

LEGAL PROTECTION OF FOREIGN WORKERS IN INDONESIA: A CASE STUDY ON THE MANUFACTURING SECTOR

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ABSTRACT

Legal protection of foreign workers in the manufacturing sector in Indonesia is a significant issue in the face of globalization. This study aims to analyze the effectiveness of existing regulations in protecting the rights of foreign workers and identify measures to improve supervision and enforcement. Using a normative juridical approach, this research finds that Law No. 13/2003 on Manpower still faces weaknesses in implementation. The lack of inter-agency coordination and low legal awareness among foreign workers are the main challenges. The study recommends strengthening regulations, digitizing the monitoring system, and applying strict sanctions to create justice for foreign workers. The results are expected to serve as a foundation for the improvement of labor policies in Indonesia.

Keywords: Foreign Workers, Manufacturing Sector, Legal Protection, Supervision, Law Enforcement, Regulation, Workers' Rights.

INTRODUCTION

Indonesia is one of the countries that attracts foreign workers, especially in the manufacturing sector. The use of foreign labor in this industry contributes significantly to increasing productivity, but also raises a number of legal issues. Shadiqin (2019) explains that legal protection of foreign workers in Indonesia still faces various challenges, such as unclear application of the principles of justice and legal certainty.

In the era of rapid globalization, labor mobility between countries is common and important to support economic growth. Foreign workers play a significant role in meeting the needs of the labor market in various sectors, especially in countries that experience a shortage of skilled workers. However, the presence of foreign workers also poses its own challenges, both in terms of regulation and implementation in the field. Provisions regarding foreign workers have been regulated in Law Number 13 Year 2003 on Manpower, but the implementation often encounters obstacles. Azhar (2015) mentions that one of the main problems is companies' lack of understanding of legal obligations related to foreign workers. As a result, many foreign workers do not get their rights optimally.

Government policies in attracting foreign investment through the granting of work permits for foreign workers have social and economic impacts. Hussain and Haque (2016) describe that the influx of foreign labor can create social inequality if it is not balanced with policies that protect local labor. Siregar (2016) also added that the dominance of foreign labor in several large investment projects has created negative sentiments among the community.

Along with rapid industrial development, the manufacturing sector has become one of the main pillars of the economy. However, despite its significant contribution to economic growth, the sector also faces serious challenges related to work safety. Complex work environments and the use of heavy machinery increase the potential for accidents. Meanwhile, the manufacturing sector often presents a high risk of occupational accidents. Octavianto et al. (2023) explained that legal protection for foreign workers in cases of work accidents is still inadequate. This reflects a void in regulations that ensure work safety for foreign workers.

There is a dilemma between the need for foreign workers and the demand for protection of their rights. Employers often prioritize economic efficiency over fulfilling legal obligations towards foreign workers (Aisyah, 2023). This raises questions about the effectiveness of government oversight.

At the same time, globalization has had a major impact on the distribution of labor. Jaumotte and Tytell (2007) highlight that foreign labor mobility in developing countries such as Indonesia is influenced by the need for experts in certain sectors. However, this is often not matched by strong regulations to protect workers' rights (Darmawan et al., 2020).

In addition, supervision of companies that employ foreign workers is still weak. Oemar (2020) explains that there are gaps in policy implementation, especially related to licensing supervision and fulfillment of foreign workers' rights. This is exacerbated by the lack of synergy between the central and local governments in monitoring the presence of foreign workers.

In the manufacturing sector, another problem is the unclear legal status of foreign workers. Fachri (2023) argues that there is often an overlap between national labor regulations and the policies of multinational companies that employ foreign workers. This condition makes it difficult for foreign workers to obtain adequate legal protection.

From a social perspective, the use of foreign workers also affects the dynamics of industrial relations within the company. Mardikaningsih (2023) revealed that wage inequality between local and foreign workers can create tension in the work environment. This shows the importance of regulations that not only protect foreign workers but also consider the balance with local workers.

