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Topic: Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children

Legal Protection for Female Migrant Workers from Debt Bondage and Forced Labor in the Transnational Labor Regime

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Abstract. *The phenomenon of transnational labor migration has become one of the pillars of global economic movement, in which women from developing countries constitute a highly significant proportion. However, behind the narrative of “foreign exchange heroes,” female migrant workers are often trapped in the dark side of an exploitative transnational labor regime. Systematically manipulative recruitment practices plunge them into debt bondage, which subsequently transforms into forced labor in destination countries. This abstract highlights the urgency of critically evaluating both national and international legal frameworks in protecting female migrant workers from such forms of commodification that violate human rights. This study aims to dissect the anatomy of debt bondage and forced labor, evaluate the weaknesses of the transnational labor regime, and formulate a reconstruction of legal protection oriented toward justice and human dignity. The research employs a normative legal research method using both the statute approach and the conceptual approach. The primary legal materials analyzed include Law No. 18 of 2017 concerning the Protection of Indonesian Migrant Workers, Law No. 21 of 2007 concerning the Eradication of Human Trafficking, as well as various related international legal instruments. Data were analyzed qualitatively and deductively to uncover jurisdictional conflicts and regulatory weaknesses that have long provided impunity for recruitment corporations and exploitative employers. The findings indicate that debt bondage is not merely a civil dispute but rather a primary instrument of control in the crime of human trafficking. Weaknesses within the transnational labor regime such as the soft law nature of bilateral agreements, the implementation of the Kafala system, and the absence of cross-border monitoring mechanisms render the law seemingly powerless in the face of trafficking syndicates. Therefore, this study recommends legal reconstruction through the implementation of a strictly monitored Zero Cost Migration policy, the imposition of strict liability on recruitment agencies, and the elevation of*



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protection diplomacy into a Mutual Legal Assistance framework. The state is constitutionally obligated to ensure that no Indonesian woman's dignity is mortgaged through debt bondage in a foreign land.

Keywords: *Debt Bondage; Female Migrant Workers; Forced Labor; Legal Protection; Transnational Labor Regime.*



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1. Introduction

Globalization has generated the movement of capital, goods, and people across the boundaries of state sovereignty on a scale unprecedented in the history of civilization. Within this dynamic movement, transnational labor migration has emerged as one of the primary pillars supporting the economies of both industrialized and developing countries. Indonesia, with its large population and uneven domestic employment opportunities, occupies a strategic position as one of the world's largest labor-sending countries. Every year, millions of Indonesian citizens decide to leave their homeland in the hope of securing a better livelihood, lifting their families out of poverty, and improving their future welfare.

Over the last two decades, the demographic landscape of labor migration has undergone a sharp structural shift, known in sociological literature as the feminization of migration. Women no longer migrate merely as family members accompanying their husbands but have transformed into primary actors and sole breadwinners for their families. They massively fill employment niches in domestic work, elderly care, manufacturing, and other informal sectors in destination countries such as Malaysia, Singapore, Hong Kong, and the Middle East. The courage of these women is often recognized by the state through the honorary title of "Foreign Exchange Heroes," considering that the trillions of rupiah in remittances they send annually contribute significantly to maintaining national foreign exchange reserves.

However, behind the glitter of remittances and heroic narratives lies a deeply troubling humanitarian tragedy within the corridors of transnational migration. Female migrant workers depart carrying layered vulnerabilities (intersectional vulnerabilities), rooted in structural poverty, low levels of formal education, and the grip of patriarchal culture in their regions of origin. These vulnerabilities are keenly identified and systematically exploited by actors throughout the migration industry chain from village-level brokers and domestic recruitment agencies to placement agents and employers in destination countries. Instead of obtaining decent and prosperous employment, many women are drawn into modern slavery practices that severely degrade their human dignity.



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One of the most lethal and effective instruments of modern slavery employed by labor syndicates today is the mechanism of debt bondage. This practice does not begin when workers arrive in the destination country but is engineered from the very first day of recruitment in their hometown villages. Poor prospective migrant workers are offered financial advances for passport processing, medical examinations, training, and living allowances for the families they leave behind. However, these costs are inflated exponentially and manipulatively, accompanied by irrational interest rates agreed to under pressure. These women are forced to sign fictitious debt contracts without receiving copies, directly binding their bodies and labor as collateral for repayment.

