

## **Indonesia Diplomacy in Protecting the Rights of Indonesian Migrant Domestic Workers in Malaysia (2017-2022)**

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### **Abstract**

This research aims to discuss the diplomatic efforts made by the Indonesian government to protect Indonesian Migrant Workers (PMI) in the domestic sector in Malaysia, where the majority of PMI are undocumented. In this case, the Indonesian Embassy in Kuala Lumpur is the representative of the Republic of Indonesia in Malaysia, which provides services and protection for Indonesian Citizens (Indonesian citizens) who stay in Malaysia, including human rights and migrant worker rights that every worker must have. This research will use qualitative methods with data collection techniques from observation, interviews, participation, and literature study originating from books, journals, articles, official reports, and online news. This research implements the track one diplomacy, negotiations, and international migration concept. The findings of this study show that the Indonesian government is making diplomatic efforts with Malaysia to provide maximum protection for PMI in the domestic sector of Malaysia. One of the ways the government provides PMI protection is through lengthy negotiations with Malaysia, which eventually resulted in a Memorandum of Understanding (MoU) on the Placement and Protection of Indonesian Migrant Domestic Workers in Malaysia in April 2022.

**Keywords:** Track One Diplomacy, Indonesian Migrant Workers, Protection of Human Rights, Workers Rights

### **Abstrak**

*Penelitian ini bertujuan untuk membahas bagaimana upaya-upaya diplomasi yang dilakukan pemerintah Indonesia dalam memberikan perlindungan bagi Pekerja Migran Indonesia sektor domestik di Malaysia yang mayoritas undocumented. Dalam hal ini, Indonesian Embassy in Kuala Lumpur berperan sebagai perwakilan Republik Indonesia di Malaysia yang menyediakan pelayanan serta perlindungan bagi Warga Negara Indonesia (Indonesian citizens) yang berada di Malaysia, termasuk hak asasi manusia dan hak pekerja migran yang wajib dimiliki setiap pekerja. Penulis menggunakan metode kualitatif dengan teknik pengumpulan data dilakukan dengan observasi, wawancara, partisipasi dan studi pustaka yang berasal dari buku, jurnal, artikel, laporan resmi, dan berita daring. Penelitian ini mengimplementasikan konsep track one diplomacy, negosiasi, dan migrasi internasional. Temuan penelitian ini memperlihatkan bahwa pemerintah Indonesia melakukan upaya-upaya diplomasi dengan Malaysia untuk memberikan perlindungan maksimal kepada PMI sektor domestik di Malaysia. Salah satu cara pemerintah memberikan perlindungan kepada PMI adalah dengan negosiasi panjang dengan Malaysia yang akhirnya menghasilkan Nota Kesepahaman (MoU) tentang Penempatan dan Perlindungan pekerja migran Indonesia di sektor domestik di Malaysia pada April 2022.*

**Kata kunci:** Diplomasi Jalur Pertama, Pekerja Migran Indonesia (PMI), Perlindungan Hak Asasi Manusia, Perlindungan Hak Pekerja

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## INTRODUCTION

Bank Indonesia reported 3.44 million Indonesian migrant workers (PMI) in 2022. The highest proportion (1.67 million) worked in Malaysia (Rizaty, 2023). PMI has contributed significantly to the livelihood of the workers and their families and Indonesia's economy. In 2022, as the deployment of migrant workers started to recover from the COVID-19 pandemic, remittance inflows to Indonesia reached US\$ 9.7 billion, including the highest portion of US\$ 2.8 billion derived from Saudi Arabia. Meanwhile, Malaysia has the most PMI placement (1.67 million) but generates around US\$ 2.5 billion, less than Saudi Arabia (Wahyu, 2023). In addition, migrant workers directly contribute to improving society's livelihood.

Most PMI has been deployed to Malaysia, amounting to 88,991 people. (BNP2TKI, 2017) since the implementation of the New Economic Policy (NEP) in 1970 as a response to the policy about racial riots following the general election in Malaysia in May 1969. This policy aimed to eradicate poverty and restructure the community to erase racial identification with economic function. Since NEP, Malaysia has experienced a sharp decline in poverty, exponential economic growth, and transformation to export and industrialization (Sundaram, 2004: 182). This condition led to a surge of workforce demand in Malaysia to fill work opportunities implicated by the NEP policy.

PMI is a crucial part of Malaysia's economy as the country is ambitious to achieve high-income status. Thus,

the Malaysian government finds it challenging to avoid hiring foreign workers in domestic service, plantation, manufacturing, and construction. However, PMI often faces problems with human rights and laborer rights. These problems arise because the workers deal with 4D jobs: demeaning, dirty, dangerous, and difficult (Djelantik, 2019: 140-142). Workers in the domestic, informal, and private sectors are the most vulnerable to any form of violation of human rights and laborer rights.

