JURISPRUDENSI
Jurnal Ilmu Syari'ah, Perundang-undangan dan Ekonomi Islam
https://doi.org/10.32505/jurisprudensi.v18i1.13687
Vol. 18 No. 1 (January-Juni 2026): 198-215

The Legal Politics of Protecting Migrant Workers' Human Rights: Policy Reorientation through the Revision of Law Number 18 of 2017

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Submission	Accepted	Published
Dec 29, 2025	Feb 4, 2025	Feb 7, 2026

Abstract

Ideally, the protection of Indonesian Migrant Workers (IMWs), as mandated by the 1945 Constitution and Law Number 18 of 2017 on the Protection of Indonesian Migrant Workers (PPMI Law), positions the state as the primary human rights–based protector. In reality, persistent cases of violence, exploitation, human trafficking, and the failure of the zero-cost placement scheme reveal a significant gap caused by regulatory disharmony and overlapping institutional authority, particularly following the establishment of the Ministry of Indonesian Migrant Workers Protection (KP2MI). This study addresses the research gap (novelty) by examining the PPMI Law through a political law perspective that integrates human rights principles, institutional transformation of KP2MI–BP2MI, and comparative best practices from the Philippines. This research employs normative legal research using statutory, conceptual, and comparative approaches. The findings indicate that although the PPMI Law is normatively responsive, its implementation is weakened by the regulator–operator dilemma, inadequate supervision of private placement agencies, and limited responsiveness to emerging challenges such as online scamming and non-procedural migrant workers. This study recommends a revision of the PPMI Law to reaffirm institutional authority, strengthen substantive human rights protection, and adopt state-centered progressive protection models.

Keywords: Migrant Workers, Legal Politics, Human Rights

Abstrak

Idealitas perlindungan Pekerja Migran Indonesia (PMI) sebagaimana dijamin oleh UUD NRI 1945 dan Undang-Undang Nomor 18 Tahun 2017 tentang

Perlindungan Pekerja Migran Indonesia (UU PPMI) menempatkan negara sebagai aktor utama pelindungan berbasis hak asasi manusia. Namun dalam praktiknya, realitas menunjukkan masih tingginya kasus kekerasan, eksploitasi, perdagangan orang, serta ketidakefektifan skema zero cost akibat disharmoni regulasi dan tumpang tindih kewenangan kelembagaan, terutama pasca pembentukan Kementerian Perlindungan Pekerja Migran Indonesia (KP2MI). Penelitian ini mengisi celah penelitian (novelty) dengan menganalisis UU PPMI dari perspektif politik hukum yang mengintegrasikan dimensi HAM, transformasi kelembagaan KP2MI–BP2MI, serta pembelajaran praktik terbaik (best practices) dari Filipina. Metodologi yang digunakan adalah penelitian hukum normatif dengan pendekatan perundang-undangan, konseptual, dan perbandingan. Hasil penelitian menunjukkan bahwa UU PPMI secara normatif bersifat responsif, namun implementasinya melemah akibat disharmoni kewenangan regulator–operator, lemahnya pengawasan P3MI, serta belum adaptif terhadap tantangan baru seperti online scamming dan PMI non-prosedural. Penelitian ini merekomendasikan revisi UU PPMI yang menegaskan pemisahan kewenangan, memperkuat perlindungan HAM substantif, dan mengadopsi praktik perlindungan progresif berbasis negara.

Kata Kunci: Pekerja Migran, Politik Hukum, HAM

Introduction

The phenomenon of Indonesian Migrant Workers (Pekerja Migran Indonesia/PMI) constitutes an inseparable part of both national and global labor dynamics. Within the context of developing countries, international labor migration is frequently positioned as an economic strategy to reduce unemployment, improve household welfare, and strengthen foreign exchange earnings. For Indonesia, PMI not only represent cross-border labor mobility but also reflect the state's responsibility to fulfill the constitutional mandate to guarantee the right to decent work and protection for every citizen, as stipulated in Article 27 paragraph (2) and Article 28I paragraph (4) of the 1945 Constitution of the Republic of Indonesia.

The contribution of PMI to the national economy is highly significant. Remittances amount to more than IDR 159 trillion annually, positioning migrant workers as the second-largest source of foreign exchange after the oil and gas sector (Budiantoro & Yulianis, 2024). Nevertheless, this economic contribution stands in stark contrast to the level of protection received by migrant workers, particularly those employed in informal and domestic sectors. Violence, exploitation, debt bondage, contract violations, and trafficking in persons remain persistent issues, indicating weaknesses in the protection system and the limited bargaining position of Indonesian workers in destination countries (Any Surhani H, 2020).

Ideally, the presence of the state through a human-rights-oriented legal policy should ensure comprehensive protection for migrant workers from pre-placement, during employment, to post-return phases. In reality, however, the regulatory history of migrant labor governance demonstrates a tendency for the state to treat migrant workers as economic commodities. This orientation was

evident in Law Number 39 of 2004 concerning the Placement and Protection of Indonesian Workers Abroad, which emphasized placement mechanisms rather than substantive protection. At that time, the state's role was largely confined to serving as an administrative facilitator for recruitment agencies, thereby neglecting human rights dimensions and opening wider avenues for exploitation (Johannes Pangehutan, 2009). The situation has become even more complex with the emergence of new challenges, including illegal online recruitment, social-media-based fraud, and transnational trafficking practices that exploit rapid digital technological development (Setyarini & Prasetyo, 2024).

