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#78442 Review

SUMMARY REVIEW EDITING HISTORY REFERENCES

Submission

Authors Endeh Suhartini, Mimi Fitriana Zaini, Bambang Widjojanto, Ani Yumarni

Title Indonesian Migrant Workers After Job Creation Law: A Challenging Problem for Protection Welfare

Section Articles

Editor Muhammad Hayat

Review Version [78442-222098-2-RV.DOCX](#) 2023-10-09

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REQUEST	UNDERWAY	DUE	ACKNOWLEDGE
	—	2024-01-24	

Editor Decision

Select decision

Decision Resubmit for Review 2023-10-09 | Accept Submission 2023-12-06

Notify Author Editor/Author Email Record 2023-10-09

Review Version [78442-222098-2-RV.DOCX](#) 2023-10-09

Author Version [78442-226503-1-ED.DOCX](#) 2023-10-20

[78442-226503-2-ED.DOCX](#) 2023-12-05 Sent 2023-12-06

Editor Version [78442-225378-1-ED.DOCX](#) 2023-10-09 [DELETE](#)

No file chosen



Bestuur

Print ISSN: [2302-3783](#)

Online ISSN: [2722-4708](#)

Website: <https://jurnal.uns.ac.id/bestuur/index>

Email: bestuur_journaleditorial@mail.uns.ac.id cc to bestuurlaw@gmail.com

Published by: Universitas Sebelas Maret

Office: Department of Administrative, Faculty of Law, Universitas Sebelas Maret
Ir. Sutami Street, No. 36A, Surakarta, Jawa Tengah 57126- Phone 0271-642595

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The Legal Protection of Indonesian Migrant Workers In Effort To Increase Wages for Welfare

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ARTICLE INFO

Article history

Received:

Revised:

Accepted:

Keywords

Indonesian Migrant

Workers

Emplment

Wages

Welfare

ABSTRACT

Indonesian Migrant Workers (PMI) are workers who do work leaving their own country or leaving Indonesia to get a decent wage to meet the needs of life both for themselves and their families. The purpose of this research is to study and analyze the legal protection of the existence of Indonesian Migrant Workers (PMI) who work outside the territory of the Unitary State of Indonesia in order to get a decent wage to meet the needs of themselves and their families. The research methodology used in this paper is a normative legal research method which is a legal research that seeks to examine the application of positive law used in society related to Indonesian Migrant Workers. Normative juridical research uses secondary data with primary, secondary and tertiary legal materials. The research resulted in the finding that legal protection and legal certainty are needed for Indonesian Migrant Workers given the many ongoing problems with Migrant Workers Overseas. Indonesian Migrant Workers who do work abroad have a desire to get a job and a decent wage from the work done, but in practice there are still Indonesian Migrant Workers who are not fared well and get treatment that violates Human Rights from the employer or employer and or service bureau irresponsible company.



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1. Introduction

The era of globalization, especially as advances in communication and transportation technology require various countries to study the problem intensively. Information entering a country is not only through internal interaction, but can not be prevented and will continue to occur interaction, interconnection and interdependence (interface) between nation.¹ The purpose of the Indonesian state is stated in the Preamble to the 1945 Constitution of the Republic of Indonesia, paragraph IV, that based on this matter, the state, in this case, is obliged to provide legal protection. Furthermore, the state functions as a service tool and is obliged to carry out welfare. As a form of the state's concern and concern for the interests of Indonesian migrant workers abroad, the government provides legal protection through provisions in Law Number 18 of 2017 concerning Protection of Indonesian Migrant Workers.

Human rights which are universally interpreted as those rights which are inherent in our nature and without which we cannot live as human beings by the people in the world of formulation and recognition have been fought for in a very long period of time. Even today this is still ongoing, with various dimensions of problems arising from the various interpretive spectrums involved in them.²

Human rights are rights that are gifts from Allah SWT, rights owned by humans from the womb up to the grave, which must get protection by law and obtain legal certainty protected by the constitution in all its implementation activities including Indonesian Migrant Workers who work to obtain wages in other people's countries due to work limitations.

In connection with this, humans in their lives need work to meet the needs of life and survival of themselves and their families. Work is an important factor in human life and has important meaning and benefits that are needed, with the work of a worker will have a meaning in the community, have useful activities, interact with others, and can fulfill the desires and ideals for himself and his family.

The work obtained by a person is a human right regulated in the constitution of the Unitary State of the Republic of Indonesia as stipulated in Article 27.28 and Article 33 of the 1945 Constitution that everyone has the same position in law and government and is entitled to get a job to meet the needs of life that proper and entitled to work by getting fair and wise treatment in the implementation of employment relations to meet economic needs with the principle of kinship, and strengthened with Article 4 of Law Number 13 Year 2003 concerning Manpower. So that the objective of the Unitary State of the Republic of Indonesia in the Opening of Laws Basic 1945 Paragraph 4 can be achieved.

Based on this, it is understood that the Government has the duty and responsibility to prepare citizens of the Republic by taking into account the rights of citizens to work and get jobs while providing employment as mandated in the constitution, in order to achieve decent living needs for workers and their families. The work that is obtained and needed by citizens is the duty of the government and is a human right. But the reality of employment is very limited so that human rights as citizens have not been fulfilled by the government.

Legal recitation and appreciation is not considered excessive, because if the law belongs to the community, the community must have pride as a law-abiding social group so that it reflects the maturity of the law. In addition to helping steer society towards the ideals of the law, it is time the law can provide a kind of social prestige that shows its own "legal civilization". With the growth of social prestige like this will simultaneously foster embarrassment to other groups who are not yet

¹ Muladi, *Hukum Dan Hak Asasi Manusia Dalam Kumpulan Esai (Kedaulatan Rakyat, Hak Asasi Manusia, Dan Negara Hukum)* (Jakarta: Gaya Media Pratama, 1996).

² Muladi.

mature in the law at the same time motivate and invite them to participate in social achievements that are socially proud. This is what is called by law as economic goods.³

Thus, to meet the legal protection and legal certainty of Indonesian Migrant workers who work outside the territory of Indonesia, the Government must make various efforts to make it happen. Legal protection and legal certainty for Indonesian Migrant Workers by implementing laws and regulations including implementing Law No. 18 of 2017 concerning the Protection of Indonesian Migrant Workers, which was previously regulated in Law Number 39 of 2004 concerning the Placement and Protection of Indonesian Migrant Workers Abroad.

Furthermore, in Law no. 18 of 2017 gives the role of the central government to the village government, so this law has adapted to the decentralization model in Law no. 23 of 2014 concerning Regional Government and Law Number 6 of 2014 concerning Villages. The role of Regional Government in providing protection to Indonesian Migrant Workers is carried out starting from villages, districts/cities, and provinces, from before work to after work. The Regional Government plays a role starting from providing information on requests (job orders) originating from Representatives of the Republic of Indonesia, Employers and Business Partners abroad. The Regional Government provides one-stop integrated services and facilitates the departure and return of Indonesian Migrant Workers. Indonesian migrant workers who depart must have competence or expertise. Likewise for Indonesian Migrant Workers after work, the Regional Government collaborates with the Central Government to provide entrepreneurship training to retired Indonesian Migrant Workers and their families.⁴

The enactment of Law Number 18 Year 2017 concerning the Protection of Indonesian Migrant Workers which was ratified on October 25, 2017 by the Parliament gives new hopes and very high ideals in order to realize legal protection and legal certainty for Indonesian Migrant Workers as a very large foreign exchange contributor to country. The Government's authority and a very large role in this law give great hope that the creation of legal protection and legal certainty for Indonesian Migrant Workers (*Pekerja Migran Indonesia, PMI*) can be done from the beginning before work, at work and after work so that companies sending services for employment against Migrant Workers are correct - be supervised since from the region to the Center, and the company is only a giver of placement.

Based on these data, it was examined that from January to April 2018, as many as 87 thousand Indonesian Migrant Workers had departed to try their luck overseas. On average there are 20 thousands of workers who leave every month in this four-month period, both from 2016 to 2018. The proportion of jobs, between the formal and informal sectors, is fairly balanced this April. The percentage of those sent to work in the formal sector is somewhat higher, at 56 compared to 44 percent. As many as 61 percent of migrant workers in April 2018 are women.

Based on the above explanation, the data profile of the workers can be seen as follow:

Table 1.