When these female migrant workers cross jurisdictional boundaries and arrive in destination countries, their status has de facto shifted from free job seekers to debt slaves. This debt instrument then becomes the primary weapon for imposing conditions of forced labor. In receiving countries, their travel documents and passports are immediately confiscated by agents or employers, completely isolating them from consular protection and law enforcement assistance. They are required to work for long hours without days off, isolated in homes or factories, and prohibited from communicating with their families. Any protest against poor working conditions is immediately silenced through threats that their debts will be multiplied or that their families in Indonesia will face legal action.

The current transnational labor regime has proven highly ineffective in protecting female migrant workers from this dual exploitation. The architecture of global migration law is more inclined to facilitate the smooth flow of cheap labor supplies (the commodification of human beings) than to uphold human rights standards. Bilateral agreements (Memoranda of Understanding) between sending and receiving countries are often merely soft law instruments lacking enforceable binding power. More tragically, domestic legal systems in certain destination countries such as the Kafala system in the Middle East explicitly grant employers absolute authority over the legal status of their workers, directly legitimizing confinement and forced labor under the umbrella of domestic law.

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In response to this humanitarian crisis, the Indonesian government has undertaken legal reforms through the enactment of Law No. 18 of 2017 concerning the Protection of Indonesian Migrant Workers and Law No. 21 of 2007 concerning the Eradication of Human Trafficking. Philosophically, these legal instruments have shifted the paradigm from mere “placement” toward comprehensive “protection.” The latest regulations explicitly prohibit the imposition of placement costs on prospective migrant workers and threaten severe criminal sanctions against parties that trap workers in debt bondage and forced labor exploitation.

Although the normative framework has been strengthened, empirical realities in the field continue to reveal a significant implementation gap. Regulations prohibiting recruitment fees under the Zero Cost Migration principle are often circumvented by rogue recruitment companies through loan schemes provided by microfinance institutions or cooperatives affiliated with those agencies. Meanwhile, law enforcement officials frequently misclassify debt bondage cases; rather than investigating them as Human Trafficking Crimes, such cases are often reduced to civil breach-of-contract disputes or administrative labor violations. This flawed law enforcement paradigm grants hidden impunity to the intellectual actors behind human trafficking syndicates.

The systemic tolerance of debt bondage and forced labor practices signals a constitutional failure by the state in fulfilling its protective mandate. Based on the doctrine of *Parens Patriae*, the state bears an absolute obligation to protect its citizens, particularly those in the most vulnerable conditions and lacking access to justice. When the state allows its citizens to be exploited by manipulative labor systems, both within and beyond its territorial boundaries, it fails to guarantee the fundamental rights to liberty, dignity, and freedom from slavery as mandated by the 1945 Constitution and international human rights instruments.

Grounded in these moral, juridical, and sociological concerns, this scholarly article is prepared to conduct a critical and in-depth evaluation of the legal protection afforded to female migrant workers against the threats of debt bondage and forced labor. This study aims to comprehensively analyze the anatomy of these crimes, trace the roots of weaknesses within the transnational labor regime, and evaluate the effectiveness of national legal instruments. Ultimately, this article formulates proposals for reconstructing cross-jurisdictional legal protection rooted in the state’s constitutional responsibility, ensuring that spaces of modern slavery can be dismantled and the dignity of female migrant workers fully restored.

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2. Research Methods

This study employs normative legal research, also known as doctrinal legal research, which positions law as an autonomous, coherent, and logical system of norms. The focus of the study is directed toward an in-depth analysis of labor law principles, international human rights principles, and the harmonization of statutory regulations within the positive legal system concerning the protection of migrant workers. To comprehensively address the research problems, this study applies two primary approaches:

- a) **Statutory Approach:** This approach is used to examine, analyze, and critique the regulatory framework governing migrant worker protection and anti-human trafficking measures. The primary legal materials evaluated include the 1945 Constitution of the Republic of Indonesia, Law No. 18 of 2017 concerning the Protection of Indonesian Migrant Workers, Law No. 21 of 2007 concerning the Eradication of Human Trafficking, as well as international instruments such as the Palermo Protocol and the CEDAW Convention.
- b) **Conceptual Approach:** This approach is used to explore, construct, and synthesize doctrines of international law, particularly concepts related to modern slavery, debt bondage, forced labor, as well as the doctrines of State Responsibility and *Parens Patriae*.