In response to these criticisms, the government enacted Law Number 18 of 2017 on the Protection of Indonesian Migrant Workers (PPMI Law), which was expected to mark a turning point in the legal politics of migrant worker protection. The law shifts the paradigm from placement toward a human-rights-based protection approach and seeks to harmonize national regulations with international standards, particularly following Indonesia's ratification of the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* through Law Number 6 of 2012 (Nabila, 2025). Several normative innovations were introduced, including the distribution of authority between central and regional governments, the adoption of a zero-cost scheme, and the strengthening of the role of the Indonesian Migrant Worker Protection Agency (BP2MI) (Amira Hasna Nabila, 2022).

However, in its implementation, the PPMI Law has generated new challenges, particularly in relation to institutional design. The establishment of the Ministry for the Protection of Indonesian Migrant Workers (KP2MI) through Presidential Regulation Number 165 of 2024, followed by the positioning of BP2MI as an implementing body under KP2MI through Presidential Regulation Number 166 of 2024, has created normative disharmony. This arises from inconsistencies with the PPMI Law, which still assigns regulatory functions to the Ministry of Manpower while mandating BP2MI to handle operational matters. Such overlapping authorities have sparked debates regarding the legitimacy of strategic decision-making, including bilateral cooperation and licensing of recruitment agencies (Luthvi Febryka Nola, 2025).

After more than seven years of enforcement, the implementation challenges of the PPMI Law have become increasingly evident. The dynamics of global labor markets, the rise of digitally facilitated trafficking schemes, and bureaucratic inefficiencies caused by weak inter-agency coordination demonstrate that the expected protection orientation has not been optimally realized (DPN SBMI, 2025). The repatriation of 193 Indonesian migrant workers from Saudi Arabia in 2025 serves as concrete evidence that the state continues to face structural failures in providing effective protection for its citizens abroad (emedia.dpr.go.id, 2025). Furthermore, the zero-cost scheme—one of the pillars of the PPMI Law—has yet to function effectively due to persistent overcharging practices by brokers and recruitment companies, compounded by weak supervision and limited regional budgetary support (Wijayanti & Shalihah, 2017).

Given the gap between normative ideals and empirical realities, this study focuses on the central issue of the effectiveness of the PPMI Law and the broader legal-political design of migrant worker protection. The objectives of this research

are threefold: (1) to analyze the implementation of the PPMI Law from legal, human rights, social, and economic perspectives; (2) to examine the impact of institutional transformation from BP2MI to KP2MI on authority structures and supervisory functions; and (3) to identify best practices in migrant worker protection through a comparative analysis of policies in the Philippines as a basis for recommending revisions to the PPMI Law.

This study is expected to contribute conceptually to the scholarship on the legal politics of migrant labor governance in Indonesia, particularly in relation to the harmonization of national regulatory frameworks with international human rights standards. Practically, the findings are anticipated to serve as a reference for policymakers, especially the Legislative Body of the House of Representatives and relevant ministries, in formulating a more responsive, adaptive, and dignity-oriented direction for revising the PPMI Law.

Literature Review

Studies on the human rights protection of migrant workers are far from novel. The issue has been extensively discussed within international legal scholarship through diverse normative and socio-legal approaches. Bosniak (2018), in *The Citizen and the Alien: Dilemmas of Contemporary Membership*, situates migrant worker protection within the framework of human dignity and equality before the law, arguing that citizenship or migration status cannot legitimately serve as grounds for limiting fundamental rights. Bosniak's principal finding underscores the existence of a universal obligation of states to protect migrant workers as human rights subjects, irrespective of domestic economic or political interests. This perspective converges with the present study in its reliance on human rights as the normative foundation for protection. The divergence, however, lies in the analytical focus. While Bosniak privileges the theoretical dimension and the universality of rights, this research examines more specifically how Indonesia's legal politics operationalizes those international standards through the PPMI Law.

Another important contribution is provided by Cholewinski (2019) in *Migrant Workers in International Human Rights Law*, which highlights the persistent gap between international normative frameworks—particularly the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* (ICMW)—and protection practices at the national level. Cholewinski finds that although many states have adopted progressive legal instruments, their implementation is frequently hindered by weak institutional coordination and the dominance of economic interests in both sending and receiving countries. The similarity with the present research rests on the shared critique of implementation failures despite the availability of adequate legal frameworks. Nevertheless, Cholewinski's analysis does not elaborate in depth on how domestic legal-political dynamics and institutional design shape the effectiveness of protection, especially in the context of structural transformations such as those occurring in Indonesia following the establishment of KP2MI.

Within the national context, Johannes Pangehutan (2009), through his study on the legal politics of Indonesian overseas labor placement, demonstrates that Law Number 39 of 2004 tended to position migrant workers primarily as economic

commodities. The state functioned more as a facilitator of the international labor market than as a guardian of citizens' rights. This finding is relevant to the present study insofar as both critically interrogate the orientation of state policy toward PMI. The difference, however, lies in the scope of inquiry. Pangehutan's work concentrates on the legal regime prior to the enactment of the PPMI Law. By contrast, this study not only evaluates the PPMI Law as a normative corrective to earlier regulations but also investigates emerging challenges following institutional transformation, including the disharmony of authority among the Ministry of Manpower, BP2MI, and KP2MI.

