

ILO Conventions and Migrant Workers: Construction of Protection in National Labor Law

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Abstract: *The International Labor Organization has clearly regulated that human rights such as the right to work must be upheld and guaranteed. Therefore, no one should be prevented from working to meet their needs, whether domestically or abroad. The most crucial factor is the state's ability to safeguard its inhabitants, particularly those who work overseas, so that they can be treated with the respect and dignity befitting human beings. The private sector, represented by PTKIS, is given broad responsibilities by Law Number 18 of 2017 concerning the placement and protection of Indonesian workers abroad. However, Chapter VI of the law provides protection only during placement and does not include a comprehensive protection system. This study employs normative legal research using both a concept and statutory approaches. The study concludes that significant changes are required, including giving the government more authority to place and protect migrant workers. Up to now, there has been no clear definition of the extent or boundaries of this authority. It remains challenging to apply the development of legal frameworks and protections for migrant workers in line with the labour rights principles outlined in the ILO convention on the protection of all migratory workers to the issues encountered by workers overseas. The protection of migrant workers is frequently implemented in a fragmented and unsustainable way.*

Introduction

Approximately 450,000 Indonesian nationals (WNI) travel abroad each year for work. Four million Indonesian citizens, 70% of whom are women, are employed as migrant workers, with the majority engaged in domestic work. Of this total, nearly 60% are placed in an irregular or unlawful manner (Melisa, 2023). Indonesian workers have not been sent to other nations in conjunction with a robust and all-encompassing placement and protection system that might address the issues faced by potential Indonesian workers abroad / existing Indonesian workers abroad, both during pre-placement, placement, and post-placement. The inadequate protection of Indonesian migrant workers creates opportunities for human trafficking. One form of human trafficking involves sending Indonesian workers abroad, where they are subjected to physical, sexual, and psychological exploitation (Dharmayasa, 2021).

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These principles are articulated in various United Nations human rights documents, including the Convention on the Rights of the Child, the International Covenant on Civil and Political Rights, the International Covenant on the Elimination of All Forms of Discrimination Against Women, and the Universal Declaration of Human Rights. Malaysia and Saudi Arabia are the two primary destination countries for Indonesian migrant workers, who predominantly come from Southeast Asia, East Asia, and the Middle East (ILO, 2012). The annual influx of migrant workers is expected to increase as the migration restrictions imposed by World Trade Organization (WTO) member countries are relaxed.

The International Labour Organisation (ILO) has numerous warrant publications that merit examination. The International Labour Organization (ILO) has numerous relevant publications that warrant examination. Notable conventions and recommendations include: Convention No. 97 on Migration for Employment, Convention No. 143 on Migrant Workers in Irregular Situations and the Promotion of Equal Opportunity and Treatment for Migrant Workers, Recommendation No. 86 on Migration for Employment, Recommendation No. 151 on Migrant Workers, and Convention No. 105 on the Coordination of Migration. The United Nations Educational, Scientific, and Cultural Organization (UNESCO) recalls that the Convention against Discrimination in Education and the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment also encompass these fundamental principles. (Palilingan, 2019). This adheres to the Convention against Slavery, the Code of Conduct for Law Enforcement Officials, and the Fourth United Nations Congress Declaration on Crime Prevention and Offender Rehabilitation. One of the ILO's missions, as articulated in its constitution, is to safeguard the rights of workers employed abroad, considering the organization's proficiency in matters that advantage workers and their families.(Natsif, 2019).

The value and effectiveness of bilateral and multilateral agreements in protecting the rights of migrant workers and their families are evident, along with the bilateral and regional actions taken by several states, which contribute to safeguarding these rights. Basic guidelines for the treatment of migrant workers and their families must be implemented in order to create conventions that can aid in harmonizing the behavior of these nations. This is due to the immigration debate, which affects millions of people and has a big effect on a lot of States in the world. These States are aware of how migrant labor flows affect the participating States and countries.

Migrant workers and their families face numerous challenges arising from their presence in foreign nations, as they are away from their countries of origin. The conviction that international protection is necessary to effectively safeguard the rights of migratory workers and their families. Considering the inherent challenges that migration often poses for both migrant labourers and their families(Azharil, 2021).

A singular instance of migration has prompted advocacy for the promotion of appropriate measures to prevent and eliminate unlawful migration and human trafficking, while simultaneously safeguarding the fundamental rights of migrants. To enhance respect for the rights of migrant

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workers, it is essential to reduce the use of migrant labor in irregular situations. This is because workers who lack proper documentation or find themselves in unusual circumstances often endure substandard working conditions compared to their counterparts. Furthermore, certain employers actively seek out such workers to exploit an unfair advantage in competition. Giving migrant employees and members of their families a set of additional rights would also encourage all migrant workers and employers to observe and follow the laws and regulations set forth by the respective countries. In a comprehensive convention that is universally enforceable, international protection of the rights of all migrant workers and members of their families reinforces and defines fundamental standards (Harahap, 2020).

