

COMPARATIVE LEGAL FRAMEWORK ON FOREIGN WORKERS REGULATION: INDONESIA AND THE DEMOCRATIC REPUBLIC OF CONGO

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ABSTRACT

Foreign workers are an unavoidable global phenomenon, although for developing countries, they can pose challenges related to the availability of jobs related to the local workforce. This study analyzes the comparative legal framework for regulating foreign workers between Indonesia and the Democratic Republic of the Congo. This research is a normative legal study with a conceptual, comparative, and legislative approach. The results emphasize the urgency of regulating foreign workers in developing countries, to achieve proportional and equitable arrangements between the national interests of a country (in this case, local workers) and foreign workers, thereby ensuring fairness, certainty, and benefits. Based on a comparison of the laws regulating foreign workers in Indonesia and the Democratic Republic of the Congo, it can be concluded that Indonesia has a more comprehensive, structured, and normative regulatory framework, while the Democratic Republic of the Congo relies more on pragmatic work permit and visa mechanisms. This study recommends that the regulation of foreign workers in both countries should function not only as an administrative tool and investment attraction, but also as an equitable and responsive instrument to global labor dynamics, contributing to strengthening the rule of law and building national workforce capacity in the context of developing countries facing current economic challenges.

Keywords: *Comparative Law; Foreign Workers; Indonesia; The Democratic Republic of Congo.*

INTRODUCTION

A country's regulation of foreign labor is essential to maintain balance in the domestic labor market, prevent exploitation, and maximize economic benefits from the

presence of foreign workers.¹ Through strict regulations such as work visa quotas, qualification requirements, and contract supervision, a country can ensure that foreign workers only fill gaps in specific sectors that are difficult to staff with local citizens, such as high technology or seasonal work, thus protecting the wage rights and occupational safety of national workers from unfair competition. Regulation of foreign labor also allows the country to collect taxes, royalties, or administrative fees that contribute to state revenue, while encouraging knowledge transfer and investment from foreign companies.² Without adequate control, an influx of foreign workers has the potential to suppress local wages, increase unemployment, and trigger social tensions, as experienced by some developing countries with loose immigration policies.³ Thus, these regulations serve as a strategic tool to achieve sustainable economic growth while maintaining the priority of the well-being of the country's own people.

The flow of labor mobility becomes a key driver of innovation and economic growth. Globalization also facilitates knowledge exchange, where foreign workers bring cutting-edge skills, best practices, and international networks that enhance the competitive capabilities of host countries relying on expatriate labor for their economic transformation.⁴ Rejecting this presence means closing oneself off from the benefits of global integration, which could hinder competitiveness and leave the country behind. Therefore, the presence of foreign workers is not a threat, but a strategic opportunity that must be managed wisely within the framework of globalization.

It is the state's duty to strictly regulate the presence of foreign workers to avoid creating greater problems for social, economic, and national security stability. The regulation of foreign labor is expected to prevent risks such as visa abuse for illegal activities, cultural conflicts, or overcapacity burdens on public services like healthcare and education issues that can trigger social tensions and even large-scale protests. With

¹ Nisa Maulani and Ujang Badru Jaman, "Tindak Pidana Pemalsuan Dokumen Perjalanan Oleh Warga Negara Asing Sebagai Ancaman Terhadap Kedaulatan Negara," *Jurnal Penelitian Multidisiplin Bangsa* 2, no. 3 (August 16, 2025): 599–608, <https://doi.org/10.59837/jpnmb.v2i3.541>.

² Galih Agra Svalerit and Cindy Haura Irawan, "Pengabaian Kepentingan Alih Teknologi Dalam Urgensi Pertumbuhan Investasi Saat Pandemi," *Jurnal Hukum Lex Generalis* 2, no. 8 (August 2021): 663–83, <https://doi.org/10.56370/jhlg.v2i8.92>.

³ Jurnal Legal Reasoning et al., "Law Enforcement Instrument for Foreign Workers Who Abuse Immigration Stay Permit," *Jurnal Legal Reasoning* 4, no. 1 (2021): 1–16.

⁴ Adnan Hamid, "The Application of the Rights and Obligations of Workers during the Covid-19 Outbreak in Indonesia," *International Journal of Business Ecosystem & Strategy (2687-2293)* 3, no. 3 (2021): 26–37, <https://doi.org/10.36096/ijbes.v3i3.269>.

appropriate policies, a country not only mitigates negative impacts but also optimizes the positive contributions of foreign workers, thereby avoiding more severe crises such as political instability or economic decline.⁵ Ultimately, these regulations affirm the state's role as a guardian of its people's well-being amid global dynamics.

The regulation of foreign workers' presence needs to be specifically tailored for developing countries or the Global South, given their vulnerability to economic imbalances and exploitation risks within the dynamics of globalization. In these countries where local labor markets are often dominated by low-wage, semi-skilled workers the arrival of foreign workers without strict controls can exacerbate structural unemployment, suppress wage standards, and hinder the technology transfer that should benefit national development.⁶ Special regulations such as local hiring priorities (local content requirements), limitations on work visa duration, and mandatory training for domestic workers are essential to protect domestic human resources while still attracting sustainable foreign investment.⁷ Without this approach, Global South countries risk becoming "suppliers of cheap labor" for developed nations, weakening economic sovereignty and widening the global gap. Thus, these specific regulations are not merely defensive policies, but proactive strategies for inclusive economic transformation.

A comparative legal analysis of foreign worker regulation between Indonesia and the DRC is necessary because both countries are compelling examples of developing (Global South) nations facing foreign labor dynamics in the context of natural resources, foreign investment, and domestic labor protection. There are two legal issues that form the focus of this study, namely: (i) the urgency and principles of regulating foreign workers for developing or Global South countries and (ii) a comparative legal analysis of foreign worker regulation in Indonesia and the Democratic Republic of the Congo.

