

# DOMESTIC LABOR MARKET CONDITIONS AS THE BASIS FOR THE USE OF FOREIGN WORKERS FOR ENTREPRENEURS IN INDONESIA

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## ABSTRAK

*Penelitian ini bertujuan untuk tata cara penggunaan tenaga kerja asing berdasarkan hukum positif Indonesia serta kondisi pasar tenaga kerja dalam negeri sebagai dasar penggunaan tenaga kerja asing di Indonesia. Penelitian ini menggunakan metode penelitian normatif dengan pendekatan perundang-undangan dan analisis konseptual. Hasil penelitian menunjukkan bahwa prosedur penggunaan tenaga kerja asing di Indonesia diatur secara komprehensif dalam berbagai peraturan perundang-undangan di khususnya pada Peraturan Pemerintah Nomor 34 Tahun 2021 tentang Penggunaan Tenaga Kerja Asing dan Peraturan Menteri Ketenagakerjaan Nomor 8 Tahun 2021 tentang Peraturan Pelaksanaan Peraturan Pemerintah Nomor 34 Tahun 2021 Tentang Penggunaan Tenaga Kerja Asing. Setiap pengusaha yang akan mempekerjakan tenaga kerja asing wajib menyusun rencana penggunaan tenaga kerja asing yang secara otomatis dalam penyusunannya telah memperhatikan kondisi pasar kerja dalam negeri. Akibat hukum bagi pengusaha yang mempekerjakan tenaga kerja asing tanpa rencana penggunaan tenaga kerja asing sesuai dengan ketentuan yang berlaku dapat dikenakan sanksi administratif.*

**Kata Kunci:** *Tenaga Kerja Asing, Pasar Kerja Dalam Negeri, Pengusaha*

## ABSTRACT

*This research aims to examine the procedures for the use of foreign workers based on Indonesia's positive laws and domestic labor market conditions as the basis for the use of foreign labor in Indonesia. This research uses normative research methods with a legislative approach and conceptual analysis. The results of the study show that the procedures for the use of foreign workers in Indonesia are comprehensively regulated in various laws and regulations, especially in Government Regulation Number 34 of 2021 concerning the Use of Foreign Workers and Regulation of the Minister of Manpower Number 8 of 2021 concerning Implementation Regulations of Government Regulation Number 34 of 2021 concerning the Use of Foreign Workers. Every entrepreneur who will hire foreign workers is required to prepare a plan for the use of foreign workers which automatically in its preparation has paid attention to the conditions of the domestic labor market. Legal consequences for employers who hire foreign workers without a plan to use foreign workers in accordance with applicable provisions may be subject to administrative sanctions.*

**Keywords:** *Foreign Workers, Domestic Job Market, Employers*

## 1. Introduction

### 1.1. Research Background

Foreign labor is a term used for someone who works outside their home country and does a job to obtain wages or other forms of rewards. In general, a nation that provides numerous chances for foreign workers to work on its soil because of the scarcity of labor.<sup>1</sup> The lack of availability of labor is not only due to the lack of labor quantity but also the lack of quality of labor available in the country. Thus, the existence of foreign workers can provide benefits, at least as an element that complements the company's business run.

In actuality, having foreign workers in a nation, particularly Indonesia, can have both advantages and disadvantages. The positive effect is that it can contribute to economic growth by bridging gaps in the labor market, transferring skills, and increasing innovation and productivity.<sup>2</sup> Then, the negative impact is that the presence of foreign workers is feared to reduce the employment opportunities of local workers.<sup>3</sup> Although the goal of companies using foreign labor is to meet the needs of jobs that require specific skills not yet possessed by the Indonesian workforce and the opportunity for skills transfer, the effectiveness of technology transfer is still challenging to measure.

In 2023, as reported from the databox, there are 168 foreign workers in Indonesia.<sup>4</sup> Then, in 2024, it will increase by 8.9% compared to the previous year to 184 thousand people, dominated by 102 thousand people from China.<sup>5</sup> The sector that absorbs the most foreign workers in Indonesia is the service sector, which in 2023 absorbed 82,649 people, and data from 2024 to July shows as many as 50,543 people. Then, followed by the industrial sector, which in 2023 absorbed 80,661 people and data in 2024 until July as many as 6,818 people, followed by the agriculture and marine sectors, which absorbed the least, namely in 2023 a total of 4,738 people and in 2024 until July as many as 522 people.