The decision to work as a PMI in Malaysia stems from driving factors in their home country and attracting factors in the destination country (attracting factors). The first driving factor is the geographical position between Indonesia and Malaysia, especially Sabah in East Malaysia, which borders Indonesia. Many PMIs can easily migrate to Malaysia via land or air and, unfortunately, via illegal routes that disregard the formal procedure set forth by the Ministry of Manpower of Indonesia. In turn, this convenient migration attracts more PMI to work in Malaysia. On a side note, Malaysia does not establish a minimum education level requirement for the workforce in domestic and informal sectors. This condition can be understood as another advantage for PMI who have minimum education.

Another driving factor is the high level of unemployment in Indonesia. The considerable gap in employment distribution and income has driven some Indonesian people to migrate to other countries for better living. Employment opportunities are

diminishing in rural and urban areas.

Furthermore, poverty and the economic crisis of 1998 caused many factory closures and labor layoffs in Indonesia. This situation forced the laborers to take low-paying jobs in Indonesia or migrate to other countries despite their lack of education, skills, and training. The majority of these migrant workers, mostly women, suffered from financial recession in Indonesia and were attracted to relatively higher wages in foreign countries. While some PMI chose to work in rich oil-producing countries like Saudi Arabia, others targeted new industrial nations like Malaysia, Singapore, Taiwan, and Hong Kong (Djelantik, 2016:84)

Semi-skilled and skilled workers are in high demand in Asian countries, including Malaysia, that lack domestic workers in respective segments (Athukorala, 2006: 21). Unfortunately, the magnitude of PMIs in Malaysia is unparalleled with the range of protections provided by the Indonesian government. It is evident from the BNP2TKI data in 2016 that the most grievance reports were made by PMI in Malaysia (1,286 cases) about unpaid salary, employer's abusive behavior, overstay, undocumented PMI, imprisoned PMI, and sexual abuse. In 2017, there were 4,475 reported cases of persecution, 217 dead PMI, and 33 cases of overcharging (prolonged work hours) and overstaying (prolonged stay from deployment time). Based on the report of the Indonesian Migrant Workers Union (SBMI), contractual violation cases increased by 1,050 cases between 2016 and 2017 (Ayuwuragil, 2018). The lack of

monitoring and control by the Indonesian government has made PMI prone to violence and human rights violations. These reports must be responded to seriously by the Indonesian government because they are related to the rights of the migrant workers in Malaysia.

Indonesia is obligated to protect PMI through instruments, laws, and regulations issued explicitly as a protective measure that conforms with international conventions or declarations. One example was engaging Malaysia in a lengthy negotiation that eventually produced a Memorandum of Understanding (MoU) in April 2022 about the Placement and Protection of Indonesian Migrant Workers in the Domestic Sector in Malaysia. The MoU aims to regulate a one-channel system for the entire worker migration process, from placement to monitoring and repatriation of PMI, to ensure that every phase can be well-supervised (Kusuma, 2022). The ratification of the MoU is the most important legal framework and the best measure for deploying and protecting migrant domestic workers in Malaysia.

### **Theories or Conceptual Framework**

This study used the conceptual framework of track one diplomacy and official diplomacy conducted by diplomats, high-ranking government officials, and country leaders who advocate agreement, compromise, and conflict resolutions. This study also used the negotiation concepts according to Roger Fisher and William Ury to analyze the Indonesian

government's negotiation process with the Malaysian government. Everett Lee's International Migration theory supported data description and analysis to answer the research questions.

Diplomacy is among many channels through which a country establishes interactions and fosters good relations with other countries to achieve national interests. A country can gain forces and influence in the international world through diplomacy without asserting military forces. In general, diplomacy refers to diplomatic communication to promote a country's foreign policy through formal and particular agreements with other countries in the international world without military efforts (G.R Berridge, 2010: 1). Diplomacy is commonly used by the government to achieve its goals and to get supports from other countries for its principles and decisions.

Diplomacy is perceived as the government's ability to prevent and reduce international conflicts. Official diplomacy is a foreign policy instrument to establish and develop contact between the governments of different countries through a medium that is mutually acknowledged by the respective country (Magalhães, 1988: 17). Diplomacy operates a concept known as multi-track diplomacy that is developed and practiced by Louise Diamond and John W. McDonald, the co-founders of the Institute for Multi-Track Diplomacy. They divided multi-track diplomacy into nine tracks: Track 1 represents the government; Track 2 represents non-government or professional; Track 3 is business;

Track 4 is private citizen; Track 5 is research, training, and education; Track 6 is activism or advocacy; Track 7 is religion; Track 8 is funding or resource provision, and Track 9 is communication and media (Institute for Multi-Track Diplomacy, 2016)

This paper focuses on track one or official diplomacy used in formal aspects and a series of processes in the government. The most distinctive feature of track one diplomacy is the formal implementation at a country level down to the state or provincial level. Track one diplomacy follows a particular protocol signed by each state. Also, track-one diplomacy is usually conducted by diplomats, high-ranking government officials, and country leaders, aiming at influencing the structures of political power (Magalhães, 1988: 17). The success of a diplomat is demonstrated by achieving mutual agreement or understanding that benefits his or her country. One example of Track 1 diplomacy via government is the Indonesian government's policies to protect the rights of Indonesian migrant workers in other countries, particularly the PMI in Malaysia.

