

Legal Certainty of the Existence of Foreign Workers According to Law Number 11 of 2020 Concerning Job Creation

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ABSTRACT

Through Law Number 11 of 2020 on Job Creation, it is easy for foreign workers to enter Indonesia because written permits are replaced by only using a plan for the use of foreign workers. The method used in this research is the normative or legal research method. As a normative legal research, the approach used by the author in discussing this problem is to use a statutory approach. From the results of the research, it is obtained that the policy regarding the regulation of foreign workers in Indonesia has been contained in several regulations, including Minister of Manpower Regulation Number 8 of 2021 which explains the implementation of Government Regulation Number 34 of 2021 concerning the Use of Foreign Workers, as well as Law Number 6 of 2023 which stipulates Government Regulation in Lieu of Law Number 2 of 2022 into the Job Creation Law. The use of foreign workers actually aims to meet the needs of labour with certain skills and expertise in supporting the country's development, especially when the Indonesian workforce is still inadequate in achieving the necessary professionalism. The ratification of Law Number 11 of 2020 brought significant changes in the Labour Law by facilitating the entry of foreign workers into Indonesia, through the deletion and amendment of several articles. In relation to legal certainty regarding the use of foreign workers in Indonesia, Law No. 11/2020 stipulates procedures for the use of foreign workers in Indonesia.

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1. Introduction

Globalization is closely related to the liberalization of the world economy, which causes the world to become a global market open to free trade transactions (Rahmatullah & Atikah, 2022); (Tabiu, Intan, & Safiuddin, 2023). In addition, the phenomenon of globalization also observes freedom of movement of labor, where individuals can seek job opportunities without being limited by the territorial boundaries of their country. This can be interpreted as labor market liberalization (Agusmidah, 2017); (Arista, 2022).

Labor, as an integral element in the employment structure, plays a crucial role in supporting a country's economy. Therefore, a workforce that has high quality is needed. Workers become a very important component in the implementation of the national economy, which is directed to achieve social welfare in accordance with the provisions of Chapter XIV of the Constitution of the Republic of Indonesia 1945 (known as the 1945 Constitution), especially in the context of the National Economy and Social Welfare. Challenges related to employment in Indonesia are not a new event, in fact they have existed since the time before the proclamation of independence, namely during the Dutch colonial period (Sunanda, Santoso, Zulfa, & Yusuf, 2023); (Iswardhana, 2020).

In addition to requiring local labor, the presence of foreign workers is also needed to support jobs that require special skills. To prevent the improper use of foreign workers, the government regulates the types of work that foreign workers are allowed to perform by setting certain restrictions. Nevertheless, the government remains committed to providing such employment opportunities to Indonesian citizens. The facts show that no country in the world can avoid its involvement with other countries, because there is a relationship of interdependence in achieving their respective interests. Therefore, a sustainable relationship is established between the countries involved (Narsif, 2007).

In facing the era of the industrial revolution 4.0 driven by technological developments, challenges and issues related to employment, as well as current conditions and needs, will be a major factor in the coming era of digitalization. The demographic bonus in Indonesia is also anticipated to have a significant impact in the employment domain. One of the impacts that emerged was the controversy surrounding the existence and number of foreign workers (Shalihah, 2017).

Preventive measures against potential negative impacts related to the use of foreign workers need to be strengthened through comprehensive regulations, including clear requirements for foreign workers and strict safety measures for their use. The regulation should cover fundamental aspects and not just be limited to ministerial-level regulations. This approach is taken with the intention to direct the selective use of TKA, while still giving priority to Indonesian Workers (Djazuli, 2021).

In Indonesia itself, labor market liberalization is responded by the government by revising various labor laws and regulations in which it regulates foreign workers (Agusmidah, 2017). There are several reasons for the use of TKA, namely the laws and regulations of the Republic of Indonesia, domestic market conditions, investment needs, international agreements and liberalization of free market work. The policy on the use of foreign workers must not neglect the protection of local employment opportunities in accordance with Article 27 paragraph (2) of the 1945 Constitution and Article 28 D of the 1945 Constitutional Amendment.

The labor law aspect in Article 1 paragraph (2) of Law Number 13 of 2003 concerning Manpower (hereinafter referred to as the Manpower Law) states that employment is matters related to labor both before, during the employment relationship and after doing work. This must be in line with the current labor development which has been very rapid, so that the substance of labor law studies does not only include employment relations alone, but has shifted to legal relationships during work as well and after the employment relationship is completed.

