



## Legal Protection for Indonesian Migrant Workers from Human Trafficking Crimes

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**Abstract.** Legal protection for Indonesian Migrant Workers plays an important role in efforts to combat human trafficking, which is still a serious problem in the world. This study examines various regulations related to Indonesian Migrant Worker policies and criminal sanctions for perpetrators of human trafficking. This study uses a normative legal method by examining various sources of law, both national law and international agreements such as the Palermo Protocol. The results of the study show that Indonesia has ratified various major international conventions and has passed Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers and Law Number 21 of 2007 concerning the Eradication of Human Trafficking. These laws provide strong protection for migrant workers from the conservation, placement, and post-placement stages, and provide severe penalties for perpetrators of human trafficking. However, despite these various legal efforts, there are still many problems in law enforcement. This is reflected in the increasing cases of Human Trafficking, with 2,149 victims rescued in 2023. The study highlights the urgent need for better oversight, stricter conservation rules, and stronger law enforcement to prevent, cover and protect migrant workers.

**Keywords:** Legal Protection, Indonesian Migrant Workers, Human Trafficking, Recruitment Regulations, Criminal Sanctions.

**Abstrak.** Perlindungan hukum bagi Pekerja Migran Indonesia memegang peranan penting dalam upaya penanggulangan perdagangan orang yang hingga kini masih menjadi permasalahan serius di dunia. Penelitian ini mengkaji berbagai regulasi terkait kebijakan Pekerja Migran Indonesia dan sanksi pidana bagi pelaku perdagangan orang. Penelitian ini menggunakan metode hukum normatif dengan mengkaji berbagai sumber hukum, baik hukum nasional maupun perjanjian internasional seperti Protokol Palermo. Hasil penelitian menunjukkan bahwa Indonesia telah meratifikasi berbagai konvensi internasional utama dan telah mengesahkan Undang-Undang Nomor 18 Tahun 2017 tentang Perlindungan Pekerja Migran Indonesia dan Undang-Undang Nomor 21 Tahun 2007 tentang Pemberantasan Perdagangan Orang. Undang-undang tersebut memberikan perlindungan yang kuat bagi pekerja migran sejak tahap penempatan, penempatan, dan pasca penempatan, serta memberikan sanksi yang berat bagi pelaku perdagangan orang. Namun demikian, di tengah berbagai upaya hukum tersebut, masih banyak permasalahan dalam penegakan hukum. Hal ini tercermin dari meningkatnya kasus Perdagangan Manusia, dengan 2.149 korban berhasil diselamatkan pada tahun 2023. Studi ini menyoroti kebutuhan mendesak akan pengawasan yang lebih baik, aturan konservasi yang lebih ketat, dan penegakan hukum yang lebih kuat untuk mencegah, melindungi, dan melindungi pekerja migran.

**Kata kunci:** Perlindungan Hukum, Pekerja Migran Indonesia, Perdagangan Manusia, Peraturan Perekrutan, Sanksi Pidana.



## 1. Introduction

Human trafficking, also known as modern slavery, is often confused with slavery, although slavery has a broader meaning. Throughout history, slavery has been legal and common practice across cultures and continents, often perpetrated by one group against another.<sup>1</sup> However, in the 19th century, an international movement began to call for the abolition of all forms of slavery. According to the United Nations Office on Drugs and Crime (UNODC), human trafficking involves the act of collecting, transferring, receiving, or holding human beings by means of threat, force, or deception for the purpose of exploitation. Modern slavery also includes situations where a person is held involuntarily, held in debt, and exploited.<sup>2</sup>

Although slavery is now illegal worldwide, human trafficking still occurs in every country. Although the United Nations (UN) continues to campaign for a global commitment to combat and eradicate human trafficking, perpetrators can still operate with transnational networks.<sup>3</sup> While the United Nations in its General Assembly in 1994 approved and agreed on a resolution against trafficking in women and girls and in that session the UN produced an agreement on the definition of trafficking in women and girls, namely the illicit and unlawful movement of persons across national and international borders, especially from developing countries and from countries with economies in transition, for the purpose of forcing women and girls into situations of sexual and economic oppression and exploitation, as well as other illegal acts related to human trafficking such as forced domestic labor, false marriages, clandestine employment and false adoption for the purposes of recruitment, trafficking and criminal syndicates.<sup>4</sup>

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<sup>1</sup> Astrid Athina Indradewi and Yuni Priskila Ginting, "Legal Protection for Indonesian Migrant Workers in International Human Trafficking Syndicates," *UNES Law Review* 6, no. 4 (2024): 9968.

<sup>2</sup> Vanessa Bouché and Madeleine Bailey, "The UNODC Global Report on Trafficking in Persons: An aspirational tool with great potential," In *the Palgrave international handbook of human trafficking*, (Cham: Springer International Publishing, 2019), 166. See also, Lindsey King, "International law and human trafficking," *Human Rights & Human Welfare* 9, no. 1 (2009): 90; Ali, Habib Mohammad. "Data collection on victims of human trafficking: An analysis of various sources," *Journal of Human Security* 6, no. 1 (2010): 59.

<sup>3</sup> Mok Shen Yang, "ASEAN and Transnational Crime: Gains and Challenges in Tackling Drug Trafficking," *Wimaya* 1, no. 1 (2020): 35.

<sup>4</sup> Maria Beatriz Alvarez and Edward J. Alessi, "Human trafficking is more than sex trafficking and prostitution: Implications for social work," *Affilia* 27, no. 2 (2012): 147. See also, Farhana Farhana, "Punishment of Criminals of Trafficking in Persons: Legal Perspective on International Guidelines and Indonesian Practices," *International Journal of Criminology and Sociology* 10, no. 4 (2021): 675; Vinita Susanti et al., "Criminological study on criminal activities human trafficking in the Nusa

In March 2007, UNODC launched the United Nations Global Initiative to Fight Human Trafficking (UN. GIFT) as a campaign against human traffickers, calling on world leaders to take action. As a result, on December 4, 2007, 116 countries signed a protocol agreement to prevent, suppress and punish human trafficking, especially involving women and children.<sup>5</sup> Including the State of Indonesia, which has truly protected human dignity and that can be seen in the 1945 Constitution as the legal basis in Indonesia, where in the Preamble it mandates that the State and Government are established to protect all the people and the land of Indonesia and to advance public welfare based on Pancasila.<sup>6</sup>

In 2007, the Indonesian Government established Law Number 21 of 2007 as the legal basis for efforts to eradicate the Crime of Human Trafficking (*Tindak Pidana Perdagangan Orang* or TPPO), replacing the provisions in Article 297 of the Criminal Code which were considered inadequate.<sup>7</sup> This law provides a definition of human trafficking as stated in Article 1 number 1, which has similarities with the Palermo Protocol, which states that human trafficking is the act of recruiting, transporting, harboring, sending, transferring, or receiving a person with the threat of violence, use of violence, kidnapping, confinement, forgery, fraud, abuse of power or vulnerable position, debt bondage or giving payment or benefits, so as to obtain the consent of a person who has control over the other person, whether carried out within the country or between countries, for the purpose of exploitation or resulting in people being exploited.<sup>8</sup>

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Tenggara Timur region (NTT), Indonesia.” *International Journal of Criminology and Sociology* 9, no. 6 (2020): 184.

<sup>5</sup> Safrida Yusitarani, “Analisis yuridis perlindungan hukum tenaga migran korban perdagangan manusia oleh pemerintah indonesia,” *Jurnal Pembangunan Hukum Indonesia* 2, no. 1 (2020): 24. See also, Alvarez and Alessi, “Human trafficking is more than sex trafficking,” 148.

<sup>6</sup> Farhana, “Punishment of Criminals,” 677. See also, Indradewi and Ginting, “Legal Protection for Indonesian Migrant,” 9967; Yusitarani, “Analisis yuridis perlindungan hukum,” 26; Leonard S. Bombom et al., “Mapping the Patterns of Human Trafficking in and from Africa,” *Human Trafficking: Global History and Perspectives* 7, no. 4 (2021): 411.

<sup>7</sup> Nicole J. Siller, “Human trafficking in international law before the Palermo Protocol,” *Netherlands International Law Review* 64, no. 3 (2017): 410. See also, Elżbieta M. Goździak and Kathleen M. Vogel, “Palermo at 20: A retrospective and prospective,” *Journal of Human Trafficking* 6, no. 2 (2020): 109; Susanti et al., “Criminological study on criminal,” 185.

<sup>8</sup> Mike Dottridge, “How is the Money to Combat Human Trafficking Spent?,” *Anti-Trafficking Review* 3 (2014): 6. See also, Nabiyla Risfa Izzati, “New Direction of Indonesian Migrant Workers Protection through the Law Number 18 of 2017 and its Implementation Challenges,” *PADJADJARAN Jurnal Ilmu Hukum* 6, no. 1 (2019): 195; H. Ismail et al., “The Protection of Indonesian Migrant Workers under Fiqh Siyash Dusturiyah,” *Lentera Hukum* 8, no. 1 (2021): 155; R. Khairazi, “Strengthening Regulations in Protecting Indonesian Migrant Workers Before Departing to the Destination Country,” *Udayana Journal of Law and Culture* 5, no. 1 (2021): 44; Wayne Palmer, “Prosecuting corporate crime in Indonesia: Recruitment agencies that traffic migrant workers,” *Asian Journal of Comparative Law* 15, no. 1 (2020): 24.

