



# Indonesia-Malaysia Cooperation In Handling Illegal Immigrants: From The Perspective of International Law and Human Rights Protection

Azkie Fathia Kirana<sup>1\*</sup>, Otong Syuhada<sup>2</sup>, Rani Dewi Kurniawati<sup>3</sup>

<sup>1</sup>Universitas Majalengka, Jl. K.H. Abdul Halim No. 103, Majalengka Kulon, Majalengka 45418, Indonesia

<sup>2</sup>Universitas Majalengka, Jl. K.H. Abdul Halim No. 103, Majalengka Kulon, Majalengka 45418, Indonesia

<sup>3</sup>Universitas Majalengka, Jl. K.H. Abdul Halim No. 103, Majalengka Kulon, Majalengka 45418, Indonesia

<sup>1</sup>azkiefathia16@gmail.com; <sup>2</sup>otsyu130270@gmail.com; <sup>3</sup>rani.dewikurniawati@gmail.com

\*Azkie Fathia Kirana

## ABSTRACT

The phenomenon of illegal immigrants in Southeast Asia, particularly in the Indonesia-Malaysia corridor, poses serious challenges related to legal, security, and human rights issues. The complexity of this problem arises from differences in national regulations, weak cross-border surveillance, and high economic pressures that drive irregular migration. This study aims to analyze the extent to which bilateral cooperation between Indonesia and Malaysia in handling illegal immigrants is in accordance with international law and human rights protection principles. The method used is a normative juridical approach, examining international legal instruments such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990), ICCPR, ICESCR, and various bilateral Memoranda of Understanding (MoU) between the two countries. The results of the study show that, normatively, Indonesia-Malaysia cooperation has referred to international legal standards that emphasize humane treatment, the principle of non-refoulement, and the protection of the basic rights of migrants. However, operationally, its implementation still faces obstacles in the form of weak inter-agency coordination, limited resources, and a lack of independent oversight. These conditions have led to continued human rights violations, particularly in the form of arbitrary detention and limited access to basic services for undocumented migrants. Thus, strengthening monitoring mechanisms, training officers, and involving international organizations are necessary for this cooperation to be more effective, humane, and sustainable in accordance with the principles of international law.

Keyword: Illegal Immigrants, International Law, Human Rights, Bilateral Cooperation, Indonesia-Malaysia

## 1. Introduction

Human rights are a set of rights inherent in the nature and existence of human beings as creatures of God Almighty and are His gifts that must be respected, upheld, and protected by the state, the law, the government, and every individual for the sake of honor and protection of human dignity. The Universal Declaration of Human Rights (UDHR) defines human rights as rights inherent to every individual as a human being, without discrimination based on race, skin color, gender, language, religion, political opinion, or any other form of distinction.<sup>1</sup> This principle affirms that human rights

<sup>1</sup> Elizabeth M. Valencia, "Universal Declaration of Human Rights," Encyclopedia of Immigrant Health, 2012, 1462-63, [https://doi.org/10.1007/978-1-4419-5659-0\\_790](https://doi.org/10.1007/978-1-4419-5659-0_790).

---

are universal, inalienable, and applicable to all people everywhere as the foundation for human dignity and fundamental freedoms. The UDHR, adopted by the UN General Assembly on December 10, 1948, is the primary reference in the international legal framework for ensuring fair and inclusive protection of these rights.

The fundamental principle in modern international law is that human rights apply to all persons without discrimination, including migrants in irregular or illegal situations. States that are “in the territory” or have “effective control” over such individuals remain obliged to respect, protect, and fulfill these rights, such as the right to life, freedom from torture, and access to basic services. This doctrine has been repeatedly affirmed by UN human rights bodies and international migration organizations.<sup>2</sup> The relevant rules for the treatment of immigrants in the Indonesia-Malaysia corridor—Malaysia stem from various international human rights instruments, including the International Covenant on Civil and Political Rights (ICCPR), which guarantees the right to life, freedom from torture, and a fair trial, and the International Covenant on Economic, Social, and Cultural Rights (ICESCR), which protects the right to decent work and access to basic services.

In addition, anti-trafficking instruments such as the Protocol to Prevent, Suppress, and Punish Trafficking in Persons provide a specific framework for protecting victims of exploitation, while the UN Convention on the Rights of the Child (CRC) emphasizes protection for migrant children from discrimination and arbitrary detention. International policy documents, such as UN recommendations and reports by the International Organization for Migration (IOM), further reinforce this commitment by proposing a human rights-based approach to regional migration. Academic studies consistently highlight this protection gap, where international protection tends to be stronger for groups categorized as refugees or victims of human trafficking through specific identification and rehabilitation mechanisms, while the category of “illegal immigrants” or irregular migrants often faces treatment based on strict national immigration policies, including detention and deportation without adequate human rights oversight.