The national economy has difficulties due to the large number of foreign workers and the poor skill levels of Indonesian workers. The mastery of technical skills relevant to industrial needs is not widely possessed by the Indonesian workforce, even though they have gone through formal education. The shortage of Indonesian workforce skills is in the needs of modern industries, especially in the technology and digitalization

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<sup>1</sup> Bemen Win Keong Wong, Suriati Ghazali, and Noorah Yusof, "The Condition and Challenges of Community Learning Centre in the Oil Palm Plantations of Sarawak, Malaysia," *International Journal of Business and Society* 22, no. 3 (2021): 1656-72, <https://doi.org/10.33736/ijbs.4328.2021>.

<sup>2</sup> Febby Sudiono et al., "Analysis Of Human Resources And Foreign Labor In Japan (Situation And Problems Related To Foreign Workers)," *Edutran Business and Management* 1, no. 1 (2023): 42-51, <https://doi.org/10.59805/ebm.v1i1.25>.

<sup>3</sup> Ibrahim Ramadhano and Gunardi Lie, "Dinamika Tenaga Kerja Asing Terhadap Tenaga Kerja Lokal: Implikasi Dan Tantangan Dalam Investasi Sumber Daya Manusia," *UNES Law Review* 6, no. 2 (2023): 5978-90.

<sup>4</sup> Nabilah Muhamad, "Ada 168 Ribu Tenaga Kerja Asing Di RI Pada 2023, Terbanyak Dari China," *databoks*, 2023, [https://databoks.katadata.co.id/ketenagakerjaan/statistik/1f3f5a7d59b6d00/ada-168-ribu-tenaga-kerja-asing-di-ri-pada-2023-terbanyak-dari-china?utm\\_source=chatgpt.com](https://databoks.katadata.co.id/ketenagakerjaan/statistik/1f3f5a7d59b6d00/ada-168-ribu-tenaga-kerja-asing-di-ri-pada-2023-terbanyak-dari-china?utm_source=chatgpt.com).

<sup>5</sup> Agnes Z. Yonatan, "Mayoritas Tenaga Kerja Asing Di Indonesia Berasal Dari China," *GoodStats*, 2025, <https://goodstats.id/article/mayoritas-tenaga-kerja-asing-di-indonesia-berasal-dari-china-u8RD1>.

sectors.<sup>6</sup> In addition, the formal education curriculum is not relevant to the needs of the industry to produce job-ready graduates. The low skills of Indonesia's workforce can impact low labor productivity. The high unemployment rate can exacerbate this due to the mismatch between skills and market needs.

The lack of skills in Indonesia's workforce can worsen with the perception that foreign companies prioritize bringing workers from their home countries. The presence of special skills, cultural understanding, and the same language can be why foreign companies bring in workers from their home countries, which helps increase innovation and problem-solving skills.<sup>7</sup> In addition, high expertise and international experience, as well as mastery of the culture of multinational companies, are the reasons foreign companies provide strategic positions to foreign workers for the rapid process of adaptation and implementation of work.

Despite the various advantages that companies obtain when hiring foreign workers, it is essential to ensure that the recruitment and employment of the workforce follow the standards applicable in Indonesia. Thus, a harmonious balance between the employment opportunities available to Indonesian workers and the use of foreign workers is essential to accommodate the employment opportunities of local workers. The problem is that the lack of jobs in Indonesia can be attributed to limited job opportunities in specific industries and competition in the job market.<sup>8</sup> In Indonesia, a comparatively high unemployment rate exacerbates the country's limited work possibilities and competitive labor market, which in 2024 will be 7.47 million unemployed.<sup>9</sup>

Juridically, the use of foreign labor is regulated in Article 2 Paragraph (3) of Government Regulation Number 34 of 2021, which stipulates that the use of foreign labor is carried out by considering domestic labor market conditions. Although it has been regulated that companies that use foreign workers pay attention to the conditions of the domestic labor market, the provisions regarding domestic market conditions and their calculations do not have clear rules. In addition, there are no regulations related to legal consequences for companies that do not pay attention to the domestic labor market conditions when using foreign workers. This condition can cause multiple interpretations in its implementation where the company can potentially recruit foreign workers even though there are local workers with similar competencies.

