Indonesian migrant workers in the framework of legal protection and business existence

Maulana Ibrahim[1]*, **Reja Dalimunthe[2]**, **Poppy Wulandari[3]**

[1]Department of Business Law, Universitas Negeri Medan, Jl. Willem Iskandar Pasar V, Medan Estate, Medan, North Sumatra 20221, Indonesia
[2]Department of Management in Public Administration, Philippine Christian University, 1648 Taft Avenue, Malate, Manila, 1004 Metro Manila, Philippines
[3]Department of Business Administration, Politeknik Negeri Medan, Jl. Almamater No.1, Padang Bulan, Medan Baru, Medan, North Sumatra 20155, Indonesia
e-mail: maulanaibrahim@unimed.ac.id

ABSTRACT

This study discusses legal protection for Indonesian migrant workers in the dynamics of the diaspora and public policy challenges. Indonesian Migrant Workers play an important role as contributors to the country's foreign exchange, but still face various problems such as human rights violations, violence, exploitation, and weak legal protection in the destination country. This study uses a descriptive qualitative approach with a juridical-sociological method through in-depth interviews and participatory observation of Indonesian migrant workers and secondary data analysis from official government documents and international reports. The results of the study show a significant gap between the protection policies that have been set by the government and the reality of their implementation in the field. The main problems include the rampant non-procedural placement by illegal agents, low digital literacy of Indonesian migrant workers regarding the government's online reporting system, and limited coordination between related institutions. This study highlights the importance of cross-sector collaboration, both state and private, and the use of information technology to strengthen complaint mechanisms and the supervision of migrant worker placement in a transparent and accountable manner.

Keywords: Indonesian Migrant Workers, Diaspora, Human Rights, Protection, Illegal Agents.

1. INTRODUCTION

Indonesian migrant workers play a central role in contributing to the country's foreign exchange earnings. The growing interest among Indonesians in becoming migrant workers is driven not only by limited employment opportunities within the country but also by the existence of a structured labor export business. Migrant workers are viewed not merely as individuals seeking employment but also as commodities within the labor placement service industry ecosystem. This phenomenon places migrant workers in a dual position: as legal subjects entitled to protection and simultaneously as objects within the value chain of the labor deployment industry. Without preventive measures by the state, the presence of illegal agencies and opaque business practices creates opportunities for exploitation, ultimately leading to human rights violations and weakened legal protections.

The state bears a constitutional obligation to protect all its citizens, including those residing abroad. This obligation is reflected in public policies and services that guarantee citizens' fundamental rights (Hermansson et al., 2022). In practice, however, many Indonesian migrant workers face violence, rights violations, and exploitation in destination countries (Rahayu et al., 2024), particularly those employed in the informal sector with minimal regulatory oversight. Conflicting interests between sending and receiving countries also influence the dynamics of legal protection. On one hand, destination countries enforce their legal sovereignty, while on the other hand, Indonesia, as the country of origin, is obligated to protect its citizens overseas. This creates complex cross-jurisdictional legal challenges that require collaboration, diplomacy, and policy harmonization.

Studies on migrant workers are often associated with the concept of diaspora in international legal studies (Laçin, 2019; Bhandari, 2021). Indonesian migrant workers, as part of a constructive diaspora (Baser & Swain, 2009), contribute not only to the national economy through remittances but also to social and economic diplomacy between Indonesia and host countries. Nevertheless, their status as a diaspora entangled in complex legal and business relationships makes legal protection a central issue requiring a multidimensional approach. The vulnerability of migrant workers is evident in the range of complaints received, including abuse by employers, placement fees exceeding regulatory limits, and unpaid wages (Utami, 2024). Countries such as Saudi Arabia, Malaysia, and Hong Kong report the highest number of such cases (Arisman & Jaya, 2020). Although migrant workers retain their Indonesian citizenship, the implementation of their legal protection is highly influenced by the legal systems of host countries (Hartono & Samsuria, 2021).

On the other hand, international legal studies indicate the absence of a universally accepted standard for migrant worker protection. Initial efforts, such as the 1956 report by the International Law Commission (S. McDougal et al., 1976), reflected the desire of developed countries for universal protection standards for their citizens abroad. However, developing countries like Indonesia often face significant limitations in meeting these standards. Indonesia's commitment to migrant worker protection is embodied in regulations such as the Ministry of Foreign Affairs Regulation No. 5 of 2018 on the Protection of Indonesian Citizens Abroad. This regulation emphasizes interministerial coordination and the involvement of overseas diplomatic missions. Nevertheless, its effectiveness remains low, as evidenced by the increasing number of unresolved complaints, largely due to an inadequate public reporting system.

