



# Foreign Workers and Investors in Indonesia: Border Control Practices and Challenges During the Covid-19 Outbreak

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**Abstract.** Flocks of foreign nationals as top-level managers, high-skilled workers, and investors are encouraged to work at multinational companies and invest a great amount of money in some national strategic projects during the Covid-19 pandemic. The Indonesian government has responded to these situations, particularly migration concepts, border control management at entry points, and work or residence permits. E-government initiative has been adopted to address these issues, but it lacks digital system development, interoperability applications, and internet infrastructures. This study identifies practices and challenges of how business law in Indonesia offers the ease of doing business and investment for foreign nationals towards trust and economic stability during the Covid-19 outbreak. It employs a public policy analysis approach by exploring the policy documents on border control management in Indonesia in the framework of business and investment. The result shows a business law construction where government agencies published fragmented regulations about foreign workers or investors entering and staying in Indonesia, including poor public online service. It suggests that any regulations could be issued by a coordinating minister, considering the integration of visas, residence permit, and work permit in a single format, and interoperability of all web or app-based services.

**Keywords:** Migration · Covid-19 · Border Control Management · Public Administration

## 1 Introduction

Indonesia's business and investment climate has been fluctuating since the Covid-19 pandemic began in 2020. The Indonesian Statistics Bureau (BPS) recorded the Indonesian economy in 2020 as measured by Gross Domestic Product (GDP) at that year prices reached Rp. 15,434.2 trillion and GDP per capita reached Rp. 56.9 million or US\$ 3,911.7. The Indonesian economy in 2020 experienced a growth contraction of 2.07% (c-to-c) compared to 2019. The deepest growth contraction occurred in the Transportation and Warehousing Business Field at 15.04% from the production side. Meanwhile, in terms of expenditure, the BPS recorded that almost all components contracted; the

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Export Component of Goods and Services became the component with the deepest contraction of 7.70%. In the meantime, imports of goods and services, which are a reducing factor, contracted by 14.71%. In 2021, the Indonesian economic growth returned to the positive zone as it grew to 3.69% (y-o-y). As is predicted, Indonesia is more likely to boost its economic growth in 2022 than last two years, as the Indonesian government has projected it to be in the range of 5%–5.5% or better than 2021. Bank Indonesia predicts the national economic growth this year to be in the range of 4.7%–5.5% or higher than 3.2%–4% in 2021.

The development of business and investment in Indonesia is substantially expanding in any sector, including coal mining, as promising potentials and significant conflicts [1]. During the Covid-19 pandemic, flocks of foreign nationals as top-level managers, high-skilled workers, and investors are encouraged to work at multinational companies and invest a great amount of money in some national strategic projects or PSN [2, 3]. As an example of PSN, the nickel mining industry has attracted some countries to invest and send their experts and professionals to work in Indonesia's central and east parts, such as Southeast Sulawesi, and Central Sulawesi, and Maluku [4]. This foreign business and investment may contribute to the national and local economic boost during the Covid-19 outbreak while other sectors experienced great difficulties. In contrast, foreign investors and workers raise serious issues about regulations on migration governance, migration and business law, socio-cultural gaps, and discrimination [5–7]. How is business law in Indonesia constructed in the context of foreign investors and workers' governance and border control at ports of entry? Law and policy in foreign investment and work are the fundamental answers to respond to documentation complexities and poor bureaucracy. Indonesia's Directorate General of Immigration (DGI) plays a significant role in migration and border control, particularly among foreign investors and workers during the Covid-19 outbreak.

Previous studies during the Covid-19 pandemic in Indonesia predominantly discussed the regulation of foreign workers to Indonesia by a normative approach focusing on the regulation of Minister of Law and Human Rights No. 27 of 2021 about restrictions on international travelers to Indonesia [8], the issues of people mobility governance to Indonesia and national visa policy [9], and the collaboration problems among agencies in response to foreigners stranded in Indonesia [10]. This paper aims to fill the gaps in the theory and concepts of foreign workers and investment in Indonesia in the Covid-19 outbreak in the context of business law amid relevant authorities. This study is to identify practices and challenges of how business law in Indonesia offers the ease of doing business and investment for foreign nationals towards trust and economic stability during the Covid-19 outbreak. The business law about entry, work, and residence permit policy describes the paperwork scheme for foreign workers and investors in Indonesia applied by applicants or their sponsors.

