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LEGAL PROTECTION REGULATIONS FOR FOREIGN WORKERS WITH PROFESSIONAL EXPERTISE CERTIFICATIONS

Aldo Ernandi Putra¹ Winsherly Tan^{2*}, Elza Syarif³

¹ Universitas Internasional Batam, 2352005.aldo@uib.edu

² Universitas Internasional Batam, winsherly@uib.ac.id*

³ Universitas Internasional Batam, elza.syarif@uib.edu

ABSTRACT

This study examines legal protection for certified foreign workers (TKA) and its impact on local workers (TKL) in Batam City, with a study of PT VME and PT NSP Technology. The dominance of foreign workers in strategic positions raises questions about the effectiveness of labor regulations in ensuring fairness for TKL. Using an empirical legal approach through interviews and observations, and based on the Theory of Legal Benefit and Effectiveness, it was found that the provisions of the Job Creation Law and Government Regulation No. 34/2021 have not been fully effective in limiting the dominance of foreign workers. Causes include companies' preference for international standards, lax internal policies, and weak oversight by relevant agencies. This study recommends the need for stricter policies limiting the number and positions of foreign workers, along with increasing the capacity and competitiveness of TKL through training and certification according to industry needs.

Keywords: Omnibus Law on Job Creation, Foreign Labor, Domestic Workforce.

ABSTRAK

Penelitian ini menelaah perlindungan hukum terhadap tenaga kerja asing (TKA) bersertifikasi profesi serta dampaknya bagi tenaga kerja lokal (TKL) di Kota Batam, dengan studi pada PT VME dan PT NSP Technology. Dominasi TKA di posisi strategis menimbulkan persoalan efektivitas regulasi ketenagakerjaan dalam menjamin keadilan bagi TKL. Dengan pendekatan hukum empiris melalui wawancara dan observasi, serta berlandaskan Teori Kebermanfaatan dan Efektivitas Hukum, ditemukan bahwa ketentuan dalam UU Cipta Kerja dan PP No. 34/2021 belum sepenuhnya efektif membatasi dominasi TKA. Penyebabnya antara lain preferensi perusahaan pada standar internasional, kebijakan internal yang longgar, dan lemahnya pengawasan instansi terkait. Penelitian ini merekomendasikan perlunya kebijakan lebih tegas dalam pembatasan jumlah serta jabatan TKA, disertai peningkatan kapasitas dan daya saing TKL melalui pelatihan dan sertifikasi sesuai kebutuhan industri.

Kata Kunci: Cipta Kerja, Tenaga Kerja Asing, Tenaga Kerja Lokal.

INTRODUCTION

The workforce plays a vital role in supporting the national economic system, which prioritizes social welfare, as reflected in Chapter XIV of the 1945 Constitution of the Republic of Indonesia, which discusses the national economic system and efforts to achieve public welfare. Employment issues remain a crucial global issue, including in the context of relations between countries in the Southeast Asian region. ASEAN countries, through regional economic integration known as the ASEAN Economic Community (AEC), have also placed serious emphasis on this issue. At the 27th ASEAN Summit held in Kuala Lumpur, Malaysia, all heads of state and government of ASEAN member countries officially agreed to the establishment of the ASEAN Economic Community by 2025. The signing of the 2015 Kuala Lumpur Declaration on the Establishment of the ASEAN Community officially symbolized the agreement between its member countries to establish the ASEAN Community.¹

Batam, as one of the largest industrial areas in Indonesia, is attractive to foreign workers (TKA), particularly in the manufacturing and energy sectors. However, there is a tendency for the majority of strategic positions in companies, both established companies like PT VME and developing companies like PT NSP Technology, to be filled by foreign workers rather than local workers (TKL). This raises questions regarding the effectiveness of labor regulations in protecting employment opportunities for local workers. The Job Creation Law (Perpu No. 2 of 2022) is supposed to limit the number and role of foreign workers in national companies, but in practice, foreign workers remain dominant. Therefore, this study seeks to identify the factors causing this and assess the effectiveness of existing policies.²

In the context of labor policy, this study utilizes two main legal theories: Jeremy Bentham's Theory of Legal Utility and Soerjono Soekanto's Theory of Legal Effectiveness. The Theory of Legal Utility emphasizes that good laws should provide the greatest benefit to society. If labor regulations in Indonesia favor foreign workers over local workers, their effectiveness and usefulness are

¹ Adelia Maretha Allayna and M Irfan Hidayatullah, "Pengaruh Masyarakat Ekonomi ASEAN Terhadap Kondisi Dan Mobilitas Tenaga Kerja ASEAN Tahun 2015," *Frequency of International Relations (FETRIAN)* 2, no. 2 (2020): 31

² Huong Ha and C.K. Peter Chuah, "Digital Economy in Southeast Asia: Challenges, Opportunities and Future Development," *Southeast Asia: A Multidisciplinary Journal* 23, no. 1 (2023): 19-35, <https://doi.org/10.1108/seamj-02-2023-0023>.

questionable. Meanwhile, the Theory of Legal Effectiveness examines whether a law can be effectively implemented and has the impact it intended. In this research, this theory is used to assess the extent to which regulations governing foreign workers are actually implemented by companies in Batam and their impact on job opportunities for local workers.³

