

# Comparison of Indonesian and Malaysian regulations on migrant workers: A comparative study in legal and security aspects

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## Abstract

This study compares Indonesia and Malaysia in providing legal protection and security guarantees for migrant workers. The main focus is on analyzing the national legal framework, the effectiveness of policy implementation, and its relationship to international standards such as the UN Convention on Migrant Workers (ICMW). Indonesia has ratified the ICMW and regulates protection through Law No. 18 of 2017, while Malaysia still relies on the 1955 Employment Act without ratifying the convention. The research method used is normative juridical with a qualitative approach. The results show that although Indonesia is more progressive in terms of regulations, implementation in the field still faces structural and institutional obstacles. On the other hand, Malaysia has a strict administrative system but tends to be protective of its domestic labor market, leaving migrant workers vulnerable to exploitation and discrimination. This study recommends the need for harmonization of bilateral policies and strengthening regional cooperation to improve legal protection and security for migrant workers in both countries.

## Keywords

Migrant Workers, Legal Protection, Security, ICMW, Comparative Law

## Introduction

The movement of labor across borders, particularly between Indonesia and Malaysia, is a complex social phenomenon involving multiple dimensions, including human rights, law, and social dynamics (Handayani et al., 2015). From a human rights perspective, labor migration reflects an individual's right to a decent living through work suited to their skills and to receive fair protection from the state and society (Gunawan et al., 2022).

Human rights affirm that everyone should have legal protection, even when abroad and at risk of violations (Auria et al., 2024). However, migrant workers often become victims of discrimination, exploitation, and even violence, reflecting the disparity between legal

**Published:**

October 1, 2025

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Selection and Peer-  
review under the  
responsibility of the  
ASEAN Conference of  
Law Schools 2025  
Committee

principles and implementation on the ground ([Office to Monitor and Combat Trafficking in Persons, 2006](#)).

This inequality raises fundamental questions about the fairness and responsibility of the state in providing comprehensive protection for migrant workers ([Frey & Pardo, 2017](#)). Although national and international legal instruments are available, their implementation still faces many obstacles in various countries.

In Indonesia, protection for migrant workers is regulated through Law Number 18 of 2017, which is specifically designed to ensure protection for migrant workers before, during, and after working abroad ([Al Farisi et al., 2022](#)). Meanwhile, Malaysia relies on the Employment Act 1955 to regulate foreign workers, including Indonesian workers ([Mustaffa et al., 2021](#)).

At the international level, the UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW), as well as conventions of the International Labour Organization (ILO), serve as primary references for global protection standards ([Prabaningrum & Hamrany, 2023](#)). In Southeast Asia, this normative framework was strengthened through the 2017 ASEAN Consensus on the rights of migrant workers ([Internationales Arbeitsamt, 2006](#)).

However, challenges remain in synchronizing national laws with international instruments. Differences in ratification rates and implementation commitments lead to variations in the effectiveness of protection across countries ([Rahayu, 2018](#)).

On the other hand, socially, migrant workers face the challenges of alienation from their home culture and community, as well as language and legal barriers, which exacerbate their vulnerability to exploitation ([Mantouvalou, 2023](#); [DW, 2020](#)). This often creates social tension in the destination community ([Kompasiana.com, 2025](#)).

However, the contribution of migrant workers to host countries cannot be ignored. They help meet the needs of specific labor sectors, drive economic growth, and enrich cultural diversity ([Rodrigues & Campina, 2022](#)).

Considering this complexity, it is crucial to develop a comprehensive and participatory approach to protection. One of the main challenges is weak law enforcement and the lack of alignment of domestic regulations with international human rights standards ([Harruma & Nailufar, 2022](#)). This study aims to evaluate the extent to which national laws in Indonesia and Malaysia have accommodated relevant international principles, particularly the ICMW. The analysis focuses on Law No. 18 of 2017 and the Malaysian Employment Act 1955, to assess points of conformity and gaps with international conventions.

This research is expected to provide a comprehensive understanding of the legal protection of migrant workers and recommend policies that can encourage legal harmonization between the two countries to improve the quality of protection for cross-border migrant workers.

