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Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

From Populist Policies to Reality-Based Policies: Reforming Indonesian Labour Law for the Prevention of Forced Labour, Exploitation, and Equitable Protection of Migrant Workers

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Abstract. *The development of Indonesia's labour sector in recent years has revealed a growing disparity between the objectives of labour protection and the economic and political realities faced by the state. On the one hand, the government has sought to enhance workers' protection through various labour policies. On the other hand, investment dynamics, global economic uncertainty, labour market transformation, and the increasing mobility of migrant workers necessitate a more adaptive and comprehensive regulatory framework. Following the enactment of Law Number 11 of 2020 concerning Job Creation, as subsequently amended by Law Number 6 of 2023, significant changes were introduced to numerous labour provisions previously governed by Law Number 13 of 2003 concerning Manpower. Nevertheless, Indonesia has yet to establish a new comprehensive labour statute that fully replaces the Manpower Law or integrates the protection of migrant workers as regulated under Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers. This study aims to analyse the necessity of labour law reform in Indonesia in order to prevent forced labour, labour exploitation, and modern slavery, while maintaining a balance between workers' protection, legal certainty for employers, and effective governance of Indonesian migrant worker placement agencies. The research employs a normative legal method using both statutory and conceptual approaches. The findings indicate that regulatory fragmentation following labour reforms has generated legal uncertainty, weakened oversight of exploitative labour practices, and hindered the optimal protection of Indonesian migrant workers. Accordingly, the study argues for the enactment of a comprehensive National Labour Law that is responsive and adaptable to the evolving realities of the modern world of work.*

Keywords: *Forced Labour; Indonesian Migrant Workers; Labour Exploitation; Labour Law; Labour Reform.*



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1. Introduction

The protection of migrant workers has become an increasingly important issue in the development of Indonesian labour law, particularly in the context of forced labour, exploitation, unequal employment relationships, and the broader transformation of labour markets. Migrant workers contribute significantly to economic development through their participation in domestic and international labour markets, yet their position frequently involves structural vulnerabilities. Temporary employment arrangements, recruitment intermediaries, economic dependency, limited access to information, unequal bargaining power, and immigration-related constraints may increase the risk of labour exploitation. These circumstances demonstrate that the effectiveness of labour protection cannot be determined solely by the existence of statutory regulations but must also be assessed through the realities experienced by migrant workers.

Indonesia has established various legal and institutional mechanisms intended to guarantee labour rights and prevent exploitative employment practices. Nevertheless, the formulation of labour policies may sometimes be influenced by political considerations, public expectations, and short-term economic interests. Policies that are presented as pro-worker may provide strong normative assurances while failing to address the empirical conditions that facilitate exploitation. A populist policy orientation may therefore produce a distinction between formal legal protection and substantive protection. In contrast, evidence-based policymaking requires the state to formulate labour regulations according to reliable information concerning recruitment practices, employment sectors, working conditions, labour violations, migration patterns, and the accessibility of legal remedies. Such an approach is necessary to ensure that labour law responds to actual vulnerabilities rather than merely producing symbolic regulatory commitments.

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The gap between legal norms and implementation constitutes another significant problem. Forced labour and exploitation may arise through deceptive recruitment, excessive recruitment fees, wage withholding, unlawful deductions, document retention, threats, restrictions on movement, debt dependency, and unsafe working conditions. Addressing these practices requires coordinated institutional action involving labour authorities, immigration institutions, law-enforcement agencies, local governments, employers, recruitment agencies, and worker organizations. However, fragmented responsibilities, limited resources, insufficient labour inspection, and weak inter-agency coordination may undermine the practical effectiveness of existing legal protections. Consequently, strengthening legal norms must be accompanied by institutional reforms capable of detecting violations, protecting workers, enforcing accountability, and providing effective remedies.

Against this background, the reconstruction of Indonesian labour law requires the adoption of an equitable and migrant worker-centred protection model. Migrant workers should be recognized as rights-holders rather than merely as economic resources. Protection should extend throughout the entire migration and employment cycle, beginning with recruitment and placement and continuing through employment termination and access to remedies. Such protection must include prevention, transparent recruitment, fair employment conditions, effective labour inspection, accessible complaint mechanisms, legal assistance, wage recovery, compensation, rehabilitation, and protection against retaliation.