Worker / laborer in Article 1 paragraph (3) is any person who works by receiving wages or other forms of compensation. Workers who work in Indonesia besides native residents also have foreigners from other countries who are usually called TKA. Meanwhile, foreigners mean every

person who is not a citizen of the Republic of Indonesia (Syarif, 1996). Then according to Article 1 paragraph (2) of the Manpower Law, what is meant by labor is "everyone who is able to do work to produce goods and / or services both to meet their own needs and for the community" and Article 1 number (13) "TKA is a foreign national holding a visa with the intention of working in Indonesian territory".

Through Law Number 11 of 2020 concerning Job Creation (hereinafter referred to as the Job Creation Law), it opens opportunities for foreign workers to easily enter Indonesia because written permits are replaced only by using the plan to use TKA. Therefore, the Indonesian government has a policy regarding the regulation of foreign workers working in Indonesia, which is regulated in the Regulation of the Minister of Manpower Number 8 of 2021 concerning the Implementation Regulations of Government Regulation Number 34 of 2021 concerning the Use of Foreign Workers and Law Number 6 of 2023 concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation into Law.

Foreign parties who invest their capital in Indonesia should consider the use of labor from their own country, as explained in Article 10 paragraph (2) of Law Number 25 of 2007 concerning Investment. The law states that investment companies have the right to use experts from foreign nationals, especially for certain positions and expertise in accordance with the provisions of laws and regulations. However, the use of TKA is limited by the government by regulating clear requirements in the Manpower Law, namely through Article 42 to Article 49. In addition, Article 102 also confirms that foreign workers who are allowed to work in Indonesia are those who have special skills as experts or consultants.

In the face of changing values and lifestyles among industry and trade players, labor supervision in Indonesia must have the ability to take preventive measures and adapt to developments that occur. Therefore, improvements to the labor supervision system need to be continuously carried out so that laws and regulations can be implemented effectively by industry and trade players. Thus, labor supervision acts as a system tasked with carrying out missions and functions so that laws and regulations in the labor sector can be enforced. The purpose of implementing labor laws and regulations is to maintain a balance between rights and obligations for employers and workers/laborers, so that business continuity and labor welfare can be guaranteed, which ultimately contributes to increasing work productivity.

Manpower development arrangements need to be carried out carefully so that the basic rights and protections of labor and workers/laborers can be fulfilled, while creating a supportive environment for the development of the business world. Employment development involves various aspects and linkages that are not only limited to interests during, before, and after work, but also include the interests of employers, government, and society. Therefore, comprehensive regulations are needed, including human resource development, increasing the productivity and competitiveness of Indonesian workers, expanding job opportunities, labor placement services, and managing industrial relations.

2. Materials and Methods

This type of research is normative juridical research (Marzuki & Sh, 2021) using a statute approach (Kristiawanto, 2022) by examining all laws and regulations that are interconnected with the legal issues handled. In this study, analyze and examine the laws and regulations related to TKA.

Data sources in this study are secondary data sources in the form of primary, secondary, and tertiary legal materials consisting of the Constitution of the Republic of Indonesia Year 1945, Law Number 13 Year 2003 concerning Manpower, Law Number 25 Year 2007 concerning Investment, Law Number 6 Year 2011 concerning Immigration, Regulation of the Minister of Manpower (Permenaker) Number 16 Year 2015 jo Permenaker Number 35 Year 2015 concerning Procedures The use of TKA, Law Number 11 of 2020 concerning Job Creation, Law Number 6 of 2023 concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation into Law and materials that provide explanations to primary and secondary legal materials. Research data collected through literature studies using qualitative data analysis techniques (Ishaq, 2017) .

3. Result and Discussion

Legal Certainty of the Existence of Foreign Workers in Indonesia

Basically, the use of TKA in Indonesia has become easier after the enactment of Presidential Regulation Number 20 of 2018 concerning the Use of TKA. The Indonesian people are now feeling the impact of the regulation. This is in the spotlight, especially because the issue of employment is still a major problem for some Indonesians. This situation is increasingly striking because the lack of job opportunities encourages the lower middle class to choose to become migrant workers. In fact, the government should provide guarantees to its citizens to get decent work, in accordance with the mandate of the Basic Law.

