

10 Years of Jokowi's Policy on the Protection of Migrant Workers: Fulfilment of the Right to Protection for Indonesian Migrant Workers is Still Limited

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Abstract

The migration of Indonesian migrant workers has brought positive contributions to economic development in both the countries of origin and destination of Indonesian migrant workers. In an effort to provide protection for Indonesian migrant workers, the government has issued Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers and has carried out several protection initiatives. However, cases experienced by Indonesian migrant workers for 10 years actually show a lack of protection efforts for them. Women migrant workers in the informal sector are even more vulnerable to violence. This is due to the policy perspective that is more targeted at the area of economic gain than protection. Qualitative method exploration was carried out through the collection of literature study data and compilation of policy data for Indonesian migrant workers during the 10 years of President Joko Widodo's administration. The findings of this study indicate that there is a lack of commitment to protection efforts due to the lack of involvement of the experiences of Indonesian migrant workers in the process and implementation of policies. This study also proposes further steps that need to be taken to improve policies and implementation related to the protection of migrant workers.

Keywords: feminization of migration, policy implementation, development planning, Indonesian women migrant workers, protection of Indonesian migrant workers

Introduction

In Indonesia, the history of migration goes back to the Dutch East Indies (1596-1942), for example, the construction of 1,000 kilometres of roads for military purposes using slave labour during the time of Governor Willem Daendels (Basmatulhana 2022). Many people migrated to do this work. Since then, the process of migration, domestically called transmigration, which is a programme implemented by the Indonesian government to move people from a densely populated area to another area (village) within the territory of Indonesia, and overseas migration (such as to Suriname and later to other countries) has become a familiar practice for both citizens and the Indonesian government.

The history of labour migration policy dates back to the issuance of Ministerial Regulation No. 4/1970. This ministerial regulation was issued by the government of the Soeharto era as a way to create jobs because, at that time, employment opportunities in Indonesia were still limited, and there was a great need to create jobs not only at home but also abroad. The need for job creation

at that time was reflected in Soeharto's speech at the inauguration of the Indonesian Manpower Foundation Building on 24 February 1977 (Maharani et al., 2017).

The need to create jobs was based more on economic interests than on protection. This was reflected in Article 3 of Ministerial Regulation (Permenaker) No. 4/1970, which gave more space to employers than to the rights of Indonesian migrant workers. In the 13 years since Permenaker No. 4/1970, the government has not issued a policy on the protection of migrant workers but has issued three policies that focused more on the placement and deployment of workers. In 1983, there were three policies on labour migration (Hidayah 2013), namely: 1) Regulation of the Minister of Manpower and Transmigration No. PER-01/MEN/1983 on Recruitment Companies for Overseas Employment of Indonesian Workers. This regulation regulates business licences and the procedures for obtaining such business licences, including the requirement that the sending company must be able to finance at least 500 people per year to send Indonesian workers abroad, the rights and obligations of the company, revocation of business

licences, and criminal provisions; 2) Decision of the Minister of Manpower and Transmigration No. KEP. 128/MEN/1983 on the Use of Identity Cards of Indonesian Working Abroad. This decree regulates the main items of data to be included in the worker's identity card, such as the identity of the cardholder, passport data, data on the sending company, data on the labour contract, and card renewal; 3) Decree of the Minister of Manpower No. KEP 149/MEN/1983 on the Procedure for the Implementation of the Placement of Indonesian Workers to Saudi Arabia. This decree regulates the procedure for sending Indonesian workers to Saudi Arabia, the obligation to send 50 percent of the salary through a government bank, and the regulation of the recruitment fee to Saudi Arabia, which at the time was USD 1,750.

The above three policies are the earliest policies adopted by the Indonesian government with regard to Indonesian migrant workers, and they clearly do not contain elements of protection, as they do not explain in detail the mechanism of supervision of labour recruitment agencies. The three policies also fail to outline the government's obligations to provide more comprehensive information, data collection, and case handling services. The government's presence in the protection of Indonesian migrant workers in the above three regulations can only be seen in the power to revoke the business licence of a recruitment agency if it does not recruit Indonesian workers abroad, does not take prospective Indonesian migrant workers from the office of the Directorate General of Manpower Placement and Expansion of Employment Opportunities (Binapenta), and does not submit monthly reports on the placement and return of Indonesian migrant workers. In other words, the policy at the time was to regulate the placement of migrant workers rather than to provide protection.

Before 2004, there was no law specifically regulating the Indonesian labour force (then Tenaga Kerja Indonesia/TKI). Existing policies were only at the level of ministerial regulations. In 2004, the government and parliament enacted a policy above the ministerial level by passing Law No. 39/2004 on the Placement and Protection of Indonesian Workers Abroad. This Law gives a lot of space to recruitment agencies, minimal space to local governments, and no access for civil society participation to be involved in the agenda of protecting Indonesian migrant workers. In addition, the passage of Law No. 39/2004 was also motivated by the Indonesian government's need to obtain financial support from

the International Monetary Fund (IMF) to maintain macroeconomic stability, strengthen the financial sector, increase investment and exports, and create jobs through flexible labour markets (International Monetary Fund 2003).

LBH Jakarta notes that the impact of the 2003 IMF loan to the Indonesian government has been that workers' rights have been ignored, workers' welfare has been minimal, and unemployment has been high (Hutabarat 2013). On the other hand, opportunities to work abroad have increased, especially for low-skilled workers. Domestic work, such as domestic work, agriculture, construction, and other sectors, was not desired by locals because the salaries offered to local workers were too low. Meanwhile, for prospective Indonesian migrant workers, this salary offer was considered much higher than the salary offered in Indonesia (IOM 2010). This situation created new vulnerabilities for Indonesian migrant workers, particularly Indonesian women migrant workers. This vulnerability was caused by the type of work offered in a 3D situation (Dirty, Dangerous, and Difficult). In addition, Indonesian migrant workers also experienced an unauthorised/ undocumented migration status, which not only left them unprotected but also exposed them to harsh police actions leading to detention and deportation (GCIM 2005).