The lack of clarity in the regulation related to considering the conditions of the domestic labor market and the consequences of not implementing it can create a legal loophole that allows companies to select foreign workers for various reasons that can be detrimental to domestic workers with limited access to strategic jobs. In addition,

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<sup>6</sup> Pratama Herry Herlambang, Suwinda, and Muhammad Habiby Abil Fida Safarin, "Causes of Low Absorption of Local Workers to Labor Fulfillment in Indonesia," *The Indonesian Journal of International Clinical Legal Education* 6, no. 4 (2024): 507-30, <https://doi.org/https://doi.org/10.15294/ijicle.v6i4.14052>.

<sup>7</sup> Maria Esther Oswald-Egg and Michael Siegenthaler, "Train Drain? Access to Foreign Workers and Firms' Provision of Training," *Labour Economics* 85, no. April 2022 (2023): 102436, <https://doi.org/10.1016/j.labeco.2023.102436>.

<sup>8</sup> Arnold Japutra et al., "Understanding Employer Branding within MNC Subsidiaries: Evidence from MNC Hotel Subsidiaries in Indonesia," *Journal of International Management* 30, no. 1 (2023): 101100, <https://doi.org/10.1016/j.intman.2023.101100>.

<sup>9</sup> Cicin Yulianti, "Survei BPS 2024: Pengangguran Di RI Paling Banyak Dari Lulusan SMK," <https://www.detik.com/>, 2024, <https://www.detik.com/edu/detikpedia/d-7624800/survei-bps-2024-pengangguran-di-ri-paling-banyak-dari-lulusan-smk>.

there are obstacles to the supervision of foreign workers, especially the lack of personnel from related institutions to carry out supervision, making the supervision of foreign workers not optimal.<sup>10</sup> There is a need to strengthen more specific regulations regarding the mechanism for assessing domestic labor market conditions with clear and measurable indicators to determine if foreign workers are allowed to work for a company. Clear rules on the use of foreign labor can provide legal certainty for private companies when hiring foreign workers. Legal certainty promotes stability, predictability, and trust in the legal system, which ensures that individuals and businesses can understand and rely on the law and increase investment in Indonesia. This paper discusses the condition of the domestic job market as the basis for entrepreneurs in Indonesia to use foreign labor.

Various previous studies similar to this study are from Ibrahim Ramadhano and Gunardi Lie titled "Dynamics of Foreign Labor Against Local Labor: Implications and Challenges in Human Resource Investment."<sup>11</sup> In addition, a study conducted by Christina NM Tobing entitled "Legal Sanctions for Violations of the Use of Foreign Workers After the Job Creation Law." The difference between the author's study and previous studies is that this study focuses on the analysis of employers who employ foreign workers by taking into account the conditions of the domestic labor market as well as the legal consequences of neglecting consideration of domestic labor market conditions for employers who employ foreign workers. Thus, the title of this study is "DOMESTIC LABOR MARKET CONDITIONS AS THE BASIS FOR THE USE OF FOREIGN LABOR FOR ENTREPRENEURS IN INDONESIA."

## 1.2. Research Question

The problem formulation is prepared based on the background of the problem, namely:

1. What is the procedure for using foreign workers based on Indonesia's positive law?
2. What legal provisions regulate the conditions of the domestic labor market as the basis for the use of foreign workers in Indonesia?

## 1.3. Aims

The purpose of writing this article includes:

1. To review and analyze the procedures for the use of foreign workers based on positive Indonesian law
2. To review and analyze the condition of the domestic labor market as a basis for the use of foreign workers in Indonesia

## 2. Research Methods

This study uses a normative legal research methodology, which is used to examine legal problems regarding the absence of clear rules related to the obligation of companies to pay attention to the conditions of the domestic labor market before hiring foreign workers. In particular, there is a lack of clarity on the proportion of foreign workers allowed in a company, which must be analyzed to the availability of jobs for

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<sup>10</sup> Laras Medina Pranitiaz et al., "Maraknya Tenaga Kerja Asing Ilegal Di Indonesia Sebagai Akibat Lemahnya Pengawasan Ketenagakerjaan," *Media Hukum* ... 2, no. 2 (2024): 390-97, <https://doi.org/https://doi.org/10.5281/zenodo.11779827>.