Meanwhile, Law Number 18 of 2017 regulates the Protection of Indonesian Migrant Workers (*Pekerja Migran Indonesia* or PMI), by providing a definition of Prospective PMI and PMI in Article 1 paragraph 1 and 2, as well as PMI classification in Article 4 paragraph (1) letters a to c. Protection of PMI begins before departure to prevent potential human trafficking practices.<sup>9</sup> The Constitution also strengthens this through Article 28I paragraph (4) and Article 27 paragraph (2) of the 1945 Constitution, which emphasizes the state's obligation to protect the right to work and human rights. However, even though regulations are in place, their implementation still faces challenges and this can be seen from the continued increase in human trafficking cases which reached 49.6 million in 2021 and became a highlight in the international forum Bali Process 2023 in Australia.<sup>10</sup>

Brigadier General Ahmad Ramadhan as the Head of the Public Information Bureau of the Police Public Relations Division revealed that as of July 19, 2023, the Human Trafficking Crime Task Force of the National Police Criminal Investigation Unit together with the Regional Police have named 829 suspects from 699 police reports, with the number of victims reaching 2,149 people. Meanwhile, the day before, on July 18, 2023, 804 suspects from 684 reports were recorded, and 2,104 victims were successfully rescued. This fact reflects a significant increase in the efforts to prosecute TPPO cases by the Police in a very short period of time.<sup>11</sup>

Based on World Bank data from 2017, around 9 million Indonesian citizens work abroad, and the number continues to increase by hundreds of thousands every year. This condition causes around 5 million people to be trapped in TPPO, especially from among non-procedural Indonesian Migrant Workers (*Pekerja Migran Indonesia* or PMI). As of July 19, 2023, 2,149 TPPO victims have been rescued. National Human Rights Commission also emphasized that Indonesia is in a TPPO emergency situation, with at least 3,700 PMI recorded as victims of human trafficking in the ASEAN region throughout 2020 to 2024.<sup>12</sup>

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<sup>9</sup> Berkat Anugrah Kurunia Situmorang et al., "Perlindungan Hukum Terhadap Pekerja Migran Indonesia Informal Menurut Undang Undang Nomor 18 Tahun 2017 Tentang Perlindungan Pekerja Migran," *Jurnal Ilmiah Metadata* 3, no. 2 (2021): 673.

<sup>10</sup> Maria Regina Fallo et al., "Social rehabilitation process of human trafficking victims in East Nusa Tenggara, Indonesia: gathering insights from the professionals," *Asia Pacific Journal of Social Work and Development* 8, no. 3 (2025): 5.

<sup>11</sup> Ade Ridwan Yandwiputra, "Satgas TPPO Polri Kembali Tangkap Pelaku TPPO, Total Kini Ada 829 Tersangka," *Tempo.com*, July 20, 2023. Retrieved in July 14, 2025 from <https://www.tempo.co/hukum/satgas-tpo-polri-kembali-tangkap-pelaku-tpo-total-kini-ada-829-tersangka--164709>.

<sup>12</sup> Anggita Raisa, "Upaya IOM dalam Menangani Perdagangan Manusia di Indonesia," *Kumparan.com*, October 26, 2022. Retrieved in July 3, 2025 from <https://kumparan.com/anggita-raissa/upaya-iom-dalam-menangani-perdagangan-manusia-di-indonesia-1z7XIVw3wFG/1>. See also, Marianus Marselus, "Indonesia Darurat TPPO, 3.700 PMI Jadi Korban, Komnas HAM

World Bank Indonesia reported that total remittances sent by PMI from abroad between 2016 and 2023 reached USD 76.151 billion. The details are USD 8.687 billion in 2016, USD 8.761 billion in 2017, USD 0.974 billion in 2018, USD 11.435 billion in 2019, USD 9.427 billion in 2020, and USD 9.164 billion in 2021. This data indicates that Indonesia as the largest PMI sending country in the world has received foreign exchange of around IDR 159.6 trillion annually from 2020 to 2023.<sup>13</sup>

The data shows that PMI are national heroes who contribute significantly to the country's economy and therefore deserve full respect and protection from the state against all forms of inhumane treatment, especially human trafficking. However, the recurring reports of crimes against PMI on social media and the ongoing lack of adequate legal protection raise concerns. This raises a critical question: is the role of PMI still undervalued, or is the state's commitment to protecting them insufficient? These concerns are not new and have been the focus of many recent academic studies.

Recent studies on the protection of Indonesian Migrant Workers and human trafficking show both progress and ongoing challenges. Rahayu et al.<sup>14</sup> compare labor policies in Indonesia and Nepal based on human rights standards. They acknowledge Indonesia's ratification of ILO conventions but point out weak monitoring and gender bias in informal sectors as key issues. Palmer<sup>15</sup> uses a "legal process" approach and finds structural flaws in Indonesia's labor institutions, especially in protecting PMI rights, suggesting improvements like access to private legal aid. Tjitrawati and Romadhona<sup>16</sup> highlight difficulties faced by undocumented Indonesian workers in Malaysia, stressing the importance of bilateral cooperation to ensure health access regardless of legal status. Prianto et al.<sup>17</sup> review Indonesia-Malaysia agreements, praising initiatives such as the "one channel system" for

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Luncurkan Program 'Jalan Terjal'," *Mediaindonesia.com*, June 27, 2024. Retrieved in July 6, 2025 from <https://mediaindonesia.com/nusantara/681093/indonesia-darurat-tpo-3700-pmi-jadi-korban-komnas-ham-luncurkan-program-jalan-terjal>.

<sup>13</sup> Tri Sulistiyono et al., "Pola Sanksi Administratif Bagi Perusahaan Penyedia Jasa Tenaga Kerja Indonesia Terhadap Perlindungan Buruh Migran Indonesia Di Luar Negeri," *Indonesian State Law Review* 3, no. 1 (2020): 68. See also, Indradewi and Ginting, "Legal Protection for Indonesian Migrant," 9969.

<sup>14</sup> Devi Rahayu et al., "The Rights-Based Labor Law: A Comparison of Indonesian and Nepal Policies," *Jurnal Suara Hukum* 7, no. 1 (2025): 158.

<sup>15</sup> Wayne Palmer et al., "Regulating recruitment and contracting of migrant fishers from Indonesia," *Asian and Pacific Migration Journal* 32, no. 3 (2023): 458.

<sup>16</sup> Aktieva Tri Tjitrawati and Mochamad Kevin Romadhona, "Living beyond borders: the international legal framework to protecting rights to health of Indonesian illegal migrant workers in Malaysia," *International Journal of Migration, Health and Social Care* 20, no. 2 (2024): 231.

<sup>17</sup> Andi Luhur Prianto et al., "Governance and Protection of Indonesian Migrant Workers in Malaysia: A Study on Policy and Innovation Network," *JSEAHR* 7 (2023): 214.



recruitment, but note gaps in practical implementation. Hata and Takeuchi<sup>18</sup> focus on anti-trafficking rescue efforts and emphasize the role of NGOs and inter-agency teamwork in tackling forced migration. Prasetyo et al.<sup>19</sup> discuss how overlapping laws (Law Number 18 of 2017 and Law Number 21 of 2007) create confusion and weaken enforcement. Meanwhile, Fallo et al.<sup>20</sup> examine the challenges of rehabilitating TPPO victims, highlighting the need for better coordination across professions. Together, these studies show legal advances but also reveal weaknesses in enforcement, coordination, and protections for informal or undocumented PMI.

Although Indonesia has strong legal foundations through Law Number 18 of 2017 and Law Number 21 of 2007, the growing number of TPPO cases (2,149 victims rescued in 2023) suggests major problems in implementation.<sup>21</sup> Scholars have noted weak oversight, especially in recruitment processes for non-procedural PMI, who face higher risks of exploitation. Conflicting legal provisions also make it difficult to enforce penalties against traffickers effectively. Although bilateral agreements like the Indonesia-Malaysia MoU aim to improve PMI protection, poor enforcement reduces their impact.<sup>22</sup> There is still limited research on how recruitment rules and criminal sanctions work together to protect PMI in the informal sector. Also, weak collaboration between institutions and gaps in victim rehabilitation services further limit the effectiveness of current protections.<sup>23</sup>

This study examines the effectiveness of Law Number 18 of 2017 in regulating the recruitment of Indonesian Migrant Workers to prevent human trafficking,

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<sup>18</sup> Tatsuya Hata and Kaito Takeuchi, *Protecting Forced Migrant Workers: A Case Study of Rescue Operations for Fishermen Trafficked from Thailand to Indonesia*, (London: Routledge, 2024), 133.

<sup>19</sup> Imam Prasetyo et al., "Effects of Legislation Overlapping Regarding Transnational Crime," *Jurnal IUS Kajian Hukum dan Keadilan* 11, no. 1 (2023): 67.

<sup>20</sup> Fallo et al., "Social rehabilitation process," 7. See also, Dottridge, "How is the Money to Combat," 9.

<sup>21</sup> Ahmad Erizal et al., "Pelindungan keluarga pekerja migran indonesia (pmi) pasca berlakunya undang-undang nomor 18 tahun 2017 tentang perlindungan pekerja migran indonesia," *Law Jurnal* 1, no. 1 (2020): 14.

<sup>22</sup> Ingrid Nielsen and Sen Sendjaya, "Wellbeing among Indonesian labour migrants to Malaysia: Implications of the 2011 Memorandum of Understanding," *Social indicators research* 117, no. 3 (2014): 923. See also, Ali, "Data collection on victims," 62.

