

The Policy of Visa-Free Visit Arrangements in Indonesia for International Visitor

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Article	Abstract.
Keywords: <i>Free; Policy; Visa; Visit</i>	<i>This article is entitled "Setting Visa-Free Policy in the Order of Increasing Visits of International Tourists to Indonesia", which aims to examine the arrangements for visiting visa-free policies in order to increase foreign tourist visits to Indonesia and find out the sanctions that can be imposed on recipients of visa-free visits who violate and misuse of a visit stay permit. In order to improve relations between the Republic of Indonesia and other countries, it is necessary to provide convenience for foreign nationals to enter the territory of the Republic of Indonesia which is carried out in the form of exemption from the obligation to have a visit visa with due observance of the principle of reciprocity and the principle of benefit. The Government of Indonesia issued Presidential Regulation Number 21 of 2016 concerning Free Visit Visas. This regulation was made in order to provide benefits to improve the economy in general and increase the number of foreign tourist visits in particular. The research method used in this study is a normative legal research method through a statutory approach. The discussion is directed at the implications of applying the visa-free policy from an employment perspective and how the government will handle it. The visit visa-free policy is regulated in Presidential Regulation Number 21 of 2016 concerning Visit Visa-free and Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 17 of 2016.</i>
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1. Introduction

Indonesia has entered the era of the ASEAN Economic Community (AEC). To be able to become a winner in the MEA era, the government made various policies in the

fields of labor, tourism, to the small and medium business sector¹. One policy government in the field of tourism is to issue a visa-free policy².

This policy is currently regulated through Presidential Regulation (Perpres) Number 21 of 2016 concerning Visit Visa-free, which is a change from Presidential Regulation Number 69 of 2015 concerning Visit Visa-free. This policy was implemented in order to improve cooperative relations between the Indonesian state and other countries, which aims to improve the economic sector and increase the number of foreign tourists to visit Indonesia. Until now, there are 169 (one hundred and sixty nine) countries and certain entities that have been granted visa-free visits by the Indonesian government³.

However, over time, the granting of a visit stay permit is often misused by recipients of a visit visa-free, giving rise to problems in the immigration sector. Therefore, further research is needed regarding the arrangement of a visit visa-free policy in order to increase foreign tourist visits to Indonesia and the sanctions imposed on recipients. Visit visa-free for violating and abusing visit residence permits⁴.

2. Research Methods

In this research, the research method used is a normative legal research method using a statutory approach. This approach is carried out by examining laws and regulations related to the legal issues being discussed.

3. Results and Discussion

3.1 Visa-free Policy Arrangements in Order to Increase International Tourist Visits to Indonesia

Since 2016, Indonesia has implemented a Free Visit Visa for 169 countries. The countries included in the 169 list will be free to enter Indonesian territory without the need to show a visa, provided that the purpose of entering Indonesian territory is for tourist purposes, family visits, social, arts and culture, government duties,

¹ Agergaard, S., Michelsen la Cour, A., & Gregersen, M. T. (2016). Politicisation of migrant leisure: A public and civil intervention involving organised sports. *Leisure Studies*, 35(2), 200–214. <https://doi.org/10.1080/02614367.2015.1009848>

² Guild, Elspeth. *Securit And Migration in the 21th*. United Kingdom: Polity Press Cambrigde, 2009.

³ Hamidi, Jazim dan Christian, Charles. *Hukum Keimigrasian Bagi Orang Asing di Indonesia*. Jakarta: Sinar Grafika, 2016.

⁴ Arnaud, L. (2001). Sous le maillot, la race? Idéologie et discours sportifs dans les politiques d'intégration des «minorités ethniques» en France et en Grande-Bretagne. *Politix. Revue des sciences sociales du politique*, 14(56), 165–183.

giving lectures or attending seminars, attending exhibitions internationally, to attend meetings held with the head office or representatives in Indonesia, and to continue traveling abroad. The validity period of this visa-free use is only 30 days and cannot be extended or converted into a residence permit⁵.

The policy stated in Presidential Regulation Number 21 of 2016 concerning Visit Visa Free was temporarily suspended due to the COVID-19 pandemic with the issuance of Minister of Law and Human Rights Regulation Number 8 of 2020 concerning Temporary Suspension of Visit Visa Free and Visit Visa on Arrival and Granting of Stay Permits in Forced Conditions. Until now foreigners still cannot use the visa-free visit facility, as well as global human movement which is also still limited. Therefore, now is the right momentum to evaluate the visa-free visit policy⁶.

The visa-free visit policy was initially implemented to boost foreign tourist visits (foreign tourists) to Indonesia so that it could boost the Indonesian economy through its tourism sector⁷. However, this policy has so far not yielded many positive results; on the contrary, some negative impacts emerged. First is the large number of foreign nationals who abuse the visa-free policy to work illegally. Based on the results of an inspection from the Ministry of Manpower (Kemenaker) throughout 2016, illegal foreign workers were found with a total of 1,383 people, with 820 of them working without a permit. Using Foreign Workers (IMTA), while the rest are TKA who abuse their position. The case has not been added to the findings throughout the following year⁸.

