

## Legal Protection for Migrant Workers Under National and International Law

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### **Abstract**

*The purpose of this study is to analyze and evaluate the implementation of legal protection for Indonesian Migrant Workers (PMI) according to national and international laws. This research aims to identify and understand the steps taken by the government in protecting migrant workers, especially those facing legal problems abroad, as well as explore effective and applicable legal protection models. Through this research, it is hoped that in-depth insights into policies and practices for the protection of migrant workers, as well as recommendations to strengthen existing legal protection in accordance with national and international standards. The research used is a normative research method with literature research involving the collection and analysis of primary, secondary, and tertiary legal materials. The results of the study show that the implementation of legal protection for Indonesian Migrant Workers (PMI) is regulated in national law through Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers, which includes the placement, rights, and obligations of PMI, as well as the responsibilities of various related parties. At the international level, the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Their Family Members serves as the main legal instrument. To address the legal problems faced by migrant workers abroad, the Indonesian government, through BP2MI and the Ministry of Foreign Affairs, provides legal and advocacy services, including working with Indonesian advocates and negotiating with destination countries. An effective legal protection model includes the presence of BP2MI representatives in the countries of placement and the improvement of the quality and competitiveness of PMI through training and education, in line with the constitutional mandate to protect all Indonesian citizens.*

## I. Introduction

The era of globalization has facilitated economic mobility, including for migrant workers who work and reside in other countries. Migrant workers, including Indonesian Migrant Workers (PMI), play an important role in the global economy and contribute significant foreign exchange to their home countries. Limited job opportunities in their home country cause many workers to seek opportunities abroad. Factors such as a lack of domestic employment and global economic disparities drive labor migration.<sup>1</sup>

The high mobility of Indonesian Migrant Workers (PMI) abroad often exposes them to risks that are not proportionate to the protection they receive. Although the quality of life abroad is often higher, many PMIs experience violence, rights violations, and legal issues such as abuse, unpaid wages, and even murder. The Indonesian government must ensure the protection of PMI rights by distributing and enforcing appropriate regulations. The BP2MI Crisis Center noted that the main issues faced by PMIs between 2019-2021 included unpaid wages, failure to depart, job mismatches, violence, depression, and human trafficking.<sup>2</sup> The numerous human rights violations experienced by Indonesian Migrant Workers (PMI) abroad, such as inhumane treatment and death, highlight the need for serious attention to their protection. Human rights are universal rights granted by God to all humans regardless of background, and it is important to ensure that all PMIs receive adequate protection in accordance with humanitarian principles.<sup>3</sup>

It is essential for the government to implement clear and effective legal protection for Indonesian Migrant Workers (PMI) to minimize or eliminate the problems they face. This protection is needed both before departure and upon returning to their homeland. The exploitation of PMIs occurs due to the ineffective legal protection provided by the destination country, resulting in a high percentage of exploitation. The protection of PMIs must be taken seriously, as the rate of violations remains very high, making migrant workers extremely vulnerable.

Various mass media have reported several issues affecting Indonesian Migrant Workers (PMI), including:

1. The abuse of PMIs in Malaysia in November 2020.<sup>4</sup>

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<sup>1</sup> Departemen Tenaga Kerja dan Transmigrasi R.I., *Reformasi Sistem Penempatan dan Perlindungan Tenaga Kerja Indonesia*, jurnal/diakses 13 September 2023

<sup>2</sup> KOMINFO, *Pemerintah Perkuat Penanganan Pekerja Migran Ilegal dan Perdagangan Orang, 2022*, <https://bp2mi.go.id/gtog-korea/pengumuman> diakses pada 13 September 2023

<sup>3</sup> Muhammad, Rusjdi Ali. *Hak Asasi Manusia Dalam Perspektif Syariat Islam: Mengenal Jati Diri Manusia*. Ar-Raniry Press Dan Mihrab, Jakarta, 2014, hlm. 45

<sup>4</sup> BBC News Indonesia, TKI di Malaysia disiksa, 'luka sayat dan bakar di sekujur tubuh' mengapa kekerasan terus berulang? 2022, <https://www.bbc.com/indonesia/Indonesia-55172153> diakses pada 13 September 2023

