

## **Construction of Law Enforcement Regulations for the Placement of Illegal Migrant Workers by Individuals Based on Legal Certainty**

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**Abstract.** *This study aims to understand and analyze in depth the regulatory construction that governs law enforcement against the practice of placing individual illegal migrant workers, while simultaneously examining the weak points in the applicable legal system. By understanding the configuration of existing norms, this study seeks to provide a comprehensive picture of the extent to which applicable regulations are able to provide fair and effective protection for prospective migrant workers and to analyze the normative legal construction of these regulations. This study uses a normative legal approach method (Normative Legal Research) including legislative, conceptual, and case approaches, using primary regulatory materials in the form of relevant laws and regulations, as well as secondary legal materials in the form of scientific literature and institutional reports. The analysis is conducted descriptively qualitatively using an orientation on the principle of legal certainty. Primary data sources consist of various relevant laws and regulations, while secondary legal materials are obtained from scientific literature, official reports of government agencies, and other academic studies. All data are analyzed descriptively qualitatively based on the principle of legal certainty as guaranteed in Article 28D paragraph (1) of the 1945 Constitution, in order to assess the functioning of norms in their enforcement practices. The research results show that the law enforcement regulations regarding the placement of illegal migrant workers are still sectoral, have overlapping authorities, and have not been effectively integrated between the PPMI Law, the Law on the Crime of Human Trafficking, and the Immigration Law. This results in ineffective law enforcement mechanisms. Weak inter-agency coordination and the absence of an integrated enforcement mechanism make it difficult to consistently enforce the law. Therefore, regulatory reconstruction is needed that emphasizes harmonization of norms, institutional strengthening, and increased law enforcement to ensure*

optimal protection for migrant workers, as well as legal certainty in the protection of migrant workers.

**Keywords:** *Certainty; Construction; Legal; Regulatory.*

## 1. Introduction

The increasing number of Indonesian workers working abroad is one consequence of the limited job opportunities within the country. Therefore, becoming a worker abroad is a solution adopted by some Indonesians to meet their families' needs. The country also benefits from the presence of Indonesian workers abroad, which has become the second-largest foreign exchange earner after the oil and gas sector.<sup>1</sup>

According to information from the Indonesian Migrant Workers Association (BP2MI), 1,800 non-procedural migrant workers (PMI) were identified throughout 2022, with the common *modus operandi* being the use of visit visas or Umrah visas to work abroad.<sup>2</sup>As a follow-up to this issue, Law No. 18 of 2017 concerning the Protection of Indonesian Migrant Workers was issued as a replacement for Law No. 39 of 2004. The aim is to provide legal protection for Indonesian migrant workers before, during, and after placement.<sup>3</sup>This law also limits the authority of private parties, strengthens government oversight, and establishes stricter criminal sanctions for illegal placement applications.<sup>4</sup>Article 81 paragraph (1) of the PPMI Law states that anyone who places PMI illegally can be punished with a maximum prison sentence of 10 (ten) years and/or a maximum fine of IDR 15 billion.<sup>5</sup>

As an example of a real problem, the author takes a problem that occurred in the Batam City area with case number: 587/ Pid. Sus/ 2022/ PN Btm whose defendant is Murayansyah alias Yayan Bin Juredi. On Thursday, June 30, 2022, at approximately 3:00 PM WIB or at another time still listed in June 2022, at Ruko Jodoh Center Point, Batu Ampar District - Batam City, at approximately 3:00 PM WIB, members of Subdit 4 Ditreskrim Polda Riau Islands conducted a search at Ruko Jodoh Center Point, Batu Ampar District - Batam City, finding 42 Indonesian Migrant Workers who were about to be sent to Malaysia. In this case, the state court reported that the defendant with the initials M alias Yayan Bin Juredi above

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<sup>1</sup><https://www.dpr.go.id/dokakd/dokumen/RJ1-20150921-113032-5531.pdf> accessed on Saturday, August 3, 2025 at 13:30 WIB

<sup>2</sup>BP2MI, Non-procedural PMI Data 2022, Directorate of Placement Protection, Jakarta, 2023.