Legal materials were collected through intensive library research. Secondary data derived from legal literature, reputable journal articles, and cross-border treaty documents were inventoried and systematically organized. Data analysis was conducted using a qualitative-deductive method, beginning with the premises of protection theory and human rights principles to evaluate specific facts concerning weaknesses in transnational labor regulations. The results of this analysis are directed toward producing prescriptive conclusions and recommendations for legal reconstruction to guarantee the rights of female migrant workers.

3. Results and Discussion

3.1. The Anatomy of Debt Bondage and Forced Labor of Female Migrant Workers

Debt bondage in the context of contemporary transnational migration is not an accidental phenomenon or an administrative byproduct of high transportation costs, but rather a criminal instrument engineered systematically and structurally. According to international instruments, debt bondage is defined as a status or

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condition arising from a debtor's pledge of personal services as security for a debt, where the value of those services is not reasonably applied toward liquidating the debt, or where the duration and nature of the services are not limited. In labor migration practices, this debt is deliberately created by recruitment agents from the very beginning of the process, with the sole purpose of absolutely restricting workers' freedom and placing them under the full control of recruitment corporations and employers in destination countries.

Women become the primary targets of this debt bondage scheme because they carry highly specific sociological vulnerabilities. Most prospective female migrant workers come from impoverished rural economic backgrounds, lack assets that can be used as banking collateral, and possess very low levels of financial and legal literacy. Urgent needs such as paying children's school fees, settling family debts, or repairing homes place them in a very weak bargaining position. Recruitment agencies (P3MI) and field brokers exploit this desperation by offering salary-deduction departure schemes, marketed as collateral-free assistance designed to help the poor.

The recruitment phase is the crucial point at which the chain of debt bondage begins tightening around victims. Prospective female migrant workers are asked to sign various debt agreements, powers of attorney, and employment contracts in languages they often do not understand. The debt components are manipulated extensively; the costs of passports, visas, medical examinations, accommodation in shelters, and training are entirely charged to workers with markups several times higher than the actual costs. In addition, agencies frequently impose exorbitant commercial interest rates. Victims are never provided with transparent debt details, and they are often required to surrender family land certificates as additional collateral before being flown abroad.

The debt repayment mechanism becomes a tangible manifestation of modern slavery. When female migrant workers arrive in destination countries and begin working, all or most of their salaries during the first months (generally six to nine months) are withheld and confiscated directly by receiving agencies or employers under the pretext of debt installment payments. This salary-deduction system ensures that workers do not possess a single cent of cash, rendering them financially paralyzed and incapable of escaping, purchasing return tickets, or even communicating with embassies. Workers are forced to continue working to redeem themselves from debts whose actual amounts they often never know and whose completion dates remain uncertain.

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Arrival in the destination country also marks the terrifying transition from debt bondage to forced labor. The International Labour Organization (ILO) defines forced labor as all work or services exacted from a person under the threat of any penalty and for which the person has not offered themselves voluntarily. Female migrant workers trapped in debt immediately experience the confiscation of their travel documents (passports and visas) by employers. This confiscation constitutes both physical and jurisdictional coercion; without passports, female migrant workers lose their legal status, become isolated from society, and live in constant fear of being arrested by local immigration authorities if they attempt to leave their employers' homes.

In isolated conditions without documents or money, forced labor is carried out through extremely inhumane exploitation. Female domestic workers are often required to work beyond reasonable limits, from 15 to 20 hours per day, without a single day off each week. They are denied adequate rest, provided poor-quality food, and forced to sleep in unsuitable conditions. If workers show signs of fatigue, refuse instructions, or request rest, employers use debt as a tool of psychological coercion. Employers threaten to send workers back to Indonesia with outstanding debts, meaning that their families at home could lose houses or land pledged as collateral.

