks that can cause financial and non-financial losses to migrant workers and their families. In this context, social security is not only interpreted as a form of economic protection, but also as part of respecting and fulfilling human rights for citizens working abroad (Putra & Jatmiko, 2023). With this system, migrant workers have access to the certainty of legal protection, as well as a guarantee of welfare sustainability, even when they are far from their country.

Juridically, the social security system for migrant workers is regulated in several laws and regulations. The constitutional basis is stated in Article 28H paragraph (3) and Article 34 paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which obliges the state to ensure social

protection for every citizen, including migrant workers (Khairani et al., 2025). More specifically, Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers mandates the provision of social security for migrant workers. In addition, the technical arrangements are outlined in Law Number 40 of 2004 concerning the National Social Security System (SJSN), as well as the Regulation of the Minister of Manpower Number 4 of 2023 concerning Social Security for Indonesian Migrant Workers, which regulates the types, benefits, and mechanisms for the implementation of the social security program. With this legal tool, the social security system for migrant workers has a strong legal foundation, which serves as a basis for its effective implementation in practice.

The implementation of social security for migrant workers is carried out through the official social security provider, namely BPJS Ketenagakerjaan, which is tasked with protecting various work risks (Sudrajat, 2020). The programs provided include Work Accident Insurance (JKK), Death Insurance (JKM), and Old Age Insurance (JHT) with coverage tailored to the working conditions of migrant workers in the country of placement (Ayunda et al., 2021). The implementation mechanism is initiated from the pre-placement stage, where prospective migrant workers are required to register as participants, and continues throughout the placement period until their return to Indonesia (Khasanah et al., 2023). However, in practice, there are still challenges, such as low awareness among migrant workers regarding the importance of social security participation, limited access to information, and differences in legal systems between the country of origin and the country of placement. This program is a concrete form of the state's commitment to providing comprehensive protection for migrant workers.

The provision of social security to migrant workers is not only a legal imperative but also a moral imperative, inseparable from their contributions to the national economy and the potential high risks they face abroad (Rosalina & Setyawanta, 2020). The presence of social security for Indonesian Migrant Workers (PMI) has direct implications for family economic stability through the certainty of work risk protection (Siswanto et al., 2023). With adequate social security, migrant workers can work more calmly and focus (Suhartoyo, 2019), allowing remittances to the country to run more smoothly. These remittances are one of the most significant contributions to the national economy, so it is not surprising that PMI is often referred to as the “hero of foreign exchange.” However, behind these contributions, they are vulnerable to various problems such as discrimination, exploitation, work accidents, and even death. Without social security protection, these risks can have serious consequences not only for migrant workers but also for families left behind (Erizal et al., 2020). Therefore, the provision of social security is an urgent need to ensure that migrant workers obtain a sense of security, legal certainty, and fair welfare protection. Thus, the existence of this social security system is a form of state responsibility as well as an instrument of social justice for all citizens, including those who work abroad.

## **2. Principles of the National Social Security System (SJSN)**

The principles of the National Social Security System (SJSN) in Indonesia reflect the government's commitment to providing comprehensive social protection for all citizens (Murty et al., 2024). First, participation in the social security system is mandatory for all citizens, thus creating inclusive coverage. Second, the system aims to provide fair and equal health coverage for all participants, taking into account the needs of the entire population. Third, the contributions paid by participants are adjusted proportionally based on their income levels, ensuring that the financial burden is distributed according to each participant's ability. The philosophical and legal basis of SJSN is rooted in the theory of welfare and justice, which is established in the concept of the welfare state. This philosophical foundation aims to ensure the interests of society while upholding these values (Murty et al., 2024). The SJSN Law and the BPJS Law apply a mixed model between social insurance and social assistance, combining contributions from participants with state assistance for the underprivileged (Panjaitan et al., 2024)

BPJS in administering Social Security based on the principles that have been stated in the explanatory appendix to Law Number 40 of 2004 concerning SJSN, especially Article 4. The principles underlying the social security system are essential to creating an equitable and effective structure for the welfare of all participants. First, mutual cooperation is a fundamental principle, emphasizing the shared responsibility among participants to bear the burden of social security costs. This cooperation helps foster a sense of togetherness and solidarity, ensuring that all individuals are protected and that the system upholds the goal of social justice. Through mutual support, participants contribute to a collective safety net that benefits society as a whole.