Research by Suyanto et al. (2020) and Sim and Wee (2013) also reveals that many Indonesian migrant workers are employed without proper legal procedures or possess inadequate skills for overseas employment. The low competency levels and the involvement of illegal agencies in the labor placement business present major challenges that must be addressed from both legal and business perspectives. The role of the business sector in migrant worker protection becomes both important and strategic. The labor placement industry, both formal and informal, is an integral part of the international labor migration ecosystem. However, if not tightly regulated and transparently managed, this sector may become a significant source of vulnerability. Therefore, legal protection mechanisms must be complemented by a business governance model that is accountable and grounded in human rights principles.

This study aims to explore the legal protection mechanisms for Indonesian migrant workers in greater depth by integrating business perspectives into the protection framework. It also seeks to highlight how the involvement of the business sector can be aligned with worker protection through more structured public policies, such as stringent licensing systems, transparent digital reporting, and private sector engagement in training and monitoring. The novelty of this research lies in its interdisciplinary approach, combining legal and business dimensions to formulate more comprehensive and sustainable protection strategies. Thus, the findings of this study are expected to contribute theoretically to the development of international migrant worker protection studies and serve as a practical reference for policymakers and business actors in creating a fair, safe, and productive labor migration ecosystem.

2. METHOD

This study employs a descriptive qualitative research design using a juridico-sociological approach. This approach is applied to understand the phenomenon of legal protection for Indonesian migrant workers through a dual lens: the normative analysis of existing laws and regulations, and an examination of the empirical conditions experienced by migrant workers in destination countries (Sánchez Busso, 2023). Within the sociological framework, the labor market theory is utilized to interpret the social dynamics affecting migrant workers and their legal protection. Labor market theory is employed to understand how the dynamics of labor supply and demand in destination countries contribute to the vulnerability of migrant workers to exploitation and rights violations (Drexler et al., 2014). Primary data were collected through interviews with both documented (legal) and undocumented (non-procedural) Indonesian migrant workers in the Philippines. Purposive sampling was applied, where participants were deliberately selected based on specific criteria, particularly the limited access to communication channels with migrant workers. The informants were individuals who had worked in the Philippines, either legally or through non-procedural means. The interview sample included six migrant workers, two of whom had previously migrated to multiple countries. Data saturation was achieved by the fifth interview, as no new insights emerged beyond that point.

To ensure a more comprehensive analysis, secondary data were triangulated into the study. This data was obtained from various official government documents, including Regulation of the Minister of Foreign Affairs No. 5 of 2018, Law No. 18 of 2017 concerning the Protection of Indonesian Migrant Workers (and its revision in Law No. 11 of 2020 concerning Job Creation), as well as reports from the International Labour Organization (ILO) and BP2MI statistical data for 2018–2022. The use of these secondary data sources was critical for understanding the broader regulatory landscape, the evolution of policies, and identifying trends in migrant worker protection over time. Furthermore, participant observation was conducted during pre-departure training sessions held by Indonesian labor training institutions. These sessions, which included information on workers' rights, grievance mechanisms, and potential risks faced by migrant workers, were observed over a two-month period. The focus was on the interactions between prospective migrant workers and trainers, as well as the delivery of legal protection information. Field notes documenting these observations provided additional qualitative insights into the training process and the information being communicated. The collected data were analyzed qualitatively using a descriptive data presentation approach, while the integration of secondary data allowed for a deeper understanding of the regulatory context. The triangulation of primary and secondary data enhanced the analysis, ensuring a richer and more nuanced interpretation of migrant workers' legal protection. Quantitative data, such as trend tables related to Indonesian migrant worker cases before and during the COVID-19 pandemic, were also incorporated to contextualize shifts in protection trends and strengthen the validity of the findings.

3. DISCUSSION
3.1. Social Protection for Indonesian Citizens Before and After the COVID-19 Crisis

The Indonesian government's efforts to provide social protection for its citizens during and after the COVID-19 crisis are ongoing. According to data from the International Labour Organization (2021),

at least 4 billion people worldwide remain without adequate social protection. In its latest report, the ILO (2021) found that pandemic responses were uneven and insufficient, exacerbating existing social inequalities within countries. Many governments around the world are deemed to have failed in delivering the much needed and rightful social protection to their citizens. Social protection encompasses access to healthcare and income security, particularly in relation to old age, unemployment, illness, disability, occupational injury, maternity, the loss of a primary breadwinner, and protection for families with children. Effective and comprehensive social protection has a significant impact not only on social justice and decent work but also on building a sustainable and resilient future for every country globally.