The most common issues with these migrant workers are work that does not follow employment agreements, incomplete paperwork, underpaid salaries, abuse, sexual harassment, rape, and other things. "The government is dedicated to safeguarding nationals who are employed overseas. This is exemplified by the multitude of labor-related laws, regulations, and policies that are consistently revised and improved. A significant step in this effort was the ratification of the 1990 UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Convention on Migrant Workers) in April, which was formalized through Law Number 6 of 2012. This ratification represents a major milestone in ensuring comprehensive protection for migrant workers and their families.

Law Number 18 of 2017 regulates the protection of Indonesian workers employed overseas and mandates that "the government is obliged to provide protection to Indonesian workers from the pre-departure period, through placement, and after placement" (Article 7, letter e). The procedures for the protection of Indonesian employees are communicated through the execution of private Indonesian labour placement (PPTKIS) in addition to training charged to PPTKIS in this article when related to article 34 Paragraph (3). This indicates that while the state's role in providing protection is diminished or even removed, the provisions of this law are the only ones to adopt free market concepts as legal instruments. Because the ILO convention's provisions for the protection of migrant workers and their families, which are tailored specifically for migrant workers themselves, are not fully implemented, implemented, or accommodated at all with regard to legal protection for Indonesian workers and their families, the author makes the initial foothold that becomes the background of this writing from the provisions of these two articles. The 1990 worldwide convention on all rights to the protection of migrant workers and their family members highlights the incomplete implementation of migrant workers' and their family members' rights in some States. This underscores the necessity for adequate international protection (Hanoatubun, 2020). migratory workers should have their rights protected at every stage of the migration process, in line with international standards outlined in ILO accords and conventions regarding the safeguarding of migratory workers and their families (Diya, 2021).

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Several preventive efforts made by the government related to Pre-departure and travel to destination country among them Get information about working and living conditions in the destination country, Information is provided in a way that prospective migrant workers can access and is provided in a language that migrant workers can understand, Information is provided free of charge. And There is a crackdown on those who provide incorrect information related to migrant workers. as well as regulations related to recruitment Recruitment Where recruitment of migrant workers is carried out by: government agencies, prospective employers, and official/accredited employment agencies, Employers and labor recruitment agencies must obtain permission from government agencies. Strict monitoring and supervision of employers and recruitment agencies to prevent the occurrence of: high recruitment fees charged to migrant workers, deficiencies in making and performing contracts, incorrect information, customers of immigration provisions or placement of migrant workers without documents. Licensing to agents is given only for certain sectors of work. (Maheswara & Sari, 2022). Migrant workers are not to be charged recruitment fees; in cases where fees are applicable, they must be minimal. Employers and agents are also prohibited from withholding the salaries of migrant workers.

Before departing for the destination country, migrant workers have the right to receive a written employment agreement that clearly outlines the nature and scope of work, working conditions, wages or salaries, and the duration of the contract. These agreements and other documents are written in a language that migrant workers understand. If the person concerned is poorly educated, the content of the contract must be explained to the person concerned, Employment agreements and work permits shall not infringe the rights of migrant workers guaranteed in the convention. For example, there should be no provisions prohibiting migrant workers from entering unions, from marrying, from becoming pregnant or requiring migrant workers to take periodic pregnancy tests.

Migrant workers are entitled to medical tests and health services before departure, during their journey, and upon arrival in the destination country. Migrant workers are not forced / required to undergo health tests that are not kept confidential, such as pregnancy tests, HIV / AID tests, etc. Migrant workers are not deprived of the right to work when they are positive for pregnancy or have HIV / AID. (Gacek, S. 2019) Regarding the arrival and departure of workers, it is mandatory to fulfill several aspects, including migrant workers, especially those who are going abroad for the first time, are entitled to services/assistance in dealing with processes related to travel and immigration processes. When migrant workers do not have a contract with their employer or depart on their own initiative, travel expenses are kept to a minimum. The right to obtain the orientation program necessary to acclimatise to the circumstances in the target nation. The entitlement to be exempt from any form of bias when acquiring lodging.

Migrant workers are entitled to equitable treatment in terms of working conditions, comparable to that of local employees. This includes equality in wages, trade union membership, accommodation, social security (to some extent), taxes, and overall workplace treatment. Migrant workers

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must receive equal treatment in areas such as working hours, rest periods, overtime, holidays, opportunities for learning and training, as well as protection from hazardous materials, dangerous equipment, vibration, noise pollution, and physical or sexual violence. They are also entitled to social security and other essential services (Ormaza & Oelz, 2020). Moreover, migrant workers have the right to access justice.

