



# **Access to Justice for Indonesian Migrant Workers**

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**Indonesian Migrant Workers Union (SBMI)**

# SBMI Profile

Indonesian Migrant Workers Union (SBMI) is an organization of migrant workers and their family members which was founded on 2003, February. Previously it was called the Federation of Indonesian Migrant Workers Organizations (FOBMI). Initiated and managed by the Consortium for the Defense of Migrant Workers (KOPBUMI) since 2000 through the forerunner of an organization called the National Network of Migrant Workers.

SBMI is the antithesis of the bad conditions that many Indonesian migrant workers face: the crime of human trafficking, forced labor, wage theft, etc. These conditions are faced by migrant workers starting before work, during work and after work.

SBMI was then recognized as a Labor Union since 2006.



Serikat Buruh Migran Indonesia is spread throughout almost all of Indonesia and in the countries where Indonesian Migrant Workers are placed, with a total of:

- 9 House of Representatives for Foreign Affairs,
- 9 Regional Leadership Councils,
- 44 Branch Leadership Councils,
- 17 District Leadership Councils, and
- 101 Village Leadership Council.

# ***What does this organization do?***

**Policy advocacy**

**Case advocacy**

**Paralegal Training**

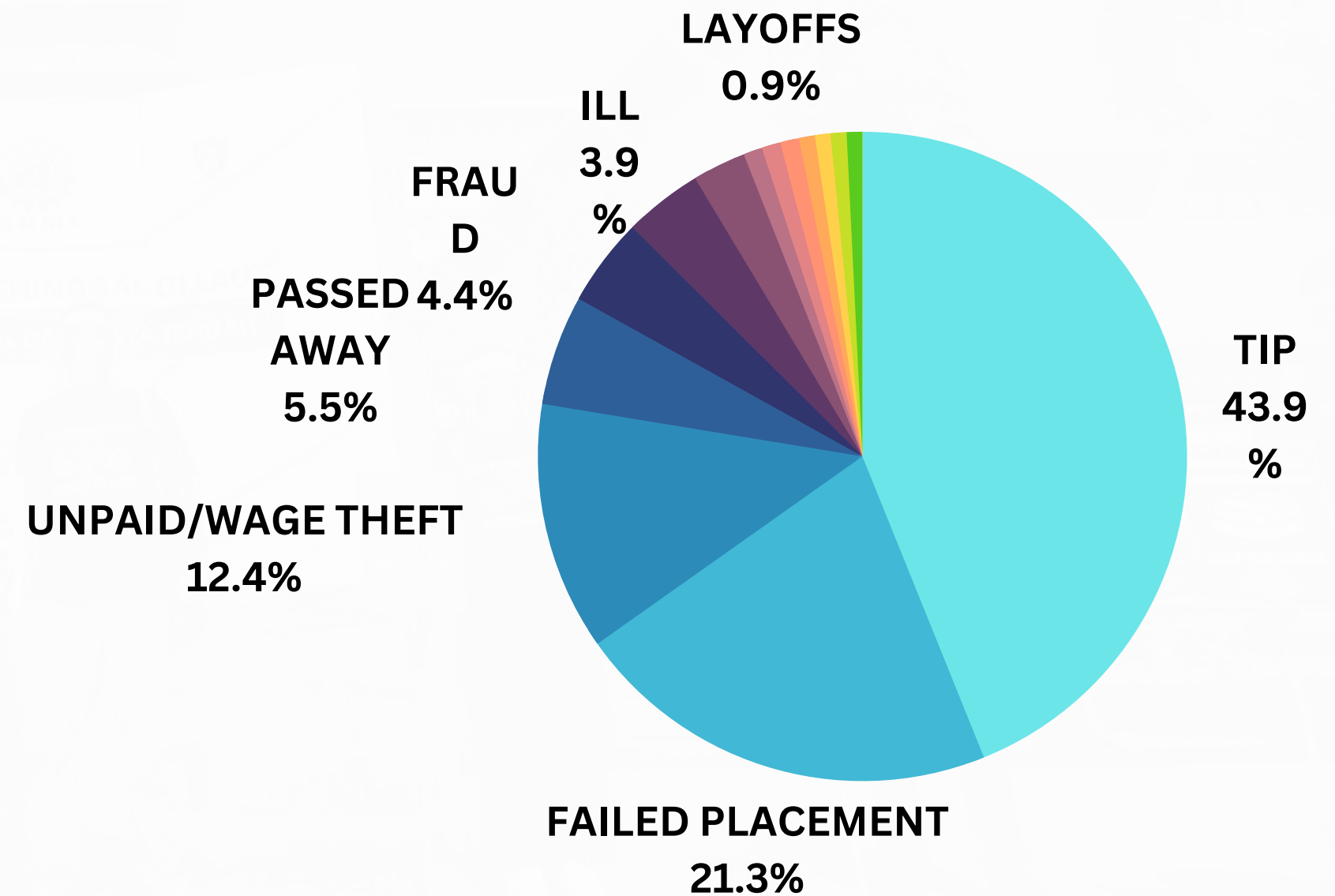
# Case Advocacy

Based on case records from 2010 to 2022, **SBMI has handled 5,203 cases of Indonesian Migrant workers.**

Meanwhile, the number of cases received by SBMI in 2022 was **651 cases.**

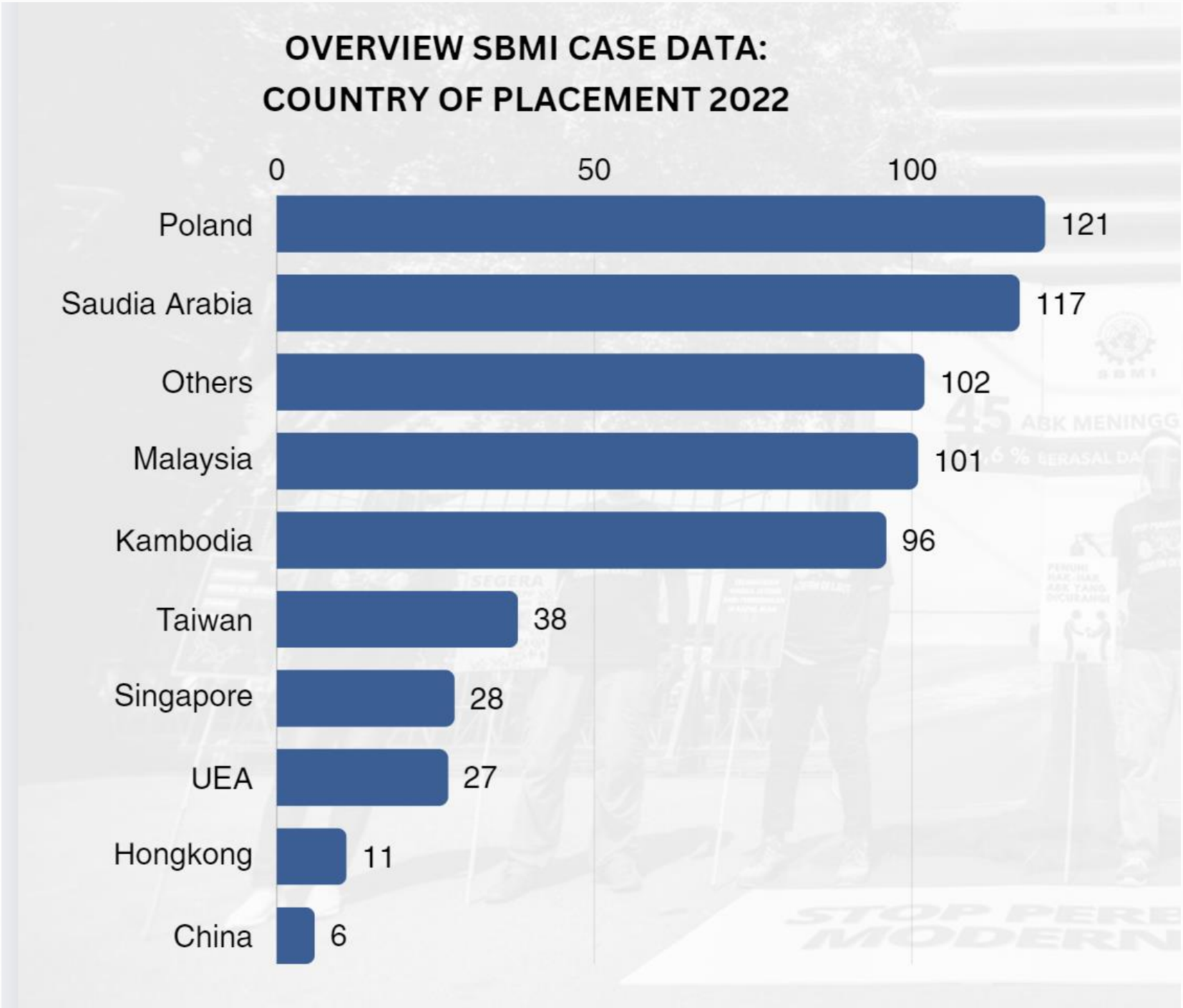
Until 2022, **SBMI succeeded to claim and return** the Migrant Workers rights on their redress for about **Rp. 3.512.130.170 (US\$ 234.791.52)** from **Total Loss Rp. 27,842,273,874 (US\$ 1.860.598.93)**