The Percentage of Labor Force to Working Age Population According to Age⁵

Age	Percentage of Labor Force to Working Age Population According to Age Group (%)					
	2021			2022		
	Feb	Aug	Yearly	Feb	Aug	Yearly
15-19	29,00	27,79	-	26,99	28,83	-

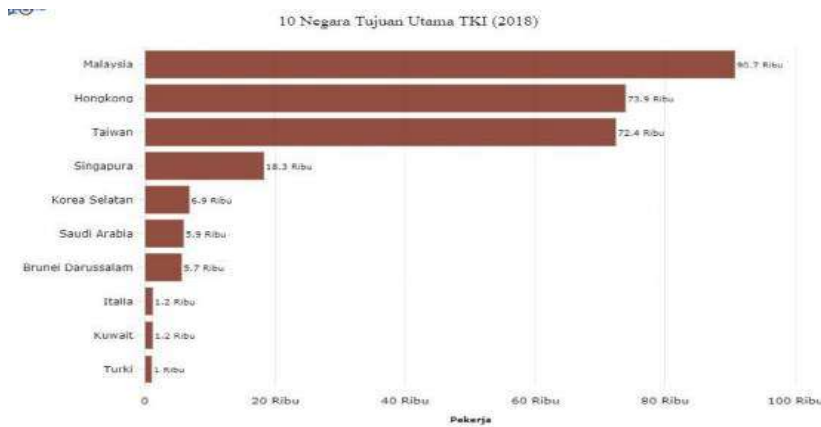
³ Fajar Sugianto, *Economic Approach to Law* (Jakarta: Prenadamedia Group, 2013).

⁴ Any Suryani, *Perlindungan Pekerja Migran Indonesia* (Mataram: Sanabil, 2020).

⁵ Data is obtained from the Indonesian Statistics Center websites, www.bps.go.id, accessed on March 11 2023.

20-24	67,30	66,77	-	67,98	68,01	-
25-29	76,26	75,48	-	76,56	75,32	-
30-34	76,60	77,17	-	76,68	76,92	-
35-39	79,20	79,38	-	79,23	79,12	-
40-44	81,77	81,73	-	81,69	81,39	-
45-49	81,49	81,96	-	81,97	81,93	-
50-54	80,12	79,58	-	80,96	81,15	-
55-59	74,24	73,67	-	76,52	75,41	-
60 +	51,08	50,84	-	55,73	54,09	-
Total	68,08	67,80	-	69,06	68,63	-

The 10 main destination countries can be seen as follows:⁶



Based on these data, it was examined that from January to April 2018, as many as 87 thousand Indonesian Migrant Workers (PMI) had departed to try their luck overseas. On average there are 20 thousand workers who leave every month in this four-month period, both from 2016 to 2018. The proportion of jobs, between the formal and informal sectors, is fairly balanced this April. The percentage of those sent to work in the formal sector is somewhat higher, at 56 compared to 44 percent. As many as 61 percent of migrant workers in April 2018 are women.⁷

According to the data above, the increasing number of Indonesian Migrant Workers (PMI) in their development requires attention from the Government to provide legal protection and legal certainty for Indonesian Migrant Workers who in fact do not get decent jobs in Indonesia to fulfill their life needs to get jobs and get a decent wage in order to meet the needs of life of workers and their families for a better future.

⁶ *Ibid.*

⁷ Sumber: Badan Nasional Penempatan dan Perlindungan Tenaga Kerja Indonesia (BNP2TKI)

This is due to a lack of socialization from stakeholders regarding the importance of health and safety guarantees and protection for workers and their families in addition to regulations that also do not accommodate informal workers.⁸

2. Research Method

This research is normative legal research using analytical and conceptual approaches, especially about labour laws. This research conducts a study on legal protection for Indonesian migrant workers abroad. An economic and social concept approach is carried out to analyze and examine the factors that make workers choose to become migrant workers. Furthermore, the statutory approach is used to examine the government's role in fulfilling the rights of citizens who work as migrant workers abroad.

3. Results and Discussion

The protection of Indonesian migrant work was strengthened by the enactment of Law no. 18 of 2017 which replaced Law no. 39 of 2004. The form of protection for Indonesian migrant workers, starting to be given to prospective migrant workers, regulates rights, namely: a. get a job abroad and choose a job according to their competence; b. gain access to increase personal capacity through education and job training; c. obtain correct information regarding the job market, placement procedures and working conditions abroad; d. obtain professional and humane services as well as treatment without discrimination before work, during work, and after work; e. carry out worship in accordance with the religion and beliefs held; f. obtain wages in accordance with the prevailing wage standards in the destination country of placement and/or an agreement between the two countries and/or a work agreement; g. obtain protection and legal assistance for actions that can degrade the dignity in accordance with the provisions of the laws and regulations in Indonesia and in the destination country of placement; h. obtain an explanation of the rights and obligations as stated in the employment agreement; i. get access to communicate; j. mastering travel documents during work; k. associate and gather in the destination country of placement in accordance with the provisions of the laws and regulations in force in the destination country of placement; l. obtain guarantees of protection for the safety and security of the return of Indonesian migrant workers to their areas of origin; and/or m. obtain documents and work agreements for prospective Indonesian migrant workers and/or Indonesian migrant workers.

a. Factors That Cause Increased Indonesian Migrant Workers Working Abroad

Some things to consider are the factors causing Indonesian Migrant Workers (PMI) to look for work abroad including:

1) Limited Job Vacancies in Indonesia;

Limited and narrow employment opportunities are the reasons for prospective Migrant Workers and / or Migrant Workers choosing to work Abroad in the hope

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2. There is no discussion regarding this at all (information on Indonesian migrant workers, Overview of the Job Creation Law and its implications for migrant workers, examination of previous studies on the impact of labor laws on migrant workers, analysis of relevant legal frameworks and international conventions related to migrant worker protection, Review of existing literature on the protection and welfare of Indonesian migrant workers and Purpose of the research paper)

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Not standar, please mention the explanation of the research design and methodology used in the study, description of the data collection process, including interviews, surveys, and case studies and discussion of any limitations or challenges faced during the research process

⁸ Heniyatun, "Perlindungan Pekerja Informal Sebagai Jaminan Sosial Tenaga Kerja Di Daerah Magelang," *Varia Justicia* 14, no. 2 (2018).

of improving the economy of themselves and their families and not becoming unemployed.

In practice, the relationship between workers and employers is a dependency relationship, but the dependency relationship is always one-sided. This is because industrial relations are power relations. In power relations, there are those who rule and are controlled, there are those who rule and are governed. Due to labor conditions which place supply and demand for labor unbalanced, the gap is sharper. The subordination has made workers vulnerable to exploitation actions with all their modifications. Minor conditions are further strengthened by external factors such as political, economic and social conditions.⁹

2) Higher wages in other countries

Ideal and good wage law must be applied in employment relations, must be based on Pancasila noble values so that the hope for the achievement of justice and legal certainty for the parties, especially for workers and employers / employers. Wages are a crucial issue in the field of labor and even if they are not professional in handling wages, it is not uncommon to become potential disputes and encourage strike action and or demonstrations. Wages are a fundamental issue in the field of labor and Industrial relations. Because of wages, wages are the top demand in various strikes and / or workers' demonstrations. In the General Explanation of Government Regulation No. 78 of 2015 concerning Wages that wages are one of the most sensitive issues in the implementation of employment relations. Various related parties see wages from different sides. At the practical empirical level, the handling of wages is not only related to technical aspects and economic aspects, but also the legal aspects that underlie and underlie how matters relating to wages are carried out safely and right. Based on the applicable laws and regulations. In connection with that, to handle wages in a professional manner absolutely requires comprehensive understanding of all three aspects.¹⁰

With regard to Indonesian Migrant Workers, doing and looking for work outside Indonesia is the main reason for getting a large salary or income so that they can fulfill their living needs and aspirations that they themselves and their families expect. The wages received by Indonesian Migrant Workers are in fact greater than in Indonesia. The remuneration system received by Indonesian Migrant Workers is adjusted to the Work Agreement with the Company which provides employment and consideration with employers or employers in the destination country.

3) Limited human resource skills for Indonesian Migrant Workers;

⁹ Ari Hernawan; Murti Pramuwardhani Dewi, "Pemberangusan Serikat Pekerja Di Daerah Istimewa Yogyakarta," *Yustisia* 12, no. 2 (2013).

¹⁰ Abdul Khakim, *Pengupahan Dalam Perspektif Hukum Ketenagakerjaan Indonesia* (Bandung: Citra Aditya Bakti, 2016).

The word wealth is used by Smith in his book *An Inquiry Into The Nature and Causes of The Wealth of Nation* (1776) which is popular with the *Judge of The Welth of Nation*. The book which is almost 3 centuries old is still used as a reference for economics, political economy, economic sociology and social welfare science. In explaining the source of prosperity / welfare, Smith views labor and division of labor as sources of prosperity. Smith paid great attention to the problem of division of labor and investigated the meaning of division of labor in economic life. In this book Smith for the first time explains the theory of division of labor as the basis for mass production. The division of labor and the pursuit of interests individually encourage exchange and exchange encourage the division of labor, the division of labor intensively will be able to increase work productivity. Finally, work productivity increases the prosperity of the nation. An increase in the quantity of work that is large as a consequence of the division of labor that allows three things, namely: a) Improving the Skills of Workers; b) The time savings that are usually wasted due to displacement one type of work to another; and c) The discovery of a large number of machines which simplify and shorten the work, and that allows a worker doing the work of many people.¹¹

In connection with the expertise capabilities of each different HR Workers in doing a job needs to be done training and coaching of workers so that they are able to compete nationally and internationally. Ability and expertise of reliable HR Workers will have an impact on wages or salaries that are very high in accordance with the expectations of Indonesian Workers so they can compete with other countries internationally.

