

# Transforming the Protection of Indonesian Migrant Workers (PMI)

Fithriatus Shalihah <sup>a,1</sup>, Haura Salsabiela El Sabrina Nazar <sup>2b,2</sup>

<sup>a</sup> Ahmad Dahlan University, Yogyakarta, Indonesia

<sup>b</sup> Sunan Kalijaga State Islamic University, Yogyakarta, Indonesia

<sup>1</sup> Email; fithriatus.shalihah@law.uad.ac.id ; <sup>2</sup> Email: hauranazar27@gmail.com

corresponding author email : fithriatus.shalihah@law.uad.ac.id

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## ABSTRACT

The high interest of the Indonesian people to become migrant-workers has resulted in an increase in the number of workers leaving for overseas in recent years. Although becoming a migrant-worker often provides significant economic benefits for individuals, families and national economic growth, the safety and protection of Indonesian Migrant Workers is still a serious challenge that must be addressed immediately. This is shown by the end of November 2024, there were 1358 cases of complaints received by BP2MI, which were dominated from non-procedural migrant workers. One of the progressive steps taken by the current government is to establish a ministry for the protection of Indonesian migrant workers in October 2024. This article is included in the type of literature study research using a normative-juridical approach. The results show that the establishment of the Ministry of Protection of Indonesian Migrant Workers through Presidential Regulation No. 165 of 2024 is a form of the state's seriousness in efforts to protect migrant-workers who focus on the quality of protection and maximize placement to improve the welfare of migrant-workers. In terms of placement, to ensure the safety and guarantee of the placement system, there are five placement schemes that have been provided. Meanwhile, in terms of the protection of migrant workers, referring to Article 7 of Law No. 18/2017 on the Protection of Migrant Workers includes three important stages, namely: protection before, during, and after working abroad. In addition to the three stages regulated in the law, other strategic efforts are needed to create a better work ecosystem. Some of the efforts that can be made include hastening the ownership of the Memorandum of Understanding, strengthening the capacity of human-resources, expanding opportunities and job markets in the country and resolving issues that affect law enforcement in Indonesia, especially related to corruption, collusion and nepotism behavior.

**Keywords:** Protection, Indonesian migrant workers, transformation

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## INTRODUCTION

Law Number 18 Year 2017 on the Protection of Indonesian Migrant Workers is a form of legal certainty in regulating the protection of Indonesian migrant workers both during pre-placement, placement and post-placement periods. However, related to the protection of the placement period, the national law of the Republic of Indonesia cannot be applied in other countries because it has different jurisdictions. Except in some cases related to universal rules. Therefore, in order to strengthen the protection of Indonesian migrant workers in the placement country, an agreement is needed that binds both parties, namely Indonesia as a

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sending state and the destination country as a receiving state. The agreement can be in the form of a treaty contract or MoU that has been mutually agreed upon.

President Prabowo Subianto's administration, which began in October 2024, has emphasized the protection of Indonesian migrant workers by establishing a ministry for the protection of Indonesian migrant workers that is separate from the Ministry of Manpower. In this case, the Indonesian government has realized that the presence of migrant workers has several positive impacts, both for individuals working as migrant workers, the families left behind, and on a large scale for the Indonesian economy through foreign exchange earnings. Throughout 2023, Bank Indonesia noted that foreign exchange contributions from PMI reached USD 14.2 billion or the equivalent of Rp230.6 trillion and ranked second after oil and gas exports (Liputan 6.com, 2024). Seeing the extraordinary contribution made by foreign exchange fighters for the country, it is directly proportional to the great risks that can be experienced by migrant workers during the placement period abroad.

Data from the Indonesian Migrant Workers Protection Agency (BP2MI) shows that the number of complaints of migrant workers until November 2024 amounted to 1358 complaints with details of 677 complaints of male migrant workers, while 681 complaints of female migrant workers (BP2MI, 2024). The problems that befall migrant workers need extra attention from the Indonesian government. Law No. 18/2017 has been created to protect migrant workers from exploitation and ensure their rights are fulfilled while they work abroad. Without a clear understanding of their rights and obligations, Indonesian Migrant Workers are vulnerable to exploitation, human rights violations, and unfair treatment. This paper will discuss the transformation of strengthening the protection of Indonesian migrant workers and the strategy of strengthening the protection of Indonesian migrant workers after the establishment of the Ministry of Protection of Indonesian Migrant Workers.

