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## Polemic of Illegal Foreign Workers in Indonesia

**<sup>1</sup>Adelin Yovita Egia, <sup>2</sup>Asrul Anggara Siregar, <sup>3</sup>Muhammad Riyando Frezy**<sup>1,2,3</sup> Politeknik Imigrasi, IndonesiaEmail: [adelingts26@gmail.com](mailto:adelingts26@gmail.com)**Abstract**

Every human being has fundamental rights in the form of a decent living, one of which can be obtained by getting a decent job; for a job that is deemed worthy, everyone must try in various ways that are legal and legal, following applicable laws and norms. Problems regarding employment are not only felt domestically, but many countries in the world are experiencing employment problems in the form of uneven employment opportunities resulting in new situations, namely, to overcome this with advanced technology, as well as information that migrates both to find work and start a life. A new one which is more worthy than the last place. This causes many migrant workers to spread worldwide, both Indonesian citizens who become foreign workers in other countries and foreigners who become foreign workers in Indonesia. The phenomenon of the current workforce has become the attention of the Indonesian people; this is caused by foreign workers entering Indonesia; it can be said that the entry of foreign workers causes social jealousy of the community. Apart from the existence of social jealousy in society, the phenomenon of foreign workers also raises another problem, namely the security of the state, which is felt to be the possibility of foreign workers. There are many factors and influences on the number of illegal foreign workers in Indonesia.

**Keywords:** *Legal Foreign, Workers, Indonesia***A. Introduction**

Today, with the development of technology and information, there are positive impacts, one of which is the many ways humans can get a job, especially being a migrant worker, where migrant workers move from one area to another to work for a temporary or according to the period. Work. Migrant workers can be carried out both nationally and internationally (Hanifah, 2019). To become a migrant worker is not easy, the many requirements that prospective workers must meet are the cause, the difficulty of being a migrant worker is because every country in the world has its own policy towards foreigners who will enter their country, this is a form of state protection against security (Liu Farrer, & Tran A.H. 2019).

The phenomenon of foreign workers in Indonesia is not a new thing. The increase in foreign workers is currently a hot topic of discussion in the community; in addition to causing social jealousy in the community, national security is also questioned. Especially with the entry of illegal foreign workers in Indonesia, the many requirements and regulations that foreigners must meet to become foreign workers in Indonesia make them look for loopholes by becoming illegal alien workers. This raises many questions regarding state security, especially the implementation of the Act and



the Regulations related to Employment and Foreigners being enforced (Achmad, 2021; Zia, et al. 2021).

Immigration, even though it does not have the authority related to employment, but when it comes to foreigners, there is a share of Immigration as explained in Law No. 6 of 2011 concerning Immigration, one of the subjects of Immigration is foreigners. Immigration itself in its implementation has a role in issuing visas to work where it continues to coordinate with the Ministry of Manpower in the form of several requirements that must be met by prospective foreign workers, such as the Draft Use of Foreign Workers (RPTKA) and Permits to Use Foreign Workers (IMTA).

However, in practice, there are still many illegal foreign workers in Indonesia; this can be caused by a lack of supervision and law enforcement in the process of using foreign workers. In many cases encountered in the field, illegal foreign workers use a Visit Visa-Free (BVK), which is intended for tourist visits but is misused for work by illegal alien workers (Boamong, 2021).

Although it is felt that it can help Indonesia in building workforce, which is carried out in the context of developing a more advanced Indonesian society and comprehensive development for the Indonesian economy, supervision of foreign workers also needs to be tightened, and law enforcement against them must be carried out as well as possible. This is intended to maintain the security and sovereignty of the state so that all Indonesian people can feel the positive impact of the presence of foreign workers (Suryanto, & Nurdin 2020).

## **B. Research Method**

This paper is a literature study on the polemic of illegal workers in Indonesia. Descriptive analysis with a qualitative approach is what this analytical method means. This type of research is named after the fact that it emphasizes (focuses) on trying to explain the situation as it is, with the aim of producing descriptive data in the form of written or spoken words of people or observable behavior intended for research purposes. exploration and classification of a phenomenon or social reality. A qualitative approach is a research method that produces descriptive data from individuals and observable actions in the form of written or spoken words (Moleong, 2021).

