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Standardisation of Foreign Labour Investigation of Mineral Mining Company

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Article	Abstract
<p>Keywords:</p> <p>Foreign workers; Labour Investigation; Mineral mining company; Supervision Standards.</p> <p>Article History Received: Oct 08, 2022; Reviewed: Jan 24, 2024; Accepted: Jan 30, 2024; Published: Jan 31, 2024.</p> <p>DOI: 10.28946/slrev.Vol8.Iss1.2227.pp183-196</p>	<p>The era of free trade, including trade in labour services, has been confirmed in the General Agreement on Trade in Services, which guarantees everyone the right to work anywhere, including in Indonesia, without discrimination while complying with Indonesian national laws. However, the entry of foreign workers raises several problems in the social and economic fields as well as security and order regarding the placement of these foreign workers. Regulation over the workers is ineffective because only a few authorities are delegated to the local government. This study aims to determine and measure the effectiveness of supervision of foreign workers by the Department of Manpower and Transmigration of the Central Sulawesi Province and to describe the supervision standards of foreign workers that already exist and should be implemented. The empirical legal research is used to examine the provisions of the supervision of foreign workers through observation, in-depth interviews, and focus group discussions. The data that have been collected are processed, classified, qualified, and then analysed qualitatively. The study found that only a few authorities regulated the duties and functions of supervision. The standard of foreign worker supervision has yet to be specifically regulated, so it still faces obstacles regarding coordination between the authorised agencies.</p>

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INTRODUCTION

In the General Agreement on Tariffs and Trade /World Trade Organization international trade law, every WTO member country must accept the principles of non-discrimination and nontariff barriers in conducting international trade, including foreign investment in the mineral mining sector. The entry of foreign investment in Indonesia is in line with the provisions of the Agreement on Trade-Related Investment Measures. However, in the meantime, investors bring or include workers from their country or other countries based on the General Agreement on

Trade in Services (GATs) provisions.¹ The labour principle of non-discrimination is explicitly stated in Articles 5 and 6 of the 2003 (Labour Law) that every worker has the same opportunity to obtain work without discrimination. Then, every worker has the right to receive equal treatment without discrimination from the employer.

However, many workers in Indonesia, including local people, need help finding work as well as equal salaries and positions to those of foreign workers. Based on a report from the Central Statistics Agency (BPS), the number of unemployed people in Indonesia in August 2021 was 9.10 million. That number decreased compared to the number of unemployed a year earlier, which had reached 9.77 million people. Thus, Indonesia's open unemployment rate in August 2021 was 6.49 per cent. The composition of the unemployment rate in August 2021 decreased by 0.58 per cent from the unemployment rate in August 2020, which had reached 7.07 per cent. Meanwhile, the open unemployment rate in Central Sulawesi in February 2021 was recorded at 3.73 per cent or reached 68.730 people.²

The province has an area with abundant natural resources, and the mining sector is the main attraction for foreign investors. Especially in Morowali Regency, mining companies emerged, financed by foreign and domestic capital or in cooperation. At first, the mining company recruited workers selectively. Local workers and foreign workers were each assigned according to their competencies. However, in 2022, the number of companies employing foreign workers was 36, with a total of 7.161.³

The issuance of Presidential Regulation Number 20 of 2018 concerning the Use of Foreign Workers, which is intended to increase investment, has caused controversy in society. Articles 2, 9, and Article 10 paragraph (1) are considered to conflict with Law no. 13 of 2003 concerning Employment. Many of them have attracted the attention of various parties, especially government agencies that are authorised to supervise workers. The Manpower Office of Central Sulawesi has conducted field inspections, but the agency faces difficulty because coordination with companies and ministries is problematic. Foreign workers or companies may have complied with immigration regulations. Otherwise, immigrants are unable to carry out their supervisory duties and functions. The media reported several reactions against the company from local workers because the number of foreign workers without qualifications with higher salaries continued to increase.

In line with Indonesian labour law, every employer who employs foreign workers is required to have written permission from the minister or an appointed official. This provision also explains that hiring foreign workers should not have a negative impact, specifically on security issues and reducing job opportunities for Indonesian workers. In line with this, legal provisions related to foreign workers are regulated by government regulations, presidential regulations, ministerial regulations, provincial regulations, governor regulations, and district/city regulations, but at the local level, these provisions tend to be partial and have the potential to cause legal uncertainty.⁴

¹ Rex J Zedalis, "Energy and the TRIMs and GATS Agreements.," *The Journal of World Energy Law & Business* 14, no. 3 (2021): 147, <https://doi.org/https://doi.org/10.1093/jwelb/jwab012>.