⁵ Sri Retno Widyorini and Aniek Tyaswati WL, "Work Agreement on Outsourcing System and Legal Protection for Workers," *International Journal of Educational Research & Social Sciences* 3, no. 1 (February 2022): 484–99, <https://doi.org/10.51601/ijersc.v3i1.300>.

⁶ Dafi Febriah Sahl, Nurisha Kitana, and Clairen Gracella, "Shifting Regulatory Paradigms : The Impact of Indonesia ' s Job Creation Law on Migrant Worker Protection and the Role of State , Employers , and Labor Organizations (2020-2023) Pergeseran Paradigma Regulasi : Dampak Undang-Undang Penciptaan Lapangan Ke," *Journal of Governance and Administrative Reform* 6, no. 1 (2025): 135–59.

⁷ Anak Agung Gede Duwira Hadi Santosa, I Made Marta Wijaya, and Ni Luh Dewi Sundariwati, "Principles of Selective Immigration Policy in Relation to Visa Free Entry for Tourism Purposes," *Jurnal Ilmiah Kebijakan Hukum* 16, no. 2 (2022): 235, <https://doi.org/10.30641/kebijakan.2022.v16.235-252>.

RESEARCH METHOD

This study, which focuses on the comparative legal regulation of foreign workers between Indonesia and the Democratic Republic of the Congo, is normative legal research. Normative legal research is a type of research that focuses on applicable legal norms, rules, and regulations as its object of study, with an emphasis on legal theories, concepts, and principles.⁸ The primary legal materials used are legislation and regulations in Indonesia and the Democratic Republic of the Congo concerning foreign workers, as well as international conventions addressing foreign workers. The secondary legal materials used are journal articles, books, and research findings discussing legal aspects of foreign workers, along with other references covering economic and development aspects in Global South countries. Non-legal materials include legal dictionaries. Prescriptive legal analysis stems from the prescriptive nature of legal science, which provides recommendations on what should be done according to the law.⁹ The approaches used are comparative, conceptual, and statutory approaches.

RESEARCH OUTCOME AND DISCUSSION

1. The Urgency and Principles of Foreign Worker Regulation for Developing Countries

Foreign workers are generally understood as foreign nationals who are not citizens of the host country, but work in that country under an employment contract or official work permit, and are therefore bound by the labor and immigration laws and regulations of the host country.¹⁰ The status of foreign workers is closely related to the concepts of labor (workers), employment contracts, and labor dispute resolution. Therefore, their regulation also touches on workers' rights and obligations, legal protection, and labor

⁸ Maalikatussofa Masnun, Muh. Ali, Prasetyo, Dicky Eko, "Reconstruction of the Normative Legal Research Paradigm in Responding to Global Challenges: An Epistemological Analysis," *Novum: Jurnal Hukum* 12, no. 3 (2025): 372–84, <https://doi.org/https://doi.org/10.2674/novum.v12i03.74364>.

⁹ Tunggul Ansari Setia Negara, "Normative Legal Research In Indonesia: Its Origins And Approaches," *ACLJ* 4, no. 1 (2023): 5.

¹⁰ Mohd Na'eim Ajis, Nor Suzylah Sohaimi, and Mohd Ramlan Mohd Arshad, "Diplomacy, Migration, and Employment: The Historical Approach to Malaysia–Indonesia Relations," *International Journal of Population Studies* 12, no. 1 (November 10, 2025): 32, <https://doi.org/10.36922/IJPS025230112>.

dispute settlement.¹¹ In general, foreign workers are indeed part of the "foreign national" category as regulated under immigration law.

Under the immigration law framework, a foreign national is any person who is not a citizen and is present within the territory of a country, whether for work, study, investment, or other activities.¹² In this study, the terms "foreign labor" and "foreign worker" are used interchangeably with the same meaning. According to Black's Law Dictionary, a "foreign national" can be understood as an individual who is not a citizen of a country, but holds citizenship of another nation; thus, their status in the host country is governed by immigration and nationality law norms (aliens, foreign nationals, non-citizens).¹³ This places foreign nationals as parties with a legally distinct status from citizens, including differences in political rights, ownership, residency, and employment. Therefore, the regulation of their presence is always linked to immigration and nationality law systems. Foreign workers (or foreign labor) are a sub-category of foreign nationals whose entry and presence are regulated through immigration instruments such as limited stay visas for work purposes, work plan documents (RPTKA), and work permits. This makes their status as "working foreign nationals" more specific compared to foreign nationals in general. Thus, the regulation of foreign workers often combines immigration law norms (regarding entry-exit and residence permits) with labor law norms (regarding employment requirements, protection, and job placement).

Foreign workers are governed by various international conventions. These conventions establish minimum standards for protecting the fundamental rights of migrant workers and foreign workers, both those with legal status and, in some provisions, those in irregular situations. Some key examples of such conventions include the UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW), which affirms migrant workers' right to fair treatment, protection from exploitation, and access to social security and justice. ILO conventions on labor migration (such as ILO Convention No. 97 and No. 143) regulate migration for

¹¹ Abhishek Mishra, "Can Geographical Indications Support the Indian Village Economy Impacted By the Ongoing Economic Crisis Caused By Covid-19?," *BRICS Law Journal* 9, no. 2 (2022): 121–44, <https://doi.org/10.21684/2412-2343-2022-9-2-121-144>.

¹² Imam, Wibowo, and Cahyowati, "Arrangements for Granting Visas and Immigration Stay Permits for Digital Nomads in Indonesia in View of Legal Certainty."

¹³ Henry Campbell Black Bryan A. Garner, *Black's Law Dictionary*, 11th ed. (Minnesota: West Publishing Co, St. Paul, 2019).

work, equal treatment, and protection of migrant workers from discriminatory practices and abuse.