4) Influence of Modernization, technology, ideology, politics, social, culture, and economy

Human needs are increasingly changing with the times. Environmental and lifestyle factors as well as ideological, economic and political factors will greatly influence the desires of human needs that continue to increase. Indonesian migrant workers who leave their homeland to work abroad in reality are indeed the main considerations to get a decent wage and can meet the needs of themselves and their families to obtain welfare.

b. Legal Protection of Indonesian Migrant Workers

The concept of legal protection is one of the important things needed by humans to get protection of their rights and obligations in order to achieve legal certainty of human dignity and dignity.¹² Legal protection is the protection of dignity and the recognition of human rights possessed by legal subjects in a country based on legal protection from arbitrariness.

¹¹ Sugeng Pujileksono, *Perundang-Undangan Sosial Dan Pekerjaan Sosial, Perspektif Pemenuhan Keadilan Dan Kesejahteraan Sosial Masyarakat* (Malang: Setara Press, 2016).

¹² Sukarno Aburaera, *Filsafat Hukum Teori Dan Praktik*, n.d.

Legal protection is carried out as an embodiment of the creation of justice and legal certainty in the implementation of fulfilling rights and obligations in accordance with the agreements of agreements and justice can be fulfilled.¹³

When humans agree on the existence of justice, then inevitably justice must color human behavior and life in relationship with God, with fellow individuals, with society, with government, with nature, and with God's other creatures. Justice must be realized in all lines of life, and every human product must contain the values of justice, because in reality unjust behavior and products will give birth to imbalances, disobedience that results in damage, both to oneself, humans themselves and the universe.

Thus, it can be assessed that to provide legal protection for Indonesian Migrant Workers as contained in the Law of the Republic of Indonesia Number 18 Year 2017 concerning the Protection of Indonesian Migrant Workers. The Protection of Indonesian Migrant Workers that must be considered are: i. Protection against the fulfillment of rights and obligations before, being and after conducting work relations; ii. Protection against the provision of insurance; iii. Protection of prospective workers and / or Indonesian Migrant workers themselves and their families; iv. Fulfillment of rights and obligations in Human Rights; v. Legal certainty and legal and economic protection for Indonesian migrant workers and their families; vi. Protection of job placement for companies that channel it to take full responsibility; vii. Legal protection and legal certainty of administration in accordance with statutory provisions; and viii. other legal protections for the benefit of prospective Migrant Workers and / or Indonesian Migrant Workers.

4. Conclusion

With the presence of the government through legal reforms for migrant workers in Law Number 18 of 2017, it ideally provides a bargaining position for migrant workers. That procedurally, granting permits and sending migrant workers abroad has gone through the skill and competency testing stages for each migrant worker. So, in this way, Indonesian migrant workers have self-confidence and legal certainty regarding their profession in carrying out and fighting for their rights as human beings and as part of the workforce which in fact also contributes to the country's foreign exchange earnings. The author suggests several points from this paper, which include:

- a. Some of the factors causing Indonesian Migrant Workers (PMI) to find work abroad include: 1) Limited Job Vacancies in Indonesia because the Government has not been able to provide jobs according to expectations as the provisions of the legislation that have not been maximally fulfilled; 2) Income or salary received is very small in Indonesia and each region is different and working abroad has higher wages; 3) The limited ability of expertise possessed by human resources for different Indonesian Migrant workers; and 4) environmental and lifestyle factors as well as ideology, politics, economics, social and culture as well as technological developments affect

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I am very critical in general (some students like me for that, some not), so I hope I do not demotivate you.

This article is far from the reviewer's expectations, ugly and has no novelty at all, **Indonesian Migrant workers post Job Creation Law** (not yet discussed key provisions of the Job Creation Law affecting migrant workers, evaluation of the potential impact of these provisions on the protection and welfare of migrant workers and comparison of the Job Creation Law with previous labor regulations and international standards)

Challenges for Protection and Welfare (Identification and analysis of the specific challenges faced by Indonesian migrant workers under the Job Creation Law, Discussion of the potential consequences of these challenges on)

¹³ Umu Hilmy; Devi Rahayu, *Perlindungan Buruh Migran Indonesia*, (Bab-Bab Tentang Hukum Perburuhan), (Denpasar: Pustaka Larasan, 2012).

the improvement of lifestyles and the needs and desires of a decent and prosperous and better life are very high.

- b. Legal Protection of Indonesian Migrant Workers, namely: 1) Legal Protection of Indonesian Migrant Workers is to achieve the expected goals as stipulated in the legislation and agreements that have been sealed in the work agreement for the implementation of work relations before work, at work and after work; 2) Legal protection of Prospective Migrant Workers and / or Indonesian Migrant Workers to provide legal guarantees of the fulfillment and enforcement and fulfillment of rights and obligations for workers themselves and their families; 3) Protection of Human Rights; 4) Legal protection for the economic, health, social problems of migrant workers and their families; and 5) Protection of Other Workers in accordance with applicable laws and regulations.

5. References

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Indonesian Migrant Workers After Job Creation Law: A Challenging Problem for Protection Welfare

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ARTICLE INFO

Article history

Received: February 17, 2023

Revised: December 5, 2023

Accepted: December 6, 2023

Keywords

Indonesian Migrant;

Permit;

Protection;

Supervision;

Workers;

ABSTRACT

Job Creation Law has severely impacted the protection of foreign workers with changes to the Company Permit for Placement of Indonesian Migrant Workers (SIP3MI). This research aims to analyze changes to SIP3MI and its impact on the licensing mechanism for Indonesian migrant workers, which is related to the implementation of supervision of migrant workers as a juridical-administrative consequence of SIP3MI issuance. The research methodology used in this paper is a normative legal research method with a statue approach and conceptualization of legal protection, licensing, supervision, labour, and social justice to realize the protection of migrant workers when contracting and completing contracts. This research indicates an urgency for the government to protect migrant workers, seeing the increase in the number of migrant workers and complaints. The SIP3MI regulation, degrades the concept of protecting Indonesian migrant workers. The change in providing SIP3MI information from the relevant Ministry to the authority of the Central Government and being equated with Business Licensing thus changes the mechanism for issuing permits, which could severely impact the implementation of supervision and protection of Indonesian migrant workers. Therefore, the protection of migrant workers is no better than before the publication of the Omnibus Law. Legal certainty is needed to provide protection. Equating SIP3MI with business licensing is quite controversial and has the potential to create legal protection for migrant workers who are increasingly being pushed into a corner.



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1. Introduction

The Indonesian state aims to create prosperity for its citizens. This was stated in the Preamble to the 1945 Constitution of the Republic of Indonesia. The state is obliged to provide legal protection for all its citizens. Furthermore, the state functions as a service tool and is obliged to carry out welfare. In this article, Indonesia should protect its citizens in obtaining welfare—employment as immigrant workers. Indonesian Migrant Workers who

work abroad desire to get a job and a decent wage from the work completion.¹ Therefore, the government provides legal protection through the provisions in Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers, amended by Law No. 11 of 2020 concerning Job Creation (Omnibus Law). The Omnibus Law concerning Job Creation has been revoked with Government Regulation in Lieu of Law No. 2 of 2022. The stipulation of this Perpu is a form of implementation of Constitutional Court Decision Number 91/PUU-XVIII/2020, which states that the 2020 Omnibus Law is conditionally unconstitutional due to formal defects in its formation, which does not apply the principle of community participation. Then, this Perpu was stipulated by Law Number 6 of 2023 concerning the Stipulation of Government Regulations in Lieu of Law No. 2 of 2022 concerning Job Creation into Law.

Protecting immigrant workers is an obligation of the state and Indonesian citizens that must be realized. Because this is closely related to guaranteeing fundamental human rights as stated in the Constitution, human rights are universally interpreted as those inherent, without which we cannot live as human beings and without which formulations and recognitions by the people in the world have been fighting for a very long time. This is still ongoing, with various dimensions of problems arising from the different interpretive spectrums involved. Human rights are rights that must be protected by law and obtain legal certainty protected by the constitution in all its implementation activities, including Indonesian Migrant Workers who work to bring wages in other people's countries due to work limitations. Numerous research studies have discussed the significant connections between the rights of human beings and the essential demands of life and survival in work responsibilities.² One needs to be needed to fulfill his responsibility in work to create a meaningful link to the community, valuable activities, interaction with others, and meet the needs of himself and his family.³

Population migration is a topic of great interest to researchers, government officials, and policy makers. It is one topic that deserves additional attention because migration flows across national borders due to climate change, conflict, violence, war, poverty, and people's desires for certain people—migrants to achieve more significant economic opportunities and prosperity.⁴ More significantly, the constitution governs when work responsibilities are the absolute and urgent needs of those with a strong intention to migrate, leaving the country to fulfill family demands.⁵ Population migration, thus, becomes a topic of great interest to many researchers, government officials, and policymakers that deserves additional attention to underline the essential constitutional law for migration flows across

