

Foreign Worker Employment Violations in Majalengka: A Legal Analysis Based on Law No. 13 of 2003

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ABSTRACT

This study analyzes violations in the employment of foreign workers (TKA) in Majalengka Regency under Law Number 13 of 2003 on Manpower and its implementing regulations, including Government Regulation Number 34 of 2021 and Minister of Manpower Regulation Number 8 of 2021. Majalengka offers a distinctive case due to rapid industrial growth and rising foreign labor utilization, which heighten local regulatory and supervisory challenges. The research uses a normative legal method with statutory and conceptual approaches, supported by qualitative analysis to identify common violation patterns. The findings reveal recurring violations, including the employment of foreign workers without approved RPTKA, mismatches between job positions and work locations, failure to implement mandatory skill transfer programs, non-payment of the Compensation Fund (DKPTKA), and inconsistencies in immigration permits. These issues stem from weak inter-agency coordination, low corporate compliance awareness, and the absence of measurable standards for evaluating skill transfer. The study recommends risk-based joint inspections, integration of RPTKA data with workforce realization, measurable skill transfer standards, graduated administrative sanctions, and strengthened compliance campaigns to ensure legal certainty and protect local workers.

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1. INTRODUCTION

The presence of foreign workers (TKA) in Indonesia is a phenomenon that cannot be separated from the currents of globalization, trade liberalization, and the continuous increase in foreign investment. The development of international economic cooperation encourages the inflow of capital and technology from abroad, which in turn is often accompanied by the need for workers with specific expertise that is not yet fully available domestically. In the context of national development, the existence of foreign workers is regarded as one of the instruments to accelerate technology transfer, knowledge transfer, and the enhancement of Indonesia's human resource capacity (Bawono et al., 2024).

From a juridical perspective, the regulation of foreign worker employment in Indonesia is based on Law Number 13 of 2003 concerning Manpower, which stipulates that every employer who hires foreign workers must obtain written permission from the government (Pemerintah, 2003). These provisions not only regulate licensing aspects but also emphasize the selective use of foreign workers, restrictions on certain positions, and the obligation to appoint local counterpart workers as a form of skills transfer. Fundamentally, this regulation aims to maintain a balance between investment needs and the protection of local workers (Harahap & Oemar, 2020; Prayitno et al., 2025; Sucipty, 2025).

However, in practice, various forms of violations in the employment of foreign workers are still found. These violations may include the employment of foreign workers without valid permits, discrepancies between the position held and the granted permit, and the failure to fulfill obligations related to technology transfer and reporting. This condition indicates challenges in the supervision and enforcement of labor law, both at the central and regional levels. Weak inter-agency coordination and limited labor inspection resources often affect the effectiveness of regulatory implementation (Arifin & Patriani, 2024; Helian, 2022; Laode et al, 2025; Ramadhano & Lie, 2023).

However, in practice, various forms of violations in the employment of foreign workers are still found. These violations may include the employment of foreign workers without valid permits, discrepancies between the position held and the granted permit, and the failure to fulfill obligations related to technology transfer and reporting. More broadly, regional labor supervision in Indonesia often faces structural constraints, including limited inspector capacity, overlapping institutional authority, and inconsistent enforcement mechanisms. This condition indicates ongoing challenges in the supervision and enforcement of labor law, both at the central and regional levels. Weak inter-agency coordination and limited labor inspection resources frequently reduce the effectiveness of regulatory implementation (Bawono et al., 2024).

In Majalengka Regency, which is experiencing rapid development with the presence of strategic infrastructure such as West Java International Airport (BIJB) Kertajati, the demand for labor continues to increase. This situation creates opportunities for the entry of foreign workers while simultaneously increasing the potential for violations of labor regulations. Based on data from the Majalengka Regency Manpower Office, the number of foreign workers reached 246 individuals in January 2024. Therefore, this study is important to analyze the forms of violations in the employment of foreign workers in Majalengka Regency and to examine their implementation from the perspective of Law Number 13 of 2003 concerning Manpower and its implementing regulations, such as Presidential Regulation Number 20 of 2018 concerning the Employment of Foreign Workers. By analyzing these conditions, this research is expected to provide both academic and practical contributions, particularly in strengthening the labor supervision system, enforcing regulations, and protecting the interests of local workers amid the dynamics of the global labor market.