## **C. Discussion**

### **1. Overview of Foreign Workers**

There is a shift in the economic structure, which initially depended on the agricultural sector but has now become the industrial sector. This gives rise to market dualism regarding labor in the world, namely primary labor, and secondary struggle, where the direct workforce itself is characterized by the work being carried out, which is considered stable, workers get high wages, and a comfortable work atmosphere for workers, by workers in the industrial sector. While secondary workers are characterized by erratic work, the wages earned by workers are meager, and the work atmosphere is less pleasant and full of risks; this is usually felt by someone who works as a farmer (Parry, 2020).

Furthermore, the existence of a free economy and economic cooperation carried out by many countries in the world are considered as the factors causing a large number of foreign workers in various countries around the globe. One example of the development of a free economy at this time is the Asean Economic Community which is an economic integration program in the Southeast Asian Region, the Asean Economic Community (AEC) itself was implemented in 2015 and had four pillars, namely, AEC based on market and single production, the realization of a competitive economic area, the completion of a fair economic development area between countries and the culmination of a globally integrated economic space (Lynch, 2018).

**Figure 1.**



Sumber: Quora.com

However, in the implementation of the ASEAN economic community, there are still many Indonesian workers who cannot compete with foreign workers from other Southeast Asian regions. This can be seen from the data on the workforce ratio to Diploma or Bachelor education levels. From 2007-2012, Indonesia was positioned below other ASEAN countries such as Thailand, Singapore, and Malaysia. While in Indonesia itself, it was recorded that in 2015 the education level of the workforce was 32,49,539 people (26,5%) who were elementary school graduates, while the crew with a total of 10,210,481 people (8,3%) were Bachelors and 3,337,985 people (2,75). % who are Diploma graduates. The data can be used to reference how prepared Indonesia is in facing the ASEAN Economic Community, especially in labor issues (Halim, 2018).

This is one factor in the large number of foreign workers entering Indonesia, besides being influenced by various technological and communication developments between countries and the lack of competitiveness of Indonesian workers in the international sphere. Therefore, the government makes a policy regarding foreign workers to transfer knowledge to native Indonesian workers. Aimed at community development in the national and international scope. The Indonesian government prioritizes several criteria for foreign workers, including:

- a) Educated according to the requirements of the position to be occupied
- b) Have a minimum of 5 years of work experience as the position to be settled and certified competency
- c) Mandatory to transfer their expertise to assistant staff, namely Indonesian Workers, by reporting on the implementation of education and training that has been carried out

However, the three points above do not apply to the positions of members of the Board of Directors, members of the Board of Commissioners or members of the Trustees, members of the Management, members of the Supervisory Board. As we

know that foreign workers in Indonesia are only allowed to occupy certain positions, this is intended to build the competence of Indonesian workers who are not yet qualified in specific fields (Sani, 2021).

In addition to building the competence of Indonesian workers, several benefits are expected with the presence of foreign workers in Indonesia, including:

1) Improve cooperative relations with friendly countries

As we know, many countries cooperate by forming alliances regarding security and the economy. Foreign workers are also a form of good cooperation between Indonesia and friendly countries; it cannot be denied that the entry of a foreign national also affects the relationship between a country and the state of the foreign national, but does not rule out aspects of human rights.

2) Acceleration of the national development process

National development itself is defined in a broad scope, both in terms of competence and quality of society, the wheels of the community's economy are evenly distributed through the expansion of jobs, especially the creative economy at this time as well as investment from abroad for domestic development, as well as public facilities and infrastructure. As we know, during the administration of President Joko Widodo, many targeted national strategic projects; this was related to the presence of foreign workers who came to Indonesia to work on national strategic projects.