<sup>23</sup> Yvonne Rafferty, "The identification, recovery, and reintegration of victims of child trafficking within ASEAN: An exploratory study of knowledge gaps and emerging challenges," *Journal of human trafficking* 7, no. 2 (2021): 150. See also, Amarjit Kaur, "Labour migration trends and policy challenges in Southeast Asia," *Policy and Society* 29, no. 4 (2010): 388; Marie Segrave and Shih Joo Tan, "Women migrant workers and counter-trafficking responses in Association of Southeast Asian Nations: The enduring challenge of safety and security," *Journal of Criminology* 54, no. 4 (2021): 468.

focusing on administrative and technical safeguards.<sup>24</sup> It also evaluates Law Number 21 of 2007, assessing whether its criminal sanctions deter traffickers and are effectively enforced.<sup>25</sup> The research explores challenges in aligning both laws, including weak supervision, poor coordination, and legal overlap. Based on these objectives, the study formulates the following research questions:

1. How effective are the regulations under Law Number 18 of 2017 in governing the recruitment process of Indonesian Migrant Workers to prevent human trafficking?
2. To what extent do criminal sanctions under Law Number 21 of 2007 deter perpetrators of human trafficking involving Indonesian Migrant Workers?
3. What are the implementation challenges in aligning recruitment regulations and criminal sanctions to protect PMI from human trafficking?

## 2. Research Methods

This study uses a normative legal research method to examine the legal frameworks designed to protect Indonesian Migrant Workers from human trafficking. Normative legal research is legal research conducted by examining library materials (secondary data) which include research on legal principles, legal systematics, research on the level of vertical and horizontal synchronization, comparative law and legal history.<sup>26</sup> It is also defined as research on laws that are conceptualized and developed based on the doctrines adopted by their conceptualizers and developers.<sup>27</sup>

The research relies on library-based analysis of secondary data, including legal principles, systematics, vertical and horizontal consistency, comparative law, and legal history. The research approach used in this study is the statute approach and the conceptual approach. A statute approach is applied to study primary legal sources such as laws and regulations, supported by secondary sources like academic publications and tertiary sources such as legal dictionaries and official reports. A conceptual approach is also used to explore the legal doctrines that form the basis of these regulations. Data collection is conducted through a thorough review of

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<sup>24</sup> Rafiatun Shaliha and Ufran Ufran, “Tinjauan yuridis perlindungan hukum jaminan sosial bagi pekerja migran berdasarkan undang-undang nomor 18 tahun 2017 tentang perlindungan pekerja migran Indonesia,” *Indonesia Berdaya* 4, no. 1 (2023): 394.

<sup>25</sup> Ananda Chrisna D. Panjaitan, “Harmonisasi Undang-Undang Nomor 21 Tahun 2007 Tentang Pemberantasan Tindak Pidana Perdagangan Orang Dengan Protokol Palermo Dalam Perlindungan Perdagangan Orang di Indonesia,” *Jurnal Yustitia* 16, no. 1 (2022): 8.

<sup>26</sup> Ahamad Rosidi et al., “Metode dalam penelitian hukum normatif dan sosiologis (field research),” *Journal Law and Government* 2, no. 1 (2024): 49.

<sup>27</sup> Jonaedi Efendi and Prasetyo Rijadi, *Metode Penelitian Hukum Normatif dan Empiris: Edisi Kedua*, (Jakarta Timur: Prenada Media, 2022), 212.

books, legislation, international agreements, and relevant academic literature. The data is then analyzed using a descriptive method to interpret the content and application of legal provisions, identify implementation challenges, and propose strategies to improve the protection of PMI from human trafficking.

### 3. Results and Discussion

#### 3.1. Regulation of Indonesian Migrant Workers in the Recruitment Process

The definition of human trafficking began to be formulated comprehensively in 2000, when the United Nations General Assembly ratified an international protocol aimed at preventing, eradicating and punishing the crime of human trafficking, especially targeting women and children.<sup>28</sup> This protocol, later known as the Palermo Protocol and officially entered into force on December 25, 2003, is an international legal instrument that is binding and requires state parties to take concrete steps in an effort to combat this crime.<sup>29</sup>

Article 3 letter a of the Palermo Protocol, provides the limitations of human trafficking, namely recruitment, sending to a place, transfer, harboring or receipt through threats, or coercion by force or other violent means, abduction, fraud, abuse, sale or rental actions to obtain certain benefits or payments for the purpose of exploitation.<sup>30</sup> The Palermo Protocol divides this type of exploitation, namely exploitation through sexual, exploitation of prostitution, by forced labor or providing forced services, slavery, methods similar to slavery, and through the removal of organs. The uniqueness of the Palermo Protocol lies in its recognition of the reality of modern slavery and its commitment to protecting all victims of human trafficking, including men who have previously received less attention.<sup>31</sup>

In international labor migration, the protection of migrant workers is a very important and crucial issue considering that those who work as PMI in most cases

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<sup>28</sup> Anne Gallagher, "Human rights and the new UN protocols on trafficking and migrant smuggling: A preliminary analysis," *Human Rights Quarterly* 23, no. 4 (2001): 989; Siller, "Human trafficking in international law," 412.

<sup>29</sup> Angie Yunda, "Upaya Indonesia Dalam Menanggulangi Kasus Human Trafficking Di Selat Malaka," *Padjadjaran Journal of International Relations* 1, no. 3 (2020): 179. See also, Nietya Amalia Yusrina et al., "Penanganan Keamanan Wilayah Perbatasan: Studi Kasus Penyelundupan Transit Migran Dari Timur Tengah Ke Australia Melalui Indonesia 2010-2013," *Diponegoro Journal of International Relations* 1, no. 3 (2015): 10.

<sup>30</sup> Kelly Hyland Heinrich, "Ten years after the Palermo Protocol: Where are protections for human trafficking," *Human Rights Brief* 18, no. 1 (2010): 1. See also, Sulistiyono et al., "Pola Sanksi Administratif Bagi Perusahaan," 70.

<sup>31</sup> Joko Priyono and Achmad Purbo Sudiro, "Intergovernmental cooperation mechanisms in combating transnational human trafficking within ASEAN," *Academic Journal of Interdisciplinary Studies* 9, no. 2 (2020): 124.



do informal jobs. The use of informal and formal categories is based on the characteristics of the destination country's employers. Informal sector workers refer to those who work for employers who are not legal entities. The majority of workers in this group, including caregivers who are not employed in special institutions/homes for the elderly, live in the homes of their employers.<sup>32</sup>

Indonesia is one of the dominant countries of origin of migrant workers in Southeast Asia<sup>33</sup> and the Indonesian government has taken various measures to provide protection and care for migrant workers both before leaving for work, during work and after work or when they want to return home from the country where they work, the state has provided protection for migrant workers.<sup>34</sup> The various actions taken by the government are a form of government responsibility to protect all its citizens and as a form of implementing the constitutional order as regulated in the 1945 Constitution Article 28 I paragraph (4).

One of the efforts made by the Indonesian Government to protect Indonesian Migrant Workers is to create and agree to bilateral agreements with the countries where Indonesian Migrant Workers are going.<sup>35</sup> Agreements are made through negotiations between the two countries, which are manifested in the drafting of a Memorandum of Understanding (MoU) regarding the placement of Indonesian Migrant Workers.<sup>36</sup> When Indonesian Migrant Workers are sent abroad, their departure is often categorized as either procedural or unprocedural.<sup>37</sup> Procedural Indonesian Migrant Workers are those who go through the proper processes and placement mechanisms as stipulated by law. In contrast, unprocedural Indonesian Migrant Workers are those who depart without following the legal procedures. This

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<sup>32</sup> Ujang Komarudin et al., "Indonesian domestic workers in Taiwan: An international migration and worker rights perspective," *Lex Publica* 10, no. 1 (2023): 148. See also, Hidayat, "Perlindungan hak tenaga kerja Indonesia di Taiwan dan Malaysia dalam perspektif hak asasi manusia," *Jurnal HAM* 8, no. 2 (2017): 108; Ali Maksum, "Suffer to survive: The Indonesian illegal workers experiences in Malaysia and Japan," *Journal of Social Research & Policy* 8, no. 1 (2017): 12.

<sup>33</sup> Arisman Arisman and Ratnawati Kusuma Jaya, "Labour migration in ASEAN: Indonesian migrant workers in Johor Bahru, Malaysia," *Asian Education and Development Studies* 10, no. 1 (2020): 29. See also, Amarjit Kaur, "Labour migration trends," 390. See also, Prianto et al., "Governance and Protection," 215.

<sup>34</sup> Fachri Wahyudi, "Tinjauan Hukum Islam Terhadap Pasal 7 Undang-Undang No. 18 Tahun 2017 Tentang Perlindungan Hukum Terhadap Pekerja Migran," *Wasatiyah: Jurnal Hukum* 3, no. 1 (2022): 69. See also, Izzati, "New Direction of Indonesian Migrant Workers," 195.

<sup>35</sup> Astriyani Irawan et al., "Kekuatan Hukum Memorandum of Understanding Bagi Perlindungan Pekerja Migran Indonesia," *Pattimura Law Study Review* 1, no. 1 (2023): 18. See also, Nielsen and Sendjaya, "Wellbeing among Indonesian labour," 925.

<sup>36</sup> Mita Noveria, *Perlindungan Pekerja Migran Indonesia*, (Yogyakarta: Yayasan Pustaka Obor Indonesia, 2021), 35.