The desire of Indonesian informal migrant workers to enter the workforce is often driven by family economic pressures and limited opportunities for growth within the labor market. The challenges faced by these migrants abroad are also national issues, both directly and indirectly. As a result, the government must step in to address any issues that may arise by providing material support (such as compensation or assistance with repatriation) or moral support (such as security, legal assistance, and other assistance). (Palilingan, 2019). This clause serves as a more ad hoc or transient kind of state protection for its inhabitants in times of need. The issues surrounding legal protection for Indonesian migrant workers abroad must be addressed by the Indonesian Employment Law Policy, particularly with regard to the laws and rules pertaining to these workers. Legal policy is the fundamental approach taken by state administrators in the legal sphere that will, is, and has been implemented; it is based on the values that are applicable in society in order to accomplish the intended state objectives.

The purpose of employment law is to ensure justice in matters concerning labor relations. The employment law's legal policy will be thoroughly examined to ascertain whether it has been applied in the creation of legislation governing employment and what legal considerations have an impact on it. If the employment law's legal policy is not applied correctly, the legal protections for Indonesian migrant workers abroad will not be effectively implemented. Thus, based on the significance and specifics of the international agreement concerning the defence of the rights of all migrant workers and family members, the author of this article will examine the employment justice principle in relation to the development and protection of Indonesian workers. One cannot overlook the importance of upholding this fairness ideal.

The increasing severity of violations against migrant workers' rights, particularly as many of these rights remain unfulfilled, has adversely affected various aspects of community life, including the global perception of Indonesian workers. It is only natural that in a country that upholds the law, this is a very unpleasant condition. In fact, Indonesian labor law has been in effect since January 1, 1860, precisely when the Regeringsreglement was formed until the current omnibus law emerged. This law prohibits slavery and improves labor regulations. In the context of development, Indonesian labor law also adheres to several concepts, namely protection, balance, and justice. However, in practice, it has not been able to provide justice for migrant workers and their families.

Method

In this work, Normative legal research is employed. Normative legal research refers to the practice of doing legal research by utilizing secondary data or resources available in libraries. This study is backed by primary legal sources such as relevant laws and regulations, as well as secondary legal sources such as law books that provide descriptive and analytical content related to legal issues. It is based on a legal approach and a conceptual approach. The legal sources consulted for this topic are both primary and secondary. Secondary legal content refers to legal knowledge that is relevant to the subject matter, including literature, scientific data, reports, and other printed materials. In contrast, primary legal content refers to information presented in the form of laws and regulations (Dianthi, 2017).

Results and Discussion

The Importance and Details of International Agreements Pertaining to the Defence of the Rights of All Migrant Workers and Family Members

One of the key aspects of a globalising society is international migration, which presents both opportunities and challenges for social cohesion and governmental development. Up to 200 million people today reside outside of their place of origin or country of citizenship. If all of those people congregated in the vicinity of one country, it would rank sixth in terms of population (Asshiddiqie, 2006). In fact, migration affects practically every nation in the world, whether they are countries of origin, transit, or destination. Many countries fall into all three categories simultaneously.

Migrants should be prioritized for protection as individuals who possess all the rights outlined in the Universal Declaration of Human Rights. International migrants are particularly susceptible to abuse and exploitation due to their lack of legal safeguards in the countries they migrate to. Several host countries have failed to establish comprehensive legal frameworks and other protective measures to ensure the preservation of migrants' human rights and access to satisfactory employment opportunities. In the present era of increased international mobility, numerous countries lack the ability to construct appropriate legislation, regulations, and frameworks to manage controlled migration, reduce uncontrolled movement, ensure fair employment for migrant workers, and promote social unity. Migrants are often regarded as a readily available and pliable workforce, characterized by their low cost, lack of strength, and flexibility. They are frequently perceived as groups who can be easily exploited and are willing to accept "3-D" jobs—difficult, dangerous, and dirty—positions that the native population is often reluctant or unable to fill. (Hatane, 2021)

Consequently, the fundamental rights of migrants are often violated or overlooked. Migration has a long history of contributing to social and economic progress, as well as overall well-being, in both the countries of origin and destination (Husin, 2021). Worker mobility has become crucial to global progress and prosperity in the age of globalisation as a result of inescapable economic, technical, and demographic developments. Today, low,

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middle, and high opinion countries all require the energy and abilities of immigrant employees (Khair, 2021).

In a globalized economy, migration has emerged as a crucial factor in addressing challenges related to productivity, the job market, and economic growth. Migration is a tool for adjusting the age, industry, and skill makeup of the local and national labour markets. Migration, which has been observed in recent years in a number of nations and areas, is a response to the shifting demands for skills and persons brought on by technical advancements, shifting market conditions, and industrial transformations. Migration has replaced the ageing labour force in nations with older populations while bringing in younger employees (Marsha, 2020).

According to the International Labour Organization (ILO), approximately 90 million migrants—those who have lived abroad for at least three months—are economically active and facing employment challenges. Given that children and the elderly participate in the global migrant population, this essentially exclusively comprises migrants of working age. 10 percent of the labour force in Western Europe, North America has a 15 percent share, while other African countries have even higher percentages and the Middle East are often made up of foreign workers. (Osgar & Izziyana, 2020)

Three complementary international instruments establish a substantial legal framework for national migration policy, facilitate international collaboration in migration management, and safeguard the human rights of migrants, particularly their employment rights. When the apparatus is: The ICRMW (1990) is an international treaty that safeguards the rights of all migrant workers and their families. The 1949 ILO Convention on Migration for Employment (C-97) and the 1975 ILO (Supplementary Provisions) Convention (C-143) concerning migrant laborers. The ICRMW is a significant labor law regulation that intersects with the rights and obligations of migrant workers, which is the focus of this paper.