The Indonesia–Malaysia migration corridor is one of the largest labor mobility routes in Southeast Asia, with millions of migrant workers crossing the border each year in search of better economic opportunities. This migration flow not only includes legal migration patterns regulated through bilateral agreements but also involves illegal migration practices, such as human smuggling and undocumented movement, which further complicate regional dynamics. This phenomenon poses significant challenges in terms of handling, protection, and governance at the bilateral level, where both countries must balance national security interests with international commitments to migrant rights. This imbalance often leads to diplomatic tensions and ineffectiveness in the implementation of joint policies. The direct impact of this illegal immigrant phenomenon includes high vulnerability to labor exploitation, where migrants are often trapped in informal jobs with low wages, excessive working hours, and unsafe working conditions. In addition, limited access to health and judicial services is a crucial issue, as undocumented migrants tend to avoid formal institutions for fear of arrest. The risk of mass detention and deportation further exacerbates the situation, as these practices potentially violate the human rights obligations of both the country of origin and the destination country, including the principle of non-refoulement and the right to a fair trial.<sup>3</sup>

The principle of non-refoulement is a fundamental pillar of refugee law and international human rights law. This principle explicitly prohibits states from expelling, returning, or even refusing entry at the border to individuals who would face a serious threat to their life, liberty, or fundamental rights in the territory to which they are being returned. Such threats include persecution, torture, or inhumane

---

<sup>2</sup> Eveline Vieira Brigido Zibetti, Fabíola Wust, “PROTECTION OF FORCED MIGRANTS WITH IRREGULAR STATUS DURING THE PANDEMIC GENERATED BY COVID-19: AN ANALYSIS OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS ON MIGRANTS’ RIGHTS,” *Novos Estudos Juridicos* v. 25 n. 3 (2020), <https://doi.org/10.14210/nej.v25n3.p757-773>.

<sup>3</sup> Ridwan Arifin et al., “Unveiling Indonesia’s Migration and Border Governance: Challenges and Imperatives Post-Pandemic,” *Social Sciences and Humanities Open* 10, no. 4 (2024): 101202, <https://doi.org/10.1016/j.ssaho.2024.101202>.

treatment that could endanger an individual's physical and mental integrity. This principle is designed to protect human vulnerability in situations of forced migration, ensuring that states act as protectors rather than perpetrators of rights violations. The principle of non-refoulement is explicitly affirmed in Article 33, paragraph 1, of the 1951 Convention Relating to the Status of Refugees, which states, "No Contracting State shall expel or return ('refouler') a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group, or political opinion." This provision emphasizes that the prohibition is absolute and cannot be circumvented in any way, including through mass deportation or refusal at the border.

Indonesia and Malaysia have established a comprehensive formal cooperation mechanism to manage migration flows, including a number of Memoranda of Understanding (MoUs) and technical guidelines specifically designed to regulate the placement of migrant workers and ensure the protection of their basic rights amid the dynamics of the Southeast Asian region. This cooperation covers operational aspects such as recruitment, job placement, and monitoring of working conditions, with the aim of reducing illegal migration practices and improving sustainable bilateral governance. The latest MoU between Indonesia and Malaysia, along with related technical guidelines, specifically aims to harmonize worker placement mechanisms, safe repatriation processes, and consular protection for migrants facing difficulties, with the goal of creating more integrated and prevention-oriented procedures for human rights violations. These documents emphasize coordination between institutions such as the Indonesian Ministry of Manpower and the Malaysian Immigration Department, including document verification protocols and emergency support for migrant workers. However, implementation in the field still faces significant obstacles, such as a lack of interagency coordination, which leads to overlapping authorities and limited human and technological resources to monitor compliance.

## 2. Research Method

The normative juridical approach in the study of bilateral cooperation between Indonesia and Malaysia regarding the handling of illegal immigrants emphasizes the analysis of positive legal norms, international instruments, and legal principles that govern interactions between countries. This approach views law as a framework of norms that controls the actions of legal subjects, not merely a social phenomenon, making it particularly suitable for evaluating the extent to which the two countries' cooperation practices comply with international legal standards and human rights protection. In this context, legal literature highlights the contribution of international conventions such as the 1951 Refugee Convention, the 1967 Protocol, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW, 1990) as a normative basis that establishes the responsibilities of states towards immigrants and migrant workers. Regionally, the ASEAN cooperation framework acts as a supporter that upholds the principle of non-intervention while promoting humanitarian collaboration in addressing illegal migration issues.

Legally, bilateral agreements such as the Memorandum of Understanding (MoU) between Indonesia and Malaysia serve as mechanisms for implementing international law at the national level. This instrument requires rigorous testing for its compatibility with the main principles of international human rights law, including the principle of non-refoulement, which prohibits the return of immigrants to areas where they are at risk of persecution; the right to protection that guarantees individual security; and access to justice that ensures fair and transparent legal processes. In Southeast Asia, migration policies generally tend to focus more on border security than on the protection of individual rights. This approach often prioritizes controlling illegal migration flows through increased patrols and arrests, which can overlook the humanitarian dimension. As a result, there is significant tension between the security law paradigm—which focuses on national stability—and human rights law, which emphasizes the basic rights of every individual as a subject of law. Therefore, normative legal review is a crucial analytical tool for evaluating the effectiveness of Indonesia–Malaysia cooperation mechanisms. This approach helps identify whether bilateral cooperation has fulfilled international legal obligations, such as providing humane treatment to illegal immigrants, fulfilling universally recognized basic rights, and sharing responsibilities between countries of origin (such as Indonesia) and countries of destination (such as Malaysia) in dealing with migration issues.