<sup>3</sup>Indonesia, Law on the Protection of Indonesian Migrant Workers, Law No. 18 of 2017, State Gazette of the Republic of Indonesia 2017 Number 242.

<sup>4</sup>Eni Setyowati, "Legal Protection of Indonesian Migrant Workers from the Perspective of Law No. 18 of 2017," *Journal of Law and Development*, Vol. 48, No. 3, (2018), p. 512.

<sup>5</sup>*Ibid.*, Article 81 paragraph (1).

was legally and convincingly proven guilty of committing a crime, "Without the right to place Indonesian Migrant Workers who do not meet the requirements," as in the Third Alternative indictment decided in Based on the suspect's actions, after that the General Prosecutor charged him with an alternative indictment, namely violating Article 120 paragraph (1) of Law No. 6 of 2011 concerning Immigration or Article 81 of Law No. 18 of 2017 concerning the Protection of Indonesian Migrant Workers. However, the Panel of Judges in this case decided that the suspect was proven guilty of committing an act as an individual placing Indonesian migrant workers and was sentenced to 3 years and 6 months in prison and a fine of IDR 100,000,000 (one hundred million rupiah) on the condition that if the fine is not paid, it will be exchanged for 6 months in prison.<sup>6</sup>

For example, in Batam State Court Verdict Number 587/Pid.Sus/2022/PN Btm, the suspect was found guilty of placing migrant workers in Malaysia without following formal procedures, with the promise of high incomes.<sup>7</sup>The suspect conducted recruitment locally, falsified shipping documents, and collaborated with agents abroad. Although the suspect was sentenced to prison, this case demonstrates that illegal placement methods by individuals continue to thrive, even involving cross-border networks.

The implementation of Law No. 18 of 2017 continues to face various obstacles. Some of the cases that have emerged include: Illegal placement applications are still commonplace despite the criminal provisions in Articles 81 to 92 of Law No. 18 of 2017, which prohibit the placement of Indonesian migrant workers without formal permission.<sup>8</sup>This situation raises issues concerning the effectiveness of law enforcement and coordination between related institutions. In practice, synergy between the central government, regional governments, and Indonesian representatives abroad is not optimal, resulting in weak oversight and protection. Although sanctions for illegal placement have been regulated with fairly severe criminal threats, the reality shows that illegal applications are still widespread.

This fundamental protection must be safeguarded to achieve the well-being of human life. Likewise, migrant workers who are trying to meet their living needs and improve their standard of living have the right to be protected and receive legal certainty from the government. The enactment of Law No. 18 of 2017 is expected to provide benefits for Indonesian migrant workers. This protection is the government's effort to protect every citizen who is a prospective Indonesian migrant worker, both before, during, and after employment. Article 3 of Law No. 18 of 2017 states, "Protection of Indonesian migrant workers aims to:

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<sup>6</sup>Batam District Court Decision No. 587/Pid.Sus/ 2022/PN Btm

<sup>7</sup>Batam District Court, Decision Number 587/Pid.Sus/2022/PN Btm, 2022

<sup>8</sup>*Ibid*, Articles 81 to 92

- 1) Guaranteeing the fulfillment and enforcement of human rights as citizens and Indonesian migrant workers; and
- 2) Guaranteeing legal, economic and social protection for Indonesian migrant workers and their families.<sup>9</sup>

Based on these circumstances, this research is meaningful in analyzing the legal implementation of Law No. 18 of 2017 in enforcing the law against individuals who place migrant workers illegally. This analysis is expected to identify the effectiveness of law enforcement, the obstacles encountered, and provide suggestions for future revisions to policies and law enforcement applications. Based on this normative explanation, it can be confirmed that Law No. 18 of 2017 has provided a sufficiently robust legal framework to protect migrant workers. However, challenges remain in terms of the effectiveness of sanctions, legal certainty, and harmonization with international law. Therefore, a normative analysis of the implementation of this law is crucial to determine the extent to which the regulation effectively and equitably addresses the need for migrant worker protection. This research aims to identify and analyze the regulatory framework for law enforcement against the placement of illegal migrant workers by individuals.