While the need to fill the domestic sector in destination countries is high, the safety and protection of workers remain a challenge. Based on the results of cases managed by civil society organisations (CSOs), when it comes to the fulfilment of the rights of Indonesian migrant workers themselves, they still do not enjoy the right to decent work. This is evidenced by very low wages, lack of adequate working facilities, long working hours, physical and psychological violence, and withholding of documents. This situation is exacerbated when migrant workers lack legal documents or have undocumented status, as they are more vulnerable to exploitation and threats to their personal security, such as kidnapping and trafficking. In terms of security, the presence of Indonesian migrant workers is also stigmatised by other groups of workers, such as disease carriers, and seen as criminals because they can disrupt order and community in the destination country (Saftri & Wibisono 2023).

The Indonesian government has implemented various policies to protect Indonesian migrant workers, starting with Law No. 39/2004 on the Placement and Protection of Indonesian Migrant Workers, which was completely revised into Law No. 18/2017 on the

Protection of Indonesian Migrant Workers. The main aim of the policies is to create a sense of security for Indonesian migrant workers who will migrate abroad. Unfortunately, its implementation is still disappointing. There are still shortcomings that need to be improved both in terms of pre-departure and post-departure services. A case study conducted by Makakita in 2021 in one of the villages in NTT (Nabutaek Village) shows that not a single Indonesian migrant worker migrated through the local government (related agencies), so no data was recorded by the Central Bureau of Statistics (BPS) or the local government. Research data and government data also differ. This data gap has implications for the use of false identities and the limited protection provided by the local government, as the local government does not know that its residents are going abroad (Beliu & Fina 2023).

The paradigm sees domestic workers and fishing crews as a burden because migrant workers work in the informal sector and are vulnerable to problems. Therefore, to reduce problems in the world of work, all policies on migrant workers aim to increase employment in the formal sector in the hope of reducing problems. The 2023 data from the Indonesian Migrant Workers Protection Board (BP2MI) show an increase in formal placements compared to informal placements (152.760 formal placements compared to 122.205 informal placements), although in terms of the composition of the type of work, the participation rate of Indonesian women migrant workers working as domestic workers and caregivers still dominated. In the 2023 BP2MI publication report, of the 26 types of jobs accessed by Indonesian migrant workers, 24 percent were Indonesian migrant workers working as domestic workers, and 19 percent were working as caregivers. Although the proportion of formal migrant workers has increased, trends in migrant workers' job titles show that many still work as domestic workers and caregivers. It should be noted that these two occupations have been the top two occupations for Indonesian migrant workers (PMIs) for the last three years (2021-2023).

In terms of placements of Indonesian migrant workers, Indonesian women migrant workers continued to dominate participation in the last three years (2021-2023) with 61 percent. This figure even increased in 2021. In fact, 87.9 percent of Indonesian migrant worker placements were dominated by women migrant workers. The phenomenon of women working abroad is known as the feminisation of migration. The feminisation of migration is not a new phenomenon.

Literature shows that since the 1990s, labour migration patterns in Asian countries have shown a higher participation rate of women than men. The feminisation of labour migration has become a global phenomenon. This labour migration requires migrant workers in destination countries to fill domestic, industrial and care work (Maymon 2017). Unfortunately, care work is still considered unskilled work and does not require protection. In ASEAN countries such as Malaysia, the protection of domestic workers is excluded from Malaysian labour laws (Human Rights Watch 2004).

In Indonesia, despite the government's efforts to protect Indonesian migrant domestic workers (DWs), including through the provision of education and training at vocational training institutions (LPKs), the curriculum of the existing Indonesian National Competency Standard (SKKNI) is not yet gender-sensitive and human rights-compliant (ILO 2022). The SKKNI focuses more on technical skills that are measurable, specific and objective (hard skills). It does not emphasise social and interpersonal skills (soft skills), such as the ability to communicate, find solutions and work well together.

Communication problems with employers often make Indonesian migrant workers vulnerable to violence. They find it difficult to seek help from the Indonesian embassy or local migrant worker organisations to defend their rights. As a result, some workers go without help and reportedly die from violence or disease, even becoming victims of human trafficking and being employed elsewhere without legal documentation.

Research Methods

This paper uses a qualitative methodology with a literature review that includes research findings, news, data on Migrant CARE's case handling, and statements from Migrant CARE and other CSOs collected between 2014 and 2024.

Migrant CARE has documented various statements in the media in response to government policies on the protection of Indonesian migrant workers. These statements, both from the institutions and in collaboration with other CSOs, have been subjected to in-depth analysis in order to assess the impact of the policies on the protection of Indonesian migrant workers.

Indonesian migrant workers and CSOs continue to demand protection, including through advocacy for

the revision of Law No. 39/2004 on the Placement and Protection of Indonesian Migrant Workers. Although the revision of Law No. 39/2004 was included in the 2010-2015 National Legislative Programme (Prolegnas), it was not discussed more intensively in the DPR until 2012. Unfortunately, the revision of the PPMI Law was not completed during the 2009-2014 parliamentary term. According to various literature, Law No. 39/2004 contains legal uncertainty, which is characterised by unclear legal subjects, inconsistency in regulation, inconsistency in the content of legal rules and sanctions, and overlapping regulations, so that private actors have a greater role than the government in dealing with CTKI/TKI (the term at that time). However, in 2012, at the insistence of CSOs, 22 years after the adoption of the 1990 UN Convention, Indonesia ratified the 1990 UN Convention through Law No. 6/2012 on the Ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

This paper focuses on analysing a phenomenon within a certain period that is specific, descriptive, and concrete (Savin-Baden & Major 2013) to understand policy implementation. Therefore, this paper aims to analyse Indonesia's labour migration policy under President Joko Widodo (2014-2024), from development planning to the implementation of policies and protection programmes for Indonesian migrant workers.