## 2 Research Methods

This study employs a qualitative method and uses public policy analysis of interpretive approaches [11] by examining practices and problems, by analyzing the policy documents on visas, permits, and border control management in Indonesia in terms of business and investment for foreign nationals. The secondary data is collected from internet

resources such as regulations, official documents, policy papers, and official websites or apps. Data is analyzed by a document analysis method [12] to review and evaluate regulations about travel restrictions, visa policy, work and residence permits, and document application procedures where the analysis and interpretation are conducted in a theoretical framework of public policy, migration, and border security.

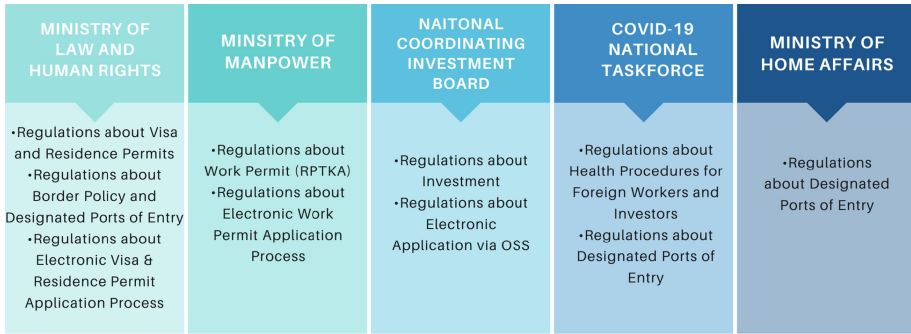
### 3 Result and Discussion

#### 3.1 The Construction of Business Law in Indonesia in the Context of Foreign Investors and Workers Governance and Border Control at Ports of Entry

The Indonesian government has responded to foreign workers' and investors' governance by developing migration concepts, border control management at entry points, and work or residence permits. All foreign workers and investors must hold a temporary residence permit or *Itas* issued by an immigration office. Through deregulation programs and national legislation bills, the Indonesian government has responded to the situations in particular migration concepts, border control management at entry points, and work or residence permits [13]. On the contrary, some rules are found to be fragmented and overlapped among relevant government agencies where transparency and accountability concerns have triggered uncertainty and wicked problems of national security issues [6, 14, 15]. Therefore, from the border and migration policy perspective, this study begins by discussing business law construction regarding foreign workers and investors during the Covid-19 pandemic in 2020 and 2021.

The construction of business law regarding foreign workers or investors entering and staying in Indonesia is fragmented and overlapped with other provisions published by different agencies. The Minister of Law and Human Rights Regulation 34 of 2021 and the Director-General of Immigration Circular Letters about border and migration policies during the Covid-19 pandemic were issued, and those underwent a process of revision many times and policies changed. An example of an overlapping border policy for foreign workers to Indonesia is the border closure policy at international ports of entry. In the early Covid-19 outbreak in 2020, the National Taskforce of Covid-19 (*Satgas Covid-19*) published a travel restriction to close international borders for foreign nationals to Indonesia. In the meantime, the Ministry of Law and Human Rights issued border closures, visa, and residence permit policy regulations. However, the local government, which covers the borderland between Indonesia and Malaysia, closed the border crossing stations with regional autonomy. This international border closure did not apply to foreign workers who worked at PSN as written in the regulations of the Minister of Manpower and Minister of Law and Human Rights. Figure 1 demonstrates fragmented and overlapping laws in Indonesia in foreign investment, business, and work published by several public sectors.