## **2. Research Methods**

The approach used in this research combines normative legal research with additional empirical approaches. More specifically, the research mechanism utilizes methods such as a statute approach and a conceptual approach, which examines legal doctrines, academic perspectives, and legal theories relevant to the issue of migrant worker law enforcement.<sup>10</sup> The data collection method relevant to this research uses several data collection techniques, namely literature studies, interviews, and observation or documentation.<sup>11</sup> Analysis The data obtained was analyzed qualitatively-descriptively, namely by systematically and factually describing the findings in the field and then analyzing them based on relevant legal theories and applicable laws and regulations.<sup>12</sup>

## **3. Results and Discussion**

### **3.1. Law Enforcement Regulations Regarding the Placement of Illegal Migrant Workers by Individuals**

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<sup>9</sup>Law No. 18 of 2017 concerning the Protection of Indonesian Migrant Workers

<sup>10</sup>Soerjono Soekanto & Sri Mamudji, *Normative Legal Research: A Brief Review*, Rajawali Pers, Jakarta, 2015, p. 23.

<sup>11</sup>Ronny Hanitijo Soemitro, *Legal Research Methodology*, Second Edition, Jakarta: Ghalia Indonesia, 2015, p. 24.

<sup>12</sup>Sugiyono, *Quantitative, Qualitative and R&D Research Methods*, Alfabeta, Bandung, 2019, p. 52

Regulatory construction essentially refers to a structured legal system designed to regulate, monitor, and prosecute any violations of applicable legal norms. Regarding the placement of illegal migrant workers by individuals, Indonesia's regulatory framework is built on a foundation of national legal hierarchy, the principle of respect for human rights, and a commitment to various international legal instruments ratified by the state. This foundation aligns with the constitutional mandate, as stated in the Preamble to the 1945 Constitution of the Republic of Indonesia, which mandates the state to protect all Indonesians and all Indonesian citizens—including those working abroad and facing the risk of exploitation and human trafficking.<sup>13</sup>

Regulatory development refers to the structure or construction of a legal system that regulates, supervises, and prosecutes violations of certain legal norms. In the context of the placement of illegal migrant workers by individuals, Indonesia's regulatory framework is based on the national legal hierarchy, the principle of human rights protection, and a commitment to international conventions. As stated in the Preamble to the 1945 Constitution of the Republic of Indonesia, one of the goals of the state is to protect the entire Indonesian nation and its entire homeland. This clearly mandates the state to protect the entire nation from all threats, especially legal and illegal Indonesian migrant workers who become victims of human trafficking abroad. Illegal Indonesian migrant workers are divided into two categories: non-procedural illegal migrant workers and illegal migrant workers who are victims of human trafficking. Legal migrant workers are those who possess supporting documents and whose departure and placement processes are carried out in accordance with applicable laws and regulations.

According to data from the Indonesian Migrant Workers Protection Agency (BP2MI), every year there are thousands of cases of migrant workers departing through non-procedural (illegal) routes, especially to countries such as Malaysia, Saudi Arabia, and Singapore.<sup>14</sup> This situation raises an urgent need to strengthen regulatory frameworks and law enforcement mechanisms to prevent and effectively prosecute illegal migrant worker placement by individuals. Data from the Indonesian Migrant Workers Protection Agency (BP2MI) shows that every year thousands of migrant workers depart through non-procedural channels, particularly to countries such as Malaysia, Saudi Arabia, and Singapore, resulting in a tsunami of migrant workers arriving annually. This demonstrates the weakness of stakeholder oversight. The high number of illegal departures demonstrates that existing regulatory frameworks are not yet fully capable of preventing or detecting the practice of sending migrant workers without procedures. Therefore, there is an urgent need to strengthen regulations and improve the effectiveness of inter-agency coordination to prevent and address this practice.

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<sup>13</sup>Maria Farida Indrati, *Legal Science: Types, Functions, and Content*, Jakarta: Kanisius, 2017.

<sup>14</sup>BP2MI, *PMI Placement and Protection Data 2024*, Jakarta: BP2MI, 2024.

