
Normative Juridical Study of Regulatory Urgency Use of Local Labor in the Regions

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Abstract

Indonesia, in the context of "advancing general welfare" as mandated by the preamble to the 1945 Constitution, is responsible for responding to employment problems through national development. The government directs various regulations in the field of employment to regulate "Indonesian workers" and/or the use of "foreign workers" in the context of equal and fair employment opportunities. However, the phenomenon is that local governments see a legal vacuum (*recht vacuum*) to regulate local/regional workers or in other words, "local workers". Consequence, many regions in Indonesia have issued regulations that involve "the use of local labor" in the form of regional regulations or regent/mayor regulations. In this normative juridical study the problem is formulated: (i) How is the use of local labor regulated in the regions based on statutory regulations? (ii) What is the urgency of regulating the use of local labor in the regions? In principle, this article aims to answer these two things. First, to find out and analyze legal regulations related to the use of local workers in the regions. Second, to formulate the urgency of regulating the use of local labor in the regions. In this study, it was found that the regulation of the use of local workers in the regions is not an order from existing laws and regulations in Indonesia and is not an authority that implicitly regulates local workers, but rather a regional government policy to accommodate regional conditions related to the problem of employment opportunities for workers-local work. The obligation to provide opportunities for local workers and residents around the company does not mean it is discriminatory because it is still open while prioritizing the principle of professionalism according to the prospective workers' standards of ability and skills.

Keywords: local workforce, regulations, regions

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1. Introduction

In the context of the welfare state, the Unitary State of the Republic of Indonesia is responsible for realizing general welfare as stated in the state's objectives as mandated by the 1945 Constitution of the Republic of Indonesia (UUD 1945), especially the opening of the fourth paragraph which reads "protecting the entire Indonesian nation, advancing general welfare,

educating life of the nation and participate in implementing world order." In principle, philosophically, law is constructed by the state to realize state goals, including general welfare. This happened as a legal consequence, and the 1945 Constitution of the Republic of Indonesia became the basic norm (Grund norm) for all laws and regulations in Indonesia.

Specifically, in the body of the 1945 Constitution of the Republic of Indonesia, the concept of the Indonesian welfare state law is accommodated in Article 27 paragraph (2), Article 31, Article 32, Article 33, and Article 34. One of the issues that the state must resolve is the issue of employment because of the rights. Getting a job is a basic right of citizens guaranteed by Article 27, paragraph (2) of the 1945 Constitution of the Republic of Indonesia. Apart from that, the issue of employment is also an indicator that marks the level of welfare of citizens. In the economic interpretation of the constitution (Elviandri, Khuzdaifah Dimyati, and Absori, 2019), one of the main pillars in the welfare state model based on the 1945 Constitution of the Republic of Indonesia is a development based on the superiority of the economy's productive resources to fulfill the basic rights of citizens which includes, among other things, facilitating labor. Work with the skills needed to enter the labor market and the creation of widespread employment as a starting point for development. In (Nuryansyah Irawan, 2023), Employment development is an effort to create national development whose aim is to supervise, foster, and regulate the traffic of workers with employers to create order and justice in the world of employment itself.

In the international world, welfare indicators are currently in the context of the Millennium Development Goals (Millennium Development Goals or MDGs) for the 2000-2015 period, followed by sustainable development goals (Sustainable Development Goals or SDGs) for the 2015-2030 period. Indonesia has signed the MDGs and SDGs documents, so it is obligated to fulfill the internationally determined welfare indicators for national development. Regarding regulations, the state issued Presidential Decree No. 59 of 2017 concerning the Implementation of the Achievement of Sustainable Development Goals, which sets national targets for 2017 to 2019 in the National Medium Term Development Plan 2015-2019. Furthermore, Presidential Regulation No. 111 of 2022 concerning the Implementation of the Achievement of Sustainable Development Goals is prepared concerning the global goals and targets of the 2030 sustainable development goals and the national medium-term development targets for 2020-2024. Of the 17 (seventeen) sustainable development goals (SDGs), there is an eighth goal: economic growth and decent work, supporting sustainable economic development, productive employment, and decent work for everyone. This eighth development goal is an indicator of welfare related to labor. This is accommodated in Presidential Regulation No. 111 of 2022, which states that one of the Sustainable Development Goals for 2020-2024 is to maintain a sustainable increase in the economic welfare of society.