## Method

Legal research is a scientific activity conducted systematically using specific methods to examine legal phenomena and analyze legal facts in depth to find solutions to emerging problems. This research uses a qualitative normative approach, based on the views of [Burhan \(2001\)](#) and Peter Mahmud Marzuki, who define normative legal research as an effort to discover relevant legal rules, principles, or doctrines to address the issues raised. This method was chosen because it is relevant to the research topic, which focuses on the analysis of legal regulations and policies.

This research is descriptive in nature, with the aim of clearly describing the problem through data collection related to policies and laws and regulations in force in Indonesia and Malaysia. The data sources used consist of primary and secondary data. Primary data comes from laws and regulations such as the 1945 Constitution, the Human Rights Law, the Foreign Relations Law, the Immigration Law, the Migrant Workers Law, the Malaysian Employment Act, and the UN Convention on the Protection of the Rights of Migrant Workers (ICMW). Meanwhile, secondary data includes literature, court decisions, scientific papers, and other relevant written sources.

Data collection techniques were conducted through observation and interviews. Observation was used to directly observe phenomena or behaviors related to the research issue, while interviews aimed to gather in-depth information from sources regarding policies on handling foreign immigrants in both countries. This approach allowed researchers to obtain a comprehensive picture of the legal and security aspects implemented.

Data processing involves several stages: data reduction to filter and direct relevant information, data editing to check for completeness and consistency, and data display to structure the information to facilitate drawing conclusions. This process ensures the data used is verified and well-organized.

Data analysis was conducted qualitatively using inductive reasoning, drawing general conclusions based on specific facts found in the field. The classified data was described in narrative form to produce answers that align with the research objectives. The results of this analysis are expected to provide an accurate picture of the legal issues being studied and offer appropriate alternative solutions.

## Results and Discussion

### *General immigration regulations according to Law Number 6 of 2011 concerning immigration and the 1959/63 immigration act*

Immigration is a crucial aspect of international relations because it regulates the entry and exit of citizens and foreigners. In Indonesia, the immigration system not only concerns entry permits and monitoring of people's movements, but also serves as an instrument for safeguarding sovereignty and national interests. This aspect involves

interrelated legal, political, security, and socio-cultural dimensions (Johan, 2019). Legally, these regulations are outlined in Law Number 6 of 2011 concerning Immigration, which outlines immigration authority, types of residence permit, mechanisms for refusal, deportation, and re-entry bans. Its primary objective is to maintain national order and security while ensuring the presence of foreigners is legally regulated (Aprita & Hasyim, 2020).

The principle of state sovereignty is the primary foundation of this policy. Article 2 of Law No. 6 of 2011 emphasizes that immigration is implemented to protect the country from threats resulting from the movement of people, including terrorism, human trafficking, and other legal violations (Aji, 2015). Jean Bodin's theory of state sovereignty is relevant because it grants the state the absolute right to determine who may enter and reside within its territory. In the context of globalization, Indonesia faces the challenge of maintaining openness to the international community without sacrificing national security, so this regulation serves as a form of legal readiness to manage cross-border mobility safely and orderly.

This regulation also regulates various types of stay permits—visit, limited, and permanent—with different validity periods, rights, and obligations (Unmehopa et al., 2023). To ensure compliance, monitoring mechanisms are in place, such as deportation, detention, and the inclusion of names on the entry ban list in accordance with Article 75 of Law No. 6 of 2011 (Syahrin, 2019). In addition to its repressive function, this policy also prioritizes the protection of the basic rights of foreigners as long as they obey the law, thus reflecting a balance between state control and the principle of justice. Human rights aspects are also a concern, particularly in dealing with illegal immigrants or asylum seekers. Although Indonesia has not ratified the 1951 Refugee Convention, the principle of non-refoulement as stated in the Declaration on Territorial Asylum (UN General Assembly, 1967) remains in place, demonstrating a moral commitment to international humanitarianism. The greatest challenge arises from the presence of undocumented immigrants entering through illegal channels, which requires a cross-sectoral collaborative approach and international cooperation (Johan, 2019). An axiological approach is used to balance normative rules and empirical realities on the ground, particularly in responding to global dynamics such as conflict, humanitarian disasters, and economic mobility (Syahrin, 2019).

