


Shifting Regulatory Paradigms: The Impact of Indonesia's Job Creation Law on Migrant Worker Protection and the Role of State, Employers, and Labor Organizations (2020-2023)

Pergeseran Paradigma Regulasi: Dampak Undang-Undang Penciptaan Lapangan Kerja Indonesia terhadap Perlindungan Pekerja Migran dan Peran Negara, Pemberi Kerja, dan Organisasi Buruh (2020-2023)

Dafiq Febriali Sahl^{*1} , Nurisha Kitana², Clairen Gracella³
(give mark (*) if the corresponding author)

^{1,2,3}Department of Political Science, Faculty of Social and Political Sciences,
University of Indonesia, Indonesia

*Corresponding author: dafiq.febriali@ui.ac.id

Abstract

This study examines the evolving production regime within the labor process of Indonesian migrant workers, focusing on regulatory transitions from the 2017 Law on the Protection of Indonesian Migrant Workers (PPMI Law) to the Job Creation Law (2020–2023). It addresses persistent structural challenges confronting migrant workers and investigates the shifting power relations among labor, the state, and employers in managing these challenges. Based on in-depth interviews and a comprehensive review of relevant literature, the study identifies key structural constraints experienced by workers, the transformation of labor governance, the responses of labor organizations, and the structural power exercised by business actors. The findings indicate that Indonesian migrant workers are increasingly subject to complex structural vulnerabilities, stemming from a regulatory shift from state-centered protection under the PPMI Law to a market-oriented governance framework advanced by the Job Creation Law. A defining feature of this transition is the debureaucratization of migrant worker placement, signifying a broader alignment with neoliberal labor market principles. Business associations, particularly the Indonesian Migrant Worker Placement Companies (P3MI), have played an influential role in shaping this regulatory transformation through both structural and instrumental power. Conversely, labor organizations have resisted the commodification of migrant labor, advocating for the preservation of protective mechanisms. The study concludes that the reconfiguration of the regulatory framework governing Indonesian migrant workers results from the dynamic interplay of labor, state, and employer interests. The oscillation between protectionist and market-oriented regulatory models illustrates the contested nature of labor governance. By situating these developments within broader power structures, the study contributes to a nuanced understanding of the structural challenges shaping transnational labor migration from Indonesia.

Keywords: Indonesian migrant workers; regulatory politics; employers; the state.

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Abstrak

Penelitian ini bertujuan untuk menelaah pergeseran rezim produksi dalam proses kerja buruh migran Indonesia akibat perubahan regulasi dari UU PPMI tahun 2017 ke UU Cipta Kerja (2020-2023). Penelitian ini mengangkat permasalahan struktural yang dihadapi oleh buruh migran Indonesia dan relasi antara buruh, negara, dan pengusaha yang berkaitan dalam persoalan struktural tersebut. Dengan menggunakan teknik wawancara mendalam dan studi literatur kami memetakan permasalahan struktural yang dialami buruh migran Indonesia, pergeseran paradigma produksi, respon organisasi-organisasi buruh, dan kekuatan struktural kelompok bisnis. Hasil penelitian ini menemukan adanya persoalan struktural yang begitu kompleks dihadapi oleh buruh migran Indonesia di tengah pergeseran paradigma produksi dari berbasis perlindungan oleh birokrasi dan negara pada UU PPMI tahun 2017 menjadi berbasis pada kepentingan pasar dan debirokratisasi perusahaan jasa penempatan buruh migran yang tercermin dalam UU Cipta Kerja. Penelitian ini juga menguraikan praktik kekuatan struktural serta instrumental kelompok asosiasi bisnis (P3MI) dalam pergeseran paradigma regulasi, dengan perlawanan oleh kelompok buruh yang menolak paradigma regulasi berbasis pasar yang ada dalam UU Cipta Kerja. Kesimpulannya, secara faktual dari kekuatan buruh, negara, dan pengusaha telah saling mempraktikkan kekuasaannya dan kepentingannya satu sama lain yang berdampak pada paradigma regulasi proses kerja buruh migran Indonesia antara UU PPMI tahun 2017 dan UU Cipta Kerja. Penelitian ini berimplikasi terhadap penjelasan persoalan struktural yang dihadapi oleh buruh migran Indonesia dalam kaitannya dengan tarik-menarik kepentingan regulasi serta reduksi-amplifikasi peran antara negara, buruh, dan pengusaha.

Kata kunci: buruh migran Indonesia; politik regulasi; pengusaha; negara.

Introduction

The Job Creation Law (2020), commonly known as the *Ciptaker* Law, which has undergone several substantial revisions, has significantly impacted the Indonesian migrant labor sector. The most recent development is Law No. 6 of 2023, which ratifies Government Regulation in Lieu of Law (Perppu) No. 2 of 2022 concerning Job Creation. The provisions concerning the protection of Indonesian migrant workers are outlined in Chapter Five of this legislation. As stipulated in Law No. 18 of 2017 on the Protection of Indonesian Migrant Workers, Indonesian Migrant Workers—hereinafter referred to as *Pekerja Migran Indonesia* (PMI)—are Indonesian citizens employed and remunerated outside the territory of the Republic of Indonesia, whether working for legal entities, individuals, households, or as seafarers.

Migrant labor represents the transnational movement of individuals seeking employment or income-generating activities (Oso et al., 2022). PMIs are among the

largest contributors to the nation's foreign exchange earnings (Qiptiah et al., 2024). Their remittances play a crucial role in national development by supporting household consumption, reducing unemployment, and alleviating poverty (Arista et al., 2019). According to Bank Indonesia, remittances received from PMIs in 2024 totaled USD 15,701,686,400. When converted using the 2024 mid-year exchange rate, this amounts to approximately IDR 253.77 trillion (Kemen P2MI, 2025a). Given the magnitude of this economic contribution, migrant labor can no longer be regarded as a secondary economic activity, but must be recognized as a vital sector in driving regional economic growth across Asia (Aswindo & Ras, 2020).

According to statistics from BP2MI (2024), Indonesia has a total of 5,276,543 migrant workers deployed globally. The majority are located in the Asia-Africa region, followed by Europe and the Middle East, and then the Americas and Pacific. Malaysia is the largest destination country, hosting approximately 1,433,391 PMIs, most of whom are employed in low-skilled sectors such as plantations (439,000 workers), manufacturing, domestic services, and similar occupations (BP2MI, 2024). These workers are typically recruited without requirements for higher education or professional qualifications and thus receive relatively modest wages. Low-skilled PMIs are commonly engaged in agriculture, construction, domestic and care work, and in some cases, prostitution (Oso et al., 2022). Interviews with former PMIs reveal that their decisions to work abroad are often driven by limited domestic employment opportunities, forced land evictions, and prevailing economic hardship, compounded by familial obligations, particularly the need to fund their children's education.