Diplomacy aims to settle differences and secure the country's interests through a successful negotiation with friends or foes. A good agreement is efficient, improving the relations of the parties involved. A wise agreement upholds justice, endures time, and satisfies the interests of the involved parties (Fisher, 2020: 4). Negotiation operates based on the principle of advocating better ways to reach a better agreement. This negotiation process can be used effectively in

almost any form of conflict.

Reflecting on the high unemployment rate in Indonesia, many communities migrate to other countries to earn a living outside of their home countries. Migration is among the diverse phenomena that support the community seeking job opportunities in another country. International migration is one type of citizen mobilization outside the country's geographical and cultural borders (Zlotnik, 1992). International migration is defined as citizen relocation that specifies aspects like residential changes, aims of migration, and desire to stay or otherwise in the destination country (Lee, 1996). Additionally, international migration discusses the driving factors and attracting factors that drive someone to migrate abroad. International migration has been one of the most essential topics in globalization, particularly in Indonesia, because many PMI dominate migrant workers in Malaysia. PMI has contributed a sizeable amount of remittance to the home country.

### **Research Methods**

This study used a descriptive qualitative method, according to Bakry (2016:48), which is an approach to understanding the phenomenon being investigated that may include observing and describing the behavior, perception, motivations, and attitude of selected subjects. In this study, the qualitative method would make the researcher understand the phenomenon by describing and interpreting the issues around Indonesian diplomacy as a protective measure towards Indonesian migrant

workers (PMI) in Malaysia.

Document and literature review was undertaken to collect robust data. The primary data was obtained from interviews with Anis Hidayah, the Commissioner of the National Human Rights Commission (Komnas HAM), and Rina Komaria, the Head of the South Asian Sub-directorate of the Directorate of Indonesian Citizen Protection, Ministry of Foreign Affairs. The secondary data were collected from books, journals, and official documents published by relevant institutions. Additionally, tertiary data were generated from online articles.

### **Human Rights Violations against Indonesian Migrant Workers (PMI)**

Law Number 39 of 1999 on Human Rights stipulates ten fundamental rights: the right to live, the right to start a family and procreate, the right to self-development, the right to get justice, the right to personal freedom, the right to safety, the rights to welfare, the rights to participate in the government, and the rights for children and woman. Human rights violation refers to any conduct of an individual or a group, including government apparatus, that is deliberately or negligently against the law by reducing, preventing, limiting, and or removing the human rights of an individual or group protected by this law. There are two main categories of human rights violations: mild violation and severe violation. The mild violation may include persecution, defamation, and confinement of freedom of expression. The severe violation can be genocide, arbitrary/extrajudicial killing, torture,

enforced disappearance, or systematic discrimination (Indonesia Statistics, 2004). Human rights violations experienced by Indonesian migrant workers (PMI) in Malaysia is reportedly ranging from mild (persecution and threats of raid, arrest, and deportation) to severe (sexual abuse or rape, slavery, and death threat).

BNP2TKI showed that in 2017, there were 217 cases of deceased PMI in foreign countries, including 69 cases (32%) in Malaysia (Komnas Perempuan, 2018). One example of the violation of the right to live is Adelina Lisao, a migrant housemaid from East Nusa Tenggara (NTT) in Malaysia who was found dead at 21 years of age in Bukit Mertajam Hospital, Penang, after reportedly enduring prolonged persecution by his employer. Adelina became a migrant worker in Malaysia when she was only 17, whereas the minimum working age of work, according to ILO, is 18 years. On February 10, 2018, a member of Bukit Mertajam Parliamentary named Steven Sim received a report about an Indonesian housemaid who slept on the floor outside her employer's house at Taman Kota Permai Penang. Covered with bruises on her head, face, arms, and legs, the girl was sleeping next to her employer's rottweiler dog. Steven Sim asked the rescue team to arrive at the location and found that Adelia was in such a situation on her employer's front porch. The neighbors claimed they often heard shouts coming from inside of the house. The rescue team brought Adelina to Bukit Mertajam Hospital (Migrant CARE, 2018). Due to severe trauma, serious injury on her

head and face, and infections on her leg, Adelina died at the hospital. The causes of her death were fatigue, anemia, malnutrition, and wound and injury due to her employer's persecution. In addition to this violation of the right to live, Adelina was denied access to basic needs for healthy, clean, and safe living conditions. It is evident from her eating and sleeping with her employer's dog outside the house.

The right to justice was also denied by Adelina when her employer was arrested by Malaysian authorities but then released by the High Court. The government of Indonesia fought for justice and legal process for Adelina. In 2019, Kuala Lumpur was expected to discuss with Indonesia about renewing the placement and protection agreement for Indonesian migrant workers, but the discussion never took place. (Sutrisno, 2020). As of 2022, Indonesia took civil action for Adelina's case. However, the criminal court closed Adelina's case, and the employer was not guilty of the charge (CNN Indonesia, 2022). The judge of the Malaysian Appeals Court level claimed that Adelina's employer was innocent. The Director of Protection for Indonesian Citizens at the Ministry of Foreign Affairs, Judha Nugraha, said the government would refer to civil law to claim compensation for Adelina and perceived the Public Prosecutor as careless and irreverent. In Indonesia, the Indonesian Police and NTT Regional Government have collaborated to arrest three PMI recruiters of the late Adelina.

