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Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

Comparative Study of the Effectiveness of Bilateral Cooperation Between Indonesia and Destination Countries in Preventing Human Trafficking

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Abstract. *The Crime of Human Trafficking (TPPO) is a complex transnational crime, making it one of the most serious threats to human rights in the era of globalization. As one of the world's largest labor-sending countries, Indonesia is highly vulnerable to cross-border exploitation and human trafficking practices. Efforts to prevent this crime cannot be resolved unilaterally by the Indonesian government alone, but require strong international cooperation, particularly through bilateral instruments with major destination countries. This abstract highlights the urgency of evaluating and comparing the effectiveness of various bilateral agreements or Memoranda of Understanding (MoUs) signed by Indonesia with receiving countries to assess the extent to which these instruments are capable of genuinely reducing human trafficking syndicates in practice. This study aims to conduct a comparative analysis of the effectiveness of bilateral cooperation between Indonesia and several major destination countries, such as Malaysia and countries in the Middle East region, in preventing TPPO. Through normative legal research using a statutory approach and a comparative law approach, this study examines national legal instruments, bilateral agreements, and their implementation. The primary legal materials used include Law No. 21 of 2007 on the Eradication of Human Trafficking, Law No. 18 of 2017 on the Protection of Indonesian Migrant Workers, and related bilateral MoU texts. The analysis is conducted qualitatively to uncover the gap between diplomatic legal texts and the reality of law enforcement and protection within the jurisdictions of destination countries. The findings reveal that the effectiveness of Indonesia's bilateral cooperation with destination countries in preventing TPPO remains very weak and asymmetric. Comparisons show that existing MoUs tend to be labor supply-oriented rather than human rights-oriented. Key obstacles include differences in legal definitions of TPPO, jurisdictional conflicts, the implementation of exploitative systems in destination countries (such as the Kafala system), and the soft law nature of MoUs,*



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which lack strong enforceable legal force. This study recommends reconstructing bilateral cooperation by elevating MoUs into Mutual Legal Assistance agreements, establishing joint cross-border task forces, and harmonizing migrant worker protection standards to ensure the prevention of modern slavery crimes from upstream to downstream.

Keywords: *Bilateral Cooperation; Comparative Study; Human Trafficking; Indonesian Migrant Workers; International Relations.*



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1. Introduction

Transnational crime continues to evolve alongside the pace of globalization, and one of the forms of crime that most degrades human dignity is the Crime of Human Trafficking (TPPO). This crime operates like an organized global corporation, where humans especially those in vulnerable conditions are reduced to mere economic commodities that can be bought, sold, and exploited without mercy. Human trafficking encompasses various brutal forms of exploitation, ranging from forced labor, domestic slavery, commercial sexual exploitation, to organ trafficking. This crime exploits gaps between national borders, takes advantage of the economic desperation of people in developing countries, and relies on organized criminal syndicates to evade legal accountability.

In the global human trafficking landscape, the position of the Republic of Indonesia is highly crucial and strategic, functioning predominantly as a source country for millions of exploitation victims, although in some cases it also acts as a transit country and destination country. Structural poverty, regional development disparities, and limited employment opportunities domestically compel millions of Indonesian citizens to seek better livelihoods abroad. Unfortunately, labor migration driven by economic pressures often occurs through non-procedural or illegal channels, placing prospective Indonesian Migrant Workers (PMI) directly into the hands of human trafficking syndicates ready to exploit them from the very first moment of recruitment.

The vulnerability of Indonesian Migrant Workers is further exacerbated once they are smuggled and arrive in destination countries. There, they often face realities such as passport confiscation by employers, inhumane working hours, physical and sexual violence, and lack of access to legal assistance or diplomatic representation. In many cases, when these migrant workers attempt to escape exploitative employers, they are instead criminalized by the authorities of the destination country for being undocumented immigrants or for violating employment contracts. This tragic situation demonstrates that TPPO victims are trapped between cruel syndicates and discriminatory legal systems in destination countries that fail to protect victims.

