

Governance and Protection of Indonesian Migrant Workers in Malaysia: A Study on Policy and Innovation Network

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Abstract

Protecting Indonesian migrant workers (IMWs) in Malaysia is a matter of great significance due to Indonesia's status as one of the primary source countries for migrant workers to Malaysia. Consequently, it necessitates the implementation of comprehensive governance measures by both nations. This paper aims to analyze the joint endeavors and collaborative frameworks established between governments of Indonesia and Malaysia. Additionally, it seeks to identify the network of policies and innovations enacted in both countries related to the protection and regulation of migrant workers. This research was enhanced through the utilization of NVivo qualitative analysis software. This article shows that efforts to protect IMWs in Malaysia involve many government institutions in both countries, especially at ministerial and departmental levels. The policies established between the two countries are also able to support the success of migrant protection, especially with the agreement between the two countries in the form of signing a Memorandum of Understanding (MoU). This MoU gave birth to innovation in digital-based migrant worker protection services, namely a "one channel system" as the only official mechanism for recruiting workers. However, at the implementation stage, this innovation has not gone well and necessitated a sincere effort from both countries in implementing it, especially Malaysia as the destination country.

Keywords: *Indonesian Migrant Workers, Policy Network, Innovation, Governance*

I. INTRODUCTION

Globalization, characterized by greater interconnectedness and reliance between nations, contributes to the expansion of international workers' migration and stimulates economic growth.¹ According to the World Migration Report 2020, approximately 272 million individuals migrated internationally in 2019, with around two-thirds of them moving for employment purposes.² Indonesia stands as a prime illustration of a Southeast Asian nation that serves as the primary origin of migrant workers. In Southeast Asia, Indonesia holds a significant position as a nation that sends a considerable number of individuals. As of 2019, reports indicated that approximately 3.7 million Indonesians were engaged in work abroad.³ The rise in the number of IMWs opting for overseas employment can be attributed to the discrepancy in wages between job offers in other countries, which are significantly higher than those in Indonesia.⁴

The difference in GDP per capita between Indonesia and Malaysia is a significant factor influencing the dynamics between worker-sending and worker-receiving countries.⁵ With Malaysia's GDP per capita being roughly three and a half times higher than Indonesia's, it drives the migration of Indonesian workers to Malaysia.⁶ Consequently, the flow of migrant workers will always be contingent upon the worker demand and supply between the two nations. This means that there is a demand for workers from destination countries as well as low wages and the large number of unemployed in countries of origin that encourage the movement of migrant workers. Since the early 1990s, the Malaysian manufacturing industry with a focus on technology has progressed, while Indonesia remains predominantly engaged in primary product sectors. Consequently, Malaysia has attracted a significant number of foreign workers.⁷ By 2022, Indonesia will contribute the highest number of workers to Malaysia, specifically 1.67 million individuals. This figure represents 48.13% of the overall 3.44 million Indonesian migrant workforce (see Figure 1).

1 Aswatini Anaf et al, "Indonesian Migrant Workers: The Migration Process and Vulnerability to COVID-19" (2022) *J Environ Public Health*.

2 Hagar ElDidi et al, "Reducing vulnerability to forced labour and trafficking of women migrant workers from South- to West-Asia" (2023) *33:2 Dev Pract* 156-167.

3 *COVID-19 crisis through a migration lens*, by Dilip K Ratha et al (World Bank Group, 2020).

4 Hasbuddin Khalid & Ade Savirah, "Legal Protection of Indonesian Migrant Workers" (2022) *1:2 Golden Ratio Law Soc Policy Rev* 61-69.

5 Arisman Arisman & Ratnawati Kusuma Jaya, "Labour migration in ASEAN: Indonesian migrant workers in Johor Bahru, Malaysia" (2021) *10:1 Asian Educ Dev Stud* 27-39.

6 Rokiah Alavi & A Ramadan, "Narrowing development gaps in ASEAN" (2008) *29:1 J Econ Coop* 29-60.

7 S Wahyuni, N Bachtiar & E Ridwan, "A Mapping of Job Opportunities for Indonesian Migrant Workers in the Malaysian Manufacturing Industry" (2019) *J Soc Sci Res Cited By (since 2019)*: 1.

Malaysia stands as the Southeast Asian country with the largest population of migrant workers, accounting for approximately 20% of its total workforce⁸. Estimates indicate that Malaysia is home to approximately 2.96-3.26 million foreign workers, including those who are undocumented, constituting around 20-30% of the country's overall workforce⁹. These foreign workers in Malaysia are primarily concentrated in worker-intensive sectors, including manufacturing (36%), construction (19%), services (14%), plantation (15%), agriculture (9%), and domestic help (7%).¹⁰ Their presence fills critical gaps in these sectors, supporting Malaysia's economic growth and development.¹¹

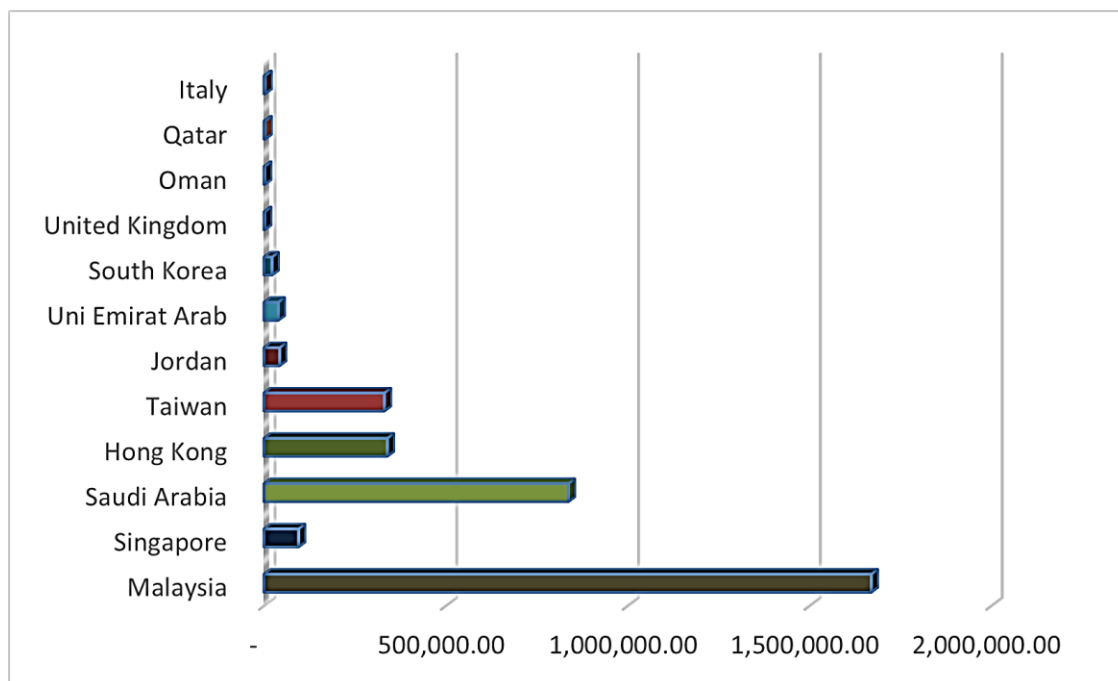


Figure 1. Main Destination Countries for IMWs

Source: DataIndonesia.id

8 Noraini M Noor & Muhamad Nabil Shaker, "Perceived workplace discrimination, coping and psychological distress among unskilled Indonesian migrant workers in Malaysia" (2017) 57 *Int J Intercult Relations* 19-29.

9 *Review of labour migration policy in Malaysia*, by ILO (Bangkok: ILO Regional Office for Asia and the Pacific, 2016); *Malaysia - estimating the number of foreign workers : a report from the labor market data for monetary policy task*, by World Bank (2019); Ramesh Sunam, "Infrastructures of migrant precarity: unpacking precarity through the lived experiences of migrant workers in Malaysia" (2023) 49:3 *J Ethn Migr Stud* 636-654.

10 World Bank, *supra* note 9.

11 Sunam, *supra* note 9.

However, Malaysia is also one of the countries that has recorded the highest number of complaints from IMWs. This means that many IMWs in Malaysia experience certain problems or difficulties that are reported through complaints. Throughout 2022, BP2MI, a non-departmental government agency in Indonesia that has the function of implementing policies in the field of placement and protection of IMWs abroad, received 1,987 complaints about the placement of IMWs (see Figure 2). Malaysia is one of the three placement countries with the highest complaints, namely 451 complaints.¹² IMWs often face various challenges, including problems related to work rights, unfair treatment, bad working conditions, as well as social and health issues.¹³

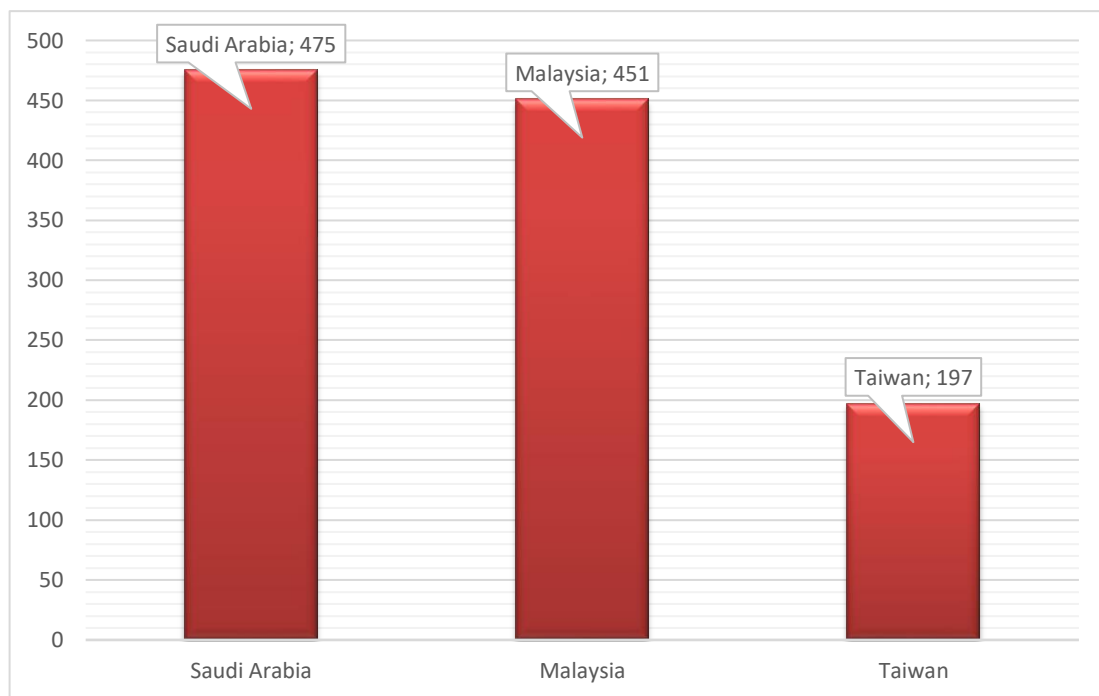


Figure 2. Countries with the Highest Number of Complaints of IMWs
Source: BP2MI

12 Mediana, "Lindungi Pekerja Migran Indonesia di Malaysia", (2023), online: *Kompas.id* <<https://www.kompas.id/baca/ekonomi/2023/01/30/perlindungan-pekerja-migran-indonesia-di-malaysia-perlu-ditingkatkan>>.

