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## Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families

### List of issues prior to submission of the second periodic report of Indonesia\*

#### Section I

##### A. General information

1. Please provide information on the domestic legal framework regarding the Convention, including:

(a) Laws adopted since the adoption of the previous concluding observations<sup>1</sup> regarding the protection of migrant workers and members of their families and on migration policies under the Convention and the steps taken towards harmonizing them with the Convention, including Law No. 18 of 2017 on the Protection of Indonesian Migrant Workers (amendment to Law No. 39/2004) and Law No. 63 of 2024 on Immigration (amendment to Law No. 6/2011);

(b) The nature and scope of bilateral and multilateral agreements concluded or envisaged with other countries pertaining to the rights of migrant workers and members of their families under the Convention, in particular with Malaysia and the results achieved with respect to protection of migrant workers in the domestic sector. Please specify how these agreements protect migrant workers' rights in transit and destination countries, especially with respect to social security, detention, repatriation or expulsion and family reunification procedures. Please provide information on any measures taken to strengthen the protection of Indonesian migrant workers abroad, including by reviewing and amending these bilateral and multilateral agreements.

2. Please provide information on all policies and strategies, including their implementation, relating to the rights of migrant workers and members of their families adopted by the State party, including those contained in the National Action Plan for the Global Compact for Migration, the National Medium-Term Development Plan for 2020-2024, the 2020-2024 anti-trafficking action plan and the 2020-2024 Masterplan for National Border and Border Region Management, at all levels of government for the effective implementation of the Convention, particularly the Ministry of Migrant Workers' Protection, the Directorate General of Immigration and the Directorate for the Protection of Indonesian Citizens and Legal Entities Abroad. Please also inform the Committee on the steps taken to integrate rights-based and gender-responsive approaches (para. 15) pertaining to migrant workers and members of their families in the adopted strategies.

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\* Adopted by the Committee at its thirty-ninth session (2-13 December 2024).

<sup>1</sup> Unless otherwise indicated, paragraph numbers in parentheses refer to the previous concluding observations adopted by the Committee (CMW/C/IDN/CO/1).



3. Please provide information on the steps taken towards improving coordination among ministries and agencies at all levels of government for the effective implementation of the Convention, particularly the Ministry of Migrant Workers' Protection, the Directorate General of Immigration and the Directorate for the Protection of Indonesian Citizens and Legal Entities Abroad. Please provide information on the mandate of these agencies related to migration issues as well as the resources allocated and monitoring mechanisms in place related to migration issues (para. 17).
4. Please provide information on measures taken by the State party to establish a centralized, comprehensive (para. 19) and accessible database covering all articles of the Convention and the progress made towards capacity-building of public officials to improve the collection and analysis of data on migration.
5. Please provide information on complaint mechanisms and other services, including helplines, offered by the National Human Rights Commission of Indonesia (para. 21), and on whether the Commission conducts visits at detention centres for migrant workers as well as shelters for Indonesian migrants following repatriation from countries of employment or transit, including on the work of the joint monitoring and investigative team comprising of the National Commission on Human Rights, the National Commission on the Elimination of Violence against Women, Commission of Child Protection, Victim and Witness Protection Commission and the Ombudsman Office. In addition, please provide information on the human, technical and financial resources made available to the institution and on awareness-raising activities by the State party among the general public, and migrant workers, in both urban and rural areas, in particular, on the services offered by the Commission, including the right to file a complaint directly with the institution.
6. Please provide information on the steps taken by the State party to develop education and training programmes, including a gender perspective, to increase awareness and understanding of the provisions of the Convention, particularly on pre-departure orientation programmes, among the general public, migrant workers and members of their families, employers, teachers, health workers, government officials, including embassy and consular personnel, law enforcement officials, border police and the judiciary, civil society, the media and Indonesian nationals working abroad. Please indicate whether steps have been taken to involve civil society organizations and the media in the dissemination of information about the Convention (para. 23). Please also share the steps taken towards updating the education and training programmes in accordance with the Law No.18 of 2017.
7. Please provide information on the cooperation and interaction between the State party, civil society organizations and other social partners working on migrant workers' rights in relation to the implementation of the Convention, including in the countries where Indonesian migrant workers are employed, and in the negotiation and monitoring of bilateral agreements. Please indicate whether and how the representatives of civil society organizations, as well as other stakeholders are involved in the preparation of the replies to the present list of questions.
8. Please provide information on efforts to establish a recruitment system subject to public administration (para. 53 (a)) covering private employment agencies in the State party recruiting migrant workers to work abroad, and the laws and procedures pertaining to private recruitment pursuant to the Law No. 13 of 2003 and its amendment under Law No. 11 of 2020 (Omnibus Law on Job Creation) and Law No. 18/2017 on Protection of Migrant Workers. Please provide information in particular on:
  - (a) Measures taken to provide information and training to migrant workers on their rights and obligations, as well as to protect against abusive employment situations;
  - (b) The role and responsibilities of recruitment agencies and their joint responsibility with the overseas employer for claims and liabilities that may arise in connection with the implementation of the employment contract, including wages, disability compensation, repatriation and death, including repatriation of the bodies of deceased migrant workers;
  - (c) The recruitment agencies that provide life, disability and/or workers compensation insurance to migrant workers for work related injuries and deaths;
  - (d) The issuing and renewal of licenses of such employment agencies;