The Job Creation Law is intended to streamline bureaucratic processes in the business and employment sectors to stimulate investment and economic growth. One such effort is the simplification of business licensing procedures—shifting from a permit-based to a risk-based and digitized system (Fitra, 2020)—as exemplified in the management of the migrant worker sector. However, this process of debureaucratization raises concerns about the potential erosion of migrant workers' rights, particularly in light of Law No. 6/2023, which amends Law No. 18/2017 on the Protection of Indonesian Migrant Workers (PMI) (Haliza et al., 2023).

Several studies have highlighted the negative consequences of the Job Creation Law for Indonesian Migrant Workers, affecting various aspects of their protection and welfare (Alysa, 2021; Aswindo & Ras, 2020; Wahyudi, 2020). This research contends that the enactment of the Job Creation Law marks a paradigmatic shift in the governance of the migrant worker sector—from a state-centric model of protection under Law No. 18/2017 to one increasingly dominated by market mechanisms and private actors, particularly Private Indonesian Migrant Worker Placement Companies (P3MI). This shift is evidenced by the amended provisions within the Job Creation Law, which further diminish the state’s role while enhancing the authority and involvement of private entities in the management of migrant worker deployment.

Research Methods

The descriptive-qualitative research used data collection techniques of in-depth interviews and literature study. In-depth interviews were conducted with heads of associations of Indonesian migrant workers. The informants were selected as interview samples based on purposive sampling, looking at the use of the tripartite concept of migrant workers: labour unions, the state, and companies. The interview questions asked included: 1) What is the process of migrant labour from the beginning of departure until returning to Indonesia? 2) How or what are the challenges to the fulfilment of migrant workers' rights? 3) How are individual, social, and labour rights violations occurring against migrant workers? 4) What is the impact of the enactment of the Job Creation Perppu Law (2023) regarding the abolition of SIP3MI replaced with a risk-based business permit on the weakening of the protection of migrant workers? 5) What is the impact of the Job Creation Law in general on the protection of migrant workers?.

Table 1 List of Informants For In-Depth Interviews

Informants	Interview Date & Time	Perspective Representation
JR (<i>Serikat Buruh Migran Indonesia</i>)	17 May 2025 (SBMI Office)	<i>Serikat Buruh Migran Indonesia</i> (SBMI)

YN (SBMI-former migrant workers)	17 May 2025 (SBMI Office)	
HY (SBMI Malaysia Foreign Representative Council; former migrant worker)	15 May 2025 (Zoom)	
Peduli Buruh Migran 1. YR (former migrant worker)	16 May 2025 (Zoom)	NGOs as well as ex-migrants
Jaringan Buruh Migran (JBM) 1. SV (JBM)	16 May 2025 (Grand Mansion Hotel)	NGOs
Indonesian Community Activists Abroad 1. Arjun Roy	29 May 2025 (University of Indonesia)	Aktivis.

Source: Researcher management results.

The research theoretically analysed the relationship between Indonesian migrant workers, the state, and employers asking the research questions: How do changes in the regulation of migrant workers affect the configuration of protection roles between the state and employers? In explaining the relationship between the state and the firm and the extent of state intervention into the firm, Burawoy (1985) divides 4 types of production regimes: Hegemonic, market despotism, bureaucratic despotism, and collective self management.

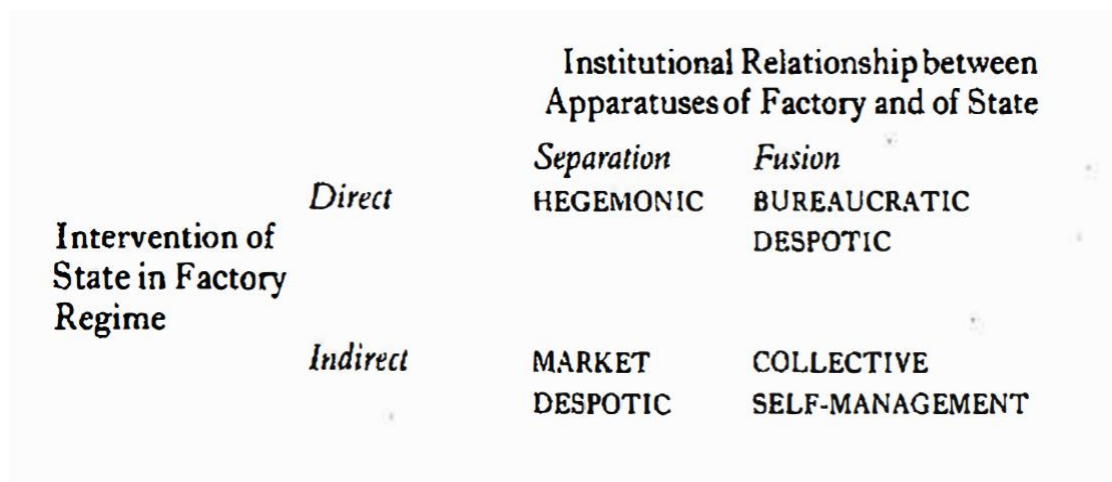


Figure 1 Four types of production regimes
Source: Burawoy (1985) in The Politics of Production

Bureaucratic despotism characterises the interlocking relationship between the state and the company where the state or bureaucratic power has a direct form of intervention in the company. The state and bureaucracy act and exercise broad (despotic) authority in a bureaucratic despotism relationship (Burawoy, 1985). In contrast, market despotism is a separate relationship between the state and firms, and indirect state intervention in the market. Market despotism is shaped by the whips of the market economy, and the state only regulates the external conditions of market relations, that is, the state protects market relations and labour mobility among firms (Burawoy, 1985). Hagemonic regime, the state intervenes directly in the market but the institutional positions of the two are separate. The fourth regime, collective self-management where the firm or factory is managed by its own workers; the state in this regime is indirect and joins the factory in creating the conditions for the factories to self-manage (Burawoy, 1985).