² Simon Sapary and I Nyoman Dwindu, "Provinsi Sulawesi Tengah Dalam Angka 2022," Badan Pusat Statistik Provinsi Sulawesi Tengah, 2022, <https://sulteng.bps.go.id/publication/download.html?>

³ Dinas Ketenagakerjaan dan Transmigrasi Sulawesi Tengah., "'Data Rekapitulasi Tenaga Kerja Asing Di Sulawesi Tengah.'" Dinas Ketenagakerjaan dan Transmigrasi Sulawesi Tengah, 2022.

⁴ Matthias Busse and Aries Harianto, "Do Labor Standards Affect Comparative Advantage in Developing Countries?," 'Regulating Foreign Labor in Emerging Economies: Between National Objectives and

The purpose of this paper is to analyse the application of labour regulations to foreign workers and to find and evaluate the standards of supervision of foreign workers by the department of manpower and transmigration in Central Sulawesi.

RESEARCH METHODS

This study is empirical legal research carried out directly in the field during 2021 in Morowali, Banggai, and Palu in central Sulawesi, with data findings supported by laws and related books. This study revealed the normative regulation of foreign workers and the law in society as part of their daily lives (law in action). Observations were made on the implementation of supervision of foreign workers by authorised agencies such as the Manpower Office of Central Sulawesi, the Manpower Office of Morowali Regency, the Immigration Office of Central Sulawesi, and nongovernmental organisations that have relationships with or are related to foreign workers. Primary data are prioritised to find data on the implementation of the supervision of foreign workers by the Manpower and Transmigration Office of Central Sulawesi Province, supported by the immigration office as the agency that supervises foreigners entering Indonesia.

ANALYSIS AND DISCUSSION

Implementation of Foreign Worker Regulations in Central Sulawesi

As a legal state, Indonesia is also a modern welfare state, so labour regulation is one of the state's legal obligations. Although the right to work and earn a decent living applies to everyone, Indonesian citizens must be kept in the state's responsibility to regulate and protect Indonesian workers. This aligns with the theory that a state of law combines the concepts of the state of law and the welfare state. The state must protect its citizens as stated in Article 27, paragraph (1) of the Constitution. The protection given to legal subjects is in the form of preventive and repressive instruments, as well as oral and written. The concept of legal protection used for workers/labourers is the protection of their rights by using legal means or the protection provided by law to workers for the actions of employers before work (pre-employment), during work (during employment) and after work (post-employment). These protections are applied to all workers, not only Indonesian workers but also foreign workers.⁵

Working in Indonesia must be viewed as workers subject to the laws in force in Indonesia, so exceptions or discrimination between foreign and Indonesian workers are not justified. The legal protection measures given to every employee are carried out consistently by the Indonesian government. This is only possible if the supervision of the implementation of Indonesian labour laws and regulations is carried out properly, but there are many obstacles blocking⁶.

Article 1 point (13) Labour Law of 2003 stated, "Foreign workers are foreign citizens holding visas to work in Indonesian territory". In addition, the definition of foreign workers is emphasised in Article 1 Presidential Regulation (PR) No. 20 of 2018 concerning the use of

International Co.," *World Development Academic Journal of Interdisciplinary Studies* 30, no. 11 (2002): 1921–32.

⁵ Pietro Ichino, "Does Labour Law Actually Produce Equality among Workers?: A Tentative Law and Economics Approach to the Question of Coherence between the Protective Rule's Egalitarian Ratio and Its Effective Consequences," *Managerial Law International Regional Science Review* 48, no. 3 (2006): 258–74.

⁶ Dov M Gabbay et al., *Approaches to Legal Rationality*. (Heidelberg: Springer, 2010).

foreign workers as, “Foreign workers, hereinafter abbreviated as TKA, are foreign citizens holding visas to work in Indonesian territory”.

The implementation of laws and regulations related to foreign workers in Central Sulawesi can be seen from the formation of laws and regulations in the Labor Law of 2003, such as Government Regulation ((GR) No. 34 of 2021 concerning The Use of Foreign Workers, Presidential Regulation (PR) No. 20 of 2018 concerning The Use of Foreign Workers, Minister of Manpower Regulation (MR) No. 8 of 2021 concerning Implementing Regulations. Furthermore, it can be seen from the implementation in the following table.