<sup>37</sup> Tanti Kirana Utami, "Regulation of legal sanctions against perpetrators of non-procedural placement of Indonesian migrant workers: a human trafficking perspective," *Cogent Social Sciences* 10, no. 1 (2024): 8.

includes falsifying documents, manipulating data of prospective migrant workers, using incomplete documentation, and ignoring the placement procedures regulated by applicable laws. It also involves departing without a valid work visa and with assistance from individuals or groups operating outside legal channels.<sup>38</sup>

Article 5 of Law Number 18 of 2017 concerning the protection of Indonesian migrant workers, states that every Indonesian Migrant Worker who will work abroad must meet the following requirements: a. be at least 18 (eighteen) years old; b. have competence; c. be physically and mentally healthy; d. be registered and have a Social Security membership number; and e. have completed required documents.<sup>39</sup> Article 7 of Law Number 18 of 2017 concerning the protection of Indonesian migrant workers regulates: Protection of Prospective Indonesian Migrant Workers includes: a. Protection Before Work; b. Protection During Work; and c. Protection After Work.

The form of regulation or protection of PMI before leaving for work as stated in Article 1 paragraph 6 of Law Number 18 of 2017, namely Protection Before Working is the entire activity to provide protection from registration to departure. The implementation of protection before working is categorized into 2 (two) types, namely administrative protection related to the completeness and validity of placement documents and technical protection in the form of providing information, improving quality through education and job training, social security, and coaching and supervision to workers.<sup>40</sup> Furthermore, protection during work as stated in Article 1 Paragraph 7 of Law Number 18 of 2017, namely Protection During Working is the entire activity to provide protection while Indonesian Migrant Workers and their family members are abroad. When working abroad, the protection provided is through data collection and registration by the labor attaché or appointed foreign service official, monitoring the conditions of workers, facilitation in the form of fulfilling rights, resolving cases experienced by workers, and repatriation.<sup>41</sup>

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<sup>38</sup> Arpangi Arpangi, "Pelindungan Hukum Terhadap Tenaga Kerja Indonesia di Luar Negeri," *Jurnal Pembaharuan Hukum* 3, no. 1 (2016): 153; Yusitarani, "Analisis yuridis perlindungan hukum," 28.

<sup>39</sup> Krustiyati, Atik, "Optimalisasi perlindungan dan bantuan hukum pekerja migran melalui promosi konvensi pekerja migran tahun 2000," *Jurnal Dinamika Hukum* 13, no. 1 (2013): 138. See also, Shaliha and Ufran, "Tinjauan yuridis perlindungan hukum," 397.

<sup>40</sup> Henny Natasha Rosalina and Lazarus Tri Setyawanta, "Perlindungan Hukum Terhadap Pekerja Migran Sektor Informal dalam Perspektif Teori Bekerjanya Hukum di Masyarakat," *Jurnal Pembangunan Hukum Indonesia* 2, no. 2 (2020): 177. See also,

<sup>41</sup> Andrian Liem et al., "Securing the rights and health of domestic workers: the importance of ratifying the ILO's C189," *Globalization and Health* 20, no. 1 (2024): 5. See also, Wayne Palmer, "Labour Market Institutions for Immigrants: The Case of High-Wage Migrant Workers in Indonesia," *Asia and the Pacific Policy Studies* 11, no. 3 (2024): 11; Palmer et al., "Regulating

Meanwhile, protection for migrant workers after work as stated in Article 1 Paragraph 8 of Law Number 18 of 2017, namely After Work protection is the entire activity to provide protection since Indonesian Migrant Workers and their family members arrive at the disembarkation in Indonesia until returning to their home region, including follow-up services to become productive workers.<sup>42</sup> Protection is provided through facilitating the return and management of sick/deceased migrant workers, rehabilitation and social reintegration, and resolving the rights of migrant workers that have not been fulfilled, such as unpaid salaries.<sup>43</sup>

Article 7 is explained in detail in Article 8 Paragraph (1) to Paragraph (3) of Law Number 18 of 2017 concerning the protection of Indonesian migrant workers, namely that protection before work as intended in Article 7 letter a includes (a) administrative protection and (b) technical protection.<sup>44</sup> Administrative protection as referred to in paragraph (1) letter (a) includes at least: (a) completeness and validity of placement documents and (b) determination of working conditions and requirements. Technical protection as referred to in paragraph (1) letter (b) at least includes: (a) providing socialization and dissemination of information, (b) improving the quality of Prospective Indonesian Migrant Workers through education and job training, (c) Social Security, (d) facilitating the fulfillment of the rights of Prospective Indonesian Migrant Workers, (e) strengthening the role of functional employees in job placement, (f) placement services in the one-stop integrated service for placement and protection of Indonesian Migrant Workers, and (g) coaching and supervision.<sup>45</sup>

Based on what is regulated in Article 49 concerning the placement of Indonesian migrant workers abroad, it consists of: a. Agency; b. Indonesian Migrant Worker Placement Company; or c. companies that place Indonesian Migrant Workers for the benefit of their own company. Meanwhile, there are 5 (five) models of recruitment and placement of Indonesian Migrant Workers when they want to work abroad, namely: a. Private to Private, b. Government to Government, c. Government to Private, d. Internal Corporate Transfer and e.

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recruitment and contracting,” 459; Rosalina and Setyawanta, “Perlindungan Hukum Terhadap Pekerja Migran,” 179.

<sup>42</sup> Musrin Musrin et al., “Analisis yuridis perlindungan hukum terhadap tenaga kerja indonesia ditinjau dari undang-undang nomor 18 tahun 2017 tentang perlindungan pekerja migran indonesia,” *Jurnal Syntax Fusion* 2, no. 12 (2022): 895.

<sup>43</sup> Muhamad Rafli and Rani Apriani, “Problematisa Undang-Undang Nomor 18 Tahun 2017 Terhadap Hak-Hak Pekerja Migran Indonesia,” *Supremasi Hukum* 18, no. 02 (2022): 47.

<sup>44</sup> Asri Wijayanti Agusmidah and Fithriatus Shalihah, “*Pelindungan Pekerja Migran Indonesia Berdasarkan UU No 18 Tahun 2017*,” (Medan: Yayasan Al-Hayat, 2020): 45.

<sup>45</sup> Umban Adi Jaya et al., “Pengaruh training dan skill terhadap performance Pekerja Migran Indonesia (PMI) di luar negeri pada kantor Badan Pelindungan Pekerja Migran Indonesia (BP2MI) Bekasi,” *Fair Value: Jurnal Ilmiah Akuntansi dan Keuangan* 5, no. 5 (2022): 2069.

Independent PMI.<sup>46</sup> Table 1 present data obtained from the data and information center of the Indonesian migrant worker protection agency regarding the number of PMI based on the categories P-to-P, G-to-G, ICT, and Independent PMI.

**Table 1.** Indonesian Migrant Worker (PMI) Placement Schemes – 2024.

Scheme	Total	Percentage
G to G (Government to Government)	10.535	3.54%
• Japan	311	0.10%
• Germany	114	0.04%
• South Korea	10.110	3.40%
P to P (Private to Private)	236.375	79.47%
Domestic Contract Extension	2.339	0.79%
Overseas Contract Extension	25.457	8.56%
Individual (Independent)	21.766	7.32%
UKPS (Special Placement Program)	962	0.32%
Total	297.434	100.00%

Table 1 shows the number of PMI recruited through the Government to Government and Government to Private schemes without the participation of the Indonesian Migrant Worker Placement Company (*Perusahaan Penempatan Pekerja Migran Indonesia* or P3MI) as the party implementing the placement. In this mechanism, the implementation of the placement is carried out directly by the Indonesian Migrant Worker Protection Agency (*Badan Pelindungan Pekerja Migran Indonesia* or BP2MI).<sup>47</sup> This highlights a direct government-led recruitment and protection mechanism for Indonesian migrant workers, distinct from the private-sector involvement of P3MI.<sup>48</sup>

The data also showed the Private to Private (P to P) recruitment scheme, where the placement process is carried out by P3MI. This recruitment pattern is divided into three main categories.<sup>49</sup> First, namely recruitment of prospective PMI who do not have work experience abroad. Second, PMI who have previously worked abroad, then returned to Indonesia after their contract period ended, and intend to

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<sup>46</sup> Siti Kunarti et al., “Strengthening Migrant CARE: A Comprehensive Approach to Ensure Worker Protection and Safeguard the Rights of Indonesian Migrants,” *Journal of Law and Sustainable Development* 11, no. 12 (2023): 1458.

<sup>47</sup> Ihsan Dzuhur Hidayat, “Perlindungan Pekerja Migran Indonesia/Tenaga Kerja Indonesia Oleh Pemerintah Daerah,” *Mizan: Jurnal Ilmu Hukum* 10, no. 1 (2021): 78.

<sup>48</sup> Nur Putri Hidayah, “Comparative study of legal protection for migrant workers in participation of social security programs in Indonesia and Singapore,” *Legality: Jurnal Ilmiah Hukum* 28, no. 1 (2020): 49. See also, Izzati, “New Direction of Indonesian Migrant Workers,” 197; Khairazi, “Strengthening Regulations in Protecting,” 47 Fachri Wahyudi, “Tinjauan Hukum Islam,” 72.