Existing scholarship thus demonstrates that migrant worker protection has been widely examined from both international and domestic legal perspectives. Yet these studies tend to remain fragmented, often isolating human rights norms, policy implementation, or particular sectors, without comprehensively linking legal-political dynamics, institutional change, and the direction of statutory reform within an integrated analytical framework. The novelty of this research therefore resides in its legal-political approach that brings together human rights protection, institutional disharmony in the aftermath of KP2MI's establishment, and the imperative of harmonizing national regulations with international standards. Moreover, this study employs a comparative perspective with the Philippines' migrant worker protection regime as an argumentative foundation for proposing revisions to the PPMI Law—an aspect that remains relatively underexplored in previous literature.

Research Methodology

This study is grounded in normative legal research (juridical-normative), aimed at examining legal norms, principles, and the systematic structure of legislation governing the human rights protection of Indonesian migrant workers. The approach prioritizes library research or secondary data. Primary legal materials consist of the 1945 Constitution of the Republic of Indonesia, Law Number 18 of 2017 on the Protection of Indonesian Migrant Workers, its implementing regulations, and relevant international legal instruments. Secondary materials include scholarly journal articles, textbooks, and previous research findings, while tertiary materials comprise legal dictionaries and encyclopedias (Sumardjono, 2021).

To achieve the research objectives, several complementary approaches are employed (Marzuki, 2021). The statute approach is utilized to examine the consistency of legal norms and to identify potential regulatory disharmony. The conceptual approach serves to clarify key notions such as legal politics, human rights, and migrant worker protection as developed in legal doctrines and theoretical debates. In addition, a comparative approach is adopted by juxtaposing Indonesia's migrant worker protection regime with that of the Philippines, a major labor-sending country widely regarded as having a relatively progressive protection model.

The collected legal materials are processed through stages of selection, thematic classification—covering institutional arrangements, placement costs, and human rights protection—and the construction of systematic legal arguments. The

data are subsequently analyzed using qualitative-descriptive methods in order to generate conclusions that are coherent and defensible. This analysis is further enriched by the framework of legal politics to assess the direction of potential revisions to the PPMI Law, particularly whether such reforms reflect a responsive legal character or instead indicate a more conservative orientation (Mahfud MD, 2023).

The Implementation of the PPMI Law and the Character of Its Revision from a Legal-Political Perspective

Legal politics, as formulated by Moh. Mahfud MD (2023), refers to the legal policy adopted by the state concerning which laws should be enacted, modified, or repealed in order to achieve national objectives. In the context of migrant worker protection, Indonesia's legal politics is currently situated in a critical transitional phase in which the character of legal products is strongly influenced by the prevailing political configuration (Lintje Anna Marpaung, 2012). When the political configuration is democratic, the resulting legal products tend to be responsive or populistic. Conversely, authoritarian configurations are more likely to generate conservative, orthodox, or elitist legal outcomes (Zainal Arifin Mochtar, 2022). Legal politics therefore does not stand in isolation; it forms an integral part of national politics aimed at realizing social justice and public welfare as mandated by Pancasila and the 1945 Constitution (Ayuk Hardani, 2019).

Accordingly, every statute, including the PPMI Law, should ideally from its inception reflect a legal-political orientation that favors the protection of human rights and universal humanitarian values, particularly in relation to migrant workers. At the time of its enactment, the PPMI Law was widely regarded as a highly responsive legal product because it opened significant participatory space for social groups and placed human rights at the core of its regulatory framework. Since coming into force in 2017, the Law has served as a driving instrument for more systematic and extensive measures to enhance migrant worker protection. It was expected to elevate governance from a predominantly procedural orientation—centered on placement mechanisms—toward a more substantive and strategic framework, namely the comprehensive protection of migrant workers across the entire migration cycle, covering pre-departure, employment, and post-return phases.

Table 1. Regulatory Framework on the Protection of Indonesian Migrant Workers under the PPMI Law

Stage of Protection	Regulatory Focus	Legal Basis
Pre-Employment (Pre-Departure)	Fulfilment of the rights to information, training, documentation, employment contracts, and the prohibition of charging placement fees to migrant workers.	Articles 8, 13, 14, 15–19, 24
During Employment	Protection of migrant workers' legal, social, and economic rights, as well as the responsibility of Indonesian representatives and the government in handling cases abroad.	—

Post-Employment (Return)	Facilitation of return, social reintegration, settlement of rights, and economic empowerment after completion of employment.	—

Source: Compiled by the author (2025).

The PPMI Law represents the government's legal-political direction in carrying out its constitutional responsibility to protect Indonesian citizens as mandated by the 1945 Constitution. Consequently, the migration cycle experienced by Indonesian migrant workers should not be reduced to a mere market mechanism associated with the business activities of recruitment agencies operating abroad. Instead, the government is expected to manage migration processes while exercising control and supervision over the economic activities undertaken by placement companies as an essential manifestation of migrant worker protection.

However, the revision process currently advanced in 2025 has generated concerns regarding a potential shift in this orientation. The growing dominance of the executive in determining a new institutional structure through presidential regulations—namely Presidential Regulations Nos. 165/2024 and 166/2024—which are subsequently expected to be legalized through statutory amendment, may signal a more elitist legal character if it neglects the aspirations of migrant worker unions (Arther Henpri Moniung, 2015). In responding to present and future protection needs, Tasya Ramadhani, Researcher and Program Officer at IOJI, representing a broader advocacy network, emphasized that at least eight substantive issues must be incorporated into the amendment agenda (DPN SBMI, 2025).