Foreign workers are one of the tangible and unavoidable impacts of globalization, which has removed strict boundaries between labor markets across countries. As a result, cross-border labor mobility has become common and even necessary in the global economy. In the context of globalization, multinational companies require specialized expertise such as engineers, managers, medical personnel, and skilled workers in technology or mining sectors which often cannot be fully met by domestic labor markets. For this reason, both developing and developed countries import foreign workers to fill these gaps.¹⁴ On the other hand, globalization also drives economic development, infrastructure construction, and industrial expansion, which attract foreign workers through foreign investment, cooperation projects, and interconnected global supply chains. Thus, the presence of foreign workers is not only a consequence of trade and investment liberalization, but also an indicator that a country is actively engaged in the global economic system while simultaneously creating new challenges, such as protecting the rights of local workers, regulating immigration, and managing the social and cultural impacts of incoming foreign labor.

Foreign workers can give rise to various highly complex issues, particularly for developing countries or Global South nations. The terms "developing countries" and "Global South" refer to groups of countries that are relatively behind in terms of economic development levels and political capacity compared to developed nations, though the two use slightly different parameters and are not entirely overlapping.¹⁵ Developing countries are generally defined as nations that are still in the process of improving their quality of life, per capita income, infrastructure quality, and social welfare. Their key parameters include relatively low national income levels, strong dependence on primary sectors such as agriculture and mining, and uneven availability of basic services like education, healthcare, and sanitation.¹⁶ These parameters are typically measured using statistical

¹⁴ Muhammad Budiana, "The Influence of Multinational Corporations on Global Political Decisions," *Journal of Student Collaboration Research* 1, no. 3 (2024).

¹⁵ Brian Z. Tamanaha, "Legal Pluralism Across the Global South: Colonial Origins and Contemporary Consequences," in *Washington University in St. Louis Legal Studies Research Paper No. 21-06-01*, 2021, 30–33.

¹⁶ I Gede Agus Kurniawan et al., "Intellectual Property Rights and Ethics: A Comparison of Philosophical Approaches in Northern and Southern Countries," *Kosmik Hukum* 25, no. 1 (January 31, 2025): 106, <https://doi.org/10.30595/kosmikhukum.v25i1.24489>.

indicators such as GDP or GNI per capita, poverty rates, literacy rates, life expectancy, and access to public services. International institutions like the World Bank, IMF, or UN then use these to classify a country as "developing" or "developed", though this categorization is flexible and can change over time.¹⁷

On the other hand, the term "Global South" places more emphasis on geopolitical and historical dimensions rather than just statistical figures. It refers to countries often regarded as developing, less developed, or underdeveloped mostly located in the southern hemisphere, such as those in Africa, Asia, and Latin America. These nations tend to have higher poverty rates, significant income inequality, and dependence on developed countries in the Global North in terms of trade, monetary policy, and global decision-making.¹⁸ In this context, the parameters for the Global South are more structural and qualitative for example, a country's position in the global political economy system, dependence on developed nations, status as a former colony, and participation in South–South cooperation, which seeks to reduce the dominance of international institutions perceived to be oligopolized by Northern countries.¹⁹ Thus, "developing countries" place greater emphasis on development levels and economic-social statistical indicators, while "Global South" focuses more on power relations, colonial history, and a country's position within a global order dominated by developed nations.

Foreign workers often create problems in developing countries or the Global South due to structural imbalances in labor markets, weak law enforcement institutions, and economic dependence on foreign capital and technology which frequently come alongside foreign workers. In many cases, developing countries open their doors to foreign investment and large-scale projects, attracting skilled foreign workers, managers, or technical personnel from developed nations. However, these policies are often not matched by adequate labor and immigration regulations, leading to various negative effects such as reduced employment opportunities for local workers, wage exploitation,

¹⁷ MD Enjat Munajat and Ira Irawati, "Digital Sociocracy: Navigating Governance Challenges in Southeast Asia," *Policy & Governance Review* 9, no. 1 (February 11, 2025): 93, <https://doi.org/10.30589/pgr.v9i1.1220>.

¹⁸ Jagadeesh M S et al., "Export Competitiveness of Indian Coffee: Analysing Trade Potential in the Global Market," *Journal of Scientific Research and Reports* 30, no. 9 (August 23, 2024): 51–61, <https://doi.org/10.9734/jsrr/2024/v30i92329>.

¹⁹ M Rasyid and F Ayuni Hatta, "Recent Development on Halal Tourism: Evidence From Global Muslim Travel Index," *KnE Social Sciences* 10, no. 5 (February 19, 2025): 232–43, <https://doi.org/10.18502/kss.v10i5.18117>.

and even social and cultural imbalances.²⁰ One major issue is the presence of structural bias in the recruitment of foreign workers, where employers prefer foreign workers who are perceived to have higher qualifications or be more manageable. As a result, local workers who are educated and skilled are sidelined in the job market competition, exacerbating unemployment rates and triggering social discontent among the public.²¹ On the other hand, the presence of foreign workers placed in strategic positions within multinational companies can hinder the transfer of knowledge and skills that should benefit domestic workers. This is because key decisions and influential roles are often still held by foreign workers, meaning local employees are only placed in lower operational positions without opportunities for advancement. Additionally, uncontrolled foreign worker presence can create economic pressure on public sectors such as education, healthcare, and housing as developing countries often lack sufficient capacity to ensure the well-being of all workers, including foreign ones.

When foreign workers receive better protection or easier access to public services, this group can increasingly be seen as a "privileged class" above lower-income local workers.²² In social and cultural terms, the presence of foreign workers can reinforce social divides and trigger community friction. This is especially true if foreign workers' more consumerist lifestyles, detached from their surroundings, create the perception that they live in a separate economic bubble. As a result, local communities feel their presence only benefits employers or developed countries, not their own nation.

At the policy level, many developing countries allow flexible regulation of foreign workers, lured by promises of investment and economic growth without considering the long-term risks of weakening economic sovereignty and increasing dependence on foreign labor to manage strategic sectors. If investment policies change or global economic turmoil occurs, these countries may lack sufficient local workers to take over. Thus, if not managed well, foreign workers can become a source of social conflict, economic injustice, and harmful structural dependence, making strict, fair regulation that

²⁰ Sonia Amelia et al., "Legal Protection for Workers Who Have Harmed Employers," *Indonesia Law Reform Journal* 3, no. 1 (March 2023), <https://doi.org/10.22219/ilrej.v3i1.24464>.