Table 1: Local Regulation Related to Foreign worker in Central Sulawesi

Title Regulation	Number/Date	Concerning	Remark
Central Sulawesi Regulation	No. 6 of 2015	Retribution for extension of permits to employ foreign workers	<i>Retribution</i>
Central Sulawesi Regulation	No. 3 of 2020	Amendments to Regional Regulation No. 6 of 2015 concerning retribution for extension of permits to employ foreign workers	<i>Retribution</i>
Governor of Central Sulawesi Regulation	No.33 of 2018	Duties, functions, and work procedures of Technical Implementing Units at the Manpower and Transmigration Office of Central Sulawesi	<i>Supervision</i>
Morowali Regency Regulations	No. 5 of 2014	Retribution for extension of permits to employ foreign workers	<i>Retribution</i>
Morowali Regency Regulation	No. 9 of 2016	The employment implementation system	<i>Provision</i>
Morowali Regency Regulation	No. 1 of 2018	Monitoring of foreigners and foreign community organisations	<i>Supervision</i>
Banggai Regency Regulation	No.19 of 2021	Retribution for employing foreign workers	<i>Retribution</i>
Banggai Regency Regulation	No.10 of 2018	Retribution for Extension of Permit to Employ Foreign Workers	<i>Retribution</i>
Palu City Regulation	No.4 of 2018	Retribution for Certain Permits	<i>Retribution</i>

Source: Modified and Analysed from the primary source.

The regulations in table 1 tend to focus on retribution for the extension of permits to employ foreign workers. Nevertheless, these regulations workers tend to duplicate whether up or lower regulation, resulting in legal uncertainty, injustice, and other irregularities. Legal uncertainty occurs because the provisions of national law and local provisions in the regions overlap in regulating the same object, especially between regulations at the provincial district, regency, and city levels. Applying these provisions can or has the potential to cause unnecessarily high costs so that the company's burden or the burden is met legally and fairly.⁷

However, the increase in the number of workers is also driven by government policies that provide easy licensing for business activities through Law No. 11 of 2020 concerning Job Creation and various derivative regulations. One is simplifying the licensing process in various sectors, including the employment sector related to using foreign workers. Government

⁷ Donna R ley, *Engineering and Social Justice*. (California: Morgan & Claypool Publishers, 2008).

Regulation 34 of 2021, concerning the Use of Foreign Workers, is one of the derivative regulations of the Job Creation Law. So far, the simplification of the use of foreign workers has been regulated in several regulations. Such PR. No. 20 of 2018 concerning the Use of Foreign Workers and its implementing regulations, namely Ministry Regulation (MR) No. 10 of 2018.⁸ This regulation opens up space for foreign workers to hold multiple positions, so employers must pay the government compensation. This is not easy to monitor because the Company does not comply with its PEFW reporting obligations.

The number of employers of foreign workers working in the province during five years has increased. Most of them are mining companies from China located in Morowali and North Morowali as potential minerals or other natural resources areas. Both of the areas are the main target investment and a number of investment ease. The company's growth in the area is revealed in Table 2.⁹

Table 2: Number of Employers and Foreign Workers in Central Sulawesi

No	District/City	Number of employers & foreign workers									
		2018		2019		2020		2021		2022	
		Emp	FW	Emp	FW	Emp	FW	Emp	FW	Emp	FW
1	Palu	7	31	7	23	16	59	15	58	15	58
2	Banggai	3	49	6	42	8	51	8	52	8	71
3	Morowali Utara	12	259	4	48	4	944	8	917	8	917
4	Morowali	4	3.453	3	3.097	5	5.887	5	5.887	5	6.115
	Total	27	3.805	25	3.219	33	6.941	36	6.914	36	7.161

Source: Manpower Agency of Central Sulawesi Province

Note: Emp is as employers, and FW is as foreign workers.

Table 2 shows that, in 2019, the use of foreign workers decreased because the central government tightened the supervision of foreign workers as regulated in Article 2 paragraph (1) and Article 5 paragraph (1) of PR. of 2018. The two articles confirm that the employer uses foreign workers in an employment relationship for a certain position and a certain time and that foreign workers are prohibited from occupying positions that deal with either personnel or certain other positions.