Increasingly rapid globalization has driven cross-border mobility, including the entry and exit of foreign nationals into Indonesia. This phenomenon has also triggered an increase in the use of foreign workers (TKA), which is also driven by government policies to attract foreign investment. The presence of foreign workers in Indonesia has generated two differing views: some view them as a threat, while others view them as potentially beneficial. This assessment depends on how foreign workers are positioned as strategic assets or burdens on the state. If foreign workers possess high skills and professionalism, their presence is seen as an opportunity. In this context, their expertise can be transferred to the local workforce through training programs aimed at improving the capacity and competence of domestic workers.⁴

If foreign workers (TKA) are viewed as a burden, their presence can be considered a threat, especially if they do not positively impact economic growth, increase wages, and create jobs for local communities. A frequent problem in Indonesia is the large number of foreign workers occupying the industrial and infrastructure sectors without specialized skills, thus displacing job opportunities for domestic workers. According to KSPI data, there are approximately 157,000 foreign workers, both legal and illegal, working as manual laborers. However, the influx of labor within the ASEAN region can actually be utilized by the Indonesian government to strengthen the quality of workforce capacity development through a knowledge and technology transfer approach. This strategy is expected to improve the competence of the local workforce so they can compete in the global market. This study was conducted using two sample companies: PT VME, a leading company engaged in oil and gas tank fabrication, and PT NSP Technology Batam, a growing company producing moldings and medical devices. Both companies have implemented knowledge and technology transfer practices through the use of foreign workers, as stipulated in Government Regulation in Lieu of Law (Perppu) No.

³ Yan Alriyadi, Nurlaily, and Triana Dewi Seroja, "Efektivitas Pelaksanaan PERDA Pengelolaan Sampah Di Batam Kota Terhadap Sustainable Development Goals," *Unes Law Review* 6, no. 1 (2023): 2521, <https://creativecommons.org/licenses/by/4.0/>.

⁴ *Ibid.*

2 of 2022 concerning Job Creation. The selection of PT VME and PT NSP in this study was based on scientific reasoning. PT VME represents a developed multinational company in the oil and gas sector, with a predominance of foreign workers in strategic positions, while PT NSP is a growing company specializing in molding and medical devices. This comparison is important to examine the differences in the implementation of foreign worker regulations between developed and developing companies, thus providing a more comprehensive empirical picture.⁵

As the number of foreign workers in Indonesia increases, attention to legal protection becomes crucial. In response, the government has enacted various regulations that comprehensively govern employment relations. Various regulations have been issued to regulate employment, such as Law No. 13 of 2003 concerning general employment and Law No. 2 of 2004 concerning the resolution of industrial relations disputes. Policy reforms were also implemented through Government Regulation in Lieu of Law (Perppu) No. 2 of 2020 concerning Job Creation, which was further elaborated in Government Regulation No. 34 of 2021 concerning foreign workers and Government Regulation No. 35 of 2021 concerning employment contracts, outsourcing, working hours, and termination of employment.⁶

KBRN, Batam: The open unemployment rate (TPT) in Batam City in 2023 reached 8.14% of the workforce. Based on records from the Central Statistics Agency (BPS), the workforce population was 641,605 people. The Head of BPS Batam City, Aguskadaryanto, said that this number decreased by 1.42 percent compared to last year. The Open Unemployment Rate (TPT) represents the proportion of individuals who are actively looking for work but have not found work, compared to the total workforce as a whole. As an illustration, if the TPT is 8.14 percent, it means that out of every 10,000 people included in the workforce, around 814 of them are unemployed. he explained, Wednesday (10/1/2024). Agus Kadaryanto continued, as many as 9.60 percent of women were unemployed in 2023. While men were only 7.26 percent. Unemployment is mostly experienced by residents of Tamanan elementary school and below and junior high school graduates. The workforce composition as of August 2023

⁵ Angga Dwi Prasetyo, Abdul Rachmad Budiono, and Shinta Hadiyantina, "Politik Hukum Perubahan Norma Perizinan Dan Iklim Investasi Dalam Undang-Undang Cipta Kerja Menggunakan Metode Omnibus Law," *Media Iuris* 5, no. 2 (2022): 159–88, <https://doi.org/10.20473/mi.v5i2.36165>.

⁶ *Ibid.*

was 589,402 employed and 52,203 unemployed.⁷ Referring to the description presented and the background explanation, the focus of this research can be formulated as follows:

1. How do labor regulations affect the legal protection of foreign workers at PT VME and PT NSP Technology Batam?
2. Have these two established and developing companies complied with Government Regulation in Lieu of Law (PERPU) No. 2 of 2020 concerning Job Creation?
3. What impact does the provision of foreign workers have on the local workforce at PT VME and PT NSP Technology Batam?

RESEARCH METHODOLOGY

In conducting this research, the author relied on empirical data sourced from direct field findings. The object of this research was the legal protection of foreign workers at PT VME and PT NSP Technology Batam. The data used consisted of primary data (interviews and observations) and secondary data (legal materials in the form of laws and regulations and academic literature). This data was collected through observation and interviews with relevant parties. To support the analysis, two types of data were used: primary and secondary data. Primary data was obtained through interviews with HRD and production managers at PT VME and PT NSP Technology Batam, as well as through observation of labor policies at these companies. Meanwhile, secondary data was obtained from various legal documents and regulations, such as the Job Creation Law and Government Regulation No. 34 of 2021, as well as from literature and legal references discussing the protection of foreign and local workers.⁸

The research method used was empirical legal research, which examines the actual conditions in society related to specific legal issues. Data collection techniques included interviews with workers and company officials, as well as observations of the implementation of foreign labor policies. To analyze the

⁷ Abdurrahman Alhakim, Jessica Sim, and Hari Sutra Disemadi, "Kajian Hukum Perbandingan Kemudahan Investasi Asing Di Singapura Dan Di Kota Batam, Indonesia Beserta Legal Standing OSS Dalam Penerapannya," *Wajah Hukum* 5, no. 2 (2021): 431-41, <https://doi.org/10.33087/wjh.v5i2.422>.