A reorientation of the legal politics of migrant worker protection should begin with strengthening the legal foundation that affirms the conformity of national regulations with international human rights standards. Such harmonization is crucial given Indonesia's ratification of various international instruments, particularly the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*. The state's obligations are therefore not merely normative; they demand consistent translation into domestic legal frameworks. Alignment at this level is necessary so that migrant worker protection is no longer treated as a sectoral policy but rather as an integral component of the state's commitment to respect, protect, and fulfill human rights.

Within this framework, the state's role must be reinforced as the primary duty bearer, rather than limited to functioning as an administrative regulator or placement facilitator. Strengthening state responsibility requires an active presence throughout all phases of migration—from pre-departure and employment to return and reintegration—while ensuring that adopted policies genuinely prioritize the interests and safety of migrant workers. This approach confirms a paradigm shift from an economically driven orientation toward one grounded in rights and human dignity.

Furthermore, regulatory certainty and standardized procedures concerning documentation, financing, and placement standards must be realized in concrete terms so as not to impose additional burdens on migrant workers. Ambiguity and procedural complexity have long served as entry points for brokerage practices, overcharging, and exploitation. Simplifying mechanisms, ensuring cost transparency, and enforcing the zero-cost principle must therefore be firmly

embedded both normatively and operationally in order to guarantee fair and sustainable protection.

Protection must also be extended to migrant workers who migrate independently or who find themselves in irregular situations beyond formally prescribed standards. The state cannot restrict its protective obligations solely to those who comply with procedural requirements, given that vulnerability is often most acute among irregular migrants. Consequently, protection policies must be inclusive and capable of reaching all migrant workers without discrimination based on migration status.

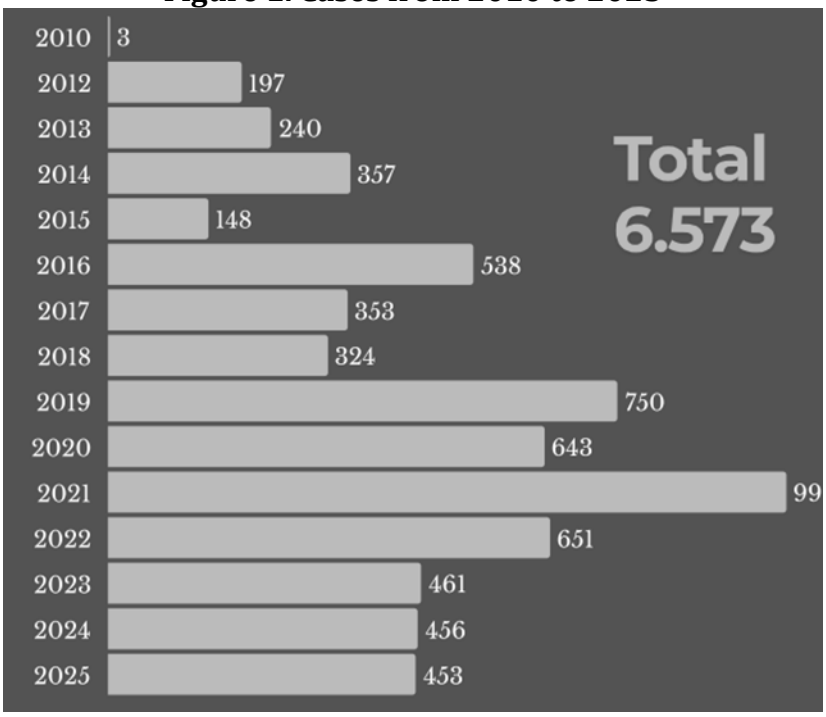
Gender and family dimensions constitute another critical aspect demanding serious attention within the legal politics of protection. Strengthening safeguards for women migrant workers, along with their families and children, must be accompanied by concrete implementation measures, such as the provision of specialized assistance services, protection from gender-based violence, and guarantees of continued access to social rights for families left behind. Such an approach is essential to ensure that protection extends beyond the individual worker to encompass broader social impacts.

In addition, human rights defenders working on migrant worker issues require stronger legal recognition and safeguards. Introducing specific provisions on the protection of migrant worker rights advocates is vital given their strategic role in advocacy, victim assistance, and monitoring state policies. Without legal guarantees, their activities remain vulnerable to criminalization and intimidation, which in turn undermines the broader protection system.

Strengthening standards of access to justice is likewise a key element in ensuring effective protection. Migrant workers must enjoy accessible, swift, and affordable avenues for complaints, legal aid, and rights recovery, both domestically and abroad. In the absence of responsive justice mechanisms, violations are likely to recur and remain inadequately resolved.