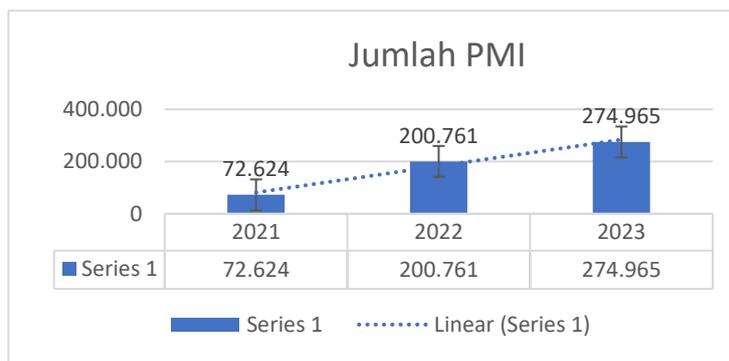
## **METHODS**

This research uses a type of literature study research, which focuses on collecting and analyzing data sourced from literature, legal documents, and other written references. The approach used in this writing is normative juridical. This approach combines both statutory and conceptual legal frameworks. The analysis is carried out by relying on primary and secondary legal materials. This legal material and data is processed using a qualitative descriptive method.

## **RESULTS AND DISCUSSION**

Job accessibility is still a major problem in this country. This is because the number of labor force/job seekers is always greater than the availability of jobs, which has an impact on the social life of the community, which is still a concern.(Ompi et al., 2023) The lack of availability of jobs in the country and the interest in meeting the economic needs of the family are the reasons why the Indonesian people seek work abroad, known as Indonesian migrant workers. Article 1 paragraph 2 of Law No. 18/2017 on the Protection of Indonesian Migrant Workers defines Indonesian Migrant Workers (PMI) as every Indonesian citizen who will, is, or has done work and received wages outside the territory of the Republic of Indonesia.

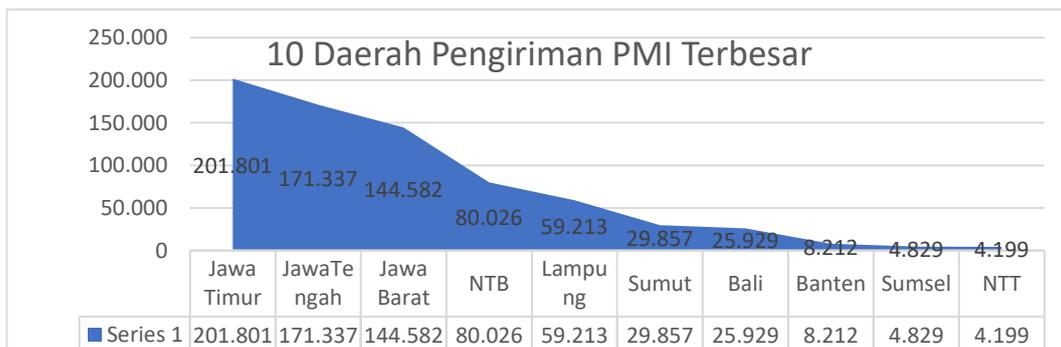
The high interest of the Indonesian people to become migrant workers occurs, along with an increase in the number of workers who leave abroad. The desire to work abroad is based on a strong determination to change the family economy in order to improve the quality of life and family welfare.(Dewandaru et al., 2019) But not only that, some studies explain that the reason someone decides to work abroad is also caused by family and relatives factors (Rizqi, n.d.). Family and relatives have a major influence on a person's decision to become an Indonesian migrant worker. Therefore, it is not uncommon to find children who have graduated from school deciding to work abroad rather than looking for work in the country. This is in line with government programs that make migration one of the strategies in overcoming domestic unemployment (Dewandaru et al., 2019) In the past 3 years the number of Indonesian migrant workers can be seen as follows:



Source: Indonesian Migrant Workers Protection Agency (BP2MI)

The data shows that the number of migrant workers in the past 3 years has increased significantly. In 2021, 72,624 Indonesian migrant workers were placed, 200,761 in 2022, and 274.965 in 2023 (Kementerian Pelindungan Pekerja Migran Indonesia, 2023). The high public interest in becoming Indonesian migrant workers is in line with the increasing amount of foreign exchange every year. Therefore, these migrant workers are known as foreign exchange heroes, because Indonesian migrant workers occupy the second largest position in the country's foreign exchange contribution, with a total income of 159 trillion annually (Kementerian Pelindungan Pekerja Migran Indonesia, 2023).

