Al'Adālah
Vol. 27, No. 2 (2024)
Journal of Islamic Studies
P-ISSN 1410-7406 | E-ISSN 2684-8368
Lembaga Penelitian dan Pengabdian kepada Masyarakat (LP2M)
Universitas Islam Negeri Kiai Haji Achmad Siddiq Jember, Indonesia
https://aladalah.uinkhas.ac.id

Breaking the glass ceiling for Indonesian migrant workers: Legal-political and maqasid al-shariah analysis of protection policies

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OPEN ACCESS

Received: October 10, 2024
Revised: December 24, 2024
Accepted: December 26, 2024

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Abstract

This research addresses the significance of protecting migrant workers through the lens of legal politics and maqasid al-shariah. Migrant workers, particularly women, face various structural challenges that create a "glass ceiling," limiting their access to rights and welfare. Addressing gaps in prior research that largely focus on regulatory frameworks, this study highlights the relevance of maqasid al-shariah as a holistic approach to labor migration policies. Through a normative qualitative analysis of Law No. 18 of 2017 on the Protection of Indonesian Migrant Workers and secondary data sources, this study demonstrates that the PPMI Law aligns with maqasid al-shariah by addressing legal, social, and economic protections. These protections correspond to *hifzh al-aql* (preservation of intellect), *hifzh an-nasl* (preservation of family), and *hifzh al-mal* (preservation of wealth). The findings affirm the law's dual objectives: securing workers' welfare and aligning national policies with Islamic jurisprudence. Theoretically, this research contributes to the integration of maqasid al-shariah and legal-political analysis, offering a nuanced perspective on migrant worker protection. Practically, it informs policy-makers on enhancing labor migration frameworks by aligning them with maqasid al-shariah. Future research should incorporate field data to evaluate the law's implementation and explore its comparative applicability across diverse sociopolitical contexts.

Keywords: Migrant worker protection, legal politics, maqasid al-shariah, human rights, labor rights.

Introduction

Migrant workers, despite playing a strategic role in economic growth in both their home and host countries, often face severe social barriers (Chowdhury et al., 2023; Mas'udah, 2020). Based on World Bank data, remittances from migrant workers to developing countries reached USD 436 billion in 2014, directly improving family welfare and strengthening the national economy (Lim & Basnet, 2017). In Indonesia, remittances from migrant workers in 2018 reached USD 10.97 billion, equivalent to 7% of the 2019 State Budget (Maulida et al., 2019). These remittances play a crucial role in supporting the welfare of migrant workers' families in their home countries and serve as a source of funds to boost the national economy (Alpaslan et al., 2021; Azam, 2015). However, behind this economic contribution, migrant workers, especially women, often face discrimination, exploitation, and human rights violations (Reza et al., 2019; Senjaya et al., 2023). Indonesian Migrant Workers Protection Board (BP2MI) released 764

To cite this article (APA Style 7th Edition): Baskoro, A. (2024). Breaking the glass ceiling for Indonesian migrant workers: A legal-political and maqasid al-shariah analysis of protection policies. *Al'Adalah: Journal of Islamic Studies, 27*(2), 143–165. https://doi.org/10.35719/aladalah.v27i2.528

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complaints from Indonesian migrant workers in the first semester of 2024 (Muhamad, 2024). Problems such as unpaid wages, physical and psychological violence, and minimal access to legal protection put them in a vulnerable position. These barriers are often exacerbated by low levels of education and cultural stereotypes that marginalize them (Maulida et al., 2019; Soetjiptio, 2017). This study seeks to uncover these barriers, known as the "glass ceiling," holistically through maqasid al-shariah and legal policies to ensure fairer and more inclusive protection for migrant workers.

Previous studies have addressed various aspects of Indonesian migrant workers' problems and their legal protection. First, studies on legal protection have focused on policies regulated by Law No. 18 of 2017 (Palmer, 2024; Salamun et al., 2024; Widodo & Belgradoputra, 2019). Second, studies have highlighted the legal politics and dynamics of migrant worker protection and the legislative advocacy movements for their protection (Eddyono et al., 2020). Third, studies have explored Islamic perspectives on migrant worker protection policies (Hakim & Havez, 2020; Imron et al., 2022). However, existing research still lacks an in-depth examination of the challenges in protecting migrant workers from the dual perspectives of legal politics and maqasid al-shariah.

This study aims to explore efforts to protect Indonesian migrant workers, which is a crucial issue examined from both legal and Islamic perspectives. Specifically, the study examines the legal politics behind the drafting process of Law No. 18 of 2017 on the Protection of Indonesian Migrant Workers (PPMI) and Islamic law through the framework of maqasid al-shariah. Using legal politics and maqasid al-shariah, projected to explore the barriers in efforts to protect Indonesian migrant workers and the complexity of the problems they experience, this study can contribute significantly to understanding efforts to protect migrant workers holistically.

Therefore, through the dual lenses of legal politics and maqasid al-shariah, this study aims to contribute to the growing body of research on the complexities of migrant worker protection. From a legal-political perspective, the study highlights challenges in the legal protection process, including the history and dynamics of Law No. 18 of 2017. From the maqasid al-shariah perspective, protecting migrant workers is viewed not only as a state obligation but also as a moral responsibility based on the principles of justice, protection of life, and human welfare as enshrined in Islamic values to provide a coherent framework and a bridge toward forming a more comprehensive and equitable protection system. This study analyzes the structural challenges faced by Indonesian migrant workers, the effectiveness of Law No. 18 of 2017 in overcoming them, the implementation of maqasid al-shariah to enhance their protection, and the challenges and solutions of maqasid al-shariah-based policies to these problems.