3) Expanding Job Opportunities in Indonesia

The presence of foreign workers in Indonesia is expected to accelerate the transfer of knowledge, especially in specific fields where Indonesia still does not have professionals in that field. This can have a good impact on meeting the needs of a qualified workforce by Indonesian workers in the future, which will expand employment opportunities in Indonesia.

4) Attract investors to Indonesia

With the presence of foreign workers who are intended to work on infrastructure development projects that will drive the economy, it can increase the attractiveness of investors, especially investors from abroad.

Using foreign workers in Indonesia is not easy; it aims to maintain state security and protect Indonesian citizens. In addition to being the authority of the Ministry of Manpower and Transmigration, the presence of foreign workers is also the authority of Immigration where immigration law regulates the subject of "everyone" both Indonesian citizens and foreign nationals, so that Immigration also has a role in the process of using foreign workers and other activities. Foreign workers in Indonesia, of course, from the point of view of Immigration (Sinaga, 2018).

The process of using foreign workers in Indonesia can be described as follows:

- a) The employer makes an application for the Plan for the Use of Foreign Workers (RPTKA) to the Ministry of Manpower and Transmigration.
- b) Furthermore, an assessment is made of whether the workforce is included in the category of needed foreign workers; if appropriate, the employer can provide an application process (Beck, & Lendhardt 2019).
- c) Employers submit data regarding foreign workers who then make DKPTKA payments.

- d) The RPTKA is ratified by the Ministry of Manpower and Transmigration, which then submits data on foreign workers to Immigration.
- e) Immigration as the party authorized to issue visas and residence permits for foreign workers, which of course uses visas and residence permits for work (Sommaribas, & Sheridan 2020).
- f) Foreigners who will work in Indonesia can enter Indonesia if they meet the requirements and applicable regulations.

In the process of using foreign workers, some indicators become a reference regarding the feasibility of a foreign worker to be employed in Indonesia. First, by taking into account the principle of Benefit where a foreign worker can bring benefits to Indonesia according to the needs of the Indonesian people themselves. in this case, the benefits brought by foreign workers are foreigners who bring in capital for economic development and foreigners who bring specific skills and abilities (transfer of knowledge). Second, the principle of security is also considered in the scope of state security; it must be noted that prospective foreign workers come through a legal process that follows the provisions, and with the arrival of these foreign workers it does not endanger the state or disturb order in society, apart from these two things, the safety of workers Foreigners are also things that need to be considered while in Indonesia about human rights (Soeryabrata, 2020).

## 2. Illegal Foreign Workers

Based on data from the Ministry of Manpower and Transmigration, there is a decrease in the number of foreign workers due to the imposition of a moratorium on granting new permits regarding the use of foreign workers during the pandemic, but this does not apply to foreign workers in national strategic projects and national strategic vital objects. Previously, Indonesia's number of foreign workers reached the highest peak in 2019, especially in the infrastructure sector. The data on the number of foreign workers in Indonesia is presented in the following table:

Table 1.

No	Year	Amount
1.	2018	95.335
2.	2019	109.546
3.	2020	93.761
4.	2021	92.056

Source: Ministry of Manpower and Transmigration

Based on the available data, even though there has been a decline in the entry of foreign workers into Indonesia for three years, especially during the Covid-19 pandemic, implementation in the field still finds many illegal foreign workers in Indonesia. This could be due to several factors, including:

- 1) Regulations that have the potential to cause violations by foreign workers

Since the ratification of the Presidential Regulation regarding Visa-Free Visits has invited a lot of polemics in the community, this is considered to make Indonesia an easy country for anyone to enter, even though the purpose of this visa-free visit is to increase the country's foreign exchange through Indonesian tourism, but this is not commensurate with security. Threatened country. One of the cases of misuse of this Visit Visa-Free is that many foreigners are found using a visa-free visit which is then used to work in Indonesia; of course, this is a loophole from the existing regulations wherein the use of Free Visit Visa, foreigners who enter cannot be monitored well

because the person concerned does not need to make a visa both abroad and domestically, besides that foreigner who uses visa-free visits are considered difficult to reach for supervision by Immigration officers, this results in a lot of abuse of visa-free visits, especially by illegal workers.

