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PROTECTING INDONESIAN MIGRANT WORKERS' RIGHTS IN THE CUSTOMS FACILITATION REGIME: AN INTERMESTIC LAW ANALYSIS

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Abstract

Recent developments in Indonesia's import regulations, particularly Minister of Trade Regulation No. 36/2023 in conjunction with No. 03/2024, have unintentionally affected Indonesian Migrant Workers (IMWs) who send personal goods to their families. While intended to curb informal commercial imports, these policies overlook the transnational nature of labour migration and its implications. This study analyses the impact of these regulations on the rights of IMWs and explores how legal protection should be structured within an intermestic legal framework. Using a doctrinal legal research supported by empirical data collected through semi-structured interviews, the study finds that policy design frequently overlooks long-term and cross-sectoral effects. IMWs often misdirect blame towards customs authorities, without recognising their role as policy implementers, thereby creating institutional tensions. Prior studies have predominantly focused on labour protection, recruitment, and trafficking prevention, while studies of import regulations have largely concentrated on trade governance. This study finds that trade-sector regulations concerning import restrictions also intersect with the fulfilment of migrant workers' rights. The research advocates the establishment of a special legal category for IMWs in import regulations, distinct from that applicable to the general public but subject to clear safeguards to prevent misuse. The study concludes that import restrictions affecting IMWs should be viewed from the perspective of intermestic law, which requires integrated trade and human rights governance through inclusive policymaking that balances both considerations.

***Keywords**: Import Policy; Intermestic Law; Legal Protection; Migrant Workers.*

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1. Introduction

Indonesia's migrant workers (hereinafter referred to as IMWs) have become a vital pillar of the country's national economy. They not only provide remittances for their families in their home communities but also contribute significantly to the country's foreign exchange reserves. Consequently, IMWs have been recognised by the Government of Indonesia as "heroes of foreign exchange."[1] In the context of globalisation and intensified cross-border mobility, IMWs are not merely labourers seeking income abroad[2] but also serve as transnational actors who connect the

[1] Faiza Husnayeni Nahar and Mohd Nahar Mohd Arshad, "Effects of Remittances on Poverty Reduction: The Case of Indonesia," *Journal of Indonesian Economy and Business* 32, no. 3 (2017): 163 – 177, https://doi.org/10.22146/jieb.28678.

[2] Muna Yastuti Madrah, Suharko Suharko, and Diana Dewi Sartika, "Dialectics of Transnational Mobility, Class, and Cultural Intermediary among Indonesian Migrant Worker-Students in South Korea," *JSW (Jurnal Sosiologi Walisongo)* 5, no. 1 (2021): 31–46, https://doi.org/10.21580/jsw.2021.5.1.6842.

global economy with local socioeconomic dynamics.[3] Therefore, the protection of IMWs is essential not only as a constitutional obligation under Article 27 paragraph (2) and Article 28D paragraphs (1) and (2) of the Indonesian Constitution, but also as part of the international community's responsibility to ensure the protection of migrant workers.[4] Given the significant economic contributions made by IMWs, it is reasonable that their interests should be reflected in the State's policymaking framework. The designation "heroes of foreign exchange" should not merely be a status or label but should also be reflected in regulations.

Existing national instruments, such as Law No. 18 of 2017 on the Protection of IMWs, as well as international instruments such as International Labour Organization (ILO) conventions and the United Nations Convention on Migrant Workers, demonstrate that workers' rights, including those of migrant workers, are recognised and must be fulfilled by the State as the primary duty bearer.[5] Issues concerning the protection of IMWs have largely focused on protecting them from violence, workplace exploitation, discrimination, and human trafficking, demonstrating that most regulations primarily govern the treatment migrant workers may receive while abroad or in host countries. Much less attention, however, has been paid to the treatment migrant workers may receive from their country of origin, particularly through domestic regulations.[6] Both sending and host countries have an equal duty to ensure the fulfilment of migrant workers' basic rights[7] and their protection.[8]

An important regulatory issue emerged following the enactment of Minister of Trade Regulation No. 36 of 2023, as amended by Minister of Trade Regulation No. 3 of 2024, concerning import policies and arrangements. The regulation was introduced partly in response to the growing practice of personal shopping services, commonly known as *jasa titipan* or *jastip*, through which goods purchased abroad could be brought into Indonesia for commercial purposes under the guise of personal purchases. This practice has been perceived as a means of avoiding customs duties and import taxes, thereby undermining state revenue and the domestic trade system. To address concerns over the circumvention of customs duties and import requirements, the regulation introduced restrictions affecting goods consigned by Indonesian migrant workers (IMWs), including limits on the categories and quantities of goods permitted in each shipment. However, the application of general import-control measures to consignments sent by IMWs raised questions about the regulatory framework governing such shipments. While these consignments may resemble other imported goods for customs purposes, they also have a distinct context as personal belongings sent by workers abroad to their families in Indonesia. This raised a broader question as to how the import regime applicable to IMWs was defined, how it interacted with the legal framework for migrant-worker protection, and whether the existing rules adequately accounted for the particular circumstances of these consignments. The subsequent development of regulations governing IMW consignments therefore warrants closer examination

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3 Praja Firdaus Nuryananda et al., "Melampaui Pahlawan Devisa: Peran Aktor Negara Dan Non-Negara Menyasar Permasalahan Finansial PMI Perempuan Di Taiwan," *Jurnal Hubungan Internasional* 15, no. 2 (2022): 355–380, https://doi.org/10.20473/jhi.v15i2.36080.

4 Devi Rahayu and Nunuk Nuswardani, "State Responsibility in Fulfilling the Rights of Indonesian Migrant Workers During Pandemic Era," in *Advances in Social Science, Education and Humanities Research: Proceedings of the 3rd International Conference on Social Sciences (ICSS 2020)*, 2020, 718–22, https://doi.org/10.2991/assehr.k.201014.156.