Even though, in 2020 through 2022, workers increased by more than 100 per cent as an implication of the increase in foreign investment, especially in the mineral mining sector, on the one hand, the Indonesian government's policies seem to be more dominant in encouraging the increase in the number of workers. In addition, the supervision of workers, which the Central Sulawesi Manpower Office administratively carries out, still encounters several obstacles, including the number of human resources, distance, and limited legal authority.¹⁰

⁸ Muhamad Rosyid Jazuli, "The Importance of Institutional Quality: Reviewing the Relevance of Indonesia's Omnibus Law on National Competitiveness.," *Humanities & Social Sciences Communications* 9, no. 1 (2022), <https://doi.org/https://doi.org/10.1057/s41599-022-01343-w>.

⁹ Irsan and Meria Utama, "The Political Law on Coal Mining in the Fulfilment of People's Welfare in Indonesia," *Sriwijaya Law Review* 3, no. 1 (2019): 24.

¹⁰ Ahmad. Jazuli, "Eksistensi Tenaga Kerja Asing Di Indonesia Dalam Perspektif Hukum Keimigrasian.," *Jurnal Ilmiah Kebijakan Hukum* 12, no. 1 (2018): 89–105, <https://doi.org/https://doi.org/10.30641/kebijakan.2018.V12.89-105>.

Accordingly, the provisions of Article 30 PR of 2008 stipulate that every employer of foreign workers must report the implementation of the use of foreign workers every year to the relevant minister. The obligation of the employers must be obeyed as a requirement to employ any foreign worker in Indonesia. The following are data on the prosecution of foreign workers by the Office of Manpower. In 2018, 40 Chinese citizens were sent home comprising two foreign workers at PT Indonesia Guang Ching Nickel and Stainless-Steel Industry (IGCNS), nine foreign workers at PT Indonesia Morowali Industrial Park (IMIP), 20 foreign workers at PT Wanxiang Nickel Indonesia (WNI), and nine foreign workers at PT Indonesia Tsingshan Stainless (ITS). Then, in 2018, as many as 10 Chinese citizens were repatriated from PT IMIP. Even though the immigration administration process has been carried out as a violation, this cannot be continued because there is no order for further processing, as revealed by the head of the supervision division of the Central Sulawesi foreign worker immigration supervision sub-section.¹¹

Forms of violations include working as unskilled labourers, working without a valid permit to employ foreign workers (IMTA), employers whose whereabouts cannot be ascertained, and those who have become Indonesian citizens but do not have a work permit. Meanwhile, these foreign workers cannot speak Indonesian, so when questioned by officers in cases involving violations of Indonesian law, they must be accompanied by a translator from Jakarta. This also hampers the legal process, which officers from the regional employment service must complete.

The Pora as supervisor team was formed based on Law Number 6 of 2011 concerning Immigration. In the Minister of Law and Human Rights Regulation Number 50 of 2016, the Pora Team consists of government agencies and/or institutions that have duties and functions related to the activities of foreigners at both the central and regional levels. At the central level, several members of the Pora Team include the Ministry of Law and Human Rights, the Ministry of Manpower, the Ministry of Foreign Affairs, the Indonesian National Police, the Investment Coordinating Board and the Ministry of Finance.

In addition, in the results of the supervision carried out by the Immigration Office in Palu, as the Head of the Sub-Section Immigration Status explained, the foreign workers or foreigners caught by supervisors in the field were processed administratively. This is done with consideration of the rule of law in carrying out actions by immigration supervisors as long as the violations committed by foreign workers or foreigners are only of an immigration administration nature, as stated in Article 116, including the misuse of immigration stay permits in the form of paying fees/fines. However, if it is related to criminal sanctions, foreigners or foreign workers will be processed through the courts. In the legal process, foreigners or foreign workers mostly ask for administrative action. In addition to the immigration office taking administrative action, it also takes action through the court.¹² Concerning violations committed by employers of foreign workers, action needs to be taken in the form of sanctions from immigration as regulated in Article 39, paragraphs (1) to (4) in the

¹¹ Rachmat, " Program Coordination and Synergy of the Foreign Supervision Team (Tim Pora) in Cianjur Regency," *International Journal of Educational Research & Social Sciences* 2, no. 3 (2021): 520.