2014: State Presence in the Protection of Indonesian Migrant Workers

Although in terms of policy, there is no legal umbrella to protect migrant workers because Law No. 39/2004 has not been replaced, in terms of the National Development Agenda Framework (RPJMN), the principles of protection have been outlined in a document that will become the planning of all ministries/agencies through the inclusion of Nawacita in the 2014-2019 RPJMN.

Nawacita was the nine development priorities for five years (2014-2019) that represented the vision and mission of the Joko Widodo and Jusuf Kalla administration. Nawacita was a continuation of the spirit of Soekarno's struggles and ideals, known as Trisakti (i.e. politically sovereign, economically independent and culturally distinctive). In the labour sector (labour migration), the protection of Indonesian migrant workers was presented through the Fourth Nawacita, which was to restore the state to protect the entire

nation and provide security for all citizens by protecting the rights and safety of Indonesian migrant workers, with the main goal of reducing the number of migrant workers facing legal problems at home and abroad. The priority labour agenda included: 1) the implementation of recruitment and placement mechanisms that protect migrant workers, 2) increasing the number of migrant workers with skills and expertise in line with market needs, 3) increasing the role of regions in labour market information and recruitment services for prospective migrant workers, and 4) the availability of regulations that provide protection for migrant workers (Minister of Manpower Regulation No. 14/2015).

The policy directions and strategies adopted were: 1) improving the governance of recruitment agencies; 2) expanding cooperation to improve protection; 3) equipping migrant workers with knowledge, education and skills; 4) expanding the use of financial services for workers through the introduction of financial services; and 5) improving protection through increased monitoring and welfare improvements and the preparation of effective insurance schemes (Minister of Manpower Regulation (Permenaker) No. 14/2015).

2015: Awaiting Policy Reforms to Protect Migrant Workers

After one year of the Joko Widodo-Jusuf Kalla administration, Migrant CARE's analysis shows that the protection agenda for migrant workers was still slow because the existing legal umbrella, Law No. 39/2004 on the Placement and Protection of Indonesian Migrant Workers Abroad, had not been revised. Although the legal umbrella had not yet been revised, there were changes in the nomenclature of ministries/agencies, for example, the nomenclature of the Ministry of Manpower and Transmigration was changed to the Ministry of Manpower to focus more on employment (labour) policies both at home and abroad. In addition, the Ministry of Foreign Affairs also made efforts to protect Indonesian migrant workers by being active in various bilateral, regional (ASEAN) and multilateral forums to advocate for the problems of Indonesian migrant workers and make it a priority agenda. The National Agency for the Placement and Protection of Indonesian Migrant Workers (BNP2TKI) also took transformative steps in terms of designing a reduction in recruitment fees to Taiwan, evaluating the performance of PPTKI (as it was then called), and involving civil society in designing and proposing policies regarding Indonesian migrant workers.

Unfortunately, the transformative steps taken were limited because some rules and policies still overlapped and contradicted the spirit of human rights. This could be seen in the continuation of the policy of abolishing migrant DWs through the roadmap for the protection of Indonesian migrant workers. Furthermore, in 2015, the government also changed the policy on the deployment of Indonesian migrant workers to the Middle East from a moratorium on the placement of Indonesian migrant workers to a permanent policy through the Minister of Manpower Regulation No. 260/2015 on the Termination and Prohibition of the Placement of Indonesian Migrant Workers to 19 Destination Countries in the Middle East. The policy has been in effect since July 2015. According to Sri Palupi, a researcher at the Institute for Ecosoc (through an interview conducted by the author), Permenaker No. 260/2015 aims to temporarily protect the rights of Indonesian migrant workers in the Middle East while the government prepares protection infrastructure from the village level to the centre. Unfortunately, the government did not have a roadmap for the protection of Indonesian migrant workers in the Middle East. There was also very limited monitoring, which was exploited by brokers/sponsors/traffickers to send prospective Indonesian migrant workers illegally.

Indonesian missions abroad have not been optimal in providing protection for Indonesian migrant workers. For example, the Malaysian Ministry of Home Affairs (MoHA) policy on the 6P (Registration, Legalisation, Amnesty, Supervision, Enforcement and Deportation) programme requires undocumented Indonesian migrant workers to obtain their documents through IMAN Resources. IMAN Resources is the only company appointed by the Malaysian MoHA to provide permit renewal and repatriation services for undocumented migrant workers. Because it is the only company appointed by the Malaysian government, many are forced to pay high fees with no guarantee of repatriation. Many Indonesian migrant workers have asked the Indonesian government to take action against the exploitative practices of IMAN Resources. However, it has only negotiated a price reduction without making more progressive efforts (Wahyudi 2015).

Another issue was the overlap of regulatory authority in Indonesia between the Ministry of Manpower and BNP2TKI. The recruitment of prospective Indonesian migrant workers was regulated by two ministries/institutions with different systems, through the labour market (Ministry of Manpower) and the private Indonesian Migrant Workers Placement Agency (BNP2TKI).

Based on the above situation and conditions, Migrant CARE sees that the Joko Widodo-Jusuf Kalla administration is still slow and not in line with the vision and mission contained in the Nawacita promise after one year. This is related to the presence of the state in the protection of Indonesian migrant workers and the seriousness of fixing labour policies by prioritising consistent human rights protection towards the roadmap for the abolition of the death penalty in Indonesia (Migrant CARE 2020).