13 Sunam, *supra* note 9.

In 2019, BP2MI noted that there were 5,824 complaints about placing IMW domestically. According to the country, most of the IMW placement complaints came from Saudi Arabia with 475 complaints. Its position was followed by Malaysia and Taiwan with 451 complaints and 197 complaints, respectively.¹⁴ The high number of complaints of Indonesian Migrant Workers in Malaysia raises concerns of potentially serious problems in working conditions and treatment of workers in the country. This phenomenon not only reflects working situations that may not conform to safety and welfare standards, but also signals the need for improvements in the workers monitoring and protection system. IMW complaints cover a wide range of aspects, including violations of workers' rights, unfairness in employment relationships, as well as working conditions that are unsafe or detrimental to workers' health. Those facts are supported by BP2MI's latest follow-up data related to complaints of Indonesian migrant workers in Malaysia in early to mid-2023. The trend of Indonesian migrant worker complaints in 2023 shows significant numbers, with Malaysia being one of the most reported countries by migrant workers.

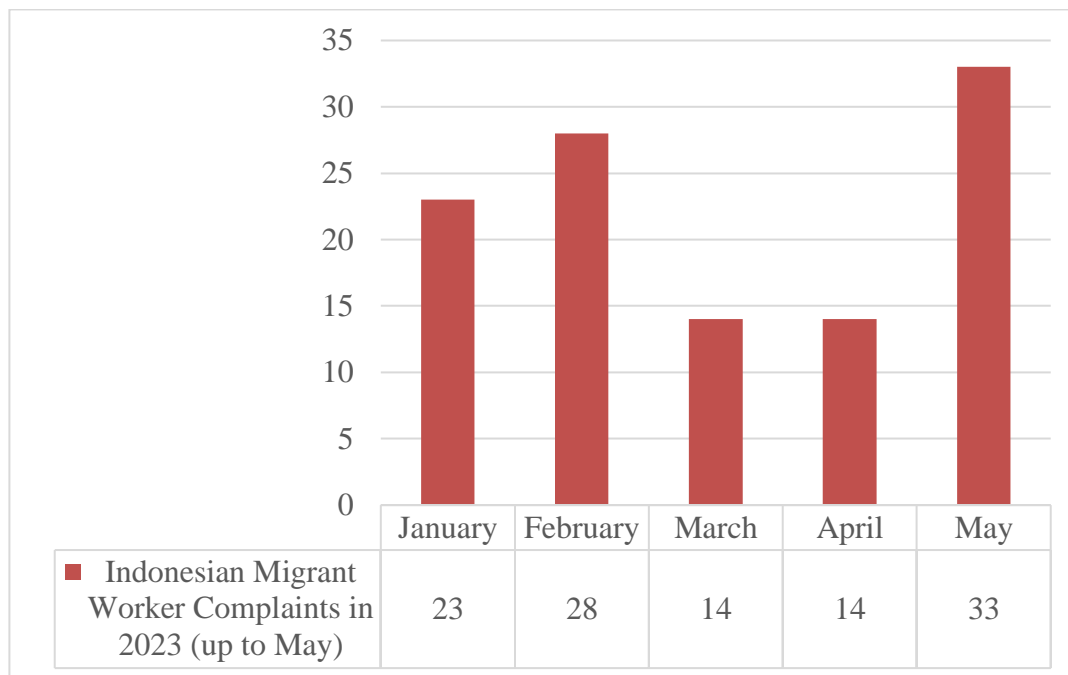


Figure 3. Indonesian Migrant Worker Complaints in 2023 (up to May)
Source: BP2MI

¹⁴ Ridhwan Mustajab, "Ada 1.987 Pengaduan Pekerja Migran Indonesia pada 2022", (2023), online: *DataIndonesia.id* <<https://dataindonesia.id/tenaga-kerja/detail/ada-1987-pengaduan-pekerja-migran-indonesia-pada-2022>>.

Statistics covering the period January to May paint a worrying picture. In January, 23 complaints were recorded. The figure increased in February to 28 complaints. Although there was a drop in March to 14 complaints, this number was again maintained in April with the same number of 14 complaints. The upward trend was again seen in May, with the number of complaints reaching 33, which brought the total number of complaints during the period to 112. The increase in the number of complaints from month to month indicates a serious issue that needs to be taken seriously and addressed. Several factors influence this trend, including substandard working conditions, inequality of treatment, or even human rights violations.

The author uses Vosviewer as a tool to map the research gap between previous studies and this research. VOSviewer is a bibliometric analysis tool that allows researchers to visually represent the network of relationships among keywords, themes, or articles in scientific literature. VOSviewer focuses on the visual depiction of bibliometric maps. The functionality of VOSviewer is valuable enough to present extensive bibliometric maps in an easy-to-understand manner. Based on the results of the Vosviewer analysis, 35 main items or topics were found that intersect with research on IMW protection in Malaysia. The 35 items (can be seen from the number of dots in Figure 4) are divided into 7 clusters (seen from the diversity of line colors in Figure 4) which are categorized based on the topics raised. The data used in this analysis includes thousands of scientific articles published over the last ten years. The topic structure map reveals clusters of closely related keywords, such as “Indonesian Migrant Workers,” “Malaysia,” and “Worker Protection.” These findings reflect a major trend in current research on the protection of Indonesian migrant workers in Malaysia. However, studies of governance and protection of Indonesian migrant workers in Malaysia using policy networks and elaboration on Innovation are still rare. This can be seen from the small size of the dots in the data visualization. Most of the research puts forward the issue of protecting migrant workers from a legal perspective, including Arpangi (2018)¹⁵ and Hartono (2021)¹⁶, who carry out research to restore regulations protecting IMWs abroad using normative juridical methods, which emphasize analysis of legal aspects related to the rights and protection of migrant workers.

15 Arpangi (2018) “Legal Protection of Indonesian Labor in Management of Household Overseas” (2020) 6:3J Pembaharuan Huk.

16 Darminto Hartono (2021) “Legal Protection of Indonesian Migrant Workers: International Law, National Regulations and Contemporary Problems” (2021) 10 Int J Criminol Sociol 859-865

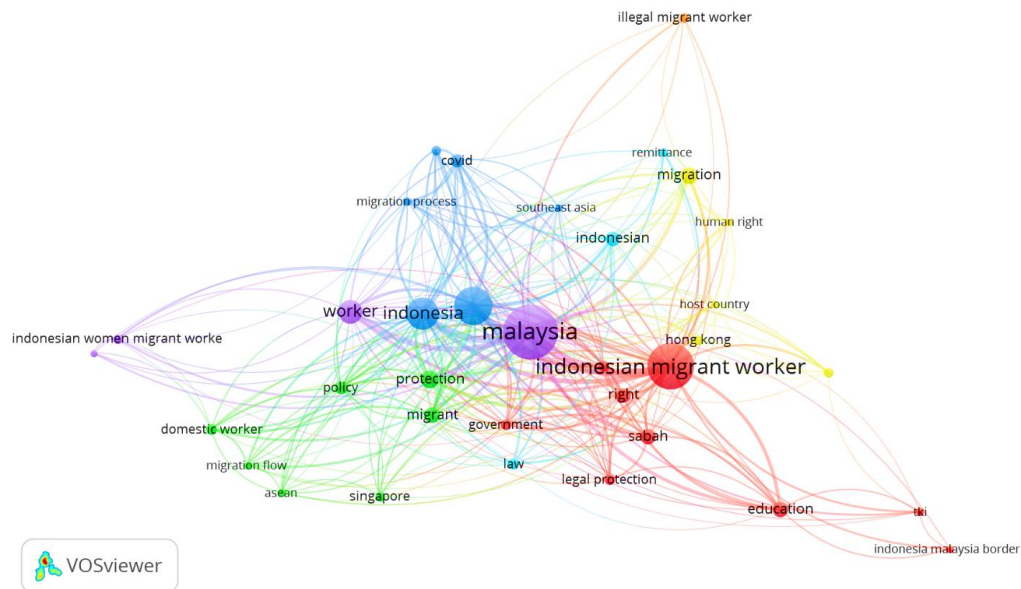


Figure 4. Literature Gap Analysis
Source: Processed by VosViewer

Furthermore, there is research related to the Indonesian government's efforts to protect IMWs in Malaysia which specifically addresses the issue of how the Indonesian Government responds and efforts to fulfill the protection of the educational rights of Indonesian migrant children in Sabah, Malaysia.¹⁷ The research concluded that the Indonesian government has sought legal and educational protection for Indonesian children in Sabah from discrimination by establishing diplomatic relations with Malaysia. In addition to education, some studies touch on the problems of IMWs from a health perspective¹⁸, especially concerning mental health.¹⁹ Research on the theme of protecting women migrant workers is also one of the most discussed topics, including

17 Laras Ningrum Fatmasiwi, "Public Policy Advocacy Process on the Protection of Indonesian Migrant Workers conducted by Institute for Education Development, Social, Religious, and Cultural Studies (INFEST)" (2019) 2:1 *IJISH (International J Islam Stud Humanit)* 32-49; Dita Aprilia Yuvanti, "Indonesian Government's Efforts to Cooperate with Malaysia's Government in Protecting Educational Rights of Indonesian Migrant Workers Children (Case Study: Children of Indonesian Migrant Workers in Sabah)" (2021) 2:2 *J ASEAN Dyn Beyond* 121.

