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Legal Violations in Public Services Within the Policy Practice of Foreign Workers Utilization Plan in Indonesia

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ABSTRACT: Misconduct by state administrative officials poses multi-dimensional threats, spanning legal, social, and economic aspects. Capital investment provided by home countries to host countries generally necessitates the involvement of foreign labor (TKA). However, the spirit of investment strengthening and regulatory simplification in licensing has not been accompanied by rigorous government oversight. The disclosure of extortion cases related to the issuance of foreign worker permits within the Ministry of Manpower serves as empirical evidence of the discrepancy between legal norms and legal reality. This study employs a normative juridical research method. The objective is to analyze the abuse of authority in managing labor utilization plans, as well as procedural misconduct and deliberate protracted delays during the document verification stage. The findings reveal that the administration of Foreign Worker Utilization Plans (RPTKA) is characterized by structured maladministration perpetrated by Ministry of Manpower officials, violating the General Principles of Good Administration and the Government Administration Law. Consequently, this leads to legal uncertainty for business entities requiring foreign labor in Indonesia.

KEYWORDS: Legal Violation, Public Service, Policy, Foreign Worker.

I. INTRODUCTION

The 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the '1945 Constitution') represents the political will of the sovereign people of Indonesia. Consequently, all state institutions and public offices are inherently legitimized by this popular sovereignty. Thus, not only must their duties and authorities be exercised in accordance with the Constitution, but they must also remain accountable to the people through the principles of accountability, transparency, and participatory governance (Cahyani 2021, 34).

The implementation of governmental functions undeniably necessitates a bureaucratic entity. Conversely, the existence of bureaucracy often becomes a source of public discontent due to the abuse of power, corruption, and other malpractices. Corruption and the misuse of office constitute administrative pathologies that must be eradicated (Sutedi 2019, 37). Such administrative maladies inevitably erode public confidence in conducting business activities within Indonesia. Dishonest practices by state administrative officials pose multifaceted threats, encompassing legal, social, and economic dimensions. Presently, Indonesia is vigorously striving to reform its bureaucratic machinery as part of a strategic effort to attract capital investment and advance national economic development.

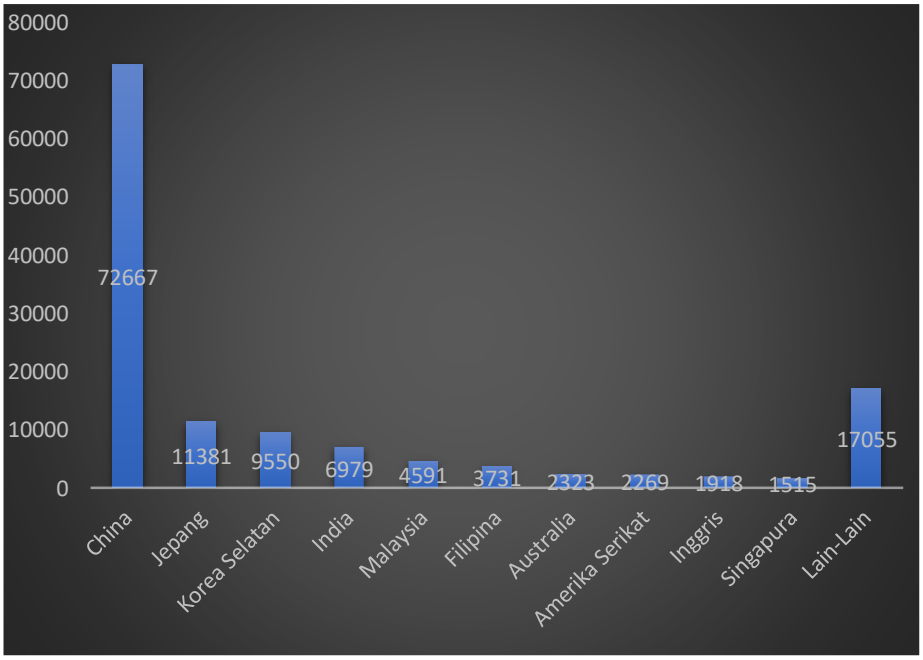
The national economy must be cultivated to facilitate a transformative progression toward improved conditions. Economic growth demands continuous state attention, as it serves as a pivotal indicator of the government's performance in fostering public welfare and ensuring a progressive transition toward heightened prosperity over time (Nadzir and Kenda 2023, 318).