Results and Discussion

Complexity and Layers of Issues in the Work Process of Indonesian Migrant Workers

Indonesian migrant workers contribute a lot to the Indonesian economy and the economy of the destination country. For Indonesia, remittances or money sent back to the migrant worker's country of origin, such as to the migrant worker's family, are a major source of income (Hanri et al., 2024). As an Indonesian citizen, of course the Indonesian government is responsible for the protection of migrant workers through regulations and protection practices, although in some regulations such as the Job Creation Law, there are still several points of articles that are not in favour of the interests of migrant workers. In efforts to protect migrant workers, in this case for example in Malaysia, of course the migrant worker regime in Malaysia must also be a concern. Both the Job Creation Law that regulates the protection of migrant workers, as well as the migrant worker regime in Malaysia including the Indonesia-Malaysia MOU are two interrelated political instruments in determining the fate of Indonesian migrant workers in Malaysia. HY from SBMI said that regulations in sending countries and

placement countries are different and cannot be applied to each other so a quality MOU is very important in the implementation of the migrant worker work process.

In fact, based on the results of in-depth interviews; on the many findings of the Indonesian Migrant Workers Protection Agency (2024), Migrant Care Indonesia, the Indonesian Migrant Workers Union, and media findings (CNN and others), that Indonesian migrant workers often experience a number of human rights violations, violence leading to death, torture and abuse, unpaid salaries, slavery, racism, exploitation or forced labour, or even trafficking and smuggling of people, and so on.

The vulnerability of migrant workers is a crucial phenomenon, because migrant workers tend to have multidimensional and complex limitations compared to domestic workers. Migrant workers have many vulnerabilities in various aspects, such as environmental aspects and socio-political aspects (Sabates-Wheeler & Waite, 2003). In the environmental aspect, natural disasters, difficulties of migrant workers adapting to the destination country, ghettoisation (isolation of special areas for migrant workers to live), infectious diseases, and so on. On the socio-political aspect, they are prone to discrimination in accessing social, educational and economic services. On the socio-cultural aspect, migrants are vulnerable to social exclusion in the form of racist policies and society and identity-based violence (Sabates-Wheeler & Waite, 2003).

Based on interviews with SV (Migrant Workers Network), HY (Malaysian branch of the Indonesian Migrant Workers Union), and YR (Peduli Buruh Migran), the majority of migrant workers face violence that is not singular, from unilateral dismissal, verbal abuse, work not according to contract, and so on. The vulnerability of migrant workers is multi-layered, divided into labour vulnerability and criminal vulnerability. Labour vulnerability includes problems in the employment relationship such as unpaid salaries, work exploitation, or fraudulent employment contracts. Criminal vulnerability includes human rights issues such as violence, abuse, or trafficking. HY said that the most common cases were violence and non-payment of salaries, and there was even a case of a migrant worker who had not been paid for 7 years. Often violence and rights

violations occur to non-procedural migrant workers so they are afraid of their employers who can report them to immigration officers at any time.

Based on an interview with SV from the Migrant Labour Network and Law No. 18/2017 on PPMI, migrant workers experience a long process. Initially, prospective migrant workers obtain information on job vacancies as migrant workers from the village government. Then the prospective migrant worker is registered by the village government and obtains a certificate of working abroad from the *kelurahan* as a pre-requisite document that will be brought to the district. PMI will then obtain a One-Stop Integrated Service (LTSA) as a place for PMI placement and protection services provided by the local and central government. If there is no LTSA, prospective PMIs can go to the Manpower Office with all the required documents: ID card, diploma, working certificate by the village head, and others in the PPMI Law. Prospective migrant workers must obtain competency tests and medical check-ups that are brought to the LTSA or Manpower Office (SV, Interview, 2025).

After that, P3MI will recruit prospective migrant workers. P3MI will arrange visas and passports; and are given Pre-Departure Orientation (OPP) by BP2MI for a few days to be informed of their rights, obligations, procedures for handling problems, and anything needed while working as a PMI. After OPP, a labour contract is signed. It is not long before the PMI is dispatched to the destination country. Usually, the migrant worker will be directed to a post-arrival orientation at the Indonesian Embassy in the destination country to be given information about rights, problem handling, laws, culture, and social life in the destination country. Then the migrant workers will immediately work for their respective employers (SV, Interview, 2025).

The PMI work process based on the PPMI Law and the explanation of Interviewee SV above is an ideal condition or legal work process. However, in fact, prospective migrant workers are often approached by brokers or sponsors and then persuaded to work abroad with a certain nominal salary, even though in the placement country the nominal salary is often not in accordance with the initial information. The documents of prospective migrant workers are processed and falsified, without competency tests and medical check-ups. Work contracts do not match the work process in the destination

country, making them vulnerable to labour exploitation (SV, Interview, 2025). YR from Peduli Buruh Migran said:

"In fact, in field practice, it is never in accordance with the regulations. For example, that prospective migrant workers should not be charged excessive placement fees...but in reality many experience the withdrawal of placement fees and very high brokering (overcharging)."

"They should be provided with sufficient information about labour rights, protection laws, skills and language, and so on, which are part of the regulations. But in fact it is not fulfilled so that it becomes an obstacle when in the placement country. As a result, migrant workers experience language barriers, different cultures, lack of skills, and so on. Ignorance about many things because there is no transparency of information eventually becomes an obstacle in itself and ultimately results in abuse, exploitation. For example again, that all documents should have been told from the beginning that no one should hold personal documents (passport and personal identity) on behalf of anyone for any reason."

Lack of education about personal documents that should not be held by any party, or even pawned, has resulted in many migrant workers experiencing document retention. Withholding documents can lead to the loss of a migrant worker's freedom, breach and falsification of employment contracts, and more. Lack of education on the prohibition of migrant workers signing labour contracts or any agreement that they do not understand the meaning of. Both can result in the loss of migrant workers' rights, abuse, harbouring, and trafficking.

The Job Creation Law: From State Bureaucracy to Market Despotism

In Article 49 of Law No. 18/2017, the placement of migrant workers may only be carried out by agencies, PMI Placement Companies or P3MI, and companies that place Indonesian Migrant Workers for the company's own interests. To establish a company as a P3MI, it must have a written permit, namely the P3MI Licence Letter (SIP3MI) from the minister. In order for P3MI to obtain SIP3MI, Article 54 paragraph (2) of Law 18/2017 says that P3MI must fulfil the following requirements:

- a. has a paid-up capital stated in the company's deed of establishment of at least Rp5,000,000,000.00 (five billion rupiah);
- b. deposit money to a state bank in the form of a deposit of at least Rp1,500,000,000.00 (one billion five hundred million rupiah) which can be

withdrawn at any time as a guarantee to fulfil obligations in the Protection of Indonesian Migrant Workers.