Literature Review

The "glass ceiling" concept refers to invisible barriers that prevent certain groups, particularly women and minorities, from advancing in their professional and social roles despite their qualifications (Kang et al., 2024). In the context of migrant workers,

this term underscores the structural and systemic obstacles impeding their access to legally guaranteed rights and protections (Eddyono et al., 2020). These barriers are not only legal but also social, manifesting in discrimination, limited access to justice, and poor working conditions (Elviandri & Shaleh, 2022). Such impediments affect migrant workers by restricting career opportunities, economic mobility, and their capacity to claim fundamental human rights (Eddyono et al., 2020). This term is applied in this study to describe the experiences of Indonesian migrant workers. The glass ceiling concept within migrant labor protection can be categorized into legal, socio-economic, and cultural barriers. Legal barriers encompass inadequate regulatory enforcement, lack of legal enforcement mechanisms, and insufficient labor laws (Eddyono et al., 2020). Socio-economic barriers include low wages, exclusion from social security, and limited bargaining power (Solechan et al., 2020). Culturally, stereotypes and biases toward migrant workers, especially in destination countries, contribute to their vulnerability (Soetjiptio, 2017).

Sen (2009) offers an idea of justice, a valuable framework for analyzing these systemic barriers. The idea emphasizes addressing tangible inequities and prioritizes practical outcomes (Sil, 2020). His theory focuses on the capabilities of individuals' substantive freedoms to achieve meaningful functioning, such as living without exploitation or participating meaningfully in social and economic spheres (Mehdi, 2019). Furthermore, it shifts the focus from distributive justice to evaluation: how resources potentially empower individuals to overcome structural barriers and realize their potential capabilities (Brown, 2010; Goswami & Sharma, 2022). Thus, by overcoming the structural barriers that limit their access to justice, policies can go beyond ensuring formal equality and constructing conditions that enhance workers' valued capabilities.

Legal politics refers to the policies and regulatory frameworks established by a state to govern political, economic, and social affairs. In the context of migrant workers, legal politics defines the state's role in creating protective mechanisms and negotiating international agreements to safeguard its citizens abroad (Soetjiptio, 2017). Indonesia's legal politics regarding migrant workers are shaped by various regulations, particularly Law No. 18 of 2017 on protecting Indonesian migrant workers (Hakim & Havez, 2020). The law aims to confirm the rights of Indonesian migrant workers abroad and define a framework for their protection, placement, and welfare. Legal protection for Indonesian migrant workers is a complex and multidimensional issue that attracts national and international attention (Anam et al., 2021; Palmer, 2024). The regulations on protecting Indonesian migrant workers are considered dynamic and have developed significantly over time (Mita et al., 2021). The regulatory evolution reflects the complexity of migration issues, which are constantly influenced by changes in social, economic, and political contexts in each regime (Istiqomah et al., 2023). The legal politics surrounding migrant workers can be analyzed through several key aspects: policy formulation, legal implementation, and international cooperation. Indonesia has made efforts to formulate policies to maximize this protection (Eddyono et al., 2020), such as the Memorandum

of Understanding (MoU) with Malaysia showing efforts to protect Indonesian migrant workers' rights.

The history of Indonesian labor migration dates back to the colonial period when Indonesia was under Dutch rule. During this time, Indonesian migrant workers were sent to various countries, including parts of Europe, Suriname (a Dutch colony), and North America (Eddyono et al., 2020; Westra et al., 2023). As demand for Indonesian labor increased in the early 20th century, specifically in 1909, the Dutch colonial government enacted the Netherlands Indian Labourer Protection Enactment (Westra et al., 2023). This law regulates the scheme and mechanism for licensing Indonesian migrant workers to go abroad and provides legal protection while they work abroad (Santoso, 2017). After independence, Indonesia's government policies toward migrant workers fluctuated significantly. During the Guided Democracy period under President Soekarno, the government's labor migration policy was relatively restrictive. The confrontation with Malaysia then led to a ban on Indonesian citizens working in Malaysia (Eddyono et al., 2020). Then, during the New Order under President Soeharto, labor migration was considered as an effort to encourage economic growth (Santoso, 2017). Labor migration was included in the five-year development plan (Repelita) as part of efforts to increase foreign exchange reserves (Eddyono et al., 2020; Santoso, 2017). This policy under President Joko Widodo's government was finally ratified through Law No. 18 of 2017 concerning the Protection of Indonesian Migrant Workers.

Maqasid al-shariah refers to the universal goals of Islamic law, which aim to promote human welfare by preserving the five main pillars (*kulliyat al-khams*): *hifdz al-din* (guaranteeing religious freedom), *al-nafs* (maintaining survival), *al-'aql* (guarantees creativity thinking), *al-nasl* (descent or lineage), and *al-mal* (ownership of property and wealth)—this is based on the thought of al-Ghazali (Fatimah, 2020; Irwan, 2021; Saputri et al., 2021). Al-Shatibi (2001) later expanded on this framework, categorizing it into three levels: *al-daruriyyat,* essential and absolute objectives; *al-hajiyyat,* supportive objectives facilitating the essential goals; and *al-tahsiniyyat*, ideal objectives for realizing the full benefits of Sharia in both worldly and spiritual contexts (Fatimah, 2020).