OVERVIEW SBMI CASE DATA:  
NUMBER OF TYPES OF CASES 2022

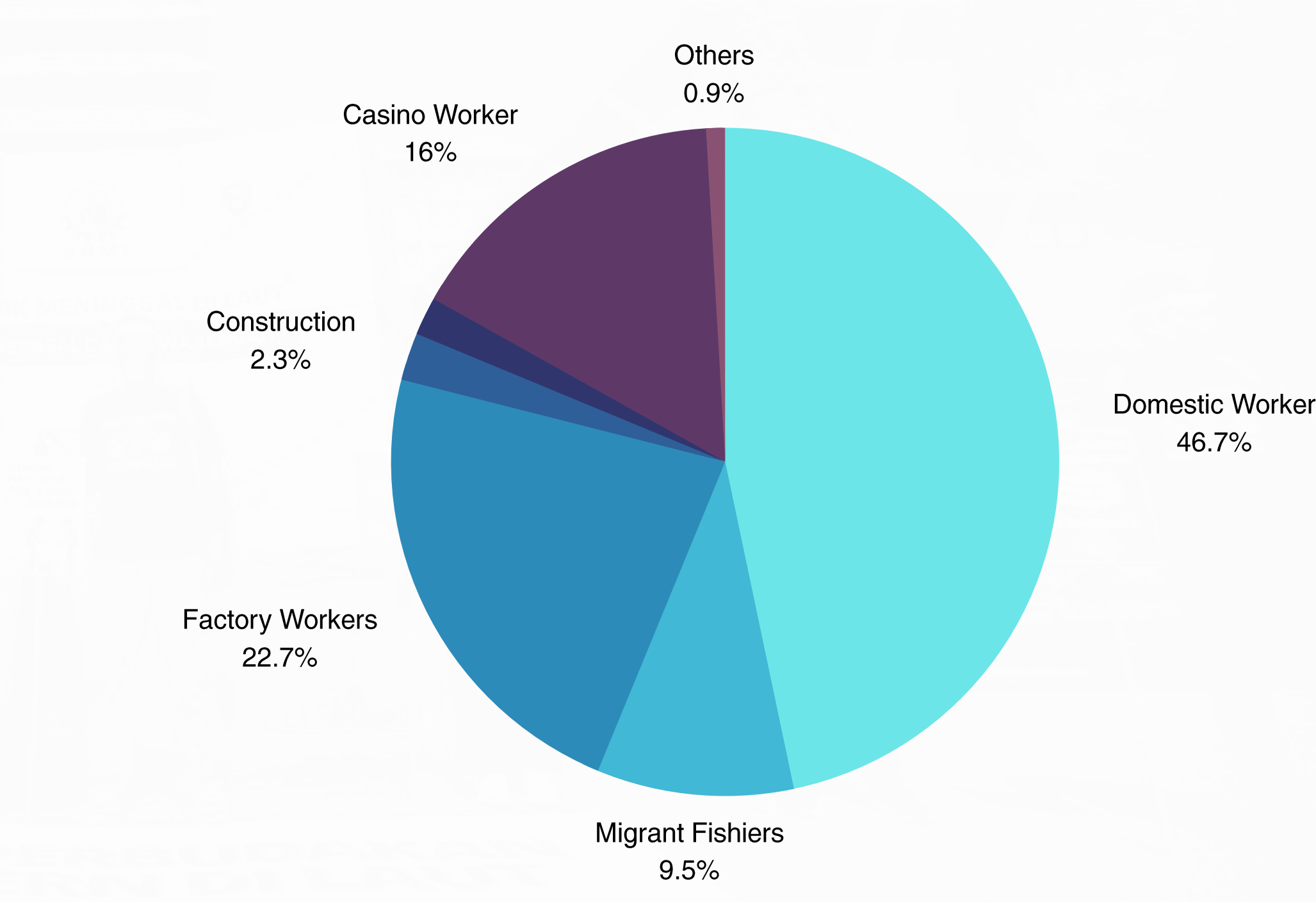


# Case Advocacy

OVERVIEW SBMI CASE DATA:  
COUNTRY OF PLACEMENT 2022



EMPLOYMENT SECTOR DATA



# The Flows of Case

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## **Receives Case Reports From Victim/Their Families (online/offline)**

- Interview conducted by SBMI staff, all the data being input into chronological form.
- Collecting evidence and making a power of attorney.
- Case identification and analysis

## **Non Litigation (industrial dispute, mediation, etc)/ Litigation Strategise (criminal-private court)**

Non-Litigation is carried out through negotiations with companies and mediation through Ministries and Institutions in Indonesia. The Negotiation Process may involve Companies/Employers abroad.

## **Public Policy Advocacy and Campaign**

In the process of handling difficult cases, public policy advocacy is carried out through research and investigation.

# Vulnerability of Human Trafficking Victims

## Muninggar Case: Trafficking Victim

- Muninggar is a victim of human trafficking who was sent to the UAE **unprocedurally** in 2022
- Recruiters took advantage of the victim's **economic vulnerability** by lending money so that Muninggar would work abroad
- While working, Muninggar **did not get proper working conditions**, so he had a work accident.
- In 2023, the two perpetrators who recruited Muninggar were charged for human trafficking at the Serang District Court, both were **only sentenced to 7 months with no obligation to compensation or restitution**.



# Syamsul Case: Human Trafficking Victim

- Syamsul is a victim of human trafficking who was sent to Singapore and then worked as a migrant fishing crew member on the Lu Huang Huan Yu 117 ship which sailed to Argentina in 2020.
- Syamsul worked in **inadequate working conditions and did not receive the wages promised** in the Maritime Work Agreement.
- Syamsul's **colleagues who worked were abused and died**. Then the ship was arrested by the Indonesian Maritime Security Agency.