The Employment Development Index (IPK) is used to measure the achievements of the regional government in implementing employment development since the Covid-19 pandemic. Indonesia's employment development conditions have experienced a setback to the results of

the 2020 IPK measurement, which showed a significant decline. The National GPA achievement based on 2020 data was 61.33, a decrease of 6.31 points compared to the previous year, which reached 67.63 (Employment Development Index. 2021). With a GPA of 61.33, the National Employment Development Status is "Lower Middle" status. Nationally, the highest GPA in 2020 was achieved by DKI Jakarta Province, with a GPA of 76.11. South Sulawesi Province achieved second place with a GPA of 67.38, while South Kalimantan Province achieved third place with a GPA of 67.36. The number of provinces with GPA status of "Upper Middle" was 7 provinces, a decrease from the previous year which was 23 provinces. 20 provinces are at "Lower Middle" status and 7 other provinces are still at "Low" status.

The 2020 Employment Development Index Measurement Results (Employment Development Index. 2021) provide a complete picture of the employment development performance of each Province which is highlighted using 9 Main Indicators and 25 Sub Indicators as follows:

1. In the Sumatra region, the majority of provinces have "Lower Middle" status with an index ranging from 41.92-67.03. The highest index in the Sumatra region was obtained by the Riau Islands Province and the lowest index was obtained by the Aceh Province. In the Sumatra region, there are 2 provinces with GPA values below 50.00, namely Aceh and Bangka Belitung Provinces.
2. In the Java region, the index ranges between 52.84-76.11. The majority of provinces have achieved "Lower Middle" status with the Index, namely West Java, Central Java, East Java and Banten. A total of 2 provinces, namely DKI Jakarta and DI Yogyakarta, have "Upper Middle" status.
3. In the Kalimantan region, 2 provinces have achieved "Upper Middle" status with an index above 66.00. 2 provinces have achieved "Lower Middle" status with an index above 50.00. Only West Kalimantan obtained an index below 50.00.
4. In the Sulawesi region, 2 Provinces have achieved "Upper Middle" status, while 2 Provinces have "Lower Middle" status and 1 Province has "Low" status. 2 provinces have reached an index above 66.00, namely South Sulawesi and North Sulawesi. In this region, only South Sulawesi Province has a large intensity and workload in employment matters. The remainder have a Medium or Small intensity and workload in employment matters.
5. In the Balnusa region, there are 2 provinces that have "Lower Middle" employment development status and 1 province with "Redah" employment development status. With an index of 38.50, East Nusa Tenggara Province is in a different position at 34, while West Nusa Tenggara and Bali Provinces with an index below 60.00 are ranked above 20.
6. In the Maluku and Papua regions, the employment development status of 3 provinces is "Low" status and 1 province has "Lower Middle" status with an index ranging from 38.86-58.87. The highest index in this region was obtained by Maluku Province and Papua Province obtained the lowest index. In this region, only West Papua Province has

a small intensity and workload for employment matters. The remainder have moderate intensity and workload in employment matters.

Based on the Employment Development Index (IPK) for the Indonesian region in 2020, the Maluku and Papua regions need to be pushed more actively in employment development. The lower the GPA in an area, the lower the welfare level. Apart from reviewing the context of regional government efforts to develop the employment sector.

Population as the object of employment development can be classified based on the percentage of the population working on islands/archipelagos in Indonesia (processed data from Sakernas BPS August 2020): Sumatra (21.54%), Java (56.45), Bali and Nusa Tenggara (6.01), Kalimantan (6.14), Sulawesi (7.15), Maluku (1.03), Papua (1.67). In 2020, the highest percentage of the working population was in Java, at 56.45. Meanwhile, Maluku Island has the lowest percentage of the working population, namely 1.03.

The GPA in Indonesia is a sociological perspective on employment development. In detail, in the employment context, development in the employment sector is directed at the issues of unemployment, utilization of the workforce, equal distribution of employment opportunities, protection of workers, and attention to the welfare of workers and their families. The latest data regarding the picture of employment development seen from employment conditions in 2024 (Pusbangjknaker, 2023), the projection of unemployment in future years using the basis of the August 2021 number of unemployed as many as 9,102,052 people (6.49%), August 2022 as many as 8,425,931 people (5.86%), and August 2023 as many as 7,855,075 people (5.32%). Projected unemployment in August 2024 is as many as 7,220,630 people (4.74%), and in August 2025, as many as 6,684,265 (4.26%).