<sup>49</sup> Arini Azka Muthia, “Legal protection for illegal migrant domestic workers under the ASEAN regulations and its implication for Indonesia,” *Indonesian J. Int’l L.* 17, no. 5 (2019): 307.

return to work abroad for the same employer or employer.<sup>50</sup> This category is referred to by BP2MI as PMI Extension of work agreement. Third, is PMI who extend their work period abroad without returning to Indonesia and continue to work with the same employer in the country of placement. In this case, BP2MI classifies it as PMI Extension of overseas work agreement.

Moreover, the data reveals the mechanism for independent or individual placement of PMI.<sup>51</sup> In this scheme, PMI are not placed through P3MI because they have been directly recruited by employers or companies that are legal entities. Generally, they do not work in basic work positions such as the domestic household sector, for example, babysitters, children, elderly people, cooks, personal drivers, or other jobs such as gardeners, cleaners, field workers, fishing boat crews, and the like. Independent PMI are generally workers who have professional competence and expertise. Meanwhile, the explanation in Number 4 refers to the UKPS (for the Company's Own Interests) recruitment pattern, which is recruitment carried out by companies in Indonesia (not by P3MI) to place their own employees abroad to carry out tasks in the interests of the company. This recruitment model is not included in the P-to-P, G-to-G, or G-to-P schemes.<sup>52</sup>

### 3.2. Imposition of Criminal Sanctions Against Human Trafficking Perpetrators

Indonesian Migrant Workers are generally categorized into two types: procedural PMI and unprocedural PMI. Procedural PMI are those who follow all the legal and administrative requirements for overseas employment, as regulated under Indonesian law.<sup>53</sup> In contrast, unprocedural PMI are individuals who go abroad to work without adhering to the official legal procedures. Their departure often involves falsified documents, unregistered agencies, or informal channels, making them especially vulnerable to human trafficking, which typically includes coercion, fraud, deception, or abuse. Unprocedural PMI are not only unprotected but also often exploited due to their undocumented status. Their vulnerable position arises from a lack of legal standing and oversight, making them frequent

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<sup>50</sup> Saidatul Nadia Abdul Aziz and Salawati Mat Basir, "Protection of migrant workers under the ICMW: incompatibility with Malaysian laws and position in ASEAN," *Hasanuddin Law Review* 7, no. 3 (2021): 158.

<sup>51</sup> Maheran Makhtar et al., "Exploring Legal Protections for Platform Workers in Malaysia: A Human Rights-Based Perspective," *Padjadjaran Jurnal Ilmu Hukum (Journal of Law)* 11, no. 2 (2024): 197.

<sup>52</sup> Tri Sulistiyono et al., "Protection of Indonesian Migrant Workers in China: The Government's Role and Legal Aspects," *Lex Scientia Law Review* 6, no. 1 (2022): 110. See also, Liem et al., "Securing the rights and health," 4; Palmer, "Labour Market Institutions," e399.

<sup>53</sup> Febriyana Febiola Onggi, "Sanctions for Criminal Trafficking in Persons," *Estudiante Law Journal* 4, no. 2 (2022): 366. See also, Khairazi, "Strengthening Regulations in Protecting," 49.

victims of human trafficking. These workers are exposed to harsh conditions without access to legal remedies or protection from the state.<sup>54</sup>

From a methodological perspective, the term “unprocedural PMI” is sometimes mistakenly interpreted through the lens of data collection or informal research practices. While such interpretations may highlight flexibility, in the context of migrant labor, the term refers specifically to the absence of legal compliance in recruitment and placement processes, not informal research techniques.<sup>55</sup> Therefore, it is critical to distinguish between administrative irregularity in labor migration and academic uses of “unprocedural” approaches.<sup>56</sup>

Despite the regulatory framework established by Law Number 18 of 2017, which outlines comprehensive protection for PMI, including before departure, during employment, and after return, cases of trafficking continue to surface. Article 3 of the law affirms that the purpose of protection is twofold: (a) to guarantee the fulfillment of basic rights as citizens, and (b) to ensure legal, economic, and social protection for PMI and their families. However, the persistent rise in unprocedural PMI indicates systemic weaknesses in enforcement, oversight, and public education.<sup>57</sup>

In this context, criminal sanctions play a vital role. Generally, criminal sanctions are defined as a means of coercion so that someone obeys and complies with the norms that have been set by the authorities, namely the State. The word sanction is adopted from the Dutch language “*sanctie*” which is interpreted as a threat of punishment. The term sanction in its development is not only interpreted as “punishment” but its meaning is different from criminal (*straf*) which is a sanction that only applies to criminal law. Sanctions in legal science can be understood as punishments that will be imposed by the court on someone who does not obey and comply with applicable norms. This means that sanctions are a logical consequence of an act that is committed.<sup>58</sup>

Sanctions are legal consequences arising from violations of norms or provisions stipulated by law, either by individuals or legal entities. The purpose of

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<sup>54</sup> Yasmine Soraya, “The Heterogeneous of State and State Governance: Case of Indonesian Irregular Migrants in the Netherlands,” *Indonesian Journal of International Law* 17, no. 3 (2020): 418. See also, Utami, “Regulation of legal sanctions,” 2421347; Farhana, “Punishment of Criminals,” 11.

<sup>55</sup> Angkasa et al., “Development of a Restitution Model in Optimizing Legal Protection for Victims of Human Trafficking in Indonesia,” *JILS* 8 (2023): 93.

<sup>56</sup> Desta Garinda Rahdianawati, “Legal Analysis of Criminal Liability for Human Trafficking Crimes Based on Justice,” *Ratio Legis Journal* 3, no. 4: 818.

<sup>57</sup> Widyawati Anis, “Legal protection model for Indonesian migrant workers,” *JILS* 3 (2018): 291. See also, Izzati, “New Direction of Indonesian Migrant Workers,” 199; Khairazi, “Strengthening Regulations in Protecting,” 50; Sulistiyono et al., “Protection of Indonesian Migrant,” 112.

<sup>58</sup> Paul SinlaEloE, *Human Trafficking: Kajian Tindak Pidana Perdagangan Orang*, (Yogyakarta: Penerbit Andi, 2024), 46.



sanctions is to prevent or impose penalties to ensure compliance with applicable regulations. In the case of Indonesian Migrant Workers who are victims of human trafficking, the party responsible for the placement of PMI, either individuals or companies, can be subject to criminal sanctions for the crime of human trafficking.<sup>59</sup> Article 1 Number 3 of Law Number 21 of 2007 explains that victims of TPPO are those who experience physical, psychological, mental, sexual, economic, and/or social suffering due to human trafficking. This crime causes wide-ranging impacts, including deep physical and psychological trauma.<sup>60</sup> The use of the word “and/or” in the article allows victims to be recognized based on one or more forms of suffering. Handling victims of TPPO is the responsibility of the state, while the community is expected to play a role in reducing this practice, so that PMI can work safely.<sup>61</sup>

Initially, women were considered objects of slavery, traded, and often abused in ancient Greek society. Similar views also developed in Rome, where women were considered to satisfy male lust and were often bought and sold. Men had complete control over women, who were often seen as bringing bad luck, especially if they gave birth to daughters. In ancient Roman society, men had the right to sell, abuse, and even kill their wives and children with impunity. It was not until 550 AD that Emperor Justinian issued a law prohibiting the murder and abuse of women and children.<sup>62</sup>

The problem of human trafficking has become an increasingly worrying global issue, not only in Indonesia but also in various other developing countries. This phenomenon has attracted serious attention from various parties, from the Indonesian government itself to the international community. As part of the world community and a member of the UN, Indonesia also places great concern on efforts to handle and prevent the increasingly rampant practice of human trafficking. This problem is not only seen as a national challenge, but also becomes

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<sup>59</sup> Siân Oram et al., “Prevalence and risk of violence and the physical, mental, and sexual health problems associated with human trafficking: systematic review,” *PLoS medicine* 9, no. 5 (2012): 10.

<sup>60</sup> Raluca Ioana Pascale et al., “Trafficking trauma: A review on the psychological effects of human trafficking,” *Mental Health and Social Inclusion* 28, no. 2 (2024): 144.

<sup>61</sup> Indradewi and Ginting, “Legal Protection for Indonesian Migrant,” 9970; See also, Farhana, “Punishment of Criminals,” 680; Siti Rochmah and Frans Simangunsong, “Pertanggung Jawaban Pidana Terhadap Pelaku Tindak Pidana Perdagangan Orang,” *Bureaucracy Journal: Indonesia Journal of Law and Social-Political Governance* 3, no. 1 (2023): 233; Angkasa et al., “Development of a Restitution,” 95; Fallo et al., “Social rehabilitation process,” 9; Izzati, “New Direction of Indonesian Migrant Workers,” 201.