According to Rina Komaria, Head of the Southeast Asia Sub-Directorate at the Directorate for the

Protection of Indonesian Citizens at the Ministry of Foreign Affairs, it is wrong to impose a murder charge on Adelina's employer because there was no sufficient evidence to support the crime. Instead, this case should be charged with a criminal offense for putting and leaving someone in a miserable condition based on Article 304 of the Criminal Code (Komaria, 2023). Therefore, the Indonesian government continued to seek justice for Adelina through civil law.

Diplomacy and legal efforts to defend PMI put forth by the Indonesian Embassy in Kuala Lumpur were advocated by a retainer lawyer who was in charge of taking legal actions for Indonesian citizens charged with a death sentence. The state pays retainer lawyers to provide assurance and legal assistance for Indonesian citizens facing legal charges in Malaysia. For example, many PMI in Malaysia were manipulated and victimized by narcotics syndicates; 177 PMI are facing death sentences in Malaysia, including 73% who were made narcotics couriers by the syndicate (Hidayah, 2023). Indonesian ambassador for Malaysia, Hermono, was actively and regularly involved in meetings with high-ranking government officers in Malaysia, such as the meeting between the immigration office and Human Rights Commission Malaysia. This high-level meeting is also conducted through the Joint Commission for Bilateral Cooperation (JCBC) between Malaysia and Indonesia (Komaria, 2023). Ambassador Hermono maintained communication with the media to resound justice for PMI, which must

be fulfilled in Malaysia.

Violent acts can be immune to criminal law, in which the perpetrator is given room for defense in the legal process, and thus, the crime goes unpunished, which is referred to as impunity (Hidayah, 2023). The government of Indonesia must advocate for Malaysia to exercise justice in both the legal process and fulfilment of the rights of migrant workers, as well as implement non-discriminative regulations for lower-middle-class society, including Indonesian housemaids in Malaysia.

### **Violation of Worker's Right**

In line with the regulation of the Minister of Manpower of the Republic of Indonesia, Number 2 of 2015, housemaid (PRT), as referred to in Article 1, means someone who works for other individuals in a household to do household chores for wages or in-kind payment (Ministry of Manpower RI, 2015). The criteria of PRT stipulated in Article 4 are bearing personal documents, being a minimum of 18 years old, and being granted permission to work from their spouse (for the married ones). The obligatory rights of PRT stated in Article 7 include the rights to get information about their employer, to be treated appropriately by their employer and employer's family, to receive the wage stated in the contract, to get healthy food and drink as well as sufficient rest, and to get leave permit as per contract. In addition, PRT is granted the right to embrace religion and worship according to their belief, receive religious holiday benefits, and communicate with their family

members. The obligations of PRT stipulated in Article 8 are to carry out their duties and obligations as per the working contract and to finish their work while maintaining ethics and manners in their employer's home. Also, PRT must notify its employers as soon as they are resigning. Violation of the rights of migrant PRT in Malaysia is mainly related to job security, occupational safety and health, gender discrimination, child labour, social security, and substandard wage and wage payment systems. This range of violations demonstrates ineffective measures to protect the rights of Indonesian migrant workers in Malaysia.

In 2016, the minimum wage for PMI in Malaysia was RM 1,000 (IDR 3.1 million). In 2022, a Joint Statement about the Placement and Protection of Indonesian Migrant Workers in the Domestic Sector in Malaysia signed by Indonesia and Malaysia stipulated a rise in this minimum wage to RM 1,500 (IDR 5.2 million) and the minimum income of employers was RM 7,000 (BP2MI, 2022). Employers must pay this wage no later than the seventh day after the payday.

Based on data from The Indonesian Workers Protection Agency (BP2MI), unpaid salary is among the ten most significant issues reported by PMI. In February 2022, the Indonesian Embassy in Kuala Lumpur found a case of an Indonesian migrant housemaid (initial YT; 60 years old) from West Java who worked in Malaysia but never received her 7.5 years' worth of salary (CNN Indonesia, 2023). Her employer's excuse was the absence of a working contract and the fact that YT

had received food and a place to live. YT's case was unraveled by the local community where YT lived in Indonesia, who worried about YT because she never came home, and they suspected she was not paid. Even worse, YT was denied communication with others and was not allowed anywhere near a telephone. Whenever she asked for her salary, JT would be scolded and cursed by her employer, who often used foul language when angry. Knowing this, the Indonesian Embassy in Kuala Lumpur asked the Selangor Manpower Office to evacuate YT from her employer's house in Shah Alam, Selangor.

