



FOREIGN WORKER EMPLOYMENT IN INDONESIA: BALANCING INVESTMENT, KNOWLEDGE TRANSFER, AND LOCAL LABOR PROTECTION

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ABSTRACT

This study examines Indonesia's legal system for employing foreign workers, with a focus on how well it balances economic growth, protection of local workers, and national security. Using a normative juridical approach, it reviews main regulations such as the Immigration Law, the Manpower Law, and Government Regulation Number 34 of 2021. The research finds that the Foreign Worker Utilization Plan is an important tool, but its implementation is weak because of a lack of labor inspectors, poor coordination between institutions, and light sanctions. Although reforms like the Job Creation Law were introduced to make the process easier and attract investment, there are still conflicts between new and old rules, as well as limited public involvement. The study also shows that while foreign workers can support knowledge transfer, their long-term stay and work in low-skilled jobs often reduce opportunities for local workers. To solve these problems, the research suggests creating a stronger supervisory system that includes preventive, persuasive, and repressive measures, better coordination between institutions, and stricter penalties. These steps would help ensure that employing foreign workers benefits the economy while also protecting local workers and national interests.

1. Introduction

Labor market liberalization in Southeast Asia has been a complex and multifaceted process, largely shaped by the diverse labor regulations and policies of individual countries.¹ The region's varied regulatory frameworks present a significant challenge to achieving standardization, particularly in terms of establishing consistent work skill standards. This becomes especially evident as Southeast Asian governments revise and adapt their labor laws to manage the influx of foreign workers, reflecting both domestic economic priorities and international influences. Among these countries, Indonesia has undergone profound legal transformations in recent years, with the employment of foreign workers emerging as a focal point in reforms designed to balance economic growth with the protection of domestic labor markets.²

The International Labour Organization (ILO), as a central actor in shaping international labor standards, has long promoted a tripartite system that incorporates governments, employers, and workers in policymaking. Through this framework, the ILO fosters balanced and inclusive labor governance while encouraging member states to ratify binding international conventions (ILO, 2022).³ Indonesia stands out as a regional leader in this regard, having ratified all 17 core ILO conventions, signaling its strong formal commitment to labor rights and protections.⁴ Nonetheless, ratification alone does not guarantee smooth implementation, and the real challenge for Indonesia lies in reconciling international labor obligations with domestic economic needs and regulatory realities.

The legal framework for foreign worker employment in Indonesia is anchored in regulatory instruments intended to ensure that the presence of foreign workers strengthens national economic competitiveness without marginalizing local workers. Regulation of the Minister of Manpower Number 10 of 2018, for instance, requires companies seeking to hire foreign workers to first secure a Foreign Worker Utilization Plan (*Rencana Pemanfaatan Tenaga Kerja Asing/RPTKA*). This plan must be approved by the Ministry of Manpower and provides detailed justification for hiring foreign labor.⁵ The objective is to ensure that foreign employment is confined to specialized positions where local expertise is insufficient.⁶ This regulatory approach demonstrates Indonesia's attempt to strike a careful balance between opening its labor market and safeguarding domestic employment.

Yet, the growing reliance on foreign labor has intensified anxieties among Indonesian

¹ Budi SP Nababan., *Perlunya Perda tentang Retribusi Perpanjangan Izin Mempekerjakan Tenaga Kerja Asing di Tengah Liberalisasi Tenaga Kerja Masyarakat Ekonomi ASEAN 2015*, *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional*, Vol.3, no.2, 2014, page.299.

² Agusmidah., *Hukum Ketenagakerjaan Indonesia: Dinamika dan Kajian Teori*, Bogor, Ghalia Indonesia, 2010, page.26. See too, Stephen D. Cohen., *Multinational corporations and foreign direct investment: avoiding simplicity, embracing complexity*, Oxford, Oxford University Press, 2007, page.34.

³ International Labour Organization., *Pedoman Mengenai Prinsip Umum Pengawasan Ketenagakerjaan*, Geneva: ILO, 2022, page.421.

⁴ Lalu Adhi Adha, Lalu Husni, and Any Suryani., *Kebijakan Penggunaan Tenaga Kerja Asing Di Indonesia*, *Jatiswara*, Vol.31, no.1, 2016, page.168.

⁵ Ahmadi Miru., *Hukum Kontrak dan Perancangan Kontrak*, Jakarta, PT. Rajagrafindo Persada, 2008, page.56.

⁶ Imam Soepomo., *Pengantar Hukum Perburuhan*, Jakarta, Djambatan, 2001, page.34.

workers, especially within low- and mid-skilled categories.⁷ In response, the government has introduced several legal reforms, such as Government Regulation Number 34 of 2021, which superseded Presidential Regulation Number 72 of 2014. These reforms sought to streamline foreign worker employment processes to facilitate investment while simultaneously embedding protective measures for the domestic labor force. Complementing this was the landmark Job Creation Law, which simplified licensing procedures, underscoring the government's determination to improve Indonesia's business climate and attract foreign capital.⁸

Nevertheless, these reforms have generated friction with earlier legislation, most notably Law Number 13 of 2003 on Manpower. Critics argue that provisions bypassing RPTKA requirements in certain circumstances erode the very safeguards originally designed to protect local employment.⁹ Moreover, stakeholders including academics, businesses, and labor unions have voiced concerns about the limited transparency and absence of robust public participation in drafting the new regulations.¹⁰ These criticisms highlight a recurring dilemma: how to design labor laws that are simultaneously pro-investment, protective of domestic workers, and compliant with international labor standards.

The Job Creation Law, now revised as Law Number 6 of 2023, introduces sharper restrictions and clearer guidelines for the utilization of foreign workers. Key provisions confine foreign employment to high-skilled roles and managerial positions, subject to strict qualification requirements and limited tenure.¹¹ By narrowing the scope of permissible roles for foreign workers, the law aims to ensure that foreign expertise complements rather than substitutes local labor. This reform reflects Indonesia's determination to align its legal framework with both national development goals and international labor commitments.

Recent statistics underscore the urgency of effective regulation. By mid-2023, Indonesia recorded approximately 73,011 foreign workers, concentrated in the service and manufacturing sectors, with Chinese nationals constituting nearly half of this total.¹² The number of foreign workers in Indonesia has shown a significant upward trend, underscoring the urgency of strengthening regulations and oversight. According to data from the Statistics Indonesia (*Badan Pusat Statistik*/BPS) and the Ministry of Manpower, the number of foreign workers jumped from approximately 102,902 in 2021 to 168,048 in 2023, with the majority working in the service and industrial sectors particularly in the provinces of Central Sulawesi, Jakarta, and West

⁷ Ronny Soplantila., Jaminan Sosial Tenaga kerja Bagi Mahasiswa Magang Profesi Pada Perguruan Tinggi Implementasi dari Undang-Undang Ketenagakerjaan, *Sasi*, Vol.25, no.2, 2019, page.195.

⁸ Suhayati Monika., Presiden Dinilai Terburu-buru Teken Perpres TKA, *Suara Pembaruan*, Vol.1, no.9, 2018, page.5.

⁹ Aiga Fadillah, Rahmanta Ginting, and Irsad Lubis., Analisis Determinan Produktivitas Tenaga Kerja di Indonesia, *Jurnal Penelitian Pendidikan Sosial Humaniora*, Vol.5, no.2, 2020, page.145.

¹⁰ Agusmidah., *Dilematika Hukum Ketenagakerjaan: Tinjauan Politik Hukum*, Jakarta, Sofmedia, 2011, page.14.

¹¹Latif Adam., Membangun daya saing tenaga kerja Indonesia melalui peningkatan produktivitas, *Jurnal Kependudukan Indonesia*, Vol.11, no.2, 2016, page.74.

¹² Dekie GG. Kasenda., Penegakan Hukum Tenaga Kerja Asing dalam Konsep Omnibus Law, *Jurnal Ilmu Hukum Tambun Bungai*, Vol.5, no.1, 2020, page.669.

Java.¹³ In response to this data and criticisms regarding non-transparent recruitment practices and potential rights violations, the government issued several new policies: Minister of Manpower Regulation Number 4 of 2023 concerning Social Security for Indonesian Migrant Workers and Government Regulation Number 34 of 2021, which simplifies the foreign worker permit process, followed by Copyright/Employment reforms through the Job Creation Law to facilitate investment while imposing strict restrictions on foreign workers occupying managerial and high-skilled positions.¹⁴ These policies reflect the government's recognition not only of the need for skilled foreign workers to support strategic economic sectors but also of increased control over the socio-economic impacts on the local workforce. Their presence has significantly contributed to sectors requiring advanced skills, particularly technology and engineering, yet it has simultaneously raised fears of displacing domestic talent.¹⁵ This duality illustrates the central challenge: while foreign workers bring much-needed skills, inadequate supervision and weak regulatory enforcement risk undermining the objectives of labor protection and equitable growth.

Existing scholarship on foreign worker regulation in Indonesia has largely focused on the procedural aspects of the RPTKA and the broader implications of the Job Creation Law. However, relatively few studies address contradictions between new and existing regulations, the absence of participatory lawmaking processes, and the deficiencies in enforcement mechanisms.¹⁶ Existing studies on Indonesia's Job Creation Law (Law Number 11/2020, amended by Law Number 6/2023) have extensively examined its impacts on labor rights, investment promotion, and foreign worker regulations. Scholars often highlight a perceived bias toward business interests at the expense of worker protections. The law simplifies processes for employing foreign workers, particularly through the expanded use of the Foreign Worker Utilization Plan (*Rencana Pemanfaatan Tenaga Kerja Asing/RPTKA*), yet raises concerns about insufficient safeguards, potential exploitation, and limited knowledge transfer to local workers.¹⁷ Broader analyses emphasize its role in attracting Foreign Direct Investment and enhancing competitiveness, but point to enduring issues such as bureaucratic inefficiencies, legal ambiguities, and weakened

¹³ Expats Indonesia, Indonesia Welcomes Foreign Workers to Boost Key Sectors, *Expat Indonesia*, September 11, 2024. See too, Wayne Palmer., High Skills, Low Protection: The Legal Hurdles for Foreign Workers in Indonesia, *The Conversation*, June 10, 2024.

¹⁴ Arnidhya Nur., Indonesia Boosts Licensing Integrity for Foreign Workers, OSH Services, *Antara News*, January 28, 2025. See too, Kompas., Indonesia Issues Regulation to Improve Protection for Migrant Workers, *Kompas.com*, March 3, 2023; Expats Indonesia, Indonesia Welcomes Foreign Workers to Boost Key Sectors, *Expat Indonesia*, September 11, 2024.