<sup>62</sup> Henny Nuraeny, *Tindak pidana perdagangan orang kebijakan hukum pidana dan pencegabannya*, (Jakarta: Sinar Grafika, 2022), 24. See also, Arthur Josias Simon Runturambi and Ridwan Arifin, “New Patterns and Trends of Migration: Hybrid-Crimes among Indonesian Migrant Workers in Southeast Asia,” *Regional Science Policy & Practice* (2025): 8; Onggi, “Sanctions for Criminal Trafficking,” 369; Palmer et al., “Regulating recruitment and contracting,” 461; Komarudin et al., “Indonesian domestic workers,” 149; Makhtar et al., “Exploring Legal Protections,” 199.

the focus of international collaborative efforts in eradicating these crimes against humanity.<sup>63</sup> TPPO based on Article 1 number 2 of the UUTPPO, is categorized as any action or series of actions that fulfill the elements of a criminal act as stipulated in this Law. Article 2 Paragraph (1) of Law Number 21 of 2007, namely anyone who carries out recruitment, transportation, shelter, sending, moving, or receiving a person with the threat of violence, use of violence, kidnapping, confinement, forgery, fraud, abuse of power or vulnerable position, debt trapping or giving payment or benefits even though obtaining the consent of a person who has control over another person, for the purpose of exploiting the person in the territory of the Republic of Indonesia, shall be punished with imprisonment of at least 3 (three) years and a maximum of 15 (fifteen) years and a fine of at least IDR 120,000,000.00 (one hundred and twenty million rupiah) and a maximum of IDR 600,000,000.00 (six hundred million rupiah).<sup>64</sup>

Meanwhile, Article 2 Paragraph (2) provides certainty, namely that if the act as referred to in paragraph (1) results in a person being exploited, then the perpetrator shall be punished with the same punishment as referred to in paragraph (1). People or perpetrators of TPPO are always associated with groups or cross-border criminal organizations that are perfectly organized so that every time they carry out their actions, the perpetrators often escape and we often find on various social media platforms that TPPO perpetrators are only arrested every few times they carry out their actions.<sup>65</sup> TPPO perpetrators are always associated with status, position or office. And anyone who commits TPPO will be given a punishment or sanction that is commensurate with their actions. Sanctions are defined as a means of coercion so that a person or perpetrator of a crime obeys or does not repeat the crime based on applicable norms.<sup>66</sup>

As mentioned in the consideration of point c of Law Number 21 of 2007, namely that human trafficking has spread in the form of organized and unorganized crime networks, both inter-state and domestic, so that it becomes a

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<sup>63</sup> Wayne Palmer and Antje Missbach, "Enforcing labour rights of irregular migrants in Indonesia," *Third World Quarterly* 40, no. 5 (2019): 915. See also, Yusitarani, "Analisis yuridis perlindungan hukum," 30; Khairazi, "Strengthening Regulations in Protecting," 53; Izzati, "New Direction of Indonesian Migrant Workers," 203; Muthia, "Legal protection for illegal migrant," 309; Anggie Yunda, "Upaya Indonesia Dalam Menanggulangi Kasus," 182; Liem et al., "Securing the rights and health," 5.

<sup>64</sup> Livia Ottisova et al., "Prevalence and risk of violence and the mental, physical and sexual health problems associated with human trafficking: an updated systematic review," *Epidemiology and psychiatric sciences* 25, no. 4 (2016): 321.

<sup>65</sup> Indah Damayanti and Radea Respati Paramudhita, "Peran Restitusi Dalam Tindak Pidana Perdagangan Orang," *UNES Law Review* 6, no. 3 (2024): 8591.

<sup>66</sup> Rizkan Zulyadi et al., "Legal Policy Against People Smuggling as a Crime of Trafficking in Persons with a Transnational Dimension," *Jurnal Hukum* 40, no. 2 (2024): 199. See also, Rochmah and Simangunsong, "Pertanggung Jawaban Pidana," 236.

threat to society, the nation and the state, as well as to the norms of life that are based on respect for human rights.<sup>67</sup>

Article 3 states that anyone who brings people into the territory of the Republic of Indonesia with the intention of exploiting them in the territory of the Republic of Indonesia or exploiting them in another country shall be punished with imprisonment for a minimum of 3 (three) years and a maximum of 15 (fifteen) years and a fine of at least IDR 120,000,000.00 (one hundred and twenty million rupiah) and a maximum of IDR 600,000,000.00 (six hundred million rupiah). This article is rooted in efforts to protect human dignity from human trafficking practices that degrade human values. That human trafficking is a form of slavery that from any scientific perspective is contrary to the basic principles of human rights, so it needs to be dealt with strict criminal sanctions.<sup>68</sup> The punishment given to perpetrators of human exploitation is not only retaliatory, but also aims to be preventive to create a deterrent effect for the perpetrators and at the same time inform the public that every perpetrator of exploitation will always be given strict punishment without discrimination. The transnational dimension in the formulation of this article, namely including the act of bringing people into the territory of the Republic of Indonesia, reflects the responsibility of the State of Indonesia as part of the global community in eradicating transnational crime.<sup>69</sup>

Article 4 of Law Number 21 of 2007 concerning TPPO, states that anyone who takes Indonesian citizens outside the territory of the Republic of Indonesia with the intention of exploiting them outside the territory of the Republic of Indonesia shall be punished with imprisonment for a minimum of 3 (three) years and a maximum of 15 (fifteen) years and a fine of at least IDR 120,000,000.00 (one hundred and twenty million rupiah) and a maximum of IDR 600,000,000.00 (six hundred million rupiah).<sup>70</sup> This article expressly prohibits all activities of taking Indonesian citizens across Indonesian territorial borders with the intention of

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<sup>67</sup> Aris Irawan et al., "Women as Victims of Human Trafficking (TPPO) In North Kalimantan Indonesia from Criminal Law and Islamic Law Perspectives," *Nagari Law Review* 8, no. 3 (2025): 520. See also, Tjitrawati and Romadhona, "Living beyond borders," 235; Palmer, "Prosecuting Corporate Crime," 27; Siller, "Human trafficking in international law," 415; Goździak and Vogel, "Palermo at 20: A retrospective," 113; Zulyadi et al., "Legal Policy Against," 201.

<sup>68</sup> Solibah Ramadhani et al., "Juridical review of law no. 21 of 2007 on the protection and eradication of human trafficking as a transnational human rights violation in Indonesia," *Srinwijaya Crimen and Legal Studies* 12, no. 9 (2025): 14.

<sup>69</sup> Dewi Asri Puanandini et al., "Peran Lembaga Penegak Hukum Dalam Pemberantasan Tindak Pidana Perdagangan Orang di Indonesia," *Public Sphere: Jurnal Sosial Politik, Pemerintahan dan Hukum* 3, no. 1 (2024): 6. See also, Yusitarani, "Analisis yuridis perlindungan hukum," 31; Zulyadi et al., "Legal Policy Against," 201.

<sup>70</sup> M. Ilham Wira Pratama, "Kebijakan hukum pidana dalam penanggulangan tindak pidana perdagangan orang berdasarkan Undang-Undang Nomor 21 Tahun 2007 tentang Pemberantasan Tindak Pidana Perdagangan Orang," *Jurnal Fakta Hukum* 1, no. 2 (2023): 105.

exploiting them. This shows the government's concern for the safety of its citizens in the international arena, although it is still not serious enough because every year there are always victims of TPPO. To enforce this rule, the law stipulates significant legal consequences in the form of imprisonment between 3 to 15 years, with a fine of at least IDR 120,000,000.00 (one hundred and twenty million rupiah) and at most IDR 600,000,000.00 (six hundred million rupiah). This regulation is designed to address the various forms of human trafficking that often arise, including illegal worker smuggling, international prostitution networks, and various forms of illegal human exploitation in other countries.<sup>71</sup>

### 3.3. Implementation Challenges in Harmonizing Recruitment and Sanctions Laws

Despite the existence of a strong legal framework to protect Indonesian Migrant Workers from human trafficking, significant implementation gaps remain. These shortcomings are evident in the persistent rise of TPPO cases, indicating that regulations and criminal sanctions have yet to be effectively harmonized and enforced. A critical area of concern is the disproportionate targeting of vulnerable groups, especially women and children.<sup>72</sup> According to the Online Information System for the Protection of Women and Children (*Sistem Informasi Online Perlindungan Perempuan dan Anak* or SIMFONI PPA), between 2020 and 2022, there were 1,418 cases and 1,581 victims of human trafficking reported, of which 96% were women and children. This alarming statistic reveals both the scope of the problem and the limited reach of legal protections.<sup>73</sup>

Indonesia's Law Number 21 of 2007 on the Eradication of TPPO sets strict penalties for perpetrators, including minimum prison terms of three years and fines up to IDR 600 million for child trafficking (Article 6).<sup>74</sup> If trafficking results in serious injury, mental disorders, or death, penalties increase, with possible life imprisonment and fines up to IDR 5 billion (Article 7). Moreover, state officials abusing their authority to facilitate TPPO can face enhanced penalties and

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<sup>71</sup> Lourensy Varina Sitania and Eko Suponyono, "Akomodasi Pemberantasan Tindak Pidana Perdagangan Orang Dalam Aspek Hukum Internasional Dan Nasional," *Jurnal Pembangunan Hukum Indonesia* 2, no. 1 (2020): 45. See also, Farhana, "Punishment of Criminals," 677; Yusitarani, "Analisis yuridis perlindungan hukum," 34; Indradewi and Ginting, "Legal Protection for Indonesian Migrant," 9971.

<sup>72</sup> Ririn Sofiana et al., "Legal Provisions with Basic Principles in Labor Enforcement: Analysis of Effectiveness and Challenges," *Rechtenstudent* 4, no. 3 (2023): 229.

<sup>73</sup> Nataliya G Rogozhina, "Intra-regional migration of labor resources in Southeast Asia," *Mirovaia ekonomika i mezhdunarodnye otnosheniia* 64, no. 3 (2020): 119. See also, Angkasa et al., "Development of a Restitution," 95; Fallo et al., "Social rehabilitation process," 10; Izzati, "New Direction of Indonesian Migrant Workers," 204.