5 Christine Brickenstein, "Social Protection of Foreign Seasonal Workers: From State to Best Practice," *Comparative Migration Studies* 3, no. 1 (2015): 1–18, https://link.springer.com/article/10.1007/s40878-015-0004-9.

6 Benjamin A. San Jose, "Achieving Human Security for Migrants: The Limits of State Policies and Migration-Development Initiatives," *Bandung: Journal of the Global South* 2, no. 1 (2015): 1–13, https://doi.org/10.1186/s40728-015-0019-5.

7 Rhacel Salazar Parreñas, "Discipline and Empower: The State Governance of Migrant Domestic Workers," *American Sociological Review* 86, no. 6 (2021): 1043–65, https://doi.org/10.1177/00031224211032906.

8 Raluca Dimitriu, "Responsibilities of the Origin State in the Protection of Migrant Workers. The Case of Romania," *Cahiers de l'Urmis* 12 (2009): 1–15, https://doi.org/10.4000/urmis.815.

to understand how Indonesia's legal framework has addressed the relationship between import control and migrant-worker protection.

In practice, this policy has given rise to several critical problems. According to the Indonesian Migrant Workers Protection Agency (BP2MI), approximately 60,723 packages sent by IMWs were affected by the implementation of the previous import regulation. By July 2024, approximately 85% of these shipments had been released following the revision of the regulation, while approximately 7,000 packages remained in storage.[9] These shipments, often containing daily necessities for workers' families, were left to expire or deteriorate in storage, causing losses for migrant families. This situation reveals a fundamental tension between the State's domestic interest in regulating trade and its duty to protect citizens working overseas. Trade regulations intended to safeguard fiscal interests, including restrictions on non-commercial transfers, may disproportionately burden low-income households and undermine their economic security. Such policy frameworks illustrate the inherent tension between trade sovereignty and human rights obligations, particularly where citizens depend on cross-border personal transfers for their subsistence.[10]

This intersection between domestic and international legal obligations is best analysed through the lens of intermestic law, an approach that integrates international and domestic legal frameworks to address issues that transcend national boundaries. Intermestic law is particularly relevant in the contexts of global migration, trade regulation, and transnational rights protection.[11] From an international legal perspective, Indonesia is a State Party to the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. By ratifying the Convention, Indonesia became legally bound to uphold the rights enshrined therein, including migrant workers' rights to legal protection, non-discrimination, and economic freedoms.[12] Article 32 addresses the transfer of migrant workers' earnings and savings and, subject to the applicable laws of the States concerned, their personal effects and belongings upon termination of their stay in the State of employment. Although this provision does not establish an unconditional right to routine duty-free shipments, it provides relevant context for examining how domestic customs rules should be assessed alongside the broader protection of migrant workers' interests.

At the national level, Law No. 18 of 2017 on the Protection of Indonesian Migrant Workers establishes a framework for protecting IMWs throughout the migration cycle. However, the relationship between migrant-worker protection and the administration of imported personal consignments warrants closer examination. Customs regulations pursue legitimate objectives, including the control of imports and prevention of misuse of import facilities, while consignments sent by IMWs may also carry personal and household significance for their families. The existence of a dedicated customs framework under Minister of Finance Regulation No. 141 of 2023 represents an effort to address these consignments through specific rules. Nevertheless, questions remain concerning the accessibility of the facilities, the implications of differentiated eligibility criteria, and the accountability of the institutions involved in their implementation. These questions are particularly relevant because the protection of migrant workers also concerns the welfare of their families and the practical handling of their personal belongings.

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[9] Kementerian Pelindungan Pekerja Migran Indonesia (KP2MI), "Kunjungi Gudang Barang Kiriman, Kepala BP2MI: 85 Persen Milik Pekerja Migran Indonesia Telah Tersalurkan," Kementerian Pelindungan Pekerja Migran Indonesia (KP2MI), 2024, https://www.kp2mi.go.id/berita-detail/kunjungi-gudang-barang-kiriman-kepala-bp2mi-85-persen-milik-pekerja-migran-indonesia-telah-tersalurkan.

[10] Thomas Cottier and Charlotte Sieber-Gasser, "Labour Migration, Trade and Investment: From Fragmentation to Coherence," in *The Palgrave Handbook of International Labour Migration*, ed. Marion Panizzon, Gottfried Zürcher, and Elisa Fornalé (London: Palgrave Macmillan, 2015), 41–60, https://doi.org/10.1057/9781137352217_3.

[11] Anne-Marie Slaughter, "Disaggregated Sovereignty: Towards the Public Accountability of Global Government Networks," *Government and Opposition* 39, no. 2 (2014): 159–90, https://doi.org/10.1111/j.1477-7053.2004.00119.x.

[12] Kartono Kartono et al., "Legal Protection of Migrant Workers and Their Families: Before, during, and after Working," *Borobudur Law Review* 4, no. 2 (2022): 99–109, https://doi.org/10.31603/burrev.6871.

According to the scholarly literature, studies of migration and trade law remain fragmented across several areas relevant to this discussion. As stated by Lavenex, Lutz, and Hoffmeyer-Zlotnik,[13] although trade agreements increasingly incorporate the governance of labour mobility and migration, the rights of migrant workers remain comparatively underexplored. Agusmidah et al. examined migrant worker protection with a focus on rights, employment, and trafficking prevention.[14] Tjitrawati and Romadhona similarly examined the State's obligation to implement international instruments concerning migrant workers' rights after ratification.[15] The present study therefore seeks to address this gap by examining the evolving regulatory framework governing goods consignments sent by Indonesian migrant workers and its intersection with migrant-worker protection, an issue that remains insufficiently explored in the existing literature.