2016: Labour Migration Policy in Indonesia

Entering the year 2016, women migrant workers in Indonesia continued to experience multiple vulnerabilities. These vulnerabilities were caused by discriminatory and exploitative policies. In 2016, UN Women launched the theme of "Step It Up for Gender Equality in the 2030 Agenda". The theme was launched in response to the Sustainable Development Goals (SDGs), which were agreed by 190 countries and endorsed by the UN General Assembly on 25 September 2015. This global development agenda covers the period from 2015 to 2030. The SDGs are global and national commitments to improve the well-being of societies, which include 17 global goals and targets. One of the 17 goals is gender equality.

This condition did not go hand in hand with Indonesian policy. Some important issues were not even resolved immediately. Some of the conditions were not conducive to the protection of migrant and domestic workers, including the failure to enact the Migrant Workers Protection Bill (PPRT Bill) and to ratify the ILO Convention 189 on Decent Work for Domestic Workers. As mentioned in the introduction, women's participation in labour migration is very high. The employment trends that Indonesian migrant women have access to are still dominated by domestic work and care work. However, there is no protection to prevent the increased vulnerability of migrant domestic workers as the government has not ratified ILO Convention 189 on Decent Work for Domestic Workers.

The call for the Government of Indonesia to ratify ILO Convention 189 is important and relevant as this Convention establishes fundamental labour rights for domestic workers, such as the protection of human rights (Article 3), respect and protection of fundamental principles and rights at work such as freedom of association and recognition of the right to collective bargaining, elimination of all forms of forced labour, elimination of child labour, elimination of discrimination

in respect of employment (Articles 3, 4 and 11); effective protection against all forms of abuse, harassment and violence (Article 5); and fair working conditions and decent living conditions (Article 6). Some of the fair labour provisions include information on terms and conditions of employment in a written contract of employment; clear working hours and compensation, such as overtime and holidays; wages; occupational health and safety; and social security.

In addition to ILO Convention 189, legal protection for domestic workers through the passage of the PPRT (Draft Law on the Protection of Domestic Workers) is also important. The PPRT Bill has been in and out of the DPR's Prolegnas, but has never been discussed for 20 years. Although it has been designated as a DPR Initiative Bill and the List of Issues (DIM) is already in the hands of the DPR to be discussed at the DPR Plenary Meeting on 21 March 2023, in reality, the PPRT Bill is still stuck in the hands of the DPR. In fact, having a domestic worker protection policy can be one of the protection tools for the Indonesian government with the destination country of migrant workers in implementing bilateral/MoU agreements. It is also a concrete form of the Indonesian government's commitment to achieve decent working conditions for all workers, as stated in Goal 8 of the SDGs.

The second condition is that the Memorandum of Understanding (MoU) instrument between the Indonesian government and the destination country does not contain human rights standards. In the MoU between the Indonesian government and Malaysia, there are no regulations on working hours, minimum age, no explanation of the rights to be protected, and a ban on unionisation. Migrant CARE also notes that there are 9 MoUs with other countries that also need to be reviewed for their enforceability, standards, and human rights guarantees. Almost all of the MoUs are not based on mutual benefit and do not respect human rights. In fact, according to the study, one of them, the MoU between Indonesia and Japan, is only a derivative of the economic agreement and agreement between Indonesia and Japan in the IJEP (Indonesia-Japan Economic Partnership) programme, using economic principles that ignore human rights issues (Migrant CARE 2020).

2017: The Birth of the Indonesian Migrant Workers Protection Law

The passage of the Law on the Protection of Indonesian Migrant Workers (PPMI Law) was the result

of pressure from various parties, particularly migrant workers' organisations and organisations advocating for Indonesian migrant workers. The PPMI Bill was discussed in 2014 as an initiative of the DPR. The Law was only passed on 22 November 2017. This Law is a comprehensive revision of Law No. 39/2004 on the Placement and Protection of Indonesian Migrant Workers. Several studies have shown that Law No. 39/2004 prioritises business interests and treats Indonesian migrant workers as mere commodities. In contrast, Law No. 18/2017 emphasises the role of the government in managing the placement and protection of migrant workers in line with the 1990 UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which the Indonesian government ratified through Law No. 6/2012.

The enactment of the PPMI Law is a policy reform that improves and fully regulates all efforts to protect the interests of prospective PMIs/PMIs and their families in ensuring the fulfilment of their rights. As explained in the PPMI Law, the protection of prospective PMIs and PMIs aims to 1) ensure the fulfilment and enforcement of human rights as a citizen and Indonesian Migrant Workers and 2) ensure legal, economic, and social protection for Indonesian Migrant Workers and their families. Despite its limitations, the content of the protection of migrant workers' rights in the PPMI Law is quite comprehensive and covers all stages of migration (from pre-work, during work, and after work) in legal, economic and social aspects.

The PPMI Law also incorporates the 1990 UN Convention. The 1990 UN Convention, which Indonesia ratified through Law No. 6/2012, has been a struggle of all civil society, including the efforts of Migrant CARE, to encourage the government to immediately ratify the UN Convention on the Protection of Migrant Workers. According to Jennifer Yau (2005), the Convention does not create new rights for migrant workers but rather highlights the basic rights that migrant workers should enjoy, as stated in other United Nations (UN) documents related to the protection of civil and political rights, economic, social and cultural rights of migrant workers. The core of the Convention affirms the equality of human rights between migrant workers and the local population (Yau 2005).

The Law on the Protection of Indonesian Migrant Workers Still to Be Implemented

Based on the strategic objectives of the Ministry of Manpower's programme for 2015-2019, the policy

direction was more towards expanding the placement of Indonesian migrant workers formally or working for legal employers rather than optimising the protection of informal employment opportunities. This included ensuring that the government, from the village to the central level, fulfils its role. This included job security for prospective Indonesian migrant workers, as well as easy access to information on labour flows abroad (which is safe and verified for Indonesian migrant workers).