Finally, to ensure policy sustainability and accountability, explicit regulation is needed regarding mandatory monitoring and evaluation by both the Government and the House of Representatives on a transparent and periodic basis. The introduction of provisions similar to a proposed Article 89B, which would require evaluation at least once a year, would constitute an important instrument for guaranteeing that migrant worker protection remains under continuous scrutiny and adjustment in response to evolving migration dynamics. These substantive proposals are grounded in reflections presented in the 2025 Annual Report of the National Board of the Indonesian Migrant Workers Union (SBMI), titled *"Year-End Notes: The Dark Traces of Migration in an Economic Regime: Human Trafficking Business Networks and the Collapse of Rights in the Era of Climate Crisis,"* which documents cases affecting Indonesian migrant workers from 2010 to 2025 (Tim DPN SBMI, 2025).

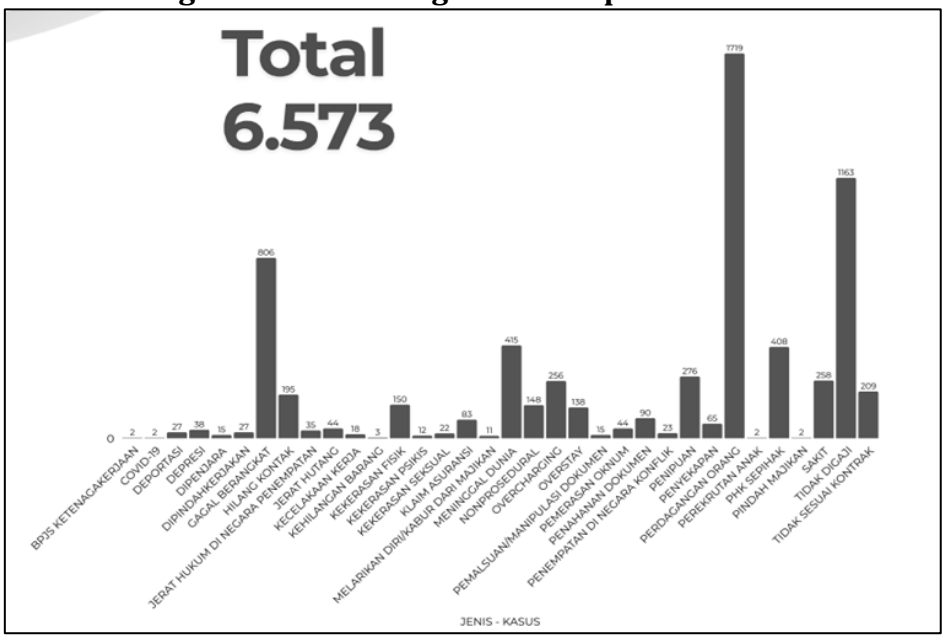
Figure 1. Cases from 2010 to 2025



Source: DPN SBMI, Annual Report (Catahu) 2025 (Tim DPN SBMI, 2025).

Over a span of fifteen years, successive changes in governmental regimes and regulatory frameworks have taken place. Nevertheless, the multitude of problems faced by Indonesian migrant workers has remained unresolved. In fact, the period between 2020 and 2021 marked the peak in the number of reported cases, indicating that legal and institutional reforms have not yet translated into effective protection on the ground.

Figure 2. Main Categories of Reported Cases



Source: *DPN SBMI Annual Report 2025 (Tim DPN SBMI, 2025)*

Several structural problems remain unresolved at their roots, including exploitation during recruitment, uncertainty throughout employment, and persistently weak governmental oversight, with a recorded total of 6,573 cases (Tim DPN SBMI, 2025). These conditions call for strengthened protection across the entire migration continuum—from departure and employment to return and reintegration.

In light of these findings, a responsive legal framework is required, one capable of addressing society's sense of justice and accommodating aspirational demands. The Academic Draft of the Third Amendment to Law No. 18/2017 identifies approximately twenty-nine proposed revisions, encompassing definitional aspects, eligibility requirements, and even amnesty mechanisms for non-procedural workers (DPR RI, 2025). If these provisions are designed to reinforce protection for migrant workers in high-risk sectors without widening opportunities for exploitation by private agencies, the responsive character of the law may be preserved.

However, criticism from civil society organizations regarding articles that would grant legal advocacy mandates to Indonesian Migrant Worker Placement Companies (P3MI) signals a potential regression in legal politics toward an earlier paradigm—one that prioritizes business continuity over worker safety (DPN SBMI, 2025).

Table 2. Comparison of Regulatory Directions on Indonesian Migrant Workers

Parameter	Law No. 39/2004	Law No. 18/2017	Third Amendment Bill to the PPMI Law (2025)
Regulatory Focus	Business-oriented placement.	Human rights–based protection.	Institutional strengthening and migrant workers' welfare.
Main Actors	Private sector (PJTKI).	State and regional governments (BP2MI).	Dedicated ministry for migrant workers.
Placement Costs	Borne by the worker.	Zero-cost placement scheme.	Explicit prohibition of overcharging.
Scope of Protection	Limited, predominantly during placement.	Covers pre-departure, employment, and post-return phases.	Expansion toward vulnerable groups and emerging risks.

Compiled by the author from various sources (2025).

At the empirical level, legal politics also functions as an instrument for assessing the consistency of state policies with the principles of the rule of law and human rights. When legal measures privilege particular economic or political interests while neglecting the fundamental rights of citizens, such legal politics may be considered to deviate from constitutional principles and the moral foundations of law. Consequently, a legal-political analysis of the PPMI Law must be directed toward evaluating the extent to which the statute represents the state's responsibility to protect its citizens abroad.