This study examines the legal framework governing personal consignments sent by IMWs, traces the development of Indonesia's relevant import regulations, and evaluates the relationship between the domestic customs regime and the State's obligations concerning migrant-worker protection. Using an intermestic legal perspective, it considers how legitimate customs-control objectives can be reconciled with the rights and interests of migrant workers and their families. Accordingly, the study addresses three research questions: (1) How are the ownership and transfer of IMWs' personal belongings addressed under relevant international and national legal frameworks? (2) How has Indonesia's regulatory framework governing IMW consignments evolved, particularly from the restrictions to the dedicated customs regime and (3) How should the design and implementation of the existing customs facilitation regime be assessed in light of Indonesia's relevant obligations concerning migrant-worker protection? From this perspective, the importation of personal belongings should not be considered solely a matter of trade regulation, but also in relation to the State's responsibility to administer its customs regime with due regard to migrant workers' rights and interests.

2. Method

This research employs a doctrinal legal research through the examination of legal literature,[16] including national and international legislation, academic writings, and authoritative legal opinions relevant to the issue under consideration. The statutory approach is used to examine the domestic regulatory framework governing migrant worker protection and the importation of goods, particularly Law No. 18 of 2017 on the Protection of Indonesian Migrant Workers, Minister of Finance Regulation No. 141 of 2023 concerning the Importation of Goods by Indonesian Migrant Workers, and Minister of Trade Regulation No. 16 of 2025 concerning Import Policy and Arrangements. The analysis also considers the relevant amendments and regulatory developments that have shaped the current framework. The study also focuses on analysing the legal norms governing the protection of IMWs, particularly those relating to their rights over personal belongings and the legal implications of import restrictions. International instruments, notably the 1990 United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, provide the foundation for assessing the State's normative obligations regarding migrant worker protection.

To complement the normative legal analysis, the study collected empirical data through semi-structured interviews with officials from relevant institutions in order to obtain contextual

[13] Sandra Lavenex, Philipp Lutz, and Paula Hoffmeyer-Zlotnik, "Migration Governance through Trade Agreements: Insights from the MITA Dataset," *The Review of International Organizations* 19 (2024): 147–173, https://doi.org/10.1007/s11558-023-09493-5.

[14] Agusmidah Agusmidah et al., "ASEAN's Migrant Rights Policy Dilemma and Deadlock on Migrant Worker Protection," *Journal of Human Rights, Culture and Legal System* 5, no. 3 (2025): 714–48, https://doi.org/10.53955/jhcls.v5i3.581.

[15] Aktieva Tri Tjitrawati and Mochamad Kevin Romadhona, "Living beyond Borders: The International Legal Framework to Protecting Rights to Health of Indonesian Illegal Migrant Workers in Malaysia," *International Journal of Migration, Health and Social Care* 20, no. 2 (2024): 227–245, https://doi.org/10.1108/IJMHSC-04-2023-0038.

[16] Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat* (Jakarta: Raja Grafindo Persada, 2013).

insights into the practical implementation of trade regulations. The empirical data were collected through semi-structured interviews with two key informants selected using purposive sampling based on the positions they held. Both informants were officials from the Tanjung Emas Customs Office and were selected because of their direct involvement in, and knowledge of, the implementation of import regulations concerning IMWs. The interviews were conducted at the customs office, with each interview lasting between 45 and 60 minutes. These interviews were not intended to produce statistically generalisable data but rather, they provided qualitative narratives that enriched the legal analysis. The collected legal materials and interview data were analysed qualitatively using a prescriptive-analytical approach. The analysis first identifies and interprets the applicable legal norms, then evaluates their design and implementation in light of the State's relevant domestic and international obligations. Lawrence M. Friedman's legal system theory, comprising legal substance, legal structure, and legal culture, provides an analytical framework for examining the relationship between the regulatory provisions and the institutional arrangements through which they are implemented. This analysis is situated within an intermestic legal perspective, which considers the interaction between domestic legal authority and international commitments. On this basis, the study formulates recommendations directed at improving the implementation and accountability of the existing customs facilitation framework while maintaining the State's legitimate authority to regulate imports.

3. Results and Discussion

3.1. Migrant Workers: Between Purposes and Rights

IMWs represent a central pillar of the country's socioeconomic structure. Their contributions through remittances, skills transfer, and transnational connections make them valuable not only to their families but also to the national economy.[17] The origins of outbound labour migration from Indonesia can be traced to the 1970s, when the government adopted labour export as a formal strategy to absorb domestic unemployment and generate foreign exchange.[18] For decades, Indonesia's approach to labour migration focused more heavily on placement than on protection. The initial legal framework, Law No. 39 of 2004, facilitated the deployment of workers while largely delegating protection responsibilities to recruitment agencies. Following strong criticism from civil society organisations and labour organisations, the law was replaced by Law No. 18 of 2017 on the Protection of Indonesian Migrant Workers, marking a shift towards a rights-based and state-centred model. The new law recognises the dignity of IMWs as citizens and affirms the Government's responsibility throughout all stages of the migration cycle: pre-departure, during employment, and upon return.[19]

At the international level, Indonesia has undertaken key commitments by ratifying the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW). The ICESCR, ratified through Law No. 11 of 2005, affirms a set of universal economic rights applicable to all persons, including migrants. These include the right to work (Article 6), the right to fair and favourable working conditions (Article 7), the right to social security (Article 9), and the right to an adequate standard of living (Article 11). These provisions imply that migrant workers must be able to support themselves and their families through their labour income, including by remitting money and sending goods home without discriminatory or arbitrary interference. More directly, the ICMW, ratified by Indonesia through Law No. 6 of 2012, provides

[17] Agusmidah Agusmidah and Fithriatus Shalihah, "Indonesian Migrant Workers: A Socio-Economic Analysis with Regard to the Integrated Services Practice Implementation," *Economic Annals-XXI* 203, no. 5–6 (2023): 70–75, https://doi.org/10.21003/ea.V203-08.