In the context of migrant workers, the application of maqasid al-shariah emphasizes justice, dignity, and welfare protection. Islamic principles advocate for fair wages, safe working conditions, and protection from exploitation. This framework is pertinent to this study as it provides an ethical dimension that complements positive law, highlighting how Islamic values can guide legal protections for Indonesian migrant workers abroad (Murti & Syah, 2021). The application of maqasid al-shariah in migrant worker protection can be divided into three main categories: dignity (respecting workers as human beings), economic justice (ensuring fair compensation), and legal protection (safeguarding life and property). Islamic law underscores the importance of protecting workers' rights, as reflected in the prohibition of exploitative labor practices in the Quran and Hadith (Anwar et al., 2021). Thus, maqasid al-shariah offers a normative foundation for improving Indonesia's legal politics by ensuring that workers' rights are safeguarded not only by state law but also by moral and religious principles.

Method

This study focuses on the protection of Indonesian migrant workers because it discusses the "glass ceiling" that prevents these migrant workers from accessing their rights and welfare. This topic is analyzed simultaneously with the complexity of the legal framework and the dual perspectives between legal politics and maqasid al-shariah. The normative qualitative research method is very relevant to explore this topic, as it allows for in-depth analysis of legal documents such as Law No. 18 of 2017 on the Protection of Indonesian Migrant Workers (UU PPMI), international conventions, and Islamic legal texts. By combining legal politics with the ethical considerations of maqasid al-shariah, this study provides a holistic view of the rights and protection of migrant workers from a legal and moral perspective.

The data for this study came from various sources, including legal documents, government reports, academic publications, and secondary data from NGOs. These sources were selected based on their relevance and credibility to ensure that only the most recent and comprehensive materials were included. Data collection methods included document analysis, focusing on legal texts, policy reports, and academic articles related to protecting migrant workers and maqasid al-shariah (Eddyono et al., 2020). This approach allowed for a comprehensive review of the existing legal framework and provided an in-depth understanding of the challenges experienced by migrant workers.

The data analysis in this study followed a thematic approach, identifying key themes such as legal deficiencies, worker exploitation, and the application of Islamic principles of justice and welfare. The analysis was organized around the core objectives of maqasid al-shariah, such as preserving life, intellect, and wealth, and comparing these ethical principles with the provisions of the PPMI Law (Hakim & Havez, 2020). The aim was to assess the extent to which this law is in line with Islamic values and identify potential areas for improvement, as well as provide recommendations that can be implemented for future legal reform and policy development (Sumarta et al., 2024).

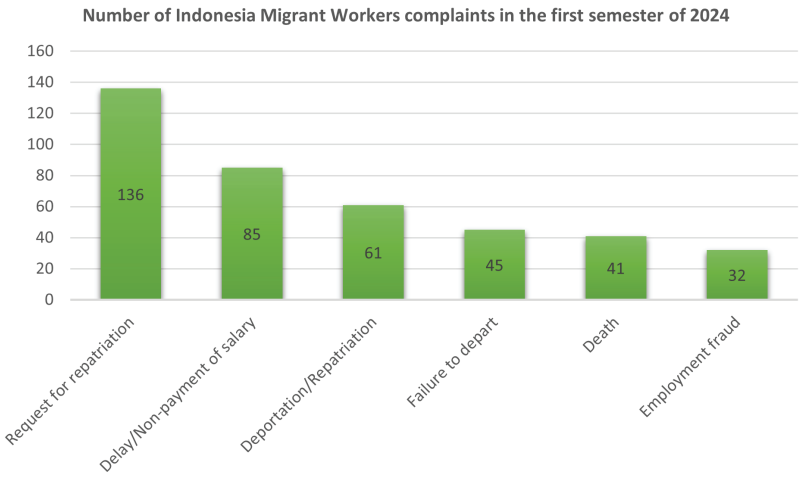
Results and Discussion

Structural Barriers to Indonesian Migrant Workers

Indonesian migrant workers, especially women, experience structural barriers that exacerbate their access to legal protection and welfare. These barriers include educational disparities, limited job opportunities, and gender inequality. Data shows that women dominate the domestic sector, which is poorly protected by law, making them vulnerable to exploitation and abuse. Indonesia, one of Southeast Asia's largest labor-exporting countries, exemplifies this phenomenon (Rother, 2017). Indonesian workers typically find employment in domestic work, construction, and manufacturing (Pholphirul, 2019). While Law No. 18 of 2017 protects migrant workers, its implementation is still obstructed by various structural challenges that prevent the full realization of female migrant workers' rights. According to the Indonesian Migrant Worker Protection

Agency (BP2MI), 764 complaints were filed by migrant workers in the first half of 2024 (Muhamad, 2024). The most frequent complaint was the request for repatriation, with 136 cases highlighting dissatisfaction with working conditions or employer treatment. Other significant issues included delayed or unpaid wages (85 cases), indicating ongoing exploitation. Thus, the data reported cases of deportation or repatriation (61 cases), failure to depart (45 cases), death (41 cases), and job fraud (32 cases). These cases reveal the vulnerabilities that Indonesian migrant workers face throughout the migration and employment process abroad (Table 1). These barriers create a "glass ceiling" that limits their access to the rights they should receive.

