

Harmonization of International Instruments and National Regulations for the Protection of Indonesian Migrant Workers: Achieving Global Compliance and Comprehensive Protection

Sri Mulyani¹, Dikha Anugrah²

Abstract

The cross-border mobility of Indonesian labor has become a global phenomenon that significantly contributes to the national foreign exchange, yet simultaneously poses a substantial risk of human rights violations in the absence of adequate legal protection. This article examines the disharmony between international legal instruments and national regulations in the context of protecting Indonesian migrant workers. Utilizing a normative juridical approach and qualitative method, the study finds that Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers (PPMI Law) is not fully aligned with the principles enshrined in the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW) and other relevant international conventions. Such inconsistencies not only weaken legal protection at all stages of the migration cycle but also give rise to serious legal implications for the State as the guarantor of its citizens' rights. This research recommends legal harmonization strategies and institutional strengthening to ensure comprehensive and equitable fulfillment of migrant workers' rights.

Keywords: ICRMW, Legal harmonization, Migrant workers, PPMI Law and Human Rights

Introduction

Cross-border labor mobility is a global phenomenon that continues to increase along with technological advances, economic globalization, and development inequality between countries. Indonesia, as one of the largest migrant worker-sending countries in Asia, has millions of citizens working abroad in various sectors such as domestic work, construction, fisheries, and agriculture. Data from the Indonesian Migrant Workers Protection Agency (BP2MI) shows that as of April 2025, there were more than 100,000 Indonesian migrant worker placements, with the predominance of the informal sector and major destination countries such as Taiwan, Hong Kong, Malaysia, and Saudi Arabia ³.

Despite their contribution to the country's foreign exchange, Indonesian migrant workers still face complex issues related to human rights violations, exploitation, human trafficking, and limited legal protection and access to justice. Within the context of international law, Indonesia has ratified several important instruments governing the rights and protection of migrant workers. In addition to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW), ratified in 1990 through Constitution Number 6 of 2012 ⁴, there is also the International Labour Organization (ILO) Convention No. 97 on Migrant Workers (1949) ⁵ and ILO Convention No. 143 on Migrant Workers (Supplementary Provisions, 1975) ⁶, which although Not yet ratified by Indonesia, remains become reference normative important in development national policy.

¹ Sri Mulyani, Faculty of Law, Universitas Kuningan, E-mail: 20221410002@uniku.ac.id.

² Dikha Anugrah, Faculty of Law, Universitas Kuningan, E-mail: dikha@uniku.ac.id.

³ Indonesian Migrant Worker Protection Agency (BP2MI). (2025). *Data on the Placement and Protection of Indonesian Migrant Workers until April 2025*. Accessed June 1, 2025 | 3:49 PM WIB from <https://bp2mi.go.id>.

⁴ United Nations. (1990). *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*. GA Res. 45/158. Ratified by Indonesia through Law No. 6 of 2012.

⁵ International Labor Organization. (1949). *Migration for Employment Convention (Revised), 1949 (No. 97)*.

⁶ International Labor Organization. (1975). *Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)*.

Another relevant instrument, such as Universal Declaration of Human Rights (UDHR) 1948, especially Articles 23 and 25, which guarantee right on fair work and conditions decent work, and⁷ International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966, which guarantees the right to work, conditions safe work and protection social⁸. In addition, the Global Compact for Safe, Orderly and Regular Migration (GCM) adopted by the UN General Assembly in 2018⁹ also includes non-binding principles but own mark important in form policy rights-oriented migration basic humans and sustainability development.

However, at the domestic level, national regulations, such as Law No. 18 of 2017 concerning the Protection of Indonesian Migrant Workers (PPMI Law), are not fully aligned with the principles stipulated in these international instruments. This lack of synchronization encompasses various aspects, from pre-placement and post-placement protection, complaint mechanisms, to social security and access to legal aid. This disparity highlights the need for harmonization between national law and international norms to ensure comprehensive and sustainable protection for Indonesian migrant workers.

This disharmony creates a gap between international norms and national practices, both in terms of legal substance, institutions, and implementation. This discrepancy not only raises the potential for human rights violations against migrant workers but also has implications for Indonesia's legitimacy in international forums and the effectiveness of migrant protection efforts in practice.