From an institutional perspective, the Directorate General of Immigration under the Ministry of Law and Human Rights is the primary implementer of this policy, with duties encompassing visa services, inspections, investigations, and oversight and law enforcement (Aprita & Hasyim, 2020). This role is expected to ensure professional and transparent immigration governance. Overall, Indonesia's immigration system reflects efforts to maintain sovereignty and legal order while adhering to humanitarian values. Policy evaluation and reform are essential to address the increasingly complex challenges of international migration.

Malaysia is one of the countries in Southeast Asia that has a structured immigration system to regulate the movement of foreigners, including migrant workers. The legal basis for this is the Immigration Act, Act 1959/63 which applies throughout Malaysia, including Sabah and Sarawak, with some differences in implementation in each state (Mustaffa et al., 2021). This law stipulates the obligation for every foreigner to have a valid entry or stay permit and authorizes immigration officials to refuse entry to individuals deemed to be disruptive to public security, health, or public order. Violations of this rule can result in sanctions in the form of fines, detention, or deportation. In the context of stay permits, Malaysia recognizes several types of documents such as the Social Visitation Pass (PS), Temporary Work Visitation Pass (PLKS), and Salary Pass (PS), which are issued based on the purpose of entry, length of stay, and employment status (Internationales Arbeitsamt, 2006).

Malaysia's immigration policy is strict and administrative, particularly for migrant workers in formal sectors such as manufacturing, construction, and plantations. The PLKS (Planning Card) and the Payroll Pass (Pas Penggajian) have a limited validity period and must be renewed according to procedures. Migrant workers can only be recruited through authorized agents and are required to have an employment contract approved by the Department of Immigration and the Ministry of Human Resources (Auria et al., 2024). Violations such as overstaying or changing jobs without permission can result in deportation and a ban on re-entry. Malaysia is also developing digital services such as eVISA and ePPAx to simplify permit processing, but challenges in transparency and protection for migrant workers, especially those in the informal or undocumented sectors, remain serious issues (Gunawan et al., 2014). Many Indonesian migrant workers enter through illegal channels or through unofficial agents, thus not being registered in the official system and being vulnerable to exploitation.

Malaysia's immigration system also implements the principle of labor market protectionism, where migrant workers are only permitted to work in certain sectors to protect employment opportunities for residents. The First Malaysians policy The policy emphasizes priority for domestic workers before companies can recruit foreign workers (Prabaningrum & Hamrany, 2023). This approach is reinforced by national security policies, which link immigration violations to issues of crime and social threats. Enforcement operations such as Ops Mega are carried out to regulate undocumented migrant workers, despite drawing criticism from human rights organizations for allegedly ignoring the principles of humane treatment and due process (Frey & Pardo, 2017). In terms of protection, Malaysia has not ratified the ICMW (International Convention on the Protection of the Rights of All Migrants Workers and Members of Their Families), although some of its principles have been adopted through Employment Act 1955 and its derivative regulations. Challenges still faced by migrant workers include wage discrimination, limited access to justice, and limited social security (Rahayu, 2018). The role of employment agencies as intermediaries between workers and the government is often a source of exploitation, such as wage deductions, document



retention, and contract fraud (BP2MI, 2022). Overall, Malaysian immigration policy prioritizes administrative control and national interests, but comprehensive protection for migrant workers is still suboptimal. Regulatory improvements are needed that align with international standards and non-discriminatory principles to create fair and humane immigration governance.

### *Efforts to protect Indonesian and Malaysian migrant workers legally, legal regulations for migrant workers in Indonesia*

Legal protection for Indonesian Migrant Workers (PMI) is a priority in national employment policy, especially considering the high number of citizens working abroad and the high risk of rights violations, exploitation, and violence. The government responded through Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers, which replaced Law Number 39 of 2004, with coverage from pre-placement, during employment, until return. This law affirms the rights of PMI to information, training, social security, legal assistance, and protection from human trafficking or forced labor. Its implementation involves the central government, regional governments, and BP2MI, as well as the implementation of the One Channel System to prevent illegal recruitment and ensure the placement process is properly supervised.