¹ Made Selly Dwi Suryanti and Melpayanty Sinaga, 'Indonesian Government Diplomacy on Protecting Indonesian Migrant Workers in Papua New Guinea During COVID-19 Pandemic', *Nation State: Journal of International Studies*, 5.1 (2022), 49–58 <https://doi.org/10.24076/nsjis.v5i1.716>

² Bin Ni and Kyosuke Kurita, 'The Minimum Wage, Exports, and Firm Performance: Evidence from Indonesia', *Journal of Asian Economics*, 69 (2020), 101218 <https://doi.org/10.1016/j.asieco.2020.101218>

³ Alberto Quintavalla and Klaus Heine, 'Priorities and Human Rights', *The International Journal of Human Rights*, 23.4 (2019), 679–97 <https://doi.org/10.1080/13642987.2018.1562917>

⁴ Mauro Passacantando, Fabio Raciti, and Anna Nagurney, 'International Migrant Flows: Coalition Formation among Countries and Social Welfare', *EURO Journal on Computational Optimization*, 11 (2023), 100062 <https://doi.org/10.1016/j.ejco.2023.100062>

⁵ Jeremy Sarkin and Mark Koenig, 'Developing the Right to Work: Intersecting and Dialoguing Human Rights and Economic Policy', *Human Rights Quarterly*, 33.1 (2011), 1–42 <https://doi.org/10.1353/hrq.2011.0010>

national borders, which might be due to climate change, conflict, violence, and war, as well as poverty.⁶

Nonetheless, the significant contributions of migration precede the migrants to achieve more excellent economic opportunities and prosperity. By 2030, 70% of Indonesia's population is projected to be of working age. This is both an opportunity and a challenge for the country. The main benefit for society is that Indonesians can have a prosperous life at home by working and earning an income. However, this depends on creating sufficiently profitable jobs for the approximately 2 million workers who enter the job market each year.⁷ The work obtained by a person is a human right regulated in the Indonesia Constitution 1945 as stipulated in Article 27, Article 28, and Article 33 of the 1945 Constitution of the Republic of Indonesia that everyone has the same position in law and government and is entitled to get a job to meet the needs of life that proper and authorized to work by getting fair and wise treatment in the implementation of employment relations to meet economic conditions with the principle of kinship, and strengthened with Article 4 of Law No. 13 of 2003 concerning Manpower. Thus, the objective of Indonesia in the Indonesian Constitution can be achieved.⁸

Working overseas appears very challenging, and in terms of job availability, most Indonesian migrants have gained employment in the so-called 3D (Difficult, Dirty, and Dangerous) sectors abandoned by locals. However, several healthcare, housing, and security barriers were similarly experienced. Unskilled labor continues to dominate the Indonesian migrant worker's population, showing that despite the numerous problems encountered abroad, remittances to the Indonesian economy constantly and significantly increased.⁹ Indonesian migrant workers do not fare well and receive treatment that violates human rights from irresponsible employers and company service bureaus. In the end, the Government essential 'homework' because it is its responsibility to prepare citizens by paying attention to citizens' rights to work and get a job as well as providing employment opportunities as mandated in the constitution, to achieve the needs of a decent living for workers and their families. The work obtained and needed by citizens is the government's responsibility and is a human right. However, the reality of employment opportunities is minimal, so the Governments do not fulfill human rights as citizens.

There are exciting challenges regarding the protection of migrant workers. Article 1 Letter a. of the Migrant Worker Protection Law states that Indonesian migrant workers meet the requirements as job seekers who work abroad and are registered with the district/city government agency responsible for employment. This article emphasizes that unregistered or illegal migrant workers do not receive legal protection. Article 28D paragraph (1) of the Constitution of the Republic of Indonesia states that everyone has the right to recognition,

⁶ T. Spaan, E., & Van Naerssen, 'Migration Decision-Making and Migration Industry in the Indonesia–Malaysia Corridor', 44(4): 680-695', *Journal of Ethnic and Migration Study*, 44.4 (2017), 68–695 <https://doi.org/10.1080/1369183X.2017.1315523>

⁷ Sheila Kusuma Wardani Amnesti and others, 'Higher Education with Disabilities Policy: Ensuring Equality Inclusive Education in Indonesia, Singapore and United States', *Journal of Human Rights, Culture and Legal System*, 3.3 (2023), 412–40 <https://doi.org/10.53955/jhcls.v3i3.135>

⁸ Salvador Santino F. Regilme, 'Contested Spaces of Illiberal and Authoritarian Politics: Human Rights and Democracy in Crisis', *Political Geography*, 89 (2021), 102427 <https://doi.org/10.1016/j.polgeo.2021.102427>

⁹ Ali Maksum, 'Indonesian Post-Migrant Workers: A Challenging Problem for Human Security', *Social Sciences & Humanities Open*, 4.1 (2021), 100223 <https://doi.org/10.1016/j.ssaho.2021.100223>

guarantees, protection, fair legal certainty, and equal treatment before the law. Therefore, to fulfill legal security and legal assurance for Indonesian Migrant Workers who work outside the territory of Indonesia, the Government must make various efforts to make this happen. Protection and legal certainty for Indonesian Migrant Workers by implementing statutory regulations, including Law No. 18 of 2017 concerning the Protection of Indonesian Migrant Workers, previously regulated in Law No. 39 of 2004 concerning Placement and Protection of Indonesian Migrant Workers Abroad.

One way to protect migrant workers can be done effectively through supervision. This supervision is a consequence of the issuance of a permit. In this case, it is the Company Permit for Placement of Indonesian Migrant Workers (SIP3MI). In Job Creation Law, SIP3MI is a written permit given by the Central Government to Indonesian legal entity business entities that will become Indonesian Migrant Worker Placement Companies. The definition of SIP3MI in the Omnibus Law is different from Law No. 18 of 2017, had a significant impact, and received a lot of criticism from legal scholars and employment law experts. In state administrative law, permit issuance is closely related to who the institution that issues it is, what rights and obligations arise from its distribution, and how the permit is monitored.¹⁰ Bearing in mind the purpose of licensing is for government control and supervision of activities in some issues whose provisions contain guidelines that both interested parties and authorized officials must implement.

However, this regulation change caused significant adverse changes in subsequent articles, such as in Article 51 of Law No. 18 of 2017 jo. Job Creation Law. The existence of protection for migrant workers is threatened. States benefit financially from the remittances received by “remittance heroes,” yet migrant workers are constantly in a precarious position, especially when their contracts expire and they return to their home countries. The conditions of uncertainty migrant workers face impact on their families, society, and the nation due to high levels of unemployment. States can hardly remain mute over the post-migrant workers while unwisely benefiting from their remittances. Instead, the government should implement long-term strategies, such as creating more job openings so that workers do not have to look for work abroad.¹¹

The enactment of Law No. 18 of 2017 concerning the Protection of Indonesian Migrant Workers gives new hopes and very high ideals in order to realize legal protection and legal certainty for Indonesian Migrant Workers as a very large foreign exchange contributor to country, taking into account the notes above. The Government's authority and a very large role in this law give great hope that the creation of legal protection and legal certainty for Indonesian Migrant Workers can be done from the beginning before work, at work and after work so that companies sending services for employment against Migrants Workers are correct-be supervised since from the region to the Center, and the company is only a giver of placement. However, the fundamental problem is administrative matters, which permit neglect to ensure social justice protection.

¹⁰ Herwig C.H. Hofmann, Gerard C. Rowe, and Alexander H. Türk, ‘Administrative Supervision’, in *Administrative Law and Policy of the European Union* (Oxford University Press, 2011), pp. 707–64 <https://doi.org/10.1093/acprof:oso/9780199286485.003.0023>

¹¹ Elfrida Ratnawati and others, ‘The Cabotage Principle on Law Enforcement for Licensing Ship Operations in Indonesian Waters’, *Journal of Human Rights, Culture and Legal System*, 3.3 (2023), 678–705 <https://doi.org/10.53955/jhcls.v3i3.182>

This kind of research has been carried out several times regarding the conditions of protection for migrant workers. However, among these studies, this article brings its novelty because it uses the latest legal regulations and elaborations on the concept of licensing and supervision as a form of protection for migrant workers rather than just discussing the importance of counseling and providing skills.¹² This is very important, but not in the legal realm unless the article discusses the regulation and authority of the Regional Government to carry out preventive action in the form of education. Several previous studies conducted by Maria Hastuti et al. (2019) stated that the diaspora strategy is almost impossible for poor people to become immigrant workers if they see the possibility that their employers will cheat them unless protection from their country of origin and country of origin is available. This research emphasizes security at the end, but the main discussion is on diaspora strategies.¹³

Apart from that, research that may overlap but differs from this article was conducted by Fatimatul Uluwiyah (2021). This research discusses protection for Indonesian migrant workers, but the focus is on the requirements and procedures for applying for and providing legal assistance for migrant workers. Indonesians abroad, and how the government responds in providing legal aid to migrant workers.¹⁴ Meanwhile, this research focuses on changes in SIP3MI after the enactment of the Job Creation Law. The study conducted by Ali Maksum (2021) emphasizes the aspect of protecting migrant workers' human rights. However, the approach focuses on post-migrant workers' problems for which there are no regulations or policies yet. According to him, migrant worker policies focus on host country policies and the process of returning migrant workers only. Migrant workers in the health sector have also been studied, where the focus of the research is on the negative impacts of health workers who leave their country to get better jobs. Countries left behind are experiencing research showing poorer health service provision in low and middle income countries, as well as large economic impacts in countries that have invested in training their health workforce.¹⁵

Based on legal issues and several comparisons with previous studies, this research provides significant novelty in preventive efforts to protect migrant workers through legal certainty of SIP3MI supervision. This research has significant urgency to solve the problem of Indonesian migrant workers, whose workforce continues to increase drastically from year to year. Arrangements for protecting migrant workers with a socially just concept must be proposed for consideration by the government in taking the next strategic steps.