The background of the creation of the Law on the Protection of Indonesian Migrant Workers is that working is a human right that must be upheld, respected, and guaranteed as mandated in the 1945 Constitution of the Republic of Indonesia, where the state guarantees the rights, opportunities, and provides protection for every citizen without discrimination to obtain decent work and income both at home and abroad according to their expertise, skills, talents, interests and abilities. In addition, Indonesian migrant workers must be protected from human trafficking, slavery and forced labor, victims of violence, arbitrariness, crimes against human dignity, and other treatments that violate human rights. And Law Number 18 of 2017 is a replacement for Law Number 34 of 2004 concerning the Placement and Protection of Indonesian Migrant Workers Abroad.

Law No. 18 of 2017 concerning the Protection of Indonesian Migrant Workers was enacted as a manifestation of the state's commitment to guaranteeing the rights of migrant workers. This law was drafted based on the belief that work is a human right that must be respected, upheld, and guaranteed. The Constitution affirms that every citizen has the right to employment and a decent living without discrimination, both at home and abroad, in accordance with their abilities, talents, and skills.<sup>15</sup> Furthermore, Law No. 18 of 2017 stipulates that migrant workers must be protected from various forms of human rights violations, such as human trafficking, forced labor, modern slavery, violence, and degrading treatment. This new regulation replaces Law No. 39 of 2004, which was deemed inadequate because it still viewed migrant workers as objects of placement rather than subjects with rights.<sup>16</sup> The regulatory updates are expected to strengthen protection, reorganize relevant institutions, and strengthen law enforcement mechanisms for parties who illegally send migrant workers or exploit them.

In the context of the placement of illegal migrant workers by individuals, Indonesia's regulatory framework is based on the national legal hierarchy, principles of human rights protection, and commitment to international conventions. Law enforcement against the placement of illegal migrant workers by individuals, as part of this regulatory framework, is based on several key legal instruments, namely:

1) Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers (PPMI Law)

This law is the main basis for regulating the mechanisms for placement, protection and sanctions against procedural violations of Indonesian migrant worker placement.

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<sup>15</sup>Putranti, B. Dwi. "The Constitutional Rights of Migrant Workers from a Human Rights Law Perspective." *Constitutional Journal*, Vol. 16, No. 3 (2019): 512–528.

<sup>16</sup>Sulistyaningsih, T. "Transformation of Migrant Worker Protection in Law No. 18 of 2017." *IUS QUIA IUSTUM Law Journal*, Vol. 27, No. 2 (2020): 367–386.

- a. Article 13 of the PPMI Law states that PMI placement can only be carried out by the Government or PMI Placement Companies (P3MI) that have permits.
  - b. Articles 81–83 stipulate criminal sanctions for individuals who place migrant workers illegally.
- 2) Law Number 21 of 2007 concerning the Eradication of the Crime of Human Trafficking (TPPO)

The placement of illegal migrant workers often overlaps with the crime of human trafficking. Article 2 paragraph (1) of this law states that recruiting and sending someone for exploitation falls under the category of human trafficking, which carries a maximum penalty of 15 years in prison.

3) Criminal Code (KUHP)

In a general context, the actions of individuals who place migrant workers illegally can also be prosecuted under articles on fraud (Article 378 of the Criminal Code), document falsification (Article 263 of the Criminal Code), or human trafficking (Article 297 of the Criminal Code).

To support and strengthen the position of the existence of the above laws or regulations, the construction of national regulations is also strengthened by the ratification of international instruments, including:

- 1) The 1990 UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ratified through Law No. 6 of 2012).
- 2) ILO Convention No. 97 (1949) and ILO No. 143 (1975) which regulate labor migration and the protection of the basic rights of migrant workers.

Referring to national and international legal frameworks, it is clear that all forms of slavery, sexual exploitation, and any act related to human trafficking for the purpose of exploitation constitute serious violations of human rights. These violations not only deprive individuals of their freedom but also deprive them of the dignity and human values that should be protected by the state and the international community.<sup>17</sup>

Based on the principle of respect for human rights, these fundamental rights aim to safeguard and protect the interests of each individual. Thus, people can enjoy freedom and security, while also being respected for their human dignity, the primary foundation of civilized social life.<sup>18</sup> Protection of human dignity is a central principle in various international legal instruments—such as the Universal

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<sup>17</sup>Aprilianti, F. "Human Trafficking in the Perspective of International and National Law." *Khaira Ummah Law Journal*, Unissula, Vol. 12, No. 2 (2017): 235–246.