Economic growth is inextricably linked to investment, which serves as a vital component for ensuring long-term monetary stability and financial circulation. The stimulation of production activities facilitates job creation, enhances public livelihoods, and augments market attractiveness (Rosmayanti and Apriani 2023, 3). Sustaining or increasing the value of both domestic and foreign direct investment constitutes a systemic endeavor that cannot be instantaneously established by stakeholders. An investment climate characterized by efficiency, expediency, and legal certainty is fundamental to ensuring and maintaining effective investment flows.

Capital investment provided by a home country to a host country generally involves the engagement of Foreign Workers (hereinafter referred to as 'TKA'). TKA is defined as any non-Indonesian citizen capable of performing work, whether within or outside an employment relationship, to produce goods or services to meet societal needs (Aida et al. 2021, 161). The presence of TKA is not permitted across all sectors; rather, it is restricted to specific job levels, where only educated foreign nationals with specialized competencies and professional expertise are authorized to enter the Indonesian workforce.

Indonesia has emerged as a significant destination for foreign workers from various nations. According to data provided by the Ministry of Manpower (hereinafter referred to as 'Kemnaker'), the total number of foreign expatriates in Indonesia reached 133,979

individuals as of September 2024. The distribution of these foreign workers by their respective countries of origin is detailed as follows (Kusumastuti 2024):



List of Figures 1. Statistics of Foreign Labor in Indonesia for the Year 2024
Source: Goodstats

According to data from the Ministry of Manpower as of September 2024, the total number of foreign workers (TKA) in Indonesia reached 133,979, marking a significant increase of 83.4% compared to 2023. China dominates as the primary country of origin with 72,667 individuals, predominantly employed in the industrial and technology sectors. Japan follows with 11,381 foreign workers in the manufacturing and automotive industries, followed by South Korea with 9,550 individuals in the technology and entertainment sectors, and India with 6.979 personnel in the information technology sector. Significant contributions are also noted from Malaysia (4,591) and the Philippines (3.731). Furthermore, Australia (2,323) and the United States (2,269) are notably involved in the education and tourism sectors, alongside the United Kingdom (1,918) in the education and financial services sectors. Additionally, Singapore accounts for 1,515 workers focused on finance and trade, with the remaining 17,055 foreign workers originating from a diverse range of other countries (Kusumastuti 2024).

The regulatory regime for foreign worker permits in Indonesia underwent a significant transformation following the enactment of Law Number 11 of 2020 concerning Job Creation. Previously, under Presidential Regulation Number 20 of 2018, foreign workers were required to fulfill various administrative prerequisites, including the approval of the Foreign Worker Utilization Plan (hereinafter referred to as 'RPTKA'), the Foreign Worker Utilization Permit (hereinafter referred to as 'IMTA'), and the Limited Stay Visa (hereinafter referred to as 'VITAS'). Conversely, current provisions only mandate the validation of the RPTKA by central authorities. This streamlining has abolished the necessity of obtaining written permission from the Minister or a designated official for the utilization of foreign labor (Shalihah 2021, 423).

The current regulations governing the Foreign Worker Utilization Plan (RPTKA) in Indonesia refer to Government Regulation Number 34 of 2021 concerning the Utilization of Foreign Workers (hereinafter referred to as 'PP No. 34/2021') and Minister of Manpower Regulation Number 8 of 2021 concerning the Implementing Regulations of Government Regulation Number 34 of 2021. This regulatory framework aims to streamline the licensing process by transitioning from a multi-licensing system to a single-licensing system. However, the implementation of this policy has encountered various barriers faced by parties involved in the foreign worker permitting process, which eventually exposed corrupt practices within its administrative management.

The Corruption Eradication Commission (hereinafter referred to as 'KPK') has uncovered findings of extortion committed by officials within the Ministry of Manpower against foreign worker (TKA) agencies, a practice reportedly ongoing since 2019. Preliminary calculations indicate that the illicit proceeds accumulated from these criminal acts of extortion amount to approximately IDR 53 billion. The KPK further suspects that such practices may have originated as early as 2012. In this case, the KPK has named eight suspects allegedly involved in receiving the proceeds of the extortion. The Acting Director of Investigation at the KPK, Budi Sukmo Wibowo, stated that these practices were executed by staff members under superior orders to illicitly determine the tariff for foreign worker utilization permits (Tempo 2025).

The KPK stated that approximately 85 employees within the Directorate of Foreign Worker Utilization Control (PPTKA), under the Directorate General of Manpower Placement Development and Expansion of Employment Opportunities (Dirjen Binapenta and PKK) of the Ministry of Manpower, received illicit shares from the corruption involving foreign worker (TKA) permit processing (Tempo 2025). It is deeply ironic that a public service institution, mandated to execute its duties with efficiency and expediency, has instead obstructed the licensing workflow and engaged in extortion. Such actions significantly jeopardize legal certainty for both foreign workers and the business entities that urgently require their expertise.