One recurring issue faced by Indonesian citizens is the problem of undocumented Indonesian migrant workers. Indonesian diplomatic missions around the world are expected to respond more swiftly and effectively to such issues. Several cases involving Indonesian migrant workers have been handled belatedly by Indonesian representatives abroad. In today's modern era, preventive solutions should be pursued before Indonesian migrant workers' related cases escalate or become visible (Anaf et al., 2022). The government must collaborate in establishing robust and sustainable protection mechanisms for Indonesian citizens, particularly in cases related to Indonesian migrant workers. Based on an analysis conducted by the Badan Pelindungan Pekerja Migran Indonesia (2022), data from 2018 to 2022 indicate a decline in the number of Indonesian migrant workers' cases during the pandemic. This contrasts with the upward trend observed prior to the pandemic. However, when assessed based on case categories, there has been a shift in trends for certain types of cases. Table 1 below is a description of the trend of Indonesian migrant worker cases before and after the COVID-19 crisis:

Table 1. Categories of Indonesian migrant workers: Cases Before and During the COVID-19 Crisis

Case Categories	Before COVID		During COVID		Total	
	2018-19	2019-20	2020-21	2021-22	Before COVID	During COVID
Workers want to be repatriated	322	302	397	464	624	861
Salary not paid	342	517	365	136	859	501
Overstay	53	786	163	32	839	195
Deportation / repatriation	76	804	90	5	880	95
Sickness	66	417	58	58	483	116
Placement costs exceed cost structure	165	197	30	29	362	59
Death in destination country	66	71	98	171	137	269
Workers fail to leave	99	71	89	135	170	224
Termination of employment before the end of the work agreement	81	200	23	6	281	29
Breakup of Communication	81	85	66	48	166	114
Work does not match	104	107	34	15	211	49
Job opportunity fraud	50	59	48	89	109	137
Human trafficking	18	77	81	61	95	142
Confiscation of passports or other documents by PPTKIS	40	99	38	35	139	73
Illegal Recruit prospective workers	41	42	17	70	83	87
Workers are sick / hospitalized	39	40	20	34	79	54
Death	27	54	19	30	81	49
Not repatriated even though the work contract is complete	36	22	51	12	58	63
Accidents	39	40	10	21	79	31
Violence from employers	37	24	23	14	61	37
People smuggling	79	0	0	7	79	7
Salary deductions exceeding provisions	42	21	16	6	63	22
Workers in detention / detention process	19	26	17	22	45	39
Workload is too heavy	22	25	10	2	47	12
Debts between CTKI and PPTKIS	9	22	16	11	31	27

Case Categories	Before COVID		During COVID		Total	
	2018-19	2019-20	2020-21	2021-22	Before COVID	During COVID
Foreign insurance has not been paid	8	19	11	16	27	27
Depression / mental illness	16	15	9	13	31	22
Forgery of documents (ID cards, diplomas, age, parental permission	20	21	9	3	41	12
Workers have accidents	9	22	10	9	31	19
Undocumented workers	27	5	4	14	32	18
Others	298	971	140	122	1.269	262

Source: Badan Pelindungan Pekerja Migran Indonesia (2022)

Based on Table 1 above, in the two years preceding the pandemic, cases involving Indonesian migrant workers were predominantly related to deportation or repatriation, peaking during the 2019–2020 period. Since then, the number of such cases has gradually declined on a monthly basis. The next most common types of Indonesian migrant workers' cases prior to the pandemic were unpaid wages and overstaying, both of which also experienced a significant decrease during the pandemic period. During the pandemic, there was a marked increase in cases involving PMIs requesting repatriation, followed by cases of Indonesian migrant workers who died in their destination countries. Each of these categories reached its highest point during the 2021–2022 period. The case type with the highest rate of increase from the pre-pandemic to the pandemic period was that of deceased Indonesian migrant workers abroad. Moreover, this category continued to rise over the four-year period. However, the total number of these cases remained lower than that of unpaid wage cases, which, despite showing an annual decrease, still ranked second in total volume during the pandemic.

The specific reasons for the increase in cases of Indonesian migrant workers seeking repatriation remain unclear. However, a study conducted in Taiwan indicated that there was discriminatory treatment in the implementation of social restrictions between local residents and migrant workers (Lan, 2022). Migrant workers were perceived as potential carriers of disease, revealing a lack of understanding and appreciation of the contributions migrant laborers make to local economies and communities. This underscores the need for interventions aimed at improving communication among governments, businesses, and local communities to foster greater understanding and cooperation.