In relation to granting permits, due to the office closure in 2020, *Itas* of foreign workers and investors in Indonesia that would expire and had expired, they could not renew their residence permits at the immigration office. As a result, foreign workers might overstay their visas or residence permits. The emergency residence permit was automatically issued without applying to renew the permits in person at an immigration office as regulated in the Ministry of Law and Human Rights in 2020. Besides, the



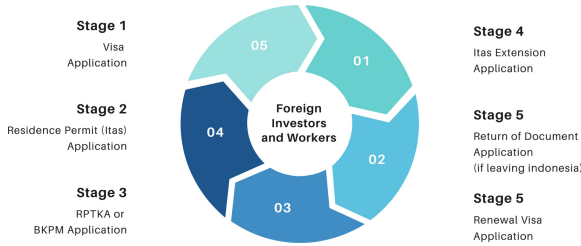
**Fig. 1.** Construction of Business Law in Indonesia for Foreign Investors and Workers Permits  
 Source: Regulations from all relevant authorities

Ministry of Manpower temporarily suspended the application process for work permits for foreign workers (RPTKA) based on the Circular Letter in 2020 unless otherwise stated for PSN workers. However, foreign direct investment in Indonesia remained open to every investor. In fact, the border security comprises five phases of border control which begin with the visa application prior to an applicant’s arrival by a verification and validation process, a departure process, an immigration clearance at borders, during their stay, and exit process [16].

Foreign investment creates significant contributions to national companies and domestic workers in the form of knowledge spillover, technology transfer, and productivity increase [17]. As such, to support the national investment climate in 2020, the Indonesian Investment Coordinating Board (BKPM) accelerated the infrastructure development and facilitates by adopting the online single submission (OSS) as a digital platform for business and investment permit application. BKPM continued to improve OSS and strengthen human resources at all levels of public sectors. Also, in the Minister of Finance Regulation No.130/PMK/010/2020, the Indonesian government provided a tax holiday to attract new foreign investors during the Covid-19 pandemic despite a decreasing number of foreign investments in Indonesia [18]. Tax holiday in the context of continuous development and tax allowance was implemented as a tax incentive scheme for the national economic recovery.

As seen in Fig. 2, a foreign worker or investor must follow the process of applying for a visa and permits. When applying for an offshore visa application, an applicant must lodge required documents to DGI, Ministry of Manpower (for workers), and BKPM (for investors). If their work or investment Itas expires soon, they must extend their Itas, 30 days before it expires at an immigration office. Either their Itas reaches a final extension, or they plan to leave Indonesia due to a work or investment contract termination, they must apply for a return of document at an immigration office.

In 2021, after the first vaccination was rolled out across Indonesia, the foreign investment and working policies had shifted to respond to ease of the travel restrictions and social activities restrictions (PPKM). Under the Minister of Law and Human Rights Regulation No. 34 of 2021, foreign investors and workers provide two types of visa applications: offshore and onshore. If granted, the electronic visa is sent to the email of



**Fig. 2.** Visa, Residence Permit, and Work Permit Application Process Source: Regulations from all relevant authorities



**Fig. 3.** Fragmented Application Systems Source: Regulations from all relevant authorities

the sponsor and applicant. An offshore visa application is made when a foreign worker or investor is outside of Indonesia’s jurisdiction and Itas is granted upon arrival in Indonesia at entry points. Meanwhile, an onshore visa is applied for without leaving Indonesia’s territory where their sponsors are required to apply online in Indonesia. Onshore visa application enabled foreign investors and workers whose Itas had expired while still residing in Indonesia to apply for a new visa. This visa application is lodged by sponsors through an online system at <https://visa-online.imigrasi.go.id/>. Work visa application requires approval from the Minister of Manpower by granting an RPTKA in which a sponsor lodges required documents at <https://tka-online.kemnaker.go.id/>. A sponsor or applicant must apply for new Itas via an online platform at <https://izintinggal-online.imigrasi.go.id/> after their work visa or investment visa is granted. Temporary residence visa (Vitas) for work and investment, Itas, and work permits are concurrently applied including its online payment despite the separated scheme of public services. Figure 3 shows that foreign workers and investors must log in to a different web-based application system to apply for a visa and permits before they arrive in Indonesia.