The spirit of investment reinforcement and regulatory reform aimed at streamlining licensing procedures has not been accompanied by rigorous government oversight. The exposure of extortion cases in the issuance of foreign worker permits within the Ministry of Manpower serves as empirical evidence of the significant gap between legal norms and legal reality. These illicit levy practices undermine the objective of fostering a healthy investment climate. Consequently, public and investor trust is at stake, the integrity of the government bureaucracy is being eroded, and there are long-term repercussions for the country's investment attractiveness.

It raises a fundamental question as to how a licensing regulation, designed with the impetus of facilitating administrative ease, has instead created opportunities for corruption. From the perspective of Administrative Law (hereinafter referred to as 'HAN'), such occurrences clearly violate the General Principles of Good Corporate Governance (hereinafter referred to as 'AUPB'). Based on the aforementioned background, the author is compelled to conduct a study entitled "Legal Violations in Public Services within the Policy Practice of Foreign Workers Utilization Plan in Indonesia".

II. RESEARCH METHOD

Normative legal research is a study that perceives law as a set of norms within society that serves as a standard of conduct. This type of research focuses on the collection of positive law, legal principles and doctrines, legal analysis of concrete cases, legal systematics, regulatory harmonization, comparative law, and legal history (Suteki and Taufani 2022, 174). Research invariably originates from a sense of inquiry to find solutions for contemporary real-world problems. The methodology adopted in this study employs three types of legal approaches: the statutory approach, the analytical approach, and the case approach. The researcher conducts analysis, interpretation, and evaluation of positive legal norms concerning the issue of public service legal infringements within foreign labor administration policies in Indonesia.

III. DISCUSSION

A. Legal Duties of Employers Utilizing Foreign Labor in Indonesia

Employers of foreign labor are granted the right to recruit foreign workers for specific positions, provided they possess the corresponding competencies. The legal basis for the utilization of foreign workers in Indonesia is established under Government Regulation Number 34 of 2021 concerning the Utilization of Foreign Workers and Minister of Manpower Regulation Number 8 of 2021 concerning the Implementing Regulations of Government Regulation Number 34 of 2021. An employer of foreign labor is defined as a legal entity established under Indonesian law or any other entity that employs foreign workers by providing wages or other forms of remuneration.

Pursuant to Article 6 of Government Regulation Number 34 of 2021, employers of foreign workers are mandated to possess a Foreign Worker Utilization Plan (RPTKA) ratified by the Minister or a designated official. Employers are further obligated to engage foreign personnel in strict accordance with the approved RPTKA. As succinctly stipulated in Article 7, employers of foreign labor are entrusted with the responsibility to:

1. To appoint Indonesian citizens as understudy workers for the foreign labor engaged, specifically to facilitate the transfer of technology and expertise;
2. To conduct education and job training for the designated understudy workers in accordance with the job qualifications held by the foreign worker;
3. To repatriate the foreign worker to their country of origin upon the expiration of the employment agreement;
4. To facilitate Indonesian language education and training for the foreign worker.

The aforementioned provisions are exempted for members of the board of directors and commissioners, heads of representative offices, as well as patrons, executives, and supervisors of foundations, and foreign workers engaged in temporary employment. Furthermore, employers are mandated to enroll foreign workers in the national social security program for those employed for more than six months, or in an insurance program provided by an insurance company for those employed for less than six months. For foreign workers with a tenure of less than six months, they must, at a minimum, be provided with occupational accident insurance to mitigate work-related risks.

B. Practices of Abuse of Authority in the Administration of Foreign Worker Utilization Plans at the Ministry of Manpower

1. Abuse of Procedures and Deliberate Protracted Delays in the Document Verification Stage

The Corruption Eradication Commission (KPK) has disclosed the chronology and modus operandi of alleged extortion and illicit gratifications within the Foreign Worker Utilization Plan (RPTKA) framework at the Ministry of Manpower. The Acting Director of Investigation at the KPK, Budi Sukmo Wibowo, stated that these practices targeted foreign nationals seeking employment in Indonesia. The authority to issue RPTKA approvals lies within the jurisdiction of the Directorate General of Manpower Placement Development and Expansion of Employment Opportunities (Dirjen Binapenta and PKK) under the Ministry of Manpower (Tempo 2025).