Research from the Indonesian Institute of Sciences also adds that there are regulatory loopholes that make illegal TKA more widespread, one of which is the Minister of Manpower Regulation Number 16 of 2015 which eliminates the requirement for TKA to be able to communicate using Indonesian and eliminates the ratio of the number of TKA to local workers who Previously, the ratio for every 1 foreigner had to be able to absorb 10 local workers. Of course, these facilities will become a magnet for foreign workers to enter Indonesia, especially uneducated workers, as there are many infrastructure development projects in Indonesia. Coupled with the issuance of Law Number 11 of 2020 concerning Job Creation which simplifies many of the requirements for foreign workers to work in Indonesia.

⁵ Irsan, Koesparmono dan Armansyah. *Hukum Tenaga Kerja Suatu Pengantar*. Jakarta: Erlangga, 2016.

⁶ <https://imigrasimedan.kemerkumham.go.id/2022/06/10/melihat-kembali-efektivitas-kebijakan-bebas-visa-kunjungan/> accessed on January 2023

⁷ Armstrong, D., Gosling, A., Weinman, J., & Marteau, T. (1997). The place of inter-rater reliability in qualitative research: An empirical study. *Sociology*, 31(3), 597–606. <https://doi.org/10.1177/2F0038038597031003015>

⁸ Muchmore, Adam I. "Passport and Nationality In International Law." *Journal of International Law and Policy*, 2004.

Whereas before the COVID-19 pandemic, based on data from the Ministry of Manpower, the number of foreign workers in Indonesia had continued to increase in recent years. As of March 2018, there were 126 thousand foreign workers in Indonesia⁹.

This figure increased by 69.85 percent when compared to the final position in 2016 with a total of 74,813. This may be a form of effort to accelerate development, but given the large number of foreign workers that exist, it is also necessary to pay attention to the risk of friction that might arise in the grassroots community. The second impact of the Visa Free policy is that Indonesia loses around 1 trillion rupiah from PNB. This was disclosed by the Head of Sub-Directorate for Stay Permits of the Director General of Immigration, Hendro Tri Prasetyo, in January 2017. The PNB in question comes from fees that foreigners should be able to receive from obtaining VISAs. Visits by foreign tourists to Indonesia have not increased significantly since the implementation of the visa-free visa, not even meeting the target in 2017. Perhaps it is still too early to say that this visa-free policy has failed to increase the number of foreign tourists to Indonesia because its implementation has only lasted for three years¹⁰.

But maybe it's time to see the principle of reciprocity towards other countries that also enjoy the Visa Free policy. For comparison, Malaysia applies visa-free to 162 countries with each grouping of length of stay, but Malaysians themselves are free to enter 169 countries without the need for a visa. As for Indonesia itself, in 2019 only 70 countries are free to enter by Indonesian citizens without the need for a visa. The amount is far less than the list of countries that Indonesia exempts from visas. This also shows how Indonesia's bargaining position in the eyes of the world. In the end, for now, this Visa Free policy still needs to be reviewed¹¹. Ideally, only countries that have exempted visas for Indonesian citizens and countries with the most foreign tourists entering Indonesia are exempt. While Indonesian diplomats carry out diplomacy with other countries to be able to free visas for Indonesian citizens with reciprocal free visas to enter Indonesia. The Directorate General of Immigration must also be more stringent in supervising foreigners who enter Indonesian territory. So that later when the pandemic is over and the Visit Visa Free policy can be re-enforced, the benefits from it can be felt even more for the

⁹ Nevey Varida Ariani. "Pusat Penelitian dan Pengembangan Hukum Badan Penelitian dan Pengembangan Hukum dan Hak Asasi Manusia Kementerian Hukum dan Hak Asasi Manusia." *Penegakan Hukum Terhadap Tenaga Kerja Asing Ilegal di Indonesia*, 2018.

¹⁰ Plano, Jack C dan Olton, Ray. *Kamus Hubungan Internasional*. Jakarta: CV Abid, 1990.

¹¹ Benzécri, J. P. (1973). *L'analyse des données: L'analyse des correspondances*. Bergholz, L., Stafford, E., & D'Andrea, W. (2016). Creating trauma-informed sports programming for traumatized youth: Core principles for an adjunctive therapeutic approach. *Journal of infant, child, and adolescent psychotherapy*, 15(3), 244–253. <https://doi.org/10.1080/15289168.2016.1211836>

interests of the nation and state¹².

The granting of a visit visa-free can be interpreted as freeing the recipients of a visit-free visa from the obligation to have a visit visa to enter Indonesian territory. The visit visa-free arrangement is expected to increase the number of foreign tourist visits to Indonesia so that it will have an effect on increasing state revenues, as well as advancing the nation's welfare. In Article 2 paragraph (1) of Presidential Decree Number 21 of 2016 it is emphasized that the visa-free grant is carried out with due regard to the principle of reciprocity and the principle of benefit for the Indonesian state. This means that the policy will only be given to countries that are willing to cooperate and want to provide benefits to each other and are able to provide sustainable benefits for the Indonesian government.