18 Rizka Rizka et al, "Health rights for indonesian migrant workers in malaysia: A legal perspective" (2021) 15:1 *Indian J Forensic Med Toxicol* 1438-1441 Cited By (since 2021): 1; Wafda Vivid Izziyana et al, "Legal protection of health rights for Indonesian migrant workers abroad" (2019) 10:6 *Indian J Public Heal Res Dev* 764-768 Cited By (since 2019): 2.

19 Noor & Shaker, *supra* note 8; Santa Maria Pangaribuan et al, "Mediating Effects of Coping Strategies on the Relationship Between Mental Health and Quality of Life Among Indonesian Female Migrant Workers in Taiwan" (2022) 33:2 *J Transcult Nurs* 178-189 Cited By (since 2022): 4.

research conducted by Nashirudin et al. (2020) and Rahayu & Ramdhany (2016).²⁰ The article by Nashirudin et al. (2020)²¹ highlights government policies on Islam and Gender Issues in the Indonesian Government's Policy on the Protection of Female Migrant Workers in Malaysia. The same is true of Rahayu & Ramdhany (2016)²², who questioned the efforts made by the Indonesian government to protect the rights of female migrant workers, especially those working in the domestic sector. However, based on a search of the academic literature, no articles have been found that attempted to investigate the issue of policy networks and innovation in the governance and protection of IMWs in Malaysia. Indeed, this is essential, as IMWs are frequently vulnerable to exploitation, abuse, and violations of their human rights. Subsequently, it is essential to provide adequate protection for migrant workers to prevent their mistreatment and guarantee their fundamental rights.²³ This study raises the question of how the structure of cooperation and coordination mechanisms among agencies relates to the protection and governance of IMWs in Malaysia. Furthermore, it explores how the network of policies and innovations implemented in Indonesia and Malaysia for the handling and protection of IMWs. Through investigation of these questions, this research has the potential to produce one of the most effective models for the governance and protection of migrant workers.

II. ANALYTICAL FRAMEWORK: POLICY NETWORK

East Timor has been A policy network can be perceived as an institution, functioning as a set of rules that oversee the actions of the stakeholders engaged in a governance role.²⁴ The policy network framework proves advantageous in delineating policy procedures and the interconnectedness among various policies. Policy network is the primary focus of public policy, which is synonymous with dependence on other resources.²⁵ The theory of policy networks embodies an analytical, evaluative, and liberating endeavor. The liberating endeavor highlights the desire to empower all parties involved in the policy network. Liberation can be defined as providing fair, equitable and inclusive participation opportunities to all stakeholders. It creates an environment where various voices can be heard and accommodated in the

20 Nashirudin et al. (2020) "Islam and gender Issues in Indonesian government policy on the protection of female migrant workers in Malaysia" 17:6 *PalArch's J Archaeol Egypt/Egyptology* 8267-8289; Rahayu and Ramdlany (2016) "Responsibility of protection Indonesian female migrant workers" 10:4 *Int J Business, Econ Law* 11-20.

21 Nashirudin et al. (2020)

22 Rahayu & Ramdlany, *Supra* note 20.

23 Andi Luhur Prianto, Aqmal Reza Amri & Goran Ilik, "Governing Migrant Workers Post-COVID-19 in Southeast Asia: Vulnerability, Mitigation and Transformative Agenda" in *Polit Econ Dev Glob South Post-COVID-19 Pandemic* (Springer, 2023) 139.

24 Jens Blom-Hansen, "A 'New Institutional' Perspective on Policy Networks" (1997) 75:4 *Public Adm* 669-693.

25 Yanne Yuniarti Widayat et al, "Mapping Policy Actors Using Social Network Analysis on Integrated Urban Farming Program in Bandung City" (2023) 15:12 *Sustainability* 9612.

decision-making process, resulting in more responsive and relevant policies. Theories concerning policy networks highlight a purported disparity between established notions and theories of governance, on one hand, and the perceived present state of governance realities, on the other.²⁶

Policy network is one among a group of concepts centered on the connections between the government and its reliance on other actors within the state and society. Ultimately, the origins of policy network analysis can be traced back to the examination of power distribution among public and private entities, which often involves business, and governmental collaboration in the realm of policymaking.²⁷ Policy networks focus on harnessing the strengths of each actor while building a formal institutional framework that consolidates coordination and cooperation among the parties involved. The framework follows global changes and developments. All parties are heard, and any demands are seriously considered as long as they are not carried out at the expense of the public interest and do not undermine national sovereignty.²⁸ Policy development and enforcement follow a more applicable and reliable policy network. In addition, policy networks advocate legalization and democracy of multi-subjective interests where legalization and democracy cannot be achieved by simple guidelines but require mutual trust and mutual assistance among network actors. Finally, in terms of proper investigative processes, network execution does not only contain structural exploration but also step-by-step investigations to ensure the process of enacting policies is appropriate, convincing, and more practical.²⁹ An adequate policy network will encourage the emergence of innovation in the governance of public affairs.³⁰

Both academics and professionals have shown growing curiosity regarding innovation within the public sector.³¹ Explained that a significant number of scholars are inclined toward the notion that innovation has the potential to enhance the caliber of public services and strengthen the ability of government entities to address societal challenges through improved problem-solving approaches. The perspective that

26 Henrik Enroth, "Policy network theory" (2011) SAGE Handb Gov 19-35.

27 Roderick A W Rhodes, "Policy network analysis" in Robert Goodin, Michael Moran & Martin Rein, eds, *Oxford Handb Public Policy* (Oxford Academic, 2008).

28 Hasan Saber & Salwa Shaarawy Gomaa, "Policy networks as a unit of analysis of public policies a case study of the social and health insurance policy network in Egypt (2015-2019)" (2020) *Rev Econ Polit Sci*.

29 Anjad Ali et al, "Renewable portfolio standard development assessment in the kingdom of Saudi Arabia from the perspective of policy networks theory" (2021) 9:7 *Processes* 1123.

30 Jacob Torfing, "Co-innovation in Welfare States Across Europe" in Karen J Baehler, ed, *Oxford Handb Gov Public Manag Soc Policy* (Oxford Academic, 2023).

31 Stephen P Osborne & Louise Brown, "Innovation, public policy and public services delivery in the UK. The word that would be king?" (2011) 89:4 *Public Adm* 1335-1350; Richard M Walker, "Internal and external antecedents of process innovation: A review and extension" (2014) 16:1 *Public Manag Rev* 21-44; Hanna De Vries, Victor Bekkers & Lars Tummens, "Innovation in the public sector: A systematic review and future research agenda" (2016) 94:1 *Public Adm* 146-166; Damanpour & Schneider (2009).

policies could play a part in promoting innovation has gained widespread acceptance, leading to the common usage of the term “innovation policy”.³² Innovation policy encompasses the collective efforts carried out by governmental entities that impact the progression of innovative processes. These public organizations utilize instruments of innovation policy to shape and guide the course of innovation processes.³³ Policies require different actors and different sectors to innovate.³⁴ At the same time, to be successful, they must enable bottom-up experimentation and learning so that the innovation process itself is nurtured through dynamic feedback loops and serendipity. Challenges and problems drive innovation across multiple sectors and actors have much to learn from “mission-oriented” policies that in the past have been aimed at achieving specific objectives.³⁵ Years of advancements in innovation have yielded a broad spectrum of approaches, ranging from agreements between governments and states, collaborative efforts among agencies, and composite forms of governance, to contracts for public services, collaborations between the public and private sectors, systems of co-management and adaptability, as well as localized collaborations involving multiple stakeholders.³⁶ The interaction among interconnected participants is a pivotal catalyst for innovation and identifies governance networks as a beneficial framework for augmenting collaborative efforts.³⁷

32 Jakob Edler & Jan Fagerberg, “Innovation policy: what, why, and how” (2017) 33:1 *Oxford Rev Econ Policy* 2-23.

33 Susana Borrás & Charles Edquist, “The choice of innovation policy instruments” (2013) 80:8 *Technol Forecast Soc Change* 1513-1522.

34 Kehinde Adekunle Aliyu & Jamaludin Mustaffa, “Prison Correctional Rehabilitation Programme for the Empowerment of Inmates in Nigeria” (2022) 3:1 *J Contemp Gov Public Policy* 21-30, online: <<http://journal.ppishk.org/index.php/jcgpp/article/view/67>>.

35 Mariana Mazzucato, “Mission-oriented innovation policies: challenges and opportunities” (2018) 27:5 *Ind Corp Chang* 803-815.

36 Kirk Emerson & Tina Nabatchi, *Collaborative governance regimes* (Georgetown University Press, 2015) Cited By (since 2015): 826.

