

Implementation of Selective Policies on Foreign Doctor Practices in Indonesia

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ABSTRACT

In many countries, especially those with a serious shortage of medical personnel, such as Indonesia, foreign doctors are essential to meet healthcare needs. This research examines the legal framework that allows foreign doctors to practice in Indonesia as well as the implementation of selective policies. This research utilizes normative, statutory, and conceptual approaches. This study found that there are no strict restrictions on the distribution of medical personnel in the foreign doctor legislation in Indonesia, as there are no regulations regarding the distribution of health workers in remote areas. Foreign doctors can only practice in Indonesia if there is a demand for health services, in accordance with Health Law No. 17 of 2023. Indonesia only allows foreign doctors who provide benefits to society, in accordance with its selective policy. The shortage of medical personnel in Indonesia is caused by the uneven distribution of doctors. Some communities, especially outside Java, lack access to professional doctors. Given the scarcity of specialist doctors in rural areas and the underdeveloped healthcare system in Indonesia, the placement of foreign doctors with specialized skills would be helpful.

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Introduction

Health services in Indonesia are guaranteed by the 1945 Constitution and further regulated by Health Law No. 17 of 2023, which emphasizes the importance of integrated efforts from the government and the community in improving and protecting health (Damanik et al., 2024). The shortage of doctors in Indonesia, particularly the uneven distribution, is a major problem in the health sector. Several provinces, especially outside Java, lack medical personnel, including specialists. Current estimates put the number of specialist doctors in Indonesia at 46,200, based on active registration certificates (STRs) at the Indonesian Medical Council (KKI) as of April 2023. This figure indicates that there is a critical need for 31,481 specialist doctors in Indonesia.

The presence of foreign doctors in countries with a shortage of local medical personnel, such as Indonesia, is essential to meet healthcare needs. However, language and cultural barriers can disrupt communication between doctors and patients, affecting the effectiveness of services. In

addition, foreign doctors tend to prefer working in big cities, leaving remote areas with a shortage of medical staff. Despite many medical universities in Indonesia, new graduates are often reluctant to work in rural areas, especially in border areas, while specialists prefer to work in big cities. This worsens access to healthcare for people in remote areas (Viva News, 2011).

The policy of importing foreign doctors in Indonesia needs to consider various factors, including the lack of research on the contribution of foreign doctors in addressing the shortage of specialists. Technical regulations on evaluating the competence of foreign doctors are regulated in Permenkes No. 35 of 2022, but Health Law No. 17 of 2023 requires more modern regulations. Some countries such as the US, UK, and Canada already have training programs with strict standards. Indonesia allows foreign doctors to practice, but clear regulations are needed so that they can help address the uneven distribution of doctors and improve the quality of health services. An objective and transparent competency evaluation process is needed to reduce bias in the selection of foreign doctors.

The practice of foreign doctors in Indonesia is expected to bring positive impacts in two aspects, namely globalization and social. In terms of globalization, foreign doctors can improve health technology, while from the social side, they are expected to overcome the shortage of specialists in remote areas. The Selective Policy allows foreign doctors to practice under the condition that they provide benefits to Indonesia without threatening security or contradicting Pancasila. This policy is expected to help close the shortage of specialists, as well as provide benefits to Indonesia, such as improving health standards and accelerating the learning of young doctors through the experience of working with international doctors (Deputra & Tarigan, 2021).

Indonesia can benefit from the latest medical advancements and expertise brought by foreign doctors, which can improve the quality of healthcare services. Local doctors can learn from international doctors through training and partnership programs, while hospitals and clinics also benefit from the expertise. This competition can motivate local doctors to improve the quality of their work. The Ministry of Health (MOH) is also planning to send foreign doctors to remote areas where local doctors are not in demand, by providing incentives for foreign doctors to locate there (Budiman, 2024).

The presence of foreign doctors in Indonesia needs to be studied because it can provide added value in health services, such as technology transfer and quality improvement, as well as encourage healthy competition among local doctors. To avoid a flood of foreign doctors, the Ministry of Health must establish clear regulations as a filter for the selection of foreign doctors. Foreign doctors' license to practice is regulated in Health Law No. 17 of 2023, with a maximum license duration of four years. Based on the description above, the problem is whether the laws and regulations are ready to anticipate the problems arising from the presence of foreign doctors, from foreign doctors entering Indonesian territory until they can carry out their professional activities and the consequences of their actions in carrying out professional activities. From the above background, the author will conduct research with the title "Implementation of Selective Policies on Foreign Medical Practices in Indonesia".