- c. have a work plan for the placement and protection of Indonesian Migrant Workers for at least 3 (three) years.
- d. have facilities and infrastructure for the placement of Indonesian Migrant Workers.

If analysed and based on the information from the interviews, these requirements are indeed a big responsibility for P3MI but are important for the fate of Indonesian migrant workers. The first requirement, company capital, is very important to ensure the company's capability in organising the fourth requirement, namely facilities and infrastructure for the protection of PMI. The second part, deposits, in accordance with Article 54 Paragraph (2) can only be disbursed by the minister if P3MI cannot fulfil its obligations in the placement and protection of PMI. P3MI's deposits and assets are very important to provide guarantees for PMI's work safety under the risky placement of P3MI (Wahyudi, 2020). The third requirement is to have a placement and protection plan, which in this part can be supervised and evaluated by the government. This means that the role of the state is very dominant according to this law as a saviour if the market mechanism cannot work to protect PMI. Then, in Article 57 paragraph 2 of Law No. 18/2017 to extend SIP3MI for a period of five years, SP3MI must fulfil the following extension requirements:

- a. has performed its obligation to provide periodic report to the Minister.
- b. has carried out the placement at least 75% (seventy five per cent) of the placement plan at the time of obtaining SIP3MI.
- c. still has facilities and infrastructure in accordance with the stipulated standards.
- d. has a balance sheet for the last 2 (two) years without loss audited by a public accountant.
- e. not in a suspended condition.

To extend SP3MI, Article 57 paragraph (1) of Law No. 18/2017 states that P3MI must first obtain a recommendation from the PMI Placement and Protection Agency (BP2MI). The Minister may revoke the SIP3MI if the company is unable to fulfil the obligations imposed in this Law related to the protection of PMI. Even if it is revoked,

P3MI does not necessarily lose the company's obligation to PMI who are still abroad or in the placement country. The role of the minister/state is very strong because of this article because the minister can revoke the SIP3MI and even if it is revoked, the company must still be responsible.

SIP3MI is a letter that must be owned by a company that will become a P3MI, while the PMI Recruitment Licence or SP2MI must also be owned so that the company can carry out PMI recruitment activities as stated in Article 59 of Law 18/2017. SP2MI regulates the general requirements that P3MI must have the following documents:

1. Placement Cooperation Agreement.
2. Letter of request for Indonesian Migrant Workers from the Employer.
3. Draft placement agreement.
4. Draft Work Agreement.

Law No. 18 of 2017 was later partially amended by Law No. 6 of 2023 on the Perppu of Law No. 2 of 2022 on Job Creation. In the Fifth Section of the Perppu Law on Job Creation, there is a rule change called PMI Protection. The articles from Law 18/2017 that are amended by the Perppu Ciptaker are article 1, 51, 53, and article 57. The most crucial changes are Article 51 and Article 57.

Table 2 Article changes from Law 18/2017 (PPMI) with Job Creation Perppu (2023)

Article 51 of Law 18/2017	The company that will become an Indonesian Migrant Worker Placement Company as referred to in Article 49 letter b must obtain a written permit in the form of SIP3MI from the Minister.
Amendment: Article 51 Ciptaker Perppu Law 2023	<p>The Indonesian Migrant Worker Placement Company as referred to in Article 49 letter b must have a licence that meets the Business Licensing and is issued by the Central Government.</p> <p>Business Licensing as referred to in paragraph (1) must fulfil the norms, standards, procedures, and criteria set by the Central Government.</p>

Article 57 Paragraphs Licensing and extension of SIP3MI
(1) and (2) of Law
18/2017

Amendment to Article Deleted.
57 of the 2023 Ciptaker
Perppu Law

Source: In-depth Interviews result.

The Business Licensing referred to in the Ciptaker Law refers to its derivative product, namely Government Regulation No. 5 of 2021 concerning the Implementation of Risk-Based Business Licensing, namely the legality given to business actors to start and run a business based on the level of risk of business activities. According to Komnas Perempuan, the regulation, because it refers to the Job Creation Law, prioritises investment acceleration and ease of doing business (Komnas Perempuan, 2020). Risk-based business licensing only pays attention to aspects of capital, investment, health, environment, safety, and resources, but does not include aspects of protecting migrant workers as in Law No. 18/2017 (Serikat Pekerja Nasional, 2021). In line with that, the Job Creation Law reduces the role of the state and the rights of migrant workers because it has prioritised a market-based profit orientation, as YR said:

"Actually, the Job Creation Law has the same effect on migrant workers as on factory workers, other labourers across sectors, that then it reduces the protection of the rights that migrant workers should have; initially there were rights that were not fulfilled, now they are reduced. As a result, it also affects protection." (Interview, 2025)

In the amendment, it is clear that the SIP3MI obligation from the minister is replaced by Business Licensing from the central government. P3MI is no longer required to obtain SIP3MI. In the provision, the role of the government is getting minimal and the freedom of the company is getting higher. The mindset of the state as a protector of PMI is automatically reduced and the mindset of the company as a profit accumulator is given freedom. The fate of Indonesian migrant workers is increasingly dependent on P3MI. In addition to Article 51, there is another article change, namely Article 57 when Paragraphs (1) and (2) are deleted. Article 57 Paragraph 1 in Law 18/2017 regulates that the extension of SIP3MI must be with the recommendation of

BP2MI, while paragraph (2) is the extension requirement as previously explained. Resource person SV (JBM) explained based on:

"P3MI has to submit data updates to get a licence, after that they only get a recommendation letter. Now here [PPMI Law], for data renewal, for example, there must be periodic reports. So P3MI is a company, to be licensed P3MI must apply for a licence, and for that it is called SIP3MI, then one of them makes periodic reports to the minister, what are the results of its work. Carry out a minimum placement of 75%, still have infrastructure according to standards, balance sheet, not suspended. So P3MI only needs to submit data updates for 30 days, then there is no need to attach those documents. There is no verification process. That actually makes the naughty P3MI happy because there is no data update or verification process. That's why P3MI feels happy with Job Creation because it will loosen business licensing." (In-depth interview, 2025).