2) Employers who commit fraud

The employer who has responsibility for the foreign worker, either as a user of foreign workers or as a guarantor about Immigration provisions. Many employers do not carry out the recruitment process properly as stipulated, usually by bringing in foreigners with Visit Visas who are then employed with minimal wages. These workers do not have health or social security insurance which is one of the requirements. In the use of labor, this is related to human right (De Stefano, & Aloisi 2019). In addition, from the Immigration point of view, it is explained that someone who gives orders or opportunities to foreigners to abuse their residence permit in the form of carrying out activities that are not appropriate as they should be, which is given to the person concerned, can be subject to a maximum imprisonment of 5 years and a maximum fine of IDR. .500,000,000 (five hundred million rupiah).

3) Lack of government supervision of foreign workers

Supervision in the field of Immigration is something that must be carried out in technical implementing units throughout Indonesia; this is done to monitor foreigners, especially foreign workers, in using the residence permit given to them. Supervision is carried out periodically or incidentally if there are suspicions or reports from the public regarding the presence of foreigners working in Indonesia. However, immigration control carried out by officers is constrained by the number of qualified human resources in carrying out supervision so that there is a gap between officers who carry out supervision and companies that employ foreigners. The lack of full implementation of immigration control has resulted in many foreigners in Indonesia not being adequately monitored, especially foreigners who use visas to visit, especially the use of visa-free visits whose use cannot be directly observed by officers, which then many of these foreigners do menial jobs. This can impact the social life of the community and can disrupt order in the community (Lasry, et al 2020).

The three factors described above are related to each other, where the existing regulations need to be adjusted to the conditions in the field, especially regarding state security and the Benefit of the Indonesian people themselves, besides that the implementation of law enforcement is not yet firm, this can be seen from the number of citizens—foreigners who are subject to Immigration Administrative Actions and Immigration Criminal Actions related to working illegally in Indonesia. In addition to related foreign workers, supervision of law enforcement must also be carried out on employers who commit fraud by not carrying out recruitment procedures and carrying out activities of foreign workers; most of the cases of illegal labor in Indonesia, only foreigners are subject to legal action while the employer can still be told that the legal action given is less firm and does not provide a deterrent effect (Davis, 2019; Nulhaqim & Sulastri, 2019).

With the presence of foreign workers, it has an unfavorable impact on society, especially in the social field. The effects caused by illegal foreign workers include:

1) Social Jealousy Occurs in Society

The presence of foreign workers in Indonesia can cause social jealousy in the community, especially with the company of illegal foreign workers who do a lot of manual labor; this is a conversation in the community because these jobs can be given to local workers to reduce unemployment and poverty in Indonesia. In fact, many are found in the field of illegal foreign workers in Indonesia working as unskilled laborers. Social jealousy in the community can cause distrust of the government; this can be seen from the number of people who are easily influenced by issues that do not have valid data and contain incorrect matters, especially regarding foreign workers who come to Indonesia, over time this is can lead to social disintegrate in the community.

## 2) Creating Opportunities for Increasing Unemployment in Indonesia

The presence of foreign workers in Indonesia, which is then not matched by employment opportunities, especially for adequate local workers, can increase unemployment in Indonesia. With growing unemployment in the community, the level of poverty and crime can inevitably increase simultaneously. The condition of a person whose economy is threatened can easily encourage him to commit crimes such as theft, robbery, murder, etc.

## 3) Reduced State Revenue

As we know, foreign workers in Indonesia with them making visas and Limited Stay Permits will enter the Non-Tax State Revenue (PNBP). Suppose prospective foreign workers come to Indonesia without a visit visa or use a visit visa that has a nominal value under a limited stay visa. In that case, it can be ascertained that state income is reduced. The impact of the presence of illegal foreign workers is not in line to use foreign workers in Indonesia as targeted. by the government (Affan, 2020).