Juridically, Article 5 of Law Number 13 of 2003 concerning employment protects the idea that "Every worker has the same opportunity without discrimination to obtain work". Apart from that, Article 32 of Law Number 13 of 2003 concerning Employment clearly states: 1) Workforce placement is carried out based on the principles of openness, freedom, objectivity, fairness, and without discrimination; 2) Workforce placement is directed at placing workers in positions that are by their expertise, skills, talents, interests and abilities by paying attention to equal distribution of honor, dignity, human rights and legal protection; 3) Workforce placement is carried out by paying attention to equal employment opportunities and the supply of workers by national and regional program needs.

However, in reality, this regulation has not been able to accommodate existing problems. The emergence of Omnibuslaw through Law no. 11 of 2020 concerning job creation which later became Perppu no. 2 of 2022 and finally became Law no. 6 of 2023 brings fresh air to labor issues, especially the issue of equal employment opportunities. One of the basic considerations for the emergence of this omnibus law is the hope that job creation is expected to be able to absorb as wide a workforce as possible in Indonesia amidst increasingly competitive competition and the demands of economic globalization as well as global economic challenges and crises which can cause disruption to the national economy.

Furthermore, the Government issued Government Regulation No. 34 of 2021 concerning the Use of Foreign Workers as a derivative of Law No. 11 of 2020 concerning Job Creation. This government regulation is intended to address the issue of employment opportunities, including competition for employment opportunities for Indonesian and foreign workers. In Article 2, paragraph (1), PP no. 34 of 2021 states that Employers of Foreign Workers are obliged to prioritize using Indonesian workers in all types of positions available.

The set of regulations put forward, which the central government has issued, apparently have not and/or are not immediately able to answer the problem of employment opportunities in Indonesia, especially the competition for employment opportunities between Indonesian workers, especially local workers and foreign workers. This can be proven by the proliferation of regional regulations whose implementation on a regional scale regulates the protection of local workers. Almost all regions in Indonesia have employment regulations with various titles, but the aim is the same: to accommodate employment opportunities for local workers in the region.

Regional regulations or regent/mayor regulations in Indonesia that regulate the use of local workers create a legal obligation for companies to employ local workers. Legal arrangements for companies need to be studied juridically from the perspective of legal certainty, justice, and benefit. The implementation of the legal obligation for companies to employ local workers needs to be reviewed if it creates polemics or new problems that burden companies/entrepreneurs and hinder investment in Indonesia.

Starting from the identification of legal problems above, these problems can be formulated as follows (i) How is local labor regulated in the regions based on statutory regulations? And, (ii) What is the urgency of regulating the use of local labor in the regions? This article aims to answer these two things. First, to find out and analyze legal regulations related to the use of local workers in the regions. Second, to formulate the urgency of regulating the use of local labor in the regions.

2. Research Methods

The type of research used is normative juridical legal research, which examines library materials or secondary data. Secondary data was obtained from a literature study consisting of legal materials, namely the 1945 Constitution of the Unitary State of the Republic of Indonesia, Law No. 13 of 2003 concerning Employment, Law No. 23 of 2014 concerning Regional Government, Law No. 6 of 2023 concerning Stipulation of government regulations instead of Law no. 2 of 2022 concerning Job Creation, as well as secondary legal materials in the form of books, writings, papers and articles on the internet as well as tertiary legal materials in the form of large Indonesian dictionaries, legal dictionaries. Data collection techniques are used through library research through library searches. The data analysis attempts to provide a clear and concrete picture of the discussed object. Then, the data is presented descriptively, namely explaining, describing, illustrating, and connecting to formulating existing laws and regulations

by problems closely related to the research. This is to answer the problem being researched by concluding in a deductive manner.

3. Results and Discussion

3.1. Legal Arrangements Related to the Use of Local Labor in the Regions

3.1.1. Regulation of "use of local labor" in Indonesian positive law

a. Law Number 13 of 2003 about Employment

Law Number 13 of 2003 was promulgated based on the consideration that national development is carried out in the framework of the complete development of Indonesian people and the development of Indonesian society as a whole to create a prosperous, just, prosperous, equitable society, both materially and spiritually based on Pancasila and the Constitution of the Republic of Indonesia. Indonesia in 1945. Apart from that, workers have a very important role and position as actors and goals of development.