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Recognizing the complexity and scale of this crime that transcends national sovereignty and jurisdictional boundaries, the Indonesian government cannot combat TPPO alone through unilateral efforts. Preventing and prosecuting human trafficking requires a robust architecture of international cooperation at multilateral, regional, and bilateral levels. International law has provided a broad framework through the Palermo Protocol (Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children), which mandates states parties to cooperate closely in preventing the movement of syndicates, protecting victims, and extraditing and punishing perpetrators.

However, in practice, multilateral instruments are often too general and slow to respond to specific criminal dynamics occurring along particular migration corridors. Therefore, bilateral diplomacy through bilateral agreements or Memoranda of Understanding (MoUs) between Indonesia and major destination countries has become the most strategic and practical instrument. Bilateral cooperation is assumed to be capable of regulating safe labor placement procedures in detail, establishing human rights protection standards, and creating rapid law enforcement coordination mechanisms between police and immigration authorities of both countries, thereby precisely closing opportunities for TPPO syndicates to operate.

Nevertheless, the effectiveness of the various bilateral cooperation instruments developed by the Indonesian government over the past several decades deserves critical scrutiny and evaluation. Empirical realities in the field indicate that MoU signings often end merely as diplomatic formalities celebrated in front of the media but fail to prevent exploitation in practice. The No. of cases involving violence, forced labor, and TPPO affecting Indonesian citizens in destination countries such as Malaysia, Saudi Arabia, and several East Asian countries remains high. This raises academic suspicions that these bilateral instruments possess inherent flaws, both in their legal substance and in their implementation.

The legal conditions in destination countries, which vary significantly, constitute an independent variable that greatly influences the success of bilateral cooperation. Destination countries often possess national legal paradigms that conflict with the human rights protection principles upheld by Indonesia's constitution. For example, the implementation of the Kafala (sponsorship) system in the Middle East fundamentally grants employers absolute power over migrant workers, indirectly legitimizing modern slavery practices. When Indonesia attempts to apply TPPO prevention standards through MoUs with countries that legalize such exploitative systems, jurisdictional conflicts and deadlocks in cross-border law enforcement inevitably arise

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Therefore, the urgency of conducting a comparative study on the effectiveness of bilateral cooperation has become increasingly pressing. Comparative analysis is necessary to examine differences in characteristics, binding legal force, and political commitment among destination countries in implementing MoUs agreed upon with Indonesia. By comparing the anatomy of cooperation in the Southeast Asian corridor (for example, Malaysia) and the Middle Eastern corridor, it becomes possible to identify variables that cause a bilateral instrument to fail as a protective shield, as well as variables that enable cooperation to effectively detect and dismantle human trafficking syndicates.

Academically, studies specifically comparing the effectiveness of bilateral instruments from the perspective of TPPO prevention remain relatively limited. Most previous research has focused solely on independent analyses of national legal instruments or general discussions of immigration policies. Research examining operational weaknesses, jurisdictional barriers, and diplomatic power asymmetries in the implementation of migrant worker protection MoUs as anti-TPPO strategies requires further development. This gap in the literature must be addressed to provide foreign policy recommendations that are not merely reactive but capable of exposing structural weaknesses in citizen protection diplomacy.

Based on these systemic problems, diplomatic concerns, and the urgency of human rights protection, this scholarly article focuses on the critical evaluation and comparison of the effectiveness of Indonesia's bilateral cooperation with major destination countries. Through a comprehensive review of legislative documents and international agreements, this study seeks to uncover the root causes behind the ineffectiveness of MoUs in preventing TPPO. Ultimately, this article is expected to formulate a design or model for reconstructing bilateral cooperation that is more legally binding, victim-centered, and resilient in confronting the sophistication of human trafficking syndicates in the digital era.

2. Research Methods

This study employs normative legal research (doctrinal legal research), which emphasizes in-depth analysis of written norms, principles of international law, and the harmonization of legislation within the positive legal system. The primary approaches applied are the statutory approach, used to examine national and international regulatory instruments, and the comparative law approach, used to evaluate differences in the characteristics and effectiveness of bilateral instruments established by Indonesia with various destination countries possessing different legal systems.