²¹ Astrid Athina Indradewi and Yuni Priskila Ginting, "Legal Protection for Indonesian Migrant Workers in International Human Trafficking Syndicates," *UNES Law Review* 6, no. 4 (2024): 9968–76.

²² Naoto Higuchi, "What Is New about Japan's New Migration Policy? From Recruitment of 'Nonlabor' Workers to Selection by Neoliberal Meritocracy," *Social Science Japan Journal* 28, no. 1 (February 4, 2025), <https://doi.org/10.1093/ssj/jyae011>.

prioritizes national interests a top priority in designing migration and labor policies in the era of globalization.

Regulating foreign workers for developing countries or the Global South is a highly strategic issue. On one hand, foreign workers can support economic development through technology transfer, investment, and enhanced capacity in productive sectors. On the other hand, without careful regulation, their presence risks causing harm to labor, social, and economic sovereignty interests. Developing countries generally need foreign workers to fill technical and managerial positions in infrastructure projects, natural resource-based industries, and modern sectors that cannot be fully met by domestic labor. Regulation is therefore often implemented through work permits, foreign worker quotas, and requirements for knowledge transfer to local workers via training and mentoring programs. However, given the fragile economic structures of the Global South and domestic labor markets dominated by low-wage semi-skilled workers, regulation must emphasize protecting employment opportunities for citizens, preventing wage exploitation, and enforcing fair, non-discriminatory labor standards.²³ In the international context, developing countries also face the obligation to align their regulations with international legal standards such as the UN Convention on the Protection of Migrant Workers and ILO instruments, which require policies that respect the fundamental rights of foreign workers without compromising national sovereignty and domestic economic interests.²⁴ Thus, regulating foreign workers for developing countries or the Global South needs to be built on a balanced framework: opening up to labor mobility and investment while simultaneously strengthening labor, immigration, and social protection regulations to ensure that foreign workers' presence truly contributes to inclusive development and does not exacerbate inequalities or structural dependence on developed nations.

Regulating foreign workers for developing countries or the Global South must align with legal principles to ensure fair and proportional regulation. Legal principles play a crucial role as the foundation guiding the formation, implementation, and enforcement of law in a country meaning these principles are not merely theoretical but also serve as

²³ Fithriatus Shalihah, Haura Salsabiela, and El Sabrina, "Transforming the Protection of Indonesian Migrant Workers (PMI)," *Ahmad Dahlan Indonesian Law Journal* 1, no. 1 (2024): 1–11.

²⁴ M Iram Alfani and Sunarno Sunarno, "Comparison of Legal Protection of Labor in Indonesia and Pakistan," *Jurnal Suara Hukum* 6, no. 1 (June 2024): 187–205, <https://doi.org/10.26740/jsh.v6n1.p187-205>.

practical guidelines for legislators, law enforcement officials, and society. Legal principles function as a normative basis to guarantee justice, legal certainty, and consistency within the legal system, allowing every piece of legislation and court decision to be measured against universal values such as the rule of law, equality before the law, justice, legal certainty, and protection of human rights.²⁵ Legal principles are also regarded as a bridge between moral social values and operational legal principles so that legal principles not only strengthen the legitimacy of norms but also assist in the interpretation and adaptation of law to the developments of social dynamics.²⁶ In other words without strong and upheld legal principles law will easily be reduced to an arbitrary uncertain and unfair tool of power so the importance of legal principles lies in their ability to maintain the integrity public trust and sustainability of the legal system itself.²⁷

The principles of regulating foreign workers for developing countries or the Global South must be carefully formulated and prioritize national interests without neglecting aspects of justice and workers' basic rights because unbalanced regulations can exacerbate structural dependency and socio-economic inequality within the country. The first principle that must be enforced is the principle of priority for domestic workers meaning that foreign workers should only be employed if it is proven that there are no national workers with equivalent qualifications or capable of filling the positions so that developing countries do not become trapped in patterns of substituting local workers with foreign workers who are perceived as more skilled or easier to manage and do not create pressure on the wages and employment opportunities of local workers.²⁸ The second principle is selective restriction and controlled quotas meaning that developing countries must set quotas or limits on the number of foreign workers per sector project or specific company and ensure that foreign workers only enter for truly urgent technical and managerial needs not to replace local workers in positions that can actually be filled

²⁵ Dicky Eko Prasetyo et al., "The Construction Of The Lex Sportiva Principle In Indonesia's Sports Law: Implications And Future Arrangements," *UUM Journal of Legal Studies* 16, no. 2 (July 31, 2025): 58–69, <https://doi.org/10.32890/uujls2025.16.2.4>.

²⁶ Muhammad Akmal Habib Dicky Eko Prasetyo, "Lex Sportiva and Lex Ludica: The Existence and Reconstruction of Sports Law Principles in the Postmodern Era," *Novum: Jurnal Hukum* 12, no. 3 (2025): 412–28.

²⁷ Thamasi Masnun, Muh Ali, Prasetyo, Dicky Eko, Konara, "Financial Reconstruction of State-Owned Enterprises in Indonesia as Special State Finances: Public or Private Law?," *Jurnal Hukum Bisnis Bonum Commune* 9, no. 1 (2026): 44–62, <https://doi.org/https://doi.org/10.30996/jhbbs.v9i1.132464>.

²⁸ Radhika Kanchana, "Recent Developments Concerning the Rights of Migrant Workers and of Women: A Survey of the Gulf Cooperation Council (GCC) States Oman, Saudi Arabia and the UAE," *Yearbook of Islamic and Middle Eastern Law Online* 23, no. 1 (April 26, 2024): 445–58, <https://doi.org/10.1163/22112987-20230059>.

domestically so this policy also serves as a tool to control labor migration flows and prevent the accumulation of foreign workers in already competitive markets. The third principle is technology transfer and knowledge sharing which requires that any use of foreign workers be accompanied by certain obligations for employers such as training programs work mentoring or structural assistance for local workers so that in the medium and long term the number of foreign workers can decrease as the capacity of national workers increases and developing countries do not become trapped in a state of continuous dependence on foreigners to fill strategic positions in the economy.