2. METHODS

This research employs a normative juridical method, focusing on the analysis of applicable laws and regulations governing the employment of foreign workers in Indonesia. The primary legal sources examined include Law Number 13 of 2003 concerning Manpower, its implementing regulations such as Government Regulation Number 34 of 2021, Presidential Regulation Number 20 of 2018 concerning the Employment of Foreign Workers, and Minister of Manpower Regulation Number 8 of 2021. These statutory instruments were analyzed using a statutory and conceptual approach to assess legal compliance and identify normative gaps.

Secondary data were systematically collected from legal literature, peer-reviewed academic journals, official government reports, and documented cases related to foreign worker supervision and enforcement. The literature selection was limited to publications issued between 2020 and 2024 to ensure relevance to the current regulatory framework, particularly following amendments introduced under the Job Creation Law regime. Academic sources were selected based on their relevance to labor law enforcement, foreign worker regulation, and administrative supervision. Government reports were

obtained from official publications of the Ministry of Manpower and regional Manpower Offices, including statistical data on foreign worker utilization in Majalengka Regency. The collected materials were examined through qualitative descriptive-analytical techniques. The analysis involved identifying patterns of violations, evaluating their conformity with statutory provisions, and assessing the effectiveness of regulatory implementation at the regional level. This approach aims to provide a comprehensive legal assessment grounded in both doctrinal analysis and empirical regulatory data.

3. FINDINGS AND DISCUSSION

3.1. Overview of Violation Findings (Case Typology)

Based on regulatory documents, literature studies, and mapping of general supervision practices of foreign workers (TKA) in industrial areas and the vicinity of West Java International Airport (BIJB) Kertajati, several typologies of violations relevant to the context of Majalengka Regency particularly following the development of industrial zones and airport connectivity can be classified as follows. These violations may be analytically understood through the lens of responsive regulation theory developed by Ian Ayres and John Braithwaite, which distinguishes between preventive (*ex-ante*) compliance and corrective (*ex-post*) enforcement within a graduated sanction framework (Lodge, 2016; Rogers et al., 1993).

1. Invalid or Unapproved Foreign Worker Utilization Plan (RPTKA)

Employers hire foreign workers without proper approval of the RPTKA or use an RPTKA inconsistent with the approved position or placement. This constitutes a failure of *ex-ante* compliance, as RPTKA approval functions as a preventive licensing mechanism under Government Regulation Number 34 of 2021. From a responsive regulation perspective, weaknesses at this initial licensing stage indicate insufficient persuasive supervision and early-stage monitoring, allowing procedural non-compliance to persist.

2. Position Mismatch and Unauthorized Reassignment

Foreign workers are found working in positions different from those stated in the RPTKA or are relocated without formal amendment approval. This reflects a breakdown in maintaining ongoing compliance after initial authorization. In the enforcement pyramid model, such conduct suggests that monitoring mechanisms have not escalated appropriately from guidance to warning or administrative sanction.

3. Failure to Implement Skill Transfer Obligations

Mentorship or knowledge transfer programs to local workers are inadequately documented or not effectively implemented, despite being a mandatory obligation of employers under the implementing provisions of Government Regulation Number 34 of 2021.

4. Indonesian Language Requirement and Companion Training Not Optimally Implemented

The obligation to facilitate Indonesian language learning for foreign workers and training for designated Indonesian counterpart workers has not been optimally implemented, as required under Government Regulation Number 34 of 2021.

5. Non-Optimal Payment of the Foreign Worker Compensation Fund (DKPTKA)

Delays or non-compliance in DKPTKA payments and reporting obligations reflect weaknesses in *ex-post* compliance management. Under responsive regulation theory, repeated administrative non-compliance should trigger escalating sanctions; however, inconsistent enforcement reduces regulatory credibility.

6. Inconsistencies in Immigration Permits

Discrepancies between immigration status (VITAS/ITAS) and employment authorization (RPTKA), or overstayed residence permits, demonstrate coordination gaps between manpower and immigration authorities. This indicates systemic enforcement fragmentation, undermining the effectiveness of the regulatory pyramid.

Overall, the findings show that violations in Majalengka predominantly arise from weaknesses in both *ex-ante* licensing control and *ex-post* monitoring mechanisms. Integrating persuasive supervision,

coordinated inspections, and credible graduated sanctions would align enforcement practices with responsive regulation principles and strengthen legal certainty in foreign labor governance (Siregar, Pratama & Azhari, 2025; Yanni et al., 2023).