Another core principle is non-profit, which means that the management of trust funds within the system is not aimed at generating profit. Instead, the primary focus is on ensuring the maximum benefit for the participants. This approach ensures that the resources accumulated in the social security system are utilized solely for the welfare of the participants, rather than for financial gain. The non-profit nature of the system reinforces its commitment to serving the public good rather than prioritizing financial growth.

Openness is also critical in ensuring the credibility of the system. The organizer of the social security program is required to provide participants with clear and transparent information. This openness guarantees that participants can track how their contributions are being used and that the program remains accountable to those it serves. Transparency fosters trust between the organizers and the participants, enabling individuals to make informed decisions about their participation.

Closely linked to this is prudence in managing the funds. The system operates under the principles of prudence, safety, and order, ensuring that the funds collected are invested wisely and with caution. Effective fund management is crucial for maintaining the stability and longevity of the social security system. This prudent approach minimizes risks and ensures that participants' contributions are safeguarded for the long term, securing the system's sustainability and reliability.

Accountability is another critical principle. It requires that all fund management activities are transparent, accurate, and subject to scrutiny. The system must be able to demonstrate how it handles the funds, ensuring that the contributions and any returns on investment are used appropriately. This principle ensures that participants have confidence in the system, knowing that their contributions are being managed responsibly and in line with the intended purpose.

Portability is a principle that guarantees the continuity of social security benefits for participants even if they change jobs or relocate within the territory of Indonesia. This ensures that individuals are not left without coverage due to changes in their employment or residential status. Portability provides participants with flexibility, allowing them to maintain their social security benefits regardless of their career or geographic changes, ensuring that they remain protected throughout their lives.

The principle of mandatory membership ensures that all Indonesian citizens are included in the social security system. This inclusive approach is essential for ensuring that every individual is protected against risks and hardships, promoting a sense of security and fairness across the entire population. By making membership mandatory, the system guarantees universal coverage, which is vital for the overall well-being of the nation.

Trust funds are another integral element of the system. These funds, which consist of the contributions from participants and the returns on those contributions, are held in trust to serve the needs of the participants. The trust fund is managed in a way that ensures the benefits are directed toward the well-being of those who have contributed. This principle emphasizes the fiduciary responsibility of the organizers to safeguard and manage these funds on behalf of the participants, ensuring their funds are used for their intended purpose.

Finally, the principle that the results of the fund management are used entirely for program development and the interests of participants ensures that the outcomes of social security fund management directly benefit the participants. Any returns generated from the trust funds are reinvested into the development of the program, improving the services provided and enhancing

the overall system for the benefit of all participants. This principle ensures that the system remains focused on its core mission—serving the welfare of its participants and continually improving the services provided.

The principles stipulated in Article 4 of Law No. 40 of 2004 are fundamental because they are the minimum standards that must be met in the implementation of every form of social security, including social security for Indonesian Migrant Workers (PMI) (Sutra & Hadi, 2023). In this case, Permenaker No. 4 of 2023 concerning Social Security for Indonesian Migrant Workers is present as a technical regulation that implements these principles specifically for migrant workers. For example, the principle of cooperation is reflected in the contribution scheme that allows for relatively affordable costs; the principle of portability is seen in the sustainability of guarantee benefits even if PMI changes countries of placement; and the principle of membership must be affirmed by the obligation to register PMI in the social security program before departure. Thus, this Permenaker is a bridge between the general SJSN norms and the specific needs of migrant worker protection. Thus, the fulfillment of social security rights for migrant workers must still refer to and implement the basic principles of SJSN as stipulated in Law No. 40 of 2004 and clarified in Permenaker No. 4 of 2023. It is not only because this principle is a constitutional mandate, but also because it embodies the state's responsibility to provide social protection without discrimination. If these principles are ignored, then PMI's social security has the potential to lose the essence of social justice, reduce the effectiveness of protection, and contradict the purpose of SJSN as a comprehensive, sustainable, and equitable protection system for all Indonesian people.