The fourth principle is equal protection of the rights of foreign and local workers which requires that labor and immigration laws provide minimum protection for foreign workers such as wage standards decent working conditions occupational safety and health and access to labor dispute resolution mechanisms without placing them in a more privileged position than local workers so this policy avoids the emergence of a "licensed worker class" deemed to enjoy better rights while affirming that the principle of fair treatment must apply to all workers without discrimination based on nationality.²⁹ The fifth principle is synergy between immigration law and labor law, meaning that the regulation of foreign workers is not only set within the framework of visas, residence permits, and immigration oversight but also within the framework of workers' rights and obligations under labor law. Thus, the status of foreign workers is clearly defined as a combination of residence and work permits, with an integrated sanction mechanism for violations occurring either in immigration matters or employment relations.

The sixth principle is prioritization of national interests and economic sovereignty, which means that regulations on foreign workers must always place national development interests, protection of the local labor market, and strengthening of domestic production bases and added value as top priorities. Therefore, foreign worker recruitment policies are not solely driven by the interests of foreign investors but are managed through fiscal policies, incentives, and investment requirements focused on enhancing national capacity. The seventh principle is openness to international legal standards, which requires developing countries to align their regulations with conventions on migrant worker and

²⁹ Daniel Alexander Siagian Dhia Al Uyun, Edgar Buryahika, "Legal Protection of Labour's Freedom of Union Againsts Union Busting in Indonesia," *Suara Hukum* 6, no. 2 (2024): 279–97.

labor protection, such as UN and ILO instruments, but in a selective and critical way. This ensures that countries do not simply adopt global standards as they are but adapt them to local contexts, development needs, and institutional capacity. The eighth principle is effective supervision and law enforcement, as regulations on foreign workers will be meaningless without a strict oversight system, regular inspections, and clear administrative and criminal sanctions for companies that misuse foreign labor permits whether by recruiting foreign workers illegally or exploiting their positions to suppress labor standards for local workers. The ninth principle is involvement of local actors, such as trade unions, employers' organizations, and academic institutions, in the formulation and evaluation of foreign labor policies. This ensures that the resulting policies are more responsive to market realities and community needs, and are not solely shaped by academic assumptions or the influence of foreign investment interests alone. Thus, these principles form a comprehensive framework that guides developing countries or the Global South to manage the presence of foreign workers wisely, so that cross-border labor mobility is not only an instrument of economic globalization but also part of the process of strengthening national capacity, protecting local workers, and improving labor governance at the domestic level.

2. Comparison of Laws Regulating Foreign Workers in Indonesia and the Democratic Republic of Congo

Comparative law is one of the most dynamic and essential legal research methods in the current era of globalization, as it focuses on a systematic approach involving comparison between different legal systems whether across countries, across regions within a single country, or across historical periods. This is done to uncover similarities, differences, strengths, weaknesses, and patterns of evolution in legal norms, which can serve as a basis for the development of legal theory, legislative reform, harmonization of international rules, and resolution of transnational issues such as migration, cross-border trade, human rights, and environmental protection.³⁰ The usefulness of comparative law in legal research lies not only in its ability to enrich contextual understanding of how law

³⁰ Hananto Widodo Dicky Eko Prasetyo, "Ius Constituendum Pengujian Formil Dalam Perubahan Konstitusi," *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam* 4, no. 1 (2022): 2.

functions in societies that are diverse in terms of culture, economy, and politics, but also in its potential to produce robust theoretical generalizations such as principles of universal legal transplants or convergence between civil law and common law.³¹

Michael Bogdan positions comparative law as a method that is not only descriptive but also functional and practical, in the sense that comparisons are conducted to understand how law functions in a particular society and for the purpose of drafting new regulations or harmonizing laws between countries.³² Peter de Cruz emphasizes a descriptive-typological approach in comparative law, namely mapping legal systems into major groups such as common law, civil law, and socialist law, to then trace the structural and substantial characteristics of the law.³³ Another perspective is put forward by Ratno Lukito, who develops a more reflective-theoretical approach to comparative law, emphasizing that comparative studies are not only descriptive but also raise epistemological issues one of which is the normative-textual approach, which focuses more on the formal analysis of legal norms and structures.³⁴ This research generally emphasizes aspects of the normative-textual approach, which focuses more on the formal analysis of legal norms and structures related to the regulation of foreign workers in Indonesia and the Democratic Republic of the Congo (DRC). A comparative legal study of foreign worker regulations between Indonesia and the DRC is necessary because both countries are compelling examples of developing nations (Global South) facing dynamics of foreign labor in the context of natural resources, foreign investment, and protection of domestic workers. Another important aspect is that both are countries in Asia and Africa, categorized as developing nations or part of the Global South.

The regulation of foreign workers in Indonesia is based on the provisions of Article 42 of Law Number 13 of 2003 concerning Manpower, which was subsequently amended by Law Number 6 of 2023 concerning the Enactment of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law (Job Creation Law). The

³¹ I Gede Mahatma Yogiswara Winatha, A.A.Gede Agung Indra Prathama, and Putu Chandra Kinandana Kayuan, "Comparative Analysis of Legal Protection and Criteria of Well-Known Marks (Indonesia, United States, India, China, and Germany)," *Audito Comparative Law Journal (ACLJ)* 4, no. 1 (2023): 43–54, <https://doi.org/10.22219/aclj.v4i1.23768>.

³² Michael Bogdan, *Pengantar Perbandingan Sistem Hukum* (Bandung: Nusamedia, 2019).

³³ Peter De Cruz, *Comparative Law in a Changing World* (London: Taylor & Francis Group, 2015).