2. Research Methods

The research employs a normative legal method using both statutory and conceptual approaches. The findings indicate that regulatory fragmentation following labour reforms has generated legal uncertainty, weakened oversight of exploitative labour practices, and hindered the optimal protection of Indonesian migrant workers.

3. Results and Discussion

3.1. From Populist Labour Policies to Evidence-Based Protection of Migrant Workers

The protection of migrant workers requires Indonesia to reconsider the relationship between labour policy, political interests, and the realities of contemporary labour migration. Labour policies are sometimes formulated in response to immediate political expectations, public pressure, or economic



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objectives, resulting in measures that appear protective but may not adequately address the structural vulnerabilities experienced by migrant workers. A populist approach may emphasize visible regulatory commitments, employment creation, or political assurances concerning worker protection, while insufficiently considering empirical evidence concerning recruitment practices, workplace conditions, wage structures, and access to legal remedies. Consequently, Indonesian labour law should progressively shift from politically attractive policies toward evidence-based policies that are formulated according to the actual conditions faced by migrant workers.

Migrant workers frequently experience vulnerabilities that distinguish their position from that of workers in more secure employment relationships. These vulnerabilities may arise from temporary employment arrangements, recruitment intermediaries, unequal bargaining power, immigration status, language barriers, limited knowledge of legal rights, and economic dependency on employers. Such circumstances can create opportunities for exploitation, including excessive working hours, unlawful wage deductions, withholding of wages, deceptive employment contracts, document retention, unsafe working conditions, and coercive employment practices. In severe circumstances, these practices may contribute to conditions associated with forced labour. Therefore, effective labour policy requires empirical identification of the factors that facilitate exploitation rather than relying exclusively on formal legal prohibitions.

Evidence-based policymaking should begin with the development of reliable and comprehensive data concerning migrant workers. Government institutions need accurate information regarding recruitment patterns, employment sectors, migration flows, labour violations, complaints, and the effectiveness of existing remedies. Such data can provide a foundation for identifying high-risk sectors and vulnerable categories of workers and for designing targeted regulatory interventions. Policy evaluation should similarly examine whether existing legislation produces measurable improvements in wages, workplace safety, freedom from coercion, and access to justice.

A reality-based approach also requires greater integration between labour law and migration governance. The protection of migrant workers cannot be effectively achieved when labour regulation, immigration policy, recruitment systems, and human-rights mechanisms operate independently. Recruitment agencies, employers, government institutions, and other relevant actors should therefore be incorporated into a coordinated accountability framework. Recruitment processes should be transparent, employment contracts should be

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understandable and enforceable, and workers should receive adequate information concerning their rights before entering employment relationships.

Furthermore, evidence-based protection requires accessible and effective complaint mechanisms. Migrant workers must be able to report exploitation without fear of retaliation, dismissal, deportation-related consequences, or other forms of intimidation. Labour inspections should prioritize sectors where vulnerability is particularly high, while enforcement mechanisms should impose meaningful consequences on employers and intermediaries responsible for abusive practices.

Ultimately, the transition from populist labour policies to evidence-based protection represents a shift from symbolic regulation toward substantive rights protection. Indonesian labour law should be evaluated not simply according to the number of protective regulations enacted but according to their capacity to prevent exploitation and improve the lived experiences of migrant workers. By grounding policymaking in empirical evidence, institutional accountability, worker participation, and measurable outcomes, Indonesia can develop a more realistic and equitable labour-law framework capable of protecting migrant workers from forced labour and exploitation while strengthening their fundamental labour rights.

3.2. Closing the Legal and Institutional Gaps in Preventing Forced Labour and Exploitation

The prevention of forced labour and exploitation of migrant workers in Indonesia requires more than the existence of formal legal prohibitions. Although Indonesian labour and migration laws establish important principles concerning workers' rights, employment conditions, and protection from exploitation, their effectiveness depends heavily on institutional capacity and consistent enforcement. The continuing vulnerability of migrant workers demonstrates that a substantial gap may exist between legal standards and their practical implementation. Closing this gap therefore requires the state to strengthen both the substantive legal framework and the institutional mechanisms responsible for implementing it.