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, commonly known as the Convention on the Rights of Migrant Workers, implements the international human rights standards established by the Universal Declaration of Human Rights and the International Covenants on Civil and Political Rights, as well as Economic, Social, and Cultural Rights of 1966, tailored to the unique situations of migrant workers and their families. Alternative instruments offer benefits for women, children with disabilities, and Native Americans. The Convention on the Rights of Migrant Workers serves as a comprehensive legal reference for states in developing national immigration laws (Ronald, 2019).

The twin ILO Conventions on migration for work (C-97 and C-143) provide clear guidelines for the recruitment and employment of migrant workers. The treaties provide a comprehensive set of rules for determining both national and international migration policies within the context of the rule of law. While extending beyond the scope of a human rights treaty, they provide the fundamental basis for a policy centered on rights. The Conventions outline a timetable for consultation and collaboration between

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States on critical matters, such as sharing information, working together to eliminate unrestricted migration, combating migrant smuggling and human trafficking, providing pre-departure guidance for migrants, and ensuring proper repatriation and reintegration in the State of origin.

These concepts establish guidelines for national policies and regulations. The Convention on the Rights of Migrant Workers integrates specific concepts and principles from the two ILO conventions referenced below. The Convention on the Rights of Migrant Workers delineates extensive legal concepts regarding migration, the treatment of migrants, and the prevention of exploitation and unfettered mobility. The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW) provides extensive safeguards for migrant workers and their families during the entire migration process. This includes support and protections during the planning, departure, transit, employment in the host country, and the procedures for returning to and reintegrating into their home country or domicile.

The Convention specifies fundamental rights that are clearly outlined in the Universal Declaration of Human Rights and other significant international human rights treaties. These rights are accessible to all migrant workers and their family members, regardless of their nationality or legal status. The Convention examines the special rights pertinent to certain migrants and their families within social and civic contexts, recognising that migrant workers bear duties that extend beyond their employment and economic endeavours. According to Article 79 of the Convention on the Rights of Migrant Workers, States have the specific authority to determine who may enter, seek, or engage in employment inside their borders (Juaningsih, 2020).

The significance of these international tools is underscored by seven key points (Rizal & Simangunsong, 2022). The three treaties provide comprehensive definitions of national policies and practices for foreign migrant workers and their families, grounded in rights and legal principles. The Conventions recognise that non-citizens residing in the State of employment or transit, as well as migratory workers and their families, may lack adequate protection for their rights; neither their country of origin nor the national legislation of the host state may have addressed these concerns. Consequently, these treaties embody fundamental criteria that are common to national legislation.

Consequently, these agreements serve as mechanisms to incentivise states to establish or improve domestic legislation in accordance with international standards. These instruments provide more than only a basis for human rights. Each clause contributes to a comprehensive national policy agenda that tackles many critical aspects of labour migration management. The three treaties establish a detailed framework for state engagement and collaboration on labor migration policymaking, information dissemination, migrant education, and the safe repatriation and reintegration of returning citizens, among other issues.

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These Conventions clearly outline the necessary actions to prevent the exploitation of migrant workers and their families, including the elimination of forced displacement, inadequate housing conditions, and the enforcement of illegal or undocumented situations. These instruments demonstrate the advancement of legal norms in the latter part of the century, which increasingly broadened the rights granted to authorised migratory workers and their families. The rights, especially regarding equal treatment with local citizens in multiple areas, were explicitly recognised. These accords aim to fulfil the necessity for explicit legal regulation in light of the increasing international labour mobility. Their objective is to safeguard workers and their families who lack citizenship in the nations where they are employed. Moreover, these treaties seek to enhance international collaboration and accountability among nations via a common normative framework.

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW) is a global agreement that safeguards the rights of all migrant laborers and their families. The 1990 Convention provides guidance to States on the formulation of labour migration policies that uphold the rights of migrants. It establishes the most comprehensive legal structure in international law for the protection of the rights of migratory workers and their families. (Fadilah & Nugroho, 2021).

The Convention aims to establish essential principles for safeguarding the civil, political, economic, social, and cultural rights of all migrant workers and their families. Article 79 of the Convention clearly advocates for States to advance the harmonisation of their legislation. Article 79 of the Convention explicitly asserts that States possess the authority to determine eligibility for residency and entrance within their jurisdiction. The Convention regards migrant workers as individuals possessing human rights, rather than merely as labourers or commercial assets. Migration significantly influences the global economy. It is essential to acknowledge that the contributions of immigrants to the economics and society of their host nations, as well as the advancement of their countries of origin, depend on the legal safeguarding and acknowledgement of their human rights.