### **3. Conformity of PMI Social Security with SJSN Principles based on Permenaker Number 4 of 2023**

The social security system for Indonesian migrant workers has undergone significant developments, especially with the issuance of the Minister of Manpower Regulation (Permenaker) No. 4 of 2023 (Shalihah & Alviah, 2023). This regulation aims to strengthen social protection for migrant workers, an integral part of government policies that protect their rights before, during, and after work abroad. Permenaker No. 4 of 2023 Article (2), Article (3), and Article (4) further regulate the social security that migrant workers must have before leaving, including the obligation to have insurance that protects them during their working period in the destination country (Fiqri, 2024). One of the important aspects of Permenaker No. 4 of 2023 is the emphasis on clearer legal protection for migrant workers. In this context, migrant workers are required to meet specific conditions, including participation in the appropriate social security and insurance system (Fiqri, 2024).

Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers emphasizes the importance of legal protection for migrant workers at every stage of their placement process (Natalis & Ispriyarso, 2018; Shauma et al., 2022). Permenaker No. 4 of 2023 also includes provisions regarding supervision and accountability from institutions responsible for social security for migrant workers. It is essential to ensure that migrant workers receive the protection they deserve and are not subjected to unfair recruitment practices or exploitation (Shauma et al., 2022). Permenaker No. 4 of 2023 also seeks to increase legal literacy among migrant workers. It is important so that they understand their rights and can access the available social protection (Fiqri, 2024). Social Security for Indonesian Migrant Workers is regulated in Permenaker No. 4 of 2023, Articles 2 and 3, which explain that Indonesian Migrant Workers have two social insurance schemes: Health Social Security and Employment Social Security. The Employment Social Security in question is Work Accident Insurance (JKK), Death Insurance (JKM), and Old Age Insurance (JHT). The social security in question protects Indonesian Migrant Workers both before, during, and after work.

In implementing social security, it must adhere to the principles mandated by the SJSN Law, Article 4, which consists of nine principles explained in the previous sub-chapter. It also applies

in organizing PMI Social Security as regulated in Permenaker No. 4 of 2023. Upon further analysis, it becomes apparent that the application of these principles in the regulation is not always balanced; some principles have been well accommodated, while others still leave several unresolved issues.

First, the principle of cooperation, which is the core of social security, still faces serious challenges. Permenaker No. 4 of 2023, especially Articles 9 to 12, emphasizes that the workers themselves fully bear PMI social security contributions. It creates a situation where migrant workers, especially low-income ones such as domestic workers in Malaysia or Hong Kong, bear a double burden. In addition to paying for departure and immigration documents, they are also required to make social security contributions. In fact, the principle of cooperation requires the redistribution of burdens, both through the role of the state, employers, and placement institutions. A common case is that of informal migrant workers, who work without formal contracts on plantations in Sarawak, Malaysia. Many of these workers are unable to pay their dues in full and are not enrolled in the social security program. This condition indicates that the spirit of cooperation has not been fully reflected, as PMI disproportionately bears the burden of solidarity without balanced support from employers and the state.

Second, the non-profit principle requires that social security funds be managed not for profit, but as much as possible for the benefit of participants. Although Permenaker Number 4 of 2023 does not explicitly use the term “non-profit”, its substance is reflected in the provisions regarding the benefits of JKK and JKM in Articles 18 to 33, which prioritize the protection of participants through work accident compensation, death compensation, medical rehabilitation, and medical device assistance. However, the mechanism for providing benefits, including Work Accident Insurance (JKK) and Death Insurance (JKM), reveals that contribution funds are used to benefit migrant workers. Articles 22 to 36, for example, regulate in detail the benefits of JKK, which include treatment, rehabilitation, and compensation for disability or death. Likewise, JKM, as outlined in Articles 37 to 42, regulates compensation for the heirs of PMI. However, this regulation does not provide an affirmation regarding the prohibition on using funds for commercial purposes or the mechanism for utilizing surplus funds. It differs from the spirit of the SJSN Law, which expressly underlines the nature of non-profit as a fundamental principle.

Third, openness emphasizes the importance of access to information regarding contributions, benefits, and claim mechanisms. Permenaker No. 4 of 2023 outlines the registration mechanism prior to departure and the procedure for claiming benefits, as stipulated in Articles 41 to 47; however, in terms of implementation, there are still weaknesses. Several studies and reports by civil society organizations have shown that information regarding the maximum benefit limit, the types of costs not covered, and the differences in treatment between migrant workers abroad and domestic participants is not fully clear. The lack of involvement of external stakeholders, such as trade unions and NGOs, in information oversight also reinforces the notion that the principle of openness is not optimal.