- In 2021, the perpetrators who recruited and dispatched Syamsul were charged for human trafficking at the Batam District Court, both of them were only sentenced to 1 year and 4 months and were obliged to pay restitution to Syamsul **Rp. 148.500.000 (US\$ 9.462,18)** However, until now the perpetrator **has not paid restitution because he cannot afford it**.



# Online Scam is a New Scheme in the Case of Human Trafficking

**Human trafficking syndicates with online scam schemes exist in conflict areas.** It is used as the safest place to develop online scamming business since it's hard to be reached by governments especially foreign countries through the Representatives Office.

SBMI recently handled case of **20 Indonesian citizens who were held captive in Myawaddy, Myanmar and being forced to commit online fraud.**

Ministry of Foreign Affairs of Indonesia experienced difficulties in releasing the victims because the area of detention was included in an area of armed conflict between the Myanmar military (Tat Ma Daw) and Karen rebels.



# Vulnerability of Debt Bondage in the Departure Fee System

The Indonesian Migrant Workers Protection Board publishes various decisions regarding placement fee standards in various countries. Unfortunately, this decision is not widely followed by placement companies which actually charge very high fees to Migrant Workers.

These high costs cause prospective migrant workers to have to take out loans from financial institutions with interest of up to 28.8% (BP2MI, 2022). The Indonesian government has issued a credit interest regulation of 6% through banks to protect Indonesian migrant workers. However, companies often take advantage of private financial institutions that have collaborated with them and then charge high interest to reap profits.



# Criminal Law

- The complaint **process and handling** cases was **slow** and the process of handling cases **stagnated**.

Webinar Hukumonline 2023

Kamis, 30 Maret 2023  
09.00 – 12.00 WIB

zoom Webinar

HUKUM ONLINE .COM

Beranda > Berita > Terbaru > Kasus TPPO Kerap Man...