Institutional Transformation: The Regulator–Operator Dilemma and the Disharmony of Authority

The establishment of the Ministry for the Protection of Indonesian Migrant Workers (KP2MI) through Presidential Regulation No. 165/2024 represents an unprecedented development in Indonesia's constitutional and administrative landscape. The ministry has been mandated to administer governmental affairs concerning migrant worker protection that were previously dispersed across several institutions, including the Ministry of Manpower. This restructuring aims to enhance bureaucratic efficiency and to ensure a stronger state presence in handling cases abroad. At the same time, Presidential Regulation No. 166/2024 instituted the Indonesian Migrant Worker Protection Agency (BP2MI) as the implementing body responsible for operational protection measures. Although KP2MI and BP2MI are formally distinct institutions, their functional domains are explicitly merged: KP2MI formulates policies, while BP2MI executes them. Structurally, however, the Head of BP2MI is concurrently held by the Minister of KP2MI, as stipulated in Article 5 of Presidential Regulation No. 166/2024, with the Deputy Head position likewise occupied by the Deputy Minister.

The most significant dilemma arises from the consolidation of regulatory and operational functions in a single officeholder, namely the Minister who simultaneously serves as Head of the Agency. Within the principles of good governance, the separation between policy-making (regulator) and technical implementation (operator) is essential for maintaining accountability (Luthvi Febryka Nola, 2025). The fusion of these roles, absent stringent oversight mechanisms, risks enabling abuses of power and corruption, as illustrated by past experiences in public protection system procurement. Numerous internal regulatory instruments, such as ministerial regulations, refer to the "Ministry for the Protection of Indonesian Migrant Workers/Indonesian Migrant Worker Protection Agency" (KP2MI/BP2MI) as a single institutional entity in issuing policies or implementation guidelines. While this dual model is formally legalized under presidential regulations, it generates the potential for overlapping authority structures and blurred supervisory lines in practice, particularly given the existence of a Directorate General for Protection within KP2MI. For this reason, any amendment to Law No. 18/2017 must explicitly delineate these boundaries of authority in order to prevent legal uncertainty that could disadvantage migrant workers when confronting disputes abroad.

The issue extends beyond the relationship between KP2MI and BP2MI, as it also creates risks of jurisdictional disharmony between the new ministry and the Ministry of Manpower, while reinforcing the broader problem of combining regulatory and operational mandates within a single ministerial framework. From a juridical standpoint, a fundamental concern relates to the principle of *lex superior derogat legi inferiori*. Law No. 18/2017 explicitly grants the Minister of Manpower the authority to issue licenses for Indonesian Migrant Worker Placement Companies (SIP3MI), as provided under Article 1 point 16 in conjunction with Article 1 point 25 of the statute. However, Presidential Regulations No. 139/2024 and No. 166/2024, as well as Ministerial Regulation of KP2MI/BP2MI No. 1 of 2025 concerning Procedures for Granting Licenses to Placement Companies (hereinafter Permen KP2MI/BP2MI 1/2025), effectively transfer this authority to KP2MI/BP2MI. As a result, the mandate over SIP3MI now falls under KP2MI rather than the Ministry of Manpower, marking a significant institutional shift from the previous arrangement.

Table 3. Institutional Roles in the Protection of Indonesian Migrant Workers

Institution	Role under Law No. 18/2017	Role during the 2024–2025 Transition	Potential Risks
Ministry of Manpower	Principal regulator of migrant worker placement.	Reduction of strategic authority.	Regulatory disharmony across policies.
BP2MI	Implementing agency for services and placement of migrant workers.	Integration into the new ministry.	Weakening of oversight functions.
Ministry for the Protection of Indonesian Migrant Workers (KP2MI)	Not previously regulated.	Acts as both regulator and operator.	Vulnerability concerning the legal legitimacy of policies.
Regional Governments	Administrators of One-Stop Service Centers (LTSA) and migrant worker training.	Potential recentralization of authority.	Decline of locally based protection mechanisms.

Compiled by the author from various sources (2025).

Based on the foregoing discussion, the institutional structure for the protection of Indonesian migrant workers has not yet demonstrated effective coordination among the central government, local authorities, and diplomatic missions. The existence of BP2MI must therefore be accompanied by sufficiently strong operational authority to enforce migrant workers' rights abroad. In addition, a number of implementing regulations mandated by the statute remain incomplete, thereby undermining legal certainty in practice.

Another issue requiring critical scrutiny concerns the implementation of the zero-cost scheme vis-à-vis the persistent reality of overcharging. The zero-cost policy is designed as a protective instrument that shifts placement expenses to employers or receiving states in order to prevent economic exploitation and ensure fair recruitment, as stipulated in Article 30(1) of the PPMI Law and conceptually aligned with the employer-pays principle. One of the most substantive achievements of Law No. 18/2017 lies precisely in this mandate, which prohibits the imposition of placement costs on migrant workers. The scheme was intended to shield workers from debt bondage, a condition that frequently constitutes the gateway to forced labor and contemporary forms of slavery. The government subsequently reaffirmed this commitment through BP2MI Regulation No. 9 of 2020, which specifies ten employment sectors—primarily domestic and plantation work—in which placement must be free of charge.