Several previous studies have addressed some aspects of this issue. Santoso (2022) highlighted the weak synergy between national policies and bilateral agreements in the Middle East context¹⁰. Pratiwi and Hidayat (2023) highlighted the barriers to access to justice for Indonesian migrant workers¹¹. Rahman (2024) evaluated the implementation of Law Number 18 of 2017, which failed to address the root causes of rights-based protection¹². However, these studies tended to be sectoral in nature and did not comprehensively address strategies for harmonizing national law with international norms.

This article aims to examine the gap between international instruments and national regulations in the context of protecting Indonesian migrant workers, and to formulate strategic efforts towards effective legal harmonization. The urgency of this study lies in the need to build a legal system that is adaptive, coherent, and responsive to developments in international norms and the social realities faced by Indonesian migrant workers. Using a normative juridical approach, this study focuses on answering two main questions: (1) what is the form of inconsistency between international legal instruments and national regulations in protecting Indonesian migrant workers; and (2) what are the legal implications of this disharmony for the fulfillment of migrant workers' rights?

⁷United Nations. (1948). *Universal Declaration of Human Rights*.

⁸ United Nations. (1966). *International Covenant on Economic, Social and Cultural Rights*.

⁹United Nations. (2018). *Global Compact for Safe, Orderly and Regular Migration*.

¹⁰Santoso, A. (2022). *Synergy of Indonesian Migrant Worker Protection Policies in the Middle East*. Journal of Migration Law, 8(1), 45–67.

¹¹Pratiwi, S., & Hidayat, B. (2023). *Barriers to Access to Justice for Indonesian Migrant Workers: A Case Study of Human Rights Violation Complaints*. Journal of Human Rights and International Law, 10(2), 110–132.

¹²Rahman, F. (2024). *Evaluation of the Implementation of Law No. 18 of 2017 on the Protection of Migrant Workers*. Journal of Public Policy, 12(1), 75–90.

Formulation of the problem

Based on the background and urgency of the study that has been presented, this article focuses on two main problem formulations as follows:

- 1) What is the form of inconsistency between international legal instruments and national regulations in protecting Indonesian migrant workers?
- 2) What are the legal implications of this disharmony for the fulfillment of the rights of Indonesian migrant workers?

Research methods

This research is a normative (doctrinal) legal study that focuses on analyzing the legal norms governing the protection of Indonesian migrant workers from a national and international legal perspective. The approaches used include a statutory approach, a conceptual approach, and a comparative approach.

The research data were obtained through library research, reviewing relevant laws and regulations, international legal instruments, and academic literature. A qualitative-descriptive analysis was conducted to identify and compare gaps between provisions in international instruments and national regulations, and to assess their legal implications for efforts to harmonize and protect Indonesian migrant workers.

Research Results and Discussion

The problems of Indonesian migrant workers are complex, encompassing issues of employment, unemployment, social, cultural, economic, legal, and even their future as citizens¹³. To date, no appropriate, effective, and efficient solution has been found to truly address the various problems they frequently experience¹⁴. The problems of Indonesian migrant workers abroad also seem unresolved, even linked to the issue of human trafficking.¹⁵ Various cases of violence, such as abuse and rape by employers, still frequently occur and are reported¹⁶. In these conditions, migrant workers as Indonesian citizens require guarantees and protection from the authorities. Vertically, this protection involves various stakeholders, from the Central Government (Ministry of Manpower, National Agency), Diplomatic Representatives (Indonesian Embassies/Consulates), to Regional Governments (Provincial, Regency/City), Village Governments, the private sector (suppliers or agencies), community leaders (village or religious), and even the families of migrant workers themselves. All of these elements have clear roles, duties, and responsibilities in providing comprehensive protection.

Inconsistencies between International Legal Instruments and National Regulations in the Protection of Indonesian Migrant Workers

¹³ Anang, SC (2012). *Legal Protection for Indonesian Migrant Workers Abroad*. Yogyakarta: Genta Press.

¹⁴ Widodo. (2009). *Indonesian Migrant Workers and Their Legal Protection Issues*. Jakarta: Rajawali Pers.

¹⁵ Ajeng, RAW (2016). "Human Trafficking of Indonesian Migrant Workers: Challenges of Legal Protection". *Journal of Law and Development*, Vol. 46 No. 1.

¹⁶ Prihatin, SD (2007). *Violence against Female Migrant Workers: the the Facts and Protection Efforts*. Jakarta: LBH APIK.