We argue that based on Burawoy (1985) production regime theory, the change of several articles from the PPMI Law to the Ciptaker Law is a phenomenon of shifting from a regime of bureaucratic despotism to a regime of market despotism in shaping and regulating the relationship between the state and PMI placement employers. We argue that the SIP3MI stipulated in the PPMI Law is a form of a highly bureaucratised production regime, even if it cannot be called bureaucratic despotism in the extreme. This is because SIP3MI itself is highly bureaucratic due to strict, complicated administrative requirements, and the state directly revokes SIP3MI. The state also holds the capital of 1.5 billion from P3MI which can only be disbursed by the minister for the protection of PMI. The state in this law is very strict for business licensing which makes P3MI have to deal with the bureaucracy that holds control over the PMI labour market. In essence, the state and bureaucracy control companies and the migrant labour market in this PPMI Law. YR, from Peduli Buruh Migran, supports the argument that there is privatisation in the regulation of the migrant worker work process and its consequences:

"Actually, we (migrant worker unions abroad) have been protesting since the beginning of the law (Job Creation Law). That the privatisation or the transfer of state responsibility to companies, to agencies, to P3MI, firstly is an attempt from the state to get out of hand, so it's like the state is not responsible for its citizens." (In-depth interview, 2025).

"With privatisation, the granting of full rights to companies, agencies, or P3MI, without any supervision and regulations whose implementation can really be accounted for, it is also prone to exploitation such as excessive

placement fees to P3MI before departure; debriefing and information are also not given enough. As a result, prospective migrant workers and migrant workers are vulnerable to fraud, exploitation, no guarantee of departure even after paying the departure fee." (In-depth interview, 2025).

Then, the shift from bureaucratic despotism to market despotism occurred when the Job Creation Law was intended in general to de-bureaucratise the market and give business actors flexibility in business activities and licensing. The abolition of SIP3MI to risk-based business licensing, as well as the abolition of the article on SIP3MI extension, further makes migrant worker placement companies operate without the obligation to implement bureaucratic requirements related to PMI protection as previously existed in the PPMI Law. They do not need to have deposits for PMI protection and also do not need to have facilities, a 3-year work plan, and infrastructure for PMI protection. State control regulations over P3MI are further reduced, so that companies will be much more free to determine the conditions of Indonesian migrant workers and the perspective of profit will take precedence over protection. It should be, said JR (SBMI):

"This protection [of migrant workers] should not be left to the private sector. The protection must be present from before work, during work, until the migrant worker returns home. The PPMI Law is actually very good, the role of the private sector is limited, all responsibilities are handed over to the government from the centre to the village level." (In-depth interview, 2025).

Various trade unions and advocacy networks have responded to the P3MI debureaucratisation sought by the Ciptaker Law. How do labour unions respond to the changes in these articles?.

Response of Workers, Advocacy Networks, and Organisations of Indonesian Migrant Workers Groups to the Job Creation Perppu Law

Various unions or advocates of migrant workers responded to the Perppu on job creation 2023, which was reported in various media. SV, representing the National Secretariat of the Migrant Workers Network (JBM) assessed that there has been a change in the central actor responsible for the protection of migrant workers. Law No. 39 of 2004 (the old Migrant Law) initially gave responsibility for the protection of migrant workers to placement companies. Then Law No. 18 of 2017 (the new Migrants

Law) tends to increase the role of the state in supervising the private sector (companies) in the process of placing and protecting migrant workers. The Job Creation Law weakens the state's supervisory mechanism over the private sector (DA, 2020). Likewise, Hariyanto as chairman of the Indonesian Migrant Workers Union responded that the Ciptaker Law, which transfers the authority of the Minister of Manpower to the central government, will not only disrupt the governance of migrant workers because the formulation is still unclear, but also have an impact in weakening the protection of migrant workers (DA, 2020). Interviewee Hariyanto said:

“If this is interpreted as an ease of issuing permits that are not in accordance with the terms and conditions of the Surat Izin Pelaksana Penempatan Pekerja Migran Indonesia (SIPPPMI) then the Cilaka Bill has the potential to harm migrant workers” (DPN SBMI, 2020a).

According to Anis Hadiyah (Head of Migrant Care Study Centre), the Ciptaker Law only returns the PMI protection regime to Law 39/2004, which is more accommodating to private/corporate interests (Komnas Perempuan, 2020). In addition, a union called Solidaritas Perempuan also responded that the Ciptaker Law in the context of the elimination of SIP3MI is evidence of the state abdicating its responsibility to protect PMI and loosening the movement of the private sector which can weaken state supervision of potential violations of PMI rights (Solidaritas Perempuan, 2020). The elimination of Article 57 Paragraph (1) of Law 17/2018 in the Ciptaker Law which mandates BP2MI's supervision of P3MI in the form of a recommendation to extend the licence is a weakening of the state's role in supervising the private sector (DPN SBMI, 2020). Interviewee JR as Secretary General of SBMI said:

"The Ciptaker Law is not for the benefit of the community and labourers, but only for the benefit of employers. We (SBMI) and our labour union friends reject [the Job Creation Law]." (In-depth interview, 2025)

Interviewee YN represented SBMI in conveying the aspirations of Indonesian migrant workers, she gave an oration in front of the Indonesian Parliament building on Labour Day 1 May 2025. She said in a research recording:

"Many of our migrant workers in the Middle East are placed unprocedurally so that they become victims of human trafficking offences (TPPO). They are employed in prostitution and then the workers are moved around. Then for labourers in Indonesia, inadequate wages, unfair welfare, it has an impact on our friends with secondary and higher education. They become victims of

online scams in Myanmar, in Cambodia, in Laos. They are employed as online gambling admins, then online scams, where you get love scam chats like that, maybe the admin is an Indonesian man who is under pressure there. Domestic workers, how can we get justice or protection abroad while the Domestic Workers Law in Indonesia has not been passed until now."

"I used to be a migrant worker for three years. I didn't understand at that time that being a migrant worker had what rights I should get. So I received inhumane treatment. I was deprived of my rights; there was no social security. The protection of migrant workers is still a struggle, while the government wants to place as many migrant workers as possible. It is the target of the government to place migrant workers, but it is not proportional to the protection given to our migrant workers."

YN worked as a domestic worker for three years in Malaysia. As a domestic worker, YN did not really understand the rights of migrant workers, so she could only follow the directions of her employer. In fact, the work contract received by Ms YN was as a domestic worker, but upon arrival, Ms YN was employed in a small home industry, which she could only follow. The challenges experienced by Ms. YN relate to the lack of socialisation about the rights of migrant workers, so she often did not receive the salary she was contracted for and did not have the power to voice her rights.