This phenomenon of international migration occurs in almost all regions of Indonesia. The distribution of PMI based on the region of origin can be seen as follows:



Source: SISKOP2MI

The data above shows that East Java is the region of origin sending the most migrant workers in Indonesia with a total of 201,801 people. Then followed by Central Java with 171,337 people and West Java with 144,582 people. This data shows that the majority of Indonesian migrant workers come from the island of Java.

Although working abroad often provides significant economic benefits for individuals, families and national economic growth, safety and protection remain a challenge, especially for low-skilled and unprocedural workers who are vulnerable to exploitation. Several studies have shown that the main obstacles for many migrant workers are unpredictable working conditions such as unclear work contracts, passport detention and physical and verbal abuse (Safitri & Wibisono, 2023). Furthermore, undocumented migrant workers are often subjected to potential threats to their personal safety, such as kidnapping and human trafficking, which increases their vulnerability to exploitation and human rights violations (Romli et al., n.d.). On the other hand, many migrant workers are not fully aware of their rights due to a lack of information and education. So that when there is a problem, migrant workers will find it difficult to understand and access the legal system in the placement country, with different languages, cultures and different legal systems (Dewi et al., 2024). These challenges and risks are not just individual problems, but have become measurable issues that can be identified through official data.

The challenges and risks experienced by Indonesian Migrant Workers (PMI) often lead to more serious problems, which impact their well-being. This can be seen from the increasing number of complaints received, where many migrant workers report rights violations, poor working conditions, and unfair treatment from employers. BP2MI's Crisis Center shows that there were 1,358 complaints from migrant workers received by BP2MI between January and November 2024, dominated by 1,042 cases of non-procedural migrant workers (Pusat data dan informasi Kementerian Pelindungan Pekerja Migran Indonesia, 2024). These complaints were mostly submitted by migrant workers working in Taiwan, Malaysia, Saudi Arabia, South Korea and the United Arab Emirates (Pusat data dan informasi Kementerian Pelindungan Pekerja Migran Indonesia, 2024). The complaints received through the Indonesian migrant worker complaint service until November 2024 include the following:

Laporan Bulanan | Januari s.d. November

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#### Layanan Pengaduan Pekerja Migran Indonesia Tahun 2024 (Januari s.d. November) Berdasarkan Kategori Kasus Tertinggi