The government needs to pay more attention to migrant workers in the informal sector, such as domestic workers and caregivers. This step is important as this sector remains one of the most common types

of jobs held by women migrant workers. According to the United Nations Department of Economic and Social Affairs (UN DESA), nearly half of global migrant worker remittances flow to rural areas, contributing to economic growth and development in these areas. In addition to financial remittances, the contribution of Indonesian women migrant workers is also in the form of social remittances related to knowledge and skills acquired while working abroad that contribute to and benefit the communities in their villages (UN Women Indonesia 2022). Unfortunately, the strategic plan of the Ministry of Manpower did not include these economic and social contributions in the strategic policy to improve the rights of women migrant workers.

Table 1. Ministry of Manpower Strategic Plan 2015-2019

Programme/Activity	Outcomes/Outputs/Indicators	Unit				
		2015	2016	2017	2018	2019
Programme Objective 3: To increase the amount of data on job placements through the Job Placement System						
Programme performance indicator 2.3	Percentage in increase in workers placed through the job-sharing system	13%	14%	17%	19%	20%
Programme Objective 4: To increase the number of formal job placements for migrant workers						
Programme performance indicator 2.3	Percentage increase in placement of migrant workers to users with legal entity	9%	11%	13%	14%	15%

Source: Minister of Manpower Regulation No. 4/2015 on the Ministry of Manpower's Strategic Plan 2015-2019

Quoting Dye (1981), public policy is everything the government chooses to do or not to do. Any public policy chosen by the government must be objective so that the goals to be achieved are clear. Of course, there are always actions that accompany any chosen policy, be it political, economic, legal, social, educational and so on. Dye also asserts that in any public policy process, there is always the possibility of a difference (gap) between what is expected by policymakers and what is actually achieved as a result or performance of policy implementation.

On the other hand, the data in Table 2 show that there was no significant decrease in the number of cases before and after the PPMI Act was passed. In fact, comparing the placement data with the case data, there was a high increase in cases in 2019 and 2021. In 2019, the COVID-19 pandemic started in all countries. From the data collected by BP2MI on the variety of case complaints, the highest number of cases compared to the previous two years were for other cases (5.570), overstay (805), unpaid salaries (660) and illness (642). In 2021, the most frequent complaints compared to previous years were for repatriation (508), unpaid salary (216), death at destination (172) and failure to depart (147).

Table 2. Placement Data vs. Case Data of Indonesian Migrant Workers 2014-2023

Description	Year									
	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Placement	429.874	275.737	234.451	262.899	283.640	276.553	113.436	72.624	200.802	274.965
Case	3,942	4.894	4.761	4.349	4.779	9.337	1.812	1.700	1.987	1.999
%	0,92	1,8	2,0	1,7	1,7	3,4	1,6	2,3	1,0	0,7

Source: Compiled from BP2MI data

Based on case handling data documented by Migrant CARE, Indonesian migrant workers who complained about their cases were predominantly female, at 57 percent (Migrant CARE 2017).

Violation of Right to Life: 290 Indonesian Migrant Workers Face the Death Penalty

Although there is an umbrella of protection, the PPMI Law does not guarantee the abolition of the death penalty for Indonesian migrant workers. Migrant CARE’s records show that in April 2015, Siti Zaenab, a migrant domestic worker from Indonesia, was one of the Indonesian migrant workers executed in Medina, Saudi Arabia. Siti Zaenab was forced to kill her employer in self-defence against her employer’s abuse during her two years in the house. Siti Zaenab was one of 290 Indonesian migrant workers facing the death penalty. Although the Indonesian government has called for Siti Zaenab’s release from death row, the practice of the death penalty in Indonesia has meant that the government has lost the moral legitimacy to call on other countries to release Indonesian migrant workers on death row.

Following the death of Siti Zaenab, which was condemned by various PMI organisations, particularly Migrant CARE, the next day, 15 April 2015, the Saudi Arabian government executed Karni Bt Medi Tarsim, a migrant domestic worker from Brebes, Central Java, without officially notifying the Indonesian government. In addition to the death penalty cases, there were 26 other cases handled by Migrant CARE in 2015-2019. The cases handled by Migrant CARE reflect the thousands of cases experienced by Indonesian migrant workers that require protection, swift response and fulfilment of victims’ rights.

Migrant CARE has also documented at least ten Indonesian migrant workers executed since 2008. Executions carried out by the competent authorities of the destination country were often carried out without

prior notification to the Indonesian government, denying access to justice in ongoing legal proceedings (Floretin 2018). A Task Force for the Handling of Indonesian Citizens/ Indonesian Migrant Workers Abroad Facing the Death Penalty was established by Presidential Decree No. 17/2011. One of its tasks is to provide advocacy and legal assistance, as well as to monitor the outcomes of Indonesian citizens/migrant workers abroad facing the death penalty, in order to provide maximum legal assistance and support for a period of six months until 2012. However, the role of the Task Force has not been transformative in terms of saving Indonesian migrant workers from execution.

2018: The Adoption of the Global Compact on Migration (GCM) for the Protection of Indonesian Migrant Workers

In 2018, Indonesia also adopted the Global Compact of Migration or Global Compact for Safe, Orderly and Regular Migration (GCM). This global agreement among countries covers all issues that regulate all dimensions of international migration in a comprehensive and inclusive manner. Although the Global Compact is not legally binding, it is legally relevant. The Global Compact can be used to help interpret or develop national migration-related legislation.