<sup>18</sup>Widiarto, A. "Human Dignity in International Human Rights Law Instruments." *Journal of Humanitarian Law* (Unissula), Vol. 9, No. 1 (2021): 14–27.

Declaration of Human Rights—and has been adopted into various national regulations, including laws governing the prevention of human trafficking and the protection of migrant workers.<sup>19</sup>

In fact, human rights are inherent, inseparable from the human person, and cannot be violated by anyone. These rights are both natural and a gift from God Almighty, which must be respected and protected by every human being. In the Indonesian context, various legal studies show that violations of human dignity through human trafficking are not only a violation of the law, but also a denial of the nation's humanitarian values and morality, which are based on Pancasila.<sup>4</sup> Therefore, the state has a moral and constitutional responsibility to ensure that every citizen—including migrant workers who are vulnerable to exploitation—receives fair and comprehensive protection.<sup>20</sup> Based on the principle of fundamental respect for human rights, the essence of the existence and basis of human rights is solely to protect human interests, so that every individual can enjoy their basic rights and at the same time have their human dignity respected.

### **3.2. Weaknesses in the Construction of Law Enforcement Regulations Against the Placement of Illegal Migrant Workers by Individuals**

#### **1) Weaknesses in Legislation**

The first weakness in law enforcement regarding the placement of illegal migrant workers lies in the substance or content of the legal norms themselves. Normatively, Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers (PPMI Law) actually prohibits individuals from placing migrant workers illegally. However, in practice, the definition of "illegal placement by individuals" has not been clearly and comprehensively explained.<sup>21</sup> This ambiguity raises the question of whether every unauthorized recruitment activity automatically falls under the category of a crime, or whether it is only classified as a crime if accompanied by additional elements such as exploitation, document falsification, or human smuggling. This lack of clarity in normative boundaries creates an overly broad scope for interpretation, resulting in law enforcement officers in the field often having differing perceptions when determining what constitutes a criminal offense. Consequently, legal certainty for both the public and stakeholders in the labor migration sector is weakened.

In addition, the problem of legal substance is also apparent in the overlapping regulations governing similar issues, such as Law Number 21 of 2007 concerning

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<sup>19</sup>Nurhayati, S. "Human Rights as Natural Rights and Their Implementation in the Indonesian Legal System." *IUS QUIA IUSTUM Law Journal*, Vol. 25, No. 3 (2018): 478–495.

<sup>20</sup>Lestari, E. "Human Trafficking and the Relevance of Human Rights Protection from a Pancasila Perspective." *Khaira Ummah Law Journal*, Unissula, Vol. 13, No. 1 (2018): 112–126.

<sup>21</sup>Lestari, T. "Problems of Migrant Worker Protection in the Perspective of Law No. 18 of 2017." *Khaira Ummah Law Journal*, Unissula, Vol. 13, No. 1 (2018): 115–128.

the Eradication of the Crime of Human Trafficking (TPPO), the Immigration Law, and the Criminal Code (KUHP).<sup>22</sup>This overlap creates dualism and even plurality of norms, leading to inconsistent sanctions. An action may be processed as an administrative violation under the Immigration Law, but on the other hand, it may be considered a criminal offense under the Human Trafficking Law or the Women's Empowerment and Migrant Workers' Empowerment Act. This regulatory inconsistency often places law enforcement officials in a dilemma and creates conflicts of authority between agencies, for example, the police, immigration, and the BP2MI.<sup>23</sup>This situation hinders the realization of effective coordinated law enforcement, as is required in handling crimes with a cross-sectoral character such as illegal migration.

In terms of sanctions, although the PPMI Law stipulates criminal penalties for individuals who engage in illegal placement, the reality is that its implementation has not been a deterrent. Many court decisions impose light sentences, and perpetrators are often only subject to administrative sanctions without imprisonment.<sup>24</sup>Such practices reduce the power of the law as a tool of social engineering, because sanctions that are not firm do not have the preventive power to prevent the repetition of similar crimes.<sup>25</sup>The suboptimality of these sanctions demonstrates the need for regulatory reconstruction that emphasizes harmonization of norms and strengthening the effectiveness of law enforcement so that protection for migrant workers can be effectively realized.