¹⁵ Bernadetha Chelvi Yulastuti, and Heru Susetyo., Penerapan Peraturan Menteri Ketenagakerjaan Nomor 4 Tahun 2023 Terhadap Perlindungan Jaminan Sosial Pekerja Migran Indonesia, *UNES Law Review*, Vol.6, no.4, 2024, page.11172.

¹⁶ Muhammad Zainuddin, Saartje Sarah Alfons, and Ronny Soplantila., Implikasi Pengaturan Tenaga Kerja Asing Dalam Undang-Undang Nomor 6 Tahun 2023 Tentang Cipta Kerja Terhadap Eksistensi Tenaga Kerja Lokal, *Pattimura Law Study Review*, Vol.1, no.2, 2023, page.99.

¹⁷ Siti NurFitriana, and Iffatin Nur., Regulation of Foreign Workers Based on Job Creation Act of Masalahah Perspective, *Juris Jurnal Ilmiah Syariah*, Vol.20, no.2, 2021, page.180. See too, I. Made, Sarjana, Kadek Agus Sudiarawan, Laura Antoinette Medd, I. Putu Bimbisara Wimuna Raksita, and Bagus Hermanto., Omnibus Law Employment Cluster: Is It a Form of Labor Exploitation in the Indonesian Context?, *Uum Journal of Legal Studies*, Vol.14, no.1, 2023, page.73; Abdul Kadir Jaelani and Willy Naresta Hanum., The Restructuring Righteous Foreign Worker Regulations: The Challenge of Enormous Influx of Foreign Workers, *Jurnal Hukum Unissula*, Vol.40, no.1, 2024, page.92.

labor protections, including relaxed short-term contracts and eased foreign labor restrictions.¹⁸ Comparative studies note that Indonesia's regulatory environment is less agile than regional peers, such as Malaysia's sectoral investment policies or Singapore's streamlined digital permit systems.¹⁹ Research also explores intersections with migration, human capital, and sustainability, highlighting challenges in migrant worker oversight and compliance with international standards.²⁰ Despite these insights, gaps remain in systematically evaluating and reconstructing supervisory mechanisms for foreign workers. Most studies critique the law's normative orientation toward investors but overlook integrative approaches combining preventive, persuasive, and repressive oversight.²¹ Weak oversight not only undermines local employment opportunities but also exposes foreign workers to risks of exploitation and under-protection.²² This underscores the urgent need for legal reconstruction to strengthen supervisory institutions and enforcement tools, ensuring that regulatory frameworks achieve their intended protective and developmental purposes.

Against this backdrop, this study is designed to achieve three primary objectives. First, it examines the regulatory framework governing the employment of foreign workers in Indonesia under Law Number 6 of 2023 concerning Job Creation, analyzing how its provisions seek to balance foreign investment facilitation with domestic labor protection. Second, it provides a comparative analysis of Indonesia's

¹⁸ H. Gunawan, and Syahbudin., Legal Reconstruction of the Omnibus Law on Job Creation for Justice in Enhancing Investment and Indonesia's Competitiveness, *Jurnal Hukum Unissula*, Vol.41, no.2, 2025, page.265. See too, Muhammad Bagus Adi Wicaksono, and Enis Tristiana., Legal Politics of Law Number 11 of 2020 Concerning Job Creation in the Labor Legal Aspects, *Multidisciplinary Science Journal*, Vol.7, no.8, 2025, page.5406; Petra Mahy., Indonesia's Omnibus Law on Job Creation: Legal Hierarchy and Responses to Judicial Review in the Labour Cluster of Amendments, *Asian Journal of Comparative Law*, Vol.17, no.1, 2022, page.65; Anna Sanders, Josi Khatarina, Rifqi Assegaf, Tessa Toumbourou, Heni Kurniasih, and Reni Suwarso., The Omnibus Law on Job Creation and Its Potential Implications for Rural Youth and Future Farming in Indonesia, *Asia Pacific Viewpoint*, Vol.65, no.2, 2024, page.258.

¹⁹ Sudiwana Sudiwana, and Mohd Zamre Mohd Zahir., Comparison of Indonesian and Malaysian Investment Laws Following Omnibus Legislation, *Yustisia* Vol.14, no.1, 2025, page.15; See too, Abdul Kadir Jaelani and Willy Naresta Hanum., The Restructuring Righteous Foreign Worker Regulations: The Challenge of Enormous Influx of Foreign Workers, *Jurnal Hukum Unissula*, Vol.40, no.1, 2024, page.91; Richard C. Adam., Between Attraction and Evasion: Legal Factors Shaping FDI in Indonesia and Neighboring Countries, *Indonesia Law Review*, Vol.15, no.1, 2025, page.93.

²⁰ Endeh Suhartini., Indonesian Migrant Workers After Job Creation Law: A Challenging Problem for Protection Welfare, *Bestuur*, Vol.11, no.2, 2023, page.273. See too, Rahmatullah Ayu Hasmiati, Dea Justicia Ardha, Galih Priyambada, Arvin Gumilang, and Daniël Derei., Indonesian Immigration Law: Critics of Immigration's Law Enforcement Towards Illegal Expatriate Workers as The Impacts of Pro-Investment Policy, *Nuranj*, Vol.24, no.1, 2024, page.173; Gunawan Tjokro, Zaenuri Zaenuri, Heri Yanto, Fathur Rokhman, Abdul Rajagukguk, and Tajudeen Sanni., Reforming Legal Frameworks for Human Capital: Digital Strategies Driving Industry 5.0 and Sustainability, *Journal of Law and Legal Reform*, Vol.6, no.3, 2025, page.54.

²¹ Muhammad Eko Purwanto, and Efridani Lubis., Yudicial Review Omnibus Law Dalam Melindungi Pekerja Dan Mengembangkan Investasi Di Indonesia, *Veritas*, Vol.8, no.1, 2023, page.54. See too, Anjar Kususiyanah, Muhammad Chairul Huda, Joko Sriwidodo, and Ahmad Syukran Baharuddin., Trends and Landscape of Omnibus Law Research: A Bibliometric Analysis, *Volksgeist Jurnal Ilmu Hukum Dan Konstitusi*, Vol.7, no.2, 2024, page.225; Aurora Jillena Meliala, Adinda Putri Prakasa, and Jonathan Andre Woods., Narrating the Effective Law for Foreign Direct Investment, *Indonesian Journal of International Law*, Vol.21, no.5, 2024, page.15.

²² Narsif., *Hukum Diplomati Konsuler*, Padang, Universitas Andalas, 2007, page.23.

regulatory approach alongside that of Singapore and international labor conventions, thereby situating Indonesia within broader regional and global labor governance frameworks. Finally, the study proposes a reconstruction of supervision and control mechanisms for foreign worker employment, emphasizing stronger oversight, clearer institutional roles, and enhanced compliance tools.

2. Research Methods

This research adopts a normative juridical approach, focusing on the analysis of Indonesia's labor laws and regulations governing the employment of foreign workers. It examines the effectiveness of key legal instruments such as the Job Creation Law, Immigration Law, and Government Regulation Number 34 of 2021, with a particular focus on their practical implementation and impact on local workers. By reviewing legal texts, official documents, and case studies, this study seeks to assess the strengths and weaknesses of the current regulatory framework, identifying areas for reform to enhance the governance of foreign worker employment and promote sustainable development in Indonesia's labor market. Through this analysis, the research aims to contribute to the broader discourse on labor market liberalization and its implications for national sovereignty, economic growth, and social equity.

The data analysis in this research is carried out through a qualitative examination of primary and secondary legal sources, focusing on how Indonesia's labor and immigration laws regulate the employment of foreign workers. Primary data consist of statutory instruments such as the Job Creation Law, the Immigration Law, and Government Regulation Number 34 of 2021, while secondary data include official government documents, ministerial decrees, academic literature, and case studies that reflect the practical implementation of these regulations. The analysis process involves interpreting the consistency and coherence of legal provisions, assessing their alignment with the objectives of labor market protection, and evaluating their effectiveness in practice by considering enforcement mechanisms, supervisory capacity, and sanction systems. Case studies are used to illustrate specific instances where foreign worker regulations either succeed or fail in protecting domestic labor interests, providing contextual evidence to strengthen the normative juridical analysis. Through this approach, the research not only identifies strengths and weaknesses in the existing legal framework but also formulates recommendations for regulatory reform that support economic growth while safeguarding national labor sovereignty.

3. Results

3.1. Regulatory Framework of Foreign Worker Employment under Law No. 6/2023

The regulatory framework governing foreign worker employment in Indonesia under Law Number 6/2023, commonly referred to as the Job Creation Law, represents a significant shift in the nation's approach to balancing economic growth with labor market protection. This law, an amendment to Law Number 11/2020, aims to enhance Indonesia's competitiveness in attracting foreign direct investment by streamlining bureaucratic processes, particularly through the Foreign Worker

Utilization Plan (*Rencana Pemanfaatan Tenaga Kerja Asing/RPTKA*).²³ The Foreign Worker Utilization Plan, as mandated by Article 42 of the Job Creation Law, serves as a cornerstone for regulating foreign worker employment, requiring employers to secure approval from the Ministry of Manpower for hiring non-Indonesian workers.²⁴ This streamlined process eliminates the need for separate ministerial permissions, simplifying the employment of foreign workers for roles requiring specialized skills, which aligns with the broader objective of fostering economic globalization.²⁵ However, this simplification has raised concerns about weakened labor protections and the potential for increased competition with local workers, particularly in low- and mid-skilled sectors.²⁶

A key feature of the Job Creation Law is its emphasis on knowledge and technology transfer to bolster the capabilities of the domestic workforce. Articles 42 to 49 of the law, supported by Government Regulation Number 34 of 2021, mandate that employers appoint Indonesian companion workers to work alongside foreign workers, facilitating the transfer of expertise through structured training programs.²⁷ These companions are required to undergo education aligned with the qualifications of the foreign workers' positions, ensuring that local workers gain advanced skills.²⁸ Additionally, employers must ensure the repatriation of foreign workers upon contract termination, reinforcing the temporary nature of their employment.²⁹ This framework is designed to align with the constitutional guarantee of the right to work for Indonesian citizens, as enshrined in Article 28, paragraph (2) of the 1945 Constitution, which prioritizes local employment opportunities.³⁰ Moreover, the Decree of Minister of Manpower Number 228/2019 regulates foreign worker positions, promoting FDI while ensuring knowledge and technology transfer, with policies supervising entry to reduce dependence on foreign labor.