The Convention specifies the criteria that must be met for these rights to be recognized and enforced by national law. While numerous migrant workers and their families attain respectable living and working conditions abroad, some encounter discrimination, exploitation, and violations of their rights. Immigrants generally have more significant obstacles than native-born citizens in securing acknowledgment and safeguarding of their rights. The Convention acknowledges the need for sufficient protection and the perceived vulnerability of migrant workers and their families. The Convention is presently the most extensive international document concerning migratory labor. The Convention delineates regulations regarding (a) the welfare, rights, and treatment of all migrant workers and their families, and (b) the responsibilities and obligations of participating states (Jamaan & Anugrah, 2014).

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This include the nations of employment, transit, and origin that gain from the mobility of international workers. Bilateral and regional instruments are crucial as they allow participating States to develop and implement focused migration plans on a bilateral or regional level. These tools are effective only if they align with established international conventions or impose stricter criteria for the protection of migrant laborers and their families.

The Convention underscores the imperative of acknowledging the rights of all migratory workers, irrespective of their legal status. The project include all migrant workers but prioritizes the prompt placement of those possessing the necessary documentation. The Convention urges firms and employees to respect and comply with the regulations and laws of the participating States. The convention's core principles focus on the concept of non-discrimination. All migrant workers and their families share identical human rights as citizens of the nation, irrespective of their immigration status. In various circumstances, migrant workers with legal documentation and their families are often afforded treatment comparable to that of local citizens.

The Convention provides a widely accepted definition of migrant workers, encompassing all migrants, regardless of gender, who are currently or have previously engaged in paid employment in a country other than their country of origin. Moreover, the convention offers universally appropriate nomenclature for many types of migratory labor. The Convention seeks to prevent and eliminate the exploitation of all migrant workers and their family members during the migration process. The Convention forbids the employment of undocumented and unconditional migrants and specifically addresses the unlawful or covert recruiting of migrant workers, along with the trafficking of migrant workers. The convention establishes an agency dedicated to safeguarding the rights of all migratory workers and their families. The Committee evaluates the ratifying State's compliance with the convention by examining a review report that outlines the activities performed by the State.

The Convention addresses all facets of the mobility of migrant workers, including the inclusion of their families. At all times, individuals are entitled to rights and protections under the Convention. These rights and safeguards apply at various stages, such as preparation, recruitment, departure, and transit. They also extend to their stay in the State where they are employed, as well as their return to and re-establishment in their State of origin or State of domicile (Article 1).

This term encompasses individuals who aspire to engage in migratory labor, are currently engaged in such labor, or have completed their employment abroad and are now returning to their home country. As per Article 2 of the Convention, a "migrant worker" refers to an individual who intends to, is currently, or has previously been involved in a remunerated occupation in a country where they are not a citizen (Pohan, 2020).

The convention gives definitions for a number of specific migrant worker types in addition to a generic definition of the term, such as "border workers" and seasonal workers."('self-employed worker' and 'project tied

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worker')" (Article 2). Many migrant workers categorized as "self-employed" run small family businesses independently or in collaboration with other family members (Rizal & Simangunsong, 2022).

As to the Convention, a "family member" refers to an individual who is either married to a migrant worker or is in a relationship with a migrant worker that is legally equivalent to marriage. Additionally, according to Article 4 of the relevant State's statutes, their dependent children and other dependents are also included. This terminology accommodates the diverse types of family structures present worldwide. The Convention outlines the rights and protections afforded to family members in all circumstances, with particular emphasis on their rights in the State of employment.

The Convention excludes state officials, personnel of international organisations, refugees, and stateless individuals from its coverage. The Convention provides coverage for all individuals who meet the criteria to be designated as migratory workers, as well as their family members. According to Article 7, every individual is entitled to the protection of their rights under the Convention, regardless of gender, race, color, language, religion or belief, political opinion, national, ethnic, or social origin, nationality, age, economic status, wealth, marital status, or place of birth.

The Convention comprises two principal sections: Part III, which addresses the Human Rights of All Migrant Workers and Their Families, and Part IV, which pertains to the Other Rights of Documented or Provisional Migrant Workers and Their Families. These sections explicitly delineate and affirm the rights of migrant workers. All migrant workers and their families are entitled to human rights, regardless of their legal status; however, some rights are exclusively available to those who possess documentations.

The pact does not confer any new rights specifically intended for migrant workers and their families. Nonetheless, the majority of the rights delineated in the Convention, especially those in Part III, reaffirm and emphasize the entitlement of migrant workers and their families to protection under pertinent international agreements concerning civil and political rights, economic, social, and cultural rights, as well as other significant human rights treaties. (Octaviani and Siki, 2022). Additionally, considering the unique circumstances of migrant workers and their families, the treaty offers further guarantees.