⁸ Dadang Sumarna and Ayyub Kadriah, "Penelitian Kualitatif Terhadap Hukum Empiris," *Jurnal Penelitian Serambi Hukum* 16, no. 02 (2023): 105, <https://doi.org/10.59582/sh.v16i02.730>.

data, this study utilized two primary theoretical frameworks: Jeremy Bentham's Theory of Legal Utility, which assesses whether labor regulations provide maximum benefits to society, and Soerjono Soekanto's Theory of Legal Effectiveness, which measures the extent to which these regulations are implemented in practice. With this approach, the study sought to understand the effectiveness of regulations governing foreign workers in Batam and their impact on the local workforce.⁹

RESULT AND DISCUSSION

Labor Regulations Regarding Legal Protection of Foreign Workers at PT VME and PT NSP Technology Batam

The placement and protection of foreign workers (TKA) in Indonesia has been a focus of various employment policies. The legal framework governing this is spread across several regulations, including legislation addressing general employment issues and industrial relations conflict resolution. One such regulation is the regulation governing dispute resolution between workers and employers. Furthermore, strengthening the national employment system is also carried out through legal instruments in the form of government regulations in lieu of laws related to labor reform. Specifically regarding the use of foreign workers, technical regulations are stipulated separately in government regulations, covering the recruitment process, administrative requirements, and job limitations. Meanwhile, technical regulations regarding work systems, fixed-term employment agreements, outsourcing mechanisms, work and rest hours, and termination procedures are stipulated in implementing regulations arising from the agenda to simplify national labor law.¹⁰

According to interviews with the HRD department of PT VME, regulations regarding foreign worker permits are quite clear in government regulations. However, in practice, they often encounter administrative obstacles in processing work permit extensions, particularly related to bureaucracy and policy changes that occur from time to time. Meanwhile, the HRD of PT NSP

⁹ *Ibid.*

¹⁰ Putri Maha Dewi and Itok Dwi Kurniawan, "Dinamika Dan Potensi Perkembangan Investasi Financial Technology Di Indonesia Dalam Kacamata Hukum Positif Untuk Meningkatkan Minat Masyarakat Revolusi Industri 5.0," *Jurnal Kewarganegaraan* 6, no. 3 (2022): 5715.

Technology Batam stated that obtaining permits for foreign workers is now easier with the online system, but it still takes a considerable amount of time to obtain approval from the Ministry of Manpower, particularly during the document verification stage. Legal protection is essentially divided into two types: preventive and repressive. These two approaches are also applied in the context of protecting foreign workers in Indonesia. Their implementation encompasses several important aspects, including the licensing mechanism that must be met before foreign workers can work, the existence of an employment agreement as the basis for a valid employment relationship, procedures for resolving industrial relations disputes in the event of a conflict, and supervision by authorities accompanied by the imposition of administrative sanctions for violations of applicable laws.¹¹

PT VME is a United States company established in 2000. It operates in the oil and gas fabrication sector, producing heavy equipment in the form of petroleum refining modules. In Indonesia, specifically in Batam, Riau Islands, VME was established in 2003. With a broad project scope spread across various regions, both domestically and internationally, PT VME requires professionals with specialized skills to complete these projects. Therefore, the company frequently recruits foreign workers (TKA) as a solution to the limited availability of local workers who meet certain technical qualifications. One of the main reasons for using TKA is the lack of local resources with the skills to meet specific project requirements. Furthermore, many projects must be completed within tight deadlines based on work orders, requiring experts ready to work efficiently. In practice, these TKA do not work alone but are accompanied by local workers as part of the technology transfer process. Frequent delays in task completion by local workers also contribute to the involvement of TKA to support acceleration in the field. Based on these various considerations, the company believes that TKA possess superior skills and competencies in carrying out certain tasks compared to local workers.¹²

Interviews with the production manager of PT NSP Technology Batam revealed that the company's decision to recruit foreign workers was not solely driven by international certification, but also by an internal preference for trusting the global experience of foreign workers. External factors, such as

¹¹ *Ibid.*

¹² Edy Chrisjanto and Nidya Tajsgoani, "Karakteristik Hukum Fintech Illegal Dalam Aplikasi Transaksi Pinjaman Online," *Jurnal Meta Yuridis* 3, no. 2 (2020): 29, <https://doi.org/10.26877/jm-y.v3i2.5859>.

foreign investment and regulations that allow companies to employ foreign workers, also influence recruitment policies. Furthermore, local workers still face limited access to equivalent training and certification, making it difficult to compete for strategic positions. Meanwhile, a supervisor at PT VME stated that the use of foreign workers is also driven by efficiency. In some projects, companies must complete work quickly and meet specific international standards, making it more practical to employ foreign workers with existing experience in that field.¹³

When analyzed through the Theory of Legal Benefit, foreign labor regulations should provide a balance between the interests of local workers and companies' need for skilled labor. However, in practice, interviews with HRDs at PT VME and PT NSP indicate that foreign workers are still prioritized over local workers in strategic positions. This raises questions about whether these regulations truly benefit local workers or whether they actually benefit both companies and foreign workers.¹⁴