As a country sending a large number of migrant workers, Indonesia has a legal and moral responsibility to ensure that migrant workers receive comprehensive and equitable protection. Within this framework, internationally, Indonesia has ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW) via Constitution No. 6 of 2012. This Convention emphasizes the protection of the basic rights of migrant workers and their families, regardless of immigration status or type of employment. This serves as an important foundation for sending and receiving countries to develop legal systems that guarantee comprehensive and non-discriminatory protection.

However, more than a decade after the convention's ratification, its implementation in Indonesia still shows inconsistencies or disharmony between international legal instruments and national regulations. Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers (UU PPMI) does adopt most of the principles of the ICRMW, such as the principle of comprehensive protection before, during, and after employment, as well as the principles of non-discrimination and gender equality. However, at the implementation level, various derivative regulations and regional policies are not fully synchronized and do not detail the minimum standards mandated by the international convention.

Law Number 18 of 2017 states¹⁷ that Indonesian Migrant Workers (PMI) are any Indonesian citizen who will, is, or has performed work for wages outside the territory of the Republic of Indonesia. Therefore, the state is obliged to protect PMI from human trafficking, slavery and forced labor, victims of violence, abuse, crimes against human dignity, and unfair treatment that violates human rights. Unfortunately, in reality, these migrant workers experience the opposite.

How is the protection of Indonesian Migrant Workers (PMI) before, during, and after work? Article 8 paragraph (1) states that protection before work includes: dissemination of information; improving the quality of prospective PMI through education and job training; social security; facilitating the fulfillment of the rights of prospective PMI; strengthening the role of functional job placement staff; placement services in a one-stop integrated service for placement and protection of PMI; and guidance and supervision. Article 21 paragraph (1) states that protection during work includes: data collection and registration by labor attachés or appointed Foreign Service officials; monitoring and evaluation of employers, jobs, and working conditions; facilitating the fulfillment of PMI rights; facilitating the resolution of employment cases; providing consultation, assistance, mediation, advocacy, and legal assistance in the form of facilitating legal services by the Government; PMI guidance; and facilitating repatriation. Protection after work includes: facilitating return to the area of origin; resolving problematic PMI rights; facilitating the management of sick and deceased PMI; social rehabilitation; and empowerment of Indonesian migrant workers and their families left at home (Article 24 paragraph (1)).

For example, Articles 40 to 46 of the PPMI Law emphasize the importance of establishing a One-Stop Integrated Service (LTSA) and strengthening the role of village governments through data collection, education, and training mechanisms. However, in

¹⁷ Law of the Republic of Indonesia Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers, State Gazette of the Republic of Indonesia 2017 Number 299.

reality, many villages have not yet actively established a protection system for prospective migrant workers, weakening its preventive function. This lack of preparedness in terms of technical regulations and institutions has resulted in uneven implementation of protection across Indonesia.

Furthermore, vertical harmonization (between international and national law) has not been followed by horizontal harmonization (between relevant ministries, local governments, and law enforcement institutions). As a result, the migrant worker protection system is often sectoral and sporadic. For example, when violations against Indonesian migrant workers (PMI) occur abroad, it is not uncommon for there to be a tug-of-war over authority between the Ministry of Foreign Affairs, the Ministry of Manpower, and the Indonesian Migrant Workers Protection Agency (BP2MI). This demonstrates weak institutional coordination, which legally reflects the lack of harmony between migrant worker protection instruments and the integrated national legal system.

Legal Implications of Disharmony on the Fulfillment of the Rights of Indonesian Migrant Workers

Many authors have criticized the plight of Indonesian migrant workers, even criticizing the numerous weaknesses in the regulations enacted by the government. For example, Law No. 39 of 2004 concerning the Placement and Protection of Indonesian Migrant Workers Abroad. Several years after its enactment, efforts to protect Indonesian migrant workers have not been optimal due to the numerous weaknesses in the regulations.

The inconsistency between international legal instruments and national law has serious legal consequences, particularly for the realization of the rights of Indonesian migrant workers (PMI). One tangible impact of this disharmony is the low effectiveness of legal protection for PMI at various stages of migration, from before departure, while in the destination country, and upon return home.

During the pre-placement phase, regulatory disharmony and weak implementation of the PPMI Law have opened up opportunities for illegal migration and human trafficking. Prospective migrant workers who do not receive adequate information from the village government or local labor office are vulnerable to recruitment by unofficial agents. This is because the data collection and training system for prospective migrant workers promised by the PPMI Law has not been fully implemented. Some villages lack even basic data on their residents working abroad, let alone providing advocacy services or pre-departure training.