The Corruption Eradication Commission (KPK) is currently investigating a corruption case involving extortion in the licensing of foreign workers. The anti-corruption agency has designated eight individuals as suspects in this matter, identified by the initials SH, HYT, WP, DA, GTW, PCW, JMS, and ALF. The Acting Director of Investigation at the KPK, Budi Sukmo Wibowo, stated that these eight suspects comprise officials from echelon I and II levels, as well as lower-level administrative executors. They allegedly exploited loopholes within the verification process of foreign worker documentation (Tempo 2025).

Budi stated that the suspects conspired to commit extortion in office against foreign workers processing their RPTKA permits within the Directorate General of Binapenta and PKK at the Ministry of Manpower. Generally, according to Budi, foreign workers submit their applications online through agency firms. The Ministry then verifies the completeness of the application documents. If any documentation is found to be deficient, Budi noted that officials are mandated to notify the agents to rectify the submission within five days. It is at this juncture that the extortion occurs: officials deliberately divert the verification process from formal channels to informal ones (Tempo 2025).

According to Budi, the suspects contacted the agents via the WhatsApp messaging application instead of utilizing the established official online system. This method was employed to solicit illicit payments under the pretext of expediting or facilitating the application process. Agents who complied with these financial demands would subsequently receive notifications to complete their documentation. Conversely, those who refused to provide such payments faced deliberate administrative obstructions in their permit applications (Tempo 2025).

Budi stated that officials deliberately withheld information regarding documentation deficiencies, failed to process the applications, or engaged in protracted delays, resulting in administrative fines for the foreign workers. The penalties incurred by applicants were substantial, amounting to IDR 1 million per day. Consequently, agents were left with no alternative but to yield to the financial demands. 'Otherwise, they would face penalties far exceeding the amount of the requested illicit payments,' stated Budi Sukmo at the KPK's Merah Putih building in South Jakarta on Thursday, June 5, 2025 (Tempo 2025).

The verification process for foreign worker permits was exploited by certain Ministry of Manpower officials for extortion by manipulating communication loopholes. Notifications regarding documentation deficiencies, which should have been disseminated through the official online system, were instead transmitted privately via WhatsApp to agents or representatives. Consequently, only those who complied with the illicit payments were informed to immediately rectify their files, while applications from those who refused to pay were deliberately obstructed without any formal clarification (Tempo 2025).

Applicants whose permits remain unprocessed typically seek direct clarification by visiting the Ministry of Manpower's office and confronting officials. At this stage, various actors ranging from lower-level staff to high-ranking officials, including the Director General impose standardized tariffs as a prerequisite for permit issuance (Tempo 2025). Conversely, applicants who decline to provide such payments are neither informed of their documentation deficiencies nor see their applications progressed, as they are subjected to deliberate administrative inertia (Haryanti Puspa Sari and Belarminus 2025).

From a formal-juridical perspective, the aforementioned protracted delays constitute a form of procedural abuse (abuse of procedure) and intentional undue delay. These practices occur after applicants have completed the online data entry and uploaded the requisite documentation for RPTKA ratification via the 'TKA Online' portal. Article 13 of the Minister of Manpower Regulation Number 8 of 2021 serves as a regulatory loophole exploited by certain officials within the Ministry of Manpower to engage in protracted delays without providing clarification on which specific RPTKA ratification documents remain outstanding.

Article 13, paragraphs (3) and (4) of the Minister of Manpower Regulation Number 8 of 2021 establish a stringent deadline, stipulating that applicants for RPTKA ratification must rectify any documentary deficiencies within five days; failure to comply results in the voidance of the application, necessitating a resubmission. However, Article 13 paragraph (2) of the same regulation lacks an explicit timeframe for administrative officials to issue such notifications of deficiency. The provision merely states 'to notify online.' The absence of the phrase 'within a maximum of X working days' for officials to deliver these notifications constitutes a primary structural loophole, which is exploited by certain individuals to perpetrate extortion during the RPTKA ratification process.

The deliberate act of placing an application in a 'pending' status by failing to officially notify the applicant of documentary deficiencies constitutes an abuse of authority. The exploitation of the normative ambiguity in Article 13, paragraph (2) of Minister of Manpower Regulation Number 8 of 2021 remains a form of power abuse and violates both statutory provisions and the General

Principles of Good Administration (AUPB). Government officials, in executing administrative actions for RPTKA processing, are duty-bound to adhere to the principles of non-abuse of authority, transparency, public interest, and professional service. Furthermore, any justification for discretion or interpretive leeway regarding Article 13, paragraph (2) is legally untenable. Should statutory regulations fail to specify a timeframe for an administrative decision or action, officials are mandated to issue such decisions within a maximum of 10 (ten) working days, as stipulated in Article 53, paragraph (2) of Law Number 30 of 2014 concerning Government Administration (hereinafter referred to as the 'Government Administration Law').