Despite these provisions, the implementation of the companion worker program has faced significant challenges. Research indicates that the knowledge transfer process is often ineffective, as many companies treat foreign workers as long-term

²³ Siti Nur Fitriana, and Iffatin Nur., Regulation of Foreign Workers Based on Job Creation Act of Masalah Perspective, *Juris Jurnal Ilmiah Syariah*, Vol.20, no.2, 2021, page.182.

²⁴ Muhammad Zainuddin, Saartje Sarah Alfons, and Ronny Soplantila., Implikasi Pengaturan Tenaga Kerja Asing Dalam Undang-Undang Nomor 6 Tahun 2023 Tentang Cipta Kerja Terhadap Eksistensi Tenaga Kerja Lokal, *Pattimura Law Study Review*, Vol.1, no.2, 2023, page.100.

²⁵ Kukuh Sudarmanto, Budi Suryanto, Muhammad Junaidi, and Bambang Sadono., Implikasi Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja Terhadap Pembentukan Produk Hukum Daerah, *Jurnal USM Law Review*, Vol.4, no.2, 2021, page.709.

²⁶ I. Made Sarjana, Kadek Agus Sudiarawan, Laura Antoinette Medd, I. Putu Bimbisara Wimuna Raksita, and Bagus Hermanto., Omnibus Law Employment Cluster: Is It a Form of Labor Exploitation in the Indonesian Context?, *Uum Journal of Legal Studies*, Vol.14, no.1, 2023, page.74

²⁷ Bernadetha Chelvi Yuliasuti and Heru Susetyo., Penerapan Peraturan Menteri Ketenagakerjaan Nomor 4 Tahun 2023 Terhadap Perlindungan Jaminan Sosial Pekerja Migran Indonesia, *UNES Law Review*, Vol.6, no.4, 2024, page.11173.

²⁸ Mashari Mashari and Sanusi Sanusi., Penggunaan tenaga kerja asing guna mendukung pembangunan nasional dibidang alih teknologi di Indonesia, *jurnal ilmiah hukum dan dinamika Masyarakat*, Vol.22, no.1, 2024, page.39.

²⁹ Firmansyah Firmansyah., Efektivitas Peraturan Pemerintah Nomor 34 Tahun 2021 Tentang Penggunaan Tenaga Kerja Asing (Studi Di Dinas Tenaga Kerja dan Transmigrasi NTB), (PhD diss., Universitas Muhammadiyah Mataram, 2023), page.34.

³⁰ Aulia Anastasya Putri Permana and Shafarina Intan Khomsah., Penafsiran restriktif atas Pasal 28 ayat (2) UU ITE, *Jurnal Yustika: Media Hukum Dan Keadilan*, Vol.24, no.01, 2021, page.29.

employees, repeatedly renewing their work permits and visas rather than adhering to the temporary employment model.³¹ This practice undermines the goal of equipping local workers with specialized skills, as foreign workers remain in positions longer than intended, delaying repatriation.³² The Job Creation Law's focus on simplifying licensing, such as removing the requirement for separate written permission from the Minister of Manpower and relying solely on an RPTKA valid for one year, has further exacerbated these issues by reducing oversight.³³ This relaxation has led to concerns about exploitation risks for foreign workers and marginalization of local workers, particularly in sectors like manufacturing and services, where approximately 157,000 foreign workers, both legal and illegal, are employed, often in low-skilled roles.³⁴

The Job Creation Law also introduces contradictions with existing regulations, such as the Manpower Law (Law Number 13/2003), creating legal ambiguities that complicate enforcement. For instance, while the Manpower Law mandates strict oversight of foreign worker employment through detailed the Foreign Worker Utilization Plan requirements, certain provisions in Law Number 6/2023, such as Article 10(1)(c) of Government Regulation Number 34/2021, allow exemptions from the Foreign Worker Utilization Plan for work deemed essential by the government.³⁵ This flexibility, while beneficial for attracting Foreign Direct Investment, weakens the regulatory framework's ability to protect local labor markets.³⁶ The Decree of the Minister of Manpower Number 349 of 2019 further restricts foreign workers from occupying personnel-related roles, such as human resources or recruitment positions, to preserve domestic workforce autonomy.³⁷ However, inconsistent enforcement and selective application of sanctions, such as fines or deportation for violations, have led to perceptions of unequal treatment, fostering resentment among local workers who believe foreign workers receive preferential treatment.³⁸

Government Regulation Number 34/2021 outlines specific employer responsibilities to mitigate these issues, including paying a compensation fund (*Dana Kompensasi Penggunaan Tenaga Kerja Asing*/DKP-TKA), providing insurance or BPJS

³¹ Firmansyah Firmansyah., Efektivitas Peraturan Pemerintah Nomor 34 Tahun 2021 Tentang Penggunaan Tenaga Kerja Asing (Studi Di Dinas Tenaga Kerja dan Transmigrasi NTB) (PhD diss., Universitas Muhammadiyah Mataram, 2023), page.35.

³² Khansa Salsabila., Implementasi Pembayaran Dana Kompensasi Penggunaan Tenaga Kerja Asing di Kabupaten Subang Berdasarkan Peraturan Pemerintah Nomor 34 Tahun 2021 Tentang Penggunaan Tenaga Kerja Asing (PhD diss., Universitas Islam Indonesia, 2023), page.24.

³³ Sombing Sihar., *Hukum Keimigrasian dalam Hukum Indonesia*, Bandung, Nuansa Aulia, 2013, page.45.

³⁴ Agusmidah., *Hukum Ketenagakerjaan Indonesia: Dinamika dan Kajian Teori*, Bogor, Ghalia Indonesia, 2010, page.27. See too, Dekie GG. Kasenda., Penegakan Hukum Tenaga Kerja Asing dalam Konsep Omnibus Law, *Jurnal Ilmu Hukum Tambun Bungai*, Vol.5, no.1, 2020, page.665.

³⁵ Muhammad Zainuddin, Saartje Sarah Alfons, and Ronny Soplantila., Implikasi Pengaturan Tenaga Kerja Asing Dalam Undang-Undang Nomor 6 Tahun 2023 Tentang Cipta Kerja Terhadap Eksistensi Tenaga Kerja Lokal, *Pattimura Law Study Review*, Vol.1, no.2, 2023, page.101.

³⁶ Narsif., *Hukum Diplomatik Konsuler*, Padang, Universitas Andalas, 2007, page.25.

³⁷ Fitriani N. Buluda., Analisis Perhitungan Upah Lembur Karyawan Tetap pada PT Migas Mandiri Pratama Samarinda Menurut Surat Keputusan Menteri Tenaga Kerja dan Transmigrasi No. Kep. 102/men/vi/2004, *Ekonomia*, Vol.7, no.3, 2018, page.242.

³⁸ Rizqi Amalia Azizah, Aurel Raissa, Delese Hasan Andika, Adhitara Refinaldi, and Dewi Atriani., Strategi penanaman modal di indonesia dan dampaknya terhadap pembangunan ekonomi nasional, *Jurnal Inovasi Global* Vol.2, no.5, 2024, page.583.

registration, and facilitating language training for foreign workers.³⁹ These measures aim to ensure that foreign workers contribute to national development without displacing local labor. However, the limited number of labor inspectors far below the International Labour Organization's recommended ratio of 1 inspector per 40,000 workers hampers effective supervision.⁴⁰ In Indonesia, inspectors oversee only about five companies per month, leading to gaps in monitoring compliance with the Foreign Worker Utilization Plan requirements and knowledge transfer obligations.⁴¹ This weak supervisory capacity is compounded by discrepancies in data reporting between the Ministry of Manpower and the Directorate General of Immigration, which further complicates enforcement efforts.⁴²

The Job Creation Law's approach to Fixed-Term Employment Agreements (*Perjanjian Kerja Waktu Tertentu*/PKWT) also shapes the regulatory landscape for foreign workers. Article 57 of the Manpower Law, retained under Law Number 6/2023, mandates that PKWTs be drafted in Indonesian, with bilingual agreements encouraged to reduce legal disputes, where the Indonesian version prevails.⁴³ PKWTs are limited to a maximum of five years, including extensions, and are applicable only to temporary or one-time roles.⁴⁴ This restriction aims to prevent indefinite employment of foreign workers, aligning with the goal of prioritizing local labor.⁴⁵ However, the relaxation of earlier requirements, such as those in Minister of Manpower Regulation Number 16/2015, which mandated local counterpart recruitment and Indonesian language proficiency, has stirred controversy. The subsequent Regulation Number 35/2015 removed these stipulations, weakening mechanisms designed to support technology transfer.⁴⁶

Moreover, the Job Creation Law and Government Regulation Number 34 of 2021 do not fully regulate all types of work permitted for foreign workers, with further details

³⁹ Lalu Muhammad Lukman Taufik, Zainal Asikin, and Djumardin Djumardin., Tanggungjawab perusahaan terhadap tenaga kerja asing berdasarkan Peraturan Pemerintah No. 34 Tahun 2021, *Jurnal Education and Development*, Vol.12, no.2, 2024, page.459.

⁴⁰ Wolfgang Von Richthofen., *Labour Inspection: A Guide to the Profession*, Geneva, International Labour Office, 2002, page.54.

⁴¹ Nova Nova, Evi Lorita, and Harius Eko Saputra., Analisis Pengawasan Ketenagakerjaan Di Dinas Ketenagakerjaan Dan Transmigrasi Provinsi Bengkulu, *Professional: Jurnal Komunikasi dan Administrasi Publik*, Vol.12, no.1, 2025, page.475.

⁴² E. Jazuli Rakhmat, Mohamad Fasyehhudin, Nurikah Nurikah, and Erna Rahma Balgis., Kewenangan Dinas Tenaga Kerja Kabupaten Tangerang Dalam Pembinaan Terhadap Pemberi Kerja Tenaga Kerja Asing Berdasarkan Peraturan Menteri Ketenagakerjaan Nomor 8 Tahun 2021 tentang Peraturan Pelaksanaan Peraturan Pemerintah Nomor 34 Tahun 2021 tentang Penggunaan Tenaga Kerja Asing, *JUSTITIA Jurnal Ilmu Hukum dan Humaniora*, Vol.9, no.5, 2022, page.2719.