### 3. Results and Discussion

#### 3.1 The Framework and Implementation of Cooperation Between Indonesia and Malaysia in Managing Migrants"

Bilateral cooperation between Indonesia and Malaysia in the placement and protection of migrant workers, particularly in the domestic sector, has been formalized through agreements such as the Memorandum of Understanding (MoU) between Indonesia and Malaysia on the Placement and Protection of Domestic Sector Migrant Workers in Malaysia, which was signed on April 1, 2022.<sup>4</sup> This agreement is an important step in strengthening the mechanism for protecting the rights of Indonesian migrant workers, who constitute one of the largest groups in Malaysia, numbering around 1.8 million people in 2023, most of whom work in the domestic sector as domestic workers. The MoU covers key aspects such as transparent placement procedures, pre-departure training, monitoring of working conditions, and dispute resolution and repatriation mechanisms for workers facing problems, with the aim of reducing the risk of exploitation and ensuring compliance with international standards such as ILO Convention No. 189 on Domestic Workers.<sup>5</sup> Signed by the Minister of Manpower of the Republic of Indonesia and the Minister of Human Resources of Malaysia, this agreement also encourages collaboration in the development of skills and education programs to improve the quality of migrant workers while strengthening bilateral economic relations between the two countries.

This document is designed to create a stronger framework, where recruitment mechanisms are emphasized to be more structured and ethical, for example, by requiring a transparent selection process without hidden costs and ensuring the protection of workers' rights through clear provisions, such as leave, health, and protection from harassment. In addition, this MoU stipulates the obligations of employers in Malaysia, such as providing valid employment contracts and monitoring working conditions and more humane repatriation mechanisms, which include support such as legal assistance or safe transportation for workers who wish to return to Indonesia.<sup>6</sup> This step not only reflects a response to past experiences, where many migrant workers faced risks such as unpaid wages or hazardous working conditions, but also demonstrates a shared commitment to building a more equitable system, where human rights are a top priority, inspired by international standards such as those issued by the International Labor Organization (ILO).<sup>7</sup>

In addition to the main cooperation agreement (MoU), the two countries also adopted technical agreements or sectoral MoUs along with implementation protocols to address more detailed practical aspects so that implementation in the field would be more effective and measurable. The document includes rules for the registration of migrant workers, which must involve identity and qualification verification through an integrated online system; provisions for recruitment agencies to be officially registered, trained, and supervised to prevent unethical practices such as fraud; minimum wage requirements that are indexed to inflation and living standards in Malaysia; and a verification mechanism for prospective workers that includes health checks and in-depth interviews.<sup>8</sup> This

---

<sup>4</sup> Shonia Arsyah, Zulkifli Harza, and Maryam Jamilah, "Perlindungan Pekerja Migran Indonesia Di Malaysia Pasca Memorandum of Understanding ( MoU ) Tahun 2022 Dalam Kerangka Keamanan Manusia" 3, no. Vol. 3 No. 02 (2024): PALITO (Politics, Humanities, Laws, International Relations and Social) (2024): 231–52, <https://doi.org/10.25077/palito.v3i02.170>.

<sup>5</sup> Rizki Setia Damayanti Hasan, Ani Wijayati, and Edward M. L Panjaitan, "Analisis Kebijakan Rekalibrasi Tenaga Kerja Di Malaysia Untuk Pekerja Migran Indonesia Ilegal Berdasarkan Memorandum of Understanding Indonesia Dan Malaysia 1 April," *Jurnal Kolaboratif Sains* 7, no. Vol. 7 No. 4: APRIL (2024) (2024), <https://doi.org/10.56338/jks.v7i4.3814>.

<sup>6</sup> Anggi Rachma Zakia Fitri, Jakarta, and Heru Sugiyono, "Strategi Penanganan Pekerja Migran Indonesia Yang Bekerja Tidak Sesuai Dengan Kontrak Kerja," *JURNAL USM LAW REVIEW* Vol. 6 No., no. Vol. 6 No. 3 (2023): DECEMBER (2023), <https://doi.org/10.26623/julr.v6i3.7568>.

<sup>7</sup> Andi Luhur Prianto Mohd Na'im Ajis, Aqmal Reza Amri, "Governance and Protection of Indonesian Migrant Workers in Malaysia," *Journal of Southeast Asian Human Rights* Vol. 7 No. (2023), <https://doi.org/10.19184/jseahr.v7i2.44185>.

<sup>8</sup> Kemal Al Kautsar Mabururi Gustri Eni Putri, Vanny El Rahman, "Implementation of Protection for Indonesian Migrant Workers in Malaysia in 2022-2023," *DAULIYAH Journal of Islamic and International Relations* Vol.

protocol aims to reduce loopholes that are often exploited by third parties, such as cases where workers are forced to work in the informal sector without protection, and to ensure that every stage of the migration process complies with human rights principles, as recommended by the International Organization for Migration (IOM) and the United Nations (UN).<sup>9</sup>