The gender dimension of this forced labor exploitation makes the suffering of female migrant workers far more complex and dangerous. Isolation within the domestic sphere makes them highly vulnerable to various forms of sexual harassment and sexual violence perpetrated by male employers or other family members. The lack of oversight by labor authorities in destination countries over private households turns such sexual violence into a hidden epidemic. Female workers who experience sexual violence often do not dare resist or report it, not only because they are confined but also because the large debts they still carry force them to endure suffering in order to ensure that future earnings (after the salary-deduction period ends) can still be sent to their families in their villages.

As a conclusion to this anatomy, debt bondage should not be narrowly viewed as a civil-law dispute concerning loans between equal legal subjects. Debt bondage is the starting point of a series of crimes against humanity culminating in forced labor exploitation, unlawful confinement, and human trafficking. Debt serves as a psychological weapon and the most lethal instrument of control, collaboratively engineered by recruitment syndicates in two countries to eliminate a person's free will and ensure that the bodies and labor of Indonesian women can be continuously exploited for the enrichment of global labor corporations without fear of legal consequences.

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3.2. Weaknesses of the Transnational Labor Regime and Jurisdictional Deadlock

The widespread and systematic practice of debt bondage and forced labor directly exposes the weaknesses, architectural flaws, and hypocrisy of the current transnational labor regime. The architecture of global migration law is fundamentally constructed with a strong bias toward the interests of capital owners labor agencies and receiving countries. International labor and immigration laws tend to treat human migration flows as ordinary logistical supply chains, where states compete to obtain the cheapest and most easily controlled labor supply. This regime prioritizes bureaucratic efficiency and foreign exchange earnings over human rights protection, intentionally leaving room for exploitation as an attraction for the cross-border migration industry.

The most visible weakness of this regime can be seen in the format of intergovernmental protection cooperation, which is generally bound only through bilateral Memoranda of Understanding (MoUs). These bilateral agreements are categorized within the hierarchy of international law as soft law, meaning diplomatic understandings that contain promises and goodwill but lack strong legal force, binding international sanctions, and effective cross-border dispute settlement mechanisms. When destination countries fail to supervise agencies within their territories or allow employers to confiscate passports and withhold the wages of female migrant workers, Indonesia is often unable to exercise jurisdictional intervention beyond issuing diplomatic protests or threatening moratoriums political measures that do not necessarily free victims from confinement.

Protection failures become even more absolute when female migrant workers are sent to countries that adopt exploitative labor systems such as the Kafala system in the Middle East. This sponsorship system ties a foreign worker's immigration status and legality entirely to a single employer (kafil). Under this system, workers are not permitted to change employers, open bank accounts, or even leave the country through exit permits without the employer's explicit consent. The domestic laws of such destination countries effectively legitimize employers' absolute control, facilitating forced labor. The incompatibility between the oppressive Kafala system and human rights principles renders bilateral agreements aimed at preventing exploitation nearly useless legal instruments existing only on paper.

Implementation barriers are further aggravated by sharp asymmetries in criminal law definitions between sending and receiving countries. In Indonesia, recruiting individuals through debt bondage and falsifying documents for exploitation

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purposes are classified as serious crimes under human trafficking laws. However, in many destination countries, cases where employers confiscate passports, force employees to work excessive hours, or deduct wages to repay “agency fees” are reduced to mere immigration administrative violations or ordinary civil labor disputes. This divergence in legal paradigms causes law enforcement authorities in destination countries to be reluctant to prosecute employers under criminal provisions relating to crimes against humanity, ultimately granting legal immunity to exploiters at the end of the migration chain.

This cross-border jurisdictional deadlock complicates efforts to prosecute intellectual actors behind the crimes. Debt-based forced labor always involves two crime locations under different sovereignties: manipulation-filled recruitment in Indonesia and brutal exploitation in destination countries. To bring the entire syndicate network before a court, Indonesian law enforcement authorities require Mutual Legal Assistance (MLA). Unfortunately, MLA procedures are often slow, rigid, and heavily dependent on the political goodwill of receiving states. Labor syndicates exploit these jurisdictional barriers as a perfect shield, knowing that Indonesian investigators lack authority to arrest labor agency bosses in Kuala Lumpur, Riyadh, or Hong Kong.