## 2) Weaknesses in Law Enforcement

From an institutional perspective, law enforcement regarding the placement of illegal migrant workers still faces serious challenges related to inter-agency coordination. In practice, the process of handling illegal migration cases involves various institutions with their respective authorities, such as the BP2MI (Indonesian Migrant Workers Protection Agency), the Ministry of Manpower, the Ministry of Foreign Affairs, the Indonesian National Police, the Attorney General's Office, the Ministry of Law and Human Rights (Directorate General of Immigration), and local governments. The complexity of these inter-institutional relationships requires alignment of work mechanisms and effective communication. However, to date, the handling of cases remains sectoral, resulting in slow responses and law enforcement.

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<sup>22</sup>Aprilianti, F. "Overlapping Regulation in Handling Human Trafficking in Indonesia." *Khaira Ummah Law Journal*, Unissula, Vol. 12, No. 2 (2017): 231–242.

<sup>23</sup>Azizah, N. "Inter-Agency Coordination in Preventing the Placement of Illegal Migrant Workers." *Humani Law Journal* (Unissula), Vol. 9, No. 2 (2021): 45–57.

<sup>24</sup>Widiarto, A. "The Effectiveness of Criminal Sanctions in the PPMI Law against Perpetrators of Illegal Placement." *IUS QUIA IUSTUM Law Journal*, Vol. 27, No. 3 (2020): 512–526.

<sup>25</sup>Arief, Barda Nawawi. *Anthology of Criminal Law Policy*. Jakarta: Kencana, 2012.

Prevention efforts should not only rely on surveillance at entry and exit points, but also through public education, advocacy, outreach, training, and strengthening the role of local governments down to the neighborhood (RT/RW) level as the vanguard of early detection. Immigration is not the sole institution responsible for the increasing number of undocumented migrant workers, so a collaborative approach is essential. Cooperation between the Ministry of Law and Human Rights (specifically Immigration) and the Indonesian Migrant Workers Association (BP2MI) has been implemented, one example of which is the government-facilitated policy of waiving passport fees for prospective Indonesian migrant workers (CPMI).<sup>26</sup> However, given the existence of the Ministry for the Protection of Indonesian Migrant Workers, this ministry should play a central role in the prevention, oversight, and early mitigation of non-procedural placement practices. Unfortunately, to date, no single institution has the sole authority to coordinate the entire law enforcement process in an integrated manner. This situation has led to overlapping authority, weak information flow, and delays in coordination in handling illegal migrant worker cases. This situation is further exacerbated by limited human resource capacity and budget availability in several law enforcement agencies. Investigations into illegal migrant worker placement cases often require cross-regional and even cross-national evidence. However, not all law enforcement agencies have the technical capabilities, facilities, or adequate resources to conduct comprehensive investigations, resulting in many cases stalling at the investigation stage and not progressing to prosecution.<sup>27</sup>

Without adequate support for victims, the judicial process will be very difficult to run effectively, so that perpetrators—both individuals and syndicates—often escape the law.

### 3) Weaknesses in Legal Culture (Legal Culture)

The following weaknesses lie in the legal culture, indicating normative and structural weaknesses. Cultural and socioeconomic factors are also at the root of the problem, weakening the effectiveness of regulations. Many prospective migrant workers continue to choose illegal routes due to difficult economic conditions in their regions of origin, limited job opportunities, and lengthy official placement procedures. Under these circumstances, the law becomes ineffective because it lacks adequate cultural and socioeconomic solutions.

In law enforcement practices in Indonesia, the legal culture that exists within society and within law enforcement officials has proven to be a significant obstacle to achieving regulatory effectiveness. For example, research published by Sultan Agung Islamic University (UNISSULA) revealed that "legal culture is the

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<sup>26</sup>Lestari, T. "Institutional Synergy in the Protection of Indonesian Migrant Workers." *Khaira Ummah Law Journal (Unissula)*, Vol. 14, No. 1 (2019): 122–134.