In a broader context, this cooperation is also influenced by regional initiatives such as ASEAN, which promotes fair labor contract standards and protection for migrant workers, so that these technical documents serve not only as operational guidelines but also as tools for promoting sustainable humanitarian values. Reports from the ILO and IOM show that this approach has helped reduce incidents of abuse, although challenges such as limited resources still need to be addressed, making this MoU an example of how bilateral cooperation can contribute to global protection for migrant workers. Therefore, the implementation of this protocol can be a step forward in creating a safer and fairer migration environment.<sup>10</sup>

Cooperation between Indonesia and Malaysia in handling illegal immigrants involves close coordination between the immigration authorities of both countries, where direct information exchange and joint training are key to identifying and preventing the entry of individuals without valid documents. Joint or alternating maritime patrols in border waters not only aim to enforce regional security but also to save lives, as these operations often uncover cases of human smuggling involving high risks such as accidents or exploitation.<sup>11</sup> In addition, repatriation and return mechanisms are implemented through joint operations or special programs, such as coordinated repatriation programs that ensure a safe and non-arbitrary return process, including health checks and temporary support for vulnerable immigrants, such as children or victims of human trafficking. Media reports and international agencies, such as those published by the International Organization for Migration (IOM), highlight that these programs have successfully repatriated thousands of people on a regular basis, although there are still concerns about potential human rights violations, such as prolonged detention, which need to be continuously monitored to uphold humanitarian principles.

This bilateral policy is further enriched by the influence of international standards from organizations such as the International Labor Organization (ILO), the International Organization for Migration (IOM), and the United Nations (UN), which provide a framework for protecting the rights of migrants through recommendations such as the ILO Convention on the Protection of Migrant Workers. These documents are key references in the field of human rights, where fair labor standards, access to basic services, and the prevention of discrimination are priorities, helping both countries globally. ASEAN studies and initiatives, such as the ASEAN Declaration on the Protection and Promotion of the Rights of Migrants, also play an important role by promoting a regional approach based on solidarity, where member states share best practices for dealing with illegal migration without compromising humanitarian values.<sup>12</sup>

In a broader context, this influence not only strengthens bilateral cooperation but also encourages more empathetic structural changes. Reports from the UN and IOM often emphasize the importance of balancing border security with individual protection so that such policies can serve as a model for

---

10 No, no. Vol. 10 No. 1 (2025): Dauliyah: Journal of Islam and International Affairs (2025), <https://doi.org/10.21111/dauliyah.v10i1.13904>.

<sup>9</sup> Katharine Jones, "A 'North Star' in Governing Global Labour Migration? The ILO and the Fair Recruitment Initiative," *Sage Journals* 22, no. 2 (2022), <https://doi.org/10.1177/14680181221084792>.

<sup>10</sup> Pascalis Danny Kristi Wibowo, Razilu Razilu, and Ade Yulfianto, "IMPLEMENTASI KEBIJAKAN KEIMIGRASIAN TERHADAP PERLINDUNGAN PEKERJA MIGRAN INDONESIA," *JURNAL ILMIAH KAJIAN KEIMIGRASIAN POLTEKIM* Vol.8 No.2, no. Vol. 8 No. 2 (2025): Jurnal Ilmiah Kajian Keimigrasian (2025), <https://doi.org/10.52617/jikk.v8i2.795>.

<sup>11</sup> Seniwati Seniwati B.Pawe, Zahran Hilman Salim, "Kerja Sama Keamanan Indonesia Dan Malaysia Dalam Mengatasi Imigran Ilegal Di Pulau Sebatik," *Konstitusi Jurnal Hukum, Administrasi Publik Dan Ilmu Komunikasi* Vol. 2 No., no. Vol. 2 No. 3 (2025): Juli : Konstitusi : Jurnal Hukum, Administrasi Publik, dan Ilmu Komunikasi (2025), <https://doi.org/10.62383/konstitusi.v2i3.792>.

<sup>12</sup> Imelda Masni Juniaty Sianipar, "Legalisasi Deklarasi HAM ASEAN," *Jurnal Hubungan Internasional* 3, no. Vol. 3 No. 1 (2014) (2014), <https://doi.org/10.18196/hi.2014.0047.58-67>.

the Southeast Asian region. Although challenges such as limited resources remain, the implementation of these international guidelines helps ensure that every step of cooperation remains oriented towards human dignity, creating a long-term positive impact for migrants who are often in vulnerable positions.<sup>13</sup>

The implementation of bilateral cooperation between Indonesia and Malaysia in handling immigrants is not only formal but also operational, where a combination of policy instruments such as agreements and Memoranda of Understanding (MoUs) covering technical protocols are integrated with effective field mechanisms. For example, centralized registration and placement systems such as the One-Channel System (OCS) or online platforms facilitate the structured recruitment of migrant workers, where identity verification is carried out digitally to ensure the authenticity of documents and reduce the risk of fraud, while the repatriation process is designed with clear procedures by the immigration authorities and consular agencies of each country.<sup>14</sup> These instruments are not just pieces of paper; they are translated together to track migration status, which helps prevent exploitation and ensures that human rights, such as access to basic services and protection from torture, are upheld. This approach reflects efforts to build a more inclusive migration system, where migrant workers, who often come from vulnerable backgrounds, can experience greater justice, even though challenges such as access to technology in rural areas still need to be addressed.