| NO | Kategori kasus                                                  | JAN        | FEB       | MAR        | APR        | MEI        | JUN       | JUL        | AGU        | SEP        | OKT        | NOV       | JUMLAH       |
|----|-----------------------------------------------------------------|------------|-----------|------------|------------|------------|-----------|------------|------------|------------|------------|-----------|--------------|
| 1  | PMI Ingin Dipulangkan                                           | 25         | 23        | 12         | 23         | 38         | 15        | 25         | 16         | 33         | 34         | 22        | 266          |
| 2  | PMI gagal berangkat                                             | 9          | 8         | 7          | 11         | 6          | 4         | 9          | 29         | 45         | 11         | 15        | 154          |
| 3  | Jaminan Sosial Pekerja Migran Indonesia                         | 2          | 1         | 8          | 2          | 8          | 1         | 6          | 20         | 9          | 7          | 12        | 76           |
| 4  | Meninggal dunia di negara tujuan                                | 8          | 8         | 8          | 3          | 2          | 1         | 4          | 2          | 0          | 3          | 7         | 46           |
| 5  | Gaji tidak dibayar                                              | 16         | 6         | 5          | 24         | 17         | 17        | 7          | 6          | 10         | 3          | 5         | 116          |
| 6  | Gagal Layanan Penempatan                                        | 3          | 3         | 2          | 1          | 2          | 2         | 1          | 2          | 0          | 1          | 4         | 21           |
| 7  | Penipuan peluang kerja                                          | 2          | 4         | 1          | 9          | 6          | 10        | 7          | 11         | 3          | 2          | 4         | 59           |
| 8  | Penahanan paspor atau dokumen lainnya oleh P3MI                 | 4          | 3         | 6          | 3          | 2          | 2         | 0          | 4          | 3          | 9          | 3         | 39           |
| 9  | Perdagangan orang                                               | 1          | 0         | 0          | 1          | 9          | 0         | 1          | 0          | 3          | 6          | 3         | 24           |
| 10 | Putus Hubungan Komunikasi                                       | 0          | 2         | 4          | 7          | 4          | 5         | 2          | 4          | 2          | 3          | 3         | 36           |
| 11 | Sakit                                                           | 4          | 4         | 1          | 2          | 11         | 2         | 2          | 1          | 4          | 2          | 3         | 36           |
| 12 | Pekerjaan tidak sesuai PK                                       | 1          | 4         | 4          | 5          | 3          | 3         | 10         | 13         | 1          | 0          | 2         | 46           |
| 13 | Utang piutang antara CPMI dan P3MI                              | 2          | 3         | 0          | 3          | 0          | 2         | 2          | 0          | 1          | 1          | 2         | 16           |
| 14 | Ilegal Rekrut calon PMI                                         | 1          | 0         | 2          | 2          | 5          | 2         | 2          | 0          | 1          | 0          | 1         | 16           |
| 15 | Meninggal                                                       | 3          | 1         | 1          | 10         | 24         | 2         | 1          | 3          | 2          | 1          | 1         | 49           |
| 16 | Overstay                                                        | 0          | 0         | 1          | 1          | 0          | 0         | 0          | 3          | 1          | 0          | 1         | 7            |
| 17 | Pemutusan hubungan kerja sebelum masa perjanjian kerja berakhir | 1          | 0         | 1          | 5          | 3          | 2         | 2          | 5          | 1          | 0          | 1         | 21           |
| 18 | PMI hamil                                                       | 0          | 0         | 0          | 0          | 0          | 1         | 0          | 0          | 0          | 0          | 1         | 2            |
| 19 | PMI tidak mampu bekerja                                         | 1          | 0         | 0          | 0          | 0          | 0         | 0          | 0          | 0          | 0          | 1         | 2            |
| 20 | Potongan gaji melebihi ketentuan                                | 2          | 1         | 0          | 3          | 0          | 0         | 1          | 1          | 0          | 0          | 1         | 9            |
| 21 | Asuransi luar negeri belum dibayar                              | 0          | 0         | 0          | 1          | 1          | 0         | 0          | 0          | 1          | 2          | 0         | 5            |
| 22 | Beban kerja terlalu berat                                       | 0          | 0         | 0          | 0          | 0          | 0         | 0          | 1          | 0          | 0          | 0         | 1            |
| 23 | Biaya Layanan Penempatan melebihi struktur biaya                | 2          | 0         | 0          | 6          | 11         | 1         | 14         | 1          | 2          | 5          | 0         | 42           |
| 24 | Deportasi/Repatriasi                                            | 0          | 0         | 0          | 4          | 57         | 0         | 0          | 0          | 0          | 0          | 0         | 61           |
| 25 | Depresi/Sakit jiwa                                              | 0          | 0         | 0          | 1          | 0          | 0         | 1          | 0          | 0          | 0          | 0         | 2            |
| 26 | Lainnya                                                         | 27         | 10        | 52         | 10         | 17         | 18        | 19         | 21         | 12         | 16         | 4         | 206          |
|    | <b>Total</b>                                                    | <b>114</b> | <b>81</b> | <b>115</b> | <b>137</b> | <b>226</b> | <b>90</b> | <b>116</b> | <b>143</b> | <b>134</b> | <b>106</b> | <b>96</b> | <b>1.358</b> |

\*data ditarik per 1 Desember 2024

\*\*Data diurutkan berdasarkan jumlah Layanan Pengaduan pada bulan November

Fig. 1. pengaduan pekerja migran Indonesia hingga November 2024

The figure shows that the top 6 cases of complaints of migrant workers are dominated by the reasons why migrant workers want to be repatriated, migrant workers fail to depart, salaries are not paid, PMI Social Security, fraudulent employment opportunities, work not in accordance with the work agreement, death in the destination country and so on..(Pusat data dan informasi Kementerian Pelindungan Pekerja Migran Indonesia, 2024)

These complaint data reflect the harsh realities faced by migrant workers, reflecting the urgency of implementing strategic and concrete measures to address these issues. Failure to give adequate attention to these issues has the potential to have a significant negative impact on the welfare of migrant workers, and could harm Indonesia's reputation as a country responsible for protecting the rights of its citizens at the global level.