The most painful tragedy of justice within this regime is the systematic criminalization of victims. When female migrant workers who can no longer endure forced labor decide to flee their employers’ homes, their status automatically changes into undocumented migrant workers or illegal immigrants because their passports have been withheld by employers. Authorities in destination countries tend to arrest, detain, and punish these women for immigration violations instead of identifying them as victims of human trafficking entitled to protection and rehabilitation. This criminalization of victims represents a concrete manifestation of the brutality of legal systems that institutionally protect employer interests.

On the other hand, the globally adopted architecture of corporate law also provides protection to rogue recruitment corporations. Indonesian migrant worker placement companies (P3MI) and their overseas partners often utilize shell-company structures and the doctrine of separate legal entities to evade responsibility. When confinement and forced labor are proven, agencies hide behind employment contracts, blaming individual brokers or end-user employers. Law enforcement rarely succeeds in piercing the corporate veil to impoverish recruitment companies and hold their directors liable for victims’ material losses, ensuring that this exploitative business chain is never truly dismantled.

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In conclusion, the current transnational labor regime has demonstrably failed to provide a safe environment for the movement of female labor. Jurisdictional fragmentation, the dominance of exploitative domestic laws in receiving states, the ineffectiveness of MoU diplomacy, and the criminalization of victims have created an ecosystem functioning as a safe haven for perpetrators of human trafficking and forced labor. Unless this cross-border legal architecture is reconstructed and reoriented from facilitating labor business interests toward prioritizing human rights fulfillment, Indonesian female migrant workers will continue to become casualties of the paralysis of international law.

3.3. Reconstruction of Legal Protection Based on Dignified Justice and State Responsibility

In confronting the paralysis of the transnational labor regime that legitimizes debt bondage and forced labor, legal discourse in Indonesia must return to the fundamental essence of the state's constitutional responsibility. Based on the doctrine of *Parens Patriae*, the state acts as the supreme guardian obligated to provide absolute protection to vulnerable citizens, even beyond territorial boundaries. The mandate of the Fourth Paragraph of the 1945 Constitution to protect all Indonesians requires the government not merely to administer labor migration but to act aggressively as a legal shield ensuring that the dignity and freedom of Indonesian women are not traded through manipulative debt schemes in the global labor market.

The most fundamental legal reconstruction at the national level is the strict enforcement and supervision of the Zero Cost Migration policy. Law No. 18 of 2017 has already mandated the prohibition of placement costs being charged to prospective migrant workers. However, the government must close all legal loopholes by prohibiting P3MI companies or recruitment agencies from affiliating with microfinance institutions, cooperatives, or loan sharks to provide "bridging funds" tied to employment contracts. All placement costs, training expenses, and travel documents should become the absolute responsibility of employers in destination countries under the employer-pays principle, thereby systematically eliminating future salary deductions from the outset.

To eradicate corporate impunity, criminal and labor law reconstruction must apply the principle of strict liability to Indonesian Migrant Worker Placement Companies (P3MI). The law must emphasize that P3MI companies are not merely responsible for deployment but bear full legal responsibility for migrant workers throughout the contract period. If a female migrant worker experiences passport confiscation, abuse, or wage nonpayment by an employer, the P3MI company in Indonesia

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should automatically be subject to civil liability and licensing sanctions without requiring proof of criminal intent (*mens rea*) on the part of its directors. The application of piercing the corporate veil is also essential to seize the personal assets of agency owners for victim restitution.

In the sphere of international legal diplomacy, Indonesia must radically shift its strategy by abandoning dependence on weak Memoranda of Understanding (MoUs). Bilateral labor relations should be elevated to legally binding treaties or Mutual Legal Assistance agreements specifically containing provisions on human trafficking and forced labor crimes. These new instruments must include extradition clauses enabling Indonesian investigators to prosecute rogue agencies abroad, while also imposing absolute obligations on receiving countries to prohibit passport confiscation and guarantee communication access for foreign workers.