Djunaidi and Alfitri (2022) noted that capital-intensive industries often rely on foreign labor to fill strategic positions. However, the lack of knowledge transfer to local labor raises concerns about the sustainability of foreign labor's contribution to national economic development.

During the COVID-19 pandemic, the protection of foreign workers has become increasingly important. Sulistiyono et al. (2021) note that the pandemic has worsened working conditions for many foreign workers, especially in terms of access to health facilities and social security. This suggests the need for policies that are more responsive to crisis situations.

The role of the Ministry of Manpower in addressing foreign labor issues has also received attention. Ndarujati (2021) in his research highlights the importance of improving supervisory and law enforcement capacity to ensure that the rights of foreign workers are protected. Without these measures, violations will continue to occur.

From an economic perspective, Hussain and Haque (2016) noted that the influx of foreign labor into Indonesia often correlates with an increase in foreign direct investment (FDI). However, without strong regulations, this positive impact can turn into social and economic conflict.

Although there have been many studies on the legal protection of foreign workers, previous studies have focused more on general policy aspects without providing an analysis of the implementation of legal protection in the manufacturing sector. This research aims to fill this gap by providing a comprehensive analysis of the effectiveness of existing regulations.

This research offers a unique approach by integrating criminal, civil, and administrative law analysis to evaluate the legal protection of foreign workers in the manufacturing sector. The focus is on strengthening regulation and supervision to ensure fairness for all parties.

This research aims to evaluate the effectiveness of legal protection against foreign labor in the manufacturing sector in Indonesia. In addition, this research aims to identify measures that can improve supervision and law enforcement to create justice for foreign workers.

RESEARCH METHODS

This research uses a normative juridical approach that focuses on analyzing legal literature and related laws and regulations. This approach is chosen to deeply understand the concepts, principles, and implementation of legal protection against foreign workers in the manufacturing sector in Indonesia.

The data source used in this research is secondary data which includes laws and regulations, legal textbooks, journal articles, dissertations, and official reports from the government and related institutions. Law No. 13/2003 on Manpower is the main focus of analysis, in addition to relevant implementing regulations such as Minister of Manpower Regulations related to foreign workers.

The data analysis technique in this research is content analysis, which is used to identify patterns, gaps, and legal implications of foreign labor protection. This analysis is conducted systematically to evaluate the effectiveness of applicable regulations, as well as to provide recommendations for improving the existing legal system. By using this method, the research aims to provide insight into the legal protection of foreign workers, particularly in the manufacturing sector, while offering solutions to improve existing weaknesses.

RESULTS AND DISCUSSION

Legal Protection of Foreign Workers in the Manufacturing Sector

With economic growth continuing to accelerate and the need for skilled labor becoming more pressing, Indonesia has become one of the most attractive countries for foreign workers. Government policies that support foreign investment and industrial development make the country a strategic location for various sectors. Indonesia is a destination country for foreign workers, especially in the manufacturing sector. Legal protection provided to foreign workers has been regulated through various regulations, but its implementation still faces obstacles. Law Number 13 Year 2003 on Manpower is the main legal basis for regulating foreign workers.

Although there is a legal framework that regulates the presence of foreign workers, challenges in its implementation remain. This shows that although regulations have been established, their implementation often does not go as expected. However, as argued by Shadiqin (2019), the implementation of this regulation is often inconsistent, especially in terms of monitoring the implementation of foreign workers' rights in the manufacturing sector.

In the context of protecting foreign workers, there are various challenges that need to be overcome to ensure their rights are fulfilled. One issue that is often raised is related to existing regulations. Azhar (2015) mentioned that one of the main weaknesses in the protection of foreign workers is the lack of clarity in work permit regulations. Companies often hire foreign workers without fulfilling the administrative requirements set by the government. This has implications for the lack of protection of the rights of these workers.

Fachri (2023) notes that foreign workers in the manufacturing sector often face uncertainty over their legal status. This uncertainty has an impact on the protection of their rights, especially in terms of work safety. Octavianto et al. (2023) underline that the risk of work accidents in the manufacturing sector is higher, yet companies often ignore their obligation to provide adequate legal protection to foreign workers.