The Power and Politics of Litigation by Business

Business instrumental power is a deliberate political involvement by business actors ,(Fairfield, 2015; Fuchs & Lederer, 2007) in this case, litigation politics and regulatory politics. Based on the results of the interviews, one of the strategies of business politics in influencing policies or regulations is a litigation strategy (judicial), where entrepreneurs or business associations submit judicial reviews to the Constitutional Court to challenge articles in a law that are considered detrimental to the interests of entrepreneurs. This strategy has been carried out by the Association of Indonesian Migrant Worker Placement Companies or ASPATAKI in challenging Article 54 of Law No. 18/2017 on the Protection of Migrant Workers which is considered detrimental to Indonesian Migrant Worker Placement Companies or P3MI. Article 54 is considered detrimental by ASPATAKI because in this article P3MI in order to obtain a P3MI Licence or SIP3MI must fulfil bureaucratic requirements which include a capital of 5 billion and a deposit of 1.5 billion (MK RI, 2020).

Article 54 in Law No. 18 of 2017 is considered detrimental to employers because employers must have a deposit of 1.5 billion and can only be withdrawn by the Minister of Manpower. The deposit is disbursed if P3MI cannot fulfil the rights of migrant workers, for example if there are Indonesian migrant workers whose salaries are not paid by employers at the workplace, prospective migrant workers who do not leave even though they have paid a certain amount of money to P3MI to get a job placement, to handle cases of violations of PMI's rights, and for the needs of fulfilling the rights and protection of PMI in accordance with Article 17 of the Minister of Manpower Regulation No. 10 of 2019. Based on the results of our interview with Interviewee JR, the Indonesian Migrant Workers Union (SBMI), often SBMI as a non-market force succeeds in withdrawing these deposits for PMI whose salaries are not paid, even though PMI also need to meet their daily needs in the destination country.

According to interviewee JR, the deposit is basically important for the protection of PMI's rights, but the migrant placement entrepreneurs objected to it, so they sued the article to the Constitutional Court on 9 December 2019. In its petition document, P3MI felt burdened by the article because according to them, they were only carrying out business activities, not looking to exploit PMI. P3MI also objected to the deposit that must be fulfilled in a short time because it would potentially close business opportunities and could put some P3MIs out of business (MK RI, 2020). According to P3MI, not all P3MIs can fulfil these high requirements in the midst of a sluggish world economy due to a decrease in the volume of P3MI business activities. Entrepreneurs want the same requirements as Law No. 39/2004 on the Placement and Protection of Indonesian Workers Abroad PPTKILN (Law replaced by Law 18/2017 or PPMI) when the paid-up capital was only 3 billion rupiah and the deposit as collateral was only 500 million, much lower than those stipulated in Law 18/2017 (MK RI, 2020).

The government, through Law 18/2017, aims to provide protection to migrant workers by increasing the requirements to ensure the quality of migrant worker placement providers, including companies. The law is a policy response to the many cases of human rights violations and the rights of Indonesian migrant workers during their time as prospective migrant workers, working abroad, and returning home in Indonesia. The bureaucratic licensing process for P3MI is an effort to regulate private

companies, many of which lack integrity and endanger the rights of migrant workers (SBMI & Migrant Care, 2020).

The effort to sue the Constitutional Court by the ASPATAKI business association reflects the instrumental power of business, namely active involvement in litigation efforts or pursuing political rights and business interests through the judicial institution, namely the Constitutional Court. On 25 November 2020, the Constitutional Court decided to reject ASPATAKI's petition in its entirety with Decision No. 83-PUU/XVII/2019. Civil society and migrant worker advocates were very happy with this decision, for example quoted from Kompas Anis Hidayah from Migrant Care said:

“The Constitutional Court's decision blocks ASPATAKI's malicious efforts or intentions for us to return to the time of jahiliyah, where regulations on the protection of migrant workers are controlled by sending companies and they have tremendous discretionary space in running their business.” (Farisa, 2020).

The Constitutional Court's decision is essentially not in favour of the market, but in favour of the interests of migrant workers who have been crowned as foreign exchange heroes. In this case, business associations failed to exercise their instrumental power through judicial channels. Although later the structural power of business was successfully considered in the Job Creation Law that attracts investment and debureaucratizes business permits, including removing article 54 of the PPMI Law.

Structural forces or the structural approach sees that business groups have an important position in the economic structure as owners of capital and means of production, organising and paying labour, and providers of goods and/or services. Thus, because the structural position of business is so important and special in the structure of the economy/market, business people need to be supported by social and political structures that maintain market stability and support the interests of business people. When businesses disinvest, go out of business, or are affected by economic regulations that do not support their capital accumulation process, the possibility of a crisis is high, such as unemployment due to mass layoffs (Babic et al., 2022; Barrow, 1993). Conversely, when businesses invest, production occurs which absorbs labour, increases income, and produces goods and services that will generate consumption; for example, when many businesses invest in the migrant labour sector, the recruitment and placement of migrant workers will be high along with the increase in remittances.

Therefore, the state needs to adjust the socio-political structure and enact policies or political decisions in order to protect business interests, support investment, prevent disinvestment, and also intervene in the market to keep the economy stable. The material structure that business people have is the basis for their privilege in influencing policy (Babic et al., 2022; Barrow, 1993; Fuchs & Lederer, 2007). That remittances generated through the service business by P3MI make the government direct policies that favour P3MI such as in the Job Creation Law when the licensing of P3MI establishment is made easier even though it results in the reduction of protection to PMI and state supervision of P3MI.

The Job Creation Law and Perppu Ciptaker removed Article 54 in Law 18/2017 which replaced the P3MI Permit Letter with a business permit only, which means it does not require the company/P3MI to fulfil the bureaucratic requirements of licensing as a form of PMI protection method such as a deposit. SIP3MI is the best way for the state to monitor and ensure the quality of P3MI to provide maximum protection to migrant workers. The removal of Article 54 for the SIP3MI obligation in the Job Creation Law essentially de-bureaucratizes business licensing and reduces the government's role in the migrant labour business which is expected to improve the labour recruitment market and increase investment opportunities for the migrant labour sector in Indonesia. Although the P3MI association lost the lawsuit at the Constitutional Court to remove Article 54 from Law 18/2017, which shows P3MI's instrumental power has failed, but business people or P3MI have structural power or investment-disinvestment power, so the emergence of the Job Creation Law is a legislative product to increase investment and de-bureaucratise the business world.