37 Eva Sørensen, *The metagovernance of public innovation in governance networks* (2014).

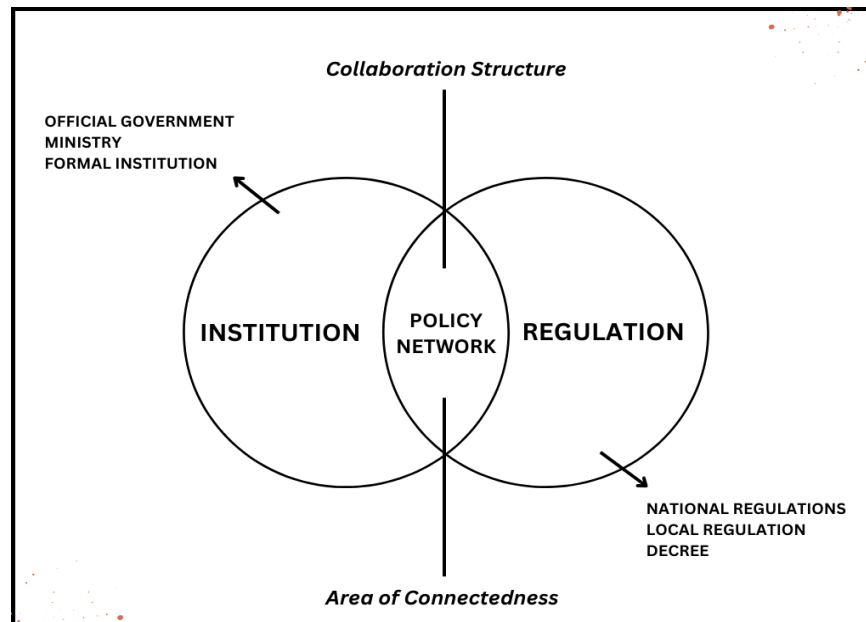


Figure 5. Conceptual Framework

Source: Conducted by Authors from Various Sources

Nevertheless, this study specifically examines the collaboration between the governmental bodies of Indonesia and Malaysia across different tiers of government organisations. This decision is taken with the consideration that bilateral relations between countries do not only involve the national level, but also involve complex dynamics at lower levels of government institutions, such as provincial or regional levels. In the face of the complexity of this bilateral relationship structure, the researcher decided to use a modified "policy network" model as the analytical framework. There are several fundamental reasons why this model was chosen as the main tool to analyze cooperation between the governments of Indonesia and Malaysia. First, the policy network model allows researchers to thoroughly understand the interactions and linkages between various actors within government institutions. This is in keeping with the complexity of inter-state relations, where the role of several government actors can be key in shaping and influencing bilateral policies. Second, the model allows researchers to track the flow of information, decisions, and resources. As such, it can better understand how cooperation policies and initiatives are decided, designed, and implemented. This analysis can help identify factors that facilitate or hinder the effectiveness of cooperation between the governments of Indonesia and Malaysia. Third, the use of a modified policy network model allows researchers to explore policy dynamics that may not be clearly visible in conventional analysis due to its broad scope. Furthermore, to look at the linkages between the two countries, this research uses instruments that apply between the two countries, both in the form of national and local

regulations, as well as formal institutional decisions (see Figure 5). Finally, to look at innovations, the researcher traces programs and agreements that have been made by both countries, such as the digital-based migrant worker management system and various memoranda of understanding signed between Indonesia and Malaysia regarding the governance and protection of migrant workers.

III. COLLABORATION ACROSS GOVERNMENT INSTITUTIONS IN THE GOVERNING OF IMWS IN MALAYSIA

Collaborative holds significant popularity within the realm of contemporary public management and administration.³⁸ The term is frequently employed, both intentionally and colloquially, to denote endeavors that tackle public policy issues extending beyond the conventional boundaries of governmental bureaucracy.³⁹ The issue of IMWs in Malaysia is a problem that requires professional handling involving many stakeholders, especially government institutions at all levels. The large number of cases of complaints from Indonesian workers in Malaysia (see Figure 5) is driving evidence of the need for strong cooperation between institutions in both countries.

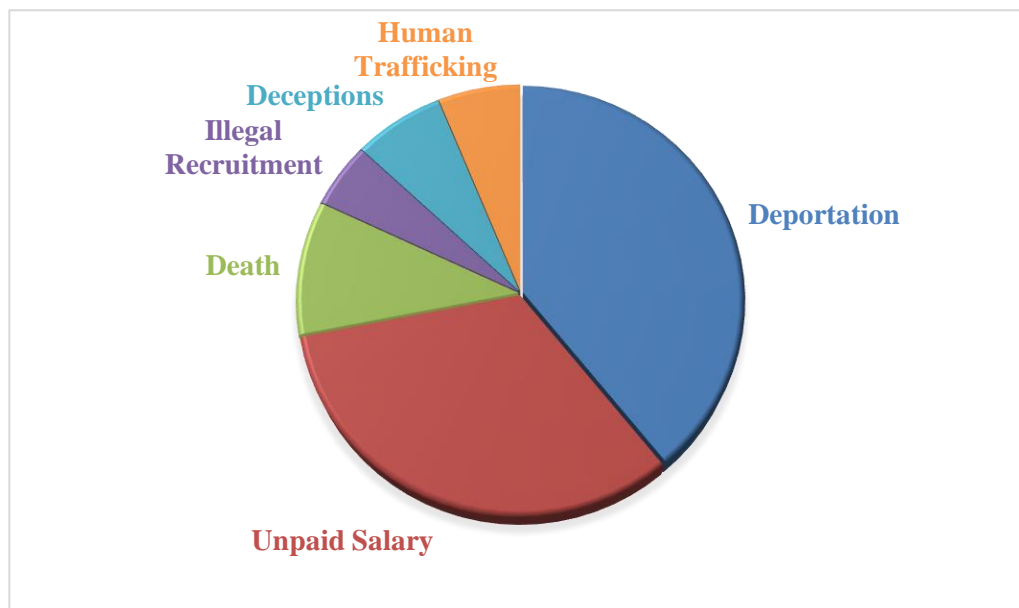


Figure 6. Migrant Worker Complaints Based on Cases (2019-2022)
Source: Indonesian Migrant Worker Protection Agency

³⁸ Data Wardana, Mendra Wijaya & Raden Imam Al Hafis, “Enhancing Collaborative Governance in Managing Grand Forest Park in Riau, Indonesia” (2023) 4:2 J Contemp Gov Public Policy 215–228.

³⁹ Douglas Adams, “Collaborative governance and collaborative governance regimes” (2015) Collab Gov regimes 14–38.

Collaborative efforts to protect migrant workers are an embodiment of the principle of shared responsibility, namely joint responsibility between the countries of origin and destination of migrant workers. In practice, the two countries (Indonesia and Malaysia) have taken several concrete steps to build cooperation on the protection of migrant workers. For example, efforts to protect migrant workers in the domestic sector. The domestic sector is one of the most vulnerable sectors for IMWs when compared to several other sectors in Malaysia. So in September 2016, the Indonesian Government submitted an initial draft Memorandum of Understanding (MoU) for the domestic sector. Although the MoU was only approved by the Malaysian Government in August 2020. The MoU is a Government to Government (G-to-G) collaboration between Indonesia and Malaysia which forms the basis for the protection of Indonesian workers in Malaysia. The agreements delineate the entitlements and obligations of employees, employers, and governmental entities, respectively. At the government level, in both Indonesia and Malaysia, the protection of migrant workers has been formally established as a national program for each country, with the signing of a memorandum of understanding. Multiple institutions are involved in this process, such as the Ministry of Labour, the Ministry of Foreign Affairs, the Indonesian Migrant Worker Protection Agency, and others.⁴⁰ In Malaysia, prominent entities such as the Department of Labour, Immigration Department of Malaysia, Ministry of Human Resources, and others play significant roles (see Figure 6).

40 Ali Maksum, "Indonesian post-migrant workers: A challenging problem for human security" (2021) 4:1 Soc Sci Humanit Open.

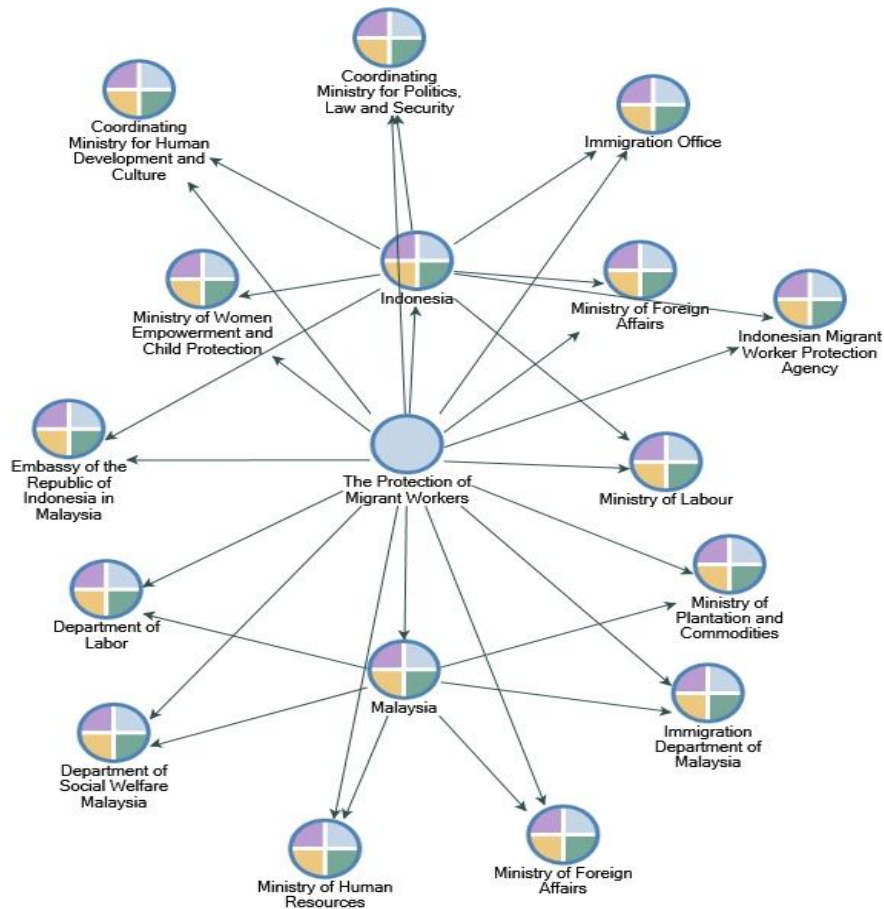


Figure 7. Institutional Networks for the Protection of IMWs in Malaysia
 Source: Processed by Nvivo12

Ministerial institutions, both Indonesian and Malaysian, play a crucial role in protecting IMWs in Malaysia. Ministerial institutions are involved in negotiating and signing bilateral cooperation agreements between the Indonesian and Malaysian governments to ensure the rights and welfare of IMWs. The signing of a joint statement in 2022 as well as a working visit between the Indonesian Ministry of Labour and the Malaysian Ministry of Human Resources is a form of cross-institutional collaboration in the management and protection of Indonesian workers in Malaysia.⁴¹ Furthermore, the collaborative process also involves several parties such as the Indonesian Migrant Worker Protection Agency (BP2MI). BP2MI's policy direction is to eradicate non-