<sup>74</sup> Ayu Efritadewi et al., "Peran masyarakat dalam penanggulangan tindak pidana perdagangan orang," *Aufklarung: Jurnal Pendidikan, Sosial dan Humaniora* 3, no. 2 (2023): 34

dismissal from office (Article 8), demonstrating the state's formal commitment to accountability. Nevertheless, enforcement is hampered by weak institutional coordination and the overlapping mandates of various agencies responsible for recruitment oversight, criminal justice, and victim protection.<sup>75</sup> One of the core challenges is the failure to synchronize recruitment regulations, especially those guiding private migrant worker placement companies, with sanctions under anti-trafficking laws.<sup>76</sup>

Furthermore, human trafficking can also be carried out by corporations and not a few corporations commit TPPO crimes such as, carrying out debt traps, the absence of clear written agreements related to PMI work, placement of CPMI in companies without clarity on when they will be sent after being accommodated in the Company for a long time.<sup>77</sup> In fact, corporations are one of the entities that contribute the most to PMI traffic from the beginning of their departure until they return, corporations contribute a lot and can be seen from the data that will be presented in Table 2.

**Table 2. PMI based on the number sent by P3MI in 2024**

No.	P3MI	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Total
1	Jafa Indo	432	378	395	488	498	343	488	519	360	3.901
2	VJta Melati Indonesia	521	421	520	529	519	383	358	364	315	3.930
3	PT. Bali Paradise Citra Dewata	431	258	321	122	235	294	265	300	283	2.509
4	Prima Duta Sejati	207	195	269	212	228	155	210	223	278	1.977
5	Parco Laut	351	299	395	465	330	266	312	312	259	2.989
6	Danamon Wahana Tenaga Kerja	155	196	193	186	206	260	237	177	249	1.859
7	Timuraja Jaya Lestari	214	141	209	114	169	167	225	142	227	1.608
8	Mutiara Putra Utama	278	207	253	252	282	181	259	212	218	2.142
9	Bina Adidaya Mandiri International	214	161	186	116	185	189	198	223	216	1.688
10	Widjatri Patrija	273	295	391	385	311	253	263	229	216	2.616
11	Nurwira Cahaya	222	201	357	340	255	161	205	210	215	2.166
12	PT. Pijel Antar Sukses	255	215	317	239	285	215	253	259	206	2.244
13	Rumah Sinar Abadi	125	186	249	225	194	179	201	177	191	1.727
14	Wahana Karya Suplindo	146	152	168	170	174	137	211	160	177	1.495
15	Crystal Biru Meuligo	215	167	166	171	274	220	202	201	179	1.795
16	Mitra Sarana Internasional	130	225	240	331	228	151	206	222	162	1.895
17	Mulia Laksana Sejahtera	202	159	207	194	210	198	233	188	159	1.750
18	Mitra Kencana Prasetya	205	155	148	130	157	142	164	160	146	1.407
19	Salam Karya Wintana	202	210	235	265	212	122	159	159	145	1.709

<sup>75</sup> Anom Wahyu Asmorajati et al., "The impact of COVID-19 on challenges and protection practices of migrant workers' rights," *Bestuur* 10, no. 1 (2022): 46. See also, Ramadhani et al., "Juridical review of law no. 21 of 2007," 16; Palmer, "Prosecuting Corporate Crime," 29; Irawan et al., "Women as Victims of Human," 522.

<sup>76</sup> Shiho Sawai and Christine Bose, "Indonesian domestic workers: Hong Kong migrants' activism, value creation, and post-migration entrepreneurship," *Journal of Ethnic and Migration Studies* 51, no. 9 (2025): 2378. See also, Prasetio et al., "Effects of Legislation Overlapping," 69; Irawan et al., "Women as Victims," 522.

<sup>77</sup> Muhammad Salahudin Al Ayyubi et al., "Migrant workers and labor market recovery during the COVID-19 pandemic in Indonesia," *Social Sciences & Humanities Open* 12, no. 3 (2025): 10.

No.	P3MI	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Total
20	Megah Utama a Kriya Nugraha	88	117	159	206	137	122	145	149	144	1.267
21	Citra Karya Sejati	114	102	125	129	108	73	101	108	139	999
22	Balanta Budi Prima	300	124	131	89	122	135	110	118	134	1.263
23	Delfita Bersaudara	141	133	166	132	207	90	116	133	130	1.248
24	Sriti Rukma Lestari	185	133	133	221	148	118	116	147	126	1.327
25	Al-Wihdah Jaya Sentosa	267	151	222	161	130	137	139	129	123	1.459
26	Others	15.791	14.577	16.864	18.593	19.079	11.031	12.888	12.374	11.237	132.434

Many corporations operating in the PMI recruitment and placement process contribute to trafficking practices through debt bondage, recruitment without job orders, or extended accommodation of migrant worker candidates (*Calon Pekerja Migran Indonesia* or CPMI) without certainty of deployment. However, the law does recognize corporate responsibility. Article 13 of Law Number 21 of 2007 states that if a corporation commits TPPO, both the entity and its management can be prosecuted.<sup>78</sup> Article 15 goes further, allowing for fines tripled from the base penalty and additional sanctions such as revocation of business licenses, asset confiscation, and dissolution of legal status.<sup>79</sup> However, in practice, enforcement remains weak. Many P3MI continue to operate despite repeated violations, benefiting from poor inter-agency coordination and corruption.<sup>80</sup> This disconnect between regulatory intent and implementation is worsened by the underdevelopment of victim rehabilitation mechanisms. Despite being victims of systematic exploitation, PMI survivors of trafficking often face stigma, inadequate legal aid, and limited access to counseling or reintegration services, making recovery and reintegration extremely difficult and leaving them vulnerable to re-victimization or re-entering unsafe labor migration cycles.<sup>81</sup> These systemic shortcomings highlight several major implementation challenges that hinder the alignment between recruitment regulations and criminal sanctions.

First, there is a fundamental issue of regulatory overlap and disharmony between Law Number 18 of 2017 on the Protection of Indonesian Migrant Workers and Law No. 21 of 2007 on the Eradication of the Crime of Human

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<sup>78</sup> Wilda Afifia, “Tanggungjawab Perusahaan Penempatan Kepada Pekerja Migran Indonesia (PMI) Setelah Berlakunya Undang-undang Ciptaker,” *Inicio Legis* 5, no. 1 (2024): 27.

<sup>79</sup> Astuti Nur Fadillah et al., “Perdagangan Orang (Human Trafficking): Aspek Kekerasan terhadap Perempuan di Indonesia,” *SANISA: Jurnal Kreativitas Mahasiswa Hukum* 2, no. 2 (2022): 87.

<sup>80</sup> Muhammad Junaidi and Khikmah Khikmah, “Perlindungan hukum dan penempatan pekerja migran Indonesia di luar negeri,” *Jurnal USM Law Review* 7, no. 1 (2024): 498. See also, Palmer, “Prosecuting Corporate Crime,” 31; Sawai, and Bose, “Indonesian domestic workers,” 2388.

<sup>81</sup> Sonhaji Sonhaji, “Peranan Pemerintah Daerah Dalam Upaya Perlindungan Pra Penempatan Pekerja Migran Indonesia Di Luar Negeri,” *Administrative Law and Governance Journal* 3, no. 1 (2020): 81. See also, Fallo et al., “Social rehabilitation process,” 11; Liem et al., “Securing the rights and health,” 3; Widyawati, “Legal protection model,” 293; Izzati, “New Direction of Indonesian Migrant Workers,” 206.



Trafficking. While both laws serve to protect PMI, the mechanisms and procedures outlined are often inconsistent or duplicative. This leads to confusion among implementing agencies and weakens overall law enforcement.<sup>82</sup> For example, different agencies may interpret the definitions of “non-procedural PMI” or “human trafficking” differently, which delays or even prevents effective responses to reported violations.

Second, institutional fragmentation exacerbates the problem. Multiple agencies (Ministry of Manpower, Agency for the Protection of Indonesian Migrant Workers, the Ministry of Foreign Affairs, the police, and local governments) have overlapping mandates in regulating recruitment and enforcing sanctions.<sup>83</sup> This fragmented governance structure results in weak inter-agency coordination. When responsibilities are not clearly demarcated, it leads to duplication of efforts, gaps in monitoring, and ineffective supervision of recruitment and placement processes.<sup>84</sup> Consequently, irregular recruitment practices go unchecked, and corporate violators often escape accountability.

In this context, one of the most prevalent manifestations of these implementation failures is the widespread practice of irregular recruitment. Many PMI candidates are recruited through illegal or unlicensed agencies and are promised jobs that either do not exist or differ significantly from the offers made.<sup>85</sup> According to Online Information System for the Protection of Women and Children, between 2020 and 2022, there were 1,418 reported TPPO cases involving 1,581 victims, 96% of whom were women and children.<sup>86</sup> This data highlights the vulnerability of female workers and minors, further underlining the importance of harmonized legal protection mechanisms.

Article 6 of Law Number 21 of 2007 emphasizes that anyone who sends a child in or out of the country in a way that results in exploitation is subject to a minimum

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<sup>82</sup> Annisa Ayuningtyas and Mailinda Eka Yuniza, “Indonesian Government Intervention in the Management of Indonesian Migrant Workers’ Remittances: Is It Constitutionally Justified,” *ASEAS-Advances in Southeast Asian Studies* 15, no. 1 (2022): 10. See also, Ramadhani et al., “Juridical review of law no. 21 of 2007,” 18.