⁴³ Christine Octavia, and Gunardi Lie., Tinjauan Yuridis Terhadap Pekerja PKWT yang Dipekerjakan Secara Terus-Menerus, *Jurnal Sosial Humaniora Sigli*, Vol.6, no.2, 2023, page.838.

⁴⁴ Rakhmat Nopliardy, and Ibelashri Justiceka., Kajian terhadap perlindungan hukum bagi pekerja kontrak waktu tertentu (PKWT) dalam Undang-Undang Cipta Kerja, *Jurnal Terapung: Ilmu-Ilmu Sosial*, Vol.4, no.2, 2022, page.15.

⁴⁵ Nisrina Qurrota A'yun., Pelaksanaan Perjanjian Kerja Pekerja Outsourcing Menurut Undang-undang Cipta Kerja (klaster Ketenagakerjaan) Peraturan Pemerintah Nomor 35 Tahun 2021 Pada Badan Usaha Jasa Pengamanan (BUJP) Bidang Satpam Pada PT. Garda Bersatu Nusantara Pekanbaru (PhD diss., Universitas Islam Riau, 2021), page.246.

⁴⁶ Rianti Viona Simanjuntak, and Wahyu Ario Pratomo., Factors affecting labor migration abroad in Indonesia, In *Talenta Conference Series: Local Wisdom, Social, and Arts (LWSA)*, 2025, page.282.

provided in ministerial decrees.⁴⁷ Article 11, paragraph (2) of the regulation mandates that personnel-related positions are governed by such decrees.⁴⁸ The Decree of the Minister of Manpower Number 349 of 2019 lists positions prohibited for foreign workers, including Head of Personnel, Industrial Relations Manager, Human Resources Manager, Development Supervisor, Recruitment Supervisor, Placement Supervisor, Administrator, Development Expert, Human Resources Specialist, Career Counselor, Manpower Counselor, Job Mentor and Advisor, Manpower Placement Agent, Employee Training Administration, Employee Interviewer, Job Analyst, and Employee Occupational Safety Organizer.⁴⁹

To maintain state sovereignty, Indonesia restricts foreign worker employment through the Minister of Manpower Decrees Number 49 and 228 of 2019, which specify permitted and prohibited positions. Article 2, paragraph (1) of Government Regulation Number 34 of 2021 requires employers to prioritize Indonesian workers for all available positions. These restrictions aim to balance the rights and obligations of citizens. However, challenges persist in the supervision of foreign workers, as highlighted in the regulatory framework, indicating gaps in enforcement and oversight that need addressing to ensure effective management of foreign labor in Indonesia.

The Job Creation Law and Government Regulation Number 35 of 2021 regulate Fixed-Term Employment Agreements (*Perjanjian Kerja Waktu Tertentu*/PKWT) based on time periods or completion of specific work, stipulating that such work should be completed within five years.⁵⁰ PKWT can be set for less than five years, with extensions permitted if the work remains incomplete, provided the total duration, including extensions, does not exceed five years.⁵¹ This applies to work that is one-time or temporary in nature. Foreign workers' involvement in Indonesia is limited to specific positions and durations as outlined in the Foreign Worker Utilization Plan (*Rencana Pemanfaatan Tenaga Kerja Asing*/RPTKA), with positions determined by the Minister of Manpower in consultation with relevant ministries. Foreign workers are explicitly barred from personnel management roles to preserve domestic workforce autonomy. Article 57 of the Manpower Law mandates that

⁴⁷ Moh Fatkhur Rozaq, and Noor Fatimah Mediawati., Analisis Keberlakuan Peraturan Pemerintah Turunan Undang-Undang Cipta Kerja Pasca Putusan Inkonstitusional Bersyarat, *Web of Scientist International Scientific Research Journal*, Vol.4, no.3, 2024, page.356.

⁴⁸ Ferawati Natalita and Wiwin Widianingsih., Efektivitas Arbitrase dalam Penyelesaian Sengketa Bisnis dan Implementasi Pasal 11 Ayat (2) UU No. 30 Tahun 1999, *Public Sphere: Jurnal Sosial Politik, Pemerintahan dan Hukum* Vol.3, no. 3 2024, page.64.

⁴⁹ Fitriani N. Buluda., Analisis Perhitungan Upah Lembur Karyawan Tetap pada PT Migas Mandiri Pratama Samarinda Menurut Surat Keputusan Menteri Tenaga Kerja dan Transmigrasi No. Kep. 102/men/vi/2004, *Ekonomia*, Vol.7, no.3, 2018, page.244.

⁵⁰ Rakhmat Nopliardy, and Ibelashri Justiceka., Kajian terhadap perlindungan hukum bagi pekerja kontrak waktu tertentu (PKWT) dalam Undang-Undang Cipta Kerja, *Jurnal Terapung: Ilmu-Ilmu Sosial*, Vol.4, no.2, 2022, page.16. See too, Muhammad Zainuddin, Saartje Sarah Alfons, and Ronny Soplantila., Implikasi Pengaturan Tenaga Kerja Asing Dalam Undang-Undang Nomor 6 Tahun 2023 Tentang Cipta Kerja Terhadap Eksistensi Tenaga Kerja Lokal, *Pattimura Law Study Review*, Vol.1, no.2, 2023, page.102.

⁵¹ Nisrina Qurrota A'yun., Pelaksanaan Perjanjian Kerja Pekerja Outsourcing Menurut Undang-undang Cipta Kerja (klaster Ketenagakerjaan) Peraturan Pemerintah Nomor 35 Tahun 2021 Pada Badan Usaha Jasa Pengamanan (BUJP) Bidang Satpam Pada PT. Garda Bersatu Nusantara Pekanbaru (PhD diss., Universitas Islam Riau, 2021), page.245.

PKWTs be drafted in Indonesian. In bilingual agreements, the Indonesian version prevails in case of discrepancies.⁵² Companies employing foreign workers are encouraged to use bilingual agreements, incorporating the foreign worker's native language alongside Indonesian, to minimize legal conflicts and ensure clarity and compliance.

The rationale for employing foreign workers under this framework is to address skill shortages and promote technology transfer, as evidenced by the 12.0% increase in investment realization in Q4 2019, reaching IDR 208.3 trillion, driven by projects like the Southeast Sulawesi smelter, where Chinese workers played a transitional role.⁵³ However, the significant presence of foreign workers, particularly from China (comprising nearly one-third of the 74,183 foreign workers in 2016), has raised concerns about their impact on local job opportunities, especially in low-skilled sectors.⁵⁴ The Job Creation Law's provisions aim to balance these dynamics by fostering FDI while mandating protections like the companion worker program, yet the lack of robust enforcement mechanisms undermines these efforts.⁵⁵

3.2. Comparative Analysis: Indonesia and International Labor Standards

Indonesia's foreign worker regulations under Law Number 6/2023, the Job Creation Law, aim to balance economic growth through Foreign Direct Investment (FDI) with the protection of domestic labor markets, as grounded in Article 28, paragraph (2) of the 1945 Constitution, which guarantees the right to work and fair treatment.⁵⁶ However, when compared to regional peers like Singapore and Malaysia, and international frameworks such as International Labour Organization (ILO) conventions, Indonesia's system reveals significant gaps in agility, coordination, and compliance with global labor standards. This comparative analysis highlights the strengths and weaknesses of Indonesia's framework, drawing on best practices to propose reforms for enhanced fairness, transparency, and accountability in foreign worker management. The Job Creation Law, through Articles 42 to 49 and Government Regulation Number 34 of 2021, regulates foreign worker employment via the Foreign Worker Utilization Plan (*Rencana Pemanfaatan Tenaga Kerja Asing/RPTKA*), requiring Ministry of Manpower approval.⁵⁷ This streamlines hiring by

⁵² Christine Octavia, and Gunardi Lie., Tinjauan Yuridis Terhadap Pekerja PKWT yang Dipekerjakan Secara Terus-Menerus, *Jurnal Sosial Humaniora Sigli*, Vol.6, no.2, 2023, page.839. See too, Tony Mirwanto., Sistem Hukum Pengawasan Tenaga Kerja Asing terhadap Penyalahgunaan Izin Tinggal Kunjungan untuk Bekerja pada Perusahaan Penanaman Modal Asing di Indonesia, *Lex et Societatis*, Vol.4, no.3, 2016, page.56.

⁵³ Abdul Kadir Jaelani and Willy Naresta Hanum., The Restructuring Righteous Foreign Worker Regulations: The Challenge of Enormous Influx of Foreign Workers, *Jurnal Hukum Unissula*, Vol.40, no.1, 2024, page.90.

⁵⁴ Rianti Viona Simanjuntak, and Wahyu Ario Pratomo., Factors affecting labor migration abroad in Indonesia, In *Talenta Conference Series: Local Wisdom, Social, and Arts (LWSA)*, 2025, page.283.

⁵⁵ Zetria Erma, and Anto Tulim Yuanita., Jabatan yang dapat diduduki oleh tenaga kerja asing dalam perspektif keputusan menteri ketenagakerjaan nomor 228 tahun 2019, in *prosiding seminar nasional hasil penelitian*, 2020, page.129.

⁵⁶ Aulia Anastasya Putri Permana, and Shafarina Intan Khomsah., Penafsiran restriktif atas Pasal 28 ayat (2) UU ITE, *Jurnal Yustika: Media Hukum Dan Keadilan*, Vol.24, no.01, 2021, page.31.

⁵⁷ Muhammad Zainuddin, Saartje Sarah Alfons, and Ronny Soplantila., Implikasi Pengaturan Tenaga Kerja Asing Dalam Undang-Undang Nomor 6 Tahun 2023 Tentang Cipta Kerja Terhadap Eksistensi Tenaga Kerja Lokal, *Pattimura Law Study Review*, Vol.1, no.2, 2023, page.104.

eliminating separate ministerial permissions, aiming to attract Foreign Direct Investment, as evidenced by a 12.0% investment increase in Q4 2019.⁵⁸ The law mandates companion worker programs to facilitate knowledge transfer, requiring employers to pair Indonesian workers with foreign counterparts for training aligned with job qualifications.⁵⁹ Employers must also ensure repatriation upon contract termination, reinforcing temporary employment.⁶⁰ However, implementation challenges persist, with companies often extending foreign workers' permits, undermining knowledge transfer goals.⁶¹ Weak supervision, with labor inspectors overseeing only five companies monthly against the ILO's recommended 1:40,000 ratio, further limits enforcement.⁶²

As the regional best practice, Singapore's foreign worker regulations, governed by the Employment of Foreign Manpower Act, exemplify a highly efficient and transparent system that starkly contrasts with Indonesia's framework under Law Number 6/2023. Singapore's digitalized Work Pass system, mandated under Section 7, leverages advanced technology to streamline permit processing, enabling rapid approvals and real-time compliance monitoring.⁶³ This digital infrastructure ensures transparency by providing employers and authorities with accessible data, reducing bureaucratic delays and enhancing accountability. Section 5 of the Act strictly prohibits unauthorized employment, with rigorous enforcement mechanisms, including fines and deportation, ensuring compliance across sectors. Singapore's centralized approach establishes clear qualification criteria for foreign workers, prioritizing high-skill roles in industries like technology and finance, which aligns with its economic strategy to maintain global competitiveness.