3.2. The Issue of Irregular Indonesian Migrant Workers

One of the most recent cases occurred in late 2022, when more than 200 Indonesian migrant workers employed as fruit pickers in the United Kingdom sought diplomatic assistance from the Embassy of the Republic of Indonesia (KBRI) in London beginning in July 2022. Palmer and Piper (2023) reported the plight of these Indonesian migrant workers, who became undocumented immigrants as a result of poor placement governance by recruitment agencies in Indonesia. These agencies imposed excessive placement fees (overcharging), which caused the workers in the UK to become trapped in debt. In addition to financial anomalies in placement costs, many Indonesian migrant workers were sent abroad through unregistered agencies, rendering them vulnerable to exploitation by employers who failed to provide legally mandated wages and labor protections in the host countries.

According to data from Bank Indonesia, as of 2022, there were at least 3.44 million Indonesian migrant workers employed abroad. Of this number, nearly 50% were working in Malaysia. The remainder included approximately 837,000 in Saudi Arabia, 339,000 in Hong Kong, and others in various countries. In many countries, migrant workers are regarded as "heroes of foreign exchange." Neighboring countries such as the Philippines, for example, treat their Overseas Filipino Workers (OFWs) with great seriousness. The Philippine government not only maintains a high level of monitoring through various government institutions but also continuously refines labor-related policies. The country began labor migration

programs in the 1970s, during a period when oil-rich Arab nations required a substantial workforce to support their growing industries. In 2020, remittances sent by OFWs contributed nearly 10% to the Philippines' Gross Domestic Product (GDP). The Philippines ranks as the fourth-largest recipient of remittances globally, following India, China, and Mexico.

Based on the results of interviews with informants, the Philippine government has also pursued international advocacy efforts to protect its workers, particularly in relation to human rights. Through its diplomatic corps, the country frequently promotes a global narrative portraying OFWs as national economic heroes. The primary aim is not only to ensure comprehensive protection of its citizens abroad but also to safeguard domestic economic stability. Remittances from OFWs have consistently played a significant role in supporting the country's GDP over the past five decades.

In Indonesia, Indonesian migrant workers contributed foreign exchange earnings amounting to USD 9.71 billion, or approximately IDR 150 trillion, in 2022. However, this figure becomes insignificant if the Indonesian government fails to address the issue of undocumented Indonesian migrant workers, largely the result of inadequate oversight in the overseas labor deployment process. Based on the author's interview with a legally employed Indonesian migrant worker in Malaysia, many Indonesian citizens are residing in Malaysia without valid visas, seeking better opportunities and accepting the risk of forced repatriation by the Malaysian authorities. Globally, the ILO has noted that government spending on social protection varies widely. On average, countries allocate 12.8% of their GDP to social protection (excluding healthcare). However, high-income countries spend around 16.4%, while low-income countries spend only 1.1% of their GDP on social protection. In this case, the Indonesian government, through the Ministry of Foreign Affairs, is committed to social protection for Indonesian citizens through the *Peduli WNI* website with integrated data as shown in Figure 1 below:
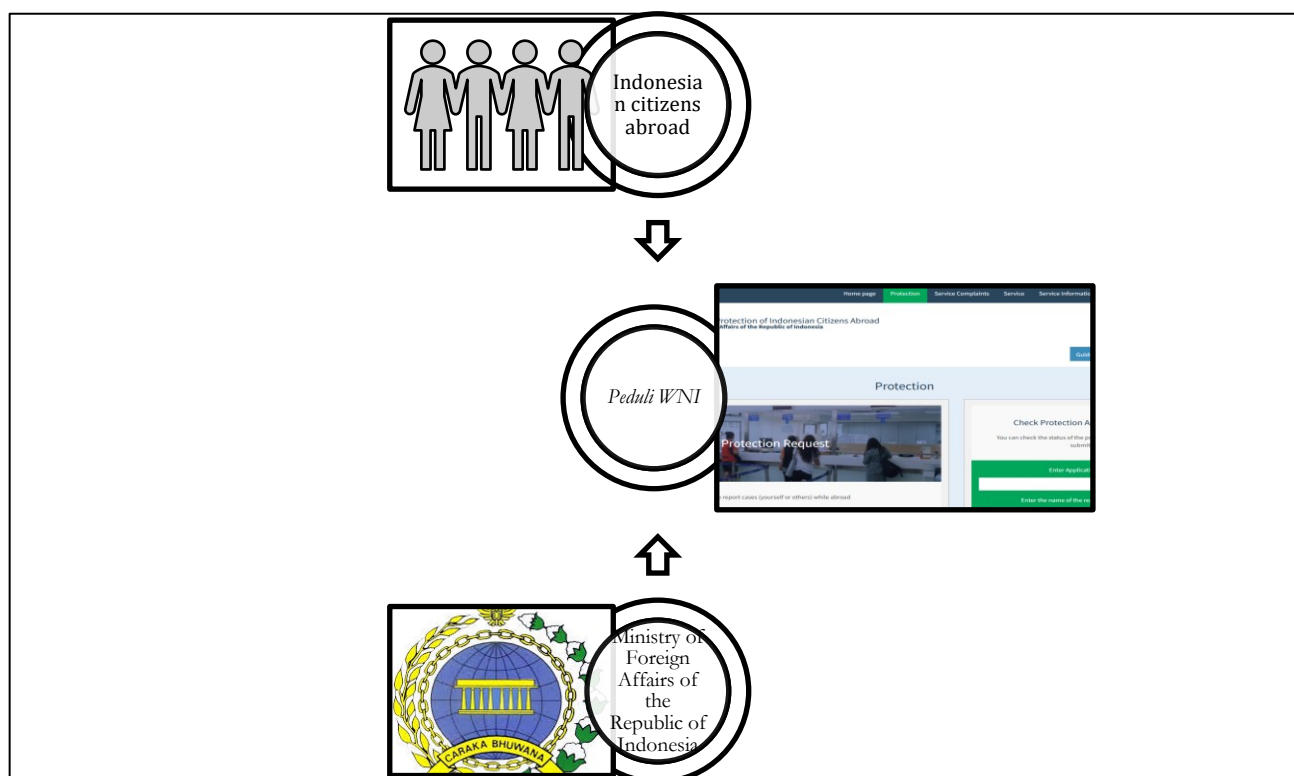
Figure 1. Data Integration in *Peduli WNI*