The GCM agreement is based on the values of state sovereignty, shared responsibility, non-discrimination, and human rights. It recognises that a cooperative approach is needed to maximise the overall benefits of migration - while addressing its risks and challenges for individuals and communities in countries of origin, transit, and destination. The Global Compact aims to improve the management of migration at the local, national, regional, and global levels. It also aims to reduce the negative push and structural factors that prevent people from building and maintaining sustainable livelihoods in their countries of origin. It aims to reduce the risks and vulnerabilities faced by migrants at different stages of migration by respecting,

protecting, and fulfilling their human rights, and providing them with assistance.

Unfortunately, these efforts at the global level have not been followed by protection efforts at the ASEAN level, as on 14 November 2017, at the 31st ASEAN Summit in Manila, Philippines, ASEAN leaders signed the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers after 10 years of discussions at the ASEAN level. This Declaration was adopted to implement the Cebu Declaration on the Promotion and Protection of the Rights of Migrant Workers, which was launched in January 2007. According to Migrant CARE and various civil society organisations, this Consensus, while welcome, is not sufficient and has not been significant to become an operational ASEAN instrument for the protection of migrant workers, as it is non-binding. Despite its limitations, it is hoped that the ASEAN Consensus can be a progressive first step towards the protection of Indonesian migrant workers at the ASEAN level.

2019: The Marginalisation of Indonesian Migrant Workers' Political Rights

In terms of numbers, the number of overseas voters in the 2019 election increased compared to the previous election period (2014), reaching 2.086.285 people. However, this number was still very low, which indicates that it did not cover all Indonesian citizens living abroad, the majority of whom are women migrant workers, totalling around 6.5 million people. Migrant CARE points out that the overseas voter turnout in the three elections (2009, 2014 and 2019) was still rather low (30 per cent). On the other hand, there were differences in the voting methods used in the 2019 overseas election compared to the voting methods used at home. Three methods were used, including polling stations (TPS), mobile ballot boxes (KSK) and postal voting. The overseas election was also held earlier than the domestic election. A concrete and comprehensive monitoring mechanism is needed to ensure that the conduct of the elections does not violate the ethics and principles of democracy.

Some records of election monitoring reports documented by Migrant CARE in 2019 show findings such as: 1) There was no integration of data on Indonesian migrant workers to improve the List of Permanent Overseas Voters (DPTLN); 2) The widest possible opportunity for Indonesian people, including Indonesian migrant workers, to participate in elections

and serve as overseas election committees (PPLN) was not opened; 3) Voting through mobile ballot boxes (KSK) was still used, although voting through KSK has a high potential for fraud; 4) Voting socialisation by the Overseas Electoral Commission (PPLN) officials was still uneven; 5) The practice of vote-brokering continued; 6) There was no simplification of voting methods to take into account long distances, so that the principles of LUBER and JURDIL could be implemented; 7) There were no mechanisms and procedures for the supervision and monitoring of all overseas voting methods, especially those prone to manipulation; 8) No mitigation measures were formulated for the possibility of an increase in the number of voters, both technical and non-technical, to ensure the stability of the elections and the accommodation of all voters' rights, especially in the direct voting phase through polling stations; 9) The provision of voter pick-up facilities at potential gathering points (bus and MRT stations) with a larger number of potential voters has not been optimised; 10) There has been no reformulation of the working mechanism for the effectiveness of manpower in conducting simultaneous elections in response to the excessive burden on election organising staff in the voting and counting phases, which has the potential to undermine the principles of health and social security (Migrant CARE 2019).

Citing Ripley (1985) in Purwanto (2012, pp. 106-110), the success or failure of policy implementation can be measured by policy outputs and policy outcomes. Policy outputs cover the coverage, bias, access, frequency, service delivery, accountability, and appropriateness of the programme to the needs. Meanwhile, policy outcomes cover the results or impacts of policies in terms of changes in the conditions of the community as the target of the policy or programme. Based on the above data, it can be concluded that the implementation of the PPMI Law and the GCM is still very low according to the policy output indicators. This conclusion is based on the fact that the number of cases increased and even doubled in 2019 due to three things that tripled compared to previous years such as overstaying, unpaid salaries, and Indonesian migrant workers who fell ill. This situation continued in 2020 when the COVID-19 pandemic occurred, further demonstrating the iceberg problem in the case of Indonesian migrant workers. Data on the status of cases documented by the government prior to the COVID-19 pandemic do not reflect the true data on the vulnerability of Indonesian migrant workers. In fact, it is possible that the number of cases is much higher than what is documented on the BP2MI website.

2019: Mandate and Rule Shifts that Ignore the Law on the Protection of Indonesian Migrant Workers

The PPMI Law stipulates that the ratification period for all regulations derived from the Law is limited to 2 years. However, the regulations were not issued at the government level but at the ministerial level. On 2 July 2019, the Ministry of Manpower issued Ministerial Regulation (Permenaker) No. 9/2019 on the Procedure for the Placement of Indonesian Migrant Workers, which became the implementation of the placement of PMIs. Migrant CARE, together with the Indonesian Migrant Workers Union (SBMI) and the Migrant Workers Network (JBM), believe that this Ministerial Regulation has both formal and substantive flaws. The substantive flaws are in the content of the Permenaker, which contradicts the PPMI Law and may hinder the implementation of the PPMI Law, which has the effect of reviving private businesses that result in the exploitation and human rights violations of migrant workers, especially women. Recruitment costs will become expensive as medical and psychological screening will be carried out by private parties. This also opens up opportunities for overlapping roles between governments (both central, regional and village) and has the potential to extend bureaucratic services that have been simplified by the One-Stop Integrated Services (LTSA).