(e) Complaints lodged against recruitment agencies, on labour inspections conducted, and on penalties and sanctions imposed in cases of noncompliance with the law;

(f) Measures taken by the State party to strengthen mechanisms to regulate and control private employment agencies and to avoid situations where such agencies act as intermediaries for abusive foreign recruiters (para. 53 (b)). Please also provide information on the steps taken towards the implementation of the National Strategy on Business and Human Rights pursuant to Presidential Regulation No. 60 of 2023;

(g) Progress made with regard to the ratification of the International Labour Organization (ILO) Private Employment Agencies Convention, 1997 (No. 181) (para. 53 (f)).

## **B. Information relating to the articles of the Convention**

### **1. General principles**

9. Please provide examples of judicial cases and judgements in which the Convention has been invoked directly before the courts. Please also provide information on:

(a) Judicial and/or administrative mechanisms competent to examine and decide on complaints by migrant workers and members of their families, including those in an irregular situation;

(b) The number and types of complaints examined by such mechanisms since 2017 and their outcome, disaggregated by sex, nationality, age, occupation and migration status;

(c) Legal assistance provided;

(d) Any redress, including compensation, provided to the victims of such violations; and

(e) Any measures taken to inform migrant workers and members of their families about the remedies available to them for violations of their rights.

10. Please provide information, with supporting data and specific examples, on how the coronavirus disease (COVID-19) pandemic has impacted the development, adjustment and implementation of national pandemic prevention and management plans to protect the rights of migrant workers and members of their families, in a manner that:

(a) Ensures access to health services, including COVID-19 vaccines, without discrimination and regardless of nationality or migration status;

(b) Takes the sanitary measures necessary to prevent the spread of the disease and to maintain the desired level of health protection at workplaces;

(c) Prevents infections in detention centres and provides health-care services to those who have been infected;

(d) Ensures that the families of migrant workers who have died of the disease are informed of their deaths and receive their remains;

(e) Protects the rights of migrant workers and members of their families in other respects and mitigates the adverse effects of the pandemic, taking into account the joint guidance note issued by the Committee and the Special Rapporteur on the human rights of migrants on the impacts of the COVID-19 pandemic on the human rights of migrants.<sup>2</sup>

### **2. Part II of the Convention**

#### **Article 7**

11. Please inform the Committee about any cases identified in the State party of racism and xenophobia, discrimination, ill-treatment and violence directed at migrant workers and members of their families, and provide information about normative, institutional and procedural measures adopted by the State party to prevent and combat all forms of racism,

<sup>2</sup> See <https://www.ohchr.org/sites/default/files/CMWSPMJointGuidanceNoteCOVID-19Migrants.pdf>.

xenophobia, discrimination, ill-treatment and violence to protect the rights of the victims, including their right to access to justice. Please include quantitative and qualitative information on the types of discrimination and xenophobic cases identified in the State party. Please additionally provide information about cases identified against Indonesian migrant workers abroad and the measures taken by the receiving State and the State party, if any, in response.