Despite regulatory strengthening, various cases demonstrate the continued weakness of protection on the ground, such as the cases of Adelina Lisao in Malaysia and Tuti Tursilawati in Saudi Arabia, which demonstrate weak legal diplomacy, minimal protection in destination countries, and gaps in bilateral coordination. Indonesian migrant workers working non-procedurally are the most vulnerable group because they are not officially registered, do not have contracts, and have difficulty accessing legal assistance. Law No. 18 of 2017 does contain sanctions for illegal placement, but enforcement in border areas remains weak. Therefore, legally binding bilateral agreements, strengthening the diplomatic capacity of Indonesian representatives abroad, and rapid response mechanisms to handle emergency cases are needed.

pre-placement training to ensure prospective migrant workers understand their rights and obligations. The Indonesian Migrant Workers Protection Agency (BP2MI) and local governments conduct legal counseling and risk education, in line with a human security approach that encompasses physical protection and protection from legal ignorance. From a social justice perspective, the state has an obligation to ensure equal access to legal aid, compensation, and protection from discrimination. Moving forward, migrant worker protection needs to be strengthened through bilateral legal reform, capacity building of migrant protection institutions, and the involvement of civil society and the media in oversight, so that legal protection becomes a real state commitment, not just a formality.

Legal protection for migrant workers in Malaysia is regulated through a number of regulations, with the main instrument being the 1955 Employment Act which covers basic rights such as working hours, leave and minimum wages (Mustaffa et al., 2021).

Migrant workers who have official permits generally receive protection under this act, but undocumented workers remain in a vulnerable position. Schemes such as the Temporary Work Tour Pass (PLKS) provide a legal framework, but the practice of withholding passports, unpaid overtime work, and threats of deportation are still widespread due to weak supervision (Gunawan et al., 2022). This vulnerability is further exacerbated by limited access to reporting mechanisms, legal assistance, and language barriers, so that existing protections are often merely formalities. Malaysia has also not ratified the UN Convention on the Protection of the Rights of Migrant Workers and Members of Their Families (ICMW), indicating a lack of full adoption of international protection standards (Prabaningrum & Harmony, 2023).

In practice, migrant workers with formal contracts can pursue legal avenues such as labor courts for cases of termination of employment, delayed wages, or harassment (Frey & Pardo, 2017). The Malaysian government provides a mediation mechanism and a migrant worker task force, but their effectiveness is often questioned due to employer dominance and a lack of transparency (Rahayu, 2018). The domestic sector remains the area with the lowest level of protection, with many Indonesian workers lacking written contracts, rest days, or reasonable working hours. Although there is an MoU between Indonesia and Malaysia for the protection of domestic workers, its implementation is often weak due to inconsistent oversight and sanctions (BP2MI, 2022). Indonesia's diplomatic efforts through the Indonesian Embassy and Consulate General play a role in protecting Indonesian migrant workers, but its capacity remains limited to handle the thousands of cases each year (Auria et al., 2018).

As a country that receives large numbers of foreign workers, Malaysia has a moral and legal responsibility to strengthen the migrant worker protection system. The 2022 revision of the 1955 Employment Act expands the scope of protection, including for migrant workers, but implementation still requires increased law enforcement and awareness at the field level (Mustaffa et al., 2021). Barriers such as weak oversight of employment agencies, legal bias against local citizens, and limited access to justice are key challenges. Therefore, legal system reform and ratification of international instruments such as the ICMW need to be considered (Prabaningrum & Hamrany, 2023). Strengthening legal protection not only enhances Malaysia's international reputation but also supports social justice, stable bilateral relations, and the fulfillment of human rights principles.

### *The concept of foreign migrant workers from an international legal perspective*

Legal protection for migrant workers in Malaysia is regulated through general and sectoral regulations, with the main instrument of the 1955 Employment Act covering basic rights such as working hours, leave and minimum wages (Mustaffa et al., 2021). Migrant workers who have legal permission to work under formal contracts are generally subject to this act, while undocumented workers remain in a vulnerable position. Schemes such as the Temporary Work Tour Pass (PLKS) provide a legal

framework, but the practice of withholding passports, working overtime without pay, and the threat of deportation is still widespread due to weak supervision (Gunawan et al., 2022). This vulnerability is exacerbated by limited access to reporting mechanisms, legal assistance, and language barriers, so protection is often a mere formality. Malaysia has also not ratified the UN Convention on the Protection of the Rights of Migrant Workers and Members of Their Families (ICMW), indicating a lack of full adoption of international protection standards (Prabaningrum & Hamrany, 2023).