Terbaru

18 Oktober 2022

## Kasus TPPO Kerap Mandek di Kepolisian, SBMI Lapor Itwasum

Serikat Buruh Migran Indonesia (SBMI) mencatat ada 18 kasus dengan korban 109 orang buruh migran Indonesia yang proses penyelesaiannya mandek di kepolisian.

Oleh: Ady Thea DA

Bacaan 2 Menit





### Berita Populer

- 1 Begini Pertimbangan Hakim PTUN Batalkan SK Kepengurusan Peradi...
- 2 Respons 3 Peradi Atas Putusan PTUN Jakarta Terkait Pembatalan S...
- 3 Lowongan Kerja Legal Staff dan Legal Officer untuk Fresh Graduate
- 4 Pasal Pemerasan dan Pengancaman dalam KUHP Baru

**Translated:**

**"Human Trafficking cases likely stagnated in National Police, SBMI reports Police General Supervision Inspectorate."**

**There are 18 cases with 109 victims that stagnated in the National Police.**

# Challenges

## NON LITIGATION

- Ministries/Institutions **have not yet had an adequate SOP for case handling**: time, cost, coordination system, follow-up action.
- **Bad coordination inter-ministries/institutions** on case handling simply to get recommendation letter.
- **Case management** regarding Migrant Fishers **has not yet legal certainty** due to licensing, recruitment and placement system issues.

## LITIGATION

- **The dilemma** of choosing a criminal or civil litigation mechanism. Each case has intersections. The process is quick and inexpensive, forcing a choice of punishment, but there is **no certainty that the perpetrators will be caught and the migrant workers' losses will be returned**.
- Since 2019, **many cases that were supposed to charged with Human Trafficking laws**, but most of the time they **charged the cases with Protection Indonesia Migrant Workers law**.
- **Victims were not given the restitution**, the perpetrator's sentence is low, and blur the data protection for Human Trafficking court decisions.

### SBMI ASSISTED VICTIMS WHO DO NOT RECEIVE RESTITUTION

| Victim | Case                        | Restitution     |
|--------|-----------------------------|-----------------|
| 25     | 484/Pid.Sus/2016/PN Cbi     | Rp2.512.895.396 |
| 9      | 265/Pid.B/2017/PN Idm       | Rp840.000.000   |
| 1      | 1329/Pid.Sus/2018/PN Bdg    | -               |
| 1      | 807/Pid.Sus/2019/PN Jkt.Tim | Rp25.000.000    |
| 1      | 924/Pid.Sus /2019/PN tk     | -               |
| 1      | 5/Pid.Sus/2020/PN Ptk       | Rp80.000.000    |
| 1      | 28/Pid.Sus /2020/PN Sag     | Rp125.000.000   |
| 1      | 27/Pid.Sus /2020/PN Sag     | Rp125.000.000   |

**If the restitution is not being paid, what is there for the victims?**

# Strategic Litigation and Advocacy Policy Litigation

- **SBMI and Migrant Care** in 2020 became Related Parties at the Constitutional Court to fight **against the business association** which would **cancel the provisions for the protection of Indonesian migrant workers** in Law Number 18 of 2017 on the Protection of Indonesian Migrant Workers. The business association's application was then **rejected** by the Constitutional Court.
- **SBMI and Greenpeace Indonesia** accompanied Indonesian Ship Crews to **sue** the Indonesia President **for not issuing regulations protecting Migrant Fishers**. While this trial was taking place, the President of Indonesia then issued Government Regulation Number 22 of 2022 on the Placement and Protection of Migrant Commercial Ship Crews and Migrant Fishing Ship Crews.



# Legal Aid in Indonesia

- Indonesia has Law Number 16 of 2011 on the Legal Aid
- Has ensured financing of legal aid, training and empowerment and financing of accredited Legal Aid Organizations
- Legal Aid Organizations are still **not evenly distributed throughout Indonesia**, especially in areas sending Indonesian Migrant Workers such as the **Provinces of East Nusa Tenggara, West Nusa Tenggara and West Kalimantan**
- The availability of lawyers **who understand the issue of migrant workers in Indonesia is still small**
- SBMI has **limited lawyers** so SBMI collaborates with the Jakarta, Bandung and Semarang Legal Aid Institutes.
- SBMI also **collaborates with various Legal Aid Organizations under the Migration Forum in Asia (MFA)** network to build a cross-border referral system for assisting Indonesian Migrant Workers who are in contact the law.