### **3. Part III of the Convention**

#### **Articles 8 to 15**

12. Please provide information on any cases identified in the State party of exploitation of migrant workers and members of their families, for both those in regular and irregular situations, in particular those working in agriculture, domestic work, fisheries sector, construction as well as hazardous work. Please also provide information on any cases identified in the State party of domestic servitude, forced labour and sexual exploitation involving migrant workers, especially in the context of sex tourism, and on measures to prevent and combat these phenomena. In addition, please provide information on the measures taken to bring the national legislation into compliance with ILO Convention No. 29 concerning Forced and Compulsory Labour (1930) and ILO Convention No. 105 concerning the Abolition of Forced Labour (1957). Regarding seafarers, please provide information on measures taken to provide social security benefits to seafarers ordinarily resident in the State party's territory and whether those seafarers ordinarily resident in Indonesian territory working on ships operating under the flag of another country are also provided with social security protection under Government Regulation No. 22 of 2022. Additionally, please provide information on progress made with regard to the ratification of major conventions not yet ratified by the State party and provide information on progress made towards the ratification of the Domestic Workers Convention 2011 (No. 189), ILO Violence and Harassment Convention (No. 190) and ILO Protocol of 2014 to the Forced Labour Convention 1930.

13. Please provide information on measures taken by the State party to ensure that the rights of migrant children, in particular those who are unaccompanied and/or in an irregular situation or are transiting through the State party, are respected and that they are protected from all forms of exploitation. In particular, please provide information on steps taken towards incorporating interventions regarding migrant children into the National Action Plan for the Elimination of Worst Forms of Child Labour (2013-2022) (para. 33 (d)).

14. Please provide detailed information on the measures taken to investigate complaints of harassment, corruption and abuse of authority by law enforcement officials, including allegations of extortion and arbitrary detention, with regard to migrant workers and members of their families. Please also indicate the number of complaints received and investigated in the past three years, as well as the number of law enforcement officials that have been investigated, prosecuted and convicted in this regard, since the adoption of the previous concluding observations, as well as specify the nature of the charges and sentences imposed.

#### **Articles 16 to 22**

15. Please describe the due process safeguards and the extent to which the previous concluding observations have been implemented, regarding access to a lawyer and interpreter, in situations of investigations, arrests, detentions and expulsions of migrant workers and members of their families for immigration-related offences. Please describe measures taken to ensure that the obligation contained in article 16 (7) of the Convention on contact with consular or diplomatic authorities of the State of origin of the detained migrant worker or members of their families is given effect in law and in practice. In addition, please provide information on the progress made on the formulation of a Standard Operating Procedure (SOP) for investigation, arrest and detention for immigration cases. Please include information on specific due process safeguards for unaccompanied and separated children in migration related administration procedure, including the right to be heard and the right to a guardian.

16. Please indicate legislative and other measures undertaken by the State party, regarding the implementation of the previous concluding observations, to ensure the right to liberty of migrant workers and their families in the context of migration administrative procedures, including entry, residence and expulsion. Additionally, please report on alternatives to detention for immigration related matters, including statistical data, and please provide detailed information on migration detention centres, conditions of detention for migrant workers and efforts to improve those conditions, including on:

(a) Measures taken for decriminalizing irregular entry and exit, in particular by reforming article 113 of Law No. 6/2011, in line with the Committee's previous recommendations (para. 31);

(b) Progress made towards amending Law No. 6/2011 on Immigration to ensure that administrative detention is used as a measure of last resort and for the shortest time possible and that non-custodial alternatives are promoted (para. 35), in line with the Committee's general comment No. 5 (2021);

(c) Measures taken to comply with the Committee's recommendations (para. 35 (b)) on progress made towards ceasing the detention of children on the basis of their parents' immigration status and allowing children to remain with family members and/or guardians in non-custodial contexts while their immigration status is being resolved, in accordance with their best interests;

(d) Measures taken towards creating an independent monitoring body that regularly assesses the guards and officials' conduct as well as the facilities (para. 35 (c));

(e) Progress made towards ensuring sufficient food, clean drinking water, sanitation and the provision of healthcare in the facilities (para. 35 (d));

(f) Steps taken to ensure that migrant workers and members of their family, particularly those in an irregular situation, are guaranteed due process on an equal basis with nationals of the State party before courts and tribunals;

(g) Steps, if any, taken to develop a policy or strategy for the promotion of non-custodial alternatives to detention for migrants.