Based on the background of the problem above, the author formulates the problems in this study, namely the regulation of foreign doctors' practices in Indonesia and the form of application of selective policies towards foreign doctors practicing in Indonesia.

Research Methods

This research employs a normative juridical approach to analyze the legal framework regarding foreign doctors' practices in Indonesia. The research aims to explain the legislative mechanisms and selective policies guiding foreign medical practitioners in Indonesia. The method involves an in-depth review of positive law to evaluate existing regulations and policies governing the recruitment, distribution, and competencies of foreign doctors.

Data Collection

Data for this research are gathered from legal documents, including laws, regulations, and government policies. The study uses the statutory approach, focusing on legal texts such as Health Law No. 17 of 2023, Government Regulation No. 28 of 2024, and Minister of Health Regulations relevant to foreign doctor practices. The documents provide insight into the qualifications, licensing procedures, and limitations imposed on foreign medical personnel in Indonesia.

Data Analysis

The data analysis technique involves a comparative legal analysis of the regulations governing foreign doctors' practice in Indonesia. The analysis will compare current laws with international standards, assessing how Indonesia's selective policies align with global practices in managing foreign medical professionals. The study also conducts a normative case study to explore the real-world implications of these regulations in different regions of Indonesia, particularly in addressing healthcare access in rural areas.

Results and Discussion

Legal Arrangements for Foreign Doctors to Practice Medicine in Indonesia

Human trafficking or immigration involves the movement of individuals between countries with the aim of settling permanently. To ensure there is no threat to the country's sovereignty, the supervision of foreign workers is important (Wulandari et al., 2023). Indonesia regulates strict supervision of foreigners through Law No. 6/2011 on Immigration, which regulates the entry and exit of foreigners, as well as their activities while in Indonesia. This supervision includes checking travel documents, residence permits, and activities of foreigners in various locations in Indonesia, including work and entertainment venues.

The practice of foreigner surveillance in Indonesia is actually just one aspect of the country's Selective Policy, which states that only foreigners who make positive contributions and do not pose a threat to public safety and security are allowed to enter and stay in Indonesia. To implement this chosen strategy, the government must follow the rules set by the Indonesian legal system when it comes to supervising foreign nationals living and working in the country. The implementation of

Supervision of Foreigners in Indonesia is based on Article 66 paragraph 2 letter b of Law Number 6 Year 2011 on Immigration (Budiman, 2024).

Supervision of foreigners in Indonesia is implemented through two types of systems: administrative and field (Wulandari et al., 2023). Document checks are carried out by immigration officers when granting permits or checking visas. Field supervision includes checks on the presence and activities of foreigners in various places. The Indonesian government also stipulates the stages of supervision based on Article 172, paragraph 4 of Government Regulation No. 31 of 2013 concerning Implementation Regulations of Law No. 6 of 2011 concerning Immigration, starting from visa application, arrival, granting of residence permits, to leaving Indonesia. Residence permits are granted based on the type of permit, such as a limited stay permit for work, and this supervision is carried out through coordination between related agencies.

The regulation of foreign workers (TKA) in Indonesia is strictly regulated by the Immigration Law and Minister of Manpower Regulation, Law Number 6 Year 2011 on Immigration, including the conditions that must be met by companies that employ TKA. There are two types of work permits that can be granted, namely permits to employ foreign workers and permits for independent work. The granting of work permits to TKA is carried out by the Minister of Manpower or a designated official, with various types of permits such as new work permits, extensions, and transfers. TKA can also contribute to technology transfer that can improve the quality of human resources in Indonesia, although this policy also brings negative impacts such as reduced employment opportunities for Indonesian citizens.

To employ foreign workers, employers must fulfill a number of requirements, including providing training or education to accompanying workers to transfer knowledge and skills, and ensuring that foreign workers have appropriate qualifications. In addition, employers are also required to pay contributions to the state, participate in the national social security program, and ensure that foreign workers have a limited stay permit (ITAS). The government through Minister of Manpower Regulation No. 10/2018 regulates in detail the provisions regarding employers, obligations of foreign workers, as well as supervision mechanisms in the use of foreign workers to support economic development and efficient technology transfer in Indonesia.