Meanwhile, based on the Theory of Legal Effectiveness, labor regulations such as the Job Creation Law (Perpu No. 2 of 2022) and Government Regulation No. 34 of 2021 have not been fully effective in curbing the dominance of foreign workers in companies. Although regulations stipulate that foreign workers must have specialized skills and may only be employed in certain positions, in practice, many companies continue to recruit large numbers of foreign workers for reasons of efficiency and global standards. Furthermore, the lack of oversight from relevant agencies has led many companies to have greater flexibility in using foreign workers without truly optimizing the local workforce.¹⁵

Interviews revealed that several local workers stated that the company's knowledge transfer program was less than optimal. The training provided by foreign workers was often too short, resulting in local workers not fully mastering the required skills before their contracts expired. This indicates that regulations regarding knowledge transfer are still not working as intended. An interview with a technician at PT VME revealed that the company's knowledge transfer program was quite helpful in improving the skills of local workers.

¹³ *Ibid.*

¹⁴ Debbi Puspito, Martin Roestamy, and Edy Santoso, "Model Perlindungan Hukum Bagi Kreditur Layanan Pinjam Meminjam Uang Berbasis Teknologi Informasi Di Masa Pandemi Covid-19," *Jurnal Ilmiah Living Law* 14, no. 1 (2022): 17, <https://doi.org/10.30997/jill.v14i1.5303>.

¹⁵ *Ibid.*

However, some workers felt that the duration of mentoring from foreign workers was too short, preventing them from fully mastering the required skills before their contracts expired. A supervisor at PT VME also added that knowledge transfer was carried out through internal training and direct mentoring from foreign workers to local workers. However, in practice, implementation still faces challenges due to differences in work culture and training methods used by foreign workers.¹⁶

The use of foreign workers at PT VME plays a strategic role, serving as experts and as a means of transferring technology and skills to local workers through training and competency development programs. As a company operating in the oil and gas fabrication sector, PT VME is obligated to improve the capabilities of its Indonesian workforce through ongoing job training. In the recruitment process, the company must prioritize the recruitment of local workers. However, the company also has the right to employ foreign experts in certain positions requiring specialized skills. Currently, the total number of employees at PT VME is approximately 500, consisting of local workers and foreign workers. Of these, approximately 100 are foreign workers from various countries and are assigned as experts according to project needs.¹⁷ Some of the positions currently entrusted to foreign workers at PT VME include the following:

Table 1
Positions that can be occupied by foreign workers

No.	Positions	TKA
1	CEO	1
2	Vice President I	1
3	Vice President II	1
4	Vice President III	1
5	Director IT	1
6	Director Culture and HR	1
7	HR Manager	1

¹⁶ Kornelius Benuf and Muhamad Azhar, "Metodologi Penelitian Hukum Sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer," *Jurnal Gema Keadilan* 7, no. 1 (2020): 20, <https://doi.org/10.24246/jrh.2019.v3.i2.p145-160>.

¹⁷ *Ibid.*

8	Accounting Manager	1
9	Accounting Coordinator	2
10	Pocurement Manager	5
11	Warehouse Superintendent	10
12	Supply chain Offshore Manager	30
13	Senior Planner	5
14	Welding Engginers	20
15	Procurement interface Engginers	4
16	Senior Drafter	6
17	Side Planer	10
18	Electrical supervisor	5
19	Internasional Administration	4
20	QA Manager	1

Source: VME Structure Interview Data

PT VME implements procedures for the use of Foreign Workers (TKA) in accordance with the 2003 Manpower Law, which requires every TKA to obtain official permission before working in Indonesia. In this regard, any company or employer planning to employ TKA must first obtain written approval from the Minister or authorized official in the form of a Work Permit (RPTKA), as a primary requirement for obtaining an IMTA in accordance with statutory provisions.

Foreign workers (TKA) who wish to work in Indonesia, particularly in Batam City, are required to first complete various important documents related to entry permits. The process of processing these documents is entirely the responsibility of the employer or company that will employ them, in this case PT VME. Before a TKA can be officially employed by PT VME, there are several requirements that must be met, including the following:

- a. Foreign workers are required to be in good health, as evidenced by a medical examination before starting work at PT VME.
- b. Possess competencies relevant to the position they will be filling, as foreign workers can only be placed in positions that align with their field of expertise.
- c. Have a clean criminal record, as evidenced by police records.

PT VME is required to submit a Foreign Worker Utilization Plan (RPTKA) to the Directorate General of Manpower Placement Development at

the Ministry of Manpower before employing foreign workers. Approval is granted by the Director of Foreign Worker Utilization Control as a primary requirement for foreign worker utilization. This requirement aligns with Article 43 of the Manpower Law, which requires every company employing foreign workers to have an RPTKA document. Once the company meets all requirements, the Directorate will issue a recommendation in the form of a TA-01 letter, which serves as the basis for a work visa application. This document is submitted to the Directorate General of Immigration at the Ministry of Law and Human Rights, through the Head of the Immigration Division as the technical implementer. To obtain a limited stay visa (VITAS), the company must submit supporting documents such as an application letter, a guarantee letter, a Perdim 21A form, the foreign worker's passport, the original TA-01, a copy of the RPTKA, and the foreign worker's resume.