¹² Kabid Pengawasan and Kasubsi Pengawasan Keimigrasian, "Pengawasan Tenaga Kerja Asing Di Sulawesi Tengah, 2019.," n.d.

MP. No. 10 of 2018. In addition to the sanctions regulated in Article 39, which is mentioned above, there is also the determination of administrative sanctions carried out by the Ministry of Manpower through the Director General's Decree under the provisions of the legislation¹³.

According to the head of the supervisor division, when supervising, if (illegal) foreign workers are found to have violated legal norms, the most important thing to examine is the Plans for Employment of Foreign Workers. After the plan has been verified as valid, it will enter the stages related to Visa or ITAS and the implementation of education and training for accompanying workers as regulated in Article 26 letter (b) of the PR. 20 of 2018, concerning the use of foreign workers, stated that education and training for Indonesian workers should be based on the qualifications of positions occupied by foreign workers.¹⁴

Related to the supervision of foreign workers, especially PT IMIP Group in Morowali Regency, in this case, the Governor at that time, issued Central Sulawesi Governor Regulation No. 33 of 2018 concerning The Duties, Functions, and Work Procedures of the Technical Implementation Unit at the Transmigration Manpower Office of Central Sulawesi Province. To tighten the supervision of foreign workers, a Technical Implementation Unit located in Morowali was set up to carry out labour supervision as regulated in Article 2 of the government regulation. There are two zones of labour inspection, and the office is in Morowali.¹⁵

According to the head supervisor, the supervision of foreign workers is still minimal due to the limited number of supervisors, only 31 persons; meanwhile, foreign workers reached a total of 7.161 people. The limited supervisor is in Morowali, six districts, and one city in Central Sulawesi. The situation is an obstacle to implementing the provisions in Central Sulawesi. The limitations of human resources serving as supervisors of foreign workers, both in number and quality, significantly influence the implementation of their duties. Lawrence Friedman has shown that the legal structure determines the effectiveness of a legal product. This is also the case with legal substances that must be synchronised vertically and horizontally.¹⁶

Standards of Supervision of Foreign Workers in Central Sulawesi

The difference in labour rights and labour standards between the states at changing stages of development has elevated its prominence as an essential element, particularly in international trade. The justification of the existence of conventional rules and regulations of labour law is inevitable, such as standard wages, occupational health, and safety regulations, including standards of supervision.¹⁷

Standards of supervision of foreign workers are necessary in fulfilling state obligations for the rights of every citizen and even the right of everyone to receive equal treatment before the law without discrimination. This does not reduce the existence of state sovereignty in

¹³ Richard A Posner, *The Problematics of Moral and Legal Theory* (Harvard: The Belknap Press of Harvard University Press, 2002).

¹⁴ Pengawasan and Keimigrasian, "Pengawasan Tenaga Kerja Asing Di Sulawesi Tengah, 2019."

¹⁵ Pengawasan and Keimigrasian.

¹⁶ Lawrence M. Friedman, *American Law in the 20th Century* (New Haven and London: Yale University Press, 2002).

¹⁷ Bill Salter, "International Labour Standards on Migrant Workers' Rights; Guide for Policymakers and Practitioners in Asia and the Pacific," *Journal of Politics and Law* 11, no. 3 (2007): 32–34, <https://doi.org/https://doi.org/10.5539/jpl.v11n3p33>.

regulating, supervising, or even enforcing the law against any unlawful act. Foreigners in Indonesia are required to comply with immigration and labour inspection standards.

In terms of immigration provisions, to work in Indonesia, the ITAS or KITAS requires a limited stay permit, which is granted to foreign citizens for a period of two years with an extension of up to six years. One of the reasons for giving Kitas is for foreign workers who enter Indonesia to work. After obtaining a Kitas to work, they can carry out their work legally in the Indonesian territory. However, before obtaining the KITAS, the prospective worker or employer must apply for approval notification for using Vitas and Itas.