The Indonesian Embassy in Kuala Lumpur has received countless reports of PMI in the domestic sector who were unpaid for years, denied communication, neglected working permits, overburdened with workload, and subjected to physical abuse. Indonesian Ambassador for Malaysia, Hermono, requested all relevant institutions in Indonesia, particularly the Directorate General of Immigration, BP2MI, Polri and TNI (Indonesian Police and Army), and Regional Government to undertake more rigid preventive measures to the departure of non-procedural PMI (CNN Indonesia, 2022). Undocumented PMI are more prone to be victimized by exploitation, sexual abuse, or arrests as illegal migrant workers.

According to Hermono, although their employers are wealthy, some PMIs are not paid for more than ten years. This issue may stem from the patronizing attitude of some Malaysian employers toward

undocumented Indonesian migrant domestic workers, and some employers are unafraid of the legal consequences of their actions. Indonesian Embassy in Kuala Lumpur would firmly monitor Malaysian law enforcers in handling this case to ensure that the perpetrators are charged with appropriate legal consequences. This measure was based on the violation of migrant workers' right to salary stated in the MoU of 2011 on the Recruitment and Placement of Indonesian Migrant Maid.

Another violated the rights of the migrant workers is the working contract. One example happened in 2017 to AZ, a PMI who should have been working as a housemaid as per her contract but was instead hired to look after the elderly at a nursing home. AZ asked her agency to find another employer, who unfortunately exploited her to work in five houses belonging to her employer's relative and take care of dogs (Riady, 2019). AZ managed to run away because she could not bear the excessive workload, but her employer's children captured her. Upon her return to Indonesia after five years of work, AZ only received IDR 30,000,000 salary instead of IDR 100,040,000 according to the working contract.

Other reports were about Indonesian housemaids who were forced to sign a new contract on arrival with a heavier workload than the original one. Most housemaids have not signed the working contract and cannot work under standardized, regulated working conditions. Therefore, they cannot negotiate their fraudulent salary and workload. Many

undocumented housemaids signed contracts with the agency instead of employers. However, even the housemaid who holds a written contract still has their rights violated because of a lack of efficient and effective measures to hold their employers responsible for violating their rights. One example is that while the Malaysian Employment Certificate mandates one day off per week, Indonesian maids in Malaysia still have to work on that day even without payment. When this case is brought to the court, the employers often defend themselves by showing the working contract signed by the maid, and therefore, the employers are free from the obligation to pay them (Hidayah, 2023)

Many PMIs have their passport illegally confiscated by their employers. An Indonesian maid from Central Java by the initial MH had worked in Sarawak, Malaysia, for 17 years (2005-2022). Since the start, MH has planned to work for only two years, but whenever she wants to return to Indonesia, her employer always refuses to let her go without sensible reasons. They even kept her passport to prevent her from running away. The Indonesian Embassy in Kuching finally handled this case well after receiving a letter from the Indonesian Migrant Workers Protection Agency (BP2MI) on August 29, 2022 (Febrianto, 2022). The letter was a plea from the MH family to BP2MI and the Indonesian Embassy in Kuching to help MH return to Indonesia.

Indonesia and the international law convention stated that confiscating PMI documents is against

the law. It is the right of PMI to keep their document safe. This right is protected by the constitution, such as Law No. 18 of 2017, article 6 paragraph on the Protection of Indonesian Migrant Workers, stating that every worker has the right to hold authority over their travel documents (passport and visa) during work and to receive their working contract. ILO Convention Number 189 Article 13 also stipulates occupational safety and health, in which workers have the right to a healthy and safe working environment.

### **Ratification of Law Number 18 of 2017 on Protection of Indonesian Migrant Workers**

On October 25, 2017, DPR-RI, through a plenary session, officially ratified the Bill of Protection of Indonesian Migrant Workers into the Law of Protection of Indonesian Migrant Workers to amend Law Number 38 of 2004 on the Placement and Protection of Indonesian Migrant Workers in Foreign Country. This process took seven years, starting in 2010, during the discussion to amend Law Number 39 of 2004. Some amendments are considered improvements from the previous law, such as chapters and articles stipulating PMI protection, workers' rights, social security, duties, and central and regional government obligations.

The downside of Law Number 39 of 2004 is the emphasis on PMI placement rather than protection; only 9 out of 109 articles contain protection aspects, including articles 77-85 that are difficult to implement (DPR RI, n.d.). For example, article 77

on protection in pre-placement, during placement, and post-placement was considered vague because more undocumented Indonesian migrant workers in Malaysia have their rights violated. The uncontrolled influx of Indonesian migrant workers seeking better livelihoods in industrial countries like Malaysia cannot be contained by the Indonesian government. Thus, many of these workers take illegal routes, making the Indonesian government unable to enforce their migration policy.

The ratification of Law Number 18 of 2017 marks the end of a lengthy, steep, and slow legislation process to advocate protection for Indonesian migrant workers who are prone to risks of underpayment, expulsion or deportation, persecution, asexual abuse, rape, even death sentence (DW Indonesia, n.d.). This law has become the government's priority to provide room for discussion about human rights, particularly the protection of rights and social security of migrant workers that refer to the international convention, although not in its entirety. The significant amendment in this law focuses on the governance of migrant workers by strengthening the role of not only the central government but also regional government from the provincial, regency, and rural levels to show the strong commitment of the multilevel government to protect PMI.