<sup>83</sup> Elviandri Elviandri, “Perlindungan Pekerja Migran Indonesia Di Masa Adaptasi Kebiasaan Baru Di Provinsi Jawa Tengah,” *Jurnal Pembangunan Hukum Indonesia* 4, no. 2 (2022): 249.

<sup>84</sup> Soraya, “The Heterogeneous of State,” 418. See also, Izzati, “New Direction of Indonesian Migrant Workers,” 208.

<sup>85</sup> Nadya Zerlinda Febrianti and Wiwik Afifah, “Perlindungan hukum terhadap pekerja migran Indonesia yang mengalami kekerasan di luar negeri,” *Bureaucracy Journal: Indonesia Journal of Law and Social-Political Governance* 3, no. 1 (2023): 198.

<sup>86</sup> Irawan et al., “Women as Victims,” 524. See also, Ramadhani et al., “Juridical review of law no. 21 of 2007,” 20; Muthia, “Legal protection for illegal migrant,” 310; Anggie Yunda, “Upaya Indonesia Dalam Menanggulangi Kasus,” 189; Liem et al., “Securing the rights and health,” 3; Tjitrawati and Romadhona, “Living beyond borders,” 239; Palmer, “Prosecuting Corporate Crime,” 28; Siller, “Human trafficking in international law,” 415; Goździak and Vogel, “Palermo at 20: A retrospective,” 119.

of three years and a maximum of fifteen years in prison, alongside fines ranging from IDR 120 million to 600 million. However, the reality shows that despite the existence of these stringent sanctions, implementation remains poor. Article 7 strengthens these provisions by increasing penalties if the crime causes serious harm or death to the victim, including the possibility of life imprisonment.<sup>87</sup>

Furthermore, corporations play a significant and often unregulated role in the recruitment and placement of PMI. Corporations may engage in exploitative practices such as debt bondage, fraudulent job offers, or the prolonged confinement of PMI candidates without clear deployment timelines. In such cases, corporations can be held accountable under Articles 13 and 15 of Law Number 21 of 2007. These provisions authorize criminal prosecution of corporations and their management if they commit or benefit from TPPO. Sanctions may include tripled fines, revocation of business licenses, asset seizure, revocation of legal status, and management dismissal.<sup>88</sup>

This corporate dimension is substantiated by recruitment data showing the large role played by corporations in PMI deployment.<sup>89</sup> For instance, Table IV in the previous section indicates that Jafa Indo Corpora, VJta Melati Indonesia, and Parco Laut alone deployed thousands of workers over nine months in 2024, with totals of 3,901, 3,930, and 2,989 respectively. While this data confirms the corporations' significant contribution to PMI deployment, it also raises concerns about oversight, given the persistent reports of TPPO involving corporate actors.

Another critical implementation gap lies in pre-departure housing and prolonged placement periods. Many PMIs are confined in corporate-run dormitories or training centers for extended durations without proper legal safeguards. In these environments, they are vulnerable to abuse, coercion, and misinformation. The lack of formal written agreements and unclear terms of employment create situations ripe for exploitation.<sup>90</sup> These conditions are explicitly prohibited under anti-trafficking laws, yet enforcement is rare due to institutional inertia and corruption.

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<sup>87</sup> Lukman Hakim, "Analisis Ketidak Efektifan Prosedur Penyelesaian Hak Restitusi Bagi Korban Tindak Pidana Perdagangan Manusia (Trafficking)," *Jurnal Kajian Ilmiah* 20, no. 1 (2020): 48. See also, Rochmah and Simangunsong, "Pertanggung Jawaban Pidana," 238; Ramadhani et al., "Juridical review of law no. 21 of 2007," 16.

<sup>88</sup> Sulistiyono et al., "Pola Sanksi Administratif," 670. See also, Khairazi, "Strengthening Regulations in Protecting," 55; Palmer, "Prosecuting Corporate Crime," 34.

<sup>89</sup> Dhanny Safitri and Ali Abdullah Wibisono, "Keamanan manusia pekerja migran Indonesia: Ketidakamanan dan perlindungannya," *Intermestic: Journal of International Studies* 7, no. 2 (2023): 758.

<sup>90</sup> Solechan Solechan et al., "Upaya Meningkatkan Jaminan Perlindungan Pekerja Migran Indonesia," *Administrative Law and Governance Journal* 3, no. 1 (2020): 167. See also, Khairazi, "Strengthening Regulations in Protecting," 56; Soraya, "The Heterogeneous of State," 420; Palmer, "Prosecuting Corporate Crime," 36.

Adding to the complexity is the issue of state official involvement in TPPO. Article 8 of Law Number 21/2007 provides for additional penalties, including dismissal from public office, for state officials who abuse their power to facilitate or commit human trafficking. Yet, few officials are ever prosecuted, pointing to a systemic reluctance to pursue administrative accountability. This is particularly troubling given the influence state actors wield in approving or monitoring recruitment agencies.<sup>91</sup>

Even when perpetrators are prosecuted, the rehabilitation and reintegration support for victims remains inadequate. Victim protection mechanisms, such as safe houses, psychological support, legal aid, and social reintegration programs, are either underfunded or poorly coordinated. As a result, survivors of TPPO often face stigma, lack of economic opportunities, and repeated victimization. The absence of a victim-centered approach undermines the objectives of both recruitment and anti-trafficking legislation.<sup>92</sup>

Furthermore, monitoring and evaluation mechanisms across relevant institutions are inconsistent and lack a centralized data system. The SIMFONI PPA system, while commendable, is not yet fully integrated into all levels of law enforcement or linked with recruitment oversight agencies like BP2MI. This fragmentation leads to data silos and inhibits responsive policymaking. Without accurate and comprehensive data, it is difficult to identify trends, target interventions, or measure the effectiveness of existing laws.

Another significant challenge is the low awareness among PMI candidates about their legal rights and the procedures for safe migration. Many are lured by false promises or misled by informal agents in their communities. Despite BP2MI's outreach efforts, information dissemination is uneven, particularly in remote or economically disadvantaged areas where prospective PMIs are most vulnerable.<sup>93</sup> This lack of awareness weakens their bargaining power and increases their susceptibility to exploitation. Finally, the slow judicial process and limited capacity of law enforcement officers, both in terms of technical knowledge of TPPO and logistical resources, further hinder implementation. Investigating cross-border

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<sup>91</sup> Elias Yulio Kristiadi et al., "Perlindungan Hukum Terhadap Pekerja Migran Indonesia," *Jurnal Pendidikan Kewarganegaraan Undiksha* 10, no. 1 (2022): 315. See also, Palmer, "Prosecuting Corporate Crime," 34; Izzati, "New Direction of Indonesian Migrant Workers," 209; Soraya, "The Heterogeneous of State," 422.

<sup>92</sup> Salsabila Dewi Vitasari et al., "Pelaksanaan Pemberian Restitusi Terhadap Korban Tindak Pidana Perdagangan Orang," *DIVERSI: Jurnal Hukum* 6, no. 1 (2020): 107. See also, Liem et al., "Securing the rights and health," 4. See also, Fallo et al., "Social rehabilitation process," 15.

<sup>93</sup> Arifuddin Muda Harahap et al., "Challenges and problems in labour law from the perspectives of Indonesia and Malaysia," *Malaysian Journal of Syariah and Law* 12, no. 3 (2024): 539. See also, Izzati, "New Direction of Indonesian Migrant Workers," 211. See also, Khairazi, "Strengthening Regulations in Protecting," 57.

trafficking networks requires international cooperation, specialized skills, and robust digital tracking systems.<sup>94</sup>

#### 4. Conclusion

This research shows that Indonesia has strong laws to protect Indonesian Migrant Workers, especially through Law Number 18 of 2017 on the protection of migrant workers and Law Number 21 of 2007 on the eradication of human trafficking. Law Number 18 of 2017 provides clear rules and protections at every stage, including recruitment, preparation before departure, work abroad, and return to Indonesia. It includes important requirements such as document checks, health exams, job training, and final briefings. P3MI, as the companies responsible for sending PMI, must be licensed and meet government standards to ensure the rights and safety of workers.

Law Number 21 of 2007 gives serious punishment for traffickers. Criminals can receive between 3 years to life in prison, with fines reaching up to 2 billion IDR. These punishments aim to stop human trafficking and protect victims from serious harm. The goal is to give full protection to PMI who are at risk of abuse and exploitation. In practice, there are still many problems. Government agencies often do not work well together. Their duties are sometimes unclear and overlap. Law enforcement is also weak, which makes it hard to stop illegal recruitment. Some companies still send workers without proper documents or keep them in poor conditions before they leave. The private-to-private placement system is the most common method used, but it also has the highest risk if not managed well. Support services for victims are also not strong enough. Many PMI do not get counseling, legal help, or help to return home. Some do not know their rights or how to report problems. To fix these issues, the government needs to improve supervision, improve coordination among agencies, and give more help to PMI. Stronger action will help protect migrant workers and stop human trafficking

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<sup>94</sup> Fithriatus Shalihah and Siti Alviah, "Examining the Role of BPJS Employment Indonesia in Ensuring Social Security for Migrant Workers in Hong Kong," *JILS* 8, no. 3 (2023): 1197. See also, Rosalina and Setyawanta, "Perlindungan Hukum Terhadap Pekerja Migran," 181; Palmer, "Prosecuting Corporate Crime," 34; Soraya, "The Heterogeneous of State," 424; Sulistiyono et al., "Pola Sanksi Administratif," 678.

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