Table 1. ***Complaints of Indonesian Migrant Workers in the First Semester of 2024***



Source: Muhamad, 2024 on Katadata.co.id

Figure 1. ***Top 5 Countries for Indonesian Migrant Workers Placement (March 2024)***



Source: Center of the Indonesian Migrant Workers Protection Agency (BP2MI) 2024

Migrant workers play a vital role in Indonesia's economic development, primarily through remittances, which have become a significant source of national income (Afriska et al., 2018). Remittances represent the second-largest contribution to Indone-

sia's national budget after oil and gas. As one of Southeast Asia's largest labor-exporting countries, Indonesia has millions of migrant workers employed across various sectors worldwide (Artina, 2022) and spread across many countries (Figure 1). However, despite their economic contributions, migrant workers face numerous challenges, both domestically and abroad, impacting their welfare and protection (Safitri & Wibisono, 2023). Many Indonesian migrant workers, particularly in destinations like Malaysia, Saudi Arabia, Hongkong, and Taiwan, often find themselves in vulnerable conditions due to factors such as limited education, language barriers, and informal recruitment processes (Putri et al., 2022). Migrant Care, citing a 2016 World Bank study, indicates that most Indonesian migrant workers come from rural areas and possess relatively low educational levels. Approximately 72% of migrant workers come from villages, and 78% have not completed high school education (Maulida et al., 2019). The study further classifies Indonesian migrant workers into three main categories: domestic workers in the Middle East, migrant workers in developed countries, and male non-procedural migrant workers in Malaysia (Maulida et al., 2019).

Table 2. ***Migrant Workers by Origin, Gender, and Education Level***

Migrant Worker Group	Origin (%)		Gender (%)		Education Level (%)		
	City	Village	Male	Female	Elementary	Middle	High School
Domestic Migrant Workers in the Middle East	32	68	0	100	69	26	5
Migrant Workers in Developed Countries	34	66	26	74	28	39	33
Male Non-procedural Migrant Workers	18	82	100	0	57	25	19

Source: Migrant Care Report (Maulida et al., 2019)

The data shows (Table 2) that Indonesian migrant workers come from diverse backgrounds, but they share some common characteristics, such as relatively low levels of education and rural origins. The majority come from rural areas, indicating that migration is often a strategy for increasing household income in less developed regions. This trend may also suggest limited employment opportunities in their home regions, compelling communities to seek livelihoods abroad. Additionally, lower education levels influence the types of employment available to migrant workers, with those possessing higher education levels tending to secure better jobs and enjoy stronger legal protections. This disparity affects the nature of the jobs they obtain and their vulnerability to exploitation and rights violations. It underscores the intersectionality of origin, gender, and education in perpetuating structural inequalities among Indonesian migrant workers. By contextualizing these trends within broader socio-economic and cultural frameworks, a deeper understanding of the systemic barriers can emerge (Table 3).

Table 3. ***The Intersectionality of Socio-Economic and Cultural Factors***

Key Factors	Description	Implications for Migrant Workers
Rural Origins	Limited access to education and employment opportunities in home regions	Forces migration under vulnerable conditions; reliance on low-skilled labor markets
Education Levels	Predominantly low levels of education (elementary/middle school)	Restricts access to skilled jobs; increases susceptibility to exploitation
Gender Inequality	Overrepresentation of women in informal domestic work; cultural stereotypes	Limits upward mobility; exposes female workers to abuse and inadequate legal protections

Structural inequalities deeply entrench the "glass ceiling" for migrant workers, perpetuating systemic barriers that limit their access to equitable opportunities and protections (Südüpak & Şentürk, 2024). Indonesian migrant workers (Table 2) predominantly originate from rural areas (68% for domestic workers in the Middle East and 66% for those in developed countries), highlighting migration as a response to economic marginalization in underdeveloped regions. Rural communities often lack access to quality education, vocational training, and stable job opportunities, forcing individuals to seek employment abroad under conditions that frequently expose them to exploitation and abuse (Latham-Sprinkle et al., 2019). The correlation between education levels and employment opportunities further emphasizes structural disparities. Migrant workers with elementary or middle school education dominate low-skilled labor markets (e.g., 69% and 26% for domestic workers in the Middle East), where protections and rights enforcement are weaker. Conversely, those with high school education (33% for workers in developed countries) are better positioned to access skilled jobs that offer greater legal safeguards and upward mobility (Boucher, 2023). This educational divide underscores how systemic inequalities shape not only the types of jobs available to migrant workers but also their vulnerability to workplace discrimination and violations of fundamental rights (Mantouvalou, 2023).

Gendered dimensions also reinforce the glass ceiling, with women disproportionately represented in domestic migrant labor (100% of workers in the Middle East). These roles, often undervalued and informal, subject female workers to heightened risks of exploitation, wage theft, and physical abuse, compounded by cultural stereotypes and inadequate legal protections (Boucher, 2023). Similarly, male non-procedural migrant workers (100% male, with 82% from rural areas) face precarious conditions, often bypassing formal systems and further limiting their access to legal recourse and social security benefits (Tan, 2024). The interplay of socio-cultural and systemic factors reveals that the glass ceiling is not merely a barrier to advancement but a manifestation of structural injustice. Sen's capabilities approach offers a critical lens for understanding these inequalities, advocating for the expansion of freedoms and opportunities that allow individuals to achieve valued outcomes (Sen, 2009). Structural reforms aimed at enhancing education access, strengthening social protection systems, and addressing

gender biases are essential to dismantling these systemic barriers and fostering equitable conditions for migrant workers (Goswami & Sharma, 2022).

Protection of Indonesian migrant workers has a long history; since the colonial era, Indonesian migrant workers have been part of the workforce exported to various countries, especially Europe and North America, under Dutch colonial policies (Santoso, 2017)—evidently, Javanese descendants who now live in Suriname (Artina, 2022). At that time, legal protection for migrant workers was very minimal, with many experiencing exploitation and inhumane working conditions (Santoso, 2017). This trend continued after independence, with government policies on labor migration influenced by domestic political and economic contexts. During the Sukarno era, labor migration was restricted, while during the New Order era, labor migration was considered a significant source of foreign income (Eddyono et al., 2020). Protection for Indonesian migrant workers has changed significantly, with increasing attention to their rights. One important milestone was the birth of Law No. 18 of 2017 concerning the Protection of Indonesian Migrant Workers (PPMI), replacing Law No. 39 of 2004 concerning the Placement and Protection of Indonesian Migrant Workers Abroad (PPTKILN Law) (Hakim & Havez, 2020). Although it aims to protect the rights of migrant workers, the PPTKILN law faces various challenges (Probosiwi, 2015; Ma'arif, 2015), including weaknesses in its implementation that increase their vulnerability to exploitation in the destination country (Aswindo & Ras, 2020). To that end, the Indonesian Government ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, which ultimately resulted in the PPMI Law 2017 (Erou, 2020).