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The legal materials used in this study are entirely based on secondary data consisting of:

- a) **Primary Legal Materials:** These include constitutional instruments and binding regulations, such as the 1945 Constitution of the Republic of Indonesia, Law No. 21 of 2007 on the Eradication of Human Trafficking Crimes, Law No. 18 of 2017 on the Protection of Indonesian Migrant Workers, Law No. 1 of 2006 on Mutual Assistance in Criminal Matters, and various official labor-related Memoranda of Understanding (MoUs) between the Government of Indonesia and destination countries such as Malaysia and Saudi Arabia.
- b) **Secondary Legal Materials:** These consist of academic literature, international law reference books, reputable journal articles related to the diplomacy of Indonesian citizen protection and TPPO, as well as official reports from government institutions and non-governmental organizations (NGOs).

Legal materials were collected through a comprehensive library research method. All collected data were then systematized, categorized, and analyzed using a qualitative-deductive approach. This comparative analysis process was directed toward identifying the gap between the text of bilateral agreements and the realities of law enforcement, ultimately producing prescriptive conclusions for reconstructing a model of bilateral cooperation that is effective in preventing cross-border human trafficking syndicates.

3. Results and Discussion

3.1. Legal Framework and Characteristics of Indonesia's Bilateral Agreements with Major Destination Countries

Bilateral cooperation is one of the primary foundations of international legal practice aimed at regulating specific relations between two sovereign states. In the context of labor migration and the prevention of Human Trafficking Crimes (TPPO), bilateral agreements are generally embodied in the form of a Memorandum of Understanding (MoU). Doctrinally, this instrument functions as a framework governing recruitment procedures, placement, the rights and obligations of workers and employers, and dispute resolution mechanisms. The formation of this instrument is based on the principles of sovereign equality and good faith, with the assumption that both parties share the same interest in ensuring that migration takes place safely, orderly, and free from exploitation by trafficking syndicates

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In Indonesia, the national legal basis requiring such bilateral instruments has been firmly regulated in Law No. 18 of 2017 concerning the Protection of Indonesian Migrant Workers. The law emphasizes that the placement of Indonesian Migrant Workers (PMI) abroad may only be carried out in destination countries that have a written agreement (MoU) with the Government of Indonesia, or at least possess national legislation protecting foreign workers. This regulation was intentionally designed as an upstream preventive measure; the state seeks to filter and ensure that its citizens are not sent to jurisdictions with poor records in respecting human rights, which often serve as fertile ground for the growth of human trafficking syndicates.

As a first comparative study, the characteristics of bilateral cooperation between Indonesia and Malaysia represent one of the most dynamic and conflict-laden examples of migration diplomacy. Geographical proximity, cultural similarities, and the high demand for low-cost labor in plantation, construction, and domestic sectors make Malaysia a primary destination country for Indonesian migrant workers. The MoU between the two countries has undergone multiple amendments and renewals, often in response to viral cases of fatal abuse or forced labor highlighted in the media. History records that Indonesia has repeatedly imposed moratoriums on labor deployment as a diplomatic weapon to pressure Malaysia into accepting stronger protection clauses in their MoU.

Substantively, the contents of the Indonesia Malaysia MoU continue to be characterized by sharp conflicts of interest. Indonesia consistently seeks to include clauses guaranteeing absolute protection, such as workers' rights to retain possession of their own passports, the establishment of minimum wage standards, weekly rest days, and prohibitions on direct hiring practices frequently exploited by trafficking syndicates. On the other hand, Malaysia, influenced by lobbying from employer associations and domestic labor agencies, often seeks to maintain recruitment mechanisms that are inexpensive, rapid, and grant employers substantial control. Although improvements have been made over time, the MoU with Malaysia is frequently marked by weaknesses in joint monitoring mechanisms that fail to reach isolated employer residences.

The second comparative study can be observed in the characteristics of Indonesia's bilateral agreements with countries in the Middle East, particularly Saudi Arabia. The dynamics of cooperation within this corridor are considerably more complex and high-risk due to fundamental differences in legal systems, culture, and social governance. Most Middle Eastern countries implement the Kafala or sponsorship system, under which a migrant worker's immigration status and legal validity are entirely tied to and dependent upon the employer. This

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system requires workers to obtain explicit permission from their employers to change jobs or leave the country, a practice that international organizations have classified as a major driver of modern slavery.