The emergence of job opportunities for foreign workers in Indonesia actually creates a great irony, especially when looking at the high unemployment rate. The enactment of Presidential Regulation Number 20 of 2018 concerning the Use of TKA seems to hurt the principle of justice in society, even though the reason expressed is that the TKA used is not manual labor (Hanifah, 2020)

In 2020, a regulation was introduced that is considered to again facilitate the arrival of foreign workers to work in Indonesia. Article 1 point 1 of the Job Creation Bill explains that Job Creation aims to create jobs through efforts to facilitate, protect, and empower cooperatives and micro, small and medium enterprises. In addition, the main objectives include improving the investment ecosystem, ease of doing business, as well as investment from the Central Government and acceleration of national strategic projects. Article 2 paragraph (1) of this law states that the implementation of this law is based on the principles of equal rights, legal certainty, ease of doing business, togetherness, and independence.

Basically, this Job Creation Law was born with a good purpose, namely to increase the economy and selling prices and the quality of MSMEs in Indonesia. Article 3 of the Job Creation Law describes the purpose of the Job Creation Law, namely:

1. Creating and increasing employment by providing convenience, protection, and empowerment to cooperatives and MSMEs as well as national industry and trade as an effort to absorb the widest possible Indonesian workforce while still paying attention to the balance and progress between regions in national economic unity.
2. Ensure that every citizen obtains employment, as well as fair and decent remuneration and treatment in employment relations.
3. Make adjustments to various aspects of regulation related to alignment, strengthening, and protection for cooperatives and MSMEs as well as national industries.

4. Adjusting various regulatory aspects related to improving the investment ecosystem, facilitating and accelerating national strategic projects oriented to national interests based on national science and technology based on the direction of Pancasila ideology.

Article 42 of the Job Creation Law of the Manpower Chapter is described regarding TKA. Article 42 paragraph 1 states that every employer who employs foreign workers must have a plan for the use of foreign workers authorized by the Central Government. While individual employers are prohibited from employing foreign workers, this is regulated in Article 42 paragraph (2) of the Job Creation Law. Adella (2019) suggests that RPTKA is a plan for the use of TKA which is an initial document that must be prepared by TKA employers in certain positions made by TKA givers for a certain period of time authorized by the minister or official appointed by RPTKA useful as a basis for obtaining a Foreign Worker Employment Permit (IMTA).

RPTKA is issued by the Ministry of Manpower & Transmigration of the Republic of Indonesia (Depnakertrans). The validity period of the RPTKA itself is 1 (One) year, except for the positions in the company's deed of establishment, which is 3 (Three) years. For the extension, it is adjusted to the location of the Foreign Worker's work placement. If only in one regional autonomy, then the issuing agency is the Manpower & Transmigration Office of the Republic of Indonesia where the TKA works.

Based on Regulation Number 16 of 2015, the time needed for RPTKA ratification is 3 working days if all documents are complete and according to the requirements. Meanwhile, the Permit to Use Foreign Work Teaga (IMTA) is a permit that must be owned for every foreign worker employed by business activities in the context of investment by Foreign Capital Investment (PMS) or Domestic Investment (PMDN) that uses labor in their activities.

IMTA is valid for a period of one year and can then be extended. The procedure for managing IMTA is submitted by investors for each TKA used to the Director of Foreign Worker Use Control (Ditjen P2TKA), Directorate General of Manpower Placement Development of the Ministry of Manpower and Transmigration through service counters available at the Directorate of P2TKA or at the Investment Coordinating Board (BKPM)

If the Employer does not fulfill the above obligations when employing foreign workers in Indonesia, it will be subject to sanctions. There are 3 types of sanctions, namely Criminal Sanctions, Administrative Sanctions and Civil Sanctions. Criminal Sanctions or the so-called *ultimum remedium* which means that the ultimate (last) sanction in law enforcement is a causal punishment, because it is the case and the effect is the law, the person affected will get sanctions either going to jail or other punishments from the authorities.

Article 42 paragraph (4) states that foreign workers can be employed in Indonesia only in employment relations for certain positions and certain times and have competence in accordance with the position to be occupied. An employment agreement is the basis of the employment relationship. The employment agreement was initially regulated in Chapter 7 BOOK III OF THE CIVIL CODE and in the Regulation of the Minister of Manpower Number: PER-02 / MEN / 1993 concerning Work Agreements at a certain time which is no longer valid with the existence of the Manpower Law, in which it is regulated about Work Agreements. According to Shalihah, (2017) In labor law, the types of employment agreements are distinguished by:

1. PKWT is an employment agreement between workers / workers with employers to hold employment relations for a certain time or for certain jobs.