The development of migrant worker regulations can be categorized into two main groups: general and specific regulations. General regulations implicitly address migrant worker protections across various provisions, while specific regulations pertain explicitly to migrant workers (Table 4).

Table 4. ***Indonesian Migrant Workers Law Group***

General	Special
Law No. 11 of 2005 on the Ratification of the International Convention on Economic, Social and Cultural Rights	Law No. 34 of 2004 on the Placement and Protection of Migrant Workers Abroad
Law No. 12 of 2005 on the Ratification of the International Convention on Civil and Political Rights	
Law No. 21 of 2007 on the Crime of Trafficking in Persons	Law No. 6 of 2012 on the Ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families-Migrant Workers Convention.
Law No. 6 of 2011 on Immigration	Law No. 18 of 2017 on the Protection of Indonesian Migrant Workers.

Source: Eddyono et al. (2020)

Breaking the Glass Ceiling for Indonesian Migrant Workers Protections: Maqasid al-Shariah and Legal Political Perspective

The formulation of Law No. 18 of 2017 on the Protection of Indonesian Migrant Workers (PPMI Law) cannot be separated from the dynamic political context in which it was developed. The legislative process for this law involved various political actors with diverse interests, including the government, legislature, civil society organizations, and non-governmental organizations (NGOs) (Eddyono et al., 2020). Experts such as Mahfud (2020) describe this as a manifestation of Indonesia's political and legal contestation. The dialectical relationship between law and politics is a classic issue in legal studies, as each influences and shapes the other within the dynamics of governance and societal regulation. Furthermore, political law, as Mahfud (2020) explains, is the state's effort to formulate legal policies aligned with national objectives.

In the context of the PPMI Law, political law reflects an agenda to improve migrant worker protections, addressing both public demands and evolving international standards for migrant worker rights. For example, Indonesia's ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families in 2012, through Law No. 6 of 2012, marked a significant step in reforming migrant worker protections (Istiqomah et al., 2023). This political and legal process also highlights an interaction between political interests and the role of law as an instrument for achieving specific objectives (Mahfud, 2020). On the one hand, PPMI Law aims to serve as a legal tool to protect migrant workers' rights; on the other, the political dynamics involving various interests, such as political parties and labor agents, have also shaped its substance.

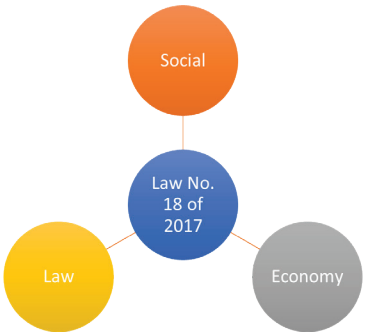
The substance of PPMI Law was significantly influenced by political negotiations, especially amid divergent viewpoints among political groups and other stakeholders involved (Eddyono et al., 2020). For instance, there was pressure from NGOs and civil society organizations, like Migrant Care, which actively advocated for the law to emphasize protection and justice for migrant workers rather than prioritizing economic interests or labor agency concerns (Eddyono et al., 2020). Migrant Care, as one of the leading civil society organizations, played a vital role in ensuring that migrant workers' interests remained central to the policy formulation. Their advocacy included engaging policymakers through public hearings and promoting transparency and accountability in drafting the PPMI Law (Eddyono et al., 2020). They argued that migrant workers should be recognized as legal subjects with clear rights rather than mere economic commodities.

The success of civil society groups was also bolstered by collaboration with government entities. In particular, the Ministry of Foreign Affairs aimed to enhance migrant worker protections as part of Indonesia's commitment to human rights and the welfare of overseas Indonesian workers. This collaborative effort included partnerships with other institutions, such as the National Commission on Human Rights (Komnas HAM) and the Women's Commission, to increase pressure on the legislative body, the DPR,

which would ultimately ratify the draft of the PPMI Law. Historically, progress on PPMI Law had often been stymied by recurring debates and delays.

Rahardjo (2000) emphasized that law does not exist in isolation but is closely related to social, political, and economic dynamics. This interdependence among law and other sectors of life requires law to remain adaptive to changing times and social dynamics. One implication of this interdependence is that law must adjust to the goals society seeks to achieve (Rahardjo, 2000). Law is not static but is instead dynamic and continually evolving to align with the values, aspirations, and needs of society. Political law plays a central role in this dynamic (Ella, 2019). This is relevant to the formation of PPMI Law, where the interplay between political actors and significant economic interests, such as the contribution of remittances to the national economy, has influenced the policy direction and substance of the law (Indrayati, 2021). Mahfud (2020) also identifies several indicators that can be used to analyze the characteristics of legal products, including: responsive law. Law produced in response to the demands and social dynamics at play that tends to be flexible and adaptive to changing times, and orthodox law, more static and maintains the status quo. This type of law is generally conservative and less adaptable to change. In the case of PPMI Law, the law reflects an effort to respond to the challenges faced by migrant workers in the globalization era. The replacement of Law No. 39 of 2004 on the Placement and Protection of Indonesian Workers Overseas with PPMI Law represents a state effort to create a more responsive legal framework to address issues encountered by migrant workers, including exploitation, human trafficking, and violence. Consequently, PPMI Law also aligns with the concept of ius constituendum, reflecting a legal orientation that continuously aspires toward the future, seeking to establish ideal laws tailored to society's needs (Ella, 2019; Warassih, 2018).