In the era of deepening globalization, the dynamics of the labor market have undergone significant changes that affect various aspects of employment regulation. This is a particular concern for developing countries that are trying to adjust to the global flow. Jaumotte and Tytell (2007) point out that the globalization of labor brings new challenges to labor regulation in developing countries such as Indonesia. The need for skilled foreign workers must be balanced with strong regulations to ensure their rights are protected. However, the implementation of these policies is often hampered by the lack of supervisory capacity by the government.

Siregar (2016) highlights that the influx of foreign labor in large investment projects in the manufacturing sector poses new challenges for legal protection. In some cases, foreign workers face discrimination in terms of wages and working facilities compared to local workers. This points to the need for stricter supervision of companies employing foreign labor.

In an effort to improve competitiveness and profitability, many employers tend to focus on economic efficiency. This approach often overlooks the social responsibility and legal protection that should be provided to foreign workers. Employers often prioritize economic efficiency while neglecting the legal protection of foreign workers. This is compounded by a lack of legal awareness among foreign workers themselves, who are often unaware of their rights.

In research on the protection of migrant workers, it is important to consider various factors that affect working conditions. Sulistiyono et al. (2021) in their study of migrant worker protection in South Korea noted that protection policies must be adaptive to dynamic working conditions. In Indonesia, the adaptation of regulations to the rapid development of the manufacturing industry is still a major challenge.

In the context of industrial relations, differences in compensation can trigger various problems. Mardikaningsih (2023) highlights that wage inequality between local and foreign labor often creates tension in industrial relations. More inclusive regulations are needed to ensure fairness for all parties involved.

One of the major weaknesses in foreign labor protection is the lack of effective law enforcement mechanisms (Oemar, 2020). The lack of effective enforcement mechanisms in the protection of foreign workers creates loopholes that allow companies to avoid responsibility, emphasizing the need for strengthening supervision and sanction systems. Although regulations related to the protection of foreign workers already exist, the ineffectiveness of their implementation demonstrates the urgent need for more assertive and transparent law enforcement reforms. Suboptimal sanctioning of companies that violate foreign labor regulations weakens protection efforts, calling for a more proactive and consistent legal approach.

Ndarujati (2021) underlines the importance of synergy between the central and local governments in monitoring the presence of foreign workers. Without proper coordination, many violations of foreign labor rights go undetected and unaddressed. The lack of coordination between the central and local governments in overseeing foreign workers creates a loophole that allows rights violations to go undetected, emphasizing the importance of stronger synergy between the two. Synergy between the central and local governments is key in ensuring effective foreign labor oversight, so that rights violations can be immediately identified and followed up with appropriate legal measures. Without good coordination between the central and local governments, it is difficult to monitor foreign workers thoroughly, pointing to the need for a more integrated cooperation mechanism.

Upaya Meningkatkan Pengawasan dan Penegakan Hukum terhadap Tenaga Kerja Asing

Efforts to improve supervision and law enforcement against foreign workers in the manufacturing sector require strategic steps involving various parties. One of the main challenges in supervision is the lack of capacity of government institutions in managing data on foreign workers. Oemar (2020) underlines that the lack of coordination between relevant ministries, such as the Ministry of Manpower and Immigration, often hampers the effectiveness of supervision.

In an effort to protect the rights of foreign workers, it is important to evaluate existing regulations. Shadiqin (2019) highlighted that regulatory revisions are needed to address legal loopholes that allow violations of the rights of foreign workers. These regulations should include more detailed provisions on the obligations of companies in reporting the status of foreign workers, including wages, work facilities, and health protection.

In the context of law enforcement, the effectiveness of existing mechanisms is crucial to protect the rights of foreign workers. Fachri (2023) notes that law enforcement mechanisms against companies that violate the rights of foreign workers are often ineffective. This is due to the weak sanction system applied, which does not provide a deterrent effect. Stricter sanctions are needed, such as revocation of business licenses for companies found in violation.