³⁴ Ratno Lukito, "Compare But Not to Compare": Kajian Perbandingan Hukum Di Indonesia," *Undang: Jurnal Hukum* 5, no. 2 (2022): 273.

Job Creation Law significantly regulates manpower matters in Indonesia, as its labor-related articles revise and improve previous regulations ranging from provisions on employment contracts, labor outsourcing, wages, the use of foreign workers, to protection measures and sanctions for labor law violations.³⁵

Specifically, the Job Creation Law strengthens the legal framework for labor by clarifying the time limits and use of fixed-term employment contracts (PKWT), tightening regulations on labor outsourcing, reorganizing wage structures and social security obligations, and introducing a new mechanism for the employment of foreign workers through the approval of Foreign Worker Employment Plans (RPTKA), which replaces the single work permit. This allows the central government to exercise more structured control over how many foreign workers can work in Indonesia and in which positions.³⁶ In the labor cluster, the Job Creation Law amends Article 42 of the Manpower Law (such that every employer hiring foreign workers must have a Foreign Worker Employment Plan (RPTKA) approved by the Central Government, and no longer requires a "written permit" as a separate instrument since the approval of the RPTKA itself is deemed to be the work permit for foreign workers. Individual employers remain prohibited from hiring foreign workers, so the employment of foreign workers is only permitted for legal entities or other bodies that hire foreign workers with wages or other remuneration, such as companies, institutions, foundations, or specific legal entities.³⁷ Foreign workers may only be employed for specific positions and fixed periods, must possess competencies matching the roles, and are prohibited from holding human resources (HR) positions ensuring that labor management functions remain in the hands of Indonesian workers.

Under the Job Creation Law, the RPTKA serves as a key instrument covering when, where, how many, and which positions foreign workers are permitted to fill, enabling the central government to monitor and control the use of foreign labor in a more structured

³⁵ Irfa Nugroho, Arinto, Ronaboyd, Emmilia Rusdiana, and Sonny Zulhuda Prasetyo, Dicky Eko, "The Impact of Labor Law Reform on Indonesian Workers : A Comparative Study After the Job Creation Law," *Lex Scientia Law Review* 8, no. 1 (2024): 67–108.

³⁶ JM Muslimin and Novita Akria Putri, "Politico-Legal Review of the Revised-Bill of the Corruption Eradication Commission and Omnibus Law," *Jurnal Media Hukum* 28, no. 2 (2021): 165–83, <https://doi.org/10.18196/jmh.v28i2.11403>.

³⁷ International Conference Restructuring, "Labor Disputes In Enforcing Justice In The Era Of The Covid-19 Pandemic," *International Conference Restructuring and Transforming Law* 1, no. 1 (2022): 473, https://doi.org/10.4286/ikakikaigaku.50.9_473_1.

manner. The approval of the RPTKA for employers forms the basis for the issuance of work permits and residence permits for foreign workers by relevant authorities, making the administrative process more centralized and integrated in principle though implementation still requires coordination between the Ministry of Manpower, the Ministry of Law and Human Rights, and immigration authorities.

One important change emphasized in the Job Creation Law is the obligation for technology and skills transfer from foreign workers to Indonesian workers. This is mandated through provisions requiring employers to appoint Indonesian citizens as "assistant workers" to foreign workers, and to provide education and job training to these assistants in line with the qualifications of the positions held by foreign workers. Employers are also prohibited from directly hiring new foreign workers to replace those whose contracts have ended, without first appointing or strengthening Indonesian workers as potential replacements thus explicitly enshrining the principle of "replacing foreign workers with Indonesian workers" in legal norms.

On the positive side, the Job Creation Law emphasizes a more modern approach to regulating foreign workers by eliminating the dualistic "written permit" and replacing it with the RPTKA, which functions both as a work permit. In theory, this can accelerate administrative processes and clarify the government's responsibility for overseeing the allocation of foreign labor.³⁸ However critically many analyses show that these regulations still have the potential to be selectively exploited by large employers while oversight mechanisms and administrative sanctions have not always been consistently enforced. As a result uncoordinated practices or use of foreign workers who do not meet competency standards can still occur. Additionally the obligations for knowledge transfer and appointment of accompanying workers are often not clearly measured in reporting and evaluation systems. Thus in practice significant knowledge transfer to Indonesian workers does not always take place while the legal protection and working conditions of foreign workers also need to be strengthened to prevent exploitative practices in employment contracts that are highly dependent on sponsors.

³⁸ M. Muhsin, "Legal Protection for Indonesian Freelance Workers in Law Number 11 of 2020 Concerning Work Creation: Analysis of Changes in Legal Protection for Freelance Workers in Indonesia after the Omnibus Law," *International Journal of Law and Politics Studies* 3, no. 2 (2021): 56–64, <https://doi.org/10.32996/ijlps.2021.3.2.8>.

The regulation of foreign workers under the Job Creation Law essentially strengthens the government's control framework through the Foreign Worker Utilization Plan clarifies knowledge transfer obligations to Indonesian workers and maintains the principle of prohibiting individual employers from hiring foreign workers. However, in practice, it still requires enhanced inter-agency coordination, more effective law enforcement tools, and more transparent oversight standards to ensure that the goals of developing national workforce competencies and protecting Indonesia's labor market are truly achieved. Normative critiques also highlight that although the Foreign Worker Utilization Plan and Foreign Worker Utilization Permit are aimed at the principle of transferring knowledge and skills to Indonesian workers, their implementation is often not clearly measured and not integrated with systematic national training programs. Therefore, compensation fees do not always truly contribute to improving the capacity of domestic workers. On the other hand, benefits and social protection for foreign workers are sometimes less explicit compared to those for Indonesian workers, creating potential disparities in legal protection within the same workplace.