¹² Heniyatun Heniyatun, Retno Rusdijjati, and Puji Sulistyarningsih, 'Protection of Informal Workers as Participants Through the Magelang Regional Social Security System', *Varia Justicia*, 14.2 (2018), 78–86 <https://doi.org/10.31603/variajusticia.v14i2.2379>

¹³ Maria Hastuti and others, 'Migration and Development: A Case Study of Indonesian Migrant Workers', in *Proceedings of the Social and Humaniora Research Symposium (SoRes 2018)* (Paris, France: Atlantis Press, 2019) <https://doi.org/10.2991/sores-18.2019.131>

¹⁴ Fatimatul Uluwiyah, 'The Voice of Indonesian Migrant Workers Abroad: How Is the Legal Assistance for Them?', *The Indonesian Journal of International Clinical Legal Education*, 3.3 (2021), 257–66 <https://doi.org/10.15294/ijicle.v3i3.48262>

¹⁵ J. Eaton and others, 'The Negative Impact of Global Health Worker Migration, and How It Can Be Addressed', *Public Health*, 225 (2023), 254–57 <https://doi.org/10.1016/j.puhe.2023.09.014>

2. Research Method

This research is normative legal research that is descriptive using legal and conceptual approaches, especially regarding legal protection, licensing, supervision, labor, and social justice. This research conducted a study regarding legal protection for Indonesian migrant workers abroad based on several regulations, especially Law No. 6 of 2023 (Omnibus Law—Job Creation Law) and Law No. 18 of 2017. This research also adds an economic and social concept approach to analyze and examine the factors that make workers become migrant workers. This qualitative research explores literature and secondary sources, including scientific studies, reports from international organizations, reports from Indonesian state authorities regarding managing Indonesian migrant workers, and several news reports. This article provides thoughts on the concept of welfare and the state's role in realizing welfare for Indonesian migrant workers through preventive efforts in the form of monitoring SIP3MI, which changed the promulgation of the Job Creation Law.

3. Results and Discussion

3.1. The Legal Urgency of Migrant Workers Protection and Its Effectiveness

Amid increasing interest in intra-regional mobility and recognizing the need for more robust protection infrastructure for workers abroad, Indonesia has several opportunities. The Association of Southeast Asian Nations Economic Community was launched at the end of 2015, aiming to facilitate the labor movement in Southeast Asia.¹⁶ Establishing the Republic of Indonesia aimed to create prosperity for its people. Usually, Indonesia seeks to create a prosperous country. National development aims to improve society's welfare, including economic growth and fulfilling all citizens' basic social and economic needs so that at least they can live at a minimum standard of living. Those are the moral ideals of the nation that were created in the formation of this country. That is the compass or direction that the Indonesian people want to achieve.¹⁷ The issue and ideals of realizing prosperity and justice have become a concern for many countries, including Indonesia. The state not only exists as a political framework tasked with discovering security and order but is also responsible for supporting the realization of a just, prosperous society even though the debate about the theory of justice and how the concept of justice is realized continues to develop, especially among philosophers and legal experts at all times.¹⁸ In Indonesia, the formulations in Pancasila and the constitution have provided a reference for realizing the ideals of a welfare state. However, the values in Pancasila and the constitution are not necessarily translated in harmony with the laws below. This is the problem of protecting migrant workers in Indonesia, especially regarding licensing.

Whereas, in Law No. 18 of 2017, it is stated that the Protection of Indonesian Migrant Workers that must be considered are: i) Protection against the fulfillment of rights and obligations before, being and after conducting work relations; ii) Protection against the provisions of insurance; iii) Protection of prospective workers and or Indonesian Migrant

¹⁶ Nur Putri Hidayah, Quincy R. Cloet, and David Pradhan, 'The Implementation of Labor Development Principles According to Job Creation Law as a Reason to Protect Wages Rights', *Bestuur*, 9.1 (2021), 94 <https://doi.org/10.20961/bestuur.v9i1.49252>

¹⁷ Khudzaifah Dimiyati and others, 'Indonesia as a Legal Welfare State: A Prophetic-Transcendental Basis', *Heliyon*, 7.8 (2021), e07865 <https://doi.org/10.1016/j.heliyon.2021.e07865>

¹⁸ Ani Yumarni and R. Yuniar Anisa Ilyanawati, 'Refleksi Filosofis Dari Kisah "Les Miserables" Tinjauan Keadilan Perspektif Filsafat Hukum Dan Filsafat Hukum Islam', *De'Rechtsstaat*, 6.2 (2020), 85–98 <https://doi.org/10.30997/jhd.v6i2.3345>

workers themselves and their families; iv) Fulfillment of rights and obligations in Human Rights; v) Legal certainty and legal and economic protection for Indonesian migrant workers and their families; vi) Protection of job placement for companies that channel it to take full responsibility; vii) Legal protection and legal certainty of administration in accordance with statutory provisions; and viii) other legal protections for the benefits of prospective and Indonesian Migrant Workers. Fundamentally, the explanation of the 8 (eight) points above are keywords for the state's guarantee in providing protection for Indonesian migrant workers which reflects respect for human existence. Furthermore, guarantees of prosperity and progress in all aspects of life, both for the present and the future, are the legal basis built in the formation of the Indonesian Migrant Worker Protection Law which emphasizes that the protection of Indonesian migrant workers must fulfill all stages of protection which includes before, during and after work. Urgency of Indonesian Migrant Workers Protection

International labor migration is the movement of people from one country to another for employment purposes. One of the reasons for this is that the workforce is abundant but not commensurate with the existing employment opportunities. The table below shows the high age of the workforce.

Table 1. The Percentage of Labor Force to Working Age Population According to Age

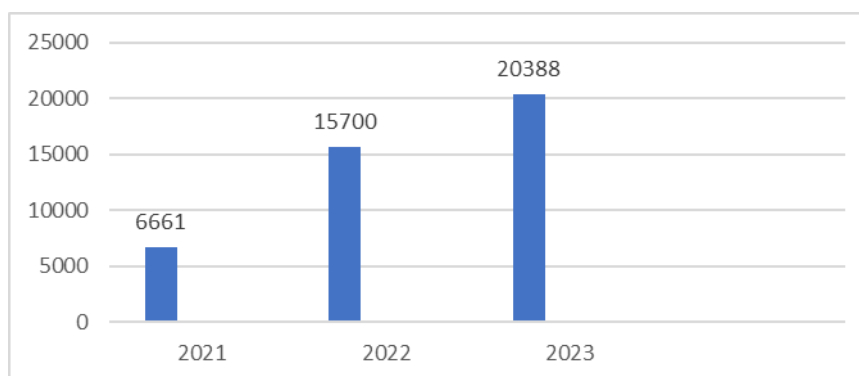
Age	Percentage of Labor Force to Working Age Population According to Age Group (%)					
	2021			2022		
	Feb	Aug	Yearly	Feb	Aug	Yearly
15-19	29,00	27,79	-	26,99	28,83	-
20-24	67,30	66,77	-	67,98	68,01	-
25-29	76,26	75,48	-	76,56	75,32	-
30-34	76,60	77,17	-	76,68	76,92	-
35-39	79,20	79,38	-	79,23	79,12	-
40-44	81,77	81,73	-	81,69	81,39	-
45-49	81,49	81,96	-	81,97	81,93	-
50-54	80,12	79,58	-	80,96	81,15	-
55-59	74,24	73,67	-	76,52	75,41	-
60 +	51,08	50,84	-	55,73	54,09	-
Total	68,08	67,80	-	69,06	68,63	-

Source: Indonesian Statistics Center

Therefore, many workers work abroad, hoping to open up good job opportunities. Based on data from the National Agency for the Placement and Protection of Indonesian Workers (BNP2TKI), from January to April 2018, as many as 87,000 Indonesian Migrant Workers went abroad to try their luck abroad. On average, 20,000 workers left every month in these four months, from 2016 to 2018. The proportion of employment between the formal and informal sectors is relatively balanced. Meanwhile, according to data from Central Bank of Indonesia, it was reported that the number of Indonesian migrant workers in 2019 was 3.74 million people. In 2020, when the COVID-19 pandemic occurred, it decreased to 3.19 million and 3.25 million in 2021. In 2022, it rose 5.59% from the previous year, 3.44 million people.