<sup>27</sup>Widiarto, A. "Obstacles to Investigating Human Trafficking Crimes in Indonesia." *IUS QUIA IUSTUM Journal*, Vol. 27, No. 3 (2020): 478–495.

atmosphere of social thought and social forces that determine how the law is used, avoided, or misused. Legal culture is closely related to society's legal awareness."<sup>28</sup> This statement illustrates how social values, norms, and customs that discourage respect for the law actually undermine normative compliance. A culture of brokering and informal networks also exacerbates the situation. In many regions, using the services of "private agents" or "trusted individuals" to find work abroad is considered commonplace. Communities are often unaware that such actions violate the law. As a result, law enforcement efforts frequently encounter social resistance. Furthermore, many victims are viewed as guilty for choosing illegal routes, making them reluctant to report or seek protection.

One of the most obvious weaknesses is the low level of legal awareness among communities in migrant worker-sending areas. Many residents still view non-procedural departure as a quicker and cheaper route than following official procedures. The pressing economic situation, coupled with a lack of legal literacy, makes some prospective migrant workers and their families more susceptible to the promises and persuasion of brokers. At this point, the law is not understood as an instrument of protection, but rather as a series of complicated procedures that can be circumvented or avoided. As a result, communities unknowingly play a role in reproducing illegal practices that harm them.

These complexities illustrate that legal culture issues are not merely technical obstacles, but rather structural challenges that impact the entire law enforcement process. Strengthening legal culture must be achieved through public education, community empowerment, increased integrity among officials, and the creation of a social environment that rejects illegal recruitment practices. Without changes in legal culture, efforts to prevent and prosecute illegal migrant workers will consistently face social resistance, minimal participation, and weak moral support from the community. Therefore, improving legal culture is an essential step towards realizing more humane, just, and sustainable protection for migrant workers.

### **3.3. Law Enforcement Regulations Regarding the Placement of Illegal Migrant Workers by Individuals Based on Legal Certainty**

Legal certainty certainly cannot be separated from law enforcement. Law enforcement is fundamental to ensuring legal certainty itself. It is hoped that law enforcement will provide legal certainty in accordance with the provisions stipulated in the law.

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<sup>28</sup> "The Implications of Legal Culture in Law Enforcement by Judges on Justice Perspective," *Journal of Legal Reform*, Faculty of Law, Sultan Agung Islamic University (UNISSULA), vol. 11, no. 1, pp. 1-20.

Law enforcement against the placement of illegal migrant workers by individuals is carried out through three main stages, namely preventive, repressive, and curative.

Normative legal certainty is when a statutory regulation is made and enacted with certainty, because it regulates clearly and logically, it will not give rise to doubts due to multiple interpretations so that it does not clash or give rise to normative conflicts.<sup>29</sup>

A concrete form of legal certainty is the implementation and enforcement of the law against an action, regardless of who committed it. With legal certainty, everyone can predict what will happen if they commit a legal act; certainty is essential for achieving justice. Certainty is an inseparable characteristic of law, especially written legal norms. Law without certainty loses its meaning because it cannot be used as a guide for behavior for everyone.

Article 23 Paragraph (3) of the Universal Declaration of Human Rights by the United Nations states that everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

This means that strengthening human rights is necessary in the regulatory framework itself to ensure legal certainty. Regulatory framework refers to the structure or structure of a legal system that regulates, monitors, and prosecutes violations of certain legal norms. The regulatory framework for law enforcement against the placement of illegal migrant workers by individuals is based on Law No. 18 of 2017, which stipulates an absolute prohibition on individuals placing migrant workers without permission. Enforcement is carried out through preventive, repressive, and institutional approaches, with the threat of severe criminal penalties and large fines for perpetrators. However, its effectiveness still requires cross-institutional synergy and increased public legal awareness. Based on the results of an interview with the Head of Unit III, Sub-Directorate IV, Directorate of General Crimes of the Riau Islands Regional Police, First Inspector Yanti Harefa, SH, MH<sup>30</sup>

As an effort to strengthen legal certainty through law enforcement, based on the interview results as a note, to improve these weaknesses, it is necessary to do the following: Harmonization of regulations between the PPMI, TPPO, and Immigration laws; Granting clear preventive authority to local governments and village officials; Strengthening digital monitoring systems and online public reporting; Legal campaigns and public education on the risks of illegal channels.