One significant challenge concerns the complexity of migrant workers' employment relationships. Exploitation may begin during recruitment and continue throughout the employment period through excessive recruitment fees, deceptive employment agreements, wage withholding, unlawful deductions, excessive working hours, document retention, threats, or restrictions on workers'

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freedom of movement. These practices can create conditions of economic and psychological dependency that increase the risk of forced labour. Consequently, legal protection should address the entire labour-migration process rather than focusing exclusively on violations occurring after workers enter employment. Recruitment agencies, employers, intermediaries, and other actors involved in the employment chain should be subject to clear legal obligations and effective accountability mechanisms.

Institutional fragmentation represents another major obstacle to effective protection. Migrant-worker protection involves labour authorities, immigration agencies, law-enforcement institutions, local governments, recruitment agencies, and other public and private actors. When institutional responsibilities overlap without effective coordination, complaints may be delayed, victims may be transferred between agencies, and enforcement may become inconsistent. The state should therefore establish clearer mechanisms for inter-agency cooperation, information sharing, referral of cases, and coordinated victim assistance. Institutional responsibility should be accompanied by measurable standards that enable government performance to be evaluated objectively.

Labour inspection also requires strengthening because formal regulations cannot prevent exploitation if violations remain undetected. Inspection systems should adopt a risk-based approach that prioritizes sectors, workplaces, and employment arrangements where migrant workers face heightened vulnerability. Inspectors should receive appropriate training to identify indicators of forced labour, including coercion, debt bondage, threats, restrictions on movement, and abusive recruitment practices. Effective sanctions should be imposed where employers or intermediaries deliberately violate workers' rights, while victims should be protected from retaliation for reporting violations.

Furthermore, migrant workers must have accessible and effective complaint and remedy mechanisms. Legal protection should include access to information, legal assistance, interpretation where necessary, and procedures that allow workers to report violations without fear of dismissal, intimidation, or other retaliation. Remedies should extend beyond criminal punishment and include recovery of unpaid wages, compensation, rehabilitation, and other forms of redress appropriate to the harm suffered.

Ultimately, closing legal and institutional gaps requires Indonesia to move from formal protection toward substantive enforcement. The effectiveness of labour law should be measured by its capacity to prevent coercion, identify exploitation, hold responsible actors accountable, and provide meaningful remedies to victims.



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Strengthening legislation, institutional coordination, labour inspection, worker participation, and access to justice would create a more coherent protection system. Through these reforms, Indonesian labour law can become more responsive to the realities of migrant workers and more capable of preventing forced labour and exploitation while ensuring equitable protection of fundamental labour rights.

3.3. Reconstruction of Indonesian Labour Law Through Equitable and Migrant Worker-Centred Protection

The reconstruction of Indonesian labour law should be directed toward establishing a more equitable, inclusive, and migrant worker-centred protection system. Existing labour regulations provide important legal guarantees concerning employment relationships, wages, occupational safety, social security, and workers' rights. Nevertheless, formal recognition of these rights does not always correspond with the realities experienced by migrant workers. Differences in bargaining power, employment status, access to information, recruitment arrangements, and social and economic conditions may create vulnerabilities that expose migrant workers to exploitation and forced labour. Consequently, labour-law reform must move beyond formal equality and develop substantive mechanisms capable of responding to the particular risks associated with migrant employment.

A migrant worker-centred approach requires workers to be recognized as rights-holders rather than merely as instruments of economic development. Labour migration policies should therefore prioritize human dignity, equality, non-discrimination, freedom from coercion, and access to justice. Legal protection should cover the entire employment cycle, beginning with recruitment and continuing through employment, termination, and access to remedies. Recruitment practices should be regulated through transparent procedures, reasonable costs, clear contractual obligations, and effective supervision. Employers and recruitment intermediaries should bear legal responsibility for preventing deceptive recruitment, excessive fees, wage withholding, document retention, and other practices that may create conditions of dependency or coercion.