41 Katriana, “RI, Malaysia discuss steps to improve protection for migrant workers”, (2023), online: *antaranews* <<https://en.antaranews.com/news/275922/ri-malaysia-discuss-steps-to-improve-protection-for-migrant-workers>>.

procedural IMWs sending syndicates with the strategic objective of increasing the protection and welfare of IMWs and their families, as well as improving good governance of IMWs in general.⁴² The Malaysian Ministry of Plantation and Commodities is one of BP2MI's collaborative partners in working to protect IMWs, especially those working in the plantation sector. The Ministry of Plantation and Commodities and BP2MI have jointly built a commitment to protect and prosper Indonesian workers in Malaysia. One manifestation of this commitment by pushing for an increase in the minimum wage for workers from 1200 to 1400 ringgit.⁴³

As representatives of the country, the Embassy of the Republic of Indonesia and the Consulate General have an important role in protecting IMWs abroad. As research by Flambonita et al.⁴⁴ demonstrated, The Consulate General of the Republic of Indonesia, Malaysia provides legal protection for migrant workers who are victims of criminal acts of human trafficking, both through litigation and non-litigation. The active role of the Indonesian Consulate General in Johor Bahru Malaysia together with the Malaysian authorities to deal with the problem of human trafficking which victimizes many IMWs in Malaysia. IMWs are under the authority of various ministries in Malaysia, and within one ministry they may be placed in various departments in a particular ministry. For example, regarding payment of salaries, guarantees for eligibility for work and appropriate living conditions for migrant workers under the supervision of the Department of Labour, while regarding work relations between employers and workers, the implementation is under the supervision of the Ministry of Human Resources.⁴⁵ In addition, to supervise the execution of the deployment of Indonesian laborers in Malaysia, the governments of Indonesia and Malaysia have reached a consensus to establish a collaborative entity known as the Joint Task Force (JTF). The Joint Task Force (JTF) comprises multiple governmental entities and agencies from both Indonesia and Malaysia. The responsibility assigned to them is to oversee and monitor for any breaches of the Memorandum of Understanding (MoU). The primary objective of the Joint Task Force (JTF) is to deliver suitable support for resolving issues within a certain domain. The Joint Task Force (JTF) operates under the hierarchical framework of the Joint Working Group (JWG). In anticipation of the deployment of IMWs, particularly those employed in the domestic sector in Malaysia, the Joint Task Force (JTF) has had three meetings to discuss the outcomes of the preliminary terms

42 Fithriatus Shalihah, Agusmidah Agusmidah & Asri Wijayanti, "Effectiveness of one-stop integrated services in optimizing the role of Indonesian migrant workers protection agency in Central Java" (2021) 5 *Linguist Cult Rev* 1099-1110.

43 BP2MI, "Temui Kepala BP2MI, Perwakilan Malaysia Bahas Isu Pelindungan dan Kesejahteraan PMI", (2022), online: *bp2mi.go.id* <<https://bp2mi.go.id/berita-detail/temui-kepala-bp2mi-perwakilan-malaysia-bahas-isu-pelindungan-dan-kesejahteraan-pmi>>.

44 Flambonita et al. (2022)

45 Low Choo Chin, "Migrant Labour Recruitment Reform in Malaysia: Towards Ethical and Zero-Cost Migration" (2020) 10:2 *Otoritas J Ilmu Pemerintah* 142-164; Aktieva Tri Tjitrawati, "Perlindungan Hak dan Pemenuhan Akses Atas Kesehatan Bagi Tenaga Kerja Indonesia di Malaysia" (2017) 29:1 *Mimb Hukum-Fakultas Huk Univ Gadjah Mada* 54-68.

of reference. These sessions focused on the work methods, responsibilities, and composition of the JTF.⁴⁶

Despite the existence of a Memorandum of Understanding (MoU) about the governance and protection of IMWs in Malaysia, the execution of this accord has not been perfect. In the middle of 2022, the Indonesian government decided to cease the placement of migrant workers in Malaysia due to its perception that the Malaysian government had breached the terms of the MoU Understanding that had been previously agreed upon. The recruitment of IMWs by the government occurs in a manner that deviates from the stipulations outlined in the MoU contract. The recruitment of workers is facilitated with the implementation of a Maid Online System, commonly referred to as SMO. The practice of direct placement of migrant workers, also known as direct hiring, involves the placement of workers without the involvement of intermediary agencies. The implementation of the SMO strategy was devised as a means to alleviate the financial burden experienced by users or employers about the exorbitant expenses associated with engaging migrant workers via recruitment agencies. The SMO recruitment mechanism operates independently of the provisions outlined in the MoU. However, the Indonesian government views the use of SMO as a factor that exposes IMWs to potential exploitation. This is mostly due to the absence of legal procedures in the recruitment process, such as the conversion of tourist visas to work visas, which are typically facilitated through official channels.⁴⁷ The existence of an SMO can help employers register and contact migrant workers at an affordable cost.⁴⁸ Nevertheless, the implementation of the SMO also allows for the rehiring of undocumented migrant workers, albeit at a higher cost to the hiring party. Therefore, the Government of Indonesia found that the recruitment procedure was not in accordance with the provisions stated in the MoU signed in April 2022 on the placement and recruitment of migrant workers in Malaysia. The MoU stipulates the One Channel System (OCS) as the recruitment and supervision system for migrant workers in Malaysia.

46 Malahayati Malahayati, "Legal Protection on Indonesian Domestic Workers in Malaysia : From Actors ' Legal Protection on Indonesian Domestic Workers in Malaysia : From Actors ' View" (2017) 43:July JL Pol'y Glob 75.

47 Astriyani Irawan, Arman Anwar & Dyah Ridhul Airin Daties, "Kekuatan Hukum Memorandum of Understanding Bagi Perlindungan Pekerja Migran Indonesia" (2023) 1:1 Pattimura Law Study Rev 10-12.

48 Choo Chin Low, "Migtech, fintech and fair migration in Malaysia: addressing the protection gap between migrant rights and labour policies" (2023) 44:5 Third World Q 872-891.

IV. POLICY NETWORK OF GOVERNING AND PROTECTION OF MIGRANT WORKERS

Migrant worker protection policies are part of the government's responsibility, both the government of the country of origin and the destination, to protect the welfare of migrant workers.⁴⁹ This is to ensure that migrant workers receive fair wages, work in safe conditions, and have access to health services.⁵⁰ Effective migrant worker protection policies help build good relations with destination countries. This can have a positive impact on bilateral cooperation and diplomacy between countries.⁵¹ Migrant worker protection policies for both countries (Indonesia and Malaysia) support global efforts to promote human rights, prevent human trafficking, and end the exploitation of migrant workers. Therefore, effective policy implementation and collaborative efforts between Indonesia and Malaysia in this regard have a huge positive impact on the lives and welfare of migrant workers as well as bilateral relations between the two countries.⁵² There are several regulations or policies in both Indonesia and Malaysia that are correlated with efforts to govern and protect migrant workers (see Figure 7).

49 D Setyawati, "Assets or commodities? Comparing regulations of placement and protection of migrant workers in Indonesia and the Philippines" (2013) *ASEAS-Austrian J South-East Asian Stud Cited By* (since 2013): 35.

50 Ninik Rahayu, "Indonesian Migrant Worker Policies and the Vulnerability of Women Migrant Workers to Becoming Trafficking Victims: An Overview of Recent Legislation" (2018) *1:2J Southeast Asian Hum Rights* 159.

51 Dovelyn Rannveig Agunias, "What we know about regulating the recruitment of migrant workers" (2013) *6 Policy Br* 1-11; Graeme Hugo, "Best practice in temporary labour migration for development: A perspective from Asia and the Pacific" (2009) *47:5 Int Migr* 23-74.

52 E Spaan & T Van Naerssen, "Migration decision-making and migration industry in the Indonesia-Malaysia corridor" (2018) *J Ethn Migr Stud Cited By* (since 2018): 90.

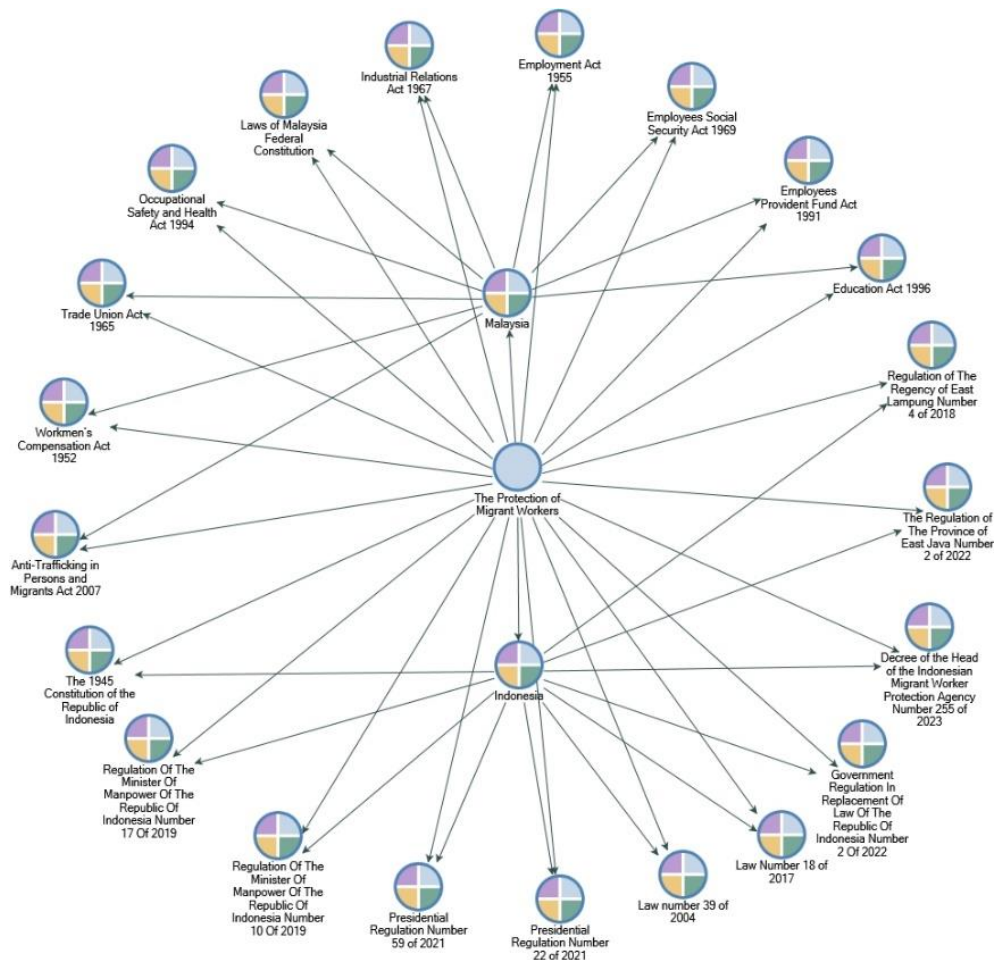


Figure 8. Migrant Worker Governance and Protection Policies
 Source: Processed by Nvivo 12