2. PKWTT, which is a work agreement between workers or laborers and employers to establish permanent employment relations.

The freelance daily work agreement is carried out with the provision that workers / laborers work less than 21 (twenty one) days in 1 (one) month. Freelance daily work agreements are excluded from the provisions of the general PKWT term. Employers who employ casual workers / daily laborers must make a freelance daily work agreement in writing can be a list of workers / laborers who do work, at least containing the name / address of the employer or employer; Name/address of worker/laborer; Type of work performed; and The amount of wages and/or other rewards. If the daily freelance work agreement is carried out with the provision that the worker/laborer works 21 (twenty-one) days or more for 3 (three) consecutive months or more, then the freelance daily work agreement changes to PKWTT or permanent worker.

The provisions of the applicable laws and regulations as mentioned above in their application have not been effective, where for the extension of PKWT from 2 years that have expired, to continue with the addition of PKWT time for a maximum of 1 more year, the company must terminate employment for 30 days for the workers in question. After that, then the company and workers can re-work with PKWT status for a maximum working period of 1 year. This means that labor law has limited a person to only work with a certain worker status, the maximum time is 3 years with the above provisions. If the company wants the employment relationship to continue, then inevitably in entering the 4th (four) year, the company must change the status of its work agreement to PKWTT.

The obligations of employers for foreign workers are listed in Article 5 of the Job Creation Law as follows:

1. Appoint Indonesian workers as TKA companions who are hired for technology transfer and skill transfer from TKA.
2. Carry out education and job training for Indonesian workers as referred to in letter a in accordance with the qualifications of positions occupied by TKA, and
3. Repatriate foreign workers to their home countries after their employment relationship ends.

Meanwhile, compensation arrangements for foreign workers are regulated in Article 47 of the Job Creation Law as follows:

1. The employer is obliged to pay compensation for each TKA he employs.
2. The obligation to pay compensation as referred to in paragraph (1) does not apply to government agencies, representatives of foreign countries, international bodies, social institutions, religious institutions, and certain positions in educational institutions.
3. Provisions regarding the amount and use of compensation as referred to in paragraph (1) are regulated in accordance with the provisions of laws and regulations.

In the context of pre-employment relations, supervision of regulations regarding employment relations for foreign workers related to work details or restrictions is a form of guarantee of legal certainty from the state. However, during this period, the state's responsibility was to fulfill the rights of foreign workers in Indonesia, such as 1) obtaining facilities as a worker; 2) obtain wages that meet local, national, regional, or international wage standards; 3) have the right to choose their own life path, including in determining their life partner either as husband or wife; and 4) have the right to receive proper treatment as a society that needs to live together with other people who are different citizens (Kurniawan, 2018).

Then Article 42 paragraph (4) regulates foreign workers who are employed in Indonesia only in employment relations for certain positions and certain times and must have competencies in accordance with the position to be occupied. The issuance of Article 42 of the Job Creation Law automatically amends and deletes Article 42 of the Manpower Law, which requires foreign workers to obtain written permission from the Minister of Manpower or other designated officials. Foreign workers who entered Indonesia previously in Presidential Regulation 20 of 2018 must pocket a number of permits, including the TKA Use Plan (RPTKA), TKA Use Permit (IMTA), and Limited Stay Visa (VITAS).

With the enactment of the Job Creation Law, TKA only needs RPTKA authorized by the Central Government, so TKA currently no longer needs written permission from the Minister or other appointed officials, TKA use permits have been cut and now only require RPTKA ratification. Then in Article 46 of the Manpower Law which previously regulated foreign workers who were prohibited from occupying positions such as personnel and certain positions which were further regulated in the Ministerial Decree. In the Job Creation Law, the restriction on the position of foreign workers in Indonesian companies in Article 46 as stipulated in the Manpower Law is abolished. And with the abolition of Articles 43 and 44 of the Manpower Law in Law Number 11 of 2020, it makes it easier for foreign workers to enter.