Figure 2. ***Aspects of Protection in the Law No. 18 of 2017***



Viewed as a whole, PPMI Law comprehensively addresses various aspects of protection for migrant workers, from the pre-departure phase, work implementation, to post-employment. The scope of protections regulated in PPMI Law encompasses not only legal aspects but also social and economic ones. Firstly, legal protection is provided under Article 31 of PPMI Law, which stipulates that: there must be laws and regulations that safeguard foreign workers; a written agreement must exist between the placement coun-

try's government and the government of Indonesia; and a social security system and/or insurance that offers protection to foreign workers is required. Secondly, social protection is explicitly outlined in Article 34 of PPMI Law, which includes: enhancing the quality of education and vocational training through standardizing competency-based training; strengthening the role of accreditation and certification bodies; providing competent educators and trainers; promoting social reintegration by offering skill improvement services to both migrant workers and their families; policies focused on protecting women and children; and establishing migrant worker protection centers in destination countries. Thirdly, PPMI Law addresses economic protections for prospective and current migrant workers in Article 35: management of remittances through cooperation with domestic banks or non-bank financial institutions and institutions in destination countries; financial literacy education for migrant workers and their families; and entrepreneurial training.

Sen's capability approach provides a valuable framework to critically analyze the legal, social, and economic protections outlined in Articles 31, 34, and 35 of the PPMI Law. Sen's theory shifts the focus from formal provisions of rights and resources to the actual freedoms and opportunities individuals have to achieve valued functions, emphasizing the substantive impact of laws and policies in enhancing human well-being (Sen, 2009; Askari et al., 2020).

1. Legal Protection

The legal protections stipulated in Article 31, including safeguarding foreign workers, ensuring bilateral agreements, and mandating social security systems, are foundational measures aimed at reducing vulnerabilities faced by Indonesian migrant workers. The regulation ensures that both foreign workers in Indonesia and Indonesian migrant workers abroad are safeguarded by a robust legal framework, aligning with maqasid al-shariah principles, particularly in preserving life (*hifz an-nafs*) and wealth (*hifz al-mal*) (Auda, 2022). Bilateral written agreements between Indonesia and destination countries clearly define the rights and obligations of all parties involved, emphasizing justice (*hifz al-'adl*) as a cornerstone for balanced worker protection (Erou, 2020; Sumarta et al., 2024). Within Sen's framework, these measures can be seen as enabling conditions that enhance workers' capabilities to achieve economic security and dignity (Brown, 2010). However, a critical evaluation reveals that the mere existence of these legal provisions does not automatically translate into effective protection. Sen's emphasis on real-life outcomes suggests the need to assess whether these laws are adequately enforced and whether they genuinely expand migrant workers' ability to live a life free from exploitation (Sil, 2020). Furthermore, social security and insurance systems protect workers against risks such as occupational accidents, illness, or disability, reinforcing the maqasid al-shariah objectives of safeguarding lives and wealth (Sumarta et al., 2024). These provisions reflect the Indonesian government's commitment to protecting its citizens through comprehensive legal, social, and international cooperation mechanisms.

2. Social Protection

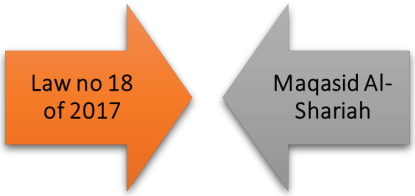
The social protections under Article 34 aim to improve the quality of life for migrant workers and their families through education, vocational training, social reintegration, and targeted support for vulnerable groups like women and children. Standardizing vocational training competencies and increasing the roles of accreditation and certification institutions are strategic steps to improve migrant workers' competitiveness and skills, ensuring their employability and fair earnings (Eddyono et al., 2020). From a maqasid al-shariah perspective, education enhancement aligns with the objectives of preserving intellect (*hifz al-ʿaql*) and wealth, as quality education leads to improved economic well-being (Anwar et al., 2021). Additionally, social reintegration programs aim to upgrade the skills of migrant workers and their families to ensure a triumphant return to society, providing long-term protection and fostering productivity post-employment abroad. It also aligns with maqasid al-shariah's objectives of social stability and family continuity (*hifz al-nasl*) (Fatimah, 2020; Sumarta et al., 2024). Sen's capability approach underscores the importance of these measures in expanding the substantive freedoms of individuals to participate in society meaningfully (D'Amodio, 2020). For example, enhancing vocational training and accreditation empowers workers with the skills and qualifications necessary to access better employment opportunities, thereby increasing their agency and economic mobility. However, Sen's framework also highlights the significance of participatory public reasoning in shaping these protections. Ensuring that migrant workers and their families have a voice in policy design can lead to interventions that are more attuned to their specific needs and contexts (Sil, 2020). Furthermore, the PPMI Law outlines protection policies for women and children, addressing their vulnerability to exploitation and discrimination, which supports maqasid al-shariah's goal to uphold dignity (*hifz al-ʿird*) and ensure the welfare of vulnerable groups in society (Fatimah, 2020).