17. Please provide information on measures taken to ensure that migrant workers and members of their families are only expelled from the territory of the State party pursuant to a decision taken by a competent authority, following a procedure established by law and in conformity with the Convention, and that this decision can be reviewed on appeal. Please provide up-to-date information, regarding the implementation of the previous concluding observations and other relevant information, including disaggregated statistical data, on migrant workers and their families who are undocumented or in an irregular situation and have been, or are in the process of being expelled.

### Articles 23

18. Please provide detailed information on the policies and practices of the State party's embassies, consulates and labour attaches in assisting and protecting migrant workers who are nationals of the State party working abroad, including those in an irregular situation, and particularly in the case of abuse, arrest, detention and expulsion. Please provide information on:

(a) Steps taken towards prioritizing the protection of migrant workers in an irregular situation and those working in isolated conditions;

(b) Progress made towards the provision of welfare services that are gender-responsive and accessible for Indonesian migrant workers in destination countries (para. 37 (b));

(c) Measures taken to ensure that consular and diplomatic missions are adequately staffed and that staff are trained in a human-rights based approach towards addressing the problems faced by migrant workers;

(d) Measures taken to ensure that consular and diplomatic staff in the States of employment develop policies to address prevention of arbitrary detention and sexual and gender-based violence (para. 37 (c) and (d)).

#### **Articles 25 to 30**

19. Please indicate what legal and labour protection and enforcement mechanisms are in place to ensure that migrant workers, including migrant women, especially in the agricultural, construction, domestic and fisheries sectors, enjoy treatment not less favourable than that which applies to nationals in respect of remuneration, social protection and conditions of work. Please provide information on equal access for nationals and migrant workers regarding social protection including healthcare and benefits encompassing accidents, pensions, old age, mortality and unemployment for migrant workers and their families in both a regular and irregular situation, including education of children of migrant workers in both a regular and irregular situation. In addition, please also provide information on:

(a) Steps taken to ensure, via bilateral and multilateral social security agreements, that all migrant workers and members of their families have adequate social protection in countries of destination;

(b) The scope of additional coverage of the social security framework provided by the Manpower Social Security Institution (para. 39).

20. Please provide information on the measures taken by the State party to ensure the right of children of migrant workers abroad, including children of migrant workers who are in an irregular situation, to be registered at birth and to have their nationality recognized in law and in practice free of charge. Please provide details on the steps taken, if any, to raise awareness of the importance of birth registration among migrant workers and members of their families, especially those in an irregular situation. Please also provide information on the progress made towards acceding to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness (para. 41).

#### **Articles 31 to 33**

21. Please provide information on measures taken by the State party to ensure that upon termination of their stay in the State party, migrant workers and members of their families have the right to transfer their earnings and savings to their State of origin, and in accordance with the applicable legislation, their personal effects and belongings. Please provide information on progress made towards conducting information and training programmes for migrant workers on financial literacy and whether such programs were developed in coordination with other stakeholders including local governments, civil society actors and the private sector.

### **4. Part IV of the Convention**

#### **Article 37**

22. Please provide information on pre-departure programmes for the State party's nationals who are considering emigration, including information on their rights and obligations in the State of employment. Please indicate which government institution is responsible for providing such information pursuant to Law No. 18 of 2017, particularly BP2MI Regulation No. 7 of 2022 and if any coordinated policies, programmes or legislation have been developed to ensure transparency and accountability in that process. Please also provide information on whether:

(a) Steps have been taken to improve pre-departure training and information in accordance with the Convention and in a gender-responsive manner to promote skill levels of prospective migrant workers, including language skills (para. 43 (a));

(b) Steps have been taken to empower migrant workers to know and claim their rights, including by providing them with information on fair recruitment, decent work standards, available social protection, financial matters and the local culture and lifestyle, as

well as important legislation in the destination country and the contact information for labour attachés and welfare officers in the States of employment (para. 43 (b)).