From the description above, according to the author, the Job Creation Law provides legal certainty related to the use of TKA in Indonesia. Here are some important points related to the legal certainty of the existence of foreign workers in Indonesia according to Law Number 11 of 2020:

1. Use of TKA: Law Number 11 of 2020 regulates the use of TKA in Indonesia. This includes requirements, procedures, and mechanisms that must be adhered to by companies that want to use TKA.
2. Licensing: Law Number 11 of 2020 stipulates that companies that want to use TKA must first obtain a permit. This license is granted by an authorized agency, such as the Ministry of Manpower or the Investment Coordinating Board (BKPM).
3. Company Liability: This law also stipulates obligations for companies that use TKA. Companies must ensure that the use of TKA does not harm Indonesian workers and must provide fair employment opportunities for Indonesian workers.
4. Restrictions: Law Number 11 of 2020 also provides restrictions on the use of TKA. It aims to protect the Indonesian workforce and encourage the development of human resources in the country.
5. Supervision: This law also regulates the supervision of the use of foreign workers in Indonesia. The competent authority has the authority to supervise and take action against violations related to the use of TKA.

In order to provide more detailed legal certainty regarding the existence of foreign workers in Indonesia, Government Regulation Number 34 of 2021 concerning the Use of Foreign Workers was also issued. This regulation provides further guidance on the requirements, procedures, and mechanisms for the use of foreign workers in Indonesia.

Legal certainty of the existence of foreign workers who carry out duties because of a bond

Legal certainty normatively refers to the conditions in which a regulation has been made and promulgated clearly and logically. Clear in this context means not raising doubts or can be interpreted with various interpretations, while logical refers to drafting regulations as a system of norms that is

consistent with other norms, so as not to cause conflicts or conflicts of norms. Norm conflicts that arise due to uncertainty of rules can manifest as norm contestation, norm reduction, or norm distortion.

Mertokusumo (2007) explains that legal certainty is a guarantee that the law will be applied, that individuals who have rights in accordance with the law can obtain their rights, and that legal decisions can be executed. Although legal certainty is closely related to the concept of justice, it should be noted that law and justice are not synonymous. Law is general, binding on everyone, and generalizing, while justice is subjective, individualistic, and non-leveling.

It is commonly understood that legal certainty becomes an integral part of a legal system, mainly focusing on legal norms recorded in writing. Therefore, without the presence of the value of certainty, a legal system can lose its identity and meaning, since it can no longer serve as a code of conduct for each individual. In essence, legal certainty is the main goal in the realization of the legal system.

Historically, legal conversations have been going on since Montesquieu introduced the concept of separation of powers. Order in society is closely related to legal certainty, because order is at the core of the concept of certainty itself. The existence of order has a positive impact, where individuals can live a life with certainty in carrying out various activities needed in the context of community life.

According to (Mertokusumo, 2007), legal certainty is a guarantee that the law must be implemented in a good way. Certainty requires legal regulation efforts in legislation made by the competent authorities, so that these rules have a juridical aspect that can guarantee certainty that the law functions as a regulation that must be obeyed.

Fuller (Nur, 2023) suggests eight principles that must be fulfilled by law. If it is not fulfilled, then the law cannot be considered law; In other words, legal certainty must exist. The eight principles include: 1) A legal system consisting of rules, not based on false rulings on certain matters; 2) The regulation is made public; 3) Not retroactive, because it will damage the integrity of the system; 4) Made in a formulation that is understood by the public; 5) There should be no conflicting rules; 6) Must not demand an action beyond what can be done; 7) It must not be changed frequently; 8) There must be conformity between regulations and day-to-day implementation.

Lon Fuller's view emphasizes that legal certainty involves a strong relationship between regulation and its implementation, so this aspect includes actions, behaviors, and factors that influence the realization of positive law. The principle of legal certainty is the foundation in the rule of law, emphasizing the principles of laws and regulations, propriety, and justice in the implementation of state policies. The essence of the rule of law contains the principles of legality and legal certainty. The principle of legality affirms the limitation of the power of the ruler on the basis of law, and this restriction is crucial to balance the authority of the government not to interfere in private life. Such restrictions are designed to prevent abuse of power and protect individual rights. The means of limiting state interference on the life of individuals are regulated in the Law (Hotma, 2010); (Ibad, 2021).

The Law becomes the legitimate basis for state intervention in private affairs, and interference in excess of the authority mandated by the Law is considered an offense to private life. The main purpose of the principle of legality is to create legal certainty, so that government actions are not arbitrary. The principle of legal certainty emphasizes the foundation of laws and regulations, propriety, and justice in every state administration policy. Meanwhile, the principle of legality remains a principle upheld by the state that claims to be a state of law (Gasella, 2018).