At the operational level, this form of implementation is evident in the coordination of joint patrols and immigration enforcement operations, whereby joint teams from both countries monitor the border to prevent smuggling, accompanied by registration or legalization programs for undocumented immigrants that allow them to obtain temporary status and access to legal assistance.<sup>15</sup> Scheduled repatriation mechanisms, or phased repatriation, are facilitated by consular representatives such as the Consulate General or Indonesian Embassy, in collaboration with non-governmental actors such as the International Organization for Migration (IOM), non-governmental organizations (NGOs), labor unions, and diaspora networks to verify cases, advocate for rights, and facilitate reintegration in the country of origin, such as through skills training programs or psychosocial support. This involvement not only strengthens the effectiveness of official procedures but also adds a layer of humanity, where migrants are treated as individuals with basic rights, not merely objects of policy, thereby helping to reduce negative impacts such as trauma caused by sudden repatriation.

This mechanism is effective in the short term, but smuggling networks and illegal recruitment practices continue to change migration patterns, often rendering law enforcement efforts sporadic and failing to address deeper structural problems, such as economic inequality that drives illegal migration. Literature found in the previous source entitled “Unveiling Indonesia's migration and border governance: Challenges and imperatives post-pandemic”.<sup>16</sup> Emphasizing that these patterns can undermine the effectiveness of official procedures, as smugglers adapt to new technologies to avoid detection, requiring a holistic approach that includes structural reform and broader collaboration. Therefore, to achieve sustainable results, both countries must continue to evaluate and strengthen this cooperation, ensuring that each step not only addresses the symptoms but also the root causes in order to create a more equitable migration environment based on humanitarian values.

---

<sup>13</sup> Mochamad Kevin Romadhona, Sri Endah Kinasih, and Rachmat Dimas Oktafenanda, “Labor Migration Policy in ASEAN States,” *International Law Discourse in Southeast Asia* 4, no. Vol. 4 No. 1 (2025): Southeast Asia’s Role in Shaping Public International Law: Human Rights and Migration (2025), <https://doi.org/10.15294/ildisea.v4i1.23485>.

<sup>14</sup> Arifin et al., “Unveiling Indonesia’s Migration and Border Governance: Challenges and Imperatives Post-Pandemic.” *loc.cit*

<sup>15</sup> Diana Kim and Yuhki Tajima, “Smuggling and Border Enforcement,” *Cambridge University Press* 76, no. 4 (2022), <https://doi.org/10.1017/S002081832200011X>.

<sup>16</sup> Arifin et al., “Unveiling Indonesia’s Migration and Border Governance: Challenges and Imperatives Post-Pandemic.” *loc.cit*

### 3.2 To What Extent Is the Cooperation Consistent with International Law and Human Rights Protection Principles

From an international regulatory perspective, there are key instruments governing migration and the protection of human rights that are relevant to illegal or undocumented immigrants. These instruments are designed to provide a comprehensive framework for addressing migration issues, including protection for individuals without legal status, although their implementation often faces practical challenges at the national level. For example, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990) establishes the rights of migrant workers and members of their families, including those in regular and irregular situations.<sup>17</sup> This convention specifically emphasizes protection against exploitation, discrimination, and violations of basic rights, making it an important foundation for countries to develop more humane policies in dealing with undocumented migrant workers.

In addition, the principles of non-discrimination and fundamental human rights, such as freedom from arbitrary treatment, are part of international human rights instruments such as the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). These two instruments, which have been ratified by many countries, including Indonesia and Malaysia, provide universal guarantees for civil, political, economic, social, and cultural rights, which are relevant to ensuring that illegal immigrants are not excluded from basic human rights protections.

From the perspective of implementing cooperation between countries, such as between the countries of origin and the countries receiving illegal immigrants, several studies show that actual policies and mechanisms still face significant obstacles. This reflects the challenges in implementing international commitments into effective practical actions, where cross-border coordination is often hampered by differences in national priorities, limited resources, and a lack of regulatory harmonization between the countries involved.

For example, in a study analyzing Malaysia's policy towards illegal Indonesian immigrants for the period 2020–2023, it was found that programs such as the “Recalibration Program” had been implemented but suffered from weaknesses in inter-agency coordination and comprehensive protection mechanisms for immigrants.<sup>18</sup> This program, designed to grant temporary legal status to illegal immigrants through a process of verification and integration, often fails due to a lack of effective communication between the ministries of home affairs, immigration, and foreign affairs, as well as a lack of independent monitoring mechanisms to ensure that immigrants' rights, such as access to health care and education, are not neglected.

Despite bilateral or multilateral cooperation, actual implementation shows that international requirements have not been fully met. This weakness can worsen the conditions of illegal immigrants, who often face the risk of exploitation, arbitrary detention, and lack of access to basic services, thus requiring more profound reforms in the approach to interstate cooperation to align with global human rights standards.

To overcome these obstacles, it is necessary to improve coordination capacity through joint training for officials, the involvement of non-governmental actors such as NGOs and international organizations, and the development of periodic evaluation mechanisms to ensure that cooperation

---

<sup>17</sup> Riri Anggriani, “PERLINDUNGAN HUKUM BAGI IRREGULAR MIGRANT WORKERS INDONESIA DI KAWASAN ASIA TENGGARA (DALAM PERSPEKTIF HUKUM HAM INTERNASIONAL),” *Yurdika* Vol. 32 No. no. Vol. 32 No. 2 (2017): Volume 32 No 2 May 2017 (2017), <https://doi.org/10.20473/ydk.v32i2.4773>.