As a country receiving many foreign workers, Malaysia has a moral and legal responsibility to strengthen its migrant worker protection system. Indonesia's diplomatic efforts through the Indonesian Embassy and Consulate General have played a role in assisting Indonesian migrant workers, but their capacity is limited to handle the thousands of cases each year (Auria et al., 2024). The 2022 revision of the 1955 Employment Act expanded the scope of protection, including for migrant workers, but its implementation still requires strengthening supervision and law enforcement in the field (Mustaffa et al., 2021). Systemic barriers such as weak oversight of employment agencies, legal bias against residents, and limited access to justice remain major problems.

1. Ratification and international commitments in the protection of migrant workers  
Indonesia and Malaysia have different positions regarding the ratification of international conventions concerning migrant workers. Indonesia, as a major sending country, including to Malaysia, has ratified the International Convention on the Protection of the Rights of All Migrants Workers and Members of Their Families (ICMW) in 2012 through Law Number 6 of 2012 (UN General Assembly, 1990). As a follow-up, Indonesia passed Law Number 18 of 2017, which adopted the principles of the ICMW, encompassing protection from pre-placement, during employment, and post-placement. This harmonization strengthens Indonesia's commitment to protecting migrant workers throughout the migration cycle (Aprita & Hasyim, 2020).

Indonesia's ratification of the ICMW serves as a moral and political foundation for migration diplomacy, providing a legitimate basis for demanding fair treatment for migrant workers abroad, in accordance with Article 28D of the 1945 Constitution (Aji, 2015). This commitment is realized through bilateral cooperation, such as the Memorandum of Understanding (MoU) with Malaysia, particularly in the domestic sector, despite its limited effectiveness (BP2MI, 2022). However, domestic implementation still faces obstacles such as weak agency oversight, limited legal assistance, and suboptimal diplomacy (Auria et al., 2024).

In contrast, Malaysia, as a recipient country, has not ratified the ICMW, citing concerns about the impact on protections for undocumented migrant workers. The government believes that granting equal rights could encourage illegal immigration, contradicting security and border control policies (Prabaningrum & Hamrany, 2023). However, some ICMW principles have been adopted in the 1955



Employment Act, which regulates minimum labor standards. However, this protection generally only applies to legal workers with formal contracts (Mustaffa et al. , 2021).

Malaysia's legal reform efforts are evident in the 2022 revision of the Employment Act 1955, which expanded protections for more categories of workers, including some migrant workers. This revision strengthens basic rights such as minimum wages, reasonable working hours, and maternity leave, demonstrating a partial commitment to the principles of international protection (Rahayu, 2018). Pressure from the international community, the ILO, and human rights organizations continues to push Malaysia to improve protections for migrant workers, particularly in the most vulnerable domestic sector (Gunawan et al., 2018).

The differing approaches between Indonesia and Malaysia demonstrate that ratification is not the sole indicator of commitment to protecting migrant workers. Both are ASEAN members, which in 2017 ratified the ASEAN Consensus. on the Protection and Promotion of the Rights of Migrant Workers —a non-binding document affirming regional commitments to the protection of migrant workers (Internationales Arbeitsamt, 2006). The success of protection depends on the concrete implementation of human rights principles in national policies and consistent cross-border cooperation (Mantouvalou , 2023).

## 2. Harmonization of Law No. 18 of 2017 of Indonesia with ICMW

Law No. 18 of 2017 is a concrete form of Indonesia's commitment to the protection of migrant workers, which is in line with the standards set out in the International Convention on the Protection of the Rights of All Migrants Workers and Members of Their Families (ICMW). The anti-discrimination principle in Articles 1(1) and 7 of the ICMW is reflected in the principles contained in Article 2 letters b and g and Article 3 of Law 18/2017, which affirms equal rights for migrant workers (Hukum Online, 2025).

Furthermore, protection is provided in all stages of the migration process, in accordance with Article 1(2) of the ICMW which is developed in Article 7 of Law 18/2017. Protection from slavery and human trafficking practices as regulated in Articles 11 and 68 of the ICMW is also accommodated in the considerations letter c and Article 2 letter h and is strengthened through the prohibition of illegal placement in Articles 69 and 72. The comparison of Harmonization of UU 18/2017 with ICMW presented in Table 1 – Table 3.