The arrival procedure for foreign workers (TKA) who will work at PT VME begins from the TKA's country of origin until their arrival in Indonesia, involving the services of a special agent based in the United States. The agent is an official company appointed directly by the Indonesian Embassy (KBRI) in the United States to handle the work permit process for foreign workers. For temporary work visas, specifically Visa 312, applications are submitted through the agent to the Indonesian Embassy in the United States. Under Indonesian immigration law, this visa is intended for foreign nationals who will be working in Indonesia for a period of less than six months. After the visa application is approved by the Directorate General of Immigration and an official notification of visa approval is issued, the employer must then apply for an IMTA (Permit to Employ Foreign Workers) with the Ministry of Manpower. Once the visa is issued and the foreign worker arrives in Indonesia, specifically in Batam, the company is required to report the foreign worker's arrival to the local immigration office to obtain a Limited Stay Permit Card (KITAS). Once the IMTA is received, the company is also required to report the foreign worker's presence to the local labor office. Only after all these stages and administrative requirements are met can the foreign worker officially begin working at PT VME in accordance with the agreed employment contract. One form of agreement commonly applied in employment relations is the employment agreement. Generally, employment agreements are categorized as private deeds, namely agreements made directly by both parties without involving public officials such as notaries or PPAT. This is also applied by PT VME in drafting employment agreements with Foreign Workers (TKA), where the

document is created based on an agreement between the company and the worker without approval from the authorities. Employment agreements are the main basis for the formation of employment relationships, namely legal relationships between employers and workers that contain elements of wages, orders and. In line with the provisions of Article 50 of the Manpower Law, employment relationships arise from the existence of an employment agreement between the two parties. Therefore, every employment agreement must be set out in writing and at least cover several important things, such as the identity of the worker and the company, the type of work and work location, the amount of wages and payment methods, the rights and obligations of each party, the validity period of the agreement, and the place, date, and signatures of both parties as proof of agreement.

The employment agreement between PT VME and foreign workers (TKA) is a fixed-term employment agreement (PKWT) created based on the need for specialized skills in the oil and gas fabrication sector, where these skills have not yet been fully mastered by local workers. This agreement is for a maximum of two years and can be extended once for one year, in accordance with statutory provisions. Extensions are made if the work is not yet completed or the skills transfer process from the foreign worker to the local worker is not yet complete. Therefore, the presence of the foreign worker at PT VME also plays a role in transferring skills to Indonesian workers.

The extension of the foreign worker's employment contract at PT VME, accompanied by an extension of the work permit (IMTA), is carried out through an application to the Batam City Manpower Office. This differs from the initial work permit application, such as the RPTKA and a new IMTA, which are submitted to the Ministry of Manpower and Transmigration in Jakarta. If the extension contract expires but the work is not yet completed, the company cannot extend the contract of the foreign worker in question, but is permitted to bring in a new foreign worker to complete the work. The rights of foreign workers include receiving salaries, benefits, good treatment, and clarity of employment status. Meanwhile, its obligations include carrying out work according to the contract, complying with work regulations and discipline, and assisting local workers. Meanwhile, PT VME's rights to foreign workers include receiving appropriate work results, arranging transfers, and providing work instructions. Its obligations include paying salaries, providing allowances and facilities, registering them in social security programs, paying taxes, and

repatriating them to their home country upon termination of the employment relationship.

To date, foreign workers (TKA) employed by PT VME have generally been experts with specialized skills not yet fully mastered by local workers. The assumption that foreign workers possess superior skills also influences the content of employment agreements, particularly regarding the amount of wages and benefits. Based on company policy, the basic wage for foreign workers is determined by contract agreement and is generally paid in foreign currency, typically US dollars (USD). The basic wage is a minimum of 75% of the total basic wage plus fixed allowances, ranging from IDR 35,000,000 to IDR 100,000,000 per month when converted to rupiah. This determination still refers to the company's wage structure and scale, based on the type of work and position. In addition to the basic wage, foreign workers also receive fixed allowances such as family allowances, position allowances, and three daily meals. In addition, there are non-fixed allowances such as transportation allowances, attendance allowances, and social security benefits (JKK, JK, and JHT). Foreign workers are also entitled to 10 nights of paid leave every four months of work, subject to certain conditions, particularly if the employment period exceeds six months and the remaining contract period is less than two months.

From interviews conducted, it was discovered that if a dispute arises between foreign workers (TKA) or local workers and PT. VME regarding the employment relationship, it is first resolved through internal company regulations, such as work regulations and the Collective Labor Agreement (PKB). If the dispute is not resolved through internal deliberation, the process continues according to applicable legal procedures in accordance with Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes. This law stipulates that employment disputes must first be resolved through bipartite means. Therefore, if an employment relationship (PHK) occurs, the legal basis and resolution mechanisms apply equally to both foreign workers and local workers. However, if a foreign worker commits a civil or criminal violation, the resolution will refer to the provisions of civil and criminal law applicable in Indonesia.

At PT. VME, Industrial Relations Dispute (PHI) resolution is carried out through several stages, starting with the company's internal mechanisms. Referring to Article 62 of the PT. VME Collective Labor Agreement (PKB), every employee complaint or grievance must be submitted in writing. Employment

issues, such as the termination of a foreign worker, are usually discussed first with superiors to find a solution that complies with regulations. In resolving these issues, the company implements a bipartite approach, namely deliberation and consensus between the disputing parties. To date, all disputes arising at PT. VME have been resolved successfully through the bipartite mechanism, without resorting to the Industrial Relations Court. This demonstrates that bipartite dispute resolution is an effective measure and is always prioritized by the company, with the industrial relations court positioned as a last resort if peaceful efforts are unsuccessful.