[18] Totok Budiantoro and M. Sifa Fauzi Yulianis, "Konsep Perlindungan Hukum Pekerja Migran Indonesia Di Luar Negeri," *Socius: Jurnal Penelitian Ilmu-Ilmu Sosial* 1, no. 8 (2024): 75–79, https://doi.org/10.5281/zenodo.10864032.

[19] Ester Monalisa Tantri, Deicy N. Karamoy, and Decky Paseki, "Perlindungan Hukum Terhadap Tenaga Kerja Indonesia Di Luar Negeri Menurut Undang-Undang Nomor 18 Tahun 2017," *Lex Privatum* 10, no. 3 (2022), https://ejournal.unsrat.ac.id/v3/index.php/lexprivatum/article/view/41008.

a comprehensive legal framework specifically addressing migrant workers.[20] Although migrant worker protection is generally associated with wages, employment, and security, international human rights law also gives specific attention to the protection of migrant workers' economic interests. This reflects the broader purpose of labour migration: the transfer of goods should not be viewed merely as an economic activity but also as a manifestation of family responsibility and the preservation of social ties.[21]

Several provisions of the ICMW provide a normative framework for examining the regulation of goods sent by IMWs to their families in Indonesia. Article 32 recognises migrant workers' right to transfer their earnings and savings and, in accordance with applicable legislation, their personal effects and belongings to their State of origin or another State. Article 15 further protects migrant workers against arbitrary deprivation of property, while Article 7 establishes the principle of non-discrimination in the enjoyment of the rights recognised under the Convention. These provisions are relevant to assessing how domestic regulations affect migrant workers' ability to send personal belongings and how different categories of migrant workers are treated under the applicable regulatory framework. However, they do not establish an unrestricted right to import goods free of customs duties or other regulatory requirements.

Article 46 of the ICMW is also relevant, although its scope must be distinguished from the general transfer of personal belongings under Article 32. It provides for exemptions from import and export duties and taxes in respect of personal and household effects and equipment necessary for remunerated employment, subject to applicable national legislation, relevant international agreements, and the circumstances specified in the provision. It should therefore not be interpreted as establishing a general entitlement to duty-free treatment for every shipment sent by a migrant worker to their family. Read together, Articles 7, 15, 32, and 46 provide a basis for examining the relationship between migrant workers' recognised rights, the regulation of their personal property, and the conditions under which customs facilities are made available. In accordance with Article 31 of the Vienna Convention on the Law of Treaties, these provisions should be interpreted in good faith, in their context, and in light of the Convention's object and purpose.[22] Such an interpretation does not eliminate the State's authority to regulate imports, but it supports an assessment of whether domestic measures appropriately accommodate the rights recognised under the Convention.

At the domestic level, Law No. 18 of 2017 on the Protection of Indonesian Migrant Workers provides a more direct legal basis for the issue of goods sent to families in Indonesia. Article 7(b) expressly recognises migrant workers' right to communicate and send money and/or goods to their families in Indonesia. This provision establishes that sending goods is not merely a matter of customs administration; it is also an activity expressly recognised within Indonesia's statutory framework for migrant worker protection. Nevertheless, the provision does not itself specify the customs procedures, eligibility criteria, shipment limits, or safeguards through which that right is to be exercised. Its practical implementation therefore needs to be examined alongside the relevant customs and trade regulations.

Indonesia has also established a specific customs framework for migrant workers' goods through Minister of Finance Regulation No. 141 of 2023. The existence of this framework means that the issue can no longer be characterised simply as an absence of operational regulation. Rather, the relevant question is whether the facilities and conditions established under the applicable rules adequately accommodate migrant workers' interests while addressing legitimate customs-control objectives. In particular, the relationship between eligibility requirements, differential shipment allowances, identity verification, and the protection of migrant workers'

[20] Zati Rizqi Muhammad, "Pertanggungjawaban Indonesia Sebagai Negara Peratifikasi Konvensi Perlindungan Hak-Hak Seluruh Pekerja Migran Dan Anggota Keluarganya," *Jurist-Diction* 7, no. 1 (2024): 167–188, https://doi.org/10.20473/jd.v7i1.55051.

[21] Saidatul Nadia Abdul Aziz and Salawati Mat Basir, "Protection of Migrant Workers under the ICMW: Incompatibility with Malaysian Laws and Position in ASEAN," *Hasanuddin Law Review* 7, no. 3 (2021): 150–68, https://scholarhub.unhas.ac.id/halrev/vol7/iss3/5/.

[22] Stewart Manley, Pardis Moslemzadeh Tehrani, and Rajah Rasiah, "Mapping Interpretation by the International Criminal Court," *Leiden Journal of International Law* 36, no. 3 (2023): 771–806, https://doi.org/10.1017/S0922156523000225.

personal data require further examination. The ICMW does not prescribe a minimum number or value of shipments, nor does it automatically prohibit different customs treatment for different categories of migrant workers. It nevertheless provides a normative framework for assessing whether the design and implementation of domestic measures are consistent with the rights it recognises.

Accordingly, the central issue is not whether Indonesia may regulate goods sent by migrant workers, but how that regulatory authority is exercised in relation to migrant workers' rights. This is an intermestic legal issue because it involves the interaction between international standards on migrant worker protection and domestic rules governing customs facilitation, import administration, and the processing of personal data. The following sections examine the evolution of Indonesia's regulatory framework and assess whether its current design provides an adequate balance between customs control and the protection of migrant workers' rights.