In contrast, Indonesia's Foreign Worker Utilization Plan (*Rencana Pemanfaatan Tenaga Kerja Asing/RPTKA*) system, while designed to simplify hiring under the Job Creation Law, suffers from bureaucratic inefficiencies and fragmented coordination between the Ministry of Manpower and the Directorate General of Immigration.⁶⁴ This leads to data discrepancies and delays in permit processing, undermining the system's effectiveness. For instance, the RPTKA's one-year validity period requires

⁵⁸ Sudiwana Sudiwana, and Mohd Zamre Mohd Zahir., Comparison of Indonesian and Malaysian Investment Laws Following Omnibus Legislation, *Yustisia* Vol.14, no.1, 2025, page.19.

⁵⁹ Bernadetha Chelvi Yuliasuti, and Heru Susetyo., Penerapan Peraturan Menteri Ketenagakerjaan Nomor 4 Tahun 2023 Terhadap Perlindungan Jaminan Sosial Pekerja Migran Indonesia, *UNES Law Review*, Vol.6, no.4, 2024, page.11174.

⁶⁰ Firmansyah Firmansyah., Efektivitas Peraturan Pemerintah Nomor 34 Tahun 2021 Tentang Penggunaan Tenaga Kerja Asing (Studi Di Dinas Tenaga Kerja dan Transmigrasi NTB), (PhD diss., Universitas Muhammadiyah Mataram, 2023), page.36.

⁶¹ Khansa Salsabila., Implementasi Pembayaran Dana Kompensasi Penggunaan Tenaga Kerja Asing di Kabupaten Subang Berdasarkan Peraturan Pemerintah Nomor 34 Tahun 2021 Tentang Penggunaan Tenaga Kerja Asing (PhD diss., Universitas Islam Indonesia, 2023), page.26.

⁶² Wolfgang Von Richthofen., *Labour Inspection: A Guide to the Profession*, Geneva, International Labour Office, 2002, page.55.

⁶³ Abdul Kadir Jaelani and Willy Naresta Hanum., The Restructuring Righteous Foreign Worker Regulations: The Challenge of Enormous Influx of Foreign Workers, *Jurnal Hukum Unissula*, Vol.40, no.1, 2024, page.94.

⁶⁴ E. Jazuli Rakhmat, Mohamad Fasyehhudin, Nurikah Nurikah, and Erna Rahma Balgis., Kewenangan Dinas Tenaga Kerja Kabupaten Tangerang Dalam Pembinaan Terhadap Pemberi Kerja Tenaga Kerja Asing Berdasarkan Peraturan Menteri Ketenagakerjaan Nomor 8 Tahun 2021 tentang Peraturan Pelaksanaan Peraturan Pemerintah Nomor 34 Tahun 2021 tentang Penggunaan Tenaga Kerja Asing, *JUSTITIA Jurnal Ilmu Hukum dan Humaniora*, Vol.9, no.5, 2022, page.2719.

frequent renewals, creating administrative burdens for employers and opportunities for non-compliance.⁶⁵ Singapore's success in managing foreign labor, particularly in high-skill sectors, stems from its streamlined, technology-driven processes, which Indonesia could emulate to improve efficiency. Adopting a digital platform for RPTKA submissions and real-time tracking, as suggested by Jaelani and Hanum,⁶⁶ could reduce delays and enhance oversight, ensuring that foreign workers contribute to Indonesia's economic goals without compromising regulatory integrity.

Furthermore, Malaysia's approach to foreign worker regulation, as outlined by Sudiwana and Zahir,⁶⁷ offers a structured model that contrasts with Indonesia's centralized but less coordinated system. Malaysia's sectoral investment strategy mandates supervisory entities for each business sector, ensuring precise oversight of foreign labor distribution. Foreign workers must register as employees of Malaysian businesses, aligning their roles with sectoral needs, such as manufacturing or agriculture, which minimizes competition with local workers in low-skill sectors. This structured allocation is particularly effective in reducing the marginalization of domestic labor, a persistent issue in Indonesia, where approximately 157,000 foreign workers, including illegal ones, occupy low-skill roles, exacerbating local unemployment concerns.⁶⁸

Indonesia's RPTKA system, while centralized under the Ministry of Manpower, lacks the granular oversight provided by Malaysia's sectoral approach. The Decree of the Minister of Manpower Number 349 of 2019 restricts foreign workers from personnel-related roles to preserve domestic workforce autonomy, but limited inspection capacity hampers enforcement.⁶⁹ Malaysia's proactive monitoring, with dedicated sectoral supervisors, ensures compliance and reduces unauthorized employment, a challenge in Indonesia where weak supervision allows violations to persist.⁷⁰ By adopting Malaysia's model of sector-specific oversight, Indonesia could better align foreign worker employment with labor market needs, ensuring that roles filled by foreign workers complement rather than compete with local talent. This would

⁶⁵ Muhammad Zainuddin, Saartje Sarah Alfons, and Ronny Soplantila., Implikasi Pengaturan Tenaga Kerja Asing Dalam Undang-Undang Nomor 6 Tahun 2023 Tentang Cipta Kerja Terhadap Eksistensi Tenaga Kerja Lokal, *Pattimura Law Study Review*, Vol.1, no.2, 2023, page.105.

⁶⁶ Abdul Kadir Jaelani and Willy Naresta Hanum., The Restructuring Righteous Foreign Worker Regulations: The Challenge of Enormous Influx of Foreign Workers, *Jurnal Hukum Unissula*, Vol.40, no.1, 2024, page.95.

⁶⁷ Sudiwana Sudiwana, and Mohd Zamre Mohd Zahir., Comparison of Indonesian and Malaysian Investment Laws Following Omnibus Legislation, *Yustisia* Vol.14, no.1, 2025, page.16. See too, Oliavera, W. Oliavera, & P. Dwijayanthi., Kebijakan Second Home Visa bagi Investor pada Aktivitas Penanaman Modal di Indonesia, *Kertha Semaya Journal Ilmu Hukum*, Vol.2, no.4, 2023, page.30.

⁶⁸ Agusmidah., *Hukum Ketenagakerjaan Indonesia: Dinamika dan Kajian Teori*, Bogor: Ghalia Indonesia, 2010, page.28. See too, Dekie GG. Kasenda., Penegakan Hukum Tenaga Kerja Asing dalam Konsep Omnibus Law, *Jurnal Ilmu Hukum Tambun Bungai*, Vol.5, no.1, 2020, page.664

⁶⁹ Fitriani N. Buluda., Analisis Perhitungan Upah Lembur Karyawan Tetap pada PT Migas Mandiri Pratama Samarinda Menurut Surat Keputusan Menteri Tenaga Kerja dan Transmigrasi No. Kep. 102/men/vi/2004, *Ekonomia*, Vol.7, no.3, 2018, page.246.

⁷⁰ Nova Nova, Evi Lorita, and Harius Eko Saputra., Analisis Pengawasan Ketenagakerjaan Di Dinas Ketenagakerjaan Dan Transmigrasi Provinsi Bengkulu, *Professional: Jurnal Komunikasi dan Administrasi Publik*, Vol.12, no.1, 2025, page.479.

address concerns raised by Sudiyana and Zahir⁷¹ about Indonesia's less agile regulatory environment compared to regional peers.

Indonesia's alignment with International Labour Organization (ILO) conventions, particularly Number 81 and Number 129 on labor inspection, remains inadequate, exposing gaps in worker safety and contractual protections. These conventions advocate for centralized inspection systems, educational guidance, and proportionate enforcement to ensure safe and equitable working conditions.⁷² Indonesia's labor inspection framework, governed by Article 176 of the Manpower Law, mandates competent inspectors to verify RPTKA compliance and knowledge transfer through companion worker programs.⁷³ However, the severe shortage of inspectors far below the ILO's recommended 1:40,000 worker-to-inspector ratio limits oversight to approximately five companies per month per inspector, resulting in superficial administrative checks rather than comprehensive evaluations.⁷⁴

In contrast, Singapore's adherence to ILO standards is evident in its robust supervision mechanisms, including biometric data collection and on-site monitoring, which ensure compliance with labor regulations.⁷⁵ Indonesia's failure to meet ILO benchmarks exacerbates vulnerabilities for foreign workers, who face inconsistent contractual protections and workplace safety issues, as noted by The Conversation.⁷⁶ Strengthening Indonesia's inspection capacity by increasing the number of trained inspectors and adopting standardized procedures, as recommended by ILO Convention Number 81, would enhance enforcement and align with international best practices. This could involve implementing digital tools for tracking compliance, similar to Singapore's approach, to ensure that foreign workers' roles align with approved RPTKAs and contribute to knowledge transfer.⁷⁷

While Indonesia's regulations aim to protect local labor through companion worker programs and repatriation mandates, they fall short in ensuring equitable treatment for foreign workers. The Job Creation Law's relaxation of requirements, such as the removal of Indonesian language proficiency and local counterpart mandates under Regulation Number 35/2015, weakens knowledge transfer mechanisms, leaving high-skilled foreign workers vulnerable to exploitation due to inconsistent enforcement.⁷⁸ Japan's Labor Standards Act, by contrast, provides robust legal

⁷¹ Sudiyana Sudiyana, and Mohd Zamre Mohd Zahir., Comparison of Indonesian and Malaysian Investment Laws Following Omnibus Legislation, *Yustisia* Vol.14, no.1, 2025, page.18.

⁷² International Labour Organization., *Pengawasan Ketenagakerjaan: Apa dan Bagaimana Panduan untuk Pengusaha*, Geneva, ILO, 2020, page.342.