2. Human trafficking involving PMIs in Malaysia in February 2019.<sup>5</sup>
3. Acts of violence against PMIs in Singapore.<sup>6</sup>

These cases indicate that the protection for PMIs has not been adequately implemented. The legality of sending PMIs abroad often becomes a recurring issue, as many PMIs and their families are repatriated due to the lack of valid documentation.<sup>7</sup> The Regional Government, the Ministry of Manpower and Transmigration, the National Agency for the Placement and Protection of Indonesian Workers (BNP2TKI), and the Ministry of Foreign Affairs are highly expected to support justice for PMIs through effective synergy among these institutions. This can encourage the Indonesian government to monitor the activities of migrant workers in Indonesia, which can help address any related issues.

Based on the problems presented by the author above, the following research questions have been formulated:

- a. How is the implementation of legal protection for Indonesian migrant workers according to national and international law?
- b. How is the legal protection for Indonesian migrant workers who face legal issues abroad according to national and international law?
- c. What is the model of legal protection for migrant workers according to national and international law?

## 2. Research Method

The research method used in this study is a descriptive analytical approach, which aims to describe the research object through collected data or samples without making general analyses and conclusions.<sup>8</sup> This study also adopts a legislative and analytical approach to examine all laws and regulations related to the legal issues faced.<sup>9</sup> The research process is conducted in two stages: library research and field research. Library research involves the collection and analysis of primary, secondary, and tertiary legal materials.<sup>10</sup> Meanwhile, field research is conducted through observations and interviews to obtain primary data and complement secondary data.<sup>11</sup> Data collection techniques include literature studies and interviews, while data analysis is carried out qualitatively to categorize and connect

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<sup>5</sup> Serambi Indonesia, *Polisi Bongkar Kasus Human Trafficking*, 2019, hlm. 1

<sup>6</sup> Dunia Tempo, 3 Kasus Kekerasan pada TKI di Singapura, 2021, <https://dunia.tempo.co/read/1481941/3-kasus-kekerasan-pada-tki-di-singapura/full&view=ok> diakses pada 13 September 2023

<sup>7</sup> Adharinalti, Adharinalti. "Perlindungan Terhadap Tenaga Kerja Indonesia Irregular di Luar Negeri." *Jurnal Rechts Vinding Meida Pembinaan Hukum Nasional* Vol. 1 No. 1, 2012, hlm. 3

<sup>8</sup> Sugiyono, *Metode Penelitian Pendekatan Kuantitatif, Kualitatif dan R&D*, Alfabeta, Bandung, 2009. hlm. 29

<sup>9</sup> M.Syamsudin, *Operasionalisasi Penelitian Hukum*, Rajawali Pers, Jakarta, 2007. hlm.58

<sup>10</sup> Johnny Ibrahim, *Teori dan Metodologi Penelitian Hukum Normatif*, Bayumedia Publishing, Malang, 2012. hlm. 5

<sup>11</sup> *Ibid*, hlm. 15

data to obtain a clear picture of legal protection for migrant workers according to national and international law.<sup>12</sup>

### 3. Results and Discussion

#### Implementation of Legal Protection for Indonesian Migrant Workers According to National and International Law

The implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990 Migrant Convention) by the country has not been optimal. The handling of migrant worker cases is still hindered by overlapping bureaucracy, resulting in ineffective task execution according to regulations. The 1945 Constitution of the Republic of Indonesia guarantees the rights and opportunities for citizens to obtain decent work and livelihood without discrimination. The government has provided the best protection for prospective migrant workers through labor migration management policies and programs aimed at achieving safe and fair migration.<sup>13</sup>