The Convention affirms the well-established entitlement of all individuals, including migrant workers, to leave a country, return to their country of origin, and reside there, regardless of their immigration status (Article 8). Given the obligations of the State as outlined in Article 16, paragraph 2, to protect migrant workers and their families from instances of coerced or forced labour, enslavement, deplorable living and working conditions, as well as physical violence, threats, and intimidation. (Marsha, 2020)

All migrant workers and their families are entitled to fundamental rights, including freedom of mind, opinion, and religion (Article 12), as well as the right to have and express opinions (Article 13). They cannot have their privacy, families, homes, letters, or other communications arbitrarily or unlawfully invaded, and they cannot have their honour and good name

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unlawfully attacked (Article 14). Their products' prices cannot be unreasonably reduced (Article 15). Under Article 29, every child of a migrant worker is required to be given a name, registered at birth, and have a nationality.

Articles 6 through 20 of the Convention outline the necessity of ensuring due process for all migrant workers and their family members. Education, custody, and arrest must all be done in accordance with established protocols. When migrant workers are detained, the reason should be explained to them in a language they can comprehend. The right to equal protection under the law in court and at hearings must be honoured. Migrants should be given access to the required legal counsel and free interpreter support if they are charged with a crime. Humanitarian factors pertaining to the defendant's status as a migrant must be taken into account at sentencing. Article 22 forbids the collective or arbitrary removal of migrant employees.

Migrant workers have the right to communicate with the appropriate authorities, and upon request, their home country's consular or diplomatic representation must be promptly notified of their detention (Article 16, para. 7). In circumstances of expulsion, all migrants are entitled to the protection and support of the State's diplomatic or consular authorities (Article 23). (Trijono, 2020)

Compensated holidays, safety, health, a reduction in the minimum age for employment contracts, limitations on domestic labor, etc. (Article 25). According to Article 26, individuals has the freedom to join a union or organization and participate in its meetings and activities. Social security (Article 27) and emergency medical care (Article 28) are provided to local citizens equitably; however, it is crucial to acknowledge that the convention conditions the right to social security on compliance with all relevant domestic legal stipulations and applicable bilateral and multilateral agreements. Additionally, Article 30 stipulates that the children of migrant workers are entitled to education, provided they receive adequate treatment from the local population of the respective State (Yusuf, 2020).

As per the explicit language of the treaty (Article 21), only authorised public officials have the right to seize identity documents, entry cards, residency permits, or employment permits. The act of taking the passports of migrant workers by employers is explicitly forbidden by the treaty. Furthermore, as outlined in Article 23, migrant workers and their families have the right to transfer their personal belongings and savings to their country of employment throughout their entire duration of stay.

Migratory workers and their families have the right to receive information about their rights arising from commitments in the states of employment, transit, and origin. Article 33 states that this information must be provided to migrant workers at no cost and in a language that they can comprehend. Cultural identities of all migrant workers and their family must be safeguarded, and an archive state cannot prevent them from maintaining cultural ties to their home country (Article 31). The ratifying state must also support the freedom of religion, morality, and education that parents impart

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to their children in accordance with their own convictions (Article 12, paragraph 4).

Twenty supplementary human rights treaties enhance the protections established by the Convention on the Rights of Migrant Workers. Article 12 of the International Covenant of Economic, Social, and Cultural Rights (ICESR) stipulates that signatory nations recognize the inherent right of every individual to attain the highest attainable standard of physical and mental health. The Committee on Economic, Social, and Cultural Rights (CECSR), tasked with overseeing the execution of the accord, emphasized in its general comment No. 14 pertaining to article 12 that States are obligated to maintain the right to health. This obligation includes ensuring equitable access to preventive, curative, and palliative health services for all individuals, including prisoners, minorities, asylum seekers, and undocumented migrants, without discrimination.

The Convention references female migrant workers using generic terms (e.g., "all workers"), yet this generality, combined with the limited specific provisions, paradoxically leads to their exclusion from certain rights outlined in the Convention. This is owing to their distinct social and legal standing resulting from their immigration status, in contrast to other workers. Legally, certain rights under the Convention are denied to them due to their status as immigrants. If a migrant worker is in an irregular situation, she forfeits all rights to social benefits associated with her employment, her entitlement to a contract, her capacity to participate in the social security system, and in certain jurisdictions, her right to form associations and engage in collective bargaining. A work permit is an essential document necessary for the recognition of a worker's rights and freedoms, as well as serving as an administrative authorization to participate in labor market activities.

However, not all rights explicitly designed to protect employees from mistreatment and exploitation are consistently enforced by domestic laws. In a typical scenario, a migrant worker's ability to file a complaint or make a claim is frequently impeded by the strong relationship between her social security benefits and the renewal of her residency status. (Caicedo, 2016) On the other hand, if we take into account a migrant worker in an irregular position, her susceptibility rises and her exposure to exploitation circumstances grows. In this case, she is unable to disclose any abuse because of her irregularities.