In Article 3 of the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia (Permenkumham RI) Number 17 of 2016 concerning Certain Immigration Checkpoints, Requirements and Destinations of Arrival for Foreigners Obtaining Free Visit Visa it is stated that, foreigners who are exempt from the obligation to have a visa visits can carry out activities in the context of tourism, family, social, arts and culture, government duties¹³, give lectures or attend seminars, take part in international exhibitions, attend meetings held with headquarters or representatives in Indonesia, and continue traveling to other countries. This means that, in addition to the activities mentioned above, it is prohibited for recipients of visa-free visits to be carried out, for example, such as making visits in the framework of journalism. Recipients of free visit visas who enter Indonesian territory are obliged to fulfill the requirements as stipulated in Article 2 of the Minister of Law and Human Rights of the Republic of Indonesia Number 17 of 2016, where they must have an original passport that is valid and valid for at least six months, have a return ticket or onward ticket to another country. , and is not included in the list of deterrence. Apart from that, they also have to go through an examination first at certain immigration checkpoints as attached in the Minister of Law and Human Rights of the Republic of Indonesia Number 17 of 2016.

3.2 Sanctions for Exempt Visa Recipients who Violate and Misuse Visit Stay Permits

¹² Canning, V. (2019). Abject asylum: Degradation and the deliberate infliction of harm against refugees in Britain. *Justice, Power and Resistance*, 3(1), 37–60 <https://egpress.org/papers/abject-asylum-degradation-and-deliberate-infliction-harm-against-refugees-britain>

¹³ Busetta, A., Mendola, D., Wilson, B., & Cetorelli, V. (2021). Measuring vulnerability of asylum seekers and refugees in Italy. *Journal of Ethnic and Migration Studies*, 47(3), 596–615. <https://doi.org/10.1080/1369183X.2019.1610368>

In line with efforts to increase the number of foreign tourist visits to Indonesia, on the other hand there are also problems related to the visa-free visit policy, for example, there has been an increase in violations of residence permits from foreign nationals, an increase in illegal foreign workers who take advantage of the granting of visa-free visits, causing more and more narrow employment opportunities in Indonesia, as well as the opening of entry points for narcotics and terrorism networks into Indonesian territory. Regarding violations and misuse of visit stay permits carried out by recipients of visa-free visits, the government must take firm action because this can threaten state sovereignty. State sovereignty is defined as the highest power given to the state, where the state has the right to make any decisions related to the interests of the state. Therefore, it is necessary to think of ways to monitor the other side of the state security aspect¹⁴ regarding the presence of foreigners in Indonesia. This is intended to increase awareness of the visa-free policy that has been in force so far¹⁵.

Presidential Regulation Number 21 of 2016 does not regulate sanctions that can be imposed on recipients of visa-free visits who commit violations and abuse of visit stay permits, but these arrangements can be seen in Articles 78 and Article 122 of Law Number 6 of 2011 concerning Immigration, where for acts The government can drop witnesses in the form of administrative actions or criminal witnesses. In Article 78 paragraph (1) it is explained that, foreigners holding residence permits whose validity period has expired and are still in the territory of Indonesia less than 60 (sixty) days from the expiration date of the residence permit are subject to a fee according to the laws and regulations. Foreigners who do not want to pay the fees as stipulated in Article 78 paragraph (1) will be subject to sanctions in the form of deportation and detention. Article 78 paragraph (3) also explains that foreigners holding residence permits whose validity period has expired and are still in Indonesian territory for more than 60 (sixty) days from the deadline for residence permits, are subject to immigration administrative actions in the form of deportation and detention. Regarding the imposition of criminal sanctions, it is regulated in Article 122 letter (a) of Law Number 6 of 2011 which explains that, every foreigner who deliberately abuses or carries out activities that are not in accordance with the stay permit granted to him will be punished with a maximum imprisonment of 5 (five) years and a maximum fine of IDR 500,000,000 (five hundred million rupiah).

¹⁴ Blasius, J., & Thiessen, V. (2006). Assessing data quality and construct comparability in cross-national surveys. *European Sociological Review*, 22(3), 229–242. <https://doi.org/10.1093/esr/jci054>

¹⁵ Syahrin, M.Alvi. "Refleksi Hukum Implementasi Kebijakan Bebas Visa Kunjungan Dalam Perspektif Keimigrasian." *Fiat Justicia Vol.4 No.2*, Pusat Penelitian dan Pengabdian Masyarakat Politeknik Imigrasi.

4. Conclusion

Based on the discussion above, the following conclusions can be drawn: 1. Visa-free visit policy arrangements in order to increase the number of foreign tourists to Indonesia are regulated through Presidential Regulation Number 21 of 2016, and also regulated in Permenkumham RI Number 17 of 2016. Sanctions for visa-free recipients who commit violations and misuse visit stay permits, can be seen in Article 78 and Article 122 letter (a) of Law Number 6 of 2011.

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