#### **Article 41**

23. Please provide information on the measures taken by the State party to review its legal framework, specifically Law No. 7 of 2017 concerning general elections, as well as on other steps to facilitate the exercise of voting rights by migrant workers and members of their families of the State party residing abroad.

#### **Article 45**

24. Please provide information on the measures taken by the State party to ensure access by migrant workers and members of their families to educational institutions and services as well as vocational guidance and training institutions and services. Please also provide information on measures taken by the State party to facilitate the integration of children of migrant workers in the local school system, including teaching them the local language, as well as to facilitate the teaching of their mother tongue and culture.

#### **Articles 46 to 48**

25. Please provide information on the financial and tax legislation in respect of personal and household effects as well as necessary work-related equipment of migrant workers. Please also provide information on the policies in place to facilitate remittances, particularly on whether the State party has taken any measures to reduce the cost of sending and receiving funds, the facilitation of access to a safe and affordable remittance transfer system and provision of low-cost transmission to rural regions (para. 45).

### **5. Part V of the Convention**

#### **Articles 58 to 63**

26. Please provide information on the measures taken by the State party to ensure that seasonal workers enjoy equal treatment as national workers, including changes introduced pursuant to Law No. 18 of 2017 and Government Regulation No. 22 of 2022, particularly in respect of remuneration and conditions of work, and to ensure systematic monitoring by the relevant authorities of employers' compliance with relevant international labour standards.

### **6. Part VI of the Convention**

#### **Article 64**

27. Please provide information on the situation of irregular migration of nationals of the State party, in particular women and unaccompanied and separated children, including information on multilateral and bilateral agreements, policies and programmes aimed at enhancing regular pathways of migration. In addition, please provide information on steps taken towards expanding the scope of the provincial level Taskforce on the Prevention and Promotion of Non-Procedural Indonesian Migrant workers and the progress made towards targets set for the expansion of One Stop Integrated Service Centres. Given the mixed migration flows, please provide information on whether the State party envisages the ratification of the 1951 Convention relating to the Status of Refugees. Please also provide information on:

(a) Progress made towards taking steps to address the situation of migrant workers who are victims of the *kafalah* (sponsor) system (para. 49 (c));

(b) Steps taken towards monitoring the enforcement of bilateral agreements with a view to ensuring that they are made public, are transparent as well as gender-responsive and non-discriminatory (para. 49 (e) and (f));

(c) With regard to domestic workers, steps taken towards promoting standard and unified employment contracts for domestic workers in all regional and bilateral agreements, establishing a reference wage that reflects their skills and experience, providing assistance

including shelter, medical and legal aid for domestic workers who are victims of abuse and creating a complaints mechanism for domestic workers to report cases of unfair labour practices (para. 51 (b), (c), (d) and (g));

(d) Progress made towards lifting the ban on migrant domestic workers wishing to travel to countries in the Middle East for work and implementing alternative non-discriminatory measures to protect the rights of migrant domestic workers (para. 51 (i)).

#### **Article 67**

28. Please provide information on the measures taken to assist in the voluntary return and social, economic and psychosocial reintegration of returning migrant workers and their families in the State party. Please provide details on whether return and reintegration programmes are developed and implemented in consultation and coordination with all relevant ministries, provincial and other local government agencies and whether adequate resources and expertise of staff exists to discharge these responsibilities effectively. With regards to steps taken to protect children from hazardous work, please provide information on the progress made on the strengthening and expansion of the Local Action Committee on the Elimination of the Worst Form of Child Labour. In addition, please also provide information on the progress made towards the 2022 target of “Indonesia Free from Child Labour.” Regarding technical training for Indonesian migrant workers, please provide information on the expansion of the “Kampung TKI” program.