Notification of approval for the use of foreign issued by the Director General of Manpower Placement Development and Employment Opportunity Expansion or Permission to Use Foreign Workers (IMTA) is the basis for issuing Visas and ITAS. Getting a notification means having a permit to employ foreign workers. However, more than notification is needed for them to work in Indonesia legally. They must obtain Vitas and ITAS. Vitas is a limited stay permit visa foreign workers require to travel to Indonesia. At the same time, ITAS is a limited stay permit required by foreign workers to be allowed to work in Indonesia.¹⁸

To get that notification, employers of foreign workers must fulfil requirements such as the reasons for using foreign workers. Fill out the form for planning the use of foreign workers. Business permit letter from the authorised agency. Deeds and decisions ratifying the establishment and/or changes from the authorised agency. Company organisational structure chart. Recommendations for positions to be occupied by foreign workers from technical agencies by applicable regulations in the relevant technical agencies. Company domicile information from the local regional government. Employer's Taxpayer Identification Number (NPWP). Letter of appointment of accompanying Indonesian worker and mentoring program plan. A statement letter to carry out education and job training for Indonesian workers by the qualifications of the position occupied by the foreign worker and proof of mandatory employment reporting still valid under Law Number 7 of 1981.

For the PEFW to be approved, notification will be given, or ratification of PEFW contains the reasons for using foreign workers. Position and/or position, work location, wage/salary, number, period of use, number of Indonesian workers appointed as companions, and number of Indonesian workers employed.

Article 20 Paragraph (1) PR. No. 20 of 2018 confirms that every foreign worker working in Indonesia must have a limited Stay Vitas or Vitas to work by attaching a notification and proof of payment. The Vitas application, as intended, can also be used as an application for a Temporary Stay Permit (ITAS). The stay permit is given for the first time for a maximum of two years; it can be extended following the provisions of the legislation. The granting of ITAS, according to a PR, in granting re-entry permits for several trips whose validity period is in line with the validity period of ITAS. Every employer is also required to guarantee social security for foreign workers who work for more than six months or an insurance policy with an insurance company that is a legal entity.

¹⁸ Moch Iqbal Masrur Rahma and Agung Sulisty Purnomo, “Standardisasi Pelayanan Izin Tinggal Terbatas Online Bagi Tenaga Kerja Asing Di Indonesia,” *Jurnal Ilmiah Kajian Keimigrasian Politeknik Imigrasi* 2, no. 2 (2019): 66–67.

Standard supervision as implementation of the use of foreign workers' services in Indonesia should be based on Labour Law as the following principles:

1. Legal, that is, every employer who employs foreign workers must have written permission from the minister or an appointed official (Article 42 Paragraph (1)).
2. Sponsorship is where individual employers are prohibited from employing foreign workers (Article 42 Paragraph (2)).
3. Selective is when foreign workers are employed in a working relationship in a certain position for a certain period (Article 42 Paragraph (4)).
4. Security, in that the use must be in accordance with the prevailing laws and regulations in Indonesia and not endanger state security.

The four principles mentioned above should be a reference in preparing standards for supervising foreign workers in the regions. A search of local regulations in Central Sulawesi shows several areas for improvement areas for improvement in the supervision of foreign workers. Regional regulations tend to prioritise revenue as retribution rather than the general interest of the local communities.

Meanwhile, the purpose of using foreign is to meet the need for skilled and professional workers in certain fields that local workers cannot occupy. It is also a stage in accelerating the national and regional development process by increasing the number of science and technology experts and foreign investment through the presence of them as a way of supporting development in Indonesia, even though companies in Indonesia, both foreign and national private companies, are themselves required to use Indonesian experts where possible.¹⁹

The entry of foreign workers into Indonesia also causes various problems, ranging from social inequality with local workers to issues of work and residence permits that have yet to be issued. For these reasons, it is necessary to supervise and control foreign workers to minimise the problem of illegal foreigners entering Indonesia. There are two institutions related in supervising the foreign worker, namely the Ministry of Manpower and Transmigration and the Directorate of Immigration. Supervision is one of the administrative law enforcement instruments in addition to the application of sanctions. Supervision is a preventive effort to enforce compliance while applying sanctions is a repressive effort to ensure compliance.²⁰

The immigration policy concerning foreigners that applies in Indonesia starts with a prosperity approach, namely, foreigners who are allowed to enter, reside and carry out activities in Indonesian territory are only those who are truly beneficial to the prosperity and welfare of the Indonesian people, and also with a security approach, which is to grant immigration permits only to those who will not endanger state security and public order.