During the 2021 pandemic, Indonesia closed the international borders to every foreign traveler or tourist except for investors and workers at PSN. They were allowed to enter Indonesia at some designated ports of entry and required to follow the national health regulations such as a free covid PCR test, a mandatory quarantine, and a vaccination certificate. On 17 September 2021, to support the national economic recovery, the Minister of Law and Human Rights Letter No. M.HH.02.GR.02.02 on 16 September 2021 mentioned designated immigration clearance checkpoints where international travelers can enter Indonesia’s territory at eight international airports, 91 seaports, and

55 border crossing stations [19]. Another provision stated foreign workers were permitted to enter Indonesia at only two international airports in Jakarta and Manado. In contrast to this rule, the Minister of Home Affairs issued an official letter No. 69 of 2021 about designated ports of entry for international travelers: Jakarta airport, Manado airport, Raja Haji Fisabilillah airport, Tanjung Pinang seaport, Batam seaport, Nunukan seaport, Aruk border crossing station, Entikong border crossing station, and Motaain border crossing station. Meanwhile, the Minister of Transportation published Regulation No. 85 of 2021 about designated ports of entry for international travelers such as Jakarta airport, Manado airport, Bali airport, Batam airport, and Raja Haji Fisabilillah airport in Tanjung Pinang. Under the Regulation of Covid-19 National Taskforce No. 20 of 2021, two ports of entry were designated for international travelers to enter Indonesia via Bali airport and Riau Islands airport. Such overlapping border regulations may lead to confusion among foreign investors and workers that to which institution they should trust. This border closure policy was intended to curb the spread of imported cases, but it was less effective because of an increase in local transmissions [20]. Designated ports of entry to Indonesia as a border closure policy are dynamic, continue changing at all times and are published by different relevant agencies.

### **3.2 Foreign Investors and Workers Permit Governance and Border Control at Ports of Entry Impediments**

Border control policy in Indonesia explains that rules about ports of entry are overlapping, fragmented, and contradicting among public authorities, resulting in confusion among international investors and foreign workers in Indonesia during the Covid-19 pandemic. Under the two different Regulations of Ministers, an example of confusion is the RPTKA which mentions four regions or areas in Indonesia indicating the locations of companies or industries where they are permitted to work. Meanwhile, Itas is issued according to one address of accommodation where they reside under a designated immigration office's jurisdiction, not referring to workplace locations. An extension application of working and investment Itas are made manually where applicants or their sponsors must lodge required documents in person at an immigration office. Migration and border control governance are not limited to the security aspects but economy, politics, culture, and social perspectives and involve all levels of government, including local government roles [21].

Wide-ranging provisions over work permits and the residence permits granting process have not been regulated in the Regulation of the Minister of Law and Human Rights and the Circular Letter of the Director-General of Immigration. Rules and procedures on immigration document services at immigration offices and Indonesian representatives overseas, such as at Embassy or Consulates, remain significant gaps, particularly during the Covid-19 pandemic. For instance, when Itas expires soon, working or investment Itas holders can extend their Itas while they are outside of Indonesia. Still, none of the regulations describes the procedures in detail whether the Embassy or Consulates are involved.

Some other provisions lack consideration of tourism, and social and cultural aspects. The great success of attracting foreign workers to Indonesia can transfer the technology to national corporations and trigger the knowledge spillover to Indonesian workers. In contrast to this expectation, foreign workers may cause unemployment in Indonesia

because they could replace the domestic workers' contributions and expose the competency and skill gaps [22]. Besides, it is found that the regulation by the Minister of Manpower about non-formal sectors worker who gets married to Indonesian citizen is not in line with the Indonesian Immigration Law, which requires documentation of formal work [14]. From the social justice perspective, where most domestic workers were fired by companies, the influx of foreign workers during the Covid-19 pandemic kept increasing to work at PSN in Indonesia [23].