Reading data from BP2MI, the placement of Indonesian Migrant Workers for 2021, 2022, and 2023 experienced a very significant upward trend, more than three times as much in the middle of 2023 compared to the whole of 2021.

Graph 1. Number of placements of Indonesian Migrant Workers 2021-2023



Source: BP2MI

Based on the graph above, the number of placements of Indonesian Migrant Workers has increased over the last two years. In June 2023, orders reached 20,388; in June 2022, there were 15,700 placements; and in June 2021, there were 6,661 placements. In June 2023, most Indonesian Migrant Workers were placed in the formal sector, with 11,645 posts (55%), while in the informal sector, there were 8,743 placements (45%). Based on gender, in June, there were 7,757 (38%) male Indonesian Migrant Workers and 12,631 (62%) female Indonesian Migrant Workers.

Several factors are causing Indonesian Migrant Workers to look for work abroad, including limited job vacancies in Indonesia. Limited and narrow employment opportunities are the reasons for prospective migrant workers choosing to work overseas to improve their own and their families' economies and not become unemployed. In practice, the relationship between workers and employers is a dependency relationship, but the dependency relationship is always one-sided. This is because industrial relations are power relations. In power relations, some rule and are controlled; some practice and are governed. Due to labor conditions that place supply and demand for labor unbalanced, the gap is sharper. The subordination has made workers vulnerable to exploitation actions with all their modifications. Minor conditions are further strengthened by external factors such as political, economic, and social conditions.¹⁹

Second, higher wages in other countries, ideal and good wage law must be applied in employment relations, must be based on Pancasila noble values so that the hope for the achievement of justice and legal certainty for the parties, especially for workers and employers/employers. Wages are a crucial issue in the field of labor, and even if they are not professionals in handling wages, it is not uncommon for them to become potential disputes and encourage strike action and demonstrations. Wages are a fundamental issue in the field of labor and industrial relations. Because of wages, wages are the top demand in various strikes and workers' demonstrations. In the General Explanation of Government Regulation No. 78 of 2015 concerning Wages that wages are one of the most sensitive issues in the implementation of employment relations.²⁰ Various related parties see wages from different sides. At the practical empirical level, the handling of wages is not only

¹⁹ F. Nurfatriani and others, 'Oil Palm Economic Benefit Distribution to Regions for Environmental Sustainability: Indonesia's Revenue-Sharing Scheme', *Land*, 2022, 1–24 <https://doi.org/10.3390/land11091452>

²⁰ Aris Irawan and others, 'The Role of Institutionalization Police Support in Emergency Situation : Evidence from Indonesia', *Journal of Human Rights, Culture and Legal System*, 3.1 (2023), 109–33 <https://doi.org/https://doi.org/10.53955/jhcls.v3i1.80>

related to technical aspects and economic aspects, but also the legal aspects that underlie and underlie how matters relating to wages are carried out safely and right. Based on the applicable laws and regulations. In connection with that, to handle wages in a professional manner absolutely requires comprehensive understanding of all three aspects.²¹

The provisions of Article 88 of Law No. 13 of 2003 were amended regarding wages. Article 88 of the Manpower Law was changed to Article 81, paragraph (24) of Law No. 11 of 2020 concerning Job Creation. Article 1 Number 30 of Law No. 13 of 2003 confirms that wages are the amount of money paid by employers to their workers for work performed or orders given. Wages are part of the welfare of workers/laborers, which employers and these rights must fulfill must be protected by the state. Wages should refer to the principle of improving the welfare of workers and their families.²² For Indonesian Migrant Workers, doing and looking for work outside Indonesia is the main reason for getting a large salary or income to fulfill their living needs and aspirations that they and their families expect. The wages received by Indonesian Migrant Workers are, in fact, more significant than in Indonesia. The remuneration system received by Indonesian Migrant Workers is adjusted to the Work Agreement with the Company, which provides employment and consideration with employers or employers in the destination country.

Third, limited human resource skills for Indonesian Migrant Workers The word wealth is used by Smith in his book *An Inquiry Into The Nature and Causes of The Wealth of Nations* (1776), which is popular with the Judge of The Wealth of Nation In explaining the source of prosperity/welfare, Smith views labor and division of labor as sources of prosperity Smith paid great attention to the problem of division of labor and investigated the meaning of division of labor in economic life In this book Smith for the first time explains the theory of division of labor as the basis for mass production The division of labor and the pursuit of interests individually encourage exchange and exchange promote the division of labor, the division of labor intensively will be able to increase work productivity Finally, work productivity increases the prosperity of the nation. An increase in the quantity of work that is large as a consequence of the division of labor allows three things, namely: a) Improving the Skills of Workers; b) The time savings that are usually wasted due to displacement of one type of work to another; and c) The discovery of a large number of machines which simplify and shorten the work, and that allows a worker doing the work of many people.²³

In connection with the expertise and capabilities of each Worker in doing a job, training, and coaching of workers must be done so that they can compete nationally and internationally. The ability and expertise of reliable Workers will impact wages or salaries that are very high, following the expectations of Indonesian Workers so they can compete with other countries internationally.²⁴ Lastly, but there may be other factors in the research, namely the influence of modernization, technology, ideology, politics, society, culture, and economics. Human needs are increasingly changing along with the times. Environmental

²¹ Rebecca J Traub and others, 'Zoonotic Hookworms of Dogs and Cats – Lessons from the Past to Inform Current Knowledge and Future Directions of Research', *International Journal for Parasitology*, 51.13 (2021), 1233–41 <https://doi.org/https://doi.org/10.1016/j.ijpara.2021.10.005>

²²Hidayah, R. Cloet, and Pradhan.

²³ Susanna Esposito and others, 'Borrelia Burgdorferi Infection and Lyme Disease in Children', *International Journal of Infectious Diseases*, 17.3 (2013), e153–58 <https://doi.org/https://doi.org/10.1016/j.ijid.2012.09.014>

²⁴ Felix Löttsch and others, 'Toxocariasis in Humans in Africa – A Systematic Review', *Travel Medicine and Infectious Disease*, 20 (2017), 15–25 <https://doi.org/https://doi.org/10.1016/j.tmaid.2017.10.009>

lifestyle factors, as well as ideological, economic, and political factors, will significantly influence the ever-increasing human needs. Indonesian migrant workers who leave their homeland to work abroad are the primary consideration in getting decent wages and being able to meet the needs of themselves and their families for prosperity.

According to The International Organization for Migration (IOM)—the United Nations, Indonesia is one of the countries that are a source of migrant workers worldwide, most of whom work in the low-wage sector. Through skills development and remittances, Indonesian migrant workers significantly contribute to Indonesia's sustainable development. In 2018, remittances from Indonesian migrants reached US\$ 11.2 billion. According to the data above, the increasing number of Indonesian Migrant Workers in their development requires attention from the Government to provide legal protection and legal certainty for Indonesian Migrant Workers who do not get decent jobs in Indonesia to fulfill their life needs and get a decent wage to meet the needs of life of workers and their families for a better future. The number of migrant workers, which has reached 3.6 million people, certainly requires specific regulations and protection policies. Through designated institutions, the government must protect migrant workers in various ways, both preventive and those that can be implemented when a case occurs. However, with the large number of migrant workers and the placement of migrant workers spread across various countries, of course, preventive steps would be better to take than waiting for a threat or danger to occur. Therefore, arrangements that increase the effectiveness of migrant worker protection.²⁵

The protection of Indonesian migrant workers was strengthened by the enactment of Law No. 18 of 2017, which replaced Law No. 39 of 2004. The form of protection for Indonesian migrant workers, starting to be given to prospective migrant workers, regulates rights, namely: a) get a job abroad and choose a job according to their competence; b) gain access to increase personal capacity through education and job training; c) obtain correct information regarding the job market, placement procedures and working conditions abroad; d) obtain professional and human services as well as treatment without discrimination before work, during work, and after work; e) carry out worship in accordance with the religion and beliefs held; f) obtain wages in accordance with the prevailing wage standards in the destination country of placement and/or an agreement between the two countries and/or a work agreement; g) obtain protection and legal assistance for actions that may degrade the dignity in accordance with the provisions of the laws and regulations in Indonesia and in the destination country of placement; h) obtain an explanation of the rights and obligations as stated in the employment agreement; i) get access to communicate; j) mastering travel documents during work; k) associate and gather in the destination country of placement in accordance with the provisions of the laws and regulations in force in the destination country of placement; l) obtain guarantees of protection for the safety and security of the return of Indonesian migrant workers to their areas of origin; and/or m) obtain documents and work agreements for prospective Indonesian migrant workers and/or Indonesian migrant workers.

However, changes to strategic articles through the Job Creation Law impact the protection of migrant workers, one of which is changes to the SIP3MI regulations. Before discussing the safety of migrant workers through permits and supervision, this article first provides a general overview of the factors causing the increase in Indonesian migrant

²⁵ Graeme Hugo, 'Information, Exploitation and Empowerment: The Case of Indonesian Overseas Workers', *Asian and Pacific Migration Journal*, 12.4 (2003), 439–67 <https://doi.org/10.1177/011719680301200402>

workers, which, of course, requires that permits be granted strictly to carry out measurable supervision.