The main purpose of supervision is to provide guarantees for the implementation of tasks following the plan, policies, and orders in line with coercive legal norms that do not violate the established norms. From the perspective of the use of foreign workers, supervision functions to ensure that the employers and/or foreign workers themselves have complied with the labour norms. Regarding the supervision of foreigners in Indonesia, including foreign workers, it

¹⁹ Nur Hadiyati, "Labor Protection During the Covid-19 Pandemic: An Indonesian Experience," *Tadulako Law Review* 6, no. 2 (2021): 199.

²⁰ Wawan Haryanto, Fitriani Jamaluddin, and Rizka Amelia Armin, "Supervision and Enforcement of Labor Sanctions Against Violations of Permits to Use Foreign Workers in the Province of South Sulawesi," *Journal of Constitutional Law Society* 1, no. 1 (2022): 18–19.

includes two factors, namely, the entry and exit of foreigners to and from the territory of Indonesia and the presence and activities of foreigners while in the territory of Indonesia. Supervision by the government in industrial relations is essential to ensure the working of labour laws that employers have complied with and implemented.²¹

To follow up the supervision, a supervisory mechanism is implemented in the following:

1. Preventive–educational supervision, which includes socialisation, technical guidance on implementing the rules for the use of foreigners and guidance for companies using.
2. Nonjudicial persuasive surveillance. This includes examining violations of the use of foreign, both proactively and responsively, based on reports from the community.
3. Supervision of *pro justitia* repression. This includes investigations of violations of the rules on using foreign workers. Supervision can be carried out specifically, incidentally, and responsively in this case.

Law enforcement, which consists of supervision, law enforcement in practice, and administrative law, is one of the stages of a series of government activities in its public duties. Monitoring activities are preceded by planning and subsequent implementation activities if traced systematically. Planning is one of the government's juridical instruments used in carrying out its public duties, and the plan is also the basis for conducting supervision.²²

Therefore, every government activity, as the implementation of public duties, must be preceded by a plan. The plan, prepared based on the general principles of good governance, becomes a guideline for every community's action and the basis for the government to carry out supervision and implement sanctions. The final stage of government activities is evaluation, and the results of the evaluation act as a reference in preparing plans for the next.

PR. No. 20 of 2018 regulates several types of Plans for the Employment of Foreign Workers (PEFW). The plan work is temporary (maximum six months), and those are emergency and urgent. Currently, through GR No. 34 of 2021 introduces a new concept, namely temporary work, a maximum of 6 months and cannot be extended. In case of work over 6 months, maximum two years and can be extended there is Compensation Fund as well as Special Economic Zones (SEZ), a maximum of 5 years and can be extended.

Regarding the use of foreign workers, planning is the beginning of a series of processes that the prospective employers of foreign workers must fulfil. As emphasised in Article 7 PR. No. 20 of 2018, every employer who uses foreign workers must have a plan (PEFW) which the minister or an appointed official approves. This confirms that foreign workers will only work in the territory of Indonesia after first preparing the PEFW plan which is the employer's obligation. This is a means of early supervision by the government to ensure that the employers implement labour-related legal norms and education and training for assistants. If the government considers that the PEFW still needs to meet standards, then the government must reject the PEFW application (without giving notification). This refusal is a form of government supervision of the use of foreign workers.

²¹ Haryanto, Jamaluddin, and Armin.

²² Friedman, *American Law in the 20th Century*.

The PEFW application is an absolute requirement that prospective foreign workers must fulfil, and the plan approval is under the authority of the Ministry of Manpower. The plan approval in the form of notification permits foreigners to work in Indonesia.

Based on Article 10 of PR. No. 20 of 2018, “employers of foreign workers are required to have plans to employ foreign workers which are as follows:

- a. Shareholders who serve as members of the Board of Directors or members of the Board of Commissioners at the Employer of Foreign Workers.
- b. Diplomatic and consular officers who are representatives of foreign countries.
- c. Foreign workers in the type of work required by the government.

Furthermore, for employers of foreign workers, the process is carried out through very strict mechanisms and procedures, especially by requiring companies that use foreign workers to work in the territory of Indonesia to comply with the MR. No. 12 of 2013 concerning Procedures in the use of foreign workers.