Reconstructing cross-border monitoring mechanisms requires the establishment of a Joint Cross-Border Task Force. Indonesia and destination countries should agree to create joint intelligence and investigative units authorized to conduct surprise inspections, audits, and raids on employers' residences or labor agency shelters suspected of confinement and forced labor. Such joint physical interventions would dismantle the jurisdictional barriers of receiving states that currently serve as safe havens for perpetrators. The presence of joint enforcement authorities would ensure that systems such as *Kafala* or domestic regulations cannot override international human rights instruments.

Beyond coercive law enforcement, reconstruction of protection mechanisms must prioritize victims' recovery rights. Indonesian diplomatic missions abroad Embassies and Consulates General should be strengthened and equipped with Legal Aid Desks and large-capacity safe houses. Labor Attachés and Police Attachés must be provided with responsive victim-identification Standard Operating Procedures (SOPs). When a female migrant worker escapes and seeks help, the state should not hand her over to local immigration authorities who may criminalize her. Embassies should immediately assume protection responsibilities, provide shelter, finance necessities, and offer state-funded legal representation to pursue wage claims and compensation in local courts before repatriation.

Responsiveness to debt bondage crimes must also involve cutting off the syndicates' financial lifelines. National law enforcement agencies should intensively involve the Financial Transaction Reports and Analysis Center (PPATK) to trace financial flows through a follow-the-money approach. The *modus operandi* involving transfers of illegally deducted wages from foreign agencies to Indonesian P3MI companies, or bribery schemes facilitating fraudulent

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immigration documents, can be uncovered through the Anti-Money Laundering Law. Asset confiscation and economic impoverishment of recruitment syndicates constitute the most effective deterrent and ensure that confiscated assets are used to compensate thousands of victimized workers.

As a closing note to this reconstructive analysis, overcoming debt bondage and forced labor within the transnational migration ecosystem cannot be achieved merely through technical revisions of administrative legislation. A holistic transformation of state paradigms is required, whereby the state shifts from regulating the commodification and export of cheap labor to becoming the foremost guardian of women's dignity and justice. The integration of a firm Zero Cost Migration policy, strict liability for recruitment corporations, robust hard-law diplomacy, and aggressive asset-tracing measures constitutes the foundation of Dignified Justice. Through this reconstruction, the state demonstrates that the freedom and lives of Indonesian women cannot be traded through a sheet of debt contract under the jurisdiction of foreign systems resembling slavery.

4. Conclusion

Debt bondage and forced labor constitute manifestations of modern slavery that have systematically tarnished the face of global labor migration. Indonesian female migrant workers occupy a vulnerable position that is extensively exploited by transnational criminal syndicates; they are trapped through manipulative recruitment debts in their home villages, only to be confined, stripped of their passports, and subjected to indefinite exploitation in destination countries to repay fictitious debts. This reality exposes the fundamental failures and weaknesses of the current transnational labor regime, which prioritizes the supply of cheap labor for capital interests over the protection of human rights. Soft-law diplomatic agreements, the implementation of exploitative systems such as Kafala in receiving countries, jurisdictional conflicts in criminal law enforcement, and weak oversight of recruitment corporations have collectively created a dark corridor that perpetuates impunity and criminalization of female migrant workers who attempt to escape. Based on these systemic failures and the constitutional obligations embodied in the doctrine of *Parens Patriae*, the state can no longer remain indifferent to the humanitarian tragedy affecting its citizens. Legal protection reconstruction must be pursued radically through the strengthening of national legal instruments and international diplomacy grounded in dignified justice. The government must impose strict liability on recruitment agencies, uncompromisingly supervise the implementation of Zero Cost Migration, and elevate protection diplomacy into criminally binding Mutual Legal Assistance agreements. Through aggressive cross-border law enforcement collaboration and

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a firm commitment to victims' recovery rights, the state will be able to dismantle the business structure of this modern slavery from its roots while ensuring that Indonesian female migrant workers can migrate safely, work under decent conditions, and return home with their heads held high and their dignity fully preserved.

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