The country needs as many migrant workers as possible to be recruited and placed because they will generate remittances or foreign money from the salaries they transfer to Indonesia. To increase the recruitment and placement of migrant workers, it is necessary to invest heavily in businesses in the field of recruitment and placement implementation, the main of which is the Migrant Worker Placement Company (P3MI). The government is thus very interested in increasing the placement of migrant workers by facilitating business activities, investment, and the establishment of P3MI. If business operations are not facilitated, many P3MIs will disinvest or even go out of

business in Indonesia, which can reduce remittances due to the decline in recruitment and placement of migrant workers. Moreover, PMI is the second largest foreign exchange earner after oil and gas, through the remittance (Kemen P2MI, 2025). This means that entrepreneurs or P3MI who have the capital capability for investment or disinvestment have formed a structural force in the Indonesian economy. Indirectly, the government will consider the structural power of the business by making regulations or policies that favour business groups so that they invest as much as possible for the country's income and economic growth. In fact, when Article 51 of the PPMI Law is applied, i.e. there is an obligation to deposit and capital, some unscrupulous P3MIs have strategised by creating 'shadow companies'. When one P3MI has SIP3MI, the P3MI can create other companies under it that operate similarly without SIP3MI. For example, in the interview with Interviewee YR:

"Initially, they set a lot of requirements for P3MI on the grounds that it is not arbitrary, then it is a form of protection for prospective PMI and PMI. But, in fact, when this P3MI is made difficult by the establishment process, they do all kinds of other things. For example, they set up one P3MI business with one licence but they also have such "P3MI sub-subs". They also don't want to lose. That's the practice in the field. For example, one business PT A has a licence, but in fact because there is no strict supervision, PT A has PT Ab, PT Ac, which are doing illegal activities." (In-depth interview, 2025).

With the regulation of the PPMI Law, the facts on the ground may differ from the regulation. Moreover, regulations that contain strict requirements are removed. Whether or not there is a strict regulation for P3MI in the PPMI regulation, the facts on the ground or its implementation still have many gaps.

In addition to structural power, P3MIs (businesses) and their associations also often use instrumental tactics with what Hillman & Hitt (1999) describe as information strategies. Representatives of business associations are often involved in Tripartite (State, employers, and civil society) discussions, conferences, or workshops involving the Ministry of P2MI, Ministry of Manpower, and Ministry of Foreign Affairs as the state; P3MI business associations such as ASPATAKI and the Association of TKI Service Companies (Apjati) as business representatives; and various migrant worker unions (SBMI, JBM, ILO, etc.). It is at the forum that representatives of business associations have the opportunity to offer information, research results, and lobby state

representatives, which is the practice of information strategy. However, P3MI business associations also operate in the realm of discursive power, which Fuchs & Lederer (2007) define as the formation of perceptions, debates or discourses, norms, ideas and interpretations of situations. One of the P3MI associations, ASPATAKI, often publishes news on its website called *Aspataki.com* that forms a positive perception of ASPATAKI's lawsuit to the Constitutional Court described above (Lihat contoh: *Aspataki.com*, 2019a, 2019b) whose narrative is in stark contrast to the writings on the websites of migrant worker unions and NGOs on the same issue.

Conclusion

The enactment of the Job Creation Law (2020) and the subsequent Job Creation Government Regulation in Lieu of Law (Perppu) (2023) has significantly altered the regulatory framework governing the protection of Indonesian migrant workers. This shift marks a departure from the state-centric protection model embedded in the PPMI Law (2017), which emphasized the role of the state through SIP3MI, toward a model that reduces state involvement and promotes licensing debureaucratization in favor of employers and private recruitment agencies (P3MI). This paradigm shift is largely influenced by the structural and instrumental power of P3MI, which plays a critical role in the Indonesian economy. However, this reorientation has concurrently diminished the state's regulatory authority in safeguarding migrant workers' rights.

As a result, Indonesian migrant workers, who already encounter a multitude of structural challenges, are now further exposed to vulnerabilities due to the state's partial withdrawal from oversight mechanisms—particularly in relation to SIP3MI. The current framework appears to prioritize capital accumulation and business interests in the recruitment, placement, and protection processes. Despite these structural constraints, labor mobilization efforts and associated organizations remain highly responsive, although they now contend with intensified corporate dominance. In this context, it is imperative for the government to reinforce its supervisory role over P3MI and to reorient labor governance toward a protection-based model, rather than one driven solely by market logic.

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Authors' Contributions

All authors have contributed to the final manuscript. The contribution of all authors: conceptualization, methodology, formal analysis, writing original draft preparatin, writing review and editing. All authors have read and agreed to the published version of the manuscript.

Conflict of Interest

All authors have no conflict of interest related to this study.

References

- Alysa. (2021). *Polemik UU Cipta Kerja terhadap Perlindungan Pekerja Migran Indonesia*. <https://www.hrwg.or.id/wp-content/uploads/2021/12/Polemik-UU-Cipta-Kerja-dan-Perlindungan-PMI-final.pdf>
- Arista, W., Emirzon, J., & Apriandi, M. (2019). Hak-hak Konstitusional Buruh Migran Indonesia di Malaysia. *Jurnal Ilmu Hukum*, 6(1).
- Aspataki.com. (2019a, December 9). *Langkah Cerdas Aspataki ke MK untuk Mengakhiri Perdebatan*. Aspataki.Com. <https://www.aspataki.com/2019/12/langkah-cerdas-aspataki-ke-mk-untuk.html>
- Aspataki.com. (2019b, December 19). *Aspataki ke MK tanpa Sedikitpun Niatan untuk Melawan Pemerintah*. Aspataki.Com. <https://www.aspataki.com/2019/12/press-release-aspataki-giat-ke-mk-bukan.html>
- Aswindo, M., & Ras, A. R. (2020). Omnibus Law Cipta Kerja dan Prospek Ketahanan Pekerja Migran Indonesia. *Jurnal Kajian Stratejik Ketahanan Nasional*, 3(2), 47–62.