### **Institutional Transformation in Efforts to Strengthen the Protection of Migrant Workers (PMI)**

Protecting all Indonesians is one of the main mandates of the Preamble to the 1945 Constitution, which serves as the moral and constitutional foundation for all state actions and policies. This protection covers various aspects of life, ranging from security, social welfare, human rights, to state sovereignty. In the modern context, the challenges facing the Indonesian nation are increasingly complex and diverse, requiring a holistic and sustainable approach. Protecting the entire Indonesian nation, as stated in the preamble of the 1945 Constitution, includes providing protection for Indonesian migrant workers (Agus, 2023).

The Protection of Indonesian Migrant Workers itself in Law No. 18/2017 on the Protection of Migrant Workers is defined as all efforts to protect the interests of prospective Indonesian Migrant Workers and/or Indonesian Migrant Workers and their families in realizing the guaranteed fulfillment of their rights in all activities before work, during work, and after work in legal, economic, and social aspects. The effort to transform the institutional protection of Indonesian migrant workers into a separate Ministry is a form of the state's seriousness in protecting migrant workers who focus on the quality of protection and maximizing the placement of migrant workers to improve the welfare of Indonesian migrant workers.

The presence of this transformation has implications for the transfer of tasks and functions previously carried out by the Ministry of Manpower to the authority of the Ministry of Protection of Indonesian Migrant Workers as stipulated in Presidential Regulation Number 164 of 2024 concerning the Ministry of Manpower. The issuance of this Perpres also revokes the previous regulation, namely Perpres No. 95 of 2020. Thus, through Presidential Regulation No. 165 of 2024, the Protection of Indonesian Migrant Workers (P2MI), which was previously in the form of an agency, was converted into a Ministry and can fully carry out its duties and functions as the protection of migrant workers.

In terms of the placement of prospective Indonesian migrant workers, to ensure the security and guarantee of the placement system, there are several placement schemes that have been provided including *first*, the G to G (Government to government) scheme. is a mechanism for placing workers abroad carried out based on an official agreement

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between the Indonesian government and the government of the destination country *Second*, the Government to Private (G to P). This cooperation is based on a written agreement that has been agreed by both parties. *second*, the G to P (Government to Private) Scheme. The placement process is carried out by the government and directed to private employers in the destination country. This scheme is a form of cooperation between the government of the Republic of Indonesia and the agency or employer (Farid & Sri, 2020).

*Third*, the P to P (Private to Private) Scheme. Schemes with a placement model carried out by the Indonesian Migrant Worker Placement Company (P3MI), private placement agencies, or Indonesian labor service providers aim to channel workers to private employers in destination countries, both legal entities (companies) and individuals. *Fourth*, through UKPS or (For the Interest of the Company itself) in the form of companies from Indonesia sending their workers to destination countries for the benefit of the company itself. And the *fifth*, individuals or professionals. Placement carried out by prospective Indonesian migrant workers by searching, registering, and communicating directly with employers in destination countries without involving intermediaries, either from the government, worker placement companies in Indonesia, or abroad.

Furthermore, the form of protection of migrant workers can be clearly defined by referring to Law Number 18 Year 2017 on the Protection of Indonesian Migrant Workers. This law has replaced the previous regulation, namely Law Number 39 of 2004 concerning Placement and Protection of Indonesian workers abroad. The provisions in the new law cover a number of important topics that were not covered in the previous regulation. In addition, this law will provide maximum protection for citizens working abroad (Tantri et al., 2017). Protection of migrant workers can also be found in Government Regulation No. 59 of 2021, which adopts the substance of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which was later ratified by the Government of Indonesia.

Various regulations in laws and implementing regulations have been made as part of the government's efforts to maintain and protect the rights of migrant workers. Several Conventions related to labor migration and the protection of migrant workers include ILO Convention 97 on Labor Migration, Convention 181 on Private Labor Brokers, Convention 189 on Domestic Workers and Convention 190 on the Elimination of Violence and Harassment in the World of Work (Kementerian Ketenagakerjaan, 2022). In addition, Indonesia also adopted the Global Compact of Migration or Global Compact for Safe, Orderly and Regular Migration (GCM) for safe, orderly and procedural migration that regulates all dimensions of international migration in a comprehensive and comprehensive manner. This agreement is based on the values of state sovereignty, responsibility sharing, non-discrimination, human rights, and recognizes that a cooperative approach is needed to optimize the overall benefits of migration (Kementerian Ketenagakerjaan, 2022).