3.2. Legal Protection of Indonesian Migrant Workers through a Socially Justice Licensing Model

Migrant workers take significant risks when deciding to work in another country, especially those who do so illegally or are placed by irresponsible companies. Not a few migrant workers have complained about cases that occurred during the contract period, and it is not uncommon for migrant workers to end up in human trafficking cases. This occurs in the formal and informal sectors and does not look at gender. However, day by day, it is found that there are more complaints from female migrant workers than male migrant workers. In research conducted by Muti Hariati (2013), it was found that Indonesian women still have the desire to become migrant workers, even though some of them do not receive protection from the state, both economically and politically. Many of them do not get full rights as workers and sometimes even lose fundamental rights such as minimum wages, do not receive salaries, are detained, or employers refuse to return their workers' passports. In addition, many of them have become victims of illegal levies by police and immigration staff in Indonesia and receiving countries, extortion of money, and confiscation of valuables.²⁶ For example, migrant workers on cruise ships experience an uncertain work environment, and crises threaten the workers' livelihoods.²⁷

The things above are certainly very contradictory to guaranteeing human rights. The ideal of universal human rights is one of the most important political legacies of the 20th century. Fundamental human rights do not differentiate between people based on nationality and locality.²⁸ According to Locke, foreigners (migrants) cannot be denied local protection and respect because of and from all people.²⁹ Fundamental rights have an anti-utilitarian insinuation and cannot be overridden by the government even though this is necessary in the public interest.³⁰ These rights highlight individual security and autonomy; their foundation rests on human dignity, equality, equal rights, equal care, and equal respect.³¹ The concept of legal protection is one of the important things humans need to protect their rights and obligations to achieve legal certainty of human dignity. Legal protection is the protection of dignity and the recognition of human rights possessed by legal subjects in a country based on legal protection from arbitrariness.³²

²⁶ Muti Hariati Hussin, 'Factors Influencing Indonesian Women Becomes Migrant Workers', *Jurnal Hubungan Internasional*, 2.1 (2013), 65–74 <https://doi.org/10.18196/hi.2013.0028.65-74>

²⁷ Thomas Neise, Tatiana López, and Abdul Fikri Angga Reksa, 'Rethinking Labour Risk in Global Production Networks: Resilience Strategies of Cruise Ship Workers in the Wake of the COVID-19 Pandemic', *Geoforum*, 145 (2023), 103842 <https://doi.org/10.1016/j.geoforum.2023.103842>

²⁸ Guy S. Goodwin-Gill, 'International Law and Human Rights: Trends Concerning International Migrants and Refugees', *International Migration Review*, 23.3 (1989), 526 <https://doi.org/10.2307/2546427>

²⁹ James A. Harris, 'The Interpretation of Locke's Two Treatises in Britain, 1778–1956', *British Journal for the History of Philosophy*, 28.3 (2020), 483–500 <https://doi.org/10.1080/09608788.2019.1677215>

³⁰ Richard Bellamy, 'Ronald Dworkin, Taking Rights Seriously', in *The Oxford Handbook of Classics in Contemporary Political Theory* (Oxford University Press, 2017) <https://doi.org/10.1093/oxfordhb/9780198717133.013.18>

³¹ Shailendra Kumar and Sanghamitra Choudhury, 'Migrant Workers and Human Rights: A Critical Study on India's COVID-19 Lockdown Policy', *Social Sciences & Humanities Open*, 3.1 (2021), 100130 <https://doi.org/10.1016/j.ssaho.2021.100130>

³² Eneh Suhartini, 'Legal Political Perspective Wage System to Realize Social Justice', *Journal of Morality and Legal Culture*, 1.2 (2020), 122 <https://doi.org/10.20961/jmail.v1i2.46898>

Comparing complaints about migrant worker cases in June 2021 with June 2022, there was an increase in the number of complaints by 4%, from 185 complaints to 193 complaints. Meanwhile, from June 2022 to June 2023, complaints decreased to 107. Based on gender, entering June 2023, more complaints were submitted by female Indonesian migrant workers, to be precise, 73% or 78 complaints, and 27% or 29 complaints from men. Fluctuations occur in the placement of male Indonesian Migrant Workers. Meanwhile, complaints by female Indonesian Migrant Workers decreased from May to June. Based on Complaint Media, the top three complaint media used by Indonesian Migrant Workers and their families are letters (34 complaints), direct (33 complaints), and telephone (30 complaints). These three media contributed the most to complaints from Indonesian Migrant Workers, namely 91% of the total complaints. Furthermore, there were seven complaints via social media and one each via e-mail, short message system and other media in June 2023. This data shows that there are still many cases of placement of migrant workers. In one study, it was even stated that to remain competitive during a crisis, labor suppliers in developing countries lowered the safety ratings of their workers. This is very likely to happen during Covid-19. It will be increasingly difficult to imagine if poor protection arrangements increase the decline in worker safety criteria.³³

Seeing that many cases still occur, whether reported by workers or not reported or discovered, the government has not been effective enough in monitoring migrant workers from the permits issued to companies. Therefore, regulations for the protection of migrant workers that are not social will only worsen their fate. In this research, changes to the SIP3MI regulations through the Job Creation Law can be highlighted. In Article 51 of the Job Creation Law, the Government makes a policy that provides accessible permits for establishing Workforce Placement Companies. This article eliminates permission from the Minister regarding the provision of P3MI, even though the ministry has a strategic position to prevent migrant workers from leaving illegally or non-procedurally. This convenience can loosen the government's control and evaluation of P3MI in regulating the recruitment of migrant workers, promoting legal practices and eliminating recruitment malpractices. Apart from that, the central government has not held who and what institutions issue P3MI permits and whether the institutions in question have experience and professionalism. Regarding permits, currently, they are considered purely administrative requirements even though permission has binding legal consequences.

It is necessary first to understand the basic concept of granting permits and what rights and obligations will arise later for the giver and recipient of the permit. Bagir Manan stated that permission means an agreement from the authorities based on statutory regulations to allow specific actions or actions to be carried out which are generally prohibited. Lestari and Djanggih (2019) stated that permits are one of the instruments used as a juridical means to regulate the behavior of community members. The concept above shows that permits are regulatory or controlling norms, so people carrying out certain activities must comply with applicable legal provisions. Therefore, permits become a "preventive instrument." Meanwhile, Spelt and Berge (1955) explain that one of the purposes of issuing permits is to direct, that is, control certain activities. Permits are also used to direct the selection of activities so that the permit administrator must fulfill specific requirements. Likewise, the SIP3MI permit is given by the government to an Indonesian legal entity that will become an Indonesian Migrant Worker Placement Company (P3MI). To obtain the authority to place

³³ Sijeong Lim and Aseem Prakash, 'Do Economic Problems at Home Undermine Worker Safety Abroad?: A Panel Study, 1980–2009', *World Development*, 96 (2017), 562–77
<https://doi.org/10.1016/j.worlddev.2017.03.038>

migrant workers, P3MI must obtain a permit called an Indonesian Migrant Worker Recruitment Permit (SIP2MI).

Granting this permit certainly creates rights for the company in the form of the right to place migrant workers, and is followed by obligations—duties and responsibilities regulated in Article 52 of Law No. 18 of 2017, namely: looking for job opportunities; placing Indonesian Migrant Workers; and resolve the problems of Indonesian Migrant Workers put there. Because P3MI is burdened with the responsibility of resolving workers' issues if disputes or cases arise, to obtain a SIP3MI permit, P3MI must be a credible company, as proven by authorized capital deposits and worker protection guarantee deposits. This is regulated in Article 54 of Law No. 18 of 2017. For the government, permits provide an obligation to control and supervise the use of permits by permit recipients. This is because the concept of permits is used as an instrument of government control and supervision for society, including the business world.³⁴ Arrangements not by the licensing concept open up opportunities for degrading the actual objectives of granting permits. Below, we will compare the changes to the articles relating to SIP3MI after revisions through the Job Creation Law.