<sup>18</sup> Febianto Mohd. Mizan Bin Mohammad Aslam, “Analysis of Malaysia’s Policy Towards Indonesian Illegal Immigrants 2020 - 2023,” *POLITEIA JOURNAL OF PUBLIC ADMINISTRATION AND POLITICAL SCIENCE AND INTERNATIONAL RELATIONS* VOL.3 NO.4, no. <https://journal.idscipub.com/politeia/issue/view/131> (2025), <https://doi.org/https://doi.org/10.61978/politeia.v3i4.808>.

between countries is not only formal but also has a real impact on the protection of the human rights of illegal immigrants. Further research is needed to evaluate the effectiveness of programs such as the “Recalibration Program” and to develop more inclusive models of cooperation that take into account the socio-economic context of immigrants in order to achieve more sustainable results.

For aspects of cooperation in dealing with illegal immigrants between countries—including data exchange, deportation, migration route management, and migrant protection—international norms require that law enforcement not violate human rights, including the prohibition of forced return (non-refoulement) if it threatens the safety of individuals, as well as humane treatment during detention or deportation. These norms, which originate from instruments such as the UN Convention Relating to the Status of Refugees and the Universal Declaration of Human Rights, aim to ensure that bilateral cooperation does not sacrifice humanitarian principles, even though practical challenges such as differences in the interpretation of national laws often arise in their implementation.

For example, the article “Beyond Borders: Migrants' and Refugees' Rights and Protection Under the Veil of International Law” emphasizes that receiving countries still have a responsibility to protect the rights of migrants, even if their status is illegal. This article highlights the importance of a human rights-based approach in dealing with illegal immigrants, whereby countries must avoid discrimination and ensure access to basic services such as health, education, and legal aid, even for those without official documents, in order to prevent further marginalization.<sup>19</sup>

In the context of cooperation in dealing with illegal immigrants, if deportation or detention mechanisms are implemented without procedural guarantees and human rights protections, there is a risk of violating international law. This can occur when the deportation process does not involve adequate individual risk assessments or when detention is carried out without reasonable time limits and access to court, thereby violating the principles set out in the UN Convention Relating to the Status of Refugees or other human rights instruments and potentially causing psychological trauma and violations of human dignity.

To minimize this risk, countries must strengthen cooperation mechanisms through joint training for immigration officers, the development of transparent standard protocols, and the involvement of independent monitors such as international organizations or NGOs. This approach not only ensures compliance with international norms but also builds trust between countries so that cooperation in dealing with illegal immigrants can be more effective, humane, and sustainable, with a focus on protecting individuals rather than simply enforcing borders, as well as encouraging more inclusive policy reforms.<sup>20</sup>

Overall, it can be said that cooperation in dealing with illegal immigrants is normatively based on international law—that is, there are relevant international instruments and human rights principles—but operationally it still shows many weaknesses in terms of protecting the human rights of illegal immigrants. This normative foundation includes instruments such as the UN Convention Relating to the Status of Refugees and the Universal Declaration of Human Rights, which provide a framework for ensuring that cooperation between countries does not violate basic human rights, even though implementation challenges often arise due to differences in national capacities.

For example, national regulations in some countries are not yet adequate to fully accommodate the protection of undocumented immigrants, even though they are in the receiving region. In Malaysia, for example, immigration laws often place greater emphasis on border enforcement than on access to

---

<sup>19</sup> Abdallah Mohamed Othman El Nofely, “Beyond Borders: Migrants’ and Refugees’ Rights and Protection Under the Veil of International Law,” *Supremasi Hukum Jurnal Kajian Ilmu Hukum* VOL.10 NO., no. Vol. 10 No. 1 (2021): *Supremasi Hukum* (2021), <https://doi.org/https://doi.org/10.14421/sh.v10i1.2340>.

<sup>20</sup> Yosia Martin and Arthur Josias Simon Runturambi, “Upaya Pencegahan Pekerja Migran Indonesia (PMI) Nonprosedural Sebagai Bagian Perdagangan Orang Melalui Pengawasan Keimigrasian,” *Syntax Literate: Jurnal Ilmiah Indonesia* 9, no. Vol. 9 No. 5 (2024): *Syntax Literate: Jurnal Ilmiah Indonesia* (2024), <https://doi.org/10.36418/syntax-literate.v9i5.15738>.

health care or education for illegal immigrants, while in Indonesia, regulations on repatriation are not yet fully aligned with international standards to ensure a humane and non-discriminatory process.<sup>21</sup>

Although bilateral cooperation between Indonesia and Malaysia has been designed to comply with international legal standards and human rights, as reflected in the UN Convention on the Rights of Migrants and Their Families (1990) and the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (2007), the reality of its implementation in the field shows that the level of compliance with this framework is still limited and has not reached its full potential due to structural challenges such as institutional and operational capacity gaps, such as complex border logistics. “Investment” in institutional capacity building, such as joint training programs between the immigration authorities of both countries and the development of digital platforms for secure data exchange, to improve the effectiveness of mechanisms for the recruitment, monitoring, and repatriation of illegal migrant workers.<sup>22</sup> Furthermore, the active involvement of civil society and non-governmental organizations is necessary as an element of transparency and accountability so that the commitments to non-refoulement and the protection of migrant workers' rights are not merely formalities but are truly felt by vulnerable individuals. Thus, in order to make this Indonesia-Malaysia cooperation an effective enforcer of human rights protection, continuous adaptation, strict monitoring of implementation, and evaluation mechanisms involving all stakeholders are needed to create a fair and humane migration system, which will ultimately contribute to the stability of the Southeast Asian region.