From the perspective of international labor law, Indonesia's foreign worker regulations also need to be further tested against the principles of non-discrimination and human rights protection. In certain practices, foreign workers can become trapped in contracts that are highly dependent on sponsor-employers, making them vulnerable to exploitation and labor rights violations. Meanwhile, complaint channels and legal remedy mechanisms for foreign workers tend to be limited and not always easily accessible. Therefore, although Indonesia's foreign worker regulations appear comprehensive and structured in text from the Labor Law Government Regulation No. 34/2021 and their derivative provisions, critically, these regulations still leave dilemmas between economic investment efficiency and social justice, between administrative formalities and legal certainty in enforcement, and between the need for skilled foreign workers and the imperative to empower and protect domestic workers proportionally. Hence, continuous policy updates that are more sensitive to labor rights protection issues, cross-sectoral coordination, and transparency in the use of Foreign Worker Utilization Plan and Foreign Worker Utilization Permit are needed so that foreign worker regulations do not merely

serve as an administrative control tool but also become a genuine mechanism for building fair inclusive and sustainable labor relations amid the dynamics of labor globalization.

The regulation of foreign workers in the Democratic Republic of the Congo (DRC) is an integral part of the country's labor and immigration system, which rests on two main pillars: the issuance of work permits to non-national workers and the implementation of work visas issued by immigration authorities, as well as provisions that define the position and responsibilities of employer companies in the recruitment and formalization of foreign workers in certain economic sectors—particularly mining, oil, gas, telecommunications, and construction. These sectors have long been highly dependent on foreign investment and skilled technical workers from abroad. Thus, the regulatory framework in the DRC not only emphasizes administrative formal aspects such as document completeness but also economic and strategic dimensions regarding how foreign workers are mobilized to support large-scale projects, without neglecting employers' obligations to comply with basic labor standards and tax requirements.³⁹

Specifically, the DRC government has introduced two main types of work documents for foreign workers: the "standard work permit" for foreign workers with employment contracts with companies legally registered in the DRC, which is typically valid for one to two years depending on the contract duration; and the "work-specific visa" issued for temporary work visits with specific purposes, such as implementing construction projects, technical supervision, or management consulting. This visa is valid for one year and cannot be extended. This mechanism allows the government to distinguish between foreign workers who are part of the long-term workforce structure in local companies and those present only temporarily for specific technical functions, while also closing off potential abuse of work status through short-term permits not intended for permanent employees. To obtain these work permits or visas, foreign workers are required to prepare a number of requirements, including a passport valid for at least six months from the date of application, official passport photos, an international vaccination card, educational documents and professional qualification certificates, as well as a work reference letter from the employing company. Meanwhile, companies employing foreign

³⁹ Priscille Mabwa Mbongo, "Migrant Workers' Rights In The Democratic Republic Of Congo: Barriers To Legal Access," *BAU Cyprus Law Journal* 1, no. 3 (2025): 51–63.

workers have additional administrative obligations, such as providing proof of employment agreements, organizational structures, and evidence of the company's legal registration in the DRC. This enables the government to verify that the presence of foreign workers is truly related to the company's operational needs, rather than merely a means to avoid local workforce recruitment obligations.

In addition to work permit and immigration aspects, the practice of regulating foreign workers in the DRC also shows a strong dependence on the extractive sector, particularly mining—which is one of the main pillars of the national economy. As such, the government often adopts more flexible approaches in granting work access to foreign workers with high technical expertise. However, the country's national labor regulations tend to be less comprehensive than those in Asian countries with more structured labor law systems. Therefore, foreign worker regulations in the DRC often feel more focused on investment interests and technical needs rather than on normative and social protection for the foreign workers themselves, including aspects of social security, employment guarantees, and clear labor dispute resolution mechanisms.⁴⁰ In this context, foreign workers in the DRC are often in a vulnerable position due to their dependence on company sponsors and the lack of adequate legal mechanisms to effectively enforce labor rights. As a result, there is a disparity in practice between the "de jure protection" promised through work permits and the "de facto protection" experienced on the ground, where heavy workloads, long working hours, inconsistent safety conditions, and limited flexibility for foreign workers to change employers without risking loss of work status in the country are common occurrences.

Critically, the regulation of foreign workers in the Democratic Republic of the Congo can be analyzed from two perspectives: on one hand, the government has demonstrated a commitment to building a relatively structured administrative framework through differentiated work permit types, strict documentation requirements, and links between work authorization and the presence of companies registered in the DRC. In principle, this can prevent the entry of undocumented and unregulated foreign labor. On the other hand, ambiguity and weak enforcement of labor laws, over-reliance on the

⁴⁰ Abdul Ganiyu Iddrisu, "Election Cycles and Corruption Perception in Africa," *Constitutional Political Economy* 34, no. 4 (2023): 553–71, <https://doi.org/10.1007/s10602-022-09388-4>.

extractive sector, and limited participatory mechanisms for both foreign and local workers to advocate for their rights mean that regulations which appear quite strict in text often do not function effectively in practice. Consequently, foreign workers in the DRC are more vulnerable to exploitation, sponsor dependence, and legal status uncertainty, while domestic workers also do not necessarily fully benefit from the presence of foreign workers because knowledge transfer and skills handover are frequently not systematically measured by the government.⁴¹ Thus, the regulation of foreign workers in the Democratic Republic of the Congo does demonstrate the government's efforts to control the flow of global labor mobility through work permits and visas. However, to achieve a fairer balance between investment interests, technical workforce needs, protection of foreign workers, and empowerment of local workers, a more comprehensive labor law framework must be strengthened, the capacity of labor oversight institutions improved, and greater participation encouraged from social actors such as trade unions and international worker organizations at the national level. This will ensure that regulations on foreign workers in the DRC do not merely serve as an administrative control tool for investors, but also function as an instrument for protecting labor rights and promoting social justice for all workers within its sovereign territory.

The following table compares the laws governing foreign workers in Indonesia and the Democratic Republic of the Congo (DRC).

Table 1. Comparison of laws regulating foreign workers in Indonesia and the Democratic Republic of the Congo (DRC) (Author's Analysis)

Aspect	Indonesia	Democratic Republic of the Congo (DRC)
Main legal basis	Law No. 13 of 2003 concerning Manpower, clarified through Law No. 11 of 2020 concerning Job Creation and Government Regulation No. 34 of 2021.	National employment and immigration regulations; there is no specific omnibus law like the Job Creation Act, but foreign worker regulations are regulated within the work permit and immigration regulatory framework.