<sup>11</sup> Ramadhano and Lie, "The Dynamics of Foreign Labor on Local Labor: Implications and Challenges in Human Resource Investment."

unemployed Indonesian citizens who still face challenges in obtaining employment. This research uses a legislative approach and conceptual analysis. The legislative approach is used to study the laws and regulations governing foreign workers. Then, the conceptual analysis approach interprets the legal provisions through relevant theories, principles, and concepts. This study analyzes legal materials using descriptive and argumentative analysis techniques. Descriptive techniques present and explain the norms in laws and regulations and identify related legal issues. Meanwhile, argumentation techniques are used to construct reasoned arguments regarding the aspects of the legal issue identified.

### **3. Results and Discussion**

#### **3.1. Procedures for the Use of Foreign Workers Based on Indonesian Positive Law**

Hiring foreign workers should follow the Indonesian legal framework, especially regulations on immigration. Law of the Republic of Indonesia No. 6 of 2011 concerning Immigration (Law No. 6/2011) serves as a legal framework for rules on the movement of foreigners in Indonesia. Based on Article 39 letter a and Article 54 paragraph (1) letter a as amended by Law Number 6 of 2023 concerning the Stipulation of Government Regulations instead of Law Number 2 of 2022 concerning Job Creation into Law (Law No. 6/2023), every foreigner working in Indonesia must have a limited or permanent residence visa. Foreigners visiting Indonesia must obtain an appropriate visa based on their destination and length of stay, ranging from tourist visas to work permits and dependent visas.<sup>12</sup>

Then, based on Article 33 Paragraphs (1) and (2) of the Regulation of the Minister of Law and Human Rights Number 22 of 2023 concerning Visas and Residence Permits (MoLHR Regulation No. 22/2023), it is determined that every foreigner who works or in the context of working can be granted a limited stay visa. Furthermore, Article 126, paragraphs (1), (3), and (4) stipulate that foreigners working in Indonesia can obtain a permanent residence permit visa directly or by way of status transfer. Specifically, the governance of licensing the use of foreign workers is regulated in Article 42 Paragraphs (1) and (2) of Law No. 6/2011 as amended by Law No. 6/2023, which stipulates that every employer that hires foreign workers is not an individual and is required to have a plan for the use of foreign workers authorized by the Central Government. Based on Article 1 Number 4 of Government Regulation No. 34/2021, it is decided that the strategy for employing foreign workers is to use them for a set amount of time and in specific positions. However, the provision does not apply to directors, commissioners with certain shares, protected shareholders, diplomatic personnel, and essential foreign workers to resume halted production. This also does not apply to those working in vocational training, technology startups, business visits, or short-term research. Foreign workers can only be hired in specific roles for a limited period if they have the required skills. They cannot work in the field of human resources. Employers are also obliged to hire Indonesian workers to facilitate technology and skills transfer. In addition, employers are obliged to provide remuneration for foreign workers, except for government agencies, diplomatic offices, international organizations, social institutions, religious institutions, and certain educational institutions.

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<sup>12</sup> Tien Pham and Anda Nugroho, "Tourism-Induced Poverty Impacts of COVID-19 in Indonesia," *Annals of Tourism Research Empirical Insights* 3, no. 2 (2022): 100069, <https://doi.org/10.1016/j.annale.2022.100069>.

Furthermore, the eligibility criteria for employers to hire foreign workers are regulated in Article 3 paragraph (1) of the Regulation of the Minister of Manpower Number 8 of 2021 concerning the Implementation of Government Regulation Number 34 of 2021 concerning the Use of Foreign Workers (MoM Regulation No. 8 / 2021) including, a) government agencies, representatives of foreign countries, and international bodies, b) foreign trade representative offices, foreign company representative offices, and foreign news agencies that conduct activities in Indonesia, c) foreign private companies doing business in Indonesia, d) legal entities in the form of limited liability companies or foundations established under Indonesian law or foreign business entities registered with authorized agencies, e) social, religious, educational, and cultural institutions, f) impresario service businesses, and g) business entities as long as it is allowed by law to use foreign workers.

Article 10 of Government Regulation No. 24/2021 prohibits foreign workers from concurrently holding positions in one company. Furthermore, in Article 11, paragraph (1), foreign workers are forbidden from working in positions that deal with personnel. Furthermore, in Article 42 Paragraphs (1), (2), and (3) of MoM Regulation No. 8 of 2021, there is a transfer of technology and transfer of expertise in hiring foreign workers through the transfer of skills by utilizing the use of science and technology provided to workers accompanying foreign workers based on work competency standards in positions occupied by foreign workers. Ultimately, the primary goal of foreign labor arrangements is to protect and empower local workers, not solely to restrict investment or economic growth. Therefore, collaboration between the government, the business world, and educational institutions needs to be strengthened to create a competitive local workforce that can fill strategic positions. With clear regulations and consistent implementation, it is hoped that foreign labor will truly complement and replace Indonesia's human resources, not replace them.