The 1945 Constitution (UUD 1945) of Indonesia provides the legal basis for the protection of IMWs, although it does not specifically address the protection of migrant workers. Various articles and principles in the 1945 Constitution provide an important basis for protecting the rights and welfare of Indonesian citizens working abroad. There are several relevant articles in the 1945 Constitution relating to the protection of IMWs, one of which is Article 27 Paragraph 1. The article states that "all citizens have the same position before law and government and are obliged to uphold dignity and human rights." This creates a basis for equal rights for all Indonesian citizens, including migrant workers, in terms of protecting their human rights.⁵³ Furthermore, according to Article

⁵³ Rini Irianti Sundry et al, *Legal Protection for Indonesian Migrant Workers During Pandemic Covid 19* (Atlantis Press, 2022).

28 D, Paragraph (1) of the constitution, all individuals are entitled to the acknowledgment, safeguarding, and legal assurance of their rights, as well as equal treatment under the law. Additionally, Paragraph (2) of the same article ensures that every Indonesian citizen has the right to employment and is treated fairly and appropriately in matters of labor relations.⁵⁴ This principle includes the protection of migrant workers who are at risk of experiencing exploitation or violations of the rights of IMWs abroad.

While the 1945 Constitution provides the basic legal framework, there are several further regulations and specific policies related to the protection of IMWs. The Indonesian government has issued various regulations and policies governing the rights and welfare of migrant workers, including requirements for recruitment agencies, consular services, and legal protection in their destination countries. These regulations and policies aim to ensure that IMWs receive proper protection and that their rights are respected when working abroad. Law Number 39/2004 is one of the regulations that regulates the issue of Placement and Protection of IMWs Overseas.⁵⁵ The regulation was established with the consideration that migrant workers abroad are often victims of trafficking, including slavery and forced labor, victims of violence, abuse, crimes against human dignity, and other treatment that violates human rights. In addition, that the state is obliged to guarantee and protect the human rights of its citizens who work both at home and abroad based on the principles of equal rights, democracy, social justice, gender equality and justice, anti-discrimination, and anti-trafficking. In terms of placing migrant workers abroad, it is an effort to realize equal rights and opportunities for workers to obtain decent work and income, the implementation of which is carried out by taking into account dignity, human rights, and legal protection as well as equal employment opportunities and the provision of adequate labor according to national needs. However, Law 39 of 2004 is still considered inadequate in supporting efforts to protect IMWs. Law Number 39/2004 does not cover protection for IMWs after they return from abroad. Many migrant workers experience social and economic problems during reintegration, even though the benefits of working abroad and the salaries they earn can increase if employment services in Indonesia are also accompanied by financial education to manage their income from abroad. There are many cases of migrant workers who return home but cannot report the problems they experience, for example, migrant workers find that their salaries are not paid by their employers after returning to their country.⁵⁶ Consequently, on November 22, 2017,

⁵⁴ Henni Wijayanti & Arovah Windiani, *Legal Protection and Advocacy for Indonesian Migrant Worker* (2017).

⁵⁵ Hartono, *supra* note 16.

⁵⁶ Anis Widyawati, "Legal Protection Model for Indonesian Migrant Workers" (2018) 3:2J Indones Leg Stud 291-304.

the Indonesian government enacted Law Number 18 of 2017, titled "Protection of IMWs," which mandates comprehensive legal oversight and safeguards for IMWs. These protections encompass pre-employment, on-the-job, and post-employment phases. About the policy aimed at safeguarding IMWs, it is anticipated that it will effectively address, offer remedies, and ameliorate the challenges faced by IMWs, which have been burdening both the Indonesian society at large and the government, as well as the migrant workers themselves.⁵⁷

The protection policy for IMWs saw significant changes and advancements following the enactment of Law Number 18 of 2017, which focused on safeguarding the rights and well-being of IMWs.⁵⁸ Law Number 18 of 2017, titled "Protection of Migrant Workers," holds a prominent role in terms of regulatory frameworks. This legislation demonstrates a progressive approach by including elements from the migrant worker convention, particularly about safeguarding the rights and well-being of female worker.⁵⁹ Similar to the 1945 Constitution, the Malaysian Federal Constitutional Law plays an important role in protecting migrant workers in Malaysia. The Malaysian Federal Constitution recognizes human rights, and migrant workers, like all Malaysian citizens and residents, have the right to the protection of their human rights. These include rights such as the right to personal liberty, the right to protection from inhumane treatment, and the right to religious and cultural freedom. This is confirmed in Article 6 of the Federal Constitution of Malaysia which states that no person may be made a slave and all forms of forced labor are prohibited except mandatory national service and work or services carried out by people as a result of a court decision. The term 'no one' indicates the participation of everyone, namely citizens and non-citizens, including refugees, asylum seekers, stateless people, migrant workers, both documented and others.⁶⁰ Furthermore, Article 8 of the Malaysian Federal Constitution also states that the State guarantees protection for everyone to be treated equally before the law and receive equal protection by law. Through this formulation, the Malaysian constitution wants to emphasize that the law in Malaysia will not differentiate between the treatment and legal protection of its citizens compared to foreigners, including migrant workers, both legal and illegal.⁶¹ Thus, anyone living in Malaysia has the right to obey and implement Malaysia's highest law, namely the Federal Constitution. No one should be treated unfairly in matters of employment in

57 Khalid & Savirah, *supra* note 4; Fatimatul Uluwiyah, "The Voice of Indonesian Migrant Workers Abroad: How is the Legal Assistance for Them?" (2021) 3:3 *Indones J Int Clin Leg Educ* 257-266.

58 Linda Dwi Eriyanti, Muhammad Hadi Makmur & Diah Ayu Intansari, "Indonesia's Political Position on the Protection Policy of Migrant Workers in ASEAN" (2022) 26:1 *J Ilmu Sos dan Ilmu Polit* 33.

59 Sundary et al, *supra* note 53.

60 Sharmin Jahan Putul & Md Tuhin Mia, *Exploitation of migrant workers in Malaysia and protection under domestic laws* (2020).

61 Tjitrawati, *supra* note 45.

Malaysia, regardless of whether they are citizens or non-citizens of Malaysia. Everyone must be given equal treatment at work, and no one can be used as forced labor.⁶²

The Employment Act (EA) 1955 also ensures the provision of equitable treatment for migratory workers. Article 60K of the Act includes a dedicated provision that pertains to foreign workers. These laws establish a prohibition on companies offering wages or perks that display discriminatory practices between local workers and international workers within the same job category.⁶³ The EA governs and establishes regulations about the labor circumstances of migrant workers. Overall, the employment regulations aim to provide equitable treatment in terms of wages, working hours, rest periods, dismissals, non-discrimination, equal opportunities for association, access to grievance procedures, and other related entitlements for migrant workers.⁶⁴ The EA applies to all individuals engaged in employment, regardless of their nationality or citizenship status. The Director General of Labour is responsible for receiving complaints regarding workplace discrimination, even from migrant workers.⁶⁵ The scope of the EA 1955 extends to anyone engaged in manual activity, encompassing both semi-skilled and unskilled workers. The system cannot distinguish between the various nationalities of the workers. Migrant workers falling within the purview of this legislation are expected to be granted comparable entitlements in terms of remuneration, vacation time, working hours, and notification of termination, as those afforded to domestic workers.⁶⁶ Furthermore, several policies are closely related to aspects of migrant worker protection, both in Indonesia and Malaysia (see Tables 1, 2, 3).

62 Zuraini Ab Hamid, Siti Fazilah Abdul Shukor & Ashgar Ali Ali Mohamed, "Rights of Migrant Workers under Malaysian Employment Law" (2018) 11:2 J East Asia Int Law 359-360.

63 M Aminuddin, *Comparative Study on Laws and Policies in the Management of Migrant Workers in ASEAN* (E-READI, 2020).

64 Saidatul Nadia Abd Aziz, Salawati Mat Basir & Moganasundari Mahalingam, "Job Termination and Social Security of Migrant Workers in Malaysia During Covid-19 Pandemic" (2022) 9:3 Padjadjaran J Ilmu Huk 297-322.

65 Saidatul Nadia Abdul Aziz & Salawati Mat Basir, "Protection of Migrant Workers under the ICMW: Incompatibility with Malaysian Laws and Position in ASEAN" (2021) 7:3 Hasanuddin Law Rev 150-168.

66 Evelyn Shyamala Devadason & Chan Wai Meng, "Policies and Laws Regulating Migrant Workers in Malaysia: A Critical Appraisal" (2014) 44:1 J Contemp Asia 19-35.