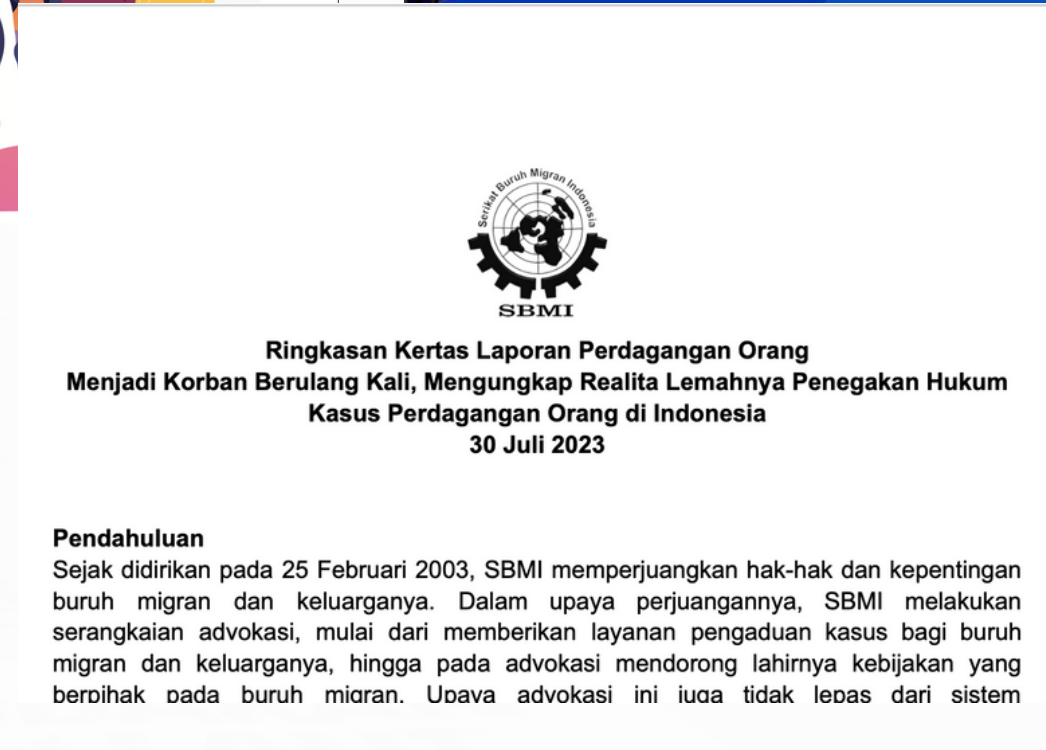
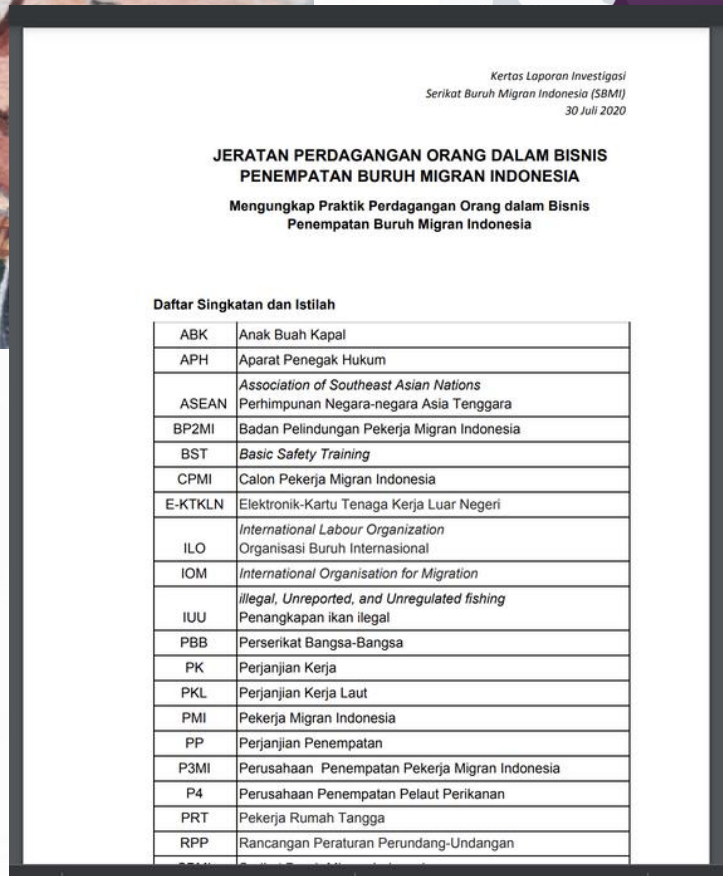
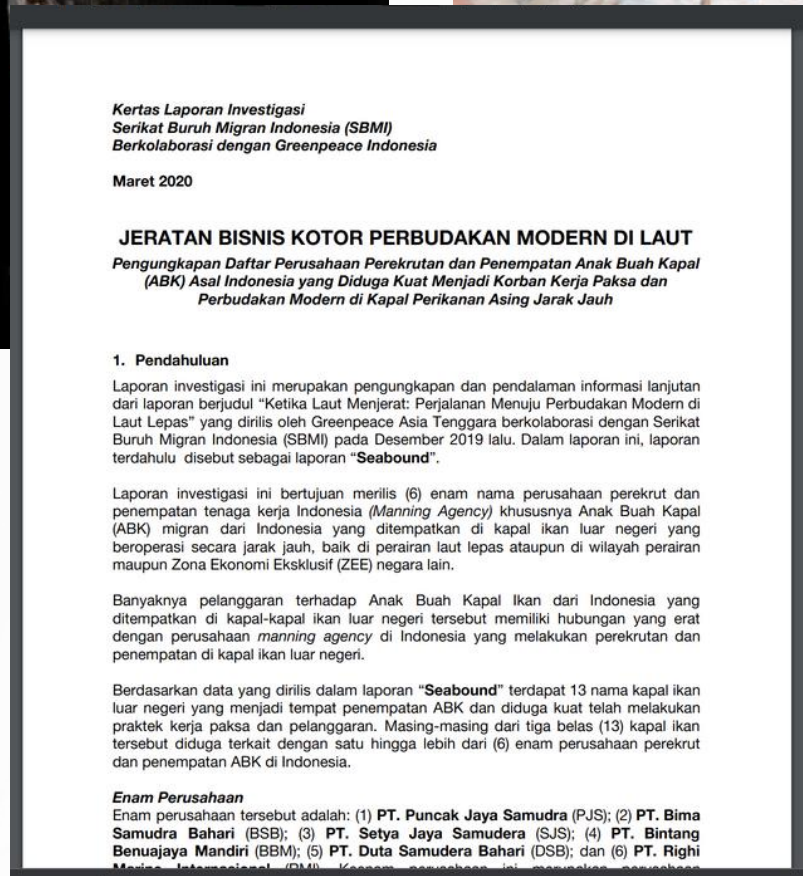
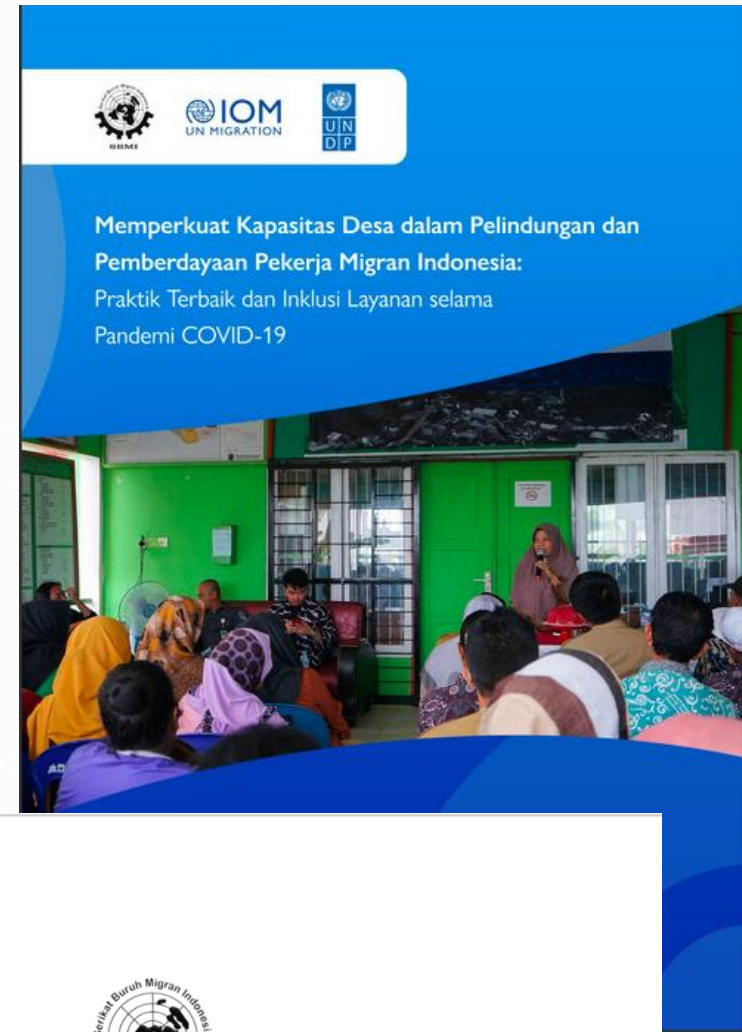
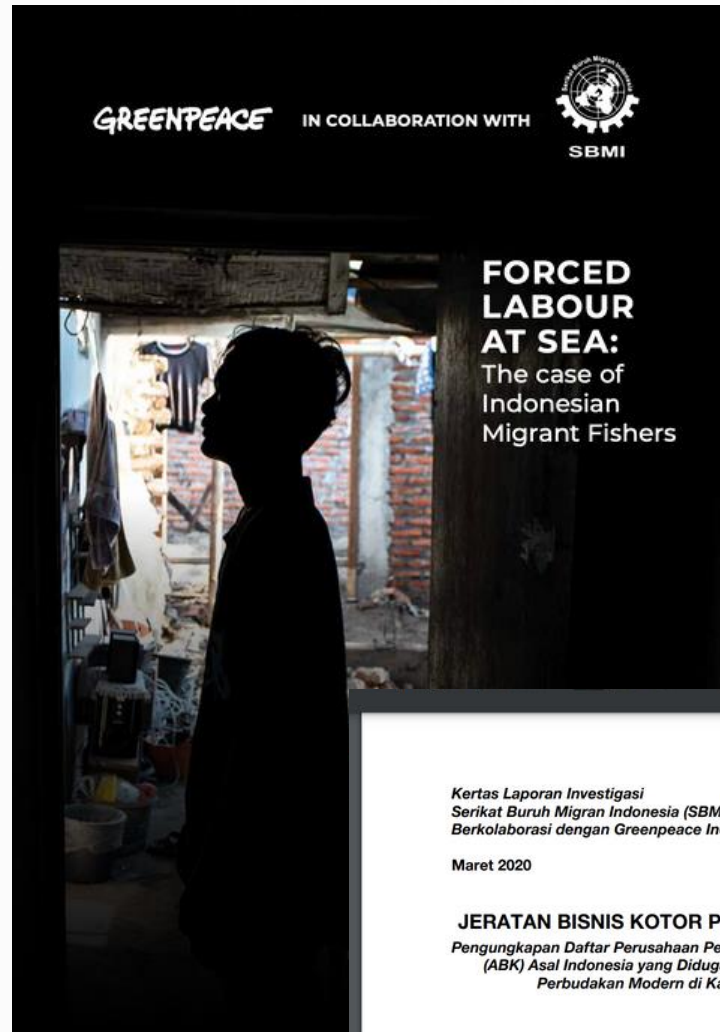


# Paralegal Training

- To expand access to assistance, SBMI focuses on forming Paralegals through legal education and training for Paralegals
- Paralegals effectively accompany Indonesian Migrant Workers and their Families who have legal problems who are in areas far from legal aid centers
- Paralegals also focus on activities to provide information and legal knowledge to Migrant Workers and their Families.



# Research and Investigation



# Film Documenter





**REACH US OUT ON:**

**WEBSITE**

[www.sbmi.or.id](http://www.sbmi.or.id)

[www.imwcore.id](http://www.imwcore.id)

[www.rumahpengaduan.buruhmigran.or.id](http://www.rumahpengaduan.buruhmigran.or.id)

**FACEBOOK PAGE**

Serikat Buruh Migran Indonesia

[@sbmi.or.id](https://www.facebook.com/sbmi.or.id)

**THANK YOU!**