The existence of various regulations that regulate the procedures for the use of foreign workers in stages from all levels of laws and regulations has shown that regulations related to the procedures for the use of foreign workers in Indonesia are in line with the principles in the Stufenbau Theory. The regulation of the use of foreign labor has been regulated in laws, government regulations, and ministerial regulations. The principle in Stufenbau Theory determines that norms are arranged hierarchically, where higher norms provide validity to lower norms. In addition, the Stufenbau Theory separates law and morality which results in the law being only what is ordered by the lawmaker.<sup>13</sup> Due to the separation between law and morals, the validity and legality of regulations related to the use of foreign workers in Indonesia are subject to internal validity testing of norms based on the test of their provenance in the norms above them.

### **3.2. Domestic Labor Market Conditions as a Basis for the Use of Foreign Workers in Indonesia**

Reduced employment opportunities for Indonesian workers can have a negative impact on the economy and society in a country. The non-productive use of labor potential results in a decrease in national productivity which hinders economic growth because the results are below the maximum potential of the state. The lack of job opportunities that affect the high unemployment rate can have an impact on economic

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<sup>13</sup> Oksana SHCHERBANYUK, Vitalii GORDIEIEV, and Laura BZOVA, "Legal Nature of the Principle of Legal Certainty as a Component Element of the Rule of Law," *Juridical Tribune* 13, no. 1 (March 31, 2023): 21–31, <https://doi.org/10.24818/TBJ/2023/13/1.02>.

aspects and social stability.<sup>14</sup> Residents may face disadvantages from foreign workers, such as potential labor competition, wage pressures, and pressure on public services and infrastructure.<sup>15</sup> Restrictions on employment opportunities for Indonesian workers can hinder economic growth and increase unemployment and social challenges.<sup>16</sup> Such a situation can lead to an increase in the unemployment rate, a decrease in wages, and a decrease in overall economic progress, which has the potential to trigger social and political problems.

Some of the factors affecting unemployment in Indonesia include, namely, lack of jobs, lack of skills possessed by job seekers, lack of information, lack of equal employment opportunities, lack of maximum government efforts.<sup>17</sup> In addition, uneven development between rural and urban areas, declining labor demand, and widespread layoffs are also factors affecting unemployment in Indonesia. Migration to urban centers in search of work results from this gap. In addition, job opportunities in Indonesia have been influenced by various factors such as economic growth, government policies, and the investment climate.<sup>18</sup> The availability of employment opportunities in Indonesia has become a significant concern, impacting the employment landscape and financial conditions. Unemployment in Indonesia is expected to improve skills and competencies for getting a job. Increased signaling and certification of academic and employment skills to the labor market is essential. Relevant skills and competencies are critical for getting a job in today's competitive labor market.<sup>19</sup> In addition, various policies regarding migration restrictions in Indonesia have indirectly contributed to the increase in the number of workers employed in informal occupations, suggesting that Indonesians may face difficulties in finding formal employment.<sup>20</sup>

Any country that openly allows employers to hire foreign workers must prioritize employment opportunities for its citizens as a form of national interest. In order to establish a fair and prosperous society and ensure the well-being of all stakeholders, employers are required to adhere to the principles of Indonesian law as part of their employment relationship. The foundation of labor relations in Indonesia is

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<sup>14</sup> Siti Fatimah Azzahra et al., "Dampak Pengangguran Terhadap Stabilitas Sosial Dan Perekonomian Indonesia," *MENAWAN: Jurnal Riset Dan Publikasi Ilmu Ekonomi* 2, no. 4 (June 25, 2024): 220–33, <https://doi.org/10.61132/menawan.v2i4.719>.

<sup>15</sup> Purnima Pandey and Mei Kuei Yu, "Experiences of Foreign Residents during COVID-19 Pandemic in Taiwan," *Journal of Migration and Health* 5, no. June 2021 (2022): 100080, <https://doi.org/10.1016/j.jmh.2022.100080>.