- Babic, M., Huijzer, J., Garcia-Bernardo, J., & Valeeva, D. (2022). How does business power operate? A framework for its working mechanisms. *Business and Politics*, 1–18.
- Barrow, C. W. (1993). *Critical Theories of The State*. The University of Wisconsin Press.
- BP2MI. (2024). *Statistik Layanan Penempatan Pekerja Migran Indonesia*. BADAN PELINDUNGAN PEKERJA MIGRAN INDONESIA. <https://bp2mi.go.id/dashboard-publik>
- Burawoy, M. (1985). *The Politics of Production*. Verso.
- DA, A. T. (2020, November 24). *Hapus Syarat Perusahaan Penempatan, UU Cipta Kerja Dinilai Lemahkan Perlindungan Buruh Migran*. Hukum Online. <https://www.hukumonline.com/berita/a/hapus-syarat-perusahaan-penempatan-uu-cipta-kerja-dinilai-lemahkan-perlindungan-buruh-migran-lt5fbba48877c13/?page=2>
- DPN SBMI. (2020, October 7). *Tata Kelola Perizinan P3MI dirapikan UU PPMI, Diobrak-Abrik Omnibus Law UU Ciptaker*. Dewan Pimpinan Nasional Serikat Buruh Migran Indonesia. <https://sbmi.or.id/siaran-pers-sbmi-tata-kelola-perizinan-p3mi-dirapikan-uu-ppmi-diobrak-abrik-omnibus-law-uu-ciptaker/>
- Fairfield, T. (2015). Structural power in comparative political economy: perspectives from policy formulation in Latin America. *Business and Politics*, 17(3), 411–441.
- Farisa, F. C. (2020, November 26). *Uji Materi UU PPMI Ditolak, Migrant Care: Monumental bagi Perlindungan Pekerja Migran Halaman all - Kompas.com*. Kompas. <https://nasional.kompas.com/read/2020/11/26/18234771/uji-materi-uu-ppmi-ditolak-migrant-care-monumental-bagi-perlindungan-pekerja?page=all>
- Fitra, S. (2020, October 6). *Tawaran Kemudahan Berusaha dan Perizinan dalam UU Cipta Kerja - Industri Katadata.co.id*. Kata Data. <https://katadata.co.id/berita/industri/5f7cb392aecc8/tawaran-kemudahan-berusaha-dan-perizinan-dalam-uu-cipta-kerja>

- Fuchs, D., & Lederer, M. M. (2007). The Power of Business. *Business and Politics*, 9(3).
- Haliza, S. N., Amanda, D., & Marlina. (2023). Pengupahan PT Sumber Izumi Mas Perkasa: UU Ketenagakerjaan Tahun 2003 dan UU Cipta Kerja tahun 2023. *Jurnal Pengabdian Kepada Masyarakat Nusantara*, 5(1), 5–12.
- Hanri, M., Sholihah, N. K., & Satyagraha, I. P. B. (2024). *Kajian Perlindungan Sosial dan Tenaga Kerja*.
- Hillman, A. J., & Hitt, M. A. (1999). Corporate Political Strategy Formulation: A Model of Approach, Participation, and Strategy Decisions. *The Academy of Management Review*, 24(4), 825–842.
- Kemen P2MI. (2025a). *Data Penempatan Dan Perlindungan Pekerja Migran Indonesia Periode Januari-Februari 2025*. Kemen P2MI. <https://bp2mi.go.id/statistik-detail/data-penempatan-dan-pelindungan-pekerja-migran-indonesia-periode-januari-april-2025>
- Kemen P2MI. (2025b, March 17). *Kementerian P2MI Gelar Edukasi Keuangan bagi Pekerja Migran Indonesia di Hong Kong*. Kementerian Perlindungan Pekerja Migran Indonesia. <https://www.bp2mi.go.id/index.php/berita-detail/kementerian-p2mi-gelar-edukasi-keuangan-bagi-pekerja-migran-indonesia-di-hong-kong>
- Komnas Perempuan. (2020). *Dampak UU Cipta kerja terhadap Perempuan Pekerja Migran*. Komisi Nasional Perempuan. <https://komnasperempuan.go.id/kabar-perempuan-detail/dampak-undang-undang-cipta-kerja-terhadap-perempuan-pekerja-migran-indonesia>
- MK RI. (2020). Putusan Mahkamah Konstitusi Nomor 83/PUU-XVII/2019. In *Mahkamah Konstitusi Republik Indonesia*.
- Oso, L., Kaczmarczyk, P., & Salamońska, J. (2022). Labour Migration. In P. Scholten (Ed.), *Introduction to Migration Studies: An Interactive Guide to the Literatures on Migration and Diversity*. Springer.
- Qiptiah, D. M., Umar, M., & Sudiantini, D. (2024). Pemberdayaan Pekerja Migran Indonesia (PMI) Negara Penempatan Malaysia Untuk Peningkatan Kapasitas dan Persiapan Kemandirian. *Journal of Community Development*, 5(2).

- Sabates-Wheeler, R., & Waite, M. (2003). *Migration and Social Protection: A Concept Paper*. <https://www.issa.int/sites/default/files/external-references/files/GED-08be-2sabateswheeler-3177.pdf>
- SBMI, & Migrant Care. (2020, November 25). *Siaran Pers Bersama: Putusan Mahkamah Konstitusi RI terhadap Uji UU 18/2017 Menyelamatkan Ancaman Kemunduran terhadap Perlindungan Pekerja Migran Indonesia*. Migrant Care. <https://migrantcare.net/2020/11/putusan-mahkamah-konstitusi-ri-terhadap-uji-uu-18-2017-menyelamatkan-ancaman-kemunduran-terhadap-perlindungan-pekerja-migran-indonesia/>
- Serikat Pekerja Nasional. (2021, January 11). *Dampak UU Cipta Kerja Terhadap PMI*. Serikat Pekerja Nasional. <https://spn.or.id/dampak-uu-cipta-kerja-terhadap-pmi/>
- Solidaritas Perempuan. (2020, November 11). *UU Ciptakerja “Ketidadaan Negara Hadir untuk Melindungi Pekerja Migran Indonesia!” | Solidaritas Perempuan*. Solidaritas Perempuan. <https://solidaritasperempuan.org/uu-ciptakerja-ketidadaan-negara-hadir-untuk-melindungi-pekerja-migran-indonesia/>
- Undang-Undang No. 18 tahun 2017 tentang Perlindungan Pekerja Migran Indonesia* (18). (2017).
- Wahyudi, R. (2020, October 26). *Dampak RUU Cipta Kerja terhadap Pekerja Migran Indonesia - Pusat Sumber Daya Buruh Migran*. Buruh Migran. <https://buruhmigran.or.id/2020/10/26/dampak-ruu-cipta-kerja-terhadap-pekerja-migran-indonesia/>