Law Number 18 of 2017 UU has mandated that PMI not be charged for placement costs. It stipulates that PMI placement is a measure to realize equity of rights and opportunities for workers to obtain proper income by

upholding honor, dignity, human rights, legal protection, equal employment opportunities, and human resources supply that conform with national interests. Article 3 of the law states that PMI protection aims to guarantee the fulfilment and enforcement of human rights as a citizen and a worker and provide legal, economic, and social protections to PMI and their family (Cabinet Secretariate of the Republic of Indonesia, n.d.) In addition, the workers must obtain legal protection and assistance according to laws and regulations in Indonesia and country of placement for any offensive behaviour patronizing their honour and dignity.

### **Border Cross Agreement (BCA) Policy between Indonesia and Malaysia**

A close bilateral relationship between Indonesia and Malaysia is evident in various sectors, from trade to politics, education, and PMI protection in Malaysia. Unfortunately, both countries are frequently caught in conflicts around, for example, the national border. Indonesia and Malaysia share a border as vast as 2,000 km, stretching along Kalimantan Island and mainly following the watershed area. Malaysia is geographically divided into West Malaysia (or the peninsula that Singapore and Indonesia border to the south) and East Malaysia (Sabar and Sarawak that share a 1,620 km land border with West Kalimantan and East Indonesia (KJRI Kota Kinabalu, n.d.). This geographical condition allows ease of transport for PMI to migrate to Malaysia by land or

air, which, unfortunately, is misused by many PMI to take illegal routes of migration that abuse the procedures from the Minister of Manpower.

The practice of sending undocumented PMI from Indonesia to Malaysia in Kalimantan Island has demonstrated issues in human resources. Poorly protected borders of Indonesia and Malaysia in West Kalimantan have become the illegal route for PMI smuggling and human trafficking to Malaysia and gun and drug trade from Malaysia. According to Anis Hidayah, the Commissioner of Komnas Ham, many PMI are frequently victimized by illegal trading syndicates, amounting to 177 people who face death sentences in Malaysia, and 73% of them are due to drugs (as courier) through Malaysia-Indonesia borders (Hidayah, 2023). Drug smuggling has cost Indonesia financial loss and tainted the image of the governments of both countries.

Addressing issues with national borders and human migration across the borders, the government of Indonesia and Malaysia created the Border Crossing Agreement (BCA) in 1967. Since its establishment in 1967 and 1970, BCA successfully laid diplomatic foundations to address border disputes in Sebatik Island and Tawau City. The 1984 BCA allowed some inter-border activities, such as family visits, social or entertainment activities, trade, religious activities, government duties, and other purposes agreed upon by both countries (Raharjo, 2021).

Eventually, following the migration flow, both governments show incentives to accommodate these activities. On June 8, 2023, they

held a bilateral meeting in Putrajaya, Malaysia, to sign the BCA agreement as one of six bilateral instruments. After signing the agreement, President Joko Widodo and Prime Minister Datuk Seri Anwar Ibrahim released a joint statement that the agreement would strengthen Indonesia-Malaysia bilateral relations, particularly in economy and safety. Agreement on matters related to border defense, including in Nusantara Capital Authority (IKN) was signed by Malaysia's Minister of Home Affairs Datuk Seri Saifuddin Nasution Ismail and Indonesia's Minister of Home Affairs Muhammad Tito Karnavian (The Star, 2023). Furthermore, Malaysian and Indonesian Minister of Foreign Affairs, Datuk Seri Dr Zambry Abdul Kadir and Retno Marsudi, signed two partnership agreements on territorial waters where both countries share borders, Southern Malaka Strait and Sulawesi Sea. These agreements were drafted to anticipate the influx of tourists or visitors at the entry points in Sabah and Sarawak when IKN is open in Kalimantan.