#### **Article 68**

29. Please provide information on the measures taken to allocate adequate financial and other resources for prevention and awareness raising campaigns aimed at countering misleading information relating to emigration, including unaccompanied and separated children, about the dangers of irregular migration. Please also provide information on cooperation efforts with countries of transit and destination, with a view to protecting Indonesian migrant workers abroad, including migrant children, whether accompanied or not, in transit through third States and upon arrival in countries of destination.

30. Please provide information on measures taken to facilitate the resettlement and reintegration of migrant children who are nationals of the State party upon return to the State party including information on the Social Safe Houses for Children.

31. Please provide the following information on trafficking of migrants:

(a) Measures taken, including through international, regional and bilateral cooperation with countries of origin, transit and destination, and corresponding human and financial resources allocated by the State party to prevent and combat trafficking in persons, in particular women and children, including for the implementation of Law No. 21/2007, Law No. 1/2023 concerning the Criminal Code and Law No. 18/2017;

(b) Measures taken by the State party to adopt specific legislations and policies to combat trafficking in persons, in accordance with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime of 2000 (Law No. 14/2009) including information on the progress made towards expanding the thematic and geographic scope of the National Taskforce on Trafficking in Persons (Law No. 69/2008) (para. 57 (a));

(c) Measures taken to assist and protect victims of trafficking, including the strengthening of the national referral mechanism, the adoption of a systematic, transparent and impartial approach to investigation and prosecution in cases of trafficking and the provision of gender-sensitive shelters, medical care and psychosocial and other support to assist victims’ reintegration into society;

(d) Measures taken to provide adequate training and capacity-building, in particular focusing on gender-responsive trainings, for law enforcement officials, judges, prosecutors, labour inspectors, service providers, teachers and embassy and consular personnel and other relevant professionals in the State party (para. 57 (g));



(e) Steps taken to strengthen the collection of disaggregated data on trafficking in persons, including the number of reported cases of trafficking in persons, investigations, prosecutions and the sentences imposed on perpetrators, and acknowledging the role of technology in trafficking, steps taken towards collecting disaggregated data on cases of trafficking in persons into forced criminality in online scamming centres.

### **Article 69**

32. Please provide information on any measures taken to ensure that migrant workers and members of their family in an irregular situation in the State party have the possibility to regularize their situation in accordance with the provisions of article 69 of the Convention. Please describe the actions taken by the State party, including through bilateral and multilateral agreements, to improve the protection and assistance afforded to its nationals abroad, including efforts to promote the regularization of their situation.

## **Section II**

33. The Committee invites the State party to provide information (in no more than three pages) regarding the protection of migrant workers and members of their families with respect to:

- (a) Bills or laws, and their respective regulations;
- (b) Institutions (and their mandates) or institutional reforms;
- (c) Policies, programmes and action plans covering migration and their scope and financing;
- (d) Recent ratifications of human rights instruments, and other relevant instruments, including the ILO Migration for Employment Convention (revised), 1949 (No. 97), the ILO Migrant Workers (Supplemental Provisions) Convention, 1975 (No. 143), and the ILO Domestic Workers Convention, 2011 (No. 189);
- (e) Recent comprehensive studies on the situation of migrant workers and members of their families.

## **Section III**

### **Data, official estimates, statistics and other information**

34. Please provide, if available, disaggregated statistical data and qualitative information for the last seven years on:

- (a) The volume and nature of migratory movements to and from the State party;
- (b) The number of non-accompanied migrant children or migrant children separated from their parents in the State party;
- (c) Remittances received from nationals of the State party working abroad.

35. Please provide information about progress made with regard to ratification or accession to the International Convention for the Protection of all Persons from Enforced Disappearances.

36. Please provide any additional information on any important developments and measures in the implementation of the Convention relating to the protection of the rights of migrant workers and members of their families that are considered a priority, including whether the State party envisages making the declaration under article 76 of the Convention recognizing the competence of the Committee to receive and consider State-to-State communications and/or the declaration under article 77 of the Convention recognizing the competence of the Committee to receive and consider individual communications.