Table 2. Comparison of Changes in SIP3MI Settings after the Promulgation of the Job Creation Law

Indicator	Law No. 18 of 2017	Job Creation Law
SIP3MI Publisher	SIP3MI was issued by the Minister “Article 51 (1) Companies that will become Indonesian Migrant Worker Placement Companies as intended in Article 49 letter b must obtain written permission in the form of SIP3MI from the Minister. ”	SIP3MI is issued by the Central Government through Business Licensing “Article 51 (1) Indonesian Migrant Worker Placement Companies as referred to in Article 49 letter b are required to have permits that comply with Business Licensing and are issued by the Central Government. ”
Regulations/institutions that will regulate the SIP3MI technical mechanism	Ministerial regulation “Article 51 (3) Further provisions regarding written permits in the form of SIP3MI as referred to in paragraph (1) are regulated by Ministerial Regulations. ”	Central Government “Article 51 (3) Business Licensing as intended in paragraph (1) must meet the norms, standards, procedures and criteria set by the Central Government. ”
Transitional Provisions	-	“Article 89A At the time the Law on Job Creation came into force, the definition or significance of SIP3MI in Law No. 18 of 2017 concerning the Protection of Indonesian Migrant Workers adjusted to the provisions regarding Business Licensing. ”

Basically, before the promulgation of the Job Creation Law, the granting of P3MI permits as regulated in Article 51 of Law No. 18 of 2017 and Minister of Manpower Regulation No. 10 of 2019 concerning Procedures for Providing SIP3MI has accommodated company licensing requirements in the worker placement sector. This is key, as SIP3MI is not just a company but is related to 'humans,' so it should not be

³⁴ Victor Bekkers and Vincent Homburg, ‘Administrative Supervision and Information Relationships’, *Information Polity*, 7.2,3 (2003), 129–41 <https://doi.org/10.3233/IP-2002-0007>

considered the same as licensing companies in the goods trading sector. The Job Creation Law revised Article 51 by changing the issuance of SIP3MI with Business Licensing issued by the Central Government. This will damage the governance of P3MI licensing, which has just been regulated by Law No. 18 of 2017 and Minister of Manpower Regulation No. 10 of 2019. The permits given to P3MI, one aspect of ensuring the protection of migrant workers, are simplified into administrative permits by the Job Creation Law. Meanwhile, in labor migration, those migrating are not goods but people who must be protected. The removal of the Ministry of Manpower's authority to provide SIP3MI, which was replaced by the central government, is considered to disrupt the governance of SIP3MI.

Changes in the permit giver will affect who carries out the obligation to supervise the permit.³⁵ Moreover, Article 51 paragraph (3) states that further technical regulations are no longer in the form of Ministerial Regulations but are given to the Central Government. The imposition of completely centralized licensing matters has a positive impact. Still, it may cause many sectors to be neglected because they are not managed by the proper Ministries. The mistake of thinking that permits are an administrative requirement and a source of income is a flaw in the logic of legislators. Moreover, migrant workers cannot be equated with buying and selling goods within a company. But also safeguard the human rights of workers.³⁶ The government should not just take the country's foreign exchange 'profits' from migrant workers but also think about their safety and protection. Djatmiati (2007) states that permits prevent deviant behavior from society so that they comply with applicable legal provisions and are not just a source of income. Perhaps the Job Creation Law has been further regulated in lower technical regulations, which accommodate the protests of migrant worker observers and labor unions. State institutions are adapting to Business Licensing and trying not to create a prolonged administrative commotion from this change. However, errors in understanding the concept of licensing remain a note in the Job Creation Law that cannot be ignored. In the end, migrant workers who have high risks in their work must give in again to government policies that do not pay attention to community aspirations and participation.

Article 45 regulates the duties of the Minister, including as a policy maker, to formulate norms and standards regarding: 1) Protection of Indonesian Migrant Workers; 2) supervision of placement implementation; 3) determination of Social Security administrators; 4) fulfillment of the rights of Indonesian Migrant Workers. The Minister is also tasked with supervising and evaluating the implementation of policies to protect Indonesian migrant workers. This article clearly describes how the publication of SIP3MI gives rise to the Minister's obligations in the form of supervision. Regulatory changes by the Job Creation Law will impact this.

Supposedly, legal protection is carried out as an embodiment of the creation of social justice, and legal certainty in the implementation of fulfilling rights and obligations in accordance with the agreements of justice can be fulfilled.³⁷ Social justice must be realized in all lines of life, and every human product must contain the values of justice because, in reality, unjust behavior and consequences will give birth to imbalances and disobedience

³⁵ Kateryna Bortniak and others, 'Experience of Administrative and Legal Support for Control and Supervision', *Revista Amazonia Investiga*, 12.63 (2023), 289–98 <https://doi.org/10.34069/AI/2023.63.03.27>

³⁶ Wayne Palmer and Antje Missbach, 'Enforcing Labour Rights of Irregular Migrants in Indonesia', *Third World Quarterly*, 40.5 (2019), 908–25 <https://doi.org/10.1080/01436597.2018.1522586>

³⁷ S Jahfari and others, 'High Seroprevalence of Borrelia Miyamotoi Antibodies in Forestry Workers and Individuals Suspected of Human Granulocytic Anaplasmosis in the Netherlands', *New Microbes and New Infections*, 2.5 (2014), 144–49 <https://doi.org/https://doi.org/10.1002/nmi2.59>

that damage oneself, humans themselves, and the universe. John Ruggie, as Special Representative for Business and Human Rights, United Nations (UN). In his report, John Ruggie introduced a tripartite framework called “Protect, Respect and Restore.”³⁸ According to the first principle of the Ruggie report, States must 'protect' against human rights violations committed by non-state actors, including the business world, that impact people within their territory or jurisdiction. The second principle states that businesses are responsible for 'respecting' human rights. Such companies are “expected to comply with laws, even if such laws are not enforced, and to respect the principles of relevant international instruments in the absence of national laws.” Access to 'redress' in human rights violations is the third principle. Access to redress includes both judicial and non-judicial complaint resolution mechanisms.³⁹

To reduce the risk of arrangements that are not compatible with existing conditions, it can be referred to Law No. 18 of 2017 gives the role of the central government to the village government, so this law has been adapted to the decentralized model in Law No. 23 of 2014 concerning Regional Government and Law No. 6 of 2014 concerning Villages. The role of Regional Government in providing protection to migrant workers is carried out starting from villages, districts/cities, and provinces, from before work to after work. The Regional Government plays a role starting from providing information on requests (job orders) originating from Representatives of the Republic of Indonesia, Employers and Business Partners abroad. The Regional Government provides one-stop integrated services and facilitates the departure and return of Indonesian Migrant Workers. Indonesian migrant workers who depart must have competence or expertise. For Indonesian Migrant Workers after work, the Regional Government collaborates with the Central Government to provide entrepreneurship as well as training to retired Indonesian Migrant Workers and their families.⁴⁰

The importance of migrant workers gaining legal literacy was researched by Eny Kusdarini (2021), who stated that good legal insight will increase the capacity of Indonesian migrant workers and enable them to face every problem they face.⁴¹ The case of Indonesia shows that in such migration, the information available to potential migrants is limited and often distorted, partly explaining why many migrants face problems. It has been argued that timely provision of comprehensive, relevant, and accurate information will enable migrants to make decisions that may be in their own interests and empower migrants to confront exploitation more effectively. However, this idea only adds to the current problems with the P3MI permit concept. Improving permits that are socially just is more critical and essential.⁴²

³⁸ Henry M. Feder and others, ‘Diagnosis, Treatment, and Prognosis of Erythema Migrans and Lyme Arthritis’, *Clinics in Dermatology*, 24.6 (2006), 509–20 <https://doi.org/https://doi.org/10.1016/j.clindermatol.2006.07.012>

³⁹ James V Conlan and others, ‘A Review of Parasitic Zoonoses in a Changing Southeast Asia’, *Veterinary Parasitology*, 182.1 (2011), 22–40 <https://doi.org/https://doi.org/10.1016/j.vetpar.2011.07.013>

⁴⁰ J H Diaz, ‘Global Climate Changes and International Trade and Travel: Effects on Human Health Outcomes’, in *Encyclopedia of Environmental Health*, ed. by J O Nriagu (Burlington: Elsevier, 2011), pp. 965–75 <https://doi.org/https://doi.org/10.1016/B978-0-444-52272-6.00527-4>

⁴¹ Eny Kusdarini and others, ‘The Urgency of Legal Literacy for Indonesian Migrant Workers through Distance Education’, *Fiat Justisia: Jurnal Ilmu Hukum*, 15.4 (2021), 399–416 <https://doi.org/10.25041/fiatjustisia.v15no4.2317>

⁴² Chikwe Ihekweazu and others, ‘Prioritization of Zoonotic Diseases of Public Health Significance in Nigeria Using the One-Health Approach’, *One Health*, 13 (2021), 100257 <https://doi.org/https://doi.org/10.1016/j.onehlt.2021.100257>

4. Conclusion

The significant increase in migrant workers in Indonesia in the last three years shows that various factors supporting migration have influenced society. Complaints about migrant worker problems also continue to be received. This means that the protection of migrant workers is still not appropriately implemented. Protecting migrant workers is an urgent matter that the government must do. One of the fundamental problems in protecting migrant workers is the change in the regulations for issuing SIP3MI, which was initially regulated by Law No. 18 of 2017, which the Job Creation Law later amended. In Article 51, paragraphs (1) and (3) are changed so that SIP3MI becomes a business license issued by the central government, no longer by the minister. This has led to a shift in the concept of granting permits, primarily when companies receiving permits do not operate in the buying and selling sector but are related to human resources whose human rights must be respected and protected. This licensing change will also undoubtedly impact the mechanisms, fairness, and obligations, as well as the authority of the relevant institutions, which can weaken supervision for the protection of migrant workers as a consequence of granting P3MI permits. Permits are a preventive legal instrument that is effective rather than just waiting for P3MI to resolve migrant worker problems that have occurred. The government should make policies and regulations that favor migrant workers based on social justice.

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