## Conclusion

The cooperation between Indonesia and Malaysia in handling illegal immigrants demonstrates a sincere effort to balance national interests with international obligations to protect human rights. Normatively, this cooperation is based on various international legal instruments such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990), the ICCPR, and the ICESCR, which affirm the right of every individual to be treated humanely without discrimination. However, implementation in the field still faces obstacles, particularly in terms of inter-agency coordination, policy harmonization, and limited resources in ensuring effective protection for undocumented migrants.

In the context of international law, this bilateral cooperation has generally adopted key principles such as non-refoulement, procedural justice, and access to consular protection and basic services. However, national mechanisms in both countries still tend to focus on law enforcement and border security, which can potentially lead to violations of migrants' basic rights, such as arbitrary detention or deportation without individual risk assessment. This highlights the gap between international commitments and their implementation, where the humanitarian values that are at the core of international law are often overlooked in favor of political and economic considerations.

In addition, studies and reports from institutions such as the IOM, ILO, and UNHCR emphasize that protection for illegal immigrants can only be achieved through an inclusive and human rights-based approach. Indonesia-Malaysia cooperation needs to strengthen institutional capacity, process transparency, and the involvement of non-governmental actors so that every policy not only regulates migration from an administrative perspective but also protects human dignity as a top priority. The implementation of technical protocols, digital recruitment systems, and humane repatriation mechanisms are positive steps, but they still need to be continuously evaluated to ensure their compliance with international legal standards.

---

<sup>21</sup> Tessar Bayu Setyaji Suparno Suparno, Zudan Arief Fakrulloh, “Implementation of Legal Policy in Indonesia in Handling Illegal Immigrants,” *Jurnal Indonesia Sosial Sains (JISS)* Vol.4 No.5, no. Vol. 4 No. 05 (2023): Jurnal Indonesia Sosial Sains (2023), <https://doi.org/https://doi.org/10.59141/jiss.v4i05.813>.

<sup>22</sup> Muhammad Junaidi and Khikmah Khikmah, “Perlindungan Hukum Dan Penempatan Pekerja Migran Indonesia Di Luar Negeri,” *JURNAL USM LAW REVIEW* 7, no. Vol. 7 No. 1 (2024): APRIL (2024), <https://doi.org/10.26623/julr.v7i1.8127>.

Thus, it can be concluded that cooperation in handling illegal immigrants between Indonesia and Malaysia has an adequate international legal basis but is not yet fully in line with the principles of human rights protection. The biggest challenge lies in the implementation aspect, where the security approach is still more dominant than the humanitarian aspect. To achieve an ideal balance, policy reforms are needed to strengthen a human rights-based approach, ensure inter-agency accountability, and expand cooperation with international organizations. Only then can this cooperation truly become an effective tool to protect the rights and dignity of every individual without exception.