3. Economic Protection

The economic protections in Article 35, including remittance management, financial literacy education, and entrepreneurial training, align closely with Sen's concept of enhancing capabilities (Duran, 2024). These provisions aim to enable migrant workers to utilize their earnings effectively and achieve economic stability for themselves and their families. Remittance management, achieved through collaboration with domestic financial institutions and those in destination countries, ensures secure and efficient handling of remittances, thereby protecting migrant workers from financial loss risks associated with unsafe transfers (Auda, 2022). This practice reflects the maqasid al-shariah principle of wealth preservation (*hifz al-mal*), aiming to safeguard earnings for the well-being of migrant workers and their families (Irwan, 2021). Nevertheless, Sen's theory prompts a deeper inquiry into the inclusivity and accessibility of these measures (Hart, 2019). Additionally, financial and entrepreneurial education equips migrant workers and their families with the skills to manage income effectively and establish sustainable businesses, further supporting the maqasid al-shariah principles of wealth preser-

vation and welfare by fostering financial independence within society (Alziyadat & Ahmed, 2019; Auda, 2022) thereby expanding their real freedoms (Kumar et al., 2023).

Figure 3. ***Meeting point of Law No. 18 of 2017 with Maqasid al-shariah***



Comparatively, the protection of migrant workers in Indonesia, Malaysia, and Saudi Arabia illustrates distinct approaches shaped by their respective legal systems, socio-economic priorities, and cultural contexts. Indonesia's PPMI Law provides a holistic framework, encompassing legal safeguards through bilateral agreements, mandatory social security systems, and robust mechanisms for social reintegration and vocational training. However, implementation challenges persist in ensuring these protections translate effectively in practice. Malaysia, on the other hand, has focused on revising outdated labor laws to align with ILO standards, such as amending the Workers' Minimum Standard of Housing and Amenities Act (1990) and the Employees' Social Security Act (1969) (Low, 2021). These reforms have significantly enhanced statutory protections for migrant workers, though economic measures like financial literacy and remittance facilitation remain underdeveloped (Low, 2021). Saudi Arabia has introduced notable reforms to its Kafala system in 2021, allowing greater labor mobility and autonomy for migrant workers (Robinson, 2022). Despite these changes, the sponsorship system continues to grant employers extensive control, leaving workers vulnerable to exploitation and limited access to social and economic protections (Damir-Geilsdorf & Pelican, 2019). To provide a clearer comparison, the key dimensions of migrant worker protection in these countries are summarized in Table 5.

Table 5. ***Comparison of Protection of Migrant Workers in Indonesia, Malaysia, and Saudi Arabia***

Dimension	Indonesia	Malaysia	Saudi Arabia
Legal Protections	Bilateral agreements, mandatory social security, and regulatory safeguards under the PPMI Law	ILO-aligned reforms to labor laws; increased employer accountability and equal statutory protection	Limited reforms to the Kafala system; employers retain significant control over workers' immigration and employment
Social Protections	Vocational training, social reintegration, and support for vulnerable groups	Improvements in housing and workplace safety; still limited institutionalized welfare benefits	Weak social protections under the Kafala system; reforms insufficient to ensure access to justice and welfare
Economic Protections	Financial literacy, remittance management, and entrepreneurial training	Limited economic protections; few measures for financial inclusion	Limited to labor market reforms; no structured programs for economic empowerment

The concept of maqasid al-shariah has become a vital framework for understanding and interpreting Islamic law (Kartika & Noor, 2014). This concept emphasizes the overarching goals of Sharia, transcending the partial legal texts (Wahyuding & Hasan, 2021). In the context of legal protections, especially for the protection of Indonesian migrant workers as outlined in Law No. 18 of 2017, maqasid al-shariah provides a comprehensive and relevant framework. One of the main foundations in Islamic teachings, particularly in maqasid al-shariah, is the principle of preserving individual dignity (Alziyadat & Ahmed, 2019).

Furthermore, Jasser Auda introduced a maqasid approach that stresses the universal objectives of Islamic Sharia, moving beyond textual interpretations (Solikin, 2012). This perspective provides a holistic view of Sharia's application by emphasizing principles of justice, balance, and societal welfare (Alias et al., 2024). Thus, Islamic law is seen as an integrated, goal-oriented system rather than a mere collection of standalone rules (Alias et al., 2024). This approach allows for flexibility in applying Islamic law according to the time and place, creating room for creative and relevant *ijtihad* in facing contemporary challenges (Luqman, 2022). A core feature of Jasser Auda's maqasid approach is its multidisciplinary, holistic, goal-oriented, and contextual nature (Luqman, 2022). This approach combines various disciplines such as *usul al-fiqh*, exegesis, philosophy, and systems theory, resulting in a more comprehensive understanding of Islamic law (Murti & Syah, 2021). Additionally, the strength of this approach lies in its capacity to bridge differences across Islamic schools of thought, creating space for ijtihad and producing laws relevant to contemporary challenges (Sumarta et al., 2024). Thereby fostering unity within the Muslim community (Ibrahim, 2014).

Protection for migrant workers under Law No. 18 of 2017 on the Protection of Indonesian Migrant Workers (PPMI Law) is a crucial endeavor to ensure that migrant workers' rights are holistically protected—legally, socially, and economically. Analyzing the articles in the PPMI Law reveals a comprehensive approach that aligns with the principles of maqasid al-shari'ah, namely protecting life, property, and individual dignity within an Islamic legal context. This alignment is illustrated in the following figure, showing the intersection between migrant worker protection under the PPMI Law and the objectives of maqasid al-shariah.