⁷³ Abdul HajarAnwar., Perlindungan Konstitusional Bagi Pekerja Indonesia Menurut Hukum Ketenagakerjaan pada Era Masyarakat Ekonomi Asean (MEA), *Ensiklopedia Social Review*, Vol.3, no.1, 2021, page.6.

⁷⁴ Wolfgang Von Richthofen., *Labour Inspection: A Guide to the Profession*, Geneva, International Labour Office, 2002, page.56.

⁷⁵ Abdul Kadir Jaelani and Willy Naresta Hanum., The Restructuring Righteous Foreign Worker Regulations: The Challenge of Enormous Influx of Foreign Workers, *Jurnal Hukum Unissula*, Vol.40, no.1, 2024, page.97.

⁷⁶ Wayne Palmer., High Skills, Low Protection: The Legal Hurdles for Foreign Workers in Indonesia, *The Conversation*, June 10, 2024.

⁷⁷ International Labour Organization., *Pengawasan Ketenagakerjaan: Apa dan Bagaimana Panduan untuk Pengusaha*, Geneva, ILO, 2020, page.343.

⁷⁸ Rianti Viona Simanjuntak, and Wahyu Ario Pratomo., Factors affecting labor migration abroad in Indonesia, In *Talenta Conference Series: Local Wisdom, Social, and Arts (LWSA)*, 2025, page.282.

protections, including dispute resolution services, ensuring fair treatment for foreign workers.⁷⁹ Indonesia's selective enforcement, often limited to minimal sanctions like fines or deportation, fosters perceptions of unequal treatment, fueling resentment among local workers who view foreign workers as receiving preferential treatment.⁸⁰

Moreover, Vietnam's labor framework, integrating the Labor Code (Law Number 10/2012) with the Investment Law (Number 67/2014), provides a model for Indonesia to harmonize labor and investment policies. Vietnam's clear definitions of worker roles and employer obligations ensure alignment with economic goals while protecting labor rights.⁸¹ Singapore's digital supervision and Malaysia's sectoral oversight offer practical solutions to address Indonesia's bureaucratic delays and coordination gaps.⁸² The European Union's AI Act, as highlighted by Tjokro et al.⁸³ provides a structured approach to digital workforce governance, which Indonesia could adapt to modernize RPTKA processes, enhancing transparency and efficiency. ILO conventions emphasize multi-agency coordination and community-level oversight, as seen in Singapore's integrated systems, which Indonesia's Foreigners Supervision Team struggles to replicate due to weak inter-agency collaboration.⁸⁴

The lack of effective oversight, compounded by data discrepancies between immigration and labor authorities, further undermines protections for both foreign and local workers.⁸⁵ Reinstating requirements for language proficiency and local counterpart training, as suggested by Simanjuntak and Pratomo,⁸⁶ could strengthen knowledge transfer and ensure fair treatment, aligning Indonesia's framework with Japan's model of comprehensive worker protections. The findings are supported by studies emphasizing the law's goal of promoting foreign direct investment (FDI) while revealing significant gaps in alignment with international labor standards. The Job Creation Law's streamlined RPTKA process facilitates foreign worker hiring,

See too, Wayne Palmer., High Skills, Low Protection: The Legal Hurdles for Foreign Workers in Indonesia, *The Conversation*, June 10, 2024.

⁷⁹ Hardijan Rusli., *Hukum Ketenagakerjaan Berdasarkan UU No. 13/2003 tentang Ketenagakerjaan dan Peraturan Terkait Lainnya*, Bogor, Ghalia Indonesia, 2011, page.25.

⁸⁰ Rizqi Amalia Azizah, Aurel Raissa, Delese Hasan Andika, Adhitara Refinaldi, and Dewi Atriani., Strategi penanaman modal di indonesia dan dampaknya terhadap pembangunan ekonomi nasional, *Jurnal Inovasi Global* Vol.2, no.5, 2024, page.585.

⁸¹ Richard C. Adam., Between Attraction and Evasion: Legal Factors Shaping FDI in Indonesia and Neighboring Countries, *Indonesia Law Review*, Vol.15, no.1, 2025, page.95.

⁸² Sudiwana Sudiwana, and Mohd Zamre Mohd Zahir., Comparison of Indonesian and Malaysian Investment Laws Following Omnibus Legislation, *Yustisia* Vol.14, no.1, 2025, page.19.

⁸³ Gunawan Tjokro, Zaenuri Zaenuri, Heri Yanto, Fathur Rokhman, Abdul Rajaguguk, and Tajudeen Sanni., Reforming Legal Frameworks for Human Capital: Digital Strategies Driving Industry 5.0 and Sustainability, *Journal of Law and Legal Reform*, Vol.6, no.3, 2025, page.58.

⁸⁴ Abdul Kadir Jaelani and Willy Naresta Hanum., The Restructuring Righteous Foreign Worker Regulations: The Challenge of Enormous Influx of Foreign Workers, *Jurnal Hukum Unissula*, Vol.40, no.1, 2024, page.98.

⁸⁵ E. Jazuli Rakhmat, Mohamad Fasyehudin, Nurikah Nurikah, and Erna Rahma Balgis., Kewenangan Dinas Tenaga Kerja Kabupaten Tangerang Dalam Pembinaan Terhadap Pemberi Kerja Tenaga Kerja Asing Berdasarkan Peraturan Menteri Ketenagakerjaan Nomor 8 Tahun 2021 tentang Peraturan Pelaksanaan Peraturan Pemerintah Nomor 34 Tahun 2021 tentang Penggunaan Tenaga Kerja Asing, *JUSTITIA Jurnal Ilmu Hukum dan Humaniora*, Vol.9, no.5, 2022, page.2720.

⁸⁶ Rianti Viona Simanjuntak, and Wahyu Ario Pratomo., Factors affecting labor migration abroad in Indonesia, In *Talenta Conference Series: Local Wisdom, Social, and Arts (LWSA)*, 2025, page.284.

contributing to a reported 12.0% increase in FDI realization in Q4 2019.⁸⁷ However, the law's centralized approach lacks the efficiency and transparency of Singapore's digitalized Work Pass system, which enables rapid permit processing and real-time compliance monitoring.⁸⁸ Singapore's strict enforcement under the Employment of Foreign Manpower Act contrasts sharply with Indonesia's fragmented institutional coordination, which results in data discrepancies and weak oversight.⁸⁹

Malaysia provides another relevant comparison. Its sectoral oversight model assigns supervisory entities to specific industries, ensuring structured labor allocation and reducing competition between local and foreign workers. By contrast, Indonesia faces challenges in managing approximately 157,000 foreign workers, including undocumented ones, who often compete with locals in low-skilled sectors.⁹⁰ Indonesia's limited adherence to ILO Conventions Number 81 and Number 129, compounded by a severe shortage of labor inspectors, further restricts the enforcement of worker protections, unlike Singapore, which relies on robust biometric monitoring and integrated digital systems.⁹¹ Moreover, the relaxation of regulatory requirements, such as removing mandates for local counterparts in training programs, undermines knowledge transfer and heightens vulnerabilities for foreign workers, while also fueling local resentment.⁹² To address these gaps, Indonesia could strengthen its framework by adopting Singapore's digital tools for transparent permit management and Malaysia's sectoral supervision approach to better coordinate labor allocation. Such reforms would help align domestic regulations with ILO standards, enhance oversight, and balance investment promotion with equitable labor protections, ensuring sustainable economic growth and workforce fairness.⁹³

⁸⁷ Arnidhya Nur., Indonesia Boosts Licensing Integrity for Foreign Workers, OSH Services, *Antara News*, January 28, 2025. See too, Kompas., Indonesia Issues Regulation to Improve Protection for Migrant Workers, *Kompas.com*, March 3, 2023; Richard C. Adam., Between Attraction and Evasion: Legal Factors Shaping FDI in Indonesia and Neighboring Countries, *Indonesia Law Review*, Vol.15, no.1, 2025, page.94.

⁸⁸ Abdul Kadir Jaelani and Willy Naresta Hanum., The Restructuring Righteous Foreign Worker Regulations: The Challenge of Enormous Influx of Foreign Workers, *Jurnal Hukum Unissula*, Vol.40, no.1, 2024, page.99.

⁸⁹ Rahmatullah Ayu Hasmia, Dea Justicia Ardha, Galih Priyambada, Arvin Gumilang, and Daniël Derei., Indonesian Immigration Law: Critics of Immigration's Law Enforcement Towards Illegal Expatriate Workers as The Impacts of Pro-Investment Policy, *Nurani*, Vol.24, no.1, 2024, page.175.

⁹⁰ Sudiyana Sudiyana, and Mohd Zamre Mohd Zahir., Comparison of Indonesian and Malaysian Investment Laws Following Omnibus Legislation, *Yustisia* Vol.14, no.1, 2025, page.20; See too, Anna Sanders, Josi Khatarina, Rifqi Assegaf, Tessa Toumbourou, Heni Kurniasih, and Reni Suwarso., The Omnibus Law on Job Creation and Its Potential Implications for Rural Youth and Future Farming in Indonesia, *Asia Pacific Viewpoint*, Vol.65, no.2, 2024, page.259.

⁹¹ Wayne Palmer., High Skills, Low Protection: The Legal Hurdles for Foreign Workers in Indonesia, *The Conversation*, June 10, 2024.

⁹² Anjar Kususiyanah, Muhammad Chairul Huda, Joko Sriwidodo, and Ahmad Syukran Baharuddin., Trends and Landscape of Omnibus Law Research: A Bibliometric Analysis, *Volksgeist Jurnal Ilmu Hukum Dan Konstitusi*, Vol.7, no.2, 2024, page.227.

⁹³ Hendra Gunawan and Syahbudin Syahbudin., Legal Reconstruction of the Omnibus Law on Job Creation for Justice in Enhancing Investment and Indonesia's Competitiveness, *Jurnal Hukum Unissula*, Vol.41, no.2, 2025, page.267.