The employee often hesitates to report any instances of mistreatment or exploitation due to fear of fines and the potential for expulsion. While it is true that in certain cases, immigration rules offer protection to migrants who are being abused or exploited, very few employees actually report abuse due to general ignorance of these procedures. Furthermore, it is also typical for any legal protection to be contingent on the existence of a court decision acknowledging the abusive situation, which necessitates starting legal proceedings and incurring the associated financial costs.

Finally, it is essential to highlight the Convention's overall timidity and its reluctance to address critically important issues, such as the role of diplomatic immunity and the protection of female domestic workers in

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diplomatic residences (Albin and Mantouvalou, 2012). Moreover, there are no citations regarding the regulation of domestic work contract termination, appropriate compensation schemes, procedures for contractual rescission, wage assurances in cases of default, or professional training pertaining to workers' labor rights.

The Establishment of Legal Protection Plans in Compliance with the Human Rights Principles for Migrant Workers and Their Families

As of March 30, 2009, 41 countries had formally ratified and enacted the international accord concerning the rights of all migrant workers and their families. Fifteen additional governments have recently signed the convention on the rights of migrant workers, in anticipation of its ratification. Additionally, 23 countries have ratified the ILO Migrant Workers (Supplementary Provisions) Convention No. 143 (1975), while 48 nations have ratified the ILO Migration for Employment Convention No. 87 (1949). A total of 82 states have ratified three complementary treaties for the protection of migrant workers' rights and global migration collaboration.(Rahmatullah, 2021).

Before a State is ratified by a treaty, a number of procedures are usually needed to make sure that national laws and practices are compliant with the agreement. The majority of States demand that a treaty be formally ratified or approved by the national legislature(Purwanto, 2021). However, even after completing this process, states must still submit their ratification documents to the United Nations for approval before the treaty becomes enforceable against them.

Signing the treaty is a procedural step that allows a State to ratify it. Usually, a government has the ability to enter into an agreement by means of an executive or other national authority, without needing prior approval from the national legislature. Signing a contract demonstrates the government's commitment to adhere to its obligations. While there is no legal requirement to abide by the treaty's provisions, the State concerned is bound by the signing to prevent obstruction of the treaty's object and purpose. (Article 86, paragraph 1). The Convention on the Rights of Migrant Workers is open for signature at any time, meaning that any state may sign the convention if it chooses to do so (Purwanto, 2021).

Typically, the executive and legislative branches of government must undertake several steps before a convention can be ratified. In many countries, foreign ministries submit requests for the consideration of signing, ratifying, or approving international documents. The Ministry of Employment possesses the jurisdiction to propose the consideration of international labor standards or other rules pertinent to workers, including migrant workers. The consideration process typically involves a review of existing laws and the implications of ratification, the formulation of a recommendation, the submission of a ratification proposal to pertinent executive branch ministries and departments for feedback, and ultimately a decision to either sign the convention or move directly to approval or ratification (Sjaiful, 2021).

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In rare circumstances, the executive branch of the government may choose to ratify the convention as a first step in its deliberations. Following ratification by the executive body, approval may be filed as a separate statute with a pledge to implement the convention's principles into domestic law.(Haryono, 2019) National legislatures, however, can also take action to start research. For instance, the body might hold hearings or reviews to bring the subject up on both its own and the executive body's agenda. Typically, this process is initiated by the relevant legislative committee.

Some national parliaments have commissioners that are solely focused on immigration; more frequently, the Labour and Social Affairs Commission, the Internal Affairs Commission, and/or the Commission on Foreign Affairs deal with immigration-related issues. A group of lawmakers may also write a letter to the president or the appropriate minister requesting that the government reconsider ratification This includes assessing potential legal, judicial, administrative, and practical consequences of ratification, as well as determining whether all necessary modifications to domestic law can be implemented (Dixon, 2021).

An evaluation of this nature may be assigned to a faculty member or a university research center, or it may be managed by one or more government departments, such as the labor and justice departments in the context of the Convention on the Rights of Migrant Workers. In certain cases, it could be advantageous to create a commission to conduct the evaluation that includes people with a variety of specializations.(Suhartoyo, 2019)

When the review is being conducted, or even after it is completed, the government may begin a process of consultation with significant community stakeholders who would be the parties most affected by the convention. In the case of the migrant workers' rights convention, they might include human rights organizations, trade unions, employers' associations, migrant associations, health care organizations, educational organizations, religious organizations, women's organizations, student associations, and others. Following the completion of the conformance evaluation, they could request written feedback on the findings and the proposal to join the convention. Such assessments and engagements with civil society organizations may demonstrate that certain facets of domestic legislation and practice do not align with the accord(Susianti, 2020). Consequently, the government may need to enact new laws or amend existing ones to address identified loopholes and resolve conflicts. Furthermore, even if a nation meets most of the treaty's criteria, it may choose to exclude specific elements of the convention from domestic legislation. The Convention on the Rights of Migrant Workers provides an opportunity to challenge the implementation of certain clauses, as articulated in Article 91 (Tabroni, 2021).