2020-2024: Repeated Vulnerabilities of Indonesian Migrant Workers

2020 was President Joko Widodo’s second term until 2024. Migrant CARE’s 2020 Outlook Report shows that

migration policies were still not effective, inclusive, and sufficiently implemented. The transformation of labour migration governance from centralised to decentralised was still limited to written rules in the form of regulations. Policy implementation has not taken place. The results of the UNDP assessment with SBMI in 2023 show that local governments had problems in implementing the PPMI Law, especially in ensuring safe migration at the provincial level, due to lack of budget (22.5 percent), lack of coordination (21 percent), and lack of information (13.7 percent). These three points indicate that there has not been a continuous process of knowledge transfer from the central government to the regions on the roles and functions of the regions. The limited public budget for PMI protection reflects the lack of prioritisation and guidance in policy implementation (UNDP 2023). The technocratic framework of the RPJMN 2020-2024 shows that inclusive development design is still a challenge, as it still prioritises the economy as the main objective compared to protection.

Poor Quality Policies

The review of the National Manpower Plan 2020-2024 prepared by the Ministry of Manpower shows that despite the prioritisation of Nawacita’s 9 main agendas, the protection of Indonesian migrant workers in this second period was directed towards improving the economy through participation and access to employment opportunities for migrant workers. This policy can be seen in Table 3.

Table 3. Direction and Policy of Labour Migration of Indonesian Migrant Workers

No.	Policy Direction and Strategy of the Ministry of Manpower (2015-2019)	Policy Direction and Strategy of the Ministry of Manpower (2020-2024)
1	<p>To increase the competence and productivity of workers entering the labour market:</p> <ol style="list-style-type: none"> To increase the competence and competitiveness of the national workforce, able to place and channel skilled labour within and outside the country, supporting skills-based industries. To increase the provision of skills training for vulnerable workers entering the labour market. 	<p>Transformation of the programme to increase employment opportunities:</p> <ol style="list-style-type: none"> Development of an affirmative, needs-based programme to expand employment opportunities through the implementation of the Employment Opportunity Expansion Programme in the Pockets of Indonesian Migrant Workers (PMIs).
2	<p>To improve the quality of job placement and empowerment services:</p> <ol style="list-style-type: none"> Strengthening cooperation to improve protection. Improving the quality of governance for the implementation of placement. 	<p>Expansion of the overseas labour market:</p> <ol style="list-style-type: none"> Strengthening PMI placement governance. Developing the Indonesian Migrant Worker Placement System.

No.	Policy Direction and Strategy of the Ministry of Manpower (2015-2019)	Policy Direction and Strategy of the Ministry of Manpower (2020-2024)
	<ol style="list-style-type: none"> 3. Equipping migrant workers with knowledge, training, and skills. 4. Increasing the use of financial services for workers (bank accounts, access to credit, remittances). 5. Improving the quality of optimal overseas labour placement and protection services through regulation and coordination with the regions in the system and mechanism of services and legal assistance within the framework of the AEC free market. 	<ol style="list-style-type: none"> 3. Overseas labour market planning. 4. Skills upgrading through training of prospective migrant workers. 5. Expansion of PMI destination countries. 6. Placement of PMIs in the formal sector. 7. Strengthening the protection of migrant workers' rights.
3	<p>To improve labour protection, create a sense of fairness in the economy, and develop a labour inspection system:</p> <ol style="list-style-type: none"> 1. Improve the quality of the application of labour standards and social security through standards for the placement of Indonesian workers at home and abroad. 	

Source: Ministerial Regulation No. 4/2015 on the Ministry of Manpower's Strategic Plan 2015-2019 and the Review of the National Manpower Plan 2020-2024, Ministry of Manpower.

Table 3 shows that although there are overlaps in protection, such as strengthening governance and protecting the rights of migrant workers, these policies still do not specifically target the protection of Indonesian migrant workers, especially women. Economic-oriented policies are also reflected in the adoption of Law No. 11/2020 on Job Creation. This law was widely opposed, especially by civil society organisations, because the drafting process did not follow the rules of lawmaking and did not favour workers.

The situation that is not in favour of Indonesian migrant workers is the result of poor-quality policies. There is a tendency for leaders to be judged only by their image and not by the ability and impact of the policies they make. If this is allowed to happen, then there is a bias that obscures the quality of the policies adopted (Morgenthau 1948). This bias is certainly felt by migrant workers. The problems caused by Law No. 11/2020 on Job Creation increase the injustice for migrant workers, especially for Indonesian women migrant workers.

The centralising spirit of the Job Creation Law also has the potential to eliminate the role of local governments and reduce the space for civil society at the local level. It also weakens oversight of the private sector, which is often the perpetrator of PPMI rights abuses. In the PPMI Law, the licensing requirement for Indonesian Migrant Worker Placement Companies (P3MI), which is one aspect of ensuring the protection of PPMIs, has been simplified to an administrative licence. Migrant workers

are seen only as economic tools and not as human beings entitled to protection. The existence of the Job Creation Law was a setback after Indonesia ratified the 1990 Migrant Workers Convention and passed the PPMI Law.

Protecting Indonesian Migrant Workers Remains A Challenge

The situation during and after the COVID-19 pandemic leaves much to be desired. Indonesian migrant workers not only experienced labour rights violations such as unpaid wages, unilateral dismissal, repatriation, and others but also experienced extreme violence, security measures, and the risk of becoming victims of human trafficking in the form of online scams. Various efforts have been made at the national level, such as the adoption of almost all the derivative regulations of the Indonesian Migrant Workers Protection Law (only one was not adopted, namely the regulation on labour attachés). The PPMI Law derivative regulations on employment guarantees have also been revised to meet the protection needs of Indonesian migrant workers.

Several forms of Standard Operating Procedures (SOPs) have been created in an effort to provide protection services during the adaptation to the new normal. These SOPs include: 1) The development of the National Action Plan (NAP) of the Global Compact on Migration into SOPs for P3MI and BLKLN through the

Decision of Director General (Kepdirjen) No. 3783 on the SOP for the Implementation of Services and Protection of Indonesian Migrant Workers in Indonesian Migrant Worker Placement Companies (P3MI) during the Period of Adaptation to the New Normal and 2) Kepdirjen No. 3782 on the SOP for the Implementation of Services and Protection of Indonesian Migrant Workers at the Overseas Job Training Centres (BLKLN) and Overseas Job Training Institutions (LPKLN) during the Period of Adaptation to the New Normal. The police also involve CSOs in anti-trafficking efforts.