<sup>16</sup> Fendy Suhariadi et al., "Work from Home: A Behavioral Model of Indonesian Education Workers' Productivity during Covid-19," *Heliyon* 9, no. 3 (2023): e14082, <https://doi.org/10.1016/j.heliyon.2023.e14082>.

<sup>17</sup> Siti Fatimah Azzahra et al., "Dampak Pengangguran Terhadap Stabilitas Sosial Dan Perekonomian Indonesia."

<sup>18</sup> Djarot Sulistio Wisnubroto et al., "Preventing and Countering Insider Threats and Radicalism in an Indonesian Research Reactor: Development of a Human Reliability Program (HRP)," *Heliyon* 9, no. 5 (2023): e15685, <https://doi.org/10.1016/j.heliyon.2023.e15685>.

<sup>19</sup> Rogardt Heldal et al., "Sustainability Competencies and Skills in Software Engineering: An Industry Perspective," *The Journal of Systems & Software* 211, no. January (2023): 111978, <https://doi.org/10.1016/j.jss.2024.111978>.

<sup>20</sup> Mattia Makovec et al., "Intended versus Unintended Consequences of Migration Restriction Policies: Evidence from a Natural Experiment in Indonesia," *Journal of Economic Geography* 18, no. 4 (2018): 915–50, <https://doi.org/10.1093/jeg/lby029>.

based on the principles of Pancasila and the 1945 Constitution of the Republic of Indonesia. These principles are the basis for supervising employment relations and protecting workers' rights to improve workers' welfare, realize social justice in employment relations, and maintain the sustainability of these relationships. However, by legally hiring foreign workers, employers are obliged to prioritize the rights of foreign workers. The rights of foreign workers in Indonesia include obtaining facilities as a laborer, getting wages that meet local, national, regional, or international wage standards, and having the right to choose their way of life, including in determining their life partner either as husband or wife, having the right to receive proper treatment as a community that needs to live together with other citizens.<sup>21</sup>

Although there are laws requiring companies to create a Plan for the Use of Foreign Workers, the primary issue with using foreign workers in Indonesia is the lax enforcement of those laws. Several companies are known to have committed violations in hiring foreign workers, especially related to the problem of positions that local workers should fill.<sup>22</sup> There are still many foreign workers who work without official permits or violate the provisions of residence permits. Then, the technology transfer and skill transfer process between foreign and local workers is not optimal. Only administrative implementation does not significantly impact improving the quality of local labor competencies. This is further complicated by the ambiguous clauses pertaining to the use of foreign labor by taking into account the circumstances of the domestic labor market, which may provide employers with a way to interpret the use of foreign workers.

In reality, the Government of Indonesia already has an institution that organizes the labor market, namely the Labor Market Center (PASKER ID), which was established based on the Regulation of the Minister of Manpower of the Republic of Indonesia Number 20 of 2024 concerning the Organization and Work Procedures of the Ministry of Manpower (MoM Regulation No. 20/2024. Referring to Article 238, the Labor Market Center has the task of organizing the preparation of technical policies implementation and monitoring, evaluating, and reporting job market services. The Job Market Center emerged as a realization of the nine main steps the Ministry of Agriculture took, especially in the context of connecting job seekers with jobs that match their abilities and interests.<sup>23</sup> The duties and functions of the Job Market Center, as stipulated in Article 239, include:

- a. Preparation of technical policies, plans, and programs for job market services;
- b. implementation of innovation development, as well as management of information systems and job market services;
- c. Implementation of coordination of information presentation and job market services;

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<sup>21</sup> CHANDRA PUTRA KURIAWAN, "PEMEGANG HAK TENAGA KERJA ASING DALAM PERSPEKTIF HAK ASASI MANUSIA," *Jurnal Ilmiah Pendidikan Pancasila Dan Kewarganegaraan* 3, no. 1 (June 26, 2018): 30-36, <https://doi.org/10.17977/um019v3i12018p030>.

<sup>22</sup> Sheline Rizkyka Giovani, Sari Mandiana, and Agustin Widjiastuti, "Penegakan Dan Pengawasan Hukum Terhadap Tenaga Kerja Asing Dalam Jabatan Struktural Perusahaan," *UNES Law Review* 6, no. 3 (2024): 7878-85.

<sup>23</sup> Pusat Pasar Kerja, "Profil Pusat Pasar Kerja Kementerian Ketenagakerjaan Republik Indonesia," [paskerid.kemnaker.go.id](https://paskerid.kemnaker.go.id), n.d., <https://paskerid.kemnaker.go.id/profil>.