Foreign Workers (TKA) working at PT VME play a crucial role in supporting the competency development of Local Workers (TKL), particularly in the Batam region of the Riau Islands. One form of their contribution is through the knowledge transfer process implemented gradually by the company. PT VME employs an approach encompassing socialization, internalization, combination, and externalization to ensure that the knowledge and skills possessed by foreign workers can be optimally learned by local workers. This process works well because the company implements a strict selection process in recruiting local workers, especially in the engineering division. For example, for the welding engineer position, the company only accepts applicants between 19 and 25 years old. This age range was chosen because younger age groups are considered to absorb knowledge more quickly, are more adaptable to new work methods, and are more open to technical guidance from more experienced foreign workers.

a) Socialization

In the knowledge transfer implementation model implemented by PT. VME, the company has the responsibility to socialize various new work programs to all its employees so that they can be understood and implemented comprehensively. One method used is to form a discussion forum involving supervisors and heads of sections from each division. This forum serves as a forum for information exchange and initial simulation of new knowledge that will be implemented. The results of the discussion are then conveyed by each supervisor to the staff below them through internal socialization sessions. As an example in this study, the researcher took one of the programs that had been socialized, namely the Maintenance work program with a continuous shift system that applies a working time of 120 hours (24 hours × 5 days) and a 48-hour maintenance schedule for 20 workdays/holidays. The process of socialization and internalization of this program involved the

engineering division supervisor, chief technician, and technicians. In its implementation, PT. VME also builds a culture of knowledge sharing through various means such as monthly forums involving supervisors and related staff, weekly discussions by squad leaders, discussions between supervisors and staff below them, staff involvement in training programs according to their fields, and informal discussions outside of working hours as an effort to discuss work obstacles in a more relaxed but still productive manner.

b) Externalization

In implementing the knowledge transfer model at PT. VME, the role of the Plant Manager is crucial in conveying new information and knowledge gained through various activities such as training and coordination meetings. This knowledge must then be systematically disseminated to the units or branches they lead to ensure alignment across all lines of the company's work. The delivery method is adaptive, ensuring easy understanding by employees participating in the training and simulation process. One example of the new knowledge focused on is the Service Management program in the field of machine maintenance, a machine maintenance service management system designed as the main foundation for technical work implementation at PT. VME. This program was introduced through training activities centered at PT. VME's head office in Jakarta, involving all managers and supervisors from various divisions. During the training, participants not only received material on the technical implementation of the program but also received training on strategies for resolving potential problems in the field. This ensures effective and comprehensive knowledge transfer, down to the operational level

c) Combination

In this model, the Plant Manager of PT. The VME plays a crucial role in integrating knowledge gained from headquarters with new insights and findings emerging from internal discussion forums at the branches they manage. The primary objective of this process is to ensure that the knowledge imparted by the headquarters is not only transferred intact but also tailored to the branch's operational context and needs, allowing it to be applied more efficiently and easily understood by the employees who will be implementing it. One example of this implementation is a machine maintenance program with a 20-day work week and 48-hour rest period, designed to support the smooth running of routine machine facility service schedules. Although the combination of central and local knowledge is well-structured, its successful implementation still depends heavily on encouragement from superiors and the interest and

willingness of individual employees to adopt the new knowledge into their work routines. Furthermore, a spirit of exchange of ideas among employees is also key to collaborative problem-solving.

d) Internalization

This model emphasizes the ability of individuals, particularly engineers, to absorb and process new knowledge gained through training or workshops scheduled by PT. VME, and then apply it effectively in the work environment. One example of a focused program is machine maintenance, which stipulates a 20-day workday with 48 hours off. In this program, technicians are required to complete routine maintenance services on machine facilities according to this schedule. Through this approach, it is clear that the success of knowledge implementation depends heavily on the extent to which individuals are able to apply what they have learned to achieve work efficiency and satisfaction with the results and targets set.

Analyzing Jeremy Bentham's Theory of Legal Benefit, this regulation should provide balanced benefits for companies, foreign workers, and local workers. However, research shows that the benefits are more skewed toward companies and foreign workers. Meanwhile, according to Soerjono Soekanto's Theory of Legal Effectiveness, the regulations regarding restrictions on the number and positions of foreign workers in the Job Creation Law and Government Regulation No. 34 of 2021 have not been implemented effectively due to weak oversight.

Compliance of PT VME and PT NSP Technology Batam with PERPU No. 2 of 2022 concerning Job Creation

Under Government Regulation in Lieu of Law (Perpu) Number 2 of 2022 concerning Job Creation, companies wishing to employ foreign workers are required to comply with a number of administrative and technical procedures. These include preparing a Work Permit (RPTKA) document as the basis for their need for foreign workers, obtaining a work permit through an IMTA (Work Permit), and fulfilling the obligation to pay the Foreign Worker Compensation Fund (DKPTKA) as a form of corporate responsibility for employing foreign workers. Based on research, PT VME and PT NSP Technology Batam have fulfilled these administrative requirements by submitting an RPTKA before employing foreign workers and obtaining an IMTA in accordance with applicable procedures. Furthermore, both companies have paid the DKPTKA in accordance with the provisions stipulated by the

Ministry of Manpower. Therefore, administratively, PT VME and PT NSP have complied with the regulations stipulated in PERPU No. 2 of 2022.¹⁸