2. Abuse of Procedures and Deliberate Protracted Delays in the Document Verification Stage

The extortion scheme also extends to the pivotal Skype interview stage, which is essential for the verification of the foreign worker's identity and employment details. Verifiers deliberately withhold interview schedules from applicants who refuse to provide illicit payments. Any delay or failure to attend the interview results in fatal consequences for the RPTKA process, as it systematically obstructs the issuance of both work and stay permits. Consequently, applicants face the threat of administrative fines amounting to IDR 1 million per day. This predicament serves as the primary coercive instrument for corrupt officials to extort funds, compelling RPTKA applicants to comply and submit payments to Ministry of Manpower officials through verifiers to avoid the accrual of substantial fines (Nababan 2025).

The scheduling of Skype interviews is conducted manually by Ministry of Manpower officials. These schedules are exclusively granted to applicants willing to provide illicit payments to certain individuals, while non-compliant applicants face indefinite delays (Panangian 2025). Although this online verification appears progressive by eliminating physical encounters which are traditionally prone to bribery the process remains susceptible to exploitation. The manual scheduling of Skype interviews represents a fatal procedural flaw. Officials are granted absolute power to determine who may 'proceed' (by receiving a schedule) and who must 'wait' without a clear timeframe. This effectively functions as unfettered administrative discretion due to the absence of an automated and transparent scheduling system.

The assessment of RPTKA ratification eligibility, as stipulated in Article 14, paragraph (1) of the Minister of Manpower Regulation Number 8 of 2021, establishes a mandatory online interview stage. Due to the lack of transparent and automated scheduling, certain officials utilize this provision as a pretext to stall applications under the guise of 'awaiting an interview schedule.' Consequently, a provision intended for modernized verification has paradoxically become a legal pillar that facilitates protracted delays and corrupt practices through the 'sale of schedules'.

3. The Impact of Weak Policy Oversight in RPTKA Administration

Protracted delays in RPTKA administration are a direct consequence of weak policy oversight. Evidence suggests that these abusive practices have persisted for years. The lack of systemic transparency regarding the timing and methodology of notifying applicants about documentation deficiencies creates a significant information asymmetry. Due to lax supervision, officials are able to withhold information concerning document completeness and interview scheduling, disclosing it only to those willing to provide 'grease payments.' This phenomenon illustrates the normalization of maladministration as an instrument of informal power. Deliberate delays and the strategic control of information are not mere negligence; rather, they constitute active measures that transform administrative procedures into tools of diverted authority.

The practice of protracted delays systematically creates an economy of uncertainty. For business entities, particularly foreign investors, time is a critical asset. Uncertainty regarding the timeframe for permit issuance generates high business risks, obstructs project planning, and disrupts cash flow. This condition compels companies to calculate 'grease payments' no longer as incidental bribery, but as an illegal transaction cost that must be budgeted to achieve certainty. Consequently, instead of promoting a healthy investment climate, this policy creates an ecosystem that penalizes honest business actors while providing incentives for corrupt practices.

This practice creates a digitalization paradox. The online-based RPTKA licensing system is theoretically designed to enhance transparency and disrupt the chains of physical bureaucracy. However, when critical processes such as notification and scheduling are executed manually and informally outside the system, it not only paralyzes the objectives of digitalization itself but also deeply erodes public trust. The public loses confidence, perceiving that even the most sophisticated technology remains incapable of eradicating corruption if it is not harmonized with institutional integrity and substantive oversight

IV. CONCLUSIONS

The administration of Foreign Worker Utilization Plans (RPTKA) at the Ministry of Manpower exhibits a juridical anomaly characterized by an abuse of authority and deliberate protracted delays (undue delay), resulting from the exploitation of structural loopholes within Article 13, paragraph (2) of the Minister of Manpower Regulation Number 8 of 2021. The normative ambiguity regarding notification deadlines, coupled with manual intervention in virtual interview scheduling, has been leveraged by actors across hierarchical levels to perpetrate extortion through the 'monetization of schedules' and the obstruction of document verification for non-compliant applicants. This institutionalized maladministration not only violates the General Principles of Good

Administration (AUPB) and Article 53 of the Government Administration Law but also engenders a digitalization paradox that fosters an economy of uncertainty. In this environment, illegal transaction costs are forcefully internalized by investors, thereby damaging the investment climate and eroding public confidence in the state's institutional integrity.

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