The systemic problem in bilateral cooperation with Kafala-practicing countries is that the signed MoUs often fail to penetrate the civil-law jurisdictional framework of the receiving state. Although Indonesia, through bilateral instruments, has required prohibitions on document confiscation and the fulfillment of humane working hours, the Kafala system de facto continues to grant employers substantial power to confine and exploit workers without fear of criminal prosecution. Consequently, rogue agents and trafficking syndicates exploit the Kafala system as a legally protected mechanism for facilitating human trafficking; once victims arrive at Middle Eastern airports, they effectively fall into a jurisdictional environment that regards worker confinement as part of labor culture.

When compared, the structural focus of the MoUs established by Indonesia, both in Southeast Asia and the Middle East, generally shares a similar philosophical weakness. These labor MoUs tend to be designed primarily with a labor-supply orientation. Their provisions focus largely on bureaucratic procedures, agency fees, health examinations, and deployment technicalities. Clauses explicitly regulating cross-border criminal law enforcement mechanisms in cases indicating human trafficking are rarely found. This lack of integration between labor law and international criminal law within bilateral instruments creates broad opportunities for syndicates to continue operating under the guise of official labor recruitment agencies.

The most critical weakness of bilateral instruments in the form of MoUs lies in their status as soft law. An MoU is not a treaty or a legally binding international agreement whose violations can result in international sanctions or proceedings before international courts. Rather, it is merely a declaration of goodwill between governments. When a destination country breaches its commitments for example, by allowing law enforcement authorities to criminalize trafficking victims who flee abusive employers Indonesia lacks coercive legal instruments to punish that state beyond diplomatic protests or the imposition of a moratorium. The absence of enforceability is what makes TPPO prevention based on bilateral cooperation resemble a paper tiger.

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3.2. Implementation Barriers and Cross-Border Jurisdictional Challenges in Preventing Human Trafficking

The transition from commitments written in an MoU to the implementation of real protection on the ground is marked by various structural, political, and jurisdictional obstacles. When Indonesia and destination countries agree to prevent human trafficking, such agreements often collide with the reality of competing sovereign jurisdictions. Law enforcement in TPPO cases involves tracing crime scenes that span two national boundaries: recruitment and document forgery occur in Indonesia, while exploitation, confinement, and physical enslavement occur in the destination country. This fragmentation of criminal loci prevents investigators from operating in another state's territory without going through Mutual Legal Assistance (MLA) procedures, which can take years to complete.

Another fundamental challenge is the asymmetry or sharp difference in legal definitions of TPPO between Indonesia and destination countries. In Indonesia, Law No. 21 of 2007 progressively regulates that recruitment based on fraud, document falsification, or debt bondage remains classified as human trafficking, even if the victim initially "agreed" to migrate. However, in many destination countries, law enforcement authorities continue to view migrant worker exploitation merely as an immigration administrative violation or an ordinary civil labor dispute rather than a crime against humanity. This difference in legal paradigms often causes authorities in destination countries to hesitate in criminally prosecuting employers or recruitment agents, choosing instead simply to deport victims back to Indonesia.

Implementation barriers are further exacerbated by bureaucratic complexity and the absence of real-time integrated cross-border databases. TPPO prevention should ideally be supported by interconnected immigration and labor systems between sending and receiving countries. In reality, these monitoring systems are often fragmented. Human trafficking syndicates skillfully exploit bureaucratic delays and institutional blind spots by forging visas, using third-country transit routes, or converting tourist visas into work visas after victims arrive in destination countries. The lack of technological infrastructure envisioned in bilateral cooperation arrangements leaves states perpetually one step behind the evolving tactics of trafficking networks.

The existence and strength of illegal labor deployment syndicates constitute one of the greatest obstacles undermining the function of MoUs. Bilateral cooperation can only protect migrant workers deployed through official channels. Meanwhile,



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trafficking networks exploit ungarded border routes, use small boats to smuggle victims at night, or bribe passport syndicates. Because these victims depart outside the radar of official bilateral mechanisms, destination countries frequently disclaim responsibility and refuse legal protection when victims are abused or enslaved. Human trafficking syndicates are fully aware of this vulnerability and deliberately recruit through irregular channels to avoid the monitoring standards established under MoUs.