### **Digital Diplomacy: Safe Travel and Peduli WNI Portal**

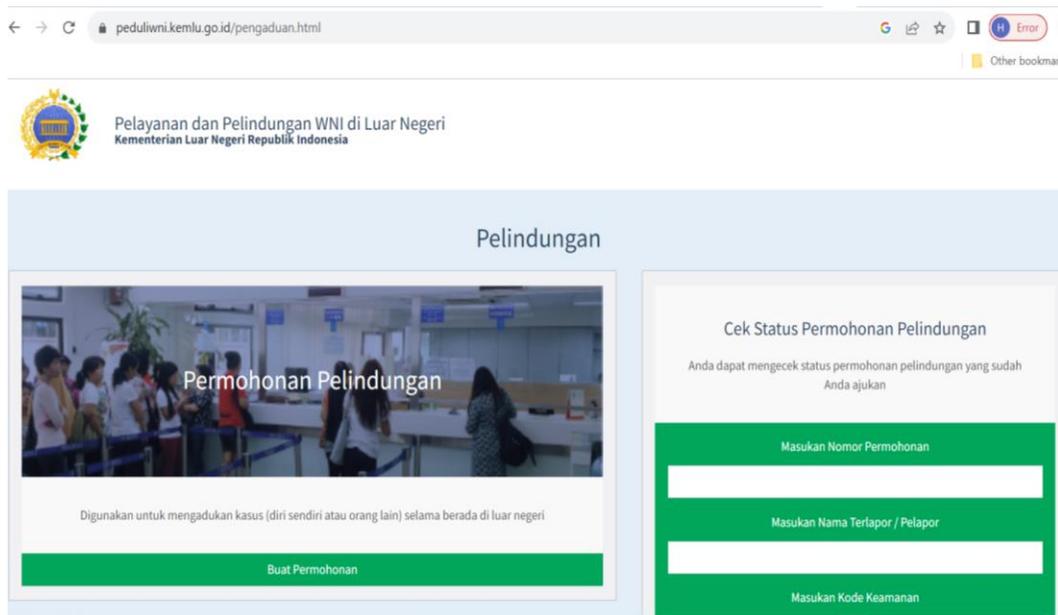
Indonesia's Ministry of Foreign Affairs has implemented multiple diplomacy relevant to PMI protection in foreign countries, including providing digital-based media. As stated in the National Action Plan for implementing Global Compact Migration, this measure starts from the domestic level by developing the Safe Travel app, then continues strengthening the data policy of Indonesian citizens residing in foreign countries (Wangke, 2021: 81). This

policy posits that the Ministry of Foreign Affairs needs to address the problems in institution centralization and encourage digital interactions in any forms and models deemed appropriate with the diplomatic network. Digital diplomacy has now become integral to implementing foreign policy in Indonesia.

The Directorate of Citizen and Legal Entities Protection, under the Ministry of Foreign Affairs, is tasked with policy formulation and implementation in protecting Indonesian citizens and legal entities in foreign countries, including the provision of legal assistance, humanity and social assistance, homecoming facilities, consular monitoring, policy harmonization, and development of bilateral and regional partnerships (Indonesian Ministry of Foreign Affairs, 2021). To achieve this, the Ministry of Foreign Affairs created the Safe Travel app that all citizens can access, but more importantly, the migrant workers in foreign affairs in order to monitor their safety from intimidation and threats by foreign citizens and to prevent them from getting involved in legal issues that may tarnish Indonesia's reputation in foreign countries. The beta version of Safe Travel was launched in 2017 and then upgraded into a multi-platform app for Android, iOS, website, and social media. As an innovation, Safe Travel provides comprehensive feeds about the level of security and vulnerability, the Indonesian representative contact number, places of worship, tourism spots, and culinary centers in many countries (Tabloid Diplomasi, 2018). The most crucial feature of Safe Travel is the

panic button, which can be accessed by Indonesian citizens when facing difficulties, threatening situations, or emergencies in other countries. They can send photos, record videos, and contact nearby Indonesian reps. Once

the panic button is pressed, the Indonesian Consulate General (KJRI) in the respective country will directly head to the location according to the geotagging to assist.



(Source: Direktorat Pelayanan dan Perlindungan WNI di Luar Negeri, n.d).

**Figure 1.**  
Service and Protection Portal for Indonesian Citizens in Foreign Countries

In addition to the Safe Portal app, the Ministry of Foreign Affairs officially launched a website/portal named Peduli WNI, which can be accessed through [www.peduliwni.kemlu.go.id](http://www.peduliwni.kemlu.go.id) on April 15, 2018, for Indonesian citizens in foreign countries to report their identity and the problems they face. The PWNI and BHI Kemlu developed this website to facilitate the inventory of Indonesian citizens in foreign countries through a self-reporting feature, assist them in online or offline services, and enable them to file for a report independently through an app (DPWNI, n.d.).

Therefore, Peduli WNI is a single platform of service and protection media for Indonesian citizens and the only media to collect the database of Indonesian citizens residing in foreign countries.

Safe Travel app and the Peduli WNI portal are interconnected; Indonesian citizens who self-report through the app and stay in one country for more than six months will have their data recorded in the Peduli WNI portal. Both platforms are feasible for reporting cases or problems faced by Indonesian citizens, including migrant workers, in

foreign countries. Accordingly, the Ministry of Foreign Affairs can quickly respond to and assist those in an emergency. It shows that diplomats and government apparatus deployed in other countries make the most of digital technology and social media to achieve their national interests.

However, implementing the digital system in Safe Travel and Peduli WNI poses challenges to the government of Indonesia. While the MoU on Indonesian migrant workers (PMI) has stipulated that they must have access to communication, most employers or agencies take away the communication equipment of undocumented PMI. Consequently, these PMIs cannot report their problems through the platforms above. The other challenge is that while the panic button in the Safe Travel app works best in emergencies, other preventive measures should be in place, such as a mutually agreed monitoring mechanism by both countries.