3.3. Proposed Reconstruction of Supervisory Mechanisms

According to the Investment Coordinating Board (*Badan Koordinasi Penanaman Modal*/BKPM), Chinese Foreign Direct Investment (FDI) in Indonesia has grown substantially, ranking third overall. This growth has been accompanied by regulatory challenges, as many Chinese workers, despite holding valid residence permits, were found working without corresponding work permits. In response, the House of Representatives (*Dewan Perwakilan Rakyat*/DPR) urged the government to reassess Regulation Number 35/2015 and reinstate requirements for skill transfer and language proficiency, in accordance with Article 45(1) of the Manpower Law, which mandates pairing each foreign worker with an Indonesian counterpart.⁹⁴ In 2016, foreign workers totaled 74,183, with Chinese nationals comprising nearly one-third. The BKPM emphasizes their role in supporting investment and infrastructure development. Legally and philosophically, employing foreign workers is justified to attract investment, promote exports, facilitate technology and skill transfer, and create employment opportunities for Indonesians. Indonesia's immigration approach balances welfare, admitting foreigners who benefit national development, and security, restricting entry to those posing risks to public safety.⁹⁵ Employment is regulated through licensing, procedural compliance, and periodic oversight to ensure foreign labor complements local workers.⁹⁶ Supervision operates on three levels: preventive-educational, persuasive non-judiciary, and repressive judicial interventions, conducted periodically, incidentally, or in response to complaints.⁹⁷ Violations are punishable under Article 122 of the Immigration Law, reflecting the dual role of immigration regulation in safeguarding sovereignty while promoting socio-economic development.⁹⁸

Table 1 shows that oversight of the use of foreign workers in Indonesia still faces a number of regulatory issues, ranging from the requirement for employment agreements to be in Indonesian, the effectiveness of mentoring local workers, the signing of employment contracts, and gaps in settlement rights. Furthermore, there are weaknesses in the oversight aspect due to the limited number of supervisors, suboptimal knowledge transfer, and the lack of integrated protection for migrant workers. Therefore, a more ideal policy reconstruction is needed through bilingual employment agreements, strengthening the RPTKA (Regional Employment Agreement), clarifying the time limits for PKWT (Fixed Term Work Agreements), special incentives for local workers, establishing special supervisors for foreign

⁹⁴ Rianti Viona Simanjuntak, and Wahyu Ario Pratomo., Factors affecting labor migration abroad in Indonesia, In *Talenta Conference Series: Local Wisdom, Social, and Arts (LWSA)*, 2025, page.285. See too, Admin PPSDMK., Mekanisme Pengendalian dan Pengawasan Penggunaan TKA oleh Pengawas Ketenagakerjaan, *Kementerian Ketenagakerjaan Republik Indonesia*, January 9, 2017.

⁹⁵ Ukun Wahyudin., *Deportasi sebagai Instrumen Penegakan Hukum dan Kedaulatan Negara di Bidang Keimigrasian*, Jakarta, PT. Adi Kencana Aji, 2004, page.54.

⁹⁶ Agusmidah., *Hukum Ketenagakerjaan Indonesia: Dinamika dan Kajian Teori*, Bogor, Ghalia Indonesia, 2010, page.30.

⁹⁷ Amalia Isti Widiyadari, Ikhlusul A'mal, Nabila Fatma Putri Yunardi, and Fitri Kartiasih., Analisis Variabel ketenagakerjaan terhadap produktivitas pekerja Indonesia tahun 2022, In *Seminar Nasional Official Statistics*, Vol.4, no.1, 2023, page.120.

⁹⁸ Lou Bouinan Sonia Youbo., *La lex societatis en droit international des affaires* (PhD diss., Université de Bordeaux, 2015), page.45.

workers, adjusting the supervisory ratio to ILO standards, optimizing knowledge transfer, and establishing migrant worker protection institutions at the provincial level.

Table 1. Government Policy in Supervising the Use of Foreign Workers

No.	Regulatory Problem	Ideal Reconstruction
1	Fixed-Term Employment Agreements (<i>Perjanjian Kerja Waktu Tertentu</i> /PKWT) must only be in Indonesian (Manpower Law, Art. 57).	Agreements should be bilingual, with the Indonesian version prevailing, to prevent legal conflicts.
2	Obligation to appoint local workers as companions for foreign workers is not fully effective (Government Regulation 34/2021).	Strengthen RPTKA with clear provisions on purpose, positions, and duration of foreign worker employment.
3	PKWT limited to a maximum of 5 years (Law Number 6/2023 and Government Regulation. 35/2021).	Clarify that initial PKWT and its extensions may not exceed 5 years and must apply only to temporary jobs.
4	Unequal compensation rights between local workers and foreign workers (Government Regulation 35/2021).	Compensation money granted exclusively to local workers, in line with the principle of national labor protection.
5	Weak supervision of foreign workers (Law Number 6/2023 and Government Regulation 34/2021).	Establish special foreign worker supervisors in accordance with ILO Convention No. 81 for more effective oversight.
6	Shortage of labor inspectors compared to the number of companies (ILO Convention Number 81).	Adjust inspector ratios to ILO standards (1 inspector: 40,000 workers) and strengthen local supervisory capacity.
7	Knowledge transfer from foreign workers not yet optimal (Government Regulation 34/2021, Art. 27).	Strengthen material and formal provisions to ensure local worker mentoring effectively supports technology transfer.
8	Migrant worker protection not yet integrated (Art. 27(2) of the 1945 Constitution).	Establish provincial-level migrant worker protection agencies for regulation, supervision, and guidance.

Indonesia's immigration policy is guided by two main principles: prosperity and security. The prosperity principle allows entry only to foreigners who contribute positively to the welfare of the nation, while the security principle ensures that foreign nationals do not threaten public order or national safety. Together, these principles reflect a selective immigration approach designed to prevent economic harm and mitigate security risks, including criminal activities by foreigners. To enforce these principles, Indonesia implements comprehensive immigration supervision from entry points throughout a foreigner's stay. Supervision ensures compliance with national laws and safeguards sovereignty, aligning actions with policy goals efficiently.⁹⁹ Legally, Article 66(2) of the Immigration Law mandates oversight of both citizens' travel documents and foreign nationals' movements. Administrative supervision (Articles 67–68, Law Number 6/2011) covers document verification, fingerprinting, and data processing, while operational supervision (Articles 69–74) includes surveillance, interviews, tracking, and intelligence activities.¹⁰⁰ The Directorate General of Immigration leads these efforts, though challenges persist, such as inconsistent procedures and weak inter-agency coordination within the Immigration Oversight Team (*Tim Pengawasan Orang*

⁹⁹ Sondang P. Siagian. *Filsafat Administrasi*. Jakarta, Gunung Agung, 1980, page.34.

¹⁰⁰ Imam Bahri., Pengawasan Keimigrasian Terhadap Orang Asing Dalam Rangka Pendeportasian Ditinjau Dari Undang-Undang Nomor 6 Tahun 2011 Tentang Keimigrasian (Studi Di Kantor Imigrasi Kelas I Polonia Medan), *USU Law Journal*, Vol.1, no.1, 2013, page.1489.

Asing/Tim PORA). Effective supervision also depends on personnel matching foreign national numbers. Public accountability is strengthened through internal audits, external reviews, and community-level oversight via neighborhood committees and Citizens Association (*Rukun Tetangga*/RT and *Rukun Warga*/RW), as guided by Regulation of the Minister of Law and Human Rights Number 50/2016, ensuring transparency and adherence to legal and policy standards.

Foreign nationals in Indonesia are closely monitored to prevent visa misuse, illegal employment, and actions that could threaten national interests. Coordination between the Ministry of Law and Human Rights and the Immigration Oversight Team ensures that foreign workers contribute genuinely, especially in sectors lacking sufficient local expertise. From a labor law perspective, Indonesia prioritizes workforce protection by regulating foreign employment through selection, licensing, and ongoing supervision.¹⁰¹ Under Article 68 of the Immigration Law, supervision spans visa application to residence, incorporating activity monitoring, biometric data collection, and enforcement actions. Preventive measures include company outreach, technical guidance, and education, while enforcement covers inspections and legal action for violations. Serious immigration breaches are subject to criminal sanctions under Article 122, reflecting concerns over sovereignty, welfare, and international obligations. Supervision also supports national development, law enforcement, intelligence operations, and human rights protection, particularly for refugees. Effective enforcement requires inter-agency collaboration among the Ministries of Law and Human Rights, Foreign Affairs, and Manpower, the National Police, BNN, BNP2TKI, and regional governments. Foreign workers, defined as visa-holding non-citizens providing goods or services, must be employed by approved institutions and comply with requirements under Ministerial Regulation No. 10/2018, including securing an RPTKA, contributing to a compensation fund, providing insurance or BPJS, assigning local companion workers, and offering language training.¹⁰² Labor inspectors oversee compliance through coordinated national inspections to ensure responsible foreign labor utilization aligned with national interests.

In terms of legal substance, Article 10(1)(c) of Government Regulation Number 34 of 2021 permits employers to forgo obtaining a Foreign Worker Utilization Plan (RPTKA) for work deemed essential by the government. Additionally, foreign workers in production-related roles are regulated under Law Number 6 of 2023 on Job Creation, highlighting the importance of effective supervision to prevent illegal employment and unauthorized operations. Indonesia's immigration policy follows two main approaches: the prosperity approach, which allows entry to individuals contributing positively to national welfare, and the security approach, which restricts

¹⁰¹ Agusmidah., *Hukum Ketenagakerjaan Indonesia: Dinamika dan Kajian Teori*, Bogor, Ghalia Indonesia, 2010, page.31. See too, Suprianto Suprianto, Syaparuddin Syaparuddin, and Siti Hodijah., Pengaruh penanaman modal asing dan penanaman modal dalam negeri terhadap pertumbuhan ekonomi dan pengangguran di Indonesia, *E-Jurnal Perspektif Ekonomi Dan Pembangunan Daerah*, Vol.4, no.1, 2015, page.45.