One important provision in PERPU No. 2 of 2022 is the company's obligation to transfer knowledge to local workers. This regulation aims to ensure that foreign workers are not only used to fill strategic positions but also to improve the competency of local workers so they can compete in the same industry. PT VME and PT NSP have implemented mentoring and training programs for local workers, involving foreign workers as mentors. However, interviews with local workers revealed that the implementation of these programs is still suboptimal. The training provided is often too brief and ineffective in improving the skills of local workers, making it difficult for them to compete in strategic positions that have traditionally been dominated by foreign workers.¹⁹

Although PT VME and PT NSP have followed the administrative procedures stipulated in Government Regulation in Lieu of Law No. 2 of 2022, the effectiveness of this regulation in limiting the dominance of foreign workers remains questionable. One of the main causes is the lack of oversight from relevant agencies, which allows companies to retain flexibility in determining their internal policies. Based on interviews with HR managers, companies often recruit foreign workers not only for their expertise but also for efficiency and global standards that better align with company needs. In other words, although the regulation requires companies to prioritize local workers, in practice, foreign worker dominance remains difficult to curb.²⁰

Administratively, PT VME and PT NSP Technology Batam have complied with Government Regulation in Lieu of Law (PERPU) No. 2 of 2022 by obtaining permits for foreign workers and fulfilling the stipulated obligations. However, in terms of implementation, several weaknesses remain, particularly in the effectiveness of knowledge transfer and government

¹⁸ Miftahul Jannah, F. Yudhi Priyo Amboro, and Rina Shahrullah, "Personal Data Protection in Telemedicine: Comparison of Indonesian and European Union Law," *Journal of Law and Policy Transformation* 8, no. 2 (2024): 147, <https://doi.org/10.37253/jlpt.v8i2.8827>.

¹⁹ Hari Sutra Hutaauruk, Rufinus Hotmaulana, Disemadi, Lu Sudirman, and David Tan, "Convergence of Consumer Protection, Investment Law, And Cybersecurity: An in-Depth Analysis of Three-Way Legal Intersections in Investment Apps," *Jurisdictie: Jurnal Hukum Dan Syariah* 14, no. 1 (2023): 129, <https://doi.org/10.18860/j.v14i1.21180>.

²⁰ M. aol, W. N. A. L., Soeratin, H. Z., & Miftah, "Manajemen Strategis Di Bawah Kerangka Kerja ESG: Meningkatkan Keberlanjutan Perusahaan Dan Kepercayaan Pemangku Kepentingan," *Accounting Student Research Journal* 3, no. 2 (2024): 139.

regulatory oversight. Therefore, additional, stricter policies and increased oversight are needed to more effectively implement the objectives of this regulation.²¹

From the perspective of the Theory of Legal Effectiveness, although PT VME and PT NSP have administratively fulfilled their permit and DKPTKA obligations, the implementation of the knowledge transfer obligation remains ineffective. This is evident in the short and incomplete training provided, preventing local workers from fully benefiting from its benefits.

Implementation of the Use of Foreign Workers at PT NSP Technology Batam is Related to the Protection of Indonesian Workers

The state's obligation to ensure the welfare of the people is rooted in the national goals as stated in the Preamble to the 1945 Constitution, namely to protect all Indonesian citizens (protection function) and to realize general welfare (welfare function). In this context, the use of Foreign Workers (TKA) at PT NSP Technology Batam must remain within the framework of guaranteeing the protection of local workers' rights, ensuring the transfer of technology and knowledge, and not hindering employment opportunities for the Indonesian people. Therefore, the presence of TKA remains in line with the protection and welfare functions that are the state's responsibility.

a. Permits

Companies wishing to employ TKA are required to obtain written permission from the Minister or relevant official, as stipulated in Article 42 paragraph (1) of the Manpower Law. This permit is a primary and inseparable requirement in the TKA recruitment process, serving as a form of state control over the entry of foreign workers into the national labor market. Therefore, before bringing foreign workers into Indonesia, employing companies such as PT NSP Technology Batam are required to first obtain and obtain a number of important permits. This permit includes administrative and legal documents demonstrating that the foreign worker's presence is legitimate, meets the requirements of the specific position, and does not conflict with the interests of the local workforce.

Every company wishing to employ foreign workers (TKA) is required to first have a Foreign Worker Utilization Plan (RPTKA) approved by the Minister, as stipulated in Article 43 of Law Number 13

²¹ Ibid.

of 2003. The RPTKA serves as a crucial basis for granting permits for the use of foreign workers, as it details the number, position, duration of employment, and the underlying reasons for employing foreign workers in the company. In the case of PT NSP Technology Batam, the RPTKA document also includes the appointment of local workers as companions for the foreign workers employed. Once the RPTKA is approved, the next step is to apply for a Foreign Worker Employment Permit (IMTA), which is a prerequisite for the foreign worker to legally work. If the foreign worker's employment period is to be extended, their IMTA must also be extended in accordance with regulations. Furthermore, foreign workers are required to have a limited stay visa (VITAS), as this visa is the primary requirement for foreign workers to enter and work in Indonesia legally.

b. Term of Employment of Foreign Workers

If a foreign worker's employment period has expired and cannot be extended, the position can be filled by another foreign worker with similar qualifications. The terms of employment for foreign workers are based on the IMTA permit granted, with a maximum duration of one year. Permit extensions can only be made in accordance with the latest policies of the Minister of Manpower, particularly regarding specific positions permitted to be filled by foreign workers, as stated in the RPTKA document. In practice, companies are not permitted to assign one foreign worker to hold more than one position within the same company. Furthermore, foreign workers may not be employed by two companies simultaneously during the validity of their contract. This provision is intended to maintain legal certainty, maintain administrative order, and prevent the abuse of foreign workers in Indonesia.