3.2. Compliance Analysis & Implementation Gaps at the Regional Level

Based on the issues identified above, the following evaluation results were obtained to ensure that companies comply with applicable legal provisions and requirements:

1. RPTKA Administration and Approval Amendments

Many violations arise during project expansion phases (construction/operational logistics/industrial or airport support activities) when companies change the position or placement of foreign workers without updating the RPTKA approval. Government Regulation No. 34 of 2021 explicitly requires amendment approval for substantive data changes; therefore, sectoral supervision must link realization reports with the issued RPTKA data.

2. Skill Transfer & Counterpart Workers

Employers frequently treat this obligation as a mere formality, lacking substantive implementation. Mentoring documents are prepared to satisfy administrative requirements, yet the actual transfer of knowledge and measurable competency outcomes for local counterpart workers remain minimal. Minister of Manpower Regulation No. 8 of 2021 explicitly mandates the implementation of a skill transfer program as a prerequisite for the extension of foreign worker employment. Accordingly, failure to meaningfully implement and document this obligation should not be viewed as a minor procedural lapse, but rather as a substantive non-compliance that justifies the imposition of administrative sanctions.

3. DKPTKA & Reporting

Delays in payment or semester reporting must be addressed through written warnings–suspension–revocation in accordance with the administrative sanctions regime mandated under Government Regulation No. 34 of 2021.

4. Immigration Synchronization

In practice, discrepancies between residence permit status and employment status create risks of administrative overstay and invalid employment status. Joint inspections between the Regional Manpower Office and Immigration authorities are essential, referring to Law No. 6 of 2011 concerning Immigration.

From a doctrinal perspective, Lalu Husni in *Pengantar Hukum Ketenagakerjaan* (2014) emphasizes that labor law performs both a protective and adaptive function: it must safeguard local workers while remaining responsive to investment dynamics and economic development (Husni, 2014). In the context of foreign worker regulation in Majalengka Regency, the identified compliance gaps demonstrate that the core issue lies not in regulatory absence but in procedural certainty and supervisory effectiveness. The formal fulfillment of requirements such as RPTKA documentation and mentoring reports without substantive evaluation reflects weak enforcement intensity and limited outcome-based monitoring. Therefore, strengthening procedural certainty through integrated digital reporting systems, joint inspections between manpower and immigration authorities, and the consistent application of graduated administrative sanctions would operationalize the dual protective-adaptive function of labor law. This approach ensures that investment flows are not obstructed, while legal certainty and the protection of domestic labor remain prioritized within a rule-of-law framework (Febriyanti et al., 2022; Hazali et al., 2024; Shadiqin, 2019; Swari & Purwanto, 2019; Wulandari et al., 2023).

3.3 Policy Implications for Majalengka Regency

1. Operationalization of Joint Inspection between the Manpower Office and Immigration Based on Risk Scoring

Supervision of foreign workers (TKA) in regions such as Majalengka Regency needs to be carried out in an integrated manner between the Regional Manpower Office (Disnaker) and the Immigration

Office. The concept of joint inspection refers to coordinated inspections that examine not only labor permit aspects (RPTKA, DKPTKA, skill transfer programs), but also immigration status (work VITAS/ITAS). A risk-scoring-based approach means inspections are prioritized using measurable indicators rather than conducted randomly. Companies may be categorized as *high risk* based on criteria such as:

- a. a history of previous administrative violations;
- b. a high number or concentration of foreign workers relative to total employees;
- c. engagement in large-scale infrastructure or industrial projects;
- d. use of inter-regional subcontracting schemes; or
- e. inconsistencies in periodic reporting and DKPTKA payments.

Through this system, supervisory resources can be allocated proportionally, improving efficiency and regulatory responsiveness in line with Government Regulation No. 34 of 2021 and Law No. 6 of 2011 on Immigration.

2. Integration of RPTKA Data with Actual Workforce Realization at the Company Level (Quarterly Internal Compliance Audit)

One source of foreign worker violations is the discrepancy between the data submitted in the RPTKA (Foreign Worker Utilization Plan) and the actual workforce realization in the field.

- a. Companies should conduct quarterly internal compliance audits to ensure alignment between RPTKA data and the foreign workers actually employed.
- b. The data should then be reported to the Regional Manpower Office and used as cross-verification material within the central supervision system.
- c. This mechanism supports the principle of administrative accountability as emphasized by Abdul Khakim in *Dasar-Dasar Hukum Ketenagakerjaan di Indonesia* (2014), which states that legal certainty can only be guaranteed through consistent documentation and reporting.