Table 1. Policy Mapping Related to Migrant Workers Protection

	Legal Protection	Sexual Exploitation and Trafficking	Fundamental Rights	Association
Indonesia				
Decree of the Head of the Indonesian Migrant Worker Protection Agency Number 255 of 2023	-	-	✓	-
Government Regulation in Replacement of Law of The Republic of Indonesia Number 2 of 2022	✓	✓	✓	✓
Law Number 18 of 2017	✓	✓	✓	✓
Law number 39 of 2004	✓	✓	✓	-
Presidential Regulation Number 22 of 2021	-	✓	-	-
Presidential Regulation Number 59 of 2021	✓	✓	✓	-
Regulation of the Minister of Manpower of The Republic of Indonesia Number 10 Of 2019	-	-	-	-
Regulation of the Minister of Manpower of The Republic Of Indonesia Number 17 of 2019	✓	-	-	-
Regulation of The Regency of East Lampung Number 4 of 2018	✓	✓	✓	✓
The 1945 Constitution of the Republic of Indonesia	✓	-	✓	✓
The Regulation of The Province of East Java Number 2 of 2022	✓	-	✓	-
Malaysia				
Anti-Trafficking in Persons and Migrants Act 2007	-	✓	✓	-
Employees Provident Fund Act 1991	✓	-	✓	✓
Employees Social Security Act 1969	-	-	-	-
Employment Act 1955 1955	✓	✓	✓	✓
Industrial Relations Act 1967	✓	✓	✓	✓
Laws of Malaysia Federal Constitution	✓	✓	✓	✓
Occupational Safety and Health Act 1994	-	-	✓	-
Trade Union Act 1965	-	-	✓	✓
Workmen's Compensation Act 1952	-	-	✓	-

The decree of the Head of the Indonesian Migrant Worker Protection Agency Number 255 of 2023 is one of the governance and protection policies for IMWs which regulates many basic issues regarding the basic rights of migrant workers, especially aspects of placement costs. In detail, the decision letter includes several cost components that must be borne by employers, both cost components in Indonesia such as social security and health passports, transportation, and other complete documents, as well as cost components in Malaysia such as security deposits, processing fees, feasibility tests, and other levy fees.

Furthermore, there is also a Government Regulation in Replacement of Law of The Republic of Indonesia Number 2 Of 2022 which can be a reference for regulations for governance and protection of IMWs. In this regulation, the issue of protecting IMWs is regulated in Article 84. Article 84 generally explains the protection of IMWs and their families in the aspect of fulfilling their rights, both before work, temporarily, and after work. This protection includes legal, economic, and social certainty. In Malaysia itself, the protection of the rights of migrant workers is also contained in the Industrial Relations Act 1967 (IRA) and the Trade Union Act 1965 (TUA), the implementation of which is under the supervision of the Ministry of Human Resources.⁶⁷ The IRA and TUA establish industrial relations sub-systems. Many of the rights of migrant workers are set out in this policy tool, some of which include the right to claim reinstatement when an employee believes he or she has been dismissed without cause or reasonable excuse (s. 20 IRA); the right to join a trade union; and the right to be protected based on mutual agreement. The IRA gives all workers in the private sector the right to claim reinstatement if they believe they have been dismissed without cause or just cause. The lawsuit is conciliated first at the level of the Department of Industrial Relations, Ministry of Human Resources and if it is not resolved it will be submitted to the Industrial Relations Court, a special court that only handles disputes between workers/laborers and employers. The IRA establishes procedures for collective bargaining and legal recognition of collective agreements signed between employers and trade union representatives. employer's workers.⁶⁸ The rights of workers to join a trade union as well as limitations and restrictions on these rights are contained in the TUA. The law does not differentiate between the rights of foreigners and residents to join trade unions, but office bearers in trade unions are only open to Malaysian citizens Sec (28(1)(a) & Sec 29 (2)(a)).⁶⁹

Migrant workers frequently find themselves subjected to forced employment, exploitation, coerced marriages, and circumstances where they are unable to decline or escape due to the presence of threats, violence, deception, compulsion, or misuse of

67 Tjitrawati, *supra* note 45.

68 Aminuddin, *supra* note 63.

69 Aziz & Basir, *supra* note 65.

authority.⁷⁰ Hence, it is noteworthy that the Malaysian government implemented the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act ("ATIPSOM") in 2007 as a proactive measure to combat instances of human trafficking that pose a significant risk to migrant laborers.⁷¹ Section 2 of the document explicitly defines human trafficking as encompassing all actions associated with the acquisition or maintenance of an individual's labor or services through coercive means. This definition includes activities such as recruitment, transportation, transfer, harboring, provision, or receipt of individuals for the aforementioned purposes. Forced work and human trafficking are closely related, as both are recognized as manifestations of human exploitation. In Malaysia, the definition of 'exploitation' is provided in Section 2 ATIPSOM 2007. This encompasses various forms of exploitation, including sexual exploitation, forced work or services, slavery or practices akin to slavery, servitude, engagement in unlawful activities, and the illicit removal of human organs. The topic at hand encompasses a range of coercive actions that are explicitly prohibited by international human rights and labor standards.⁷² Regulations regarding human trafficking also exist in Indonesia, the government even formed a task force to prevent and handle human trafficking. Provisions regarding efforts to prevent human trafficking are regulated in the Presidential Regulation of the Republic of Indonesia number 22 of 2021.

70 Ingrid Nielsen & Sen Sendjaya, "Wellbeing among Indonesian labour migrants to Malaysia: Implications of the 2011 Memorandum of Understanding" (2014) 117 Soc Indic Res 919-938; Devadason & Meng, *supra* note 66.

71 Aziz & Basir, *supra* note 65.

72 Hamid, Shukor & Mohamed, *supra* note 62.

Table 2. Policy Mapping Related to Migrant Workers Protection

	Recruitment Process	Safe Working Conditions	Security	Social Welfare
Indonesia				
Decree of the Head of the Indonesian Migrant Worker Protection Agency Number 255 of 2023	-	-	✓	✓
Government Regulation in Replacement of Law of the Republic of Indonesia Number 2 of 2022	✓	✓	✓	✓
Law Number 18 of 2017	✓	-	✓	✓
Law number 39 of 2004	✓	✓	✓	✓
Presidential Regulation Number 22 of 2021	-	-	✓	-
Presidential Regulation Number 59 of 2021	✓	✓	✓	✓
Regulation of the Minister of Manpower of The Republic of Indonesia Number 10 of 2019	✓	-	✓	✓
Regulation of the Minister of Manpower of The Republic of Indonesia Number 17 of 2019	-	✓	✓	✓
Regulation of the Regency of East Lampung Number 4 of 2018	✓	✓	✓	✓
The 1945 Constitution of the Republic of Indonesia	-	-	✓	-
The Regulation of The Province of East Java Number 2 of 2022	✓	✓	✓	✓
Malaysia				
Anti-Trafficking in Persons and Migrants Act 2007	-	-	✓	✓
Employees Provident Fund Act 1991	-	✓	✓	✓
Employees Social Security Act 1969	-	-	✓	✓
Employment Act 1955 1955	✓	✓	✓	✓
Industrial Relations Act 1967	✓	✓	✓	✓
Laws of Malaysia Federal Constitution	✓	✓	✓	✓
Occupational Safety and Health Act 1994	-	-	-	-
Trade Union Act 1965	-	-	✓	✓
Workmen's Compensation Act 1952	-	✓	✓	-

Presidential Regulation Number 59 of 2021 is one of the legal guidelines for protecting migrant workers in Indonesia. In general, article 2 states that the implementation of protection for IMWs is carried out to guarantee the rights of IMWs before work, during work, and after work. Pre-employment protection is related to the

recruitment and departure process of migrant workers. Protection during work can be interpreted as the safety and welfare of workers, as explained in Article 6 concerning the determination of working conditions and work conditions that emphasize work safety and social security for IMWs. In Malaysia, similar things are also regulated in the 1955 Employment Law.⁷³ This law stipulates that migrant workers have the right to obtain safety protection at work, and even a migrant worker is given the right to submit a complaint regarding discrimination at work to the Director General of Manpower. The same thing is also emphasized in detail in every article in the Employees' Social Security Act 1969 (Act 4). Since the year 2019, the Malaysian government has implemented proactive measures aimed at ensuring employers' responsibility towards the well-being of their employees. The government has implemented two regulations to ensure the welfare of migrant workers. Firstly, employers are obligated to make contributions to the Employment Injury Scheme as stipulated in the Employees' Social Security Act of 1969. Secondly, employers are required to provide suitable living conditions for their workers, as outlined in the Workers' Minimum Standards of Housing and Amenities (Amendment) Act of 2019.⁷⁴

The safety and security of workers is one indicator that the government permits companies to hire workers. In Indonesia, this is regulated in the Regulation of the Minister of Manpower of the Republic of Indonesia Number 10 of 2019 concerning procedures for granting permits to companies placing IMWs, and the Regulation of the Minister of Manpower of the Republic of Indonesia Number 17 of 2019 concerning termination and prohibition of the placement of IMWs. Regarding the social welfare of migrant workers, the Malaysian government regulates it in the 1991 Employment Provident Fund. This act provides social security in terms of pension benefits for workers. Social security is provided with a mandatory savings scheme for workers. If migrant workers intend to make contributions, then 11 percent of their wages will be deducted, and employers will have to pay a maximum of RM5 after 1998 and before that year employers will have to comply with the 12 percent payment. Furthermore, workers' social welfare can also be seen from the social security provided by the state. In Malaysia, this is regulated in the Workmen's Compensation Act 1952.⁷⁵ For example, in Sec 4 (1) it is stated that if in any employment personal injury due to an accident arising from and during the employment relationship occurs to a worker, then the employer must be responsible for paying compensation and all costs incurred in the treatment and rehabilitation of the worker.

73 Amarjit Kaur, "Managing labour migration in Malaysia: Guest worker programs and the regularisation of irregular labour migrants as a policy instrument" (2014) 38:3 *Asian Stud Rev* 345-366.

74 Choo Chin Low, "Legal reforms in protecting migrant workers' welfare in Malaysia: Labor law and social security" (2021) 14:1 *Adv Southeast Asian Stud* 59-80.

75 Tharani Loganathan, Zhie X Chan & Nicola S Pocock, "Healthcare financing and social protection policies for migrant workers in Malaysia" (2020) 15:12 *PLoS One*.