c. Competency Standards

Companies employing foreign workers may only place them in specific positions that meet competency standards, including technical skills, knowledge, and work ethics relevant to their field, as stipulated in labor regulations. Generally, compliance with these competency standards is demonstrated through holding valid certification from an authorized institution. However, if foreign workers don't have a certificate, they must have at least five years of work experience in the field they're applying for. At PT NSP Technology Batam, for example,

one of the competency standards is the ability to teach English, along with at least five years of work experience, as the primary requirement for a position.

d. **Obligation to Appoint Indonesian Workers**

As mandated by Article 45 paragraph (1) of Law Number 13 of 2003, companies employing foreign workers (TKA) are required to appoint local workers as work partners. This appointment is not merely administrative, but rather intended as a means of transferring skills and knowledge from the TKA to Indonesian workers. Thus, the presence of TKA is expected to directly contribute to increasing the capacity and competence of local human resources. Furthermore, companies are also obliged to provide education and job training for local workers appointed as assistants, in accordance with the qualifications of the positions filled by the foreign workers. PT NSP Technology Batam has implemented this provision by involving Indonesian workers in the mentoring process, which specifically focuses on language acquisition as part of the knowledge transfer process.

e. **Compensation Fund for the Use of Foreign Workers**

Every company that brings in foreign workers is required to make a financial contribution to the state in the form of DKPTKA payments. This obligation is part of the government's policy to regulate and supervise the use of foreign workers, as stipulated in labor laws and regulations, including Ministerial Regulation No. 35 of 2015 as its implementing regulation. The DKPTKA (Company Compensation and Remuneration) serves as a company's contribution to the use of foreign workers, as well as an effort to control and oversee the presence of foreign workers in Indonesia. In practice, PT NSP Technology Batam pays this compensation fund based on the payroll system in force in Singapore, given that the company's headquarters are located in that country.

f. **Obligation to Repatriate Foreign Workers to Their Country of Origin**

A company's responsibility to its foreign workers extends beyond the termination of their employment. Pursuant to Article 48 of Law No. 13 of 2003 concerning Manpower, the company is obligated to cover the repatriation of foreign workers to their country of origin after the employment relationship has been declared complete. This provision is implemented to prevent the neglect of foreign workers who no longer have an employment contract with the company, including at PT NSP Technology Batam. This measure also demonstrates compliance with

labor regulations and provides protection for foreign workers who have completed their assignment in Indonesia.

g. Social Security for Foreign Workers at PT NSP Technology Batam

Every foreign worker (TKA) who works in Indonesia for more than six months is required to participate in the national social security scheme. This coverage includes protection against the risk of work-related accidents and access to healthcare services during the contract period. This policy stems from Law Number 24 of 2011 concerning the Social Security Agency (BPJS), which stipulates that individuals, including foreign nationals, who work for at least six months in Indonesia and pay contributions are categorized as participants. This regulation aims to ensure a fair and comprehensive protection system for foreign workers during their employment relationship in Indonesia.

From the Legal Benefit Theory, the presence of foreign workers does provide opportunities for technology transfer, but its benefits are still limited because they are not shared equally by all local workers. From the perspective of the Legal Effectiveness Theory, regulations requiring TKL assistance by foreign workers are not fully effective, as companies often prioritize efficiency over long-term skills transfer.

CONCLUSION

1. Legal protection regulations for foreign workers (TKA) in Indonesia, particularly at PT VME and PT NSP Technology Batam, are stipulated in various regulations, such as the Job Creation Law and Government Regulation No. 34 of 2021. However, in practice, these regulations have not been fully effective in curbing the dominance of foreign workers in strategic company positions. There are still weaknesses in the implementation of policies that allow companies more flexibility in recruiting foreign workers without truly optimizing the local workforce (TKL). Furthermore, the monitoring system by relevant agencies is still not functioning optimally, leaving loopholes that allow for violations of labor regulations.
2. Companies' compliance with foreign worker regulations, as stipulated in Government Regulation in Lieu of Law No. 2 of 2022, remains a matter of debate. Although PT VME and PT NSP Technology Batam have followed established licensing procedures, in practice, internal company policies prioritize foreign workers for reasons of efficiency and global standards. This indicates that despite the availability of regulations, their implementation and oversight still need to be strengthened to optimally achieve the goal of protecting local workers. The presence of foreign

workers has a significant impact on the local workforce in the two companies studied. Although provisions regarding knowledge and technology transfer exist, their implementation remains suboptimal. Training programs are often too short and do not fully enhance the skills of local workers to compete in strategic positions. Therefore, to ensure that local workers benefit more from the presence of foreign workers, stricter policies are needed to limit the number and positions of foreign workers, as well as to improve training and certification programs for local workers.

3. This study also confirms the comparison between a developed company (PT VME) and a developing company (PT NSP). Both show a similar pattern: the dominance of foreign workers in strategic positions. From the perspective of the Legal Benefit Theory, the benefits of regulations for local workers are still suboptimal. Meanwhile, according to the Legal Effectiveness Theory, the implementation of regulations related to foreign workers is not fully effective due to weak oversight and implementation in the field.

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