## References

- Anggriani, Riri. (2017). Perlindungan hukum bagi irregular migrant workers Indonesia di kawasan Asia Tenggara (dalam perspektif hukum ham internasional). *Yurdika* 32(2). <https://doi.org/10.20473/ydk.v32i2.4773>.
- Arifin, Ridwan, Eva Achjani Zulfa, Margaretha Hanita, and Arthur Josias Simon Runturambi. (2024). Unveiling Indonesia's Migration and Border Governance: Challenges and Imperatives Post-Pandemic. *Social Sciences and Humanities Open* 10, 4, 101202. <https://doi.org/10.1016/j.ssaho.2024.101202>.
- Arsya, Shonia, Zulkifli Harza, and Maryam Jamilah. (2024). Perlindungan Pekerja Migran Indonesia Di Malaysia Pasca Memorandum of Understanding ( MoU ) Tahun 2022 Dalam Kerangka Keamanan Manusia 3, 3(2): PALITO (Politics, Humanities, Laws, International Relations and Social) 231–52. <https://doi.org/https://doi.org/10.25077/palito.v3i02.170>.
- B.Pawe, Zahran Hilman Salim, Seniwati Seniwati. (2025). Kerja Sama Keamanan Indonesia Dan Malaysia Dalam Mengatasi Imigran Ilegal Di Pulau Sebatik. *Konstitusi Jurnal Hukum, Administrasi Publik Dan Ilmu Komunikasi* 2(3). <https://doi.org/10.62383/konstitusi.v2i3.792>.
- Fitri, Anggi Rachma Zakia, Jakarta, and Heru Sugiyono. (2023). Strategi Penanganan Pekerja Migran Indonesia Yang Bekerja Tidak Sesuai Dengan Kontrak Kerja. *JURNAL USM LAW REVIEW* 6(3). <https://doi.org/10.26623/julr.v6i3.7568>.
- Gustri Eni Putri, Vanny El Rahman, Kemal Al Kautsar Maburri. (2025). Implementation of Protection for Indonesian Migrant Workers in Malaysia in 2022-2023. *DAULIYAH Journal of Islamic and International Relations* 10(1). <https://doi.org/https://doi.org/10.21111/dauliyah.v10i1.13904>.
- Hasan, Rizki Setia Damayanti, Ani Wijayati, and Edward M. L Panjaitan. (2024). Analisis Kebijakan Rekalibrasi Tenaga Kerja Di Malaysia Untuk Pekerja Migran Indonesia Ilegal Berdasarkan Memorandum of Understanding Indonesia Dan Malaysia 1 April. *Jurnal Kolaboratif Sains* 7, 7(4). <https://doi.org/10.56338/jks.v7i4.3814>.
- Jones, Katharine. (2022). A 'North Star' in Governing Global Labour Migration? The ILO and the Fair Recruitment Initiative. *Sage Journals* 22(2). <https://doi.org/10.1177/14680181221084792>.
- Junaidi, Muhammad, and Khikmah Khikmah. (2024) . Perlindungan Hukum Dan Penempatan Pekerja Migran Indonesia Di Luar Negeri. *JURNAL USM LAW REVIEW* 7(1). <https://doi.org/10.26623/julr.v7i1.8127>.
- Kim, Diana, and Yuhki Tajima. (2022) . Smuggling and Border Enforcement. Cambridge University Press 76(4). <https://doi.org/10.1017/S002081832200011X>.
- Martin, Yosia, and Arthur Josias Simon Runturambi. (2024) . Upaya Pencegahan Pekerja Migran Indonesia (PMI) Nonprosedural Sebagai Bagian Perdagangan Orang Melalui Pengawasan Keimigrasian. *Syntax Literate: Jurnal Ilmiah Indonesia* 9(5). <https://doi.org/10.36418/syntax-literate.v9i5.15738>.
- Mohd. Mizan Bin Mohammad Aslam, Febianto. (2025). Analysis of Malaysia's Policy Towards Indonesian Illegal Immigrants 2020 - 2023. *POLITEIA JOURNAL OF PUBLIC ADMINISTRATION AND POLITICAL SCIENCE AND INTERNATIONAL RELATIONS* 3(4). <https://doi.org/https://doi.org/10.61978/politeia.v3i4.808>.

- 
- Mohd Nadzim Ajis, Aqmal Reza Amri, Andi Luhur Prianto. (2023). "Governance and Protection of Indonesian Migrant Workers in Malaysia. *Journal of Southeast Asian Human Rights* 7. <https://doi.org/https://doi.org/10.19184/jseahr.v7i2.44185>.
- Nofely, Abdallah Mohamed Othman El. (2021). *Beyond Borders: Migrants' and Refugees' Rights and Protection Under the Veil of International Law*. *Supremasi Hukum Jurnal Kajian Ilmu Hukum* 10(1). <https://doi.org/https://doi.org/10.14421/sh.v10i1.2340>.
- Romadhona, Mochamad Kevin, Sri Endah Kinasih, and Rachmat Dimas Oktafenanda. (2025). *Labor Migration Policy in ASEAN States*. *International Law Discourse in Southeast Asia* 4(1). <https://doi.org/10.15294/ildisea.v4i1.23485>.
- Sianipar, Imelda Masni Juniaty. (2014). *Legalisasi Deklarasi HAM ASEAN*. *Jurnal Hubungan Internasional* 3(1). <https://doi.org/10.18196/hi.2014.0047.58-67>.
- Suparno Suparno, Zudan Arief Fakrulloh, Tessar Bayu Setyaji. (2023). *Implementation of Legal Policy in Indonesia in Handling Illegal Immigrants*. *Jurnal Indonesia Sosial Sains (JISS)* 4(5). <https://doi.org/https://doi.org/10.59141/jiss.v4i05.813>.
- Valencia, Elizabeth M. (2012). *Universal Declaration of Human Rights*. *Encyclopedia of Immigrant Health*, 1462–63. [https://doi.org/10.1007/978-1-4419-5659-0\\_790](https://doi.org/10.1007/978-1-4419-5659-0_790).
- Wibowo, Pascalis Danny Kristi, Razilu Razilu, and Ade Yulfianto. (2025). *IMPLEMENTASI KEBIJAKAN KEIMIGRASIAN TERHADAP PERLINDUNGAN PEKERJA MIGRAN INDONESIA*. *JURNAL ILMIAH KAJIAN KEIMIGRASIAN POLTEKIM* 8(2). <https://doi.org/10.52617/jikk.v8i2.795>.
- Zibetti, Fabíola Wust, Eveline Vieira Brigido. (2020). *PROTECTION OF FORCED MIGRANTS WITH IRREGULAR STATUS DURING THE PANDEMIC GENERATED BY COVID-19: AN ANALYSIS OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS ON MIGRANTS' RIGHTS*. *Novos Estudos Jurídicos* 25(3). <https://doi.org/10.14210/nej.v25n3.p757-773>.