3.2. The Evolution of Indonesia's Customs Facilitation Regime for Migrant Workers' Consignments

The State has legitimate reasons for pursuing domestic objectives through import regulation, including protecting domestic industries and consumers and preventing illegal imports that may harm society. These objectives constitute legitimate exercises of state sovereignty.[23] At the same time, trade regulations, including import controls, have considerable potential to intersect with transnational labour mobility, as demonstrated by the situation of IMWs. When the rights of IMWs are affected, trade regulation cannot be separated from the State's obligation to implement the international agreements by which it is bound. This is where the concept of intermestic law becomes essential: certain legal and policy issues are simultaneously domestic and international and therefore require an integrated legal approach that reconciles national interests with international obligations. The evolution of Indonesia's regulatory framework for IMW consignments illustrates this intersection, particularly the interaction between general import policies and customs provisions specifically governing migrant workers' goods.

The regulation of migrant workers' consignments in Indonesia has evolved through a series of adjustments in trade and customs policies. This evolution reflects a recurring challenge in public administration: the need to reconcile import control with the protection of Indonesian migrant workers (IMWs), whose personal consignments differ in purpose from commercial imports. While the State has legitimate interests in preventing smuggling, controlling imports, and protecting domestic markets, the implementation of these objectives requires coordination between regulatory frameworks and institutions.[24] The experience of IMWs in 2023-2024 illustrates how the absence of such coordination can disrupt the treatment of personal consignments and generate consequences for migrant workers and their families.

Before 2023, the importation of personal consignments was primarily governed by customs regulations, including Minister of Finance Regulation No. 199/PMK.010/2019 on Customs, Excise, and Tax Provisions for Imported Consignments. Although the customs framework distinguished consignments from other forms of importation, migrant workers' consignments subsequently became subject to more specific restrictions under the Ministry of Trade's import policy. The distinction between these regulatory functions became particularly significant following the enactment of Minister of Trade Regulation No. 36 of 2023 on Import Policies and Regulations, as amended by Minister of Trade Regulation No. 3 of 2024.

Intended to curb informal imports and eliminate abusive commercial activities conducted under the guise of personal shipments, particularly through *jasa titipan* or *jastip*, the regulation limits the quantity, type, and value of goods that individuals may bring into the country without a business import licence. Although the objective of protecting domestic markets and ensuring tax

[23] Andrew D Mitchell, "The Right to Regulate and the Interpretation of the WTO Agreement," *Journal of International Economic Law* 26, no. 3 (2023): 462–482, https://doi.org/10.1093/jiel/jgad024.

[24] Leny Pratiwi, "Harmonisasi Dan Sinkronisasi Hukum Terhadap Perbedaan Pengaturan Barang Impor Dalam Keadaan Baru," *Jurnal Hukum IUS QUIA IUSTUM* 25, no. 1 (2018): 69–91, https://doi.org/10.20885/iustum.vol25.iss1.art4.

compliance is legitimate, the regulation's general application inadvertently affects IMWs who regularly send personal items and basic necessities to their families in Indonesia.

The difficulty was not simply that the government imposed restrictions. Rather, the restrictions were formulated within a general import-control framework that did not adequately distinguish between commercial imports and personal goods sent by migrant workers to their families. As a result, consignments intended for household use and personal consumption could encounter restrictions designed primarily to address broader import-control concerns. This raised questions about whether the regulatory approach adequately accounted for the distinctive purpose of migrant workers' consignments.

Importantly, the Ministry of Finance had already established a dedicated customs framework through Minister of Finance Regulation No. 141 of 2023 on the Importation of Indonesian Migrant Workers' Goods (PMK 141/2023), which entered into force on 11 December 2023. The regulation provided specific customs facilities for migrant workers' goods, including duty exemptions for eligible consignments. The simultaneous existence of a general trade-import framework and a dedicated customs framework therefore created an institutional and regulatory intersection that required clear coordination. While the Ministry of Trade regulated import policies and restrictions, the Ministry of Finance, through the Directorate General of Customs and Excise, administered customs treatment and fiscal facilities for migrant workers' goods. It was this intersection, rather than the mere existence of import regulation, that became problematic when the two frameworks were not adequately aligned.

The overlap between the Ministry of Trade's import restrictions and the customs framework had practical consequences for Indonesian migrant workers' (IMWs') consignments. Goods intended for personal and household use could be delayed while compliance with the applicable requirements was assessed, despite not being intended for commercial distribution. The scale of the disruption was evident in Semarang. In July 2024, the Indonesian Migrant Worker Protection Agency (BP2MI) reported that approximately 60,723 boxes had been affected by the earlier restrictions. Around 85 per cent had been distributed, while approximately 7,000 remained in storage. These figures illustrate the tangible consequences of regulatory uncertainty for the delivery of migrant workers' goods to their intended recipients.

Interviews with customs officials at Tanjung Emas Port provide further insight into how the overlapping frameworks were interpreted and administered, including the procedural difficulties encountered during this period. During interviews at the Tanjung Emas Customs Office in Semarang, officials reported that they had not been consulted during the drafting process. One customs officer explained: *"We received only the final regulation text. No briefing, neither any Standard Operational Procedure. We were told to implement, without operational guidance."* The absence of coordination reflects broader institutional fragmentation. The Ministry of Trade drafted and issued the regulation, while the Ministry of Protection of Indonesian Migrant Workers/Indonesian Migrant Workers Protection Agency (KP2MI/BP2MI), the institutions principally responsible for IMW protection, were not sufficiently incorporated into the policymaking process. These findings illuminate the implementation of the earlier regulatory framework but should not be taken as evidence that the same difficulties persist under the current regime.