More tragically, the failure of bilateral cooperation implementation is closely linked to corruption and the involvement of state officials on both sides of the border. No anti-trafficking cooperation mechanism can succeed if its gatekeepers themselves become part of the syndicate. The passage of trafficking victims through official airports with clearly suspicious documents demonstrates the existence of systematic collusion. In destination countries, rogue recruitment agents often possess strong connections with local police or government officials, making them effectively immune to enforcement operations. The absence of MoU clauses specifically targeting officials who protect trafficking syndicates represents an institutional blind spot that continues to claim victims.

Protection for trafficking victims during legal proceedings in destination countries also presents a severe humanitarian challenge. When an Indonesian migrant worker successfully escapes from an abusive employer and reports the case to local authorities, criminal proceedings often move extremely slowly. During legal processes that may take months, victims are frequently prohibited from working and remain confined in temporary embassy shelters. Economic hardship and uncertainty regarding their future often drive victims to withdraw complaints simply to secure deportation back to Indonesia. Trafficking syndicates exploit these weaknesses in judicial systems to ensure impunity through the absence of key witnesses.

Furthermore, existing bilateral cooperation instruments have largely failed to enforce the concept of strict liability against employers in destination countries. Even when confinement, abuse, and wage withholding elements associated with slavery are proven, criminal prosecutions often stop at lower-level labor agents, while employers where exploitation occurred escape serious legal consequences. Indonesia's bilateral diplomacy frequently encounters the barrier of state sovereignty, as destination countries tend to protect their own citizens from international criminal accountability, reflecting power asymmetries in diplomatic relations.

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In conclusion, these implementation barriers and jurisdictional conflicts demonstrate that bilateral cooperation limited to written labor-placement agreements will never be effective in eradicating TPPO. Unless MoUs address operational root causes such as intelligence-sharing integration, harmonization of criminal law definitions, decisive action against corrupt officials, and guarantees of victim protection during cross-border legal proceedings such agreements will remain little more than formalities. These structural weaknesses must be honestly addressed by the Indonesian government in designing a new diplomatic strategy centered on more concrete and enforceable humanitarian protection.

3.3. Reconstructing an Effective Bilateral Cooperation Model Oriented Toward Human Rights Protection

Recognizing the inherent weaknesses, protection asymmetries, and implementation dysfunctions within existing bilateral cooperation mechanisms, the Indonesian government is required to undertake a radical reconstruction of its anti-human trafficking diplomatic architecture. The first and most essential step is a fundamental paradigm shift in how bilateral agreements are viewed. Bilateral agreements should no longer be positioned merely as instruments for exporting labor to generate foreign exchange but should instead be prioritized as instruments of human rights diplomacy. Economic supply considerations must not override human dignity; therefore, every negotiated clause must place the safety and legal protection of citizens above investment and economic interests.

The second reconstruction measure, strategic and juridical in nature, is to elevate the binding force of cooperation documents. Indonesia can no longer rely solely on soft-law instruments such as MoUs that lack cross-jurisdictional enforceability. The government should aggressively advocate for anti-trafficking agreements to be formalized as treaties or specialized Mutual Legal Assistance (MLA) agreements addressing human trafficking crimes. As hard-law instruments, violations of protection commitments by destination countries would carry binding international legal consequences, enabling Indonesia to pursue accountability through judicial proceedings or high-level diplomatic arbitration.

The third reconstruction targets operational mechanisms and law enforcement through the establishment of a Joint Cross-Border Task Force. Indonesia and destination countries should agree to create joint intelligence and investigative teams involving police, immigration authorities, and foreign ministries from both countries operating under a unified coordination structure. This mechanism should include authorization for joint cyber patrols to detect recruitment syndicates on social media, as well as integrated border patrols to close illegal

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smuggling routes. Through such joint operations, jurisdictional barriers that have long served as safe havens for trafficking syndicates can be dismantled more effectively.