- d. implementation of integration of training, certification, and labor placement, as well as the development of a job market network;
- e. Implementation of monitoring, analysis, evaluation, and reporting of job market services; and
- f. Implementation of administrative and household affairs.

The establishment of the Job Market Center is an answer to the problem of linking and Match the digital employment ecosystem, which can be a hub as well as a showcase in optimizing the role to realize the National Job Market Information System, which is expected that all existing information systems can be integrated, both those managed by Ministries/Institutions and the private sector. Furthermore, referring to Article 26 paragraph (1) of Government Regulation Number 37 of 2021 concerning the Implementation of the Job Loss Insurance Program, job market information services are provided explicitly in the form of job vacancy data. Then, Article 29 stipulates that ministries that carry out government affairs in the field of employment provide easy access to job market information.

Employers are in charge of controlling the employment of foreign workers in Indonesia by taking into account and keeping an eye on domestic labor market conditions, if we thoroughly examine the responsibilities and functions of the Labor Market Center. This means paying attention to labor market information, such as platforms that connect job seekers with employers, and prioritizing the use of Indonesian citizens based on their qualifications for the national interest. Therefore, the use of foreign labor by employers must pay attention to information about job vacancy data in Indonesia in the form of publications or official information statements from the Job Market Center as well as pay attention to information from the Job Market Center's digital services such as SIAPkerja, Karirhub, Talenthub, Job Vacancies, Virtual Job Fair, and Tech:X Programme. Technically, the plan to utilize foreign workers as a planning document pertaining to the position and duration of employment of foreign workers outlines the analysis of companies who intend to use foreign workers.

Paying attention to the domestic labor market as a basis for consideration in the use of foreign labor is undoubtedly in line with the values contained in the Indonesian constitution. The domestic job market in Indonesia refers to the job market in the jurisdiction of Indonesia, where individuals are looking for work, and companies are looking for labor. This market includes labor availability, job demand, unemployment rate, wages, and interactions between job seekers and employers. The job market generally contains job demand and supply, which involves interaction between companies looking for jobs and individuals looking for jobs. Companies create labor demand, while individuals create labor supply.

By regulation, employers must pay attention to the domestic job market when hiring foreign workers. This consideration should be included in the document outlining the plan for using foreign workers, as mandated in Article 6 Paragraph (1) of Government Regulation No. 34/2021 and Article 2 of MoM Regulation No. 8/2021. The workforce utilization plan has various stages and processes to get approval. One of these stages and processes is the online data verification and feasibility assessment. Whether or not the entrepreneur succeeds in using foreign labor will be determined during the data verification and feasibility evaluation stage of the plan to use foreign labor. This step involves the implementation of government supervision over companies' use of foreign labor, considering the prevailing domestic labor market

conditions. Employers who do not have a clear justification for their plans to hire foreign workers will face a temporary suspension of their application or rejection for failing to address domestic labor market conditions.

In Indonesia, work permits for foreign workers serve as a means of preventing violations of work permit regulations. Before the amendment of Article 185 Paragraph (1) of Law No. 13/2003 with Law No. 6/2023, employers who employ foreign workers without a plan to use foreign workers can be subject to criminal sanctions. However, after the existence of Law No. 6/2023, employers who employ foreign workers without a plan to use foreign workers have been determined, as referred to in the provisions, can be subject to administrative sanctions in the form of fines for violating the provisions as stipulated in 190 Paragraph (1) of Law No. 13 of 2003 as amended by Law No. 6 / 2023 and Article 49 paragraph (1) of MoM Regulation No. 8 / 2021.

#### 4. Conclusion

The use of foreign workers in Indonesia has been comprehensively regulated through various regulations, especially in laws and regulations related to immigration and employment as specifically regulated in Government Regulation Number 34 of 2021, MoM Regulation No. 8/2021, and MoLHR Regulation No. 22/2023. The regulation has provided strict requirements in hiring foreign workers such as being employed in a certain position and time, residence permits, and the existence of a companion workforce for technology and skills transfer. In addition, every entrepreneur who will hire foreign workers is required to prepare a plan for the use of foreign workers which automatically in its preparation has paid attention to the conditions of the domestic labor market. Legal consequences for employers who hire foreign workers without a plan to use foreign workers in accordance with applicable provisions may be subject to administrative sanctions.

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