A turning point came in April 2024, when the government agreed that IMW consignments covering goods belonging to migrant workers working abroad and not intended for trade, should be governed by PMK 141/2023 rather than the Ministry of Trade's general import policy. The government also agreed to remove the relevant provisions on the types and quantities of goods from the Ministry of Trade's framework. This decision marked a shift towards a customs-centred approach tailored to the nature of migrant workers' personal consignments. The resulting regulatory position can be summarised as follows:

Table 1.
Evolution of Regulatory Development for IMW Consignments

Period	Regulatory development	Significance for IMW consignments
Before 2023	General customs framework, including PMK 199/2019	Consignments were treated primarily under general customs rules, subject to applicable duties and exemptions.
2023–early 2024	Permendag 36/2023, as amended by Permendag 3/2024, alongside PMK 141/2023	Trade-import restrictions on types and quantities of goods intersected with a dedicated customs framework for migrant workers.
April 2024	Government decision to remove IMW consignments from the specific restrictions under the Ministry of Trade's import policy	The government acknowledged that personal consignments sent by migrant workers should be treated under the dedicated customs framework rather than the general trade-import restrictions.
2024 onward	Removal of the relevant IMW consignment provisions through the revision of Permendag 36/2023, followed by implementation of PMK 141/2023	Customs became the principal regulatory framework for the specific treatment of migrant workers' consignments.
August 2025 onward	Permendag 16/2025 replaced Permendag 36/2023 and its amendments; subsequent amendments followed in Permendag 37/2025 and Permendag 18/2026	The general import framework expressly accommodated IMW consignments as a category of non-business importation subject to customs law.

Source: Authors' compilation based on PMK 199/2019, PMK 141/2023, Permendag 36/2023 and its amendments, the government's April 2024 policy decision, and Permendag 16/2025 as subsequently amended.

Under PMK 141/2023, Article 3 governed that eligible consignments must comprise household necessities and/or consumer goods and must not be intended for trade. Goods subject to excise, mobile phones, handheld computers, and tablets are excluded from the relevant facility. The regulation, under Article 4, provides a customs-duty exemption of up to FOB USD 500 per shipment, with a maximum of three shipments per calendar year for migrant workers recorded with a government institution and one shipment for other eligible migrant workers. The facility therefore retains a distinction based on registration status, making administrative eligibility an important factor in access to customs facilitation.

The subsequent general import framework also accommodates migrant workers' consignments. Permendag 16/2025 replaced Permendag 36/2023 and its amendments, and was subsequently amended by Permendag 37/2025 and Permendag 18/2026. These developments reflect a clearer distinction between personal consignments and commercial imports, while maintaining applicable customs requirements. The reform should therefore be understood as regulatory clarification rather than the complete removal of import supervision.

The Philippines provides a useful comparison through its Balikbayan Box programme. Under the Philippine Bureau of Customs framework, qualified Filipinos living or working abroad may send personal and household effects subject to prescribed conditions. The duty- and tax-free facility may be used up to three times per calendar year, with a combined value limit of PHP 150,000, and excludes goods in commercial quantities or intended for barter, sale, or hire. The programme also incorporates registration and monitoring mechanisms to prevent repeated or improper use of the exemption. It demonstrates that customs facilitation for overseas workers can coexist with safeguards against commercial misuse.[25] India has established green-channel

[25] Angelie Mae A. Abello et al., "Knowledge and Awareness of the Guidelines Concerning Republic Act No. 10863 Balikbayan Boxes of Overseas Filipino Workers," *ADUANA Interdisciplinary Research*

facilities at airports for returning overseas workers, allowing them to carry personal items, including appliances and gifts, within defined limits without extensive customs checks.[26] Sri Lanka similarly provides reduced customs duties and simplified documentation requirements for certain categories of returning migrant workers, recognising their contributions to the national economy.[27]

The closest comparison to Indonesia is the Balikbayan Box Program that nearly similar to the existing regime in Indonesia, however, also highlights a broader regulatory question. Both Indonesia and the Philippines condition customs benefits on eligibility requirements and administrative verification. The issue is therefore not whether the State may impose conditions on customs facilities, but how those conditions are designed, justified, and administered. In Indonesia, the distinction between registered and other eligible migrant workers raises questions about whether administrative classifications are sufficiently transparent and proportionate to the objectives pursued, and whether the procedures for verifying eligibility adequately protect the interests of the workers concerned.

The evolution of Indonesia's regulatory framework illustrates the tension between the State's authority to regulate imports and its obligations to protect Indonesian migrant workers. Although the ICMW does not establish an entitlement to a specific duty-free quota, the exercise of domestic regulatory discretion must be considered in the context of the Convention's broader protective framework. Article 7 provides a point of departure for this inquiry by requiring States Parties to respect and ensure the rights recognised under the Convention without distinction on the specified grounds. Read in this context, Articles 14, 32, and 46 raise distinct but potentially interconnected considerations concerning privacy, the transfer of personal effects upon the termination of residence in the State of employment, and exemptions from import and export duties and taxes in the circumstances covered by the Convention. The central question is therefore not whether domestic customs facilities must take a particular form, but whether their design and implementation remain consistent with the State's obligations across these related dimensions of protection. This question is examined further in the following section.