Fourth, the principle of prudence in managing social security funds requires careful risk management, maintaining the safety of funds, and ensuring liquidity. Permenaker No. 4 of 2023 aims to fulfill this principle by establishing benefit limits and a relatively fixed contribution payment mechanism, thereby ensuring financial predictability. For example, Article 25 sets the maximum limit for reimbursement of treatment costs abroad. However, these restrictions pose new problems, as often the real cost of care in the country of placement is much higher than the set limit. Thus, caution here emphasizes the sustainability aspect of the fund, but does not take into account the adequacy of benefits for participants.

Fifth, the principle of accountability requires that the social security program can be accounted for. Permenaker No. 4 of 2023 aims to fulfill this principle by providing clarity on the duties of BPJS Ketenagakerjaan, particularly regarding claim reporting. Article 43 and Article 46, for example, contain mechanisms for reporting work accidents and distributing benefits. However, the



regulated accountability mechanisms are more internal, excluding independent audit obligations and civil society involvement in oversight. Thus, the principle of accountability in this Permenaker is still limited to the bureaucratic aspect without expanding the dimension of public accountability.

Sixth, the principle of portability guarantees that social security benefits remain valid even if the participant changes residence or employment. Permenaker No. 4 of 2023 accommodates this through Article 8, which states that migrant workers are entitled to receive social security before, during, and after working abroad. It shows the continuity of protection, including when migrant workers return to Indonesia. However, its implementation is often hampered by technical limitations, such as differences in health systems in the country of placement, difficulties in accessing facilities, or restrictions on claims in rupiah. Portability between countries, especially in public health services (JKN), has also not been adequately regulated; as a result, migrant workers often experience difficulties when they require non-emergency medical services abroad.

Seventh, the principle of compulsory membership is clearly regulated in Article 7 of Permenaker No. 4 of 2023, which states that every CPMI must be registered in the social security program prior to departure. It aligns with SJSN, which stipulates that membership is mandatory in stages for all citizens. However, problems arise in the scope of membership. Not all migrant workers, especially those who depart non-procedurally or work in the informal sector, can be reached by this mechanism. As a result, even though the rules state compulsory membership, in practice, many migrant workers still work without social security protection.

Eighth, the principle of trust funds emphasizes that participant contributions are deposits that must be managed responsibly. Permenaker No. 4 of 2023 regulates the use of contributions for JKK and JKM programs, but does not explicitly refer to funds as a "mandate" for participants. Although the benefits are implicitly returned to PMI, the absence of specific terminology and a mechanism for monitoring fund management suggests that this principle has not been fully implemented.

Ninth, the principle of fund management results is entirely for the benefit of participants. In the SJSN Law, the surplus from fund management must be used for program development and increased benefits. However, Permenaker No. 4 of 2023 does not regulate the mechanism for using surplus funds or investment proceeds. This regulation primarily focuses on direct benefits, including compensation, treatment, and rehabilitation. It creates a loophole, because there is no guarantee that the results of fund development will return to PMI in the form of increased benefits or strengthening protection programs.

Based on this description, Permenaker No. 4 of 2023, which revokes the provisions in Permenaker No. 18 of 2018, revises several provisions, namely adding and expanding the benefits provided, both before working and returning to the country of origin, so as to show an evolution in the social security policy for Indonesian Migrant Workers (PMI). The latest regulation, namely Permenaker Number 4 of 2023, has a wider scope and a more integrated approach than the previous regulation, as seen from the addition of health insurance to the social security program, which was previously not explicitly regulated in Permenaker Number 18 of 2018. This move reflects an effort to provide more holistic protection to migrant workers, given the health risks that are often a major concern when working abroad.