In an effort to improve the effectiveness of supervision, the use of information technology is crucial. In addition, Djunaidi and Alfitri (2022) emphasize the importance of increasing supervisory capacity through the involvement of information technology. Digitalization of the foreign worker supervision system can help the government to monitor company compliance in real-time. The system also enables data integration between the central and local governments.

It is important to ensure that foreign workers understand their rights. Training foreign workers on their rights should be part of the protection policy. Many foreign workers are unaware of their rights, making them vulnerable to exploitation. This training program can be conducted by the government by involving non-governmental organizations engaged in the employment sector.

In an effort to improve labor protection and ensure company compliance with existing regulations, various innovative measures need to be considered. One approach that can be taken is to strengthen supervisory mechanisms. Ndarujati (2021) proposes the establishment of a special supervisory team tasked with checking companies' compliance with labor regulations. This team should have the authority to conduct unannounced inspections and recommend legal action if violations are found.

In the context of large investments, the presence of foreign labor is often in the spotlight. Siregar (2016) notes that the dominance of foreign labor in several large investment projects requires fairer regulation to avoid inequality with local labor. Regulations should include provisions on job allocation for local labor in any project involving foreign labor.

In an effort to improve labor standards in developing countries, it is important to have clear guidelines. Jaumotte and Tytell (2007) highlight the need for an international framework to ensure that labor regulations in developing countries, including Indonesia, are in line with global standards. This is important to ensure that foreign laborers working in Indonesia receive fair treatment in accordance with international standards.

In the context of a crisis situation such as a pandemic, labor protection becomes even more important. Sulistiyono et al. (2021) emphasized the need for better protection for foreign workers during a pandemic or other crisis situations. Regulations should include provisions on foreign workers' access to health services and social assistance during times of crisis.

Mardikaningsih (2023) proposed a revision of the wage policy to ensure fairness between local and foreign workers. Significant wage inequality not only harms local labor but also creates tension in industrial relations. This revision should involve all stakeholders to create a sustainable solution. A wage policy revision involving all stakeholders is necessary to create equality between local and foreign labor, thereby reducing tensions in industrial relations. The wage gap between local and foreign labor indicates the need for policy reforms that ensure fairness and support harmony in the work environment. An inclusive approach to wage policy revision can create a sustainable solution that not only protects local labor rights but also strengthens stable industrial relations.

CONCLUSION

Based on the results of the research, it can be concluded that legal protection of foreign workers in the manufacturing sector in Indonesia still faces significant challenges. Law No. 13/2003 on Manpower provides a legal basis to regulate the presence of foreign workers, but its implementation is often less effective. Regulatory vagueness and weak supervision are major obstacles in protecting the rights of foreign workers.

Many companies have not fully complied with legal obligations related to foreign workers, such as reporting obligations and provision of employment protection. This problem is further

exacerbated by the lack of legal awareness among foreign workers. Government efforts to improve oversight are hampered by capacity constraints, both in terms of human resources and technology.

Legal protection of foreign workers requires a more integrated approach. This includes strengthening regulations, increasing supervision, imposing strict sanctions on violating companies, and increasing legal awareness for foreign workers.

The government needs to improve labor regulations related to foreign workers by adding more specific and operational provisions. This revision should include the obligation of companies to report on the working conditions of foreign workers on a regular basis and provide work safety guarantees that are equivalent to local workers.

Supervision of companies should be improved through the use of information technology. Digitalization of the supervision system allows the government to monitor company compliance more efficiently and transparently. The system can also integrate data between relevant ministries to avoid duplication or gaps in supervision.

Training programs on legal rights should be provided for foreign workers. This can be done through cooperation between the government, civil society organizations, and educational institutions, to ensure that foreign workers understand their rights.

Companies found to have violated labor regulations should be subject to strict sanctions, including revocation of business licenses if repeated violations are committed. Strict law enforcement will provide a deterrent effect and encourage compliance with regulations.

The government needs to establish a special supervisory team that has the authority to conduct surprise inspections and take action against violating companies. This team should be equipped with adequate resources to ensure that all foreign workers receive proper legal protection.

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