From a regional government perspective, the issuance or extension of permits to employ foreign workers (IMTA) whose work location is across districts/cities within 1 (one) province and whose work location is within a district/city area is a matter of the Regional Government fulfils the criteria as a Specific Licensing Retribution as stated in referred to in Article 150 letter c of Law Number 28 of 2009 concerning Regional Taxes and Regional Levies. Furthermore, based on Law Number 28 of 2009, the object of certain licensing levies is certain licensing services by the Regional Government to private individuals or entities intended to regulate and supervise space utilisation activities, use of natural resources, goods, infrastructure, facilities, or facilities. To protect public interests and preserve the environment.²³

The Central Sulawesi Provincial Government has enacted Regional Regulation Number 6 of 2015, which governs the renewal of permits for employing foreign workers. This regulation specifically applies to IMTA extensions for work locations that span many districts/cities within the Central Sulawesi region. The levy is imposed on employers of foreign workers based on the work location of the foreign workers in the Central Sulawesi Province. This is determined by a Statement Letter from the employer and verified by the Work Team at the Central Sulawesi Provincial Manpower and Transmigration Service. The Governor's Decree establishes the constitution of the Working Team.

The IMTA Extension Levy aims to provide IMTA Extensions to foreign workers' employers. Employers of foreign workers exclude government agencies, foreign country representatives, international entities, social institutions, religious institutions, and certain roles in educational institutions. The IMTA Extension Levy pertains to employers obligated to pay retribution for employing foreign workers. The maximum rate for the IMTA Extension Retribution is equal to the IMTA issuance rate specified in the Government Regulation about the types and rates of Non-Tax State Revenue (PNBP) applicable to the ministry responsible for labour affairs. According to Government Regulation Number 65 of 2012, the Ministry of Manpower and Transmigration charges a fee of USD 100 per person per month for extending permits to employ foreign workers who work across different districts/cities within a province

²³ Aries Harianto, “Regulating Foreign Labor in Emerging Economies: Between National Objectives and International Co,” *Academic Journal of Interdisciplinary Studies* 10, no. 3 (2021): 391, <https://doi.org/https://doi.org/10.36941/ajis-2021-0092>.

or a single district/city for one year. The Regional Regulation establishes the rate of the IMTA Ex-tension Levy turned out to be ineffective.²⁴

The Governor is empowered to conduct inspections to assess compliance with the fulfilment of Retribution duties to enforce Retribution laws and regulations. Compulsory assessments that undergo scrutiny must: a. present and/or loan books or notes, documents upon which they are founded, and other documents about the subject of the owed compensation; b. allow access to a designated location or room that is deemed essential, and aid ensure the inspection proceeds smoothly; and/or c. furnish the requisite information. Non-compliance with requirements that injure regional finances may lead to imprisonment for up to 3 months or a fine of up to 3 times the amount of the outstanding retribution. The Governor's authority has shifted to the level of the Ministry of Manpower since the birth of the 2020 law of job creation and its derivatives.²⁵

Even though local regulation has yet to be adjusted or has yet to adopt the Ministerial regulation, even local regulations prioritise the imposition of levies as a source of regional revenue compared to the importance of an integrated model of supervision of foreign workers from the central government to the regions.

In situations of various related foreign worker regulations that have been violated, whether employer or worker in the region, that's why the government requires immediate action; a decision may also be taken to postpone the decision before the revocation is carried out. Concerning the supervision, there is a need to implement local standards. The supervision standards for foreign workers in Central Sulawesi are not appropriate with regulations.

CONCLUSION

Governor Regulation regulates the implementation of the regulation of foreign workers in Central Sulawesi concerning the duties, functions, and work procedures of the Technical Implementing Unit at the Transmigration Manpower Office of the Central Sulawesi. These provisions have not set limited duties and functions in supervising foreign workers in Central Sulawesi. Apart from that, the team's indecisiveness regarding violations in the field, limited supervisory human resources, budget limitations, and weak coordination between agencies. Standards for the supervision of foreign workers in Central Sulawesi are based on national and local regulations. A series of provisions related to the foreign worker are different in several terms. On the other hand, the standard of supervision in the Central Sulawesi region has yet to be specifically regulated, so its implementation is still experiencing obstacles regarding coordination between the authorised agencies. It is necessary to immediately establish or formulate a more comprehensive regional regulation regarding foreign workers in Central Sulawesi, including strengthening the authority of the organisational apparatus to avoid any overlap in implementing their duties.

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²⁴ Pengawasan and Keimigrasian, "Pengawasan Tenaga Kerja Asing Di Sulawesi Tengah, 2019."

²⁵ Pengawasan and Keimigrasian.

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