Undocumented PMI is considered a source of social threat by some Malaysian people. According to Pook Ah Lek, the Chief Editor of Sin Chew Daily, problems around migrant workers include terrorism, human trafficking, and moral issues (Ah Lek, 2016). In 2001, the Malaysian Prime Minister said that undocumented, illegal migrant workers are a threat to national security and, thus, subject to deportation (Juliawan, 2018). It makes Malaysian people so worried that some illegal PMI decides to bring along their family to relocate to Malaysia. It violates Malaysia's employment regulations that require all migrant workers to work through

official procedures, carry legal documents, not bring their family to accompany or cohabit with them in Malaysia, and not marry Malaysian citizens or foreign people.

### **Memorandum of Understanding (MoU) about the Placement and protection of Indonesia migrant workers in the domestic sector in Malaysia**

Indonesia and Malaysia have established a bilateral agreement about PMI since 2006. However, as the agreement was terminated in 2016, PMI in Malaysia lost its five-year legal protection. After the ratification of Law Number 18 of 2017 on the Protection of Migrant Workers, which aims to protect the rights of Indonesian migrant workers, Indonesia forced Malaysia to sign an MoU about the placement and protection of PMI. Following a lengthy discussion, Indonesia and Malaysia signed the corresponding MoU on April 1, 2022, by Indonesian Minister of Manpower Ida Fauziyah and Malaysia's Minister of Human Resources, Dato' Sri M. Saravanan, observed by President Joko Widodo and Prime Minister Dato' Sri Ismail Sabri Yaakob in Istana Merdeka, Jakarta (Kusuma, 2022). This MoU regulates the One-Channel Placement System (SPSK) for the entire process, from placement to monitoring and homecoming of PMI. Ministries and institutions in Indonesia and Malaysia shall uphold this process. As the only mechanism for PMI, SPSK would enable seamless monitoring for both countries and reduce costs for PMI recruitment and placement in Malaysia. Therefore, it is expected to

reduce the influx of non-procedural PMI to Malaysia significantly. SPSK integrates two apps: Indonesia's SIAP Kerja and Malaysia's FWCMS (Foreign Workers Centralized Management System).

Prior to SPSK, Indonesia applied for SMO (System Maid Online) for PMI placement in Malaysia. SMO is a direct hearing process without an agency intermediary, which is the opposite of the previous system that used agency as the intermediary between users, employers, and migrant workers. SMO enables the Malaysian government to minimize agency's role (Sarah, 2021). SMO is applied to the placement of migrant workers from nine countries: Indonesia, Thailand, The Philippines, Cambodia, India, Laos, Nepal, Sri Lanka, and Vietnam. On the downside, SMO enables an unprocedural influx of migrant workers into Malaysia; consequently, PMI candidates are beyond the reach of the Law on Indonesian Migrant Workers Protection. In the SPSK MoU, both countries agreed to dispose of online recruitment or SMO for PMI, and Indonesia demanded that the cost of VISA not be imposed on PMI candidates. However, since Malaysia still implemented SMO after the MoU signing, Indonesia imposed a moratorium on PMI placement as of July 2022 until the Malaysian government stated its commitment to terminate the SMO mechanism for PMI (Intan, 2022). Then, on August 1, 2022, Indonesia removed the moratorium after both countries agreed to implement SPSK as the only mechanism for recruitment and placement of PMI in Malaysia. Migrant workers need to follow the official

procedures so that the government of Indonesia can protect them before, during, and after their placement in foreign countries. It is in line with the concept of diplomatic protection that regulates the international community and requires the state (in this case, the government of Indonesia) to be authorized to protect their citizens residing in foreign countries.

Ida Fauziyah, Indonesian Minister of Manpower, stated that the governance of PMI placement must uphold protection and social security, considering the dynamic migration of workers across countries. The government of Indonesia hopes that in the future, Indonesian migrant workers will be more skilled and competent. Ida Fauziyah emphasized that the Indonesian Ministry of Manpower will take firm actions against the Indonesian Migrant Workers Placement Agency (P3MI) or any individuals conducting non-procedural PMI placements (Ronald, 2022).

## **CONCLUSION**

Uncontained migration influx and increasingly easy access have made many candidates for Indonesian migrant workers (PMI) use illegal procedures to work in Malaysia. As a consequence, these undocumented workers face difficulties in obtaining protection, and the government faces challenges in controlling illegal migrant workers. PMI protection has become the national priority and interest of the Indonesian Government in Malaysia. Multifarious diplomatic measures have been taken, starting from the ratification of Law

Number 18 of 2017 on the Indonesian Migrant Workers Protection to Border Cross Agreement (BCA) policy, digital diplomacy (Safe Travel and Peduli WNI Portal), and created MoU on the Placement and protection of Indonesia migrant workers in the domestic sector in Malaysia.

These measures are only partly successful in protecting PMI in Malaysia. As of 2023, human and

employment rights violations still occur in Malaysia. Also, Malaysia adheres to its laws and regulations that frequently disadvantage PMI but are blunt to employers who violate employment rights. The government of Indonesia needs to take more assertive action to defend PMI and impose diplomatic strategies that should benefit both countries.

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