The realization of health as a human right can only be achieved if every individual has access to quality and affordable health services. This requires medical personnel to have strong ethical standards as well as enhanced expertise through education, continuous training, and supervision (Yusuf DM et al., 2022). The state has an obligation to ensure that all Indonesians have access to health services in accordance with human rights, as stated in the 1945 Constitution. In this case, foreign health workers are expected to bring benefits such as knowledge and technology transfer, but must avoid unfair treatment of Indonesian medical personnel. The laws and regulations governing the practice of medicine in Indonesia by foreign nationals are regulated in the 1945 Constitution, Law No. 17 of 2023 on Health, Government Regulation No. 28 of 2024 which is a derivative of Law No. 17 of 2023 on Health and Minister of Health Regulation (Permenkes) No. 6 of 2023.

The Indonesian government regulates the practice of foreign medical personnel through Law No. 17 of 2023 on Health article 248 paragraph (1), which requires foreign medical personnel to meet certain requirements, such as taking part in competency evaluation and having a Registration Certificate (STR) and Practice Permit (SIP) to be able to practice in health facilities in Indonesia. This regulation aims to protect local medical personnel and ensure that foreign medical personnel working in Indonesia have the appropriate expertise. In addition, the practice of foreign doctors in Indonesia is also regulated in Government Regulation No. 28 of 2024 which regulates the licensing mechanism and time limit for foreign medical personnel. The Government Regulation is a derivative of the Health Law and mentions how licensing and things that are not allowed by foreign doctors to work in Indonesia.

Under the regulation, foreign medical personnel who wish to practice in Indonesia must have certain qualifications and a minimum of three years of experience. They are also required to follow an adaptation program provided by health facilities in Indonesia. The license granted is only valid for two years, and can be extended once for the following two years, with the aim of knowledge and technology transfer. In addition, foreign medical personnel are also required to comply with Indonesian language requirements in carrying out their duties, with healthcare institutions providing Indonesian language training as needed.

The regulation also stipulates that foreign medical personnel may only practice in Indonesia based on the request of health facilities that require certain specializations, and aim to improve technology transfer. In addition, more detailed regulations regarding the practice of foreign medical personnel, such as SIP and STR licensing, are stipulated in Permenkes Number 6 of 2023. All foreign medical personnel who wish to practice must first obtain a competency evaluation and obtain relevant certification. In this case, the District Health Office is responsible for issuing the SIP after fulfilling all applicable criteria and requirements.

Forms of Selective Policy Implementation Against Foreign Doctors Practicing in Indonesia

Bringing in medical professionals from other countries is not a crime. The government's procurement of foreign doctors to practice medicine in Indonesia is regulated in positive law, namely Law No. 17 of 2023 on Health. According to Article 248 of Law No. 17 of 2023, only certain medical personnel, including specialists, subspecialists, and health workers who have demonstrated a certain level of competence through evaluation, are allowed to practice medicine in Indonesia (Syaputra, 2024). However, for foreign general practitioners who are allowed to practice in Indonesia, their job is only to help when there is a natural disaster.

The policy of bringing in foreign doctors must go through several strict conditions as stipulated in Article 251 paragraph (1) of Law Number 17 of 2023 concerning Health which states that Medical Specialists and subspecialists as well as Health Workers of certain competency levels of foreign nationals who have graduated from abroad can practice at Health Service Facilities in Indonesia with the following provisions: First, there is a request from Health Care Facilities in accordance with the needs; Second, for the transfer of technology and science; Third, for a maximum period of 2 years and can be extended 1 time and only for the next 2 years. Article 249

of Law Number 17 of 2023 Concerning Health explains that every foreign doctor practicing in Indonesia must fulfill legal licensing, namely STR and SIP.

Competencies possessed by foreign health workers must be in accordance with Indonesian health standards. Article 44 of Law Number 13 Year 2003 regulates the order of positions and related competency requirements. competency indicates the ability and skill to perform professional duties as a result of education and training received by non-citizens. There are three interconnected components that make up competence: knowledge, skills and professionalism.