The improvement in employment is based on Article 27, paragraph (2) of the 1945 Constitution, which states that every citizen has the right to decent work and livelihood. To address this issue, the government enacted Law No. 13 of 2003 on Manpower. Article 86, paragraph (1) of the law states that every worker has the right to occupational safety and health protection, moral and ethical treatment, treatment in accordance with human dignity, and religious values.<sup>14</sup> To protect Indonesian migrant workers, the government enacted Law No. 18 of 2017 on the Protection of Indonesian Migrant Workers. This law mentions that migrant workers often become victims of human trafficking, forced labor, violence, and human rights violations. According to the law, Indonesian migrant workers are any Indonesian citizens who work for wages abroad. The presence of migrant workers reduces domestic unemployment and increases foreign exchange earnings.<sup>15</sup>

The informal sector is often unorganized, irregular, unregistered, and filled with those with low education who cannot compete in the formal sector. People with minimal skills and education tend to work in this sector because it does not require formal education, high skills, official permits, or large capital. They generally work in many small business units, sometimes disrupting city order, but the informal sector still plays an important role.<sup>16</sup>

The informal sector plays a central role in minimizing unemployment, where its workers create their own jobs and earn enough income to support their families. Labor

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<sup>12</sup> Roni Hanitijo, *Metode Penelitian Hukum dan Juru Metri*, Ghalia Indonesia, Jakarta, 1994, hlm 12.

<sup>13</sup> Ayumidah. *Blantika Hukum Ketenagakerjaan*, Sofmedia, Jakarta, 2011, hlm.3.

<sup>14</sup> Didit Purnomo, "Fenomena Migrasi Tenaga Kerja Dan Perannya Bagi Pembangunan Daerah Asal", *Jurnal Ekonomi Pembangunan* Vol. 10, No.1, Juni 2019, hlm. 84

<sup>15</sup> Adharinalti, "Perlindungan Terhadap Pekerja Migran Indonesia Irregular Di Luar Negeri". *Jurnal Rechtsvinding*, Vol.1 No 2 Tahun 2016, hlm.45

<sup>16</sup> A. Ridwan Halim, *Hukum Perburuhan Aktual*, Pradnya Paramitha, Jakarta, 2017, hlm.6.

supply in this sector is influenced by income, capital, education, gender, and family dependents. The more family dependents, the more family members are encouraged to work. The informal sector includes businesses such as traders, street vendors, computer rentals and typing services, vegetable sellers, photocopy shops, stationery shops, laundries, and clothing repair shops.<sup>17</sup>

The large number of Indonesian migrant workers seeking jobs has led to the emergence of many labor service companies. However, not all companies comply with regulations, causing migrant workers to often become victims.<sup>18</sup> They lack information about companies that comply with regulations, leading to improper treatment and protection.<sup>19</sup> Cases such as Sumiyati's abuse in Saudi Arabia, Wasni's mistreatment and unpaid wages, and Adelina Lisao's death due to violence and malnutrition, highlight the numerous problems faced by migrant workers abroad.<sup>20</sup>

Based on these cases, comprehensive protection for Indonesian migrant workers is needed, both before departure, during employment, and after return. This issue requires cooperation between the community and the government to improve conditions and ensure that migrant workers are not only considered foreign exchange heroes in rhetoric. The state must guarantee the human rights of its citizens based on the principles of equal rights, democracy, social justice, gender equality, anti-discrimination, and anti-human trafficking, and ensure that the placement of workers abroad is conducted with respect to human dignity, human rights, and legal protection.<sup>21</sup>

Indonesian migrant workers are citizens who work abroad for wages. Protection for them starts from registration to departure and continues until they return to Indonesia and become productive workers. The Central and Regional Governments are responsible for monitoring the placement and protection of migrant workers, which also involves the community. If the placement of migrant workers is not according to regulations, the Indonesian Migrant Worker Placement Company (P3MI) can face criminal and administrative sanctions, such as business activity suspension, license revocation, and cancellation of departure. Failure to meet travel document requirements is also considered a criminal act. Protection for migrant workers covers all stages from pre-placement, placement, to post-placement.

Migrant worker issues, especially in the context of protecting their human rights, need to be strictly regulated through laws in accordance with the 1990 International Convention. These laws must protect the civil, political, economic, social, and cultural rights of migrant workers and ensure job safety from recruitment to repatriation. Sanctions for

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<sup>17</sup> Agusmidah, *Dilematika Hukum Ketenagakerjaan Tinjauan Politik Hukum*. Sofmedia, Jakarta, 2018, hlm. 41.