In terms of the membership mechanism, Permenaker No. 4 of 2023, in articles 9 and 13, offers greater flexibility by providing online and offline registration and renewal options, as well as integration with the national electronic system, which differs from Permenaker No. 18 of 2018, which still relies on a simpler manual process, as Article 7 and Article 13 do not provide for online or offline access. Although Article 14 has indeed opened up opportunities for online registration by stating that registration and extension of membership can be done through the BPJS Employment service channel, which is integrated with the electronic integrated business licensing system (OSS). However, in practice, this mechanism is still not optimal because the special portal for PMI only became effective around 2019-2020. At that time, most PMIs still relied on manual

mechanisms, such as P3MI or the employment office. This change aligns with technological advancements and the need to enhance the efficiency of administrative services for migrant workers, whose numbers continue to increase annually.

In terms of benefits, Permenaker No. 4 of 2023 expands the range of benefits for the Work Accident Insurance (JKK) and Death Insurance (JKM) programs. In Articles 18 to 27, it is stipulated that JKK benefits are not only in the form of compensation for work accidents, but also include medical rehabilitation, home care, as well as compensation for migrant workers who are victims of physical violence, torture, or rape. Social security protection is not limited to the conventional aspect of work accidents, but also addresses the vulnerability risks that migrant workers often face abroad, both in the workplace and outside formal work environments. Furthermore, in the JKM program regulated in Articles 28 to 33, the benefits are expanded by providing additional compensation for the heirs of migrant workers that is valid until the leave period or return to Indonesia, thus ensuring the continuity of protection even though the migrant workers are no longer actively working in the country of placement. In contrast to Permenaker No. 18 of 2018, the regulation regarding the benefits of JKK and JKM is much more limited. In Articles 15 to 23, it is stipulated that JKK benefits only cover monetary compensation, treatment due to work accidents, and reimbursement of transportation costs without including any form of medical rehabilitation or special compensation for victims of physical violence and rape. Similarly, in Articles 24 to 28 related to JKM, the benefits are limited to death compensation given to the heirs, without any additional provisions regarding protection until the leave period or the return trip of PMI.

Thus, Permenaker No. 4 of 2023, in general, has attempted to align with SJSN, particularly in relation to compulsory membership, portability, and certain aspects of cooperation. However, there are still significant weaknesses, especially in terms of contribution burden sharing, information disclosure, public accountability, and the regulation of mandate funds and fund management results. Although the regulation is more progressive than the previous Permenaker, the basic principles of SJSN have not been fully adopted. To strengthen compliance with the principles of SJSN, several steps need to be taken, namely: first, ensuring a fairer distribution of contributions by involving employers and the state, not just migrant workers; second, emphasizing the nature of non-profits, mandate funds, and the mechanism for using surplus funds in technical regulations; third, expanding access to portability by guaranteeing public health services (JKN) for migrant workers abroad; fourth, increasing information disclosure and civil society involvement in monitoring mechanisms; and fifth, strengthening accountability through independent audit mechanisms and public transparency. With these improvements, social security protection for migrant workers will be more in line with the mandate of the SJSN Law and better address the concrete needs of migrant workers in the field.

The analysis of the conformity of the Regulation of the Minister of Manpower (Permenaker) No. 4 of 2023 with the principles of the National Social Security System (SJSN) is not only carried out from a normative perspective, but also requires an understanding from a theoretical standpoint. The approach through the theory of state welfare, social justice, and human rights provides a conceptual basis to assess the extent to which these regulations truly reflect the state's responsibility in ensuring welfare and justice for Indonesian Migrant Workers (PMI).

From the perspective of welfare state theory, the existence of Permenaker No. 4 of 2023 represents a concrete manifestation of state responsibility in ensuring the welfare of migrant workers through the provision of comprehensive social protection. However, upon further analysis, the provisions in Articles 9 to 12 that require migrant workers to bear all the costs of contributions actually create a new economic burden for low-income workers. Conceptually, this is not in line with the principle of welfare redistribution, which is at the core of the welfare state theory, because the state has not been fully present in bearing the social risks faced by migrant workers. In this context, the role of the state more closely resembles that of a regulator than an

active provider of social protection. Thus, although this regulation is progressive in expanding the scope of benefits, it does not fully reflect the character of the welfare state that favors vulnerable groups.