3.3. A Reflection on Rights Protection and Legal Vulnerabilities under Indonesia's Customs Facilitation Regime for Migrant Workers

Legal scholar Lawrence M. Friedman conceptualises a legal system as comprising three interrelated dimensions: substance, structure, and legal culture.[28] Substance refers to written rules, including laws, statutes, and regulations. Structure refers to the institutional framework, including courts, ministries, enforcement bodies, and bureaucracies. Legal culture encompasses societal attitudes, normative expectations, and behavioural practices surrounding the law.[29] Harmonisation across these dimensions is essential for law to function effectively and equitably. When these dimensions are misaligned, laws may conflict with social norms, institutions may operate in isolation, and prevailing attitudes may hinder implementation, resulting in inconsistent, inequitable, and potentially harmful legal outcomes. This tripartite framework provides an analytical basis for examining whether Indonesia's customs facilitation regime for Indonesian migrant workers, particularly under Minister of Finance Regulation No. 141 of 2023, adequately integrates domestic regulatory objectives with the State's obligations under international human

Journal, 2024, 30–54, https://gordoncollege.edu.ph/w3/wp-content/uploads/2024/04/ADUANA-Interdisciplinary-Research-Journal-2.pdf.

[26] S. Irudaya Rajan and Balasubramanyam Pattath, "COVID-19 Led Return to Kerala: A Comparative Analysis of Return Emigrants," *The Indian Journal of Labour Economics* 67 (2024): 389–405, https://doi.org/10.1007/s41027-024-00497-2.

[27] Kopalapillai Amirthalingam et al., "Bilateral Labour Agreements as a Tool for Managing Gendered Migration from Sri Lanka," in *New Directions in South-South Migration*, ed. Jonathan Crush, Abel Chikanda, and Sujata Ramachandran (Singapore: Springer, 2025), 133–153, https://doi.org/10.1007/978-981-97-9715-8_8.

[28] Arsyad Aldyan, "The Influence of Legal Culture in Society to Increase the Effectiveness of the Law to Create Legal Benefits," *International Journal of Multicultural and Multireligious Understanding* 9, no. 11 (2022): 322–29, https://ijmmu.com/index.php/ijmmu/article/view/4208.

[29] Rahayu and Nuswardani, "State Responsibility in Fulfilling the Rights of Indonesian Migrant Workers During Pandemic Era."

rights law. The analysis focuses not only on the formal design of differentiated customs facilities, but also on the institutional arrangements and implementation practices that may affect the effective protection of migrant workers' rights.

3.3.1. Legal Substance: Differentiated Facilities and Potential Vulnerabilities

Minister of Finance Regulation No. 141 of 2023 (PMK No. 141/2023) establishes a dedicated customs facility for Indonesian migrant workers (IMWs), with eligibility and exemption limits determined by the administrative category under which they are recognised. Under Article 4, IMWs recorded by the designated government institution may receive duty exemptions for up to three consignments per calendar year, with a customs value of up to FOB USD 500 per consignment. Other eligible IMWs may receive the exemption for one consignment per calendar year, subject to the same value ceiling. This differentiation reflects an attempt to facilitate IMW consignments while maintaining administrative controls. Nevertheless, its protective effectiveness depends not only on the availability of the facility but also on the accessibility and reliability of the mechanisms determining eligibility.

From an intermestic perspective, this arrangement warrants consideration alongside Indonesia's obligations under the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW). Articles 7, 32, and 46 provide relevant points of reference concerning non-discriminatory enjoyment of Convention rights, the transfer of personal effects and belongings in specified circumstances, and exemptions for certain personal and household effects. These provisions do not establish an unconditional entitlement to a particular duty-free quota for every consignment sent by an IMW. Rather, they provide a basis for evaluating whether domestic customs arrangements appropriately accommodate the interests protected by the Convention within the scope of the relevant provisions. Accordingly, the distinction under Article 4 should not be regarded as inherently discriminatory; the more pertinent question is whether the eligibility criteria serve legitimate administrative purposes without creating unjustified barriers for otherwise eligible workers.

A further concern relates to the potential misuse of IMW identities to access customs facilities. In December 2025, Bea Cukai Tanjung Emas reported that a coordination meeting with the Ministry of Protection of Indonesian Migrant Workers addressed measures to mitigate the misuse of IMW identities by commercial goods senders.[30] Although this official account does not establish the scale of the practice or demonstrate that it is driven by the differentiated quotas under PMK No. 141/2023, it indicates that identity misuse has been recognised as an implementation risk by the relevant authorities. Where access to a customs facility depends on the sender's recorded status, unauthorised use of an IMW's identity could potentially allow another party to exploit the facility in the worker's name. Depending on how consignments and annual allowances are recorded, this could also create uncertainty regarding the worker's use of, or association with, the facility. These are potential consequences requiring further empirical verification, rather than established outcomes.

The issue therefore lies not necessarily in the existence of differentiated exemptions, but in the safeguards accompanying their administration. Article 14 of the ICMW, which protects against arbitrary or unlawful interference with privacy and communications, may also be relevant where personal information is collected or used to verify eligibility. Identity verification is a legitimate administrative function and does not, by itself, establish a violation of the Convention. However, the possibility of unauthorised identity use highlights the importance of examining whether verification procedures adequately protect IMWs and whether responsibility and remedies are clear when misuse occurs. The available evidence does not establish that PMK No. 141/2023 is inconsistent with Indonesia's international obligations. It instead points to a narrower evaluative concern: whether the operation of a dedicated customs facility adequately protects the migrant workers whose identities and administrative status underpin access to it.

[30] Bea Cukai Tanjung Emas, "Kunjungan KP2MI Ke Bea Cukai Tanjung Emas, Bahas Perlindungan Barang Kiriman Pekerja Migran Indonesia," Kantor Pelayanan Bea dan Cukai Tipe Madya Pabean Tanjung Emas, 2025, https://tanjungemas.beacukai.go.id/berita/kunjungan-kp2mi-ke-bea-cukai-tanjung-emas-bahas-perlindungan-barang-kiriman-pekerja-migran-indonesia.