However, until now there are no specific rules related to the placement of foreign doctors in Indonesia, whether they must be placed in government-owned hospitals or private hospitals. Article 660 of Government Regulation No. 28 of 2024 on the Implementation of the Health Law only states that "Foreign Medical Personnel and Health Workers who are Domestic Graduates can only practice at the request of a Health Service Facility". The health ministry emphasized that foreign doctors may only practice in health facilities located in Special Economic Zones (KEK) or work in hospitals that receive investment from their home countries (CNN Indonesia, 2024).

Based on Government Regulation (PP) Number 28 of 2024 concerning the Implementation Regulation of Law Number 17 of 2023 concerning Health, Article 662 paragraph (3) (b) states that foreign health workers can practice for the transfer of technology and science, which can be read as having no relationship with the demand for health service facilities. Regarding international medical and health workers, they must understand Indonesian in order to provide services to the Indonesian people in general.

Law Number 17 of 2023 on Health still has overly vague and simplistic rules on how Indonesia can get foreign doctors. The many weaknesses in the Health Law may lead to courtroom disputes along the way. Based on the Law, there are still a number of obstacles in the process of recruiting foreign doctors such as; first, there is no explanation of sanctions if there are foreign medical personnel who commit medical malpractice; second, there is no definite rule on who is authorized to pay the salaries of foreign doctors who are brought in; third, it has not been explained what competencies can be used to evaluate the skills of foreign doctors and open or closed competency test evaluation procedures.

In addition to foreign doctors, specialist doctors of Indonesian citizens who graduated from foreign medical faculties can also practice in Indonesia by following the adaptation process in accordance with the Regulation of the Minister of Health of the Republic of Indonesia Number 14 of 2022 concerning the Adaptation Program of Doctors Specialist Indonesian Citizens Graduates Abroad in Health Care Facilities. This process includes three stages, namely the Pre-Adaptation Process, the Adaptation Process and the Post-Adaptation Process.

The entry of foreign doctors into Indonesian territory is based on a selective principle known as selective policy (Suyasa, 2020). According to this principle, only people outside Indonesia who do not pose a threat to public safety or are not enemies of the Unitary State of the Republic of Indonesia based on Pancasila and the Constitution can participate in the welfare of the people, nation and state of Indonesia. Who are the people authorized to enter or leave the territory of

Indonesia according to the 1945 Constitution? In hiring foreign workers, two basic principles must be considered, namely the benefit aspect (prosperity) and the *security* aspect (Ariani, 2018).

Employment of foreign nationals is contingent on meeting certain criteria, such as a certificate of competency or five years of relevant work experience and an educational background that matches the duties of the position to be filled (Wijaya, 2022). Indonesia's employment philosophy prioritizes the welfare of Indonesian workers. Therefore, if foreign workers are absolutely necessary, strict regulations will be put in place to protect Indonesian workers from harmful competition. Foreign nationals are legally allowed to work in Indonesia, but this does not diminish the right of Indonesian citizens to obtain decent employment opportunities in their own country. Therefore, the current law should limit the presence of foreign workers in certain fields of work to control the situation. Therefore, there is a need for a law that regulates the supervision of foreign workers in Indonesia. In theory, the rights and responsibilities of foreigners, including those living in Indonesia, are different from those of Indonesian citizens.

Health Minister Budi Gunadi Sadikin explained that the government's main goal in bringing in foreign doctors is to save the lives of around 12,000 babies per year who are at risk of dying from congenital heart defects. The capacity of domestic doctors is only able to perform 6,000 operations per year, while congenital heart defects require quick treatment. "These six thousand babies, if not treated, have a high risk of dying (Heizher et al., 2024). With a population of approximately 279,939,659 people as of 07/23/24, Indonesia is the fourth most populous country in the world.

In order for the community to obtain health services, doctors are required to uphold the oath and code of ethics of their profession by being competent in their field of expertise. However, in the process, there are still many elements that have the potential to interfere with the provision of health services to the community; namely, the first is the limited number of medical personnel. According to data from the Indonesian Medical Council (KKI), the number of doctors in Indonesia currently totals 283,231 with specifications, 54,291 specialists, 176,977 doctors, dentists: 46. 218 people, and specialist dentists (5,745 people), while the total population of Indonesia is 279,939,659 people (Amelia & Santoso, 2024). This will greatly threaten the balance between the number of people compared to the number of medical personnel available.