Source: Peduli WNI, processed.

Figure 1 above is the data integration flow for reports of Indonesian citizens abroad, where the data is also monitored by the Ministry of Foreign Affairs. In addition to *Peduli WNI*, the Ministry of

Foreign Affairs has also launched *SMS Blast* and the *Safe Travel* application. However, the effectiveness and user engagement of these applications remain suboptimal due to limited outreach efforts and the low level of digital literacy among Indonesian migrant workers. Based on the researcher's observations and interviews with informants, it turns out that the less-than-optimal use of applications for the protection of migrant workers is due to several challenges as follows:

Table 2. Challenges of Less than Optimal Use of Migrant Worker Protection Applications

Challenges	Impact	Description
Low technical understanding (access, installation, navigation)	Indonesian citizens do not use the application optimally	Especially occurs in the elderly and unskilled Indonesian citizens
Lack of awareness of the importance of the application	Low self-reporting	Many Indonesian citizens do not know the use of the 'Report Yourself' feature
Learning language and communication limitations	Information is not properly digested	The application still uses a lot of technical terms and formal language
Dependence on unofficial social media	Distorted or invalid information	Many Indonesian citizens trust WhatsApp groups /TikTok more than official government channels

Source: primary data

Based on Table 2, Under Law No. 11 of 2020 on Job Creation, which replaced Law No. 18 of 2017 on the Protection of Migrant Workers, the Indonesian government bears responsibility for protecting Indonesian migrant workers before, during, and after their employment abroad. The reinforcement of social protection for Indonesian migrant workers through constitutional mandates and technological infrastructure should be accompanied by sufficient digital literacy. Literacy encompasses the ability to access, analyze, evaluate, and communicate information in various formats, as well as to comprehend information comprehensively in order to foster critical thinking (Ardyawin, 2024). In the era of automation, digital literacy plays a critical role in the successful development of social protection infrastructure for Indonesian citizens, particularly by facilitating responsive and proactive efforts. However, given that Indonesian society generally favors practical and straightforward solutions, it has proven difficult to foster sustained engagement between citizens and the government through integrated digital platforms as part of protection efforts (Dharossa & Rezasyah, 2020).