The concept of protection for migrant workers as contained in Article 7 of the Law on the Protection of Indonesian Migrant Workers includes three important stages: protection before, during, and after working abroad. Protection provided before work or pre-employment for migrant workers includes all administrative and technical measures from the

time of registration to worker departure. Administrative protection includes the determination of working conditions and terms as well as the legality and completeness and validity of placement documents. While technical protection to prospective migrant workers includes socialization and dissemination of information, improving the quality of prospective migrant workers through education to job training, social security, facilitating the fulfillment of rights for prospective migrant workers, strengthening the role of functional employees of job introducers and placement services in one-stop integrated services.

In addition, measures are also taken to protect PMI and their family members while they are abroad. In general, this article regulates 8 forms of protection, namely data collection and data registration by the labor attaché or designated foreign service officials, monitoring and assessment of employers, work, working conditions, facilitation of the fulfillment of PMI rights and settlement of employment cases, consular services, provision of legal assistance, coaching, and facilitation of repatriation.

The protection of Indonesian migrant workers after or after work includes all efforts made to protect migrant workers and their families from the time they arrive in Indonesia until they return to their area of origin, including helping former Indonesian migrant workers to become productive workers upon their return from abroad. This form of protection after work can be found in Article 24 of Law Number 18 Year 2017 which consists of: return facilities to the area of origin, settlement of unfulfilled rights of migrant workers, management of migrant workers who die and get sick, rehabilitation and social reintegration, and empowerment of migrant workers and their families. In its implementation, the central government and local governments work together to provide protection during the after-work period.

Legal protection for Indonesian Migrant Workers (PMI) is an important foundation in efforts to ensure their rights are protected while working abroad. However, this step needs to be complemented by various other strategic efforts to create a better work ecosystem. Some of the efforts that can be made include hastening the ownership of Memorandum of Understanding (MoU) with countries that are the destination of migrant worker placements. As the second largest migrant worker sending country in Southeast Asia after the Philippines (Naovalita, 2006). Indonesia should have MoUs with destination countries. The MoU aims to provide more comprehensive protection to migrant workers abroad. MoUs are bilateral agreements with destination countries, which are negotiated and produce written agreements that have legal force and are binding on the parties as required by the 1969 Vienna Convention on International Treaties (Tantri et al., 2017). The result of the MoU with the receiving country will then serve as a guide for PMI and employers in the preparation of employment agreements. As a result, the MoU can be equated with a law that has the authority to force and bind, but its enforcement is limited only to the provisions contained in the contents of the MoU.

Furthermore, strengthening the capacity of human resources through adjusting the education curriculum in accordance with the needs of the community. This can be done through skills-based training and mastery of soft skills such as mastery of foreign languages, understanding conditions and situations in destination countries, and realizing their rights and responsibilities in the workplace (Fitriani et al., 2024). In addition to strengthening human resources, there is a need to expand opportunities and the job market in the country

in general to reduce dependence on sending workers abroad, so improving domestic job prospects is the most important first step. By increasing employment in the country, the government can increase people's income and promote fair and sustainable economic growth (Zahrah et al., 2024). Resolving issues affecting law enforcement in Indonesia, especially related to corruption, collusion and nepotism (KKN), is a crucial step in protecting migrant workers from the risks of unprocedural migration, which often leads to exploitation or even human trafficking.

## CONCLUSION

After the institutional transformation of the Indonesian Migrant Workers Protection Agency into a separate ministry, it is a progressive step in the state's efforts to protect the rights of Indonesian migrant workers. With the presence of the Ministry of Protection of Indonesian Migrant Workers, it is a form of the state's seriousness to focus on maximizing the placement and protection of Indonesian migrant workers in order to improve the welfare of migrant workers. In ensuring security during the placement of migrant workers, it is carried out through 5 placement schemes including the G to T, G to P, P to P, UKPS and individual or professional schemes. The form of protection for migrant workers refers to Law No. 17/2018 which is divided into three stages, namely pre-employment, working period, and post-employment. In each stage, protection is carried out by considering social, legal and economic protection. In addition to these three stages, there are several other efforts that can be made as a form of support in protecting Indonesian migrant workers, including by hastening the ownership of the MoU, strengthening human resources, expanding domestic employment and resolving issues of corruption, collusion and nepotism.

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## AUTHORS' DECLARATION

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