Referring to the web-based application system for foreign workers and investors, the e-government initiative has been adopted to address the complexities, but it lacks digital system development, interoperability applications, and internet infrastructures. Poor public online services which have not interconnected with one another, such as online visa application, residence permit application (Intal online), work permit application (TKA online), and investment application or OSS. Each of the app systems is not equipped with the data verification and validation process. It shows that the online public service in Indonesia for foreign investors and workers lacks e-government stages such as cataloging, transaction, vertical integration, and horizontal integration, and is absent from the concept of e-information, e-services, and e-participation [24]. There is not a single and integrated portal where foreign investors and workers can access services at multiple levels of public sectors in Indonesia. It shows the poor collaboration of governments.

At present, the Government Regulation No. 48 of 2021 about the Implementation of Indonesian Immigration Law No. 6 of 2011, the DGI publishes two new Indonesian visa streams: a Second Home visa and a Pre-Investment visa [25]. In addition to the new visa policy, two types of Residence Permits: Second Home Temporary Residence Permit and Pre-Investment Temporary Residence Permit or shortly called the Second Home Itas and Pre-Investment Itas have been stipulated under that Government Regulation. The visa fee and Itas fee have been regulated under the Regulation of Minister of Finance No. 9 of 2022 as the government non-tax revenue (PNBP) [26]. Meanwhile, in terms of Pre-Investment visa and permit, it remains unclear since such visa and permit policies have not been synchronized with the procedures in BKPM. In doing so, the regulations must include a strategic partnership scheme among industries under the regional industrial clustering, which focuses on export and foreign business relations for foreign investment policy [27].

## 4 Conclusion

Foreign investors and workers in Indonesia are likely to help boost the national economic growth. During the Covid-19 outbreak, the mining industry in Indonesia, categorized into the PSN, can predominantly contribute to positive impacts on domestic workers, knowledge spillover, technology transfer, and local economic development. Political interests may affect the business and investment stability of how Jokowi's administration set up the macroeconomy scenario and national economic policy. Practices of how business law in Indonesia offers the ease of doing business and investment for foreign nationals towards trust and economic performance during the Covid-19 outbreak comprise regulations published by different relevant public agencies. The Indonesian

government provides work visas, investment visas, business visas, temporary residence permits (Itas), and work permits for foreign investors and workers. An online application platform is available for applicants or their sponsors to lodge required documents where they can hold electronic visas and permits.

On the other side, the national business law may consist of an overlapping and partial policy. The business law in relation to entry, work, and residence permit policy is not constructed and well-managed since the paperwork scheme for foreign workers and investors in Indonesia applied by applicants or their sponsors remains complex and biased. It is believed that the construction of business law about foreign workers or investors entering and staying in Indonesia will keep being fragmented and overlapped with other provisions published by different agencies. In this case, an applicant or a sponsor must apply for a work visa, residence permit, work permit, and investment permit at different agencies. In so doing, they must prepare documents such as a company registration certificate (*akta pendirian perusahaan*), company business number (NIB), company tax file number (NPWP), letter of domicile (SKDP), recommendation letter from BKPM, and other required documents. As such, they require to lodge the same documentation repeatedly to every online application system provided by every authority.

Reopening international border policy is unclear and leads to ambiguities. Designated ports of entry to Indonesia as a border closure policy are dynamic, continue changing at all times, and are published by different relevant agencies. It may lead to confusion for every foreign national and Indonesian citizen, including the irregularities of health protocol upon international arrival in Indonesia. The movement of people across nations will continue since this year, the pandemic is shifting to an endemic era, and Indonesia plans to ease the travel restrictions and health protocols.

It concludes the government agencies published overlapping and fragmented regulations and poor interoperable applications among government institutions. In response to these wicked problems, it suggests that the visa and residence permit policy may be reformed, and any regulations about foreign investment and workers could be issued only by a coordinating minister. Visa, residence permits, investment, and work permits must be integrated into a single format. All web or app-based services shall be connected in a single-window system under the Ministry of Finance called the Indonesian National Single Window or INSW. This paper recommends the Indonesian government, local government, relevant authorities, and the DGI design a border and visa policy for the post-pandemic era considering simplifications of required documents and an integrated online application system for foreign investors and workers. The business and investment in Indonesia are dynamic, relying on how the Indonesian government can respond to the unpredictable number of infected cases of Covid-19.

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