¹⁰² Lalu Muhammad Lukman Taufik, Zainal Asikin, and Djumardin Djumardin., Tanggungjawab perusahaan terhadap tenaga kerja asing berdasarkan Peraturan Pemerintah No. 34 Tahun 2021, *Jurnal Education and Development*, Vol.12, no.2, 2024, page.459.

entry to those posing potential threats to public order or state security.¹⁰³ Supervision of foreign workers (*Tenaga Kerja Asing/TKA*) employs a tiered mechanism: preventive-educational measures (dissemination, technical guidance, and company coaching), non-judiciary persuasive supervision (proactive or responsive examinations), and pro-judiciary repressive supervision (investigation and enforcement).¹⁰⁴ This aligns with the selective immigration principle, aiming to safeguard economic stability, public order, and national security.¹⁰⁵ Government Regulation Number 34/2021 also sets limits on foreign labor roles and durations, considering domestic labor market needs. However, inspection capacity remains limited, with each labor inspector overseeing roughly five companies monthly, far below the ideal 1:40,000 ratio suggested for developing countries.¹⁰⁶ Consistent with ILO Conventions Number 81 and Number 129, labor inspections in Indonesia serve not only to enforce laws but also to guide employers, promote safe work environments, and ensure decent labor conditions, making inspection a fundamental aspect of national labor governance.¹⁰⁷

The rationale for employing foreign workers in Indonesia is primarily to address skill shortages and facilitate technology and knowledge transfer, supporting national development objectives.¹⁰⁸ Despite this, employment law prioritizes securing decent job opportunities for Indonesian citizens, making strict regulatory oversight essential. Effective foreign labor management requires rigorous selection, licensing, and supervision mechanisms.¹⁰⁹ While the Job Creation Law and Government Regulation Number 34 of 2021 aim to accommodate high-skilled foreign workers, weak supervision remains a persistent challenge. Misaligned job placements, prolonged work permits, and ambiguities in RPTKA procedures can marginalize local workers and lead to legal violations, undermining equitable labor conditions. The legal definition of foreign workers, established under Presidential Regulation Number 72 of 2014 and Ministerial Regulation Number 16 of 2015, identifies them as non-Indonesian citizens capable of working within or outside formal employment to produce goods or services.¹¹⁰ Ministerial Regulation Number 35 of 2015 revised these

¹⁰³ Ukun Wahyudin., *Deportasi sebagai Instrumen Penegakan Hukum dan Kedaulatan Negara di Bidang Keimigrasian*, Jakarta, PT. Adi Kencana Aji, 2004, page.56.

¹⁰⁴ Amalia Isti Widiyarsari, Ikhlusul A'mal, Nabila Fatma Putri Yunardi, and Fitri Kartiasih., Analisis Variabel ketenagakerjaan terhadap produktivitas pekerja Indonesia tahun 2022, In *Seminar Nasional Official Statistics*, Vol.4, no.1, 2023, page.121.

¹⁰⁵ Ryan David Sinaulan., Masalah Ketenagakerjaan Di Indonesia, *Ideas: Jurnal Pendidikan, Sosial, dan Budaya*, Vol.5, no.1, 2019, page.59.

¹⁰⁶ Wolfgang Von Richthofen., *Labour Inspection: A Guide to the Profession*, Geneva, International Labour Office, 2002, page.56.

¹⁰⁷ Nova Nova, Evi Lorita, and Harius Eko Saputra., Analisis Pengawasan Ketenagakerjaan Di Dinas Ketenagakerjaan Dan Transmigrasi Provinsi Bengkulu, *Professional: Jurnal Komunikasi dan Administrasi Publik*, Vol.12, no.1, 2025, page.480. See too, International Labour Organization., *Pengawasan Ketenagakerjaan: Apa dan Bagaimana Panduan untuk Pengusaha*, Geneva, ILO, 2020, page.344.

¹⁰⁸ Laurensius Arliman., Perkembangan Dan Dinamika Hukum Ketenagakerjaan di Indonesi, *Jurnal Selat* Vol.5, no.1, 2017, page.79.

¹⁰⁹ Agusmidah., *Hukum Ketenagakerjaan Indonesia: Dinamika dan Kajian Teori*, Bogor: Ghalia Indonesia, 2010, page.28.

¹¹⁰ Roshida Qurota Aini Islamiah, Piers Andreas Noak, and I. Ketut Winaya., Efektivitas Pengawasan Dinas Sosial dan Tenaga Kerja Terhadap Penggunaan Tenaga Kerja Asing Berdasarkan Peraturan

provisions, removing previous requirements for foreign workers to recruit local counterparts and demonstrate Indonesian language proficiency, measures originally intended to support technology transfer.¹¹¹ Supervision is conducted by the Directorate General of Immigration and the Foreigners Supervision Team at national and regional levels, overseeing compliance, law enforcement, and economic facilitation. Rising foreign investment and ASEAN Economic Community integration, alongside visa-free entry policies, have led to a notable increase in foreign workers, particularly from China, whose numbers grew 15% between 2016 and 2017.

In this context, Indonesia's employment law, particularly regarding foreign workers, is structured to balance national economic interests with the protection of local labor markets. These regulations aim to ensure that employing foreign nationals supports national goals, including investment, technology transfer, and skills development, while preventing exploitation or unfair competition for jobs intended for Indonesian citizens.¹¹² Article 176 of the Manpower Law mandates that labor inspections be conducted by competent and independent inspectors to verify compliance with legal norms. Inspections focus on administrative compliance, verifying that foreign workers' roles and locations align with their work permits (*Izin Kerja Tenaga Kerja Asing/IMTA*), and evaluating the effectiveness of skills and technology transfer to Indonesian employees. Inspectors record findings in detailed reports, including signatures from workers, company representatives, and Indonesian trainees. When violations occur, corrective action notices are issued, with repeated non-compliance potentially leading to immigration enforcement or legal action by inspectors as Civil Servant Investigators (*Penyidik Pegawai Negeri Sipil/PPNS*). The legal framework for foreign worker employment, primarily outlined in Articles 42–49 of the Manpower Law, requires employers to obtain authorization, prepare detailed employment plans, and designate Indonesian employees for training and knowledge transfer.¹¹³ Employers are also obligated to repatriate foreign workers after contract completion. Despite these provisions, enforcement gaps remain, with many companies failing to comply fully, leaving both foreign and local workers at risk and highlighting the need for stronger supervisory mechanisms.

Supervision of foreign workers in Indonesia involves multiple mechanisms, including routine and periodic inspections, document reviews, and compliance checks to ensure adherence to employment conditions. This oversight is particularly critical in sectors such as wood and furniture manufacturing, where foreign investment has increased foreign worker employment, sometimes in violation of regulations. Some foreign nationals enter Indonesia on visitor visas and subsequently work without proper authorization, undermining local labor protections and generating public resentment, especially in areas where Indonesian workers could fill these

Menteri Ketenagakerjaan Nomor 16 Tahun 2015 di Kabupaten Badung, *Citizen Charter*, Vol.1, no.1, 2015, page.165.

¹¹¹ Rianti Viona Simanjuntak, and Wahyu Ario Pratomo., Factors affecting labor migration abroad in Indonesia, In *Talenta Conference Series: Local Wisdom, Social, and Arts (LWSA)*, 2025, page.286.

¹¹² I. G. N. P. Widiatedja, Gusti Ngurah Parikesit, Ni Gusti Ayu Dyah Satyawati, and Mohammad Qadam Shah., Can the Job Creation Law Solve the Lack of Public Participation in Indonesia's Spatial Planning?, *Lentera Hukum*, Vol.9, no.2, 2022, page.246.

¹¹³ Abdul Hajar Anwar., Perlindungan Konstitusional Bagi Pekerja Indonesia Menurut Hukum Ketenagakerjaan pada Era Masyarakat Ekonomi Asean (MEA), *Ensiklopedia Social Review*, Vol.3, no.1, 2021, page.8.

positions.¹¹⁴ To address these challenges, the government enacted policies such as Government Regulation Number 34 of 2021, which establishes a comprehensive legal and administrative framework for foreign worker employment.¹¹⁵ Nevertheless, persistent difficulties remain, including discrepancies between immigration data managed by the Ministry of Law and Human Rights and work permit records held by the Ministry of Manpower. Such inconsistencies hinder effective management and monitoring of foreign labor. The primary rationale for employing foreign workers is to support investment, facilitate technology transfer, and create long-term job opportunities for Indonesians. Effective supervision requires inter-agency coordination, a strong legal framework, and robust enforcement. While the legal system is well-established, gaps in practical implementation allow unauthorized foreign labor to persist. Legal and regulatory improvements are therefore necessary to strengthen governance, protect local workers, and ensure that foreign labor contributes positively to Indonesia's economic and developmental goals.

4. Conclusion

This study demonstrates that the legal framework and regulatory mechanisms governing foreign workers in Indonesia aim to balance national economic interests, knowledge and technology transfer, and the protection of domestic labor markets. The analysis confirms that while the Job Creation Law (Law Number 6/2023) and Government Regulation Number 34 of 2021 provide a comprehensive statutory basis for foreign worker employment, their practical implementation is hindered by weak monitoring, fragmented inter-agency coordination, and insufficient supervisory capacity. Discrepancies in reporting between the Ministry of Manpower and the Directorate General of Immigration, alongside the persistence of unauthorized foreign workers, particularly in low-skilled sectors, reveal systemic gaps that compromise the law's intent to safeguard Indonesian employment opportunities. From a legal-philosophical perspective, the employment of foreign workers is justified to address skill shortages, attract investment, and facilitate knowledge and technology transfer. However, the study finds that existing mechanisms, such as the companion worker program and Fixed-Term Employment Agreements, are inadequately enforced, limiting their effectiveness in achieving these objectives. Comparative analysis with Singapore and Malaysia highlights that Indonesia's centralized and partially digitalized system lags behind regional best practices in transparency, efficiency, and sector-specific oversight, while compliance with ILO Conventions 81 and 129 remains suboptimal. To strengthen governance, the study recommends enhancing inter-agency coordination, increasing the number of trained labor inspectors to meet international standards, and developing integrated digital monitoring systems for the Foreign Worker Utilization Plan. Reinforcing preventive, persuasive, and repressive supervisory measures, alongside reinstating

¹¹⁴ Nova Nova, Evi Lorita, and Harius Eko Saputra., Analisis Pengawasan Ketenagakerjaan Di Dinas Ketenagakerjaan Dan Transmigrasi Provinsi Bengkulu, *Professional: Jurnal Komunikasi dan Administrasi Publik*, Vol.12, no.1, 2025, page.476.

¹¹⁵ E. Jazuli Rakhmat, Mohamad Fasyehudin, Nurikah Nurikah, and Erna Rahma Balgis., Kewenangan Dinas Tenaga Kerja Kabupaten Tangerang Dalam Pembinaan Terhadap Pemberi Kerja Tenaga Kerja Asing Berdasarkan Peraturan Menteri Ketenagakerjaan Nomor 8 Tahun 2021 tentang Peraturan Pelaksanaan Peraturan Pemerintah Nomor 34 Tahun 2021 tentang Penggunaan Tenaga Kerja Asing, *JUSTITIA Jurnal Ilmu Hukum dan Humaniora*, Vol.9, no.5, 2022, page.2719.

requirements for language proficiency and local counterpart mentoring, is crucial to ensure knowledge transfer and equitable treatment of workers.

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