Equitable protection also requires Indonesian labour law to recognize that equality does not necessarily mean identical treatment. Workers who experience greater structural vulnerability may require additional safeguards to achieve substantive equality. Migrant workers employed in informal sectors, temporary employment, isolated workplaces, or occupations with limited regulatory oversight may

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therefore require stronger monitoring and specialized protection mechanisms. Such measures should not be viewed as preferential treatment but as necessary instruments for ensuring genuine equality and preventing exploitation.

The reconstruction of labour law should also strengthen institutional responsibility. Effective protection requires coordinated action among labour authorities, immigration institutions, law-enforcement agencies, local governments, employers, recruitment agencies, and worker organizations. Institutional responsibilities should be clearly defined to prevent regulatory fragmentation and ensure that complaints are handled promptly. Labour inspection mechanisms should adopt risk-based strategies capable of identifying indicators of forced labour, including debt bondage, threats, restrictions on movement, unlawful wage deductions, and abusive working conditions. Institutions responsible for enforcement should also receive adequate resources and specialized training.

Access to remedies constitutes another essential component of migrant worker-centred protection. Workers must have accessible mechanisms to report violations without fear of retaliation. Legal assistance, interpretation, information concerning labour rights, wage recovery, compensation, rehabilitation, and other appropriate remedies should be available to victims of exploitation. Effective remedies should not depend solely on criminal prosecution but should address the economic, social, and personal consequences suffered by workers.

Ultimately, reconstructing Indonesian labour law requires a transition from a predominantly regulatory model toward a substantive rights-based framework. The effectiveness of reform should be measured by whether migrant workers experience genuine improvements in workplace safety, fair remuneration, freedom from coercion, equality, and access to justice. By integrating prevention, accountability, worker participation, institutional coordination, and effective remedies, Indonesia can develop a labour-law system that is responsive to the realities of migrant workers and capable of ensuring equitable protection against forced labour and exploitation.

4. Conclusion

The analysis of Indonesian labour law in relation to forced labour, exploitation, and the protection of migrant workers demonstrates the necessity of moving from populist and predominantly symbolic policy approaches toward evidence-based and reality-oriented legal governance. Although Indonesia has established a range of legal instruments concerning labour rights, migrant-worker protection, and the

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prohibition of exploitative employment practices, the existence of formal legal guarantees does not automatically ensure substantive protection. The effectiveness of labour law must therefore be evaluated according to its capacity to respond to the actual conditions experienced by migrant workers and to prevent vulnerabilities from developing into coercive and exploitative labour relationships. The transition toward evidence-based protection requires labour policies to be formulated through reliable empirical information concerning migration patterns, recruitment practices, employment sectors, workplace conditions, labour violations, and access to remedies. Migrant workers frequently experience vulnerabilities arising from unequal bargaining power, temporary employment arrangements, recruitment intermediaries, economic dependency, language barriers, and limited knowledge of their legal rights. These conditions may facilitate wage withholding, excessive working hours, unlawful deductions, deceptive recruitment, document retention, debt-related dependency, and other practices associated with forced labour. Consequently, policymaking should address the actual mechanisms through which exploitation occurs rather than relying primarily on general declarations of worker protection. The analysis further demonstrates that legal and institutional gaps constitute major obstacles to effective protection. Fragmented institutional responsibilities among labour authorities, immigration institutions, law-enforcement agencies, local governments, employers, and recruitment intermediaries may result in inconsistent enforcement and limited access to remedies. Closing these gaps requires clearer institutional mandates, stronger inter-agency coordination, risk-based labour inspection, effective monitoring of recruitment agencies and employers, and meaningful sanctions against actors responsible for exploitation. At the same time, migrant workers must have accessible complaint mechanisms, legal assistance, adequate information, and protection against retaliation when reporting violations. The reconstruction of Indonesian labour law should consequently adopt an equitable and migrant worker-centred protection model. Such an approach recognizes migrant workers as rights-holders rather than merely as instruments of economic development.

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