<sup>18</sup> Zaeni Asyhadie dan Rahmawati Kusuma, *Hukum Ketenagakerjaan Dalam Teori & Praktik di Indonesia*, Prenadamedia Group, Jakarta, 2019, hlm. 28

<sup>19</sup> Ida Hanifah Lubis. *Op.Cit*, hlm. 7.

<sup>20</sup> Bambang Widiyahseno, "Paradigma Baru Model Pelindungan Pekerja Migran Indonesia Dalam Perspektif Undang-Undang RI Nomor 18 Tahun 2017", *Jurnal Sosio Informa* Vol. 4, No. 03, September - Desember, Tahun 2018, hlm.13.

<sup>21</sup> Lalu Husni. *Op.Cit*, hlm. 20.

violators and company responsibilities also need to be regulated. Migrant workers often face harsh realities such as conflict, violence, fraud, and death. The recruitment, departure, employment relationship, and repatriation processes are often complex and problematic.

Law No. 18 of 2017 regulates the protection of Indonesian migrant workers before, during, and after employment, including training, health checks, and dispute resolution. Migrant workers must sign an agreement with the Indonesian Migrant Worker Placement Company (P3MI) before departure, which aims to ensure human rights, legal, economic, and social protection. The placement of Indonesian migrant workers aims to provide them with legal protection from unfair treatment. Law No. 18 of 2017 grants more authority to the government and reduces the role of Indonesian Labor Service Companies (PJTKI) in placement and protection. Social security protection is now managed by BPJS, in accordance with Law No. 40 of 2004 and Law No. 24 of 2011. BPJS can cooperate with other institutions for risks not covered by social security.

This law replaces Law No. 39 of 2004 and aims to address the weaknesses of a system that gave excessive power to PJTKI, often disadvantaging migrant workers. The Indonesian government is committed to protecting the rights of migrant workers in accordance with the 1945 Constitution and international instruments such as the ICRMW, Palermo Protocol, and ASEAN declarations. The position of migrant workers is often unbalanced with PJTKI, making the need for regulations that provide balance. However, the existing laws show that the government's legal politics often do not favor migrant workers and contain legal defects that hinder implementation. The government must actively protect migrant workers without pressure from other parties, involving various parties such as families and labor organizations. This protection is not only the responsibility of the Minister of Manpower but also the Minister of Foreign Affairs.

Vulnerable groups facing human rights violations because they are not citizens of the country where they work or are called migrants. Therefore, protection from the home government is crucial. Although there is international legal protection, special attention from the government is still needed. The placement policy for Indonesian migrant workers aims to provide decent jobs and income and protect their human rights and dignity. Placement is conducted fairly and according to skills, and protection is provided from pre-placement to post-placement. Law No. 18 of 2017 regulates the protection of migrant workers, but it is still general, and there is an imbalance in responsibility between the government and P3MI, which can open opportunities for fraud or violence against migrant workers.

According to the author, the implementation of legal protection for Indonesian migrant workers (PMI) is important and should consider the following theories:

a. Legal Protection Theory

The author believes this theory emphasizes the importance of legal certainty and justice for every individual, including PMIs. The state must guarantee the rights of PMIs and provide access to justice when their rights are violated.

b. Rule of Law Theory

In this theory, the author states that the state must adhere to the law and act according to the rules. The government must fulfill its obligations to protect PMIs based on the prevailing regulations in Indonesia.

c. International Theory

This theory states that countries are obligated to respect and implement the international legal norms they have ratified. In the context of PMIs, Indonesia must comply with its international obligations to protect the rights of PMIs.