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<sup>29</sup>Cst Kansil, Dictionary of Legal Terms, Gramedia Pustaka, Jakarta, 2009, p. 385

<sup>30</sup>Interview with Head of Unit III Sub-Directorate IV of the Criminal Investigation Directorate of the Riau Islands Regional Police, on October 2, 2025, at 09:00 WIB at the Riau Islands Regional Police.

Certainty is a matter of certainty, so the law must be fundamentally certain and fair.<sup>31</sup> Legal certainty is a question that can only be answered normatively, not sociologically. Normative legal certainty occurs when a regulation is created and enacted with certainty because it regulates precisely and logically. The opposite of legal certainty is legal uncertainty, which can be found when enforcing a criminal provision that already has regulations but does not fulfill the three principles as conveyed by Gustav, namely the principle of legal certainty. Legal uncertainty will become a conflict of norms arising from the uncertainty of legislation can take the form of norm contestation, norm reduction, or norm distortion.

Without legal certainty, people don't know what to do, and uncertainty ultimately arises, which ultimately leads to chaos due to the lack of clarity in the legal system. Therefore, legal certainty refers to the clear, permanent, and consistent application of law, the implementation of which cannot be influenced by subjective circumstances. Legal certainty refers to the clear, precise, consistent, and consequential application of law, the implementation of which cannot be influenced by subjective circumstances. Law is a collection of rules or norms in a shared life, the entirety of rules regarding behavior that apply in a shared life, the implementation of which can be enforced with sanctions. Legal certainty also has a humanitarian dimension. Behind every rule, there is a human being who needs protection for their rights, dignity, and future. Therefore, legal certainty is not only an administrative tool, but also a manifestation of the state's respect for each of its citizens. When a person can rely on the law to protect themselves from exploitation, injustice, or arbitrary treatment, they feel the presence of the state as a real protector.

Laws enforced by law enforcement agencies tasked with this task must guarantee "legal certainty" to maintain order and justice in society. Legal uncertainty will create chaos in society, leading to people acting as they please and taking the law into their own hands. This situation leads to social disorganization.

#### **4. Conclusion**

This study confirms that law enforcement against the placement of illegal migrant workers by individuals still faces quite serious structural obstacles, both in terms of substance, institutions, and legal culture. At the substantive level, regulations governing the protection and placement of migrant workers, such as the PPMI Law, the Human Trafficking Law, and the Immigration Law, lack clarity regarding actions that constitute "illegal placement by individuals." This has led to differing interpretations among officials, ultimately weakening legal certainty and obscuring protection for migrant workers vulnerable to exploitation. From an institutional perspective, coordination between institutions such as BP2MI,

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<sup>31</sup>Amiruddin & Zainuddin, *Introduction to Legal Research Methods*, 2004, Raja Grafindo Persada, p. 24

Immigration, the Police, Regional Governments, and relevant ministries still occurs sectorally without an effective integrated mechanism. Therefore, case handling is often hampered by weak communication channels, limited integrated data, and the absence of a single authority to lead comprehensive law enforcement. Limited human resources, budgets, and minimal support for victims and the lack of assistance further reduce the effectiveness of the law enforcement process. Meanwhile, at the legal culture level, there is still low public awareness regarding the dangers of non-procedural migration and the perception that illegal routes are a quick alternative to work abroad. The legal culture of officials who are sometimes inconsistent in their actions and tend to impose light sanctions also weakens the function of law as a means of social engineering. By considering these various weaknesses, this study concludes that the protection of migrant workers can only be realized if comprehensive improvements are carried out through regulatory harmonization, institutional strengthening and cross-sector coordination, and increasing the capacity of law enforcement. These efforts also serve as a form of manifestation of the state in fulfilling the constitutional mandate to protect all Indonesian people and guarantee the fulfillment of the basic rights of every citizen, especially those who work abroad in vulnerable conditions.

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Wawancara terhadap Kani III Subdit IV Ditreskrimum Polda Kepri, pada tanggal 02 Oktober 2025, pada pukul 09:00 WIB di Polda Kepri.