3. Measurable Standards for Skill Transfer Programs (Training Hours, Curriculum, Companion Logbooks) as a Requirement for RPTKA Extension

The presence of foreign workers is not merely to fill skill shortages but also to transfer expertise to Indonesian counterpart workers. However, this obligation is often treated as a formality.

- a. Diperlukan standar yang jelas, misalnya minimal jam pelatihan per bulan, kurikulum yang disetujui Disnaker, serta *logbook* yang mencatat kegiatan mentoring.
- b. Standar ini kemudian dijadikan syarat perpanjangan RPTKA agar perusahaan benar-benar menjalankan kewajibannya.
- c. Gagasan ini sejalan dengan pandangan Zainal Asikin dkk. *Dasar-Dasar Hukum Perburuhan*, 2016, bahwa hubungan industrial harus diarahkan untuk meningkatkan kapasitas tenaga kerja lokal agar tercipta keadilan dan keberlanjutan.

4. Graduated Sanction Enforcement and Public Summary Disclosure (Without Revealing Personal Data) as Deterrence

Regulatory effectiveness depends on consistent sanction enforcement. Under Government Regulation No. 34 of 2021, violations in foreign worker employment are subject to administrative sanctions ranging from written warnings to suspension and license revocation.

- a. A graduated mechanism provides an opportunity for corporate correction; however, non-compliance must result in real consequences.
- b. To strengthen deterrence, the government may publish brief summaries of violations and sanctions imposed without disclosing personal data of foreign workers.
- c. This approach is consistent with Adrian Sutedi in *Hukum Perburuhan* (2009), who argues that legal certainty in labor law can only be achieved if violations are met with clear, firm, and transparent sanctions.

5. Compliance Campaign for HR/GA Departments in Majalengka Regarding Government Regulation No. 34 of 2021 and Minister of Manpower Regulation No. 8 of 2021

Many regional companies still lack detailed understanding of their obligations regarding foreign worker employment, including RPTKA procedures, DKPTKA payments, and skill transfer requirements.

- a. Therefore, compliance campaigns through socialization programs, workshops, or training modules for Human Resources (HR) and General Affairs (GA) staff are necessary.
- b. These initiatives not only improve regulatory understanding but also foster awareness that legal compliance constitutes part of corporate responsibility.
- c. From an analytical standpoint, Lalu Husni in *Pengantar Hukum Ketenagakerjaan* (2014) stresses that labor law functions not only repressively (punitive) but also preventively and educationally in building compliance culture. In the context of Majalengka, preventive legal education through structured compliance campaigns can reduce administrative violations before they occur, thereby strengthening regulatory legitimacy and minimizing enforcement burdens. This demonstrates that effective labor governance requires a balance between sanction-based enforcement and anticipatory compliance-building strategies (Amboki, 2022; Hanifah, 2021; Husni, 2014; Juaningsih et al., 2020).

4. CONCLUSION

This study demonstrates that violations in the employment of foreign workers (TKA) in Majalengka Regency reflect not only administrative non-compliance but also deeper structural weaknesses in regulatory governance. The recurring problems ranging from licensing inconsistencies to ineffective skill transfer implementation indicate that the core issue lies less in normative deficiency and more in enforcement capacity, monitoring design, and corporate compliance culture. Although Law Number 13 of 2003 concerning Manpower, Government Regulation Number 34 of 2021, and Minister of Manpower Regulation Number 8 of 2021 provide a sufficiently comprehensive legal framework, their effectiveness at the regional level depends on institutional coordination, measurable compliance standards, and credible sanction mechanisms.

The findings imply that strengthening foreign worker governance in Majalengka requires a shift from reactive administration toward responsive and risk-based supervision. Integrated inspections, data synchronization, measurable skill transfer benchmarks, and graduated sanctions are not merely technical reforms; they represent a systemic recalibration of regulatory practice to ensure that foreign labor utilization genuinely contributes to local workforce development. If effectively implemented, these reforms would position Majalengka particularly as a rapidly developing region supported by strategic infrastructure as a regulatory model for other emerging industrial areas in Indonesia. By aligning investment facilitation with firm legal oversight and substantive skill transfer, Majalengka could demonstrate how regional labor governance can balance economic growth with the protection and empowerment of domestic workers.

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