**Table 1.** Comparison of Harmonization of UU 18/2017 with ICMW

Theme/Principle	Law 18/2017 (Article)	ICMW (Article)
Anti-Discrimination	2 (b, g), 3	1(1), 7
Migration Process Coverage	1 (6,7,8), 7	1(2)
Anti Slavery/Trafficking	Considering c, 2(h), 69, 72	11, 68
Aid & Fair Legal Process	6(1)g, 21(1) d,f , 77	16, 18, 22

In the context of employment rights, Law 18/2017 affirms the right to a decent wage (Article 6(1)f, 15(2)e) as emphasized in Article 25 of the ICMW. In addition, the right to social security is guaranteed in Article 5(d) and Article 29 which are administered by BPJS Ketenagakerjaan, in line with Article 27 of the ICMW (Kusumawati & Hamrany, 2023).

**Table 2.** Employment and Social Rights

Theme/Principle	UU 18/2017 (Article)	ICMW (Article)
Wages and Working Conditions	6(1)f, 15(2)e	25
Social Security	5(d), 29	27
Right to Association	6(1)k	26, 40

The right to information and consular assistance is also regulated in detail. Access to information is stated in Article 6(1)c, h and Articles 9–11, while consular assistance is regulated in Article 21(1) e,f . The sending of remittances is guaranteed through Article 35(a), in accordance with Articles 32 and 47 of the ICMW (Gunawan et al., 2022).

**Table 3.** Social and Administrative Rights

Theme/Principle	UU 18/2017 (Article)	ICMW (Article)
Right to Information	6(1) c,h , 9-11	33, 37
Consular Assistance	21(1) e,f	16(7), 23
Income/Savings Transfer	35(a)	32, 47

This law also provides protection for migrant workers' families in Articles 1(3), 6(3), 27(2), 29(1), and 24(1)e, in accordance with Article 44 of the ICMW. The state is also mandated to be responsible for all aspects of migration through Chapters V and VI, and prohibits the imposition of placement fees on migrant workers (Article 30), a step that even goes beyond the provisions of the ICMW (Al Farisi et al., 2022).

3. Relevance of Malaysia's 1955 employment act to ICMW standards  
Malaysia's Employment Act 1955 regulates various aspects of employment in general, including for legal migrant workers, although it does not explicitly refer to the ICMW as Malaysia has not ratified the convention. Written employment contracts are mandatory for long-term employment (Section 10), and wage protection is regulated in Sections 18, 19, 24, and 25, which are similar in principle to Article 25 of the ICMW (Mustaffa et al., 2021). The basic alignment of the work act with ICMW presented in Table 4.

Table 4. Basic Alignment of the Work Act with ICMW

Theme/Principle	Akta Kerja 1955 (Section )	ICMW (Article)
Written Employment Contract	10	15 (implicit)
Wage Protection	18, 19, 24, 25	25
Better Terms	7, 7A	81

Working hours, holidays, and leave arrangements are explained in Sections 59, 60A, 60D–F, in line with the principle of decent work in the ICMW. Maternity protection is provided to female workers in Part IX (Sections 37–44A), in line with the spirit of Article 44 of the ICMW (Rodrigues & Campina, 2022).

This act also has a special section for foreign workers, namely Section Handling of discrimination and sexual harassment is regulated in Section 69F and Section XVA (81A–81H) (Auria et al., 2024). The specific provisions in the 1955 Employment Act presented in Table 5.

Table 5. Specific Provisions in the 1955 Employment Act

Theme/Principle	Akta Kerja 1955 ( Section )	ICMW (Pasal)
Maternity Protection	37–44A	7, 44 (implicit)
Protection of Foreign Workers	60K–60O	VI (implicit)
Prohibition of Forced Labor	90B	11
Protection from Discrimination	69F	7
Handling Sexual Harassment	81A–81H	7, 10, 16

In dispute resolution, Sections 69 to 77 empower the Director-General to deal with breaches of employment contracts and discrimination. This mechanism reflects the spirit of Article 83 of the ICMW on access to effective remedies (Frey & Pardo, 2017 ). Although it has not ratified the ICMW, Malaysia has shown partial alignment with the basic principles of the convention. However, the protection for migrant workers in the Employment Act 1955 focuses more on the regulation of employment relationships and does not extend to the comprehensive protection of civil, political and cultural rights as mandated by the ICMW.