Furthermore, when viewed through John Rawls (1971) social justice theory, particularly the difference principle, social security policies are designed to provide the greatest benefit to the most disadvantaged groups (Soleh, 2018). In this context, migrant workers, especially those working in the informal or low-income sectors, are the most vulnerable group to social and economic risks. However, the financing mechanism, which participants are required to bear as stipulated in Permenaker No. 4 of 2023, actually creates new inequality because it does not take into account the different economic capabilities of migrant workers. Thus, the principle of distributive justice has not been fully realized. Normatively, this regulation is indeed in accordance with the principle of compulsory participation as outlined in Law No. 40 of 2004; however, substantively, it still fails to meet the principle of social justice, which places the state as a guarantor of welfare for the most vulnerable groups.

From the perspective of a human rights approach, the right to social security is a fundamental right of citizens, as guaranteed by the constitution and international instruments, such as the International Covenant on Economic, Social, and Cultural Rights (ICESCR). The state has an obligation to respect, protect, and fulfill these rights (Mohammad Maulana & Nur Akifah Janur, 2020). Permenaker No. 4 of 2023 can be seen as a form of implementing obligations *to fulfill*, because it expands social protection for migrant workers from pre-placement to post-placement. However, its implementation still faces serious obstacles, including limited access to information, legal literacy, and administrative difficulties in the country of placement. This condition shows that the right to PMI's social security has not been fully enjoyed effectively. Thus, this rights-based approach reinforces the finding that the regulation needs to be accompanied by stronger affirmative measures so that the principle of social protection does not stop at the normative level.

Based on the overall analysis, Permenaker No. 4 of 2023 has demonstrated significant progress compared to previous regulations, particularly in expanding benefits and affirming compulsory membership. However, when viewed from a theoretical perspective, this regulation still faces fundamental problems in realizing the principles of social justice and human rights. The state has not been fully present as the main protector as idealized in the concept of the welfare state. Therefore, affirmative policies are needed that strengthen the state's and employers' responsibility for financing contributions, expand public transparency, and enhance external oversight mechanisms. The integration of theory and practice is important so that social security for migrant workers is not only normatively appropriate but also fair, inclusive, and substantively effective.

#### **D. Conclusion**

Regulation of the Minister of Manpower No. 4 of 2023 represents a significant reform in the social security program for Indonesian Migrant Workers (PMI), aligning more closely with the core principles of the National Social Security System (SJSN). This regulation addresses key aspects such as compulsory membership, portability, and the expansion of protection benefits, covering all stages of a migrant worker's journey—from pre-placement to post-placement. Compared to its predecessor, Permenaker No. 18 of 2018, which provided more limited coverage, this new regulation offers more comprehensive protection, encompassing Work Accident Insurance (JKK), Death Insurance (JKM), Old Age Insurance (JHT), and Health Insurance. These enhancements are a significant step forward in ensuring that migrant workers are adequately protected against various risks they face abroad, providing them with a safety net that is crucial for their well-being and financial security.

Despite these advancements, the implementation of Permenaker No. 4 of 2023 falls short in fully adhering to the principles of SJSN. One of the most notable shortcomings is the issue of

contribution burden distribution. The regulation places a heavy financial responsibility on the migrant workers themselves, particularly low-income workers, as they are required to bear the full cost of their social security contributions. This creates a disparity, as many workers, especially those in informal sectors, may struggle to afford these contributions, thereby undermining the principle of cooperation and solidarity within the social security system. The burden should ideally be shared among the state, employers, and the workers themselves, ensuring that no single party, especially vulnerable migrant workers, bears an undue financial strain.

Another area where the regulation falls short is in information transparency and public accountability. While Permenaker No. 4 of 2023 outlines a framework for social security registration and claims, there remains a lack of clarity and accessibility regarding the full scope of benefits and the claim process. Migrant workers often encounter difficulties in obtaining clear information about their rights and the full range of protections available to them. This lack of transparency weakens trust in the system and prevents workers from making fully informed decisions about their participation. Additionally, the regulation does not sufficiently address the need for external oversight or independent auditing of the funds and their management, which raises concerns about accountability.

Furthermore, while the regulation emphasizes the principle of portability—ensuring that migrant workers maintain their social security coverage even after returning to Indonesia—implementation has been hindered by technical limitations. The differences in healthcare systems between countries of placement and the restrictions on accessing benefits in rupiah present practical challenges for migrant workers who need to rely on healthcare services abroad. This issue particularly affects workers in remote areas where healthcare infrastructure may be lacking or inadequate, making it difficult for them to access the protections they are entitled to under the regulation.

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