Although there are various regulations and legal instruments for the protection of Indonesian Migrant Workers (PMI), their implementation still faces several major challenges:

- a. **Weak Law Enforcement:** Many violations of PMI rights remain unresolved due to weak law enforcement.
- b. **Lack of Coordination Among Agencies:** Overlapping authority and lack of coordination among related agencies hinder PMI protection.
- c. **Low Legal Awareness Among PMIs:** PMIs often do not know their rights and are not brave enough to demand them when violated.
- d. **Lack of Training and Education for Prospective PMIs:** This results in various negative impacts such as vulnerability to exploitation, difficulty in adapting, and low work productivity. The impact on the destination country includes a bad image and increased costs. For Indonesia, the impact includes a decrease in foreign exchange value and worsening unemployment rates.

Necessary Solutions:

- a. **Strengthening Law Enforcement:** The government must enhance law enforcement against violations of PMI rights.
- b. **Improving Coordination Among Agencies:** Better coordination among related agencies needs to be established.
- c. **Increasing Legal Awareness Among PMIs:** Education and socialization of PMI rights should be strengthened.
- d. **Enhancing Training and Education for Prospective PMIs:** So that PMIs can work with adequate skills and reduce negative impacts on the destination country and Indonesia.

The implementation of legal protection for PMIs requires joint efforts from the government, society, and related organizations, with a comprehensive approach to protect PMI rights and ensure they work safely and with dignity abroad.

### **Legal Protection for Indonesian Migrant Workers with Legal Issues Abroad According to National and International Law:**

The Indonesian government has strengthened the protection of migrant workers by ratifying various international conventions to regulate their legal protection and minimize human rights violations. Although this is important, protection efforts have not been fully effective in reaching migrant workers abroad. Indonesian embassies and diplomatic officials play a crucial role in addressing migrant worker protection issues, but challenges remain in implementing adequate legal protection.

The rights of migrant workers and their families are recognized by various international bodies such as the UN and ILO, and are regulated in international and national regulations, including the 1945 Constitution, Law No. 21 of 2000, Law No. 13 of 2003, and Law No. 18 of 2017 on the Protection of Indonesian Migrant Workers. The government is obligated to protect the rights of migrant workers to reduce disputes or conflicts. Data shows there are about 9 million PMIs, with an average placement of 266,000 people per

year (2015-2019), spread across about 200 countries. The proportion of female and domestic workers tends to be higher compared to formal workers.<sup>22</sup>

The Indonesian government provides direct guidance through RI Representatives with welcome programs, socialization, and entrepreneurship training. The principles of freedom, security, and equality before the law, as stipulated in the English Bill of Rights 1689, should be applied.<sup>23</sup> John Locke proposed the natural law theory, emphasizing that every human being has basic rights that cannot be violated by anyone, including the state. These rights include the right to life, personal liberty, and private property. Jan Materson of the UN Human Rights Commission also emphasized that human rights are fundamental rights inherent in every individual; without these rights, humans cannot live humanely.<sup>24</sup>

The importance of protecting basic human rights led to the birth of the Universal Declaration of Human Rights (UDHR) in 1948. The UDHR sets out five types of human rights: personal needs assurance rights, legal protection rights, civil and political rights, life resources assurance rights, and economic and socio-cultural rights. The articles in the UDHR cover the right to life, freedom, and personal security, freedom from slavery, torture, and arbitrary detention.<sup>25</sup> The Indonesian government, through BP2MI, the Ministry of Foreign Affairs, and other related institutions, protects PMIs by providing legal services and advocacy for those in trouble abroad. BP2MI collaborates with Indonesian Advocates for legal assistance, including in court and prison, and negotiates with the destination country.

The following are the rights violated concerning the practices experienced by Non-Procedural Indonesian Migrant Workers (PMI) in Asian and African countries during 2022-2023:

- a. The Right to Life, Security, and Freedom
- b. The Right Not to Be Enslaved, Enserfed, or Subjected to Forced Labor
- c. The Right Not to Be Tortured, Treated Cruelly, Inhumanely, or Degradingly
- d. The Right to Fair and Favorable Employment, Including Decent Wages and Working Hours
- e. The Right to Protection and Remedy