During the placement phase, disharmony in the legal system also results in weak protection when Indonesian migrant workers experience rights violations in their destination countries. Although the Indonesian Migrant Workers Protection Agency (BP2MI) has developed a monitoring and protection system, the limited number of labor attachés and jurisdictional constraints pose significant obstacles. In many cases, Indonesian migrant workers experience violence, sexual harassment, unpaid wages, and even criminalization, yet the government is slow to provide legal assistance. This is despite the fact that, according to Articles 25 to 30 of the ICRMW, sending countries are obliged to provide legal protection to Indonesian migrant workers, including through diplomatic mechanisms.

During the post-placement phase, migrant workers' rights are often neglected, particularly their right to social and economic reintegration. Many migrant workers return home economically and psychologically vulnerable, yet they lack adequate rehabilitation services. Although the PPMI Law regulates the government's role in this regard, there is no sanction mechanism for local governments that fail to fulfill this obligation.

The legal implications are clear: the state can be said to have violated the constitutional rights of its citizens as stipulated in Article 27 paragraph (2) of the 1945 Constitution¹⁸ which states that "every citizen has the right to work and a decent living for humanity." In addition, Indonesia can also be considered to have failed to fulfill its international obligations as a state party to the ICRMW. Violations of the provisions of the convention can harm Indonesia's reputation in international forums and reduce the trust of countries receiving workers in Indonesia's legal commitments.

To follow up on the implementation of Law Number 18 of 2017, the Central Government, through the Ministry of Manpower, initiated a program called Desbumi, or Villages Caring for Migrant Workers. Desbumi is expected to emerge from local initiatives to build and encourage the realization of protection for migrant workers starting from the village level. Villages are the first place of residence and the area where the phase of worker migration begins. However, it is very unfortunate, while until now the role of villages is only limited to serving by providing certificates for those who want to go as migrant workers abroad. Sometimes, this is not well documented, which results in cases of document falsification. Villages have not carried out other tasks related to data collection of prospective migrant workers, providing advice, providing messages, counseling, and assistance to families left behind. With the existence of Desbumi (Villages Caring for Migrant Workers), villages that directly deal with their communities are expected to carry out tasks that can assist in providing services, protection, and empowerment for their residents who want to work abroad. Desbumi is a manifestation of protection and service through collaboration between the village government, community leaders (religious leaders), and migrant workers' families.

Several government programs, such as the Migrant Worker Care Village (Desbumi) program and the establishment of LTSAs, are indeed positive steps. The Desbumi program, for example, aims to strengthen village capacity to provide protection and services to its migrant workers through data collection systems, legal outreach, and advocacy. However, on the ground, implementation of these programs remains uneven and unsustainable. In some areas, such as Ponorogo, the Desbumi program serves only as an initial data collection tool without meaningful follow-up in terms of protecting or empowering migrant workers. The lack of integration between central programs and regional policies is a major factor in the slow pace of structural change.

Closing

Conclusion

¹⁸ The 1945 Constitution of the Republic of Indonesia , Article 27 Paragraph (2).

The disharmony between international legal instruments and national regulations regarding the protection of Indonesian migrant workers remains a significant obstacle to guaranteeing migrant workers' rights. Although Indonesia has ratified several international instruments, their implementation at the national level has been suboptimal. The PPMI Law does accommodate some international principles, but discrepancies persist in technical regulations, institutional coordination, and policy implementation at the local level.

This disharmony carries serious legal implications, ranging from weak protection from pre-placement to post-placement, to increased risks of irregular migration, and to limited access to justice and social security. This has the potential to violate citizens' constitutional rights and damage Indonesia's image in the international community.

Suggestion

To address the disharmony between international legal instruments and national regulations in protecting Indonesian migrant workers, comprehensive harmonization measures are needed. The government needs to refine the implementing regulations of Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers, so that they align with the principles stipulated in international legal instruments, particularly the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW).

Furthermore, strengthening institutional coordination between relevant agencies at the central, regional, and diplomatic levels is urgently needed to avoid overlapping authority and ensure integrated policy implementation. At the local level, the role of regional and village governments needs to be enhanced by optimizing the Migrant Worker Care Village (Desbumi) program as a basis for the protection and empowerment of migrant workers from pre-placement.

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