**Table 2.**

Immigration Tariffs and Fees		
Non-tax revenue	Unit	Rates
<b>Visit Visa</b>		
One Trip Visit Visa	Applications	US\$ 50
Multiple Trip Visit Visa, Calculated per Year	Applications	US\$ 110
Visit Visa on Arrival (VKSK)	Applications	IDR. 500.000
<b>Limited residence visa</b>		
Limited residence visa	Applications	US\$ 150
Limited Stay Visa On Arrival	Applications	IDR. 700.000
Director-General of Immigration Visa Approval	Applications	IDR. 200.000
Non-tax revenue	Unit	Rates
<b>Visit Permit</b>		
Granting Visit Permit Validity Period 30 Days	Applications	IDR. 500.000
Extension of Visit Permit Validity Period 30 Days	Applications	IDR. 500.000
Extended Visit Permit Validity Period 60 Days	Applications	IDR. 750.000
<b>Izin Tinggal Terbatas</b>		
Limited Stay Permit On Arrival	Applications	IDR. 750.000
Little Stay Permit Validity Period 6 Months	Applications	IDR. 1.000.000
Little Stay Permit Validity Period 1 Year	Applications	IDR. 1.500.000

Non-tax revenue	Unit	Rates
Limited Stay Permit Validity Period 2 Years	Applications	IDR. 2.000.000
Limited Stay Permit for Special Economic Zones Valid for 5 Years	Applications	IDR. 5.000.000
Limited Stay Permit Approval For Indonesian Water Workers	Applications	IDR. 1.000.000
Restricted Stay Permit For Aquatic Workers	Applications	IDR. 300.000

*Source: PP No. 28 Regarding Types and Tariffs for Types of Non-Tax State Revenues Applicable at the Ministry of Law and Human Rights*

### 3. National Security Can Be Threatened

With the existence of illegal foreign workers who are active and are in Indonesia with procedures that are not following legal provisions, it can be a threat to the Indonesian state; with a large number of illegal foreign workers in Indonesia, it can be an indicator that Indonesia's security is threatened and the lack of law enforcement in the field.

### D. Conclusion

The phenomenon of foreign workers in Indonesia is not a new thing. The increase in foreign workers is currently a hot topic of discussion in the community; in addition to causing social jealousy in the community, national security is also questioned. Especially with the entry of illegal foreign workers in Indonesia, the many requirements and regulations that foreigners must meet to become foreign workers in Indonesia make them look for loopholes by becoming illegal alien workers. This raises many questions regarding state security, especially the implementation of the Act and the Regulations related to Employment and Foreigners being enforced.

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There are still many Indonesian workers who cannot compete with foreign workers from other Southeast Asian regions. This can be seen from the data on the workforce ratio to Diploma or Bachelor education levels. From 2007-2012, Indonesia was positioned below other ASEAN countries such as Thailand, Singapore, and Malaysia. While in Indonesia itself, it was recorded that in 2015 the education level of the workforce was 32,49,539 people (26,5%) who were elementary school graduates, while the crew with a total of 10,210,481 people (8,3%) were Bachelors and 3,337,985 people (2,75). %) who are Diploma graduates. The data can be used to reference how prepared Indonesia is in facing the ASEAN Economic Community, especially in labor issues.

Several benefits are expected with the presence of foreign workers in Indonesia, namely Increasing cooperative relations with friendly countries, Accelerating the national development process, Expanding Jobs in Indonesia, Attracting investors to



Indonesia. However, implementation in the field is still found to be illegal foreign workers in Indonesia. This can occur due to several factors, namely regulations that can cause violations by foreign workers, employers who commit fraud, and lack of government supervision of foreign workers.

From the negative impact caused by illegal foreign workers, the government must prevent the entry of illegal foreign workers into Indonesia and strictly take legal action against employers and foreign workers involved in this matter to create a deterrent effect so that it does not happen again. The government, especially the relevant agencies and ministries, is obliged to synergize, especially on the data of foreign workers in Indonesia; this can be done by integrating data and information systems that can be accessed and validated regarding the legality of foreign workers in Indonesia, because there are still many data outages. Foreign workers from one agency to another.

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