At the regional level, there are a number of policies that could serve as a reference for the protection of migrant workers. Unfortunately, they are still under

development. Some of them are: 1) Declaration on Portability of Social Security Benefits for Migrant Workers in ASEAN; 2) ASEAN Leaders’ Document in Labuan Bajo on the Protection of Migrant Workers and Family Members in Crisis Situations; 3) ASEAN Declaration on the Placement and Protection of Migrant Fishers; and 4) Declaration on Combating Trafficking in Persons Caused by the Abuse of Technology.

The lack of attention to the protection of Indonesian migrant workers has led to various cases of violence (as shown in Table 4). Table 4 reflects the lack of political commitment on the part of policymakers to work together to protect Indonesian migrant workers.

Table 4. Cases Experienced by Indonesian Migrant Workers (2022-2024)

Case Type	Case Details
Trafficking in Persons (TPPO) Cases	<ol style="list-style-type: none"> 1. TPPO cases increased significantly from 361 cases in 2021 to 752 cases in 2022. The destination countries for online scams were dominated by ASEAN member countries, namely Myanmar, the Philippines, Cambodia, Laos, Vietnam, and Thailand. 2. Number of victims in 2022 (668 people). In 2023 (3.208 people). 3. Number of TPPO crimes in 2022 (145 cases), in 2023 (982 cases). 4. Number of suspects in 2022 (172 persons), in 2023 (1.361 persons). 5. Migrant CARE complaint data showed that a total of 420 cases were submitted in 2022-2023, of which 64 percent (270 cases) were trafficking in persons (online scammers).
Labour Cases	The number of complaints from Indonesian migrant workers in the Asia and Africa region has increased in the last two years. 2021 (1.031), 2022 (1.142) and 2023 (1.251). (BP2MI, Publication Report, 2023)
Death Penalty Cases	As of May 2024, there are 165 cases of Indonesian citizens in 5 countries, namely Malaysia, Saudi Arabia, United Arab Emirates, Laos, and Vietnam, with the most cases in Malaysia being 155 cases. (Ministry of Foreign Affairs)
Violent Extremism Cases	As of 2023, a total of 94 migrant workers (53 men and 41 women) have been deported on suspicion of involvement in or exposure to violent extremism.

Source: Processed by the author from various news reports

This situation can be a common reflection of the need to include the experiences of migrant workers, especially women migrant workers, in order to develop policies that better protect them. The political participation of Indonesian migrant workers must be prioritised as a form of the state's political commitment to its citizens. Looking again at participation, the number of DPTLN voters in 2024 was lower than in the 2019 election. In 2019, the number was 2.061.414, while the data for the 2024 election was only 1.750.475. This number was not proportional to the number of Indonesian migrant workers abroad who participated in the election. The central bank (Bank Indonesia) recorded 3.6 million, the Ministry of Manpower recorded 6.5 million, and the World Bank predicted 9 million (Susilo 2023). In addition to the low DPTLN data, voter turnout in several destination countries for Indonesian migrant workers, such as Singapore, was as low as 30 percent (Maulana & Susanti 2024). The low participation rate of Indonesian migrant workers shows that migrant workers are not considered as part of citizens who have the right to vote. As a result, the protection agenda for migrant workers also has the potential to become a marginal, low-quality agenda that provides no protection, especially for women migrant workers in the informal sector.

Closing

The year 2024 was a political year and a national development agenda to be implemented by all Indonesian people, including Indonesian migrant workers. This research focuses on exploring the participation of Indonesian migrant workers as political subjects who are genuinely involved in the decision-making process. This includes how their experiences are taken into account in planning, policy-making, budgeting and programme implementation. Furthermore, this research shows how the Indonesian government has not created a space for protection in the 2014-2024 period, especially for informal workers, which are dominated by women migrant workers.

The many regulations put forward by the Indonesian government do not solve the complex problems faced by Indonesian migrant workers. Policies that focus only on economic interests show a lack of commitment to protection, especially for migrant workers in the informal sector. There should be good cooperation between the government, civil society organisations, employers, and Indonesian migrant workers. The high number of cases experienced by Indonesian migrant workers, especially women migrant workers in the

informal sector (domestic workers and caregivers), shows a lack of commitment by the government to recognise their work and rights as Indonesian citizens.

There are two things that we need to highlight as the cause of this situation: First, there is no perspective in policymaking that places migrant workers as subjects with their experiences. Policymakers only look at access to participation and employment opportunities without considering the benefits for migrant workers, especially in terms of protection. In this case, Indonesian migrant workers are not included up to the policy level. Second, the impact of the wide range of public policies implemented by the government, which often does not pay attention to continuity with previous policies when implementing them.

The 10 years of Joko Widodo's government must be a major turning point in the protection of migrant workers, especially Indonesian women migrant workers. The narrow definition of formal-informal work leads to discrimination against women migrant workers who work in the domestic sector (informal sector). There is a need to change the process of policy formulation and implementation so that all stakeholders, especially migrant workers, can be involved. There must be a real commitment with a spirit of synergy and cooperation between governments (national, central and regional), civil society organisations, employers and, of course, migrant workers and their families. This hope is important for us to remember together so that there is a network of protection based on policies in favour of Indonesian migrant workers, especially women migrant workers in the informal sector. This hope is also what we need to remember so that there are no more conditions of violence experienced by Indonesian migrant workers so that we can position them as empowered subjects whose rights are guaranteed by the state.

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