When related to the theory of legal certainty, there is uncertainty in several provisions or laws related to employment, especially related to Foreign Workers (TKA). Differences in regulations such as

the Manpower Law and Presidential Regulation Number 20 of 2018 regarding the entry of foreign workers into Indonesia create a situation where several articles in Presidential Regulation Number 20 of 2018 conflict with the content of the Manpower Law.

An example can be seen in article 42 of the Manpower Law, which conflicts with article 9 of Presidential Regulation Number 20 of 2018 related to Permits to Use TKA and Plan to Use TKA. Permit to Use Foreign Workers (IMTA) is a requirement for hiring foreign workers. Foreign migrants, namely those who have a limited stay visa or a limited stay permit or permanent stay permit, must obtain permission from the Directorate General of Immigration of the Republic of Indonesia to work within the territory of the Republic of Indonesia both for a short and long period of time.

In the field of labor, especially related to the procedure for using TKA in Indonesia, the regulation covers employers or employers who will use TKA, not workers who are Indonesian citizens. This regulation is regulated both in the Manpower Law and in changes to its regulations in the Job Creation Law. There are significant differences in the procedure for using TKA between the two legislations.

Before the Job Creation Law was enacted, there was Presidential Regulation Number 20 of 2018 concerning the Use of TKA. However, the birth of the presidential regulation caused controversy in the community because it was considered to violate the provisions of Law Number 12 of 2011 concerning the Establishment of Laws and Regulations which at that time had not been amended by Law Number 15 of 2019 concerning Amendments to Law Number 12 of 2011 concerning the Establishment of Laws and Regulations.

The birth of Presidential Regulation Number 20 of 2018 concerning the Use of TKA. Of course, it is contrary to the hierarchy of applicable laws and regulations, where the position of the Presidential Regulation must not deviate from what has been stipulated in the law. In this case, the Manpower Law has expressly stated in Article 42 paragraph (1) that employers/employers must have written permission issued by an authorized official (Minister of Manpower) to employ foreign workers. A number of these permits are regulated in Presidential Regulation Number 20 of 2018 such as VITAS, RPTKA, and IMTA (Hanifah, 2021). However, the provisions related to the Permit to Employ Foreign Workers previously contained in Article 42 paragraph (1) of the Manpower Law were abolished and amended in the Job Creation Law. So TKA only needs to have a TKA Use Plan. The amendment to Article 42 paragraph (1) of the Job Creation Law reads: "Every employer who employs foreign workers must have a plan for the use of foreign workers authorized by the Central Government."

According to the new provisions in Law Number 11 of 2020 based on Government Regulation Number 34 of 2021 concerning the Use of Foreign Workers (TKA), employers now only need to have a Plan for the Use of Foreign Workers (RPTKA) that has been approved by the central government. The RPTKA ratification process is carried out through submitting an online application to the authorized official. The ratification of RPTKA is considered to replace the legality of the Foreign Worker Employment Permit (IMTA). Although the RPTKA has been ratified, it should be noted that even though it is an approved plan, the position of RPTKA ratification remains different from that of IMTA. The importance of IMTA lies in its function as an entry point for document checks for foreign workers who will work in Indonesia. Previously, the Manpower Law stipulated that the granting of permits to employ foreign workers was carried out through the issuance of a Labor Employment Permit (IMTA).

4. Conclusion

Policies regarding the regulation of Foreign Workers (TKA) in Indonesia have been contained in several regulations, including Minister of Manpower Regulation Number 8 of 2021 which explains the implementation of Government Regulation Number 34 of 2021 concerning the Use of TKA, and Law Number 6 of 2023 which stipulates Government Regulation in Lieu of Law Number 2 of 2022 into the Job Creation Law. The use of TKA actually aims to meet the needs of workers who have certain skills and expertise in supporting the development of the country, especially when the Indonesian workforce is still inadequate in achieving the necessary professionalism. The enactment of Law Number 11 of 2020 brought significant changes in the Manpower Law by facilitating the entry of foreign workers into Indonesia, through the abolition and amendment of several articles.

In relation to legal certainty related to the use of Foreign Workers (TKA) in Indonesia, Law Number 11 of 2020 stipulates procedures for the use of foreign workers in Indonesia. This is mainly related to employers or employers who will hire foreign workers, not workers who have the status of Indonesian citizens. There are special regulations governing the use of TKA, both in the Manpower Law and in changes regulated in the Job Creation Law. From the two regulations, there are significant differences in the procedure for using TKA in Indonesia.

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