Although Malaysia has not ratified the ICMW Convention, the Employment Act 1955 normatively provides several employment protections that are also available to legal migrant workers. The Act sets minimum standards in terms of working hours, wages, leave and occupational safety, which are in principle in line with several articles in the ICMW. One example is the obligation of employers to provide written employment contracts (Section 10), as well as protection against arbitrary wage deductions (Section 24), which reflects the essence of Article 25 of the ICMW on the right to just conditions of work and decent remuneration (Mustaffa et al., 2021). However, this protection does not include all the civil, political, and social and cultural rights guaranteed in the ICMW.

The 1955 Employment Act also demonstrates progressive developments in social issues that are often of global concern. Provisions on maternity protection (Sections 37–44A), the prohibition of sexual harassment in the workplace (Section XVA), and the

complaints mechanism against discrimination (Section 69F) are important indicators that Malaysia is beginning to implement the principles of non-discrimination and gender equality as emphasized in Articles 7 and 10 of the ICMW (Auria et al. , 2024). This is a positive step, particularly in the context of the rights of migrant women workers who are vulnerable to double exploitation, both as workers and as women.

Regarding the regulation of foreign workers, the Act has a special section (Part XIIB) that administratively regulates the requirements and responsibilities of employers in employing migrant workers. While this regulation demonstrates strict state control over the influx of foreign workers, its approach is more protective of the domestic labor market than guaranteeing universal rights for migrant workers.

For example, in cases of termination of employment due to excess labor, local workers are given priority over migrant workers (Sections 60M–60N). This approach contradicts the universal principle of non-discrimination in the ICMW, which promotes equal rights between citizens and non-citizens in terms of employment protection (Rodrigues & Campina, 2022).

Furthermore, although there is a complaint and dispute resolution channel under the authority of the Manpower Advisory Board (Section 69–81), this mechanism is still limited to the formal employment context and does not yet cover the protection of undocumented migrant workers. The absence of a protection mechanism for this group is a fundamental weakness compared to Indonesia's Law 18/2017, which more comprehensively covers protection from the pre- to post-placement phases. Therefore, although the 1955 Employment Act shows partial alignment with the principles of the ICMW, the legal protection provided by Malaysia for migrant workers remains fragmentary and needs to be expanded to align with more comprehensive international human rights standards (Frey & Pardo, 2017).

## Conclusion

Based on the results of the analysis of legal protection for migrant workers in Indonesia and Malaysia from an international legal perspective, it can be concluded that Indonesia has shown progress in harmonizing national regulations with international standards, especially the International Convention on the Protection of Migrant Workers. on the Protection of the Rights of All Migrants Workers and Members of Their Families (ICMW). This is reflected in the ratification of Law Number 18 of 2017, which substantially embodies the basic principles of the ICMW, such as non-discrimination, comprehensive protection from pre- to post-placement, the right to information, social security, and access to legal aid.

In contrast, Malaysia still demonstrates a partial approach to migrant worker protection. The Employment Act 1955 does provide basic employment protections for legal migrant workers, such as regulation of working hours, wages, leave, and employment contracts. However, this protection is administrative in nature and does not cover undocumented

migrants, and it does not guarantee the full range of civil and social rights as mandated by the ICMW. The lack of ratification of the convention also indicates that Malaysia is not yet fully committed to universal protection norms for migrant workers.

In terms of implementation, Indonesia still faces challenges in law enforcement, such as weak coordination between institutions, inadequate legal outreach to prospective migrant workers, and the persistently high number of illegal placements. Despite the existence of specialized institutions like the BP2MI (Indonesian Migrant Workers Protection Agency) and a comprehensive legal system, effective protection depends heavily on strict oversight, competent human resources, and the active involvement of communities and local governments in monitoring and overseeing labor migration.

Overall, protecting migrant workers requires more than just the development of normative regulations. Both Indonesia and Malaysia need to continue strengthening legal implementation, adopting a human rights-based approach, and expanding bilateral and international cooperation so that migrant worker protection is not merely a legalistic discourse but truly guarantees the safety, well-being, and dignity of migrant workers as human beings with inalienable rights wherever they are.

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