The convention does not permit a State to exclude the application of one or more of the articles in their entirety, but objections may be filed to restrict the applicability of specific parts. sections of the agreement, or exclusions for a certain class of migratory laborers (Article 88). Moreover, objections that conflict with the convention's goals and objectives are prohibited (Art. 91, par. 2). Once objections are raised, they can be withdrawn at any time.

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Once it is determined that domestic laws comply with the convention and the nation is prepared to be legally bound by it, the convention must be formally accepted in accordance with the procedures outlined in the State's constitution. As previously mentioned, this usually means requesting approval of the treaty from the national legislature, which may result in the agreement's official publication. Good practice also mandates publication in easily available official journals.

The Convention on the Rights of Migrant Workers designates the Secretary-General of the United Nations as the depository entity. This indicates that any ratification or approval document must be presented to the secretary-general to be effective. Any instrument requiring approval or ratification must be signed by the foreign minister, the head of state, or both. Signatories may presume that a delegate appointed to sign the treaty will get full authority from the head of state, head of government, or foreign affairs minister. Consent and ratification possess identical legal implications. In contrast to ratification, which requires a signatory's presence to create a legally binding obligation under international law, consent merely involves the submission of an agreement instrument. (Dewa, 2021).

According to Article 87, the Convention on the Rights of Migrant Workers becomes effective for a State once three months have passed since the ratification or approval document was filed, starting from the first day of the next month. Once the Convention becomes effective for a particular State, that State is required to submit its initial report within one year. This report must outline the legislative, executive, judicial, administrative, and other measures taken to implement the Convention's provisions (Article 73(1)(a)) (Putra & Budiarta, 2020).

The report must include information on the nature of the migrant flows in which the ratifying State is involved as well as any other circumstances or limitations that may be impeding the convention's implementation (Article 73 (2)). Following the initial report, the ratifying State shall provide the Committee with periodic reports at intervals of five years and upon request (Article 73(1)(b)). Once the Committee receives the report, it reviews and evaluates the content, then issues comments and recommendations to the State (Article 74) (Purwanto, 2021).

Article 3 of the Convention recognizes the rights to collective bargaining and freedom of association. The latter asserts that the right to freedom of association and the effective acknowledgment of the right to collective bargaining shall be advanced and realized by the State parties. It recognizes the autonomy of female employees and their employers to establish and participate in organizations, federations, and confederations of their preference. Considering that this business is characterized by solitary or quasi-familial connections, the recognition of the rights to freedom of association and collective bargaining represents a substantial progress. The bilateral relationship between the employer and the female domestic worker engenders a system of uneven power relations. Improvements in working circumstances are generally established unilaterally, however they also advantage the individual female employee. Conversely, the collectivization of demands signifies that the advantages related to salaries, workload, or rest

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periods are uniformly applicable to all employees; nonetheless, collective bargaining recalibrates the dynamics and enhances the workers' capacity to advocate for improved working conditions. Thus, collective bargaining can fulfill the essential role of transforming the inherently contractual nature of the working relationship and embracing a collective perspective on the interests of social entities.

Conclusion

Although protection should be more comprehensive, detailed, and explicitly defined during the pre-placement, placement, and post-placement phases, Law No. 39 of 2004 focuses more on placement procedures and less on protection issues. When formulating legal safeguards for migrant workers and their families, it is crucial to examine the labour and human rights principles outlined in the ILO Convention on the protection of the rights of all migratory workers and their family members, as enshrined in positive legislation: Applying the breadth of protection for labor outlined in Law Number 13 of 2003 to the problems faced by Indonesian employees working overseas is difficult, though.

Regrettably, Law No. 39/2004 concerning the placement and protection of migrant workers abroad fails to adequately address the scope of appropriate protection for Indonesian employees working outside. The safeguarding of human rights in the workplace is a critical issue worldwide. The International Labour Organisation (ILO) has instituted eight core labour conventions referred to as the ILO Core Conventions, which include: Convention No. 87/1948 addresses the protection of the right to organize and freedom of association, whereas Convention No. 98/1949 relates to principles governing the right to organization and collective bargaining. The Convention against Forced or Compulsory Labour, commonly referred to as No. 105/1957, is a global treaty. Convention No. 138/1973 addresses the minimum age for employment, whereas Convention No. 105/1957 focuses on the eradication of forced labor. Convention No. 182/1973 about the ban and prompt action against the most egregious forms of child labor.

The Convention on Equal Pay for Equal Work (No. 100/1951) and Convention No. 111/1958 concerning the prohibition of discrimination in employment and related activities. Through the ratification of all eight accords, the Indonesian government exhibits its commitment to upholding human rights in the workplace. The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families emphasizes the need for labor rights protection to align with contemporary global trends. This convention guarantees the respect and equal dignity of migrant workers in an increasingly globalized world. Considering the many present-day challenges, the 1990 Migrant Workers Convention, ratified as Law No. 6 of 2012, must be examined through normative legal studies to develop recommendations for addressing its shortcomings.

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