### **Legal Protection Model for Migrant Workers According to National and International Law:**

The Indonesian government also has Citizen Services abroad and facilitates Employment Business Meetings (EBM) to expand PMI job opportunities abroad, enhance international cooperation, and strengthen PMI protection and empowerment. EBM activities result in the signing of Memorandums of Understanding (MoU) and Cooperation Agreements (PKS) between BP2MI and countries like Malaysia, Taiwan, and South Korea, as

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<sup>22</sup> Hery Sudarmanto, *Bimbingan Teknis Sdm Penempatan Tenaga Kerja*, Kementerian Ketenagakerjaan Republik Indonesia, Juli 2023, diakses tanggal 2 Oktober 2023

<sup>23</sup> A. Ubaedillah, Abdul Rozak, *Demokrasi dan Hak Asasi Manusia dan Masyarakat Madani'* (Jakarta: ICCE UIN Syarif Hidayatullah Bekerjasama dengan *the Asia Foundation*, 2006), hlm. 253.

<sup>24</sup> *Ibid.*

<sup>25</sup> *Ibid.*



well as recruitment companies. The Indonesian government is expected to expand BP2MI representation in placement countries and collaborate with advocacy organizations to assist PMIs facing legal issues. Training and education programs can improve PMI quality and competitiveness. Organizations providing legal assistance to PMIs include:

- a. Government Institutions:
  - Indonesian Embassy or Consulate
  - BP2MI
- b. Non-Governmental Organizations (NGOs):
  - Migrant Care
  - Indonesian Legal Aid Foundation (YLBHI)
- c. Private Lawyers:
  - Lawyers in Indonesia and abroad

Additional sources for legal assistance include ILO, UNODC, and IOM. The focus of EBM for skilled PMI placement includes countries in Asia and Africa (Nigeria, Kenya, Algeria, South Korea, Japan, Sri Lanka), the Americas and Pacific (New Zealand, New Caledonia, Australia, Papua New Guinea, Fiji, Canada, the United States, Suriname), and Europe and the Middle East (Germany, the Netherlands, Kuwait, Saudi Arabia, the United Arab Emirates, Qatar, Egypt).<sup>26</sup>

The following are activities that match supply and demand, involving P3MI or Indonesian Agencies with partners abroad, divided into three regional meetings:<sup>27</sup>

Employment Business Meeting (EBM) Activities in the Asia and Africa Region:

- a. Ambassador to Singapore
- b. Consul General to Kuching (Malaysia)
- c. Consul General to Osaka

Revitalization of facilities and infrastructure to increase the capacity, facilities, and accessibility of Vocational and Productivity Training Centers (BPVP) across Indonesia, including:

- Increasing Training Capacity
- Improving Training Facilities and Infrastructure
- Enhancing Accessibility

Redesigning training to respond to local, national, and international employment challenges:

- Strengthening Instructor HR
- Improving Training Quality and Curriculum
- Developing Industry Demand-Based Curriculum and SKKNI
- Enhancing Graduate Competency Recognition

Rebranding to increase the attractiveness and public trust in Vocational and Productivity Training Centers (BPVP):

- Strengthening the identity and appeal of BPVP
- Enhancing BPVP performance publicity and building public engagement with BPVP
- Increasing public trust in BPVP quality

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<sup>26</sup> Mocharom Ashadi, *Laporan Kegiatan Employment Business Meeting BP2MI Tahun 2022*, diakses tanggal 2 Oktober 2023

<sup>27</sup> *Ibid*

The Indonesian government, which must protect the rights of its citizens, has ratified the "Maritime Labour Convention" (MLC) 2006, but human rights violations still occur. Indonesia should also ratify ILO Convention No. 188 on "Work in Fishing" for more detailed protection of crew members in the fisheries sector. To reduce human rights violations, the government must ensure effective protection.