The implementation of maqasid al-shariah principles in labor policy faces significant challenges, despite its potential to advance the protection of Indonesian migrant workers. Recent discussions between labor unions, such as the Indonesian Migrant Workers Union (SBMI), and the House of Representatives (DPR) highlight efforts to ensure that the Protection of Indonesian Migrant Workers Law (UU PPMI) is effectively enforced (SBMI, 2024). These discussions emphasize the constitutional mandate under Article 27 of the 1945 Constitution, which guarantees every citizen the right to work and a decent living. However, SBMI and organizations like Migrant Care have identified critical obstacles impeding the law's implementation.

Key challenges include the lack of an integrated system to manage migrant worker data, which creates inefficiencies in monitoring and protecting workers (Maturrahmah

& Hamzah, 2023). Additionally, the limited effectiveness of Integrated Service Centers for Employment (LTSA) undermines the accessibility and responsiveness of services intended to support workers (SBMI, 2024). These shortcomings are compounded by insufficient regional budget allocations for vocational education and training, which hinders efforts to enhance the skills and employability of prospective migrant workers. Furthermore, Indonesia's failure to ratify key International Labour Organization (ILO) conventions, such as Conventions 188 and 189 on domestic workers' protection, reflects a gap in aligning domestic labor policies with international standards. Institutional ego-sectoralism, characterized by poor inter-agency coordination, further exacerbates these challenges, obstructing the cohesive implementation of the law (SBMI, 2024).

Migrant Care has also reported persistent systemic weaknesses, including inadequate dissemination of the PPMI Law's provisions at the regional level. Many regions either lack updated regulations aligned with the law or continue to operate under outdated frameworks (Wardah, 2021). The ineffectiveness of one-stop service centers is another significant barrier, as these centers often fail to provide gender-responsive services and remain susceptible to the influence of intermediaries (commonly referred to as *calo*). These intermediaries exploit gaps in the system to misinform and financially exploit migrant workers, undermining the protections the law seeks to provide (Wardah, 2021).

From the perspective of maqasid al-shariah, these challenges hinder the fulfillment of key objectives, such as the preservation of life (*hifz an-nafs*), wealth (*hifz al-mal*), and dignity (*hifz al-'ird*). For instance, the absence of a robust data integration system and ineffective service delivery compromise the protection of workers from exploitation and human rights violations. Similarly, the lack of vocational training resources and financial education impedes the preservation of wealth and limits workers' potential for economic independence. Gender-insensitive services further fail to uphold the dignity and rights of vulnerable groups, such as women migrant workers, aligning poorly with the maqasid al-shariah goal of protecting social equity and justice.

To address these challenges, the study suggests actionable steps rooted in maqasid al-shariah principles. First, developing a centralized, gender-responsive digital platform to integrate migrant worker data across regions and agencies can enhance monitoring and service delivery. Second, strengthening the capacity and accountability of LTSAs through increased budget allocations and standardized operational protocols can improve service responsiveness and accessibility. Third, ratifying relevant ILO conventions would signal Indonesia's commitment to aligning its policies with international labor standards, thereby bolstering the maqasid al-shariah objective of protecting workers' dignity and rights. Finally, inter-agency coordination can be enhanced through the establishment of a multi-stakeholder task force to oversee the implementation of the PPMI Law, ensuring that systemic inefficiencies and exploitation by intermediaries are effectively addressed. These measures not only align with maqasid al-shariah objectives but also provide practical pathways for improving the protection and welfare of Indonesian migrant workers.

Conclusion

This study reveals important findings that the protection of migrant workers in Indonesia faces structural and legal barriers, known as the "glass ceiling," even though there are regulations governing their protection. This study found that there are legal, cultural, and socio-economic issues that need serious attention in fulfilling the rights of migrant workers adequately. Ineffective law enforcement, migrant workers do not receive the legal protection they deserve. They are also often trapped in unfavorable working conditions such as low wages, no access to social security, and their vulnerable bargaining position in the world of work, such as being dependent on employers or employment agencies. In addition, stereotypes and cultural biases against them, especially female migrant workers working in the domestic sector, increase the potential for exploitation, wage reduction, and physical or psychological violence. These significant barriers hinder migrant workers' social and economic mobility and the achievement of their human rights.

This study makes an important contribution to combining the perspective of positive law in protecting Indonesian migrant workers, such as Law No. 18 of 2017, with Islamic legal values that refer to the principles of maqasid al-shariah. This study confirms that the law aligns with the principles of maqasid al-shariah, which regulate the legal, social, and economic aspects of labor protection. Legal provisions in the law, such as Articles 31, 34, and 35, reflect Indonesia's comprehensive approach to protecting migrant workers' rights their welfare, including education, vocational training, and access to social guarantees. This dual alignment with the objectives of maqasid al-shariah and national legal policies includes the government's commitment to meeting economic needs and protecting human rights. Furthermore, the law is an example of an adaptive legal-political response to the globalization of labor, which balances national interests with international obligations. By integrating political law studies and Islamic perspectives, this study enriches the understanding of how legal policies and Islamic values can complement each other in ensuring the welfare of migrant workers. This contribution is important for the development of policies that are more pro-migrant worker protection and provide a basis for legal reform and law enforcement that prioritizes justice and social welfare, especially for vulnerable migrant workers.

Although this study provides broad insights into protecting migrant workers, several limitations can be further studied. One of them is the limited empirical data that measures the direct impact of existing protection policies on the conditions of migrant workers. Therefore, further research can dig deeper into the practical implementation of the maqasid al-shariah laws and principles in the field and explore the role of non-governmental institutions in supporting migrant workers. Further research can explore the potential for more holistic, evidence-based legal reform in Indonesia by setting fair and sustainable labor migration governance benchmarks.

Statement of Interest

The author has no conflicts of interest.

Funding

This research received no specific grant from any funding agency in the public, commercial, or not-for-profit sectors.

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