Nevertheless, Article 30(1) requires careful harmonization with Article 72 of the same law concerning the prohibition of charging placement fees, particularly because the latter provision does not provide solutions when financing constraints arise from requirements imposed by receiving countries. In principle, the zero-cost framework is conceived as a corrective mechanism aimed at reducing the structural inequalities long borne by migrant workers and their families. Agnes Theodora (2021) argues that the policy was formulated to alleviate the economic burden faced by prospective migrants at the pre-departure stage so that labor migration can proceed on a more equitable basis. By removing workers' obligation to pay

placement fees, the state seeks to break patterns of debt-based financing that often compel migrants to resort to credit schemes such as microcredit or unsecured loans. Furthermore, the zero-cost principle aspires to curb unfair practices, including overcharging and exploitation by placement companies (P3MI) and intermediaries, which have historically weakened migrants' bargaining position.

Although the zero-cost norm has been clearly articulated within the statutory framework, its implementation encounters significant challenges. One of the primary obstacles stems from regulatory discrepancies with destination countries, as not all jurisdictions require employers to assume placement costs; consequently, the application of the policy often faces practical impediments. On the domestic side, implementing regulations have not fully accommodated all cost components envisioned by the law, resulting in continued instances where workers are required to pay certain charges under administrative or technical justifications (Agnes Theodora, 2021). This situation is exacerbated by the persistence of agency fees and various unexpected expenses imposed through particular recruitment channels.

Another factor undermining the effectiveness of the zero-cost scheme is the high dependence of prospective migrants on informal brokers. Limited access to official information and assistance at the village level encourages workers to rely on intermediaries who promise rapid deployment but at the expense of exorbitant fees. Moreover, the inability of regional governments to fulfill their obligation to finance vocational training, as mandated by Law No. 18/2017, constitutes a crucial weakness. Many local administrations fail to allocate adequate budgets, leading to training costs ultimately being transferred back to migrant workers or temporarily advanced by P3MI and later reclaimed from them. These conditions demonstrate that without a reinforced state presence and consistent public financing, the zero-cost policy risks remaining an aspirational norm devoid of real operational impact.

As a consequence, many migrant workers are compelled to obtain loans from banks or financial institutions at high interest rates, forcing them to work for months without receiving wages merely to repay departure debts. Any amendment to Law No. 18/2017 should therefore introduce clearer and more stringent criminal sanctions, rather than relying solely on administrative penalties, for companies proven to engage in overcharging.

Furthermore, delegated regulations, including Ministerial Regulation of P2MI No. 17 of 2025 on Placement Costs (Permen 17/2025), will remain ineffective if they are not harmonized with legal regimes in destination countries such as Taiwan and Hong Kong. In fact, Permen 17/2025 carries the risk of disharmony or even contradiction with the zero-cost principle. Regulatory clarity is indispensable, particularly in light of field realities in which agency fees may reach the equivalent of two months' wages in several destination countries.

Comparative Study of Best Practice Strategies in the Protection of Migrant Workers

From a strategic perspective on migrant worker protection, Indonesia can learn from practices implemented in other countries, particularly the Philippines. The Philippines has a longer migration history and a legal system widely regarded

as more mature in safeguarding its citizens overseas. Through Republic Act No. 8042, later strengthened by Republic Act No. 10022, the country has developed a protection ecosystem that is more proactive than that of Indonesia (International Labour Organization, 2006). Several advantages within the Philippine migrant worker protection system deserve consideration for possible adoption in the revision of Indonesia's Migrant Worker Law (Leonardo, 2024; International Labour Organization, 2006).

The Philippine approach demonstrates a more structured model grounded in explicit state responsibility. One notable practice is the establishment of the Migrant Workers Guarantee Fund, which enables migrant workers to access soft loans to finance pre-departure needs. This scheme is designed to prevent dependence on loan sharks or irresponsible agencies that frequently impose excessive charges. In contrast, Indonesia continues to face obstacles in implementing state-backed financing, as the People's Business Credit (KUR) scheme for migrant workers has not been fully integrated into the placement system and, in practice, remains difficult for prospective workers to access.

Beyond financial support, the Philippines also affirms the legal accountability of recruitment agencies through the doctrine of joint and several liability. Through jurisprudence and statutory regulation, agencies are held jointly responsible for contractual violations or inhumane treatment suffered by migrant workers in destination countries. This arrangement creates strong incentives for agencies to conduct rigorous employer screening and to ensure the continuous fulfillment of workers' rights. By comparison, in Indonesia, the liability of recruitment companies (P3MI) remains relatively limited and is often difficult to enforce effectively, leaving migrant workers in a vulnerable legal position when abuses occur abroad.

Another distinguishing feature of the Philippine model is the existence of structured and continuous community education programs concerning migrant workers' rights. These initiatives are not merely temporary awareness campaigns but form part of state policy supported by regular budget allocations. The programs aim to strengthen legal awareness, psychological preparedness, and workers' capacity to navigate risks throughout the migration process. This stands in contrast to Indonesia, where educational efforts tend to be sporadic and dependent on particular projects or initiatives, resulting in uneven and unsustainable impacts.

Moreover, the Philippines has developed a systematic and accessible legal aid framework for migrant workers, both prior to departure and when facing legal problems overseas. Legal assistance is integrated with diplomatic missions and migrant protection institutions, enabling faster and more accountable case handling. The Philippine experience illustrates that migrant protection depends not only on legal norms but also on the state's commitment to building consistent institutional mechanisms oriented toward human rights protection. This lesson is highly relevant for Indonesia in shaping the future direction of amendments to the Migrant Worker Protection Law.