⁴¹ Mbongo, "Migrant Workers' Rights In The Democratic Republic Of Congo: Barriers To Legal Access."

Types of work permits	A Foreign Worker Utilization Plan (RPTKA) which is certified as a work permit; foreign workers cannot work without an RPTKA.	Standard work permits and work-specific visas are directly related to the sponsor/company and the employment contract.
Working period	The principle of “certain position – certain period” has been abandoned; extensions of RPTKA and work permits follow strict administrative procedures.	Work permits are generally valid for 1–2 years depending on the work contract, while special work visas are valid for 1 year and cannot be extended.
Parties permitted to employ	Legal entity employers; individual employers are generally prohibited from employing foreign workers.	Companies officially registered in the DRC; the government requires the legal existence of a company as a condition for granting a work permit.
Obligation to transfer skills	The obligation to appoint Indonesian workers as “assistant workers” and provide training for them; an emphasis on the transfer of skills from foreign workers to Indonesian workers.	Obligations for skills transfer and mentoring of local workers are generally not systematically quantified in official regulations; they depend more on company and extractive sector practices.
Protection of domestic workers	Prohibition on individual employers; restrictions on positions and the number of foreign workers; and the Foreign Worker Compensation Fund (DKPTKA) scheme aimed at empowering Indonesian workers.	Policies are more pragmatic and driven by investment needs; domestic labor protections often feel weak and lack normative structure.
Coordination and law enforcement	The Ministry of Manpower controls the RPTKA, supported by labor oversight and	Authority is spread among labor, immigration, and police authorities; enforcement and oversight on the

	coordination with immigration regulations.	ground are often considered weak and inconsistent.
General critical analysis	Regulations tend to be dense and aim to protect the national labor market, but are often criticized for their layered bureaucracy, unclear coordination, and limited monitoring and evaluation of the impact of skills transfer.	The work permit and visa framework is relatively structured, but has been criticized for its dominance of the extractive sector, dependence on foreign labor, and weak social and legal protections for both foreign and local workers. globalization-partners+2

(Source: Author's Analysis)

From a legal comparison of foreign worker regulations in Indonesia and the Democratic Republic of the Congo (DRC), it can be concluded that Indonesia has a more comprehensive, structured, and normative regulatory framework. It places strong emphasis on protecting domestic workers through instruments such as the Foreign Worker Utilization Plan (RPTKA), prohibitions on individual employers hiring foreign workers, knowledge transfer obligations, and compensation funds. Meanwhile, the DRC relies more on pragmatic work permit and visa mechanisms driven by the needs of the extractive sector, though with relatively weaker social protection and labor market controls that are not systematically measured. In terms of recommendations, Indonesia could strengthen oversight effectiveness, improve inter-agency coordination, and objectively measure the impact of knowledge transfer and the RPTKA on empowering domestic workers. The DRC is advised to develop a more comprehensive labor law framework, clarify knowledge transfer obligations and foreign worker protections, and strengthen oversight institutions and trade union participation. This will ensure that foreign worker regulations in both countries do not merely serve as administrative tools and investment attractors, but also function as equitable instruments supporting the development of national workforce capacity amid the dynamics of global labor mobility.

CONCLUSION

The urgency of regulating foreign workers for developing countries or the Global South is to ensure proportional and equitable regulation between a nation's national interests (in this case, local workers) and foreign workers. Foreign worker regulations must be grounded in a set of legal principles that guarantee fairness, certainty, and proportionality ranging from the principle of priority for domestic workers, selective restrictions and controlled quotas, to obligations for technology transfer and equal protection of the rights of both foreign and local workers. This ensures that foreign workers do not become a tool for wage suppression or excessive replacement of local workers, but rather part of the process to strengthen national human resource capacity.

In addition, ideal regulations should affirm synergy between immigration law and labor law, prioritize national interests and economic sovereignty, while remaining critically open to international legal standards. This allows domestic rules to accommodate protection of migrant workers' fundamental rights without ceding key policy control entirely to foreign investors or developed countries. Thus, for developing countries or the Global South, foreign worker regulations should ensure that the presence of foreign workers can be managed prudently to support inclusive development, strengthen a nation's bargaining position in the global order, and maintain public trust in the integrity of the domestic legal and labor systems.

Based on a legal comparison of foreign worker regulations in Indonesia and the Democratic Republic of the Congo (DRC), it can be concluded that Indonesia has a more comprehensive, structured, and normative regulatory framework. It places strong emphasis on protecting domestic workers through instruments such as the Foreign Worker Utilization Plan (RPTKA), prohibitions on individual employers hiring foreign workers, knowledge transfer obligations, and compensation funds. Meanwhile, the DRC relies more on pragmatic work permit and visa mechanisms driven by the needs of the extractive sector, though with relatively weaker social protection and labor market controls that are not systematically measured. This difference in approach indicates that Indonesia tends to establish foreign worker regulations as a labor law instrument focused on social justice and empowerment of the national workforce, whereas the DRC prioritizes economic-investment dimensions and openness to foreign workers without a balanced protection framework.

This research recommends that Indonesia strengthen oversight effectiveness, improve inter-agency coordination, and objectively measure the impact of knowledge transfer and the RPTKA on empowering domestic workers. This will ensure that the already comprehensive regulations do not stop at administrative formalities but truly drive improvements in competency and protection for local workers. Meanwhile, the DRC is advised to develop a more comprehensive labor law framework, clarify knowledge transfer obligations and foreign worker protections, and strengthen oversight institutions and trade union participation. Thus, foreign worker regulations in both countries will not merely serve as administrative tools and investment attractors, but also function as equitable instruments responsive to the dynamics of global labor mobility, contributing to the strengthening of legal sovereignty and development of national workforce capacity in the context of developing countries (Global South).

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