Second, the uneven distribution of medical personnel. Uneven distribution is due to the welfare gap between regions. Geographical factors explain why healthcare providers prefer cities, as they can take advantage of more social and professional opportunities. Besides better job prospects, better educational opportunities, and easier career advancement, healthcare workers also benefit from living in urban locations. Healthcare providers in rural and remote areas often choose to work in cities because of the higher wages compared to rural and distant areas. Third, the advancement of technology and information. Countries and their people will gain or lose from the rapid advancement of technology and information, depending on how well they are able to adapt.

One of the main benefits of the participation of foreign doctors is the diversification of medical experience in the area. They bring a variety of treatment methods and approaches that can provide new alternatives in patient care. This can enrich the local medical knowledge base and

improve the overall quality of healthcare. Foreign doctors also bring a different cultural perspective, which can be crucial in understanding and responding to the needs of patients from diverse ethnic or social backgrounds. Foreign doctors can also help fill gaps in certain medical specialties. Many countries face a shortage of specialists in areas such as cardiology, oncology, or neurology (Wahyuningsih et al., 2024).

The lack of specialist doctors is one of the most pressing problems in Indonesia. The uneven distribution and scarcity of specialists in various places is due to the concentration of most doctors in big cities. There is a severe shortage of basic specialists in many regional hospitals; for example, 266 out of 415 RSUDs in districts and cities do not have an adequate number of specialists in pediatrics, ob-gyn, surgery, internal medicine, anesthesia, radiology, or pathology.

Government Regulation No. 28 of 2024 on the Implementation of Law No. 17 of 2023 on Health Article 639 states that: "The utilization of medical and health workers of Indonesian citizens abroad aims to encourage the transfer of knowledge, skills, and technology".

Uneven distribution of doctors is currently the main cause of the shortage of medical personnel in Indonesia. As a result, some regions, especially outside Java, currently do not have access to certain specialists. Given the lack of specialists in remote areas and the underdeveloped healthcare system in Indonesia, it would be useful to assign foreign doctors with specialized competencies in these areas.

Based on the case study, the author concludes that a selective policy regarding foreign doctors treating Indonesian patients is effective because it attracts doctors who can meet the demands of the national health system while ensuring the safety of their patients. International medical professionals can provide great benefits to society by sharing their expertise and cutting-edge medical technology with local communities. Medical professionals from other countries can improve Indonesia's healthcare system by bringing cutting-edge technology, innovative treatments and best practices to the country.

Conclusion

The practice of foreign doctors in Indonesia is generally regulated in Law Number 6 of 2011 concerning immigration. The law regulates the traffic of people entering or leaving the territory of Indonesia and its supervision in order to maintain the sovereignty of the state. Specifically, the practice of foreign doctors in Indonesia is regulated in Law Number 17 of 2023 concerning Health and Government Regulation Number 28 of 2024 concerning Implementation Regulations of Law Number 17 of 2023 concerning Health. However, from these regulations, there are no firm restrictions on the distribution of medical personnel in Indonesia in the regulation of foreign doctors' practices in Indonesia. Because there are no concrete rules regarding the distribution of medical personnel in remote areas. Actually, currently, there are no rules governing the assignment of foreign doctors to disadvantaged areas. Law No. 17 of 2023 on Health only states that foreign medical personnel can practice in Indonesia if there is a demand for health services.

The Indonesian government opens the door for foreign doctors to practice in Indonesia in accordance with Law No. 17 of 2023 on Health and Government Regulation No. 28 of 2024 on the Implementation Regulation of Law No. 17 of 2023 on Health, which regulates the requirements

for foreign medical personnel. In the regulation, the government allows foreign doctors to specialize in specialists. Because foreign specialists can overcome the shortage of specialists in remote areas. The uneven distribution of doctors is currently the main cause of the shortage of medical personnel in Indonesia. As a result, some areas, especially outside Java, currently do not have access to certain specialists. Given the lack of specialists in remote areas and the underdeveloped healthcare system in Indonesia, it would be useful to assign foreign doctors with specialized competencies in these areas.

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