The Philippines also maintains a dedicated division providing lawyers and free legal assistance to migrant workers, regardless of their procedural status, from investigation through trial abroad. Although Indonesia's law provides more detailed enumerations of rights, its enforcement effectiveness remains far behind. The revision of the law should therefore address this gap by strengthening protection

diplomacy and ensuring that every Indonesian diplomatic mission is equipped with adequate, easily accessible legal aid funding for migrant workers and related parties.

The urgency of revising the law is closely connected to substantive protection issues and emerging global challenges. Amendments to Law No. 18/2017 must respond to increasingly complex realities, particularly the protection of female migrant workers in the domestic sector and the threat of trafficking in persons. Placement data from 2023 show that women continue to dominate migrant deployment, totaling 146,785 individuals, most of whom work as domestic helpers and caregivers (Nabilah Muhamad, 2023). This sector is highly vulnerable because it operates within private households and often remains beyond the reach of effective legal oversight in destination countries (Rosalina & Setyawanta, 2020).

The integration of ILO Convention No. 189 on Decent Work for Domestic Workers into Indonesia's national legal framework is therefore an urgent step. Ratification would strengthen Indonesia's bargaining position in negotiating fairer bilateral agreements. In addition, protection policy must address the phenomenon of forced criminality emerging in online scamming syndicates, where migrants promised formal employment, such as computer operators, are instead coerced into committing cyber fraud under threats of physical violence (Mulyanto, 2018).

Civil society organizations, including SBMI, have firmly rejected draft provisions that attempt to shift protection responsibilities from the state to private recruitment companies. Granting P3MI the authority to conduct mediation and legal advocacy is considered dangerous because it creates a conflict of interest: agencies that should be subject to supervision would instead act as defenders of victims (DPN SBMI, 2025). Protection must remain an absolute domain of the state, with national human rights bodies such as Komnas Perempuan and Komnas HAM involved in substantive oversight functions. Several key elements should therefore be incorporated into the revision of the Migrant Worker Protection Law, as summarized below.

Table 4. Proposed Substantive Provisions for the Revision of the Migrant Worker Protection Law

Strategic Issue	Current Regulatory Condition	Direction of Policy Reform
Protection of Domestic Workers	No specific regulatory framework yet ensures comprehensive protection for domestic migrant workers.	Formal recognition as workers and ratification of ILO Convention No. 189.
Online Scamming	Commonly treated as a violation of labor placement procedures.	Reclassification as trafficking in persons (TIP), including victims' rights to restitution.
Non-Procedural Migrant Workers	Predominantly subject to administrative sanctions and deportation.	Human rights–based regularization and strengthened diplomatic protection.
Role of Recruitment/Placement Agencies (P3MI)	Primarily oriented toward deployment with limited accountability.	Restriction of roles and rejection of mandate expansion into legal advocacy.

Strategic Issue	Current Regulatory Condition	Direction of Policy Reform
Integration of Migrant Worker Data	Data systems across institutions remain fragmented.	Integration of SISKOP2MI with immigration and civil registration databases.

Compiled by the author from various sources (2025).

The dynamics of public participation during the deliberation of the Draft Revision of the Migrant Worker Protection Law at the House of Representatives' Legislative Body in 2025 generated diverse responses. Migrant Care and SBMI emphasized that the success of the law should not be measured solely by the number of deployments, but also by the number of violence cases and the effectiveness of law enforcement against those responsible for illegal placements (VOA Indonesia, 2021). This perspective shifts the evaluative framework from a productivity-oriented paradigm toward one centered on protection outcomes and accountability.

Conclusion

Based on the analysis, this study concludes that the legal politics of Indonesian migrant worker protection under Law Number 18 of 2017 has, at the normative level, demonstrated a progressive paradigm shift from a placement-oriented approach toward a humanrights–based protection framework. Nevertheless, in practice, the effectiveness of the law continues to face significant structural obstacles, particularly institutional disharmony, overlapping authorities among the Ministry of Manpower, BP2MI, and KP2MI, and weak supervision over the implementation of the zero-cost scheme. The recent institutional transformation through the establishment of KP2MI has in fact revealed a regulator–operator dilemma that risks shifting the character of the law from responsive to more elitist, unless it is accompanied by adequate mechanisms of checks and balances. Consequently, revising the Migrant Worker Protection Law becomes an urgent necessity to reaffirm the state's position as the primary duty bearer in safeguarding migrant workers' rights rather than merely acting as an administrator of labor migration.

This study is limited by its reliance on a normative legal approach grounded primarily in document and literature analysis. As a result, it does not directly capture empirical dynamics at the grassroots level or the concrete experiences of migrant workers in destination countries. This limitation should not be understood as a methodological flaw, but rather as a consequence of an approach that prioritizes the evaluation of legal norms and policy design. Future research is therefore encouraged to combine normative inquiry with empirical or socio-legal methods in order to assess the tangible impact of institutional reforms and regulatory revisions on migrant workers' conditions. For policymakers, the findings of this study recommend that the amendment of the law should focus on regulatory harmonization, a clear separation between regulatory and operational functions, stronger sanctions against overcharging practices, and the contextual adoption of international best practices to ensure a system of migrant worker protection that is just and dignified.

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