3.3.2. Legal Structure and Implementation: Institutional Coordination and Accountability

The effectiveness of Indonesia's customs facilitation regime for Indonesian migrant workers (IMWs) depends not only on the legal design of the facility but also on how consignments are verified, processed, monitored, and delivered. The process involves several actors, including customs authorities, the institutions responsible for migrant worker protection, and postal or courier service providers. Their respective responsibilities extend beyond preventing misuse of the facility to ensuring accurate documentation, traceability of consignments, and appropriate responses when problems arise. From the perspective of Friedman's legal system theory, the relevant question is whether these institutional arrangements translate the formal protection provided by the regulation into effective protection in practice.

The institutional response to identity misuse illustrates one aspect of this challenge. In December 2025, Bea Cukai Tanjung Emas reported coordination with the Ministry of Protection of Indonesian Migrant Workers concerning measures to mitigate the misuse of IMW identities by commercial goods senders. A subsequent outreach initiative addressed the completion of Consignment Notes (CNs) and compliance by courier companies. These activities indicate that the authorities recognise the importance of accurate documentation and coordination in administering IMW consignments. Nevertheless, coordination and outreach alone do not establish the effectiveness of the controls in practice. Their significance must also be assessed in relation to whether consignments can be traced accurately, responsibilities can be identified when irregularities occur, and affected workers can obtain appropriate remedies.

A further illustration of the implementation challenges surrounding IMW consignments is the case of Reza Valentino Simamora, an Indonesian migrant worker who died in South Korea. In April 2026, his family reported that several personal belongings had not been accounted for in the items returned to Indonesia, prompting coordination among the relevant authorities and the courier service.[31] Although the case does not establish that the service provider violated applicable rules, nor does the available evidence establish that the shipment was processed under PMK No. 141/2023, it draws attention to a broader issue of accountability in the handling of IMW belongings. In particular, it raises questions about how responsibility is established when consignments are lost, damaged, or incompletely delivered, and how affected workers or their families can obtain clarification and appropriate remedies.

From a legal implementation perspective, these concerns underscore the importance of effective supervision of postal and courier service providers, reliable shipment documentation and traceability, and meaningful follow-up when irregularities are identified. Inter-agency coordination is necessary, but coordination alone cannot demonstrate that accountability has been secured. The implementation of the existing framework should also be assessed in terms of whether responsibilities are clearly allocated, complaints can be investigated effectively, and proportionate enforcement follows where non-compliance is established. These considerations do not establish a systemic failure or justify assuming that a particular provider has escaped warranted sanctions. Rather, they identify practical dimensions against which the effectiveness of the existing institutional arrangements can be evaluated.

Taken together, the assessment of legal substance and implementation indicates that Indonesia's dedicated customs facilitation regime constitutes an important regulatory measure, while its protective effectiveness remains dependent on the accessibility of the prescribed facilities and the accountability of the institutions administering them. The potential vulnerabilities associated with eligibility verification, the handling of consignments, and the supervision of service providers warrant attention within the existing framework. These concerns do not necessarily require a wholesale redesign of the regime, but they highlight the importance of strengthening implementation, traceability, and remedies where irregularities occur. From an intermestic perspective, such measures would help ensure that Indonesia's exercise of domestic customs

[31] Kementerian Pelindungan Pekerja Migran Indonesia (KP2MI), "Kementerian P2MI Pastikan Penanganan Kendala Pengiriman Barang Almarhum Reza Valentino Simamora Berjalan Transparan Dan Akuntabel," Kementerian Pelindungan Pekerja Migran Indonesia (KP2MI), 2026, https://www.kp2mi.go.id/index.php/berita-detail/kementerian-p2mi-pastikan-penanganan-kendala-pengiriman-barang-almarhum-reza-valentino-simamora-berjalan-transparan-dan-akuntabel.

authority remains consistent with its international commitments to protect migrant workers and their families. The relevant objective is not to eliminate the State's authority to regulate imports, but to ensure that this authority is exercised in a manner that gives due regard to the rights and interests of IMWs, including the proper handling of their personal belongings in accordance with applicable domestic and international law.

4. Conclusion

Indonesia's regulatory framework governing goods consignments by IMWs, particularly Minister of Finance Regulation No. 141 of 2023, represents an effort to accommodate migrant workers' circumstances within the State's broader import-control regime. However, the differentiated customs facilities established under this regulation raise questions about accessibility and the practical implications of eligibility requirements. Although such differentiation is not inherently inconsistent with international human rights standards, its implementation should be assessed in light of Indonesia's relevant obligations under the ICMW. The analysis further demonstrates that the effectiveness of legal protection depends not only on the substance of the applicable regulations but also on institutional coordination, accurate documentation, shipment traceability, supervision of postal and courier service providers, and access to appropriate remedies. Official initiatives addressing identity misuse and courier compliance, highlight implementation and accountability concerns without establishing a systemic failure or a violation of PMK No. 141 of 2023. Viewed through Friedman's legal-system theory and an intermestic perspective, these findings suggest that the existing framework warrants proportionate improvements in implementation and accountability rather than necessarily requiring comprehensive regulatory redesign. The objective is to ensure that legitimate customs-control measures operate consistently with Indonesia's commitments to protect migrant workers and their families. This study is limited by its qualitative empirical component, which draws on semi-structured interviews with two officials from the Tanjung Emas Customs Office and therefore does not represent the perspectives of all relevant institutions, courier service providers, migrant workers, or their families. Furthermore, the analysis focuses on Indonesia and does not undertake a systematic comparison with other migrant-sending countries. Future research could incorporate broader stakeholder perspectives to examine the practical operation of eligibility verification, shipment traceability, complaint handling, and remedies, while comparative studies could explore how other countries reconcile customs regulation with migrant workers' rights. Such research would further develop the intermestic approach as a framework for examining the interaction between domestic regulatory authority and international commitments to migrant-worker protection.

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Conflicts of Interest Statement

The authors declare that there is no conflict of interest regarding the publication of this article.

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