The Indonesian labor export industry plays a crucial role in safeguarding the rights of Indonesian migrant workers, who frequently encounter numerous challenges abroad. These challenges largely stem from insufficient legal protection and the limited capacity of the labor export business sector to optimize complaint mechanisms for migrant workers. Despite efforts from both the government and the private sectors to enhance protection measures, the obstacles faced by Indonesian migrant workers remain substantial. As the regulatory authority, the government bears the responsibility of ensuring that Indonesian labor placement companies comply with existing legal provisions to prevent exploitation and violations of migrant workers' rights.

The government must strengthen its oversight mechanisms for labor placement companies through regular audits and by verifying that all operational licenses and documentation adhere to the relevant legal requirements. A critical area of focus involves the integration of an effective complaint system that is accessible to migrant workers prior to departure, during their employment abroad, and upon their return to Indonesia. Pre-departure education and training programs for prospective Indonesian migrant workers also play a significant role in preparing them to confront the various challenges they may face overseas. Effective training can empower workers with a clear understanding of their rights, strategies to protect themselves from potential exploitation, and the skills needed to navigate social and economic challenges while working abroad. Moreover, it is essential to provide them with knowledge of the legal systems in host countries, enabling them to respond appropriately to potential legal issues and effectively access available complaint channels.

Although protective measures have been initiated by both the government and private sector, the implementation of these mechanisms remains significantly challenged. Without enhanced oversight and systematic improvements, the provision of comprehensive social protection for Indonesian migrant workers cannot be deemed fully realized. One of the main challenges lies in the regulatory gaps that enable abuse by irresponsible parties, including unregistered recruitment agents and employers who fail to adhere to established labor protection standards. Therefore, regulatory revisions are necessary to clarify and strengthen oversight of Indonesian labor placement companies and to ensure more effective implementation of existing protection mechanisms.

4. CONCLUSION

Migrant workers are often trapped in exploitative practices due to inadequate oversight and limited understanding of their rights. Furthermore, social, economic, and cultural factors in host countries frequently exacerbate their vulnerabilities. In this context, the business sector, particularly labor recruitment agencies, plays a critical role in establishing a more transparent protection ecosystem grounded in human rights principles. Therefore, enhancing the utilization of migrant worker protection applications, such as *Peduli WNI*, is of paramount importance. The government must ensure that such applications are accessible and comprehensible to all segments of society, especially for those with limited technological literacy.

Moreover, the existing complaint mechanisms must be reformed to ensure greater accessibility for migrant workers prior to departure during their employment abroad and upon their return to Indonesia. These systems should be responsive and capable of addressing grievances with a higher degree of transparency and accountability. On the other hand, pre-departure training and education programs for migrant workers must be more strategically oriented towards raising awareness of their rights, self-protection strategies against exploitation, and basic knowledge of the legal systems in destination countries. Such initiatives will equip migrant workers with the necessary tools to navigate potential legal and economic challenges during their employment abroad.

Ethical approval

This research did not require ethical approval.

Informed consent statement

This research did not require informed consent.

Authors' contributions

Conceptualization, MI., and RD; methodology, MI., RD., and PW; validation, MI; formal analysis, MI; resources, RD; writing original draft preparation, MI., RD., PW; writing review and editing, MI., and PW.

Disclosure statement

No potential conflict of interest was reported by the author(s).

Data availability statement

The data presented in this study are available on request from the corresponding author due to privacy reasons.

Notes on Contributors

Mulana Ibrahim

Maulana Ibrahim pursued his undergraduate education at the State Islamic University of North Sumatra, majoring in Civil Law, and his graduate education at the University of North Sumatra, specializing in Business Law. He is currently serving as a Lecturer in the Department of Business Law, State University of Medan.

Reja Dalimunthe

Reja completed both his undergraduate and master's education at Philippine Christian University in Manila, Philippines, graduating with Cum Laude honors in both fields of study. He is currently serving as an Expert Staff Member of Commission I at the Indonesian House of Representatives (DPR RI) while pursuing a Ph.D. in Development Administration, majoring in Public Governance, at Philippine Christian University, Manila. Previously, Reja worked as a reporter for Metro TV, Trans 7, and as a freelance journalist for NET. In 2018, he received a scholarship to study digital journalism at the Baltic Film, Media and Arts School in Estonia. Reja has contributed numerous written works to various media outlets, including indozone.id. He is also an adjunct lecturer in the fields of communication and governance.

Poppy Wulandari

Poppy Wulandari is a lecturer at the State Polytechnic of Medan and an online tutor at the Universitas Terbuka. Poppy is an alumna of Economic Education-State University of Medan in 2017 and Master of Business Administration in International Business-National Dong Hwa University Taiwan in 2020.

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