Table 3. Policy Mapping Related to Migrant Workers Protection

	Access to Consular Services	Access to Health Services	Economic Security
Indonesia			
Decree of the Head of the Indonesian Migrant Worker Protection Agency Number 255 of 2023	-	✓	✓
Government Regulation in Replacement of Law of The Republic of Indonesia Number 2 of 2022	✓	✓	✓
Law Number 18 of 2017	✓	-	✓
Law number 39 of 2004	✓	✓	✓
Presidential Regulation Number 22 of 2021	-	-	-
Presidential Regulation Number 59 of 2021	✓	✓	✓
Regulation of the Minister of Manpower of the Republic of Indonesia Number 10 of 2019	-	-	-
Regulation of the Minister of Manpower of the Republic of Indonesia Number 17 Of 2019	-	-	-
Regulation of the Regency of East Lampung Number 4 of 2018	✓	✓	✓
The 1945 Constitution of the Republic of Indonesia	-	-	✓
The Regulation of The Province of East Java Number 2 of 2022	-	-	✓
Malaysia			
Anti-Trafficking in Persons and Migrants Act 2007	-	-	-
Employees Provident Fund Act 1991	✓	✓	✓
Employees Social Security Act 1969	-	-	-
Employment Act 1955 1955	✓	✓	✓
Industrial Relations Act 1967	✓	✓	✓
Laws of Malaysia Federal Constitution	✓	✓	✓
Occupational Safety and Health Act 1994	✓	✓	-
Trade Union Act 1965	-	-	-
Workmen's Compensation Act 1952	-	✓	✓

Economic security for migrant workers is a fundamental right that is often regulated in policies regarding the protection of migrant workers. In Indonesia, Regulation of the Regency of East Lampung Number 4 of 2018 can be used as an example of local government regulations in seeking to protect migrant workers in economic aspects. In Regulation of The Regency of East Lampung Number 4 of 2018 in article 17 concerning economic protection it is stated that regional governments by their authority are obliged to provide economic protection for prospective and/or IMWs. Furthermore, The Regulation of the Province of East Java Number 2 of 2022 can also be used as an example of the role of local governments in providing consultation services for IMWs. Article 23

emphasized that the provincial government opens a complaint service for IMWs and follows up on complaints that have been submitted. The protection of migrant workers is also related to the right to access health services.⁷⁶ In Malaysia, the right to receive medical treatment is regulated in the Occupational Safety and Health Act 1994. Employers must provide insurance coverage for all foreign employees under their employment. To procure insurance plans for their international workforce, employers are required to engage the services of the Foreign Workers Health Insurance Protection Scheme (SPIKPA). SPIKPA serves as a designated third-party provider responsible for managing the healthcare requirements of foreign employees, which encompasses the provision of comprehensive health insurance coverage and hospitalization benefits. Furthermore, it is imperative to secure sufficient funding for the Foreign Worker Compensation Scheme, which encompasses injuries sustained outside of the workplace, has sufficient funding.⁷⁷

V. INNOVATION IN GOVERNANCE AND PROTECTION OF IMWS IN MALAYSIA

At the signing of the Memorandum of Understanding (MoU) between Indonesia and Malaysia, both countries firmly emphasized the use of the One Channel System (OCS) as a strategic step in dealing with the issue of migrant workers. This decision was made after considering various issues that have long been sensitive and complex issues for both countries. The issue of migrant workers has been a major concern for Indonesia and Malaysia for many years. Both countries have a large number of migrant workers working in various sectors, such as plantations, construction, industry, and domestic work. However, the problems that arise in the management of migrant workers, such as human rights violations, exploitation, and legal issues, have become a common concern. With the use of the One Channel System (OCS), Indonesia and Malaysia are committed to creating a more efficient framework for managing the movement of migrant workers. The system is designed to facilitate communication between the two countries, minimize the potential for abuse, and ensure the protection of migrant workers' rights. The OCS serves as a mechanism for recruitment and supervision of IMWs employed in Malaysia, with the main objective of ensuring optimal service provision and protecting the rights of these workers.⁷⁸ The application of OCS in recruiting IMWs is one of the innovations in efforts to protect IMWs. The OCS

76 Muhammad Asphian Arwin & Aktieva Tri Tjitrawati, "Harmonization of Protection Principles of Migran Workers' Right To Health in the Effort of Asean Universal Health Coverage Implementation" (2018) 18:1 J Din Huk 78.

77 Aziz & Basir, *supra* note 65.

78 Nurfarah Nidatya, Muhammad Kamil Ghiffary Abdurrahman & Dini Putri Saraswati, "Indonesia's Foreign Policy: Suspends Sending Indonesian Migrant Workers (PMI) to Malaysia After the Establishment of the Online Maid System (SMO) by the Malaysian Government" (2023) 4:1 JDKP J Desentralisasi dan Kebijakan Publik 99-111.

scheme is an integration of Indonesia's SIAPKERJA online application and Malaysia's Foreign Workers Centralized Management System (FWCMS) online application.⁷⁹ The OCS system also involves Indonesian representatives in Malaysia and is managed online by the Malaysian Immigration Department in accordance with the terms and conditions agreed in the memorandum of understanding protocol. Within this framework, Indonesian migrant workers are given the freedom to communicate, and another positive aspect is that sending migrant workers to Malaysia goes through a series of preparations, including standardized training, capacity building, recruitment process, administration, and supervision by BP2MI.

The Indonesian government's positive view of the OCS concept is based on the belief that this system has great potential to bring about positive changes in the management of migrant worker placements. One of the most expected positive impacts is the reduction of costs associated with the placement of migrant workers. With the use of an OCS that integrates all processes online, the potential to avoid additional costs that often occur in more conventional systems can be increased.⁸⁰ In addition, the OCS is also expected to simplify the placement process. The information available in this system, such as job requests and employer profiles, can be accessed more easily and quickly. This allows prospective migrant workers and recruitment agencies to go through the process more efficiently, reducing potential bureaucratic obstacles that can slow down placements. In addition to economic benefits, the OCS also brings benefits in terms of compliance with applicable laws and regulations in both countries. With a centralized and well-documented system, the government can more easily monitor and ensure that migrant worker placements comply with established standards.⁸¹ This provides additional protection for migrant workers and helps avoid violations that may occur. The utilization of a single communication platform, referred to as the "One Channel System", has been established as per the provisions outlined in Article 3 and Annex C of the Memorandum of Understanding (MoU) between Indonesia and Malaysia.⁸²

Furthermore, the implementation of the One Channel System (OCS) is a proactive step by the Indonesian government to address the issue of recalibration by Malaysia. Recalibration is a scheme used by employers in Malaysia to register illegal workers in order to obtain official work permits. This practice is often detrimental to

79 Asep Firmansyah & Nabil Ihsan, "RI-Malaysia finalise MoU on Protecting of Migrant Domestic Workers", (2022), online: *antaranews* <<https://en.antaranews.com/news/211365/ri-malaysia-finalise-mou-on-protection-of-migrant-domestic-workers>>.

80 A Muh Ibnu Aqil, "RI, Malaysia to trial unified domestic worker recruitment system", (2022), online: *Jakarta Post* <<https://www.thejakartapost.com/world/2022/08/08/ri-malaysia-to-trial-unified-domestic-worker-recruitment-system.html>>.

81 Daniel Ahmad, "Indonesia Sends Migrant Workers to Malaysia Again", (2022), online: *Tempo.co* <<https://en.tempco.co/read/1616824/indonesia-sends-migrant-workers-to-malaysia-again>>.

82 Arie Kusuma Paksi & Pebria Prakarsa Renta, "Indonesia's pro-people foreign policy: the protection of Indonesian women migrant workers in Malaysia in 2022" (2023) 13:2 *Otoritas J Ilmu Pemerintah* 203-216.

Indonesian migrant workers and opens opportunities for employers who do not comply with legal procedures. With the implementation of the OCS, the Indonesian government is committed to eliminating recalibration practices that harm Indonesian migrant workers. The Indonesian government started by introducing a transparent and efficient OCS system. Through the OCS, all information related to Indonesian migrant workers, including immigration status and work permits, can be accessed by authorities online. This avoids recalibration practices that usually occur under the table and outside of government control. The OCS also created a centralized database containing all data on Indonesian migrant workers working in Malaysia. Each migrant worker has a unique identity recorded in the system, allowing authorities to monitor and audit their status more easily. With the OCS, Indonesian authorities can conduct regular checks on migrant workers working in Malaysia. This includes periodic checks on their immigration status and work permits, leaving no room for employers to manipulate the system or conduct illegal recalibration. The Indonesian government also works closely with the Malaysian government to monitor and crack down on illegal recalibration practices. This includes regular exchange of information and legal action against employers who violate the rules. In addition, the OCS empowers Indonesian migrant workers by providing better access to information about their rights, legal procedures, and resources that can assist them in dealing with unfair situations. This makes workers more aware of their rights and reduces vulnerability to recalibration practices. Through the implementation of the One Channel System (OCS), the Indonesian government has not only reduced recalibration programs that harm migrant workers, but also maintained the integrity of the immigration and work permit system. This is an important step in protecting the rights of Indonesian migrant workers, as well as promoting better governance in the management of the migrant workers.

The OCS is an important advancement in the field of digital platforms designed to protect the rights and welfare of migrant workers. The utilization of data on migrant workers in the OCS will enhance the ability of governments to effectively monitor and regulate the activities of entities involved in the recruitment of unauthorized or non-compliant migrant workers. Utilization of the OCS facilitates the efficient identification of undocumented individuals by the governments of Indonesia and Malaysia. As a result, vulnerability to exploitation of migrant workers, especially those who are undocumented, can be reduced.

VI. CONCLUSION

This research discusses collaborative efforts and cooperation structures between government institutions in Indonesia and Malaysia regarding the protection and governance of IMWs in Malaysia. Apart from that, it also identifies the network of policies and innovations implemented in Indonesia and Malaysia for handling and protecting migrant workers. Based on discussions, efforts to protect IMWs in Malaysia involve many government institutions in both countries, especially at the ministry and

department scale. Furthermore, the policies that exist between the two countries can support the success of migrant protection, especially with the presence of an agreement between the two countries in the form of signing an MoU. The MoU is a key insight into the governance and protection of IMWs in Malaysia, which includes improved oversight of the recruitment process, better consular services, access to health services, and social, economic, and legal protection. The MoU also gave birth to innovation in digital-based migrant worker protection services by encouraging a one-channel system as the only official mechanism for recruiting workers. However, this innovation at the implementation stage has not yet run adequately and requires seriousness from both countries in implementing it, especially Malaysia as the destination country. Through the findings obtained in this study, collaboration policy networking, and innovation are highly recommended in the governance and protection of migrant workers. Furthermore, this research is limited to collaboration across government institutions and government policies and innovations, so further studies are needed that examine collaboration across sectors, namely government, non-government, private sector, and civil society in the management of migrant workers.

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