Furthermore, to ensure meaningful recovery for victims whose economic and psychological lives have been devastated, bilateral cooperation reconstruction should require the institutionalization of a Victim Trust Fund. Under this bilateral scheme, both Indonesia and destination countries would contribute funds sourced from fines imposed on recruitment agencies or assets confiscated from criminal enterprises. This cross-border emergency fund would immediately cover hospital expenses, legal assistance, repatriation costs, and restitution payments without requiring victims to wait for lengthy civil proceedings in destination countries. This represents a form of restorative justice that transcends territorial boundaries.

The harmonization of protection standards and labor laws is also a prerequisite for reconstructing this cooperation model. Indonesia should boldly utilize diplomatic leverage to demand the elimination of exploitative practices institutionalized within destination countries, such as the Kafala system. New bilateral agreements should explicitly classify the retention or confiscation of migrant workers' passports by employers as unlawful confinement and a component of human trafficking crimes rather than a mere administrative violation. Employers violating these provisions should face strict criminal sanctions and lifetime bans on employing foreign workers.

In response to the digital era, this bilateral cooperation model must also reconstruct monitoring systems through maximum utilization of technology. Indonesia and destination countries should establish an integrated digital platform based on blockchain technology or intelligent digital identity systems capable of monitoring worker status, employer records, wage flows, and migrant workers' geographic movements in real time. This system should include a panic-button feature accessible via mobile phones that automatically connects to destination-country police command centers and Indonesian embassies, enabling rapid intervention before further abuse occurs.

The final reconstruction measure, equally important, is the democratization of bilateral oversight through meaningful participation by civil society organizations, labor unions, and transnational non-governmental organizations (NGOs). Existing MoUs are often highly elitist and dominated by government-to-government (G2G) negotiations and business-to-business (B2B) agency arrangements. A new bilateral framework should require the inclusion of human rights NGOs as independent watchdogs with authority to inspect labor agency shelters and verify reports of

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abuse. The involvement of international civil society would provide transparency and help prevent collusion between officials and trafficking syndicates.

Ultimately, the proposed reconstruction of bilateral cooperation from upgrading legal status to MLA agreements, establishing joint task forces, creating a Victim Trust Fund, and integrating digital technology constitutes a blueprint for transforming citizen-protection diplomacy. Bilateral cooperation should no longer function as a red carpet facilitating the mass transfer of people into spaces of exploitation; rather, it must be reestablished as a strong shield of sovereignty protecting vulnerable citizens from the threats of modern slavery. Only through the courage to reform diplomatic structures can the state demonstrate that human dignity and humanitarian sovereignty are non-negotiable and will never submit to the deceit of human trafficking syndicates anywhere in the world.

4. Conclusion

Human Trafficking (TPPO) is a crime against humanity that requires a comprehensive response unconstrained by state jurisdictional boundaries. Through this comparative study, it is clearly demonstrated that bilateral labor cooperation instruments in the form of Memoranda of Understanding (MoUs), long relied upon by Indonesia with various destination countries in Southeast Asia and the Middle East, remain weak, asymmetrical, and ineffective in dismantling and preventing modern slavery syndicates. These structural weaknesses stem from policy orientations that prioritize labor supply over human rights protection, the soft-law status of MoUs lacking enforceable legal force, and differing legal paradigms in destination countries that continue, in practice, to legitimize exploitation through oppressive systems such as Kafala. Moreover, implementation barriers including jurisdictional conflicts, insufficient information technology integration, and corruption among officials at border points enable trafficking syndicates to continue operating effectively through diplomatic loopholes. Therefore, the state is obligated to radically reconstruct its diplomatic and bilateral cooperation model to address contemporary transnational crime threats. This reconstruction requires a complete paradigm shift toward human rights protection diplomacy. Reform must be realized through elevating legal instruments into Mutual Legal Assistance agreements, establishing Joint Cross-Border Task Forces for intelligence operations, harmonizing regulations that strictly prohibit employers from confiscating worker documents, and institutionalizing a Victim Trust Fund to guarantee restitution. Only through a firm, binding, and victim-centered bilateral protection architecture can Indonesia and destination countries jointly dismantle the impunity enjoyed by human trafficking



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syndicates while ensuring that global migration is no longer marked by exploitation but instead upheld through the values of Dignified Justice.

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