The placement and protection services for PMIs are regulated by Law No. 25 of 2009 and Government Regulation No. 96 of 2012, which emphasize integrated services and the role of the government in managing documents and job training. Social security for PMIs, according to Article 29 paragraph (1) of Law No. 18 of 2017, is provided by the Central Government through BPJS Employment, replacing private insurance. The employment agreement is a crucial document legally binding PMIs and employers, with provisions that both parties must adhere to. Violation of the employment agreement can result in the termination of the employment relationship. The Indonesian government also makes bilateral agreements with PMI destination countries in the form of Memorandums of Understanding (MoUs) to protect PMIs abroad.<sup>28</sup>

An MoU is a written agreement between two countries regulating agreements related to migrant workers. Indonesia, as the sending country, has made MoUs with major receiving countries such as Malaysia and Taiwan. These MoUs form the basis for employment agreements (PK) between Indonesian Migrant Workers (PMI) and employers, which regulate the rights and obligations of both parties in detail and bindingly. Violations of the PK can be subject to strict sanctions. Although there are MoUs, field practices sometimes do not align with agreements. Indonesia ratifies several agreements from the International Labour Organization (ILO) by enacting laws and regulations related to managing international labor migration.

The Indonesian Migrant Workers Protection Agency (BP2MI) is tasked with placing PMIs based on agreements with the destination country, in accordance with the principles of equality and mutual benefit, BP2MI was established to protect Indonesian migrant workers (PMI) before they begin working. The pre-employment stages include providing information about the job market, registration by prospective PMI with the necessary documents, administrative and technical selection, health and psychological examinations, and the signing of the Placement Agreement. PMI must also register for social security and obtain a work visa through BP2MI. Pre-Departure Orientation (OPP) is organized to prepare prospective PMI with information and mental readiness before departure. After signing the employment agreement and fulfilling the requirements, PMI are dispatched, with departure information communicated to the Labor Attaché in the destination country. Protection for PMI while working includes all protective activities during their time abroad.

The Indonesian Migrant Workers Law encompasses data collection, monitoring, fulfillment of rights, case resolution, consular services, mediation, advocacy, legal assistance, training, and facilitation of repatriation. Fundamental protection involves access to information and the placement of labor attachés in destination countries to enhance bilateral relations and PMI protection. Placement companies are also required to report

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<sup>28</sup> Mita Noveria, dkk. "*Perlindungan Pekerja Migran Indonesia, Kesepakatan dan Implementasinya*". Jakarta: Yayasan Pustaka Obor Indonesia. 2020, hlm. 7.

data on the return and contract extension of PMI. Common issues faced by PMI include deportation, problematic documents, and unpaid wages, with deportation and document issues being the primary concerns. Recent data shows that a number of PMI have died abroad, such as 60 individuals from Sampang who were repatriated from Malaysia in a deceased state as of July 29, 2020.<sup>29</sup>

The PPMI Law provides protection to PMI through legal, social, and economic safeguards. Legal protection involves provisions ensuring PMI only work in countries with laws protecting foreign workers, having a written agreement with the Indonesian government, and a social security system.

#### **4. Conclusion**

The conclusions of this study are as follows:

- a. There is legal protection for Indonesian migrant workers from both national and international law perspectives. According to national law, Law No. 18 of 2017 on the Protection of Indonesian Migrant Workers serves as the primary legal framework for protecting migrant workers, covering all aspects related to their placement, work period, and post-employment, including the rights and obligations of migrant workers and the roles and responsibilities of various related parties. In international law, the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families provides the framework.
- b. The Indonesian government has taken steps to provide legal services and advocacy through BP2MI in collaboration with the Ministry of Foreign Affairs and other relevant agencies to offer legal services and advocacy for migrant workers facing legal issues abroad. Additionally, BP2MI can collaborate with Indonesian advocates to provide assistance to migrant workers during legal proceedings, including support in court and during imprisonment, and by negotiating with the destination countries.
- c. The model for legal protection of migrant workers from both national and international law perspectives involves establishing Indonesian Migrant Worker Protection Agency (BP2MI) representatives in every country where migrant workers are placed through MOUs with the host countries. Furthermore, the government can cooperate with Indonesian advocate organizations to assist migrant workers facing legal issues in their host countries, ensuring that migrant workers, as contributors to foreign exchange, are not burdened. This demonstrates the state's commitment to protecting all Indonesian citizens, as stated in the fourth paragraph of the Preamble to the 1945 Constitution.

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