Based on Article 3 of Law Number 13 of 2003, employment development is carried out on the principle of integration through functional coordination across central and regional sectors. Based on Article 4 of Law Number 13 of 2003, employment development aims to: (a) Empowering and utilize the workforce optimally and humanely; (b) Realize equal employment opportunities and provide labor for national and regional development needs; (c) Provide protection to workers in realizing prosperity; and (d) Improving the welfare of workers and their families.

In this Law, there are no special regulations regarding local workers. In Article 1 number 2 of Law no. 13 of 2003, labor is every person who is able to do work to produce goods and/or services to meet their own needs and those of the community. Furthermore, in Article 1 number 3, a worker/laborer is every person who works and receives wages or other forms of compensation. By paying attention to Article 1 number 2 and Article 1 number 3, it can be interpreted that Law No. 13 of 2003 does not explicitly regulate local workers; it only regulates workers in general. In the context of Labor or Workers/Labourers, which were annulled by Law no. 13 of 2003, are workers or workers/laborers in Indonesia, including local workers as part of the Indonesian workforce. However, Article 39 paragraph (3) Law no. 13 of 2003 states that all government policies, both central and regional, in every sector are directed at realizing the expansion of employment opportunities inside and outside the employment relationship. In this case, regions can make policies to expand employment opportunities for workers in their regions.

b. Law Number 23 of 2014 about local government.

The authority for administering employment is based on Law Number 23 of 2014 concerning Regional Government and its explanation; it can be explained that based on this law, Government Affairs are divided into absolute Government Affairs, Concurrent Government

Affairs, and General Government Affairs. a) absolute government affairs, namely government affairs that fall entirely under the authority of the Central Government. b) concurrent government affairs are shared between the Central Government and provincial and district/city regional governments. Concurrent government affairs handed over to the Regions become the basis for implementing Regional Autonomy c) General government affairs.

Based on the attachment of Law Number 23 of 2014, the province's authority in labor matters includes, first, the sub-affairs of Job Training and Labor Productivity: a. Implementation of training based on competency clusters; b. Implementation of accreditation of job training institutions; c. Productivity consultancy in medium-sized companies; d. Measurement of productivity at the provincial level. Second, the Labor Placement sub-affairs consist of a. Inter-work services across districts/cities within 1 (one) provincial region; b. Issuance of LPTKS permits in more than 1 (one) district/city area in 1 (one) provincial area; c. Management of labor market information in 1 (one) provincial region; Protection of migrant workers abroad (pre- and post-placement) in provincial areas; e. Ratification of an extended RPTKA that does not contain changes in position, number of TKA, and work location in 1 (one) provincial region. f. Issuance of IMTA extensions for work locations in more than 1 (one) district/city area in 1 (one) provincial area. Third, the Industrial Relations sub-affairs consist of: a. Ratification of company regulations and registration of collective work agreements for those with work areas of more than 1 (one) district/city in 1 (one) provincial region, b. Prevention and resolution of industrial relations disputes, work strikes, and company closures that result in/impact interests in 1 (one) provincial region; c. Placement of provincial minimum wage (UMP), provincial sectoral minimum wage (UMSP), district/city minimum wage (UMK), and district/city sectoral minimum wage (UMSK). Fourth, the sub-affair of Labor Inspection is the implementation of labor inspection.

Regency/city authority in labor affairs includes the sub-matter of Job Training and Labor Productivity, which consists of: a. Implementation of training based on competency units; b. Development of private job training institutions; c. Licensing and registration of job training institutions; d. Productivity consultancy in small companies; and e. Measurement of productivity at district/city level. Second, the Labor Placement sub-affairs consist of: a. Inter-worker services in district/city areas; b. Issuance of LPTKS permits in 1 (one) district/city area; c. Management of labor market information in district/city areas; d. Protection of migrant workers abroad (pre- and post-placement) in district/city areas; and e. Issuance of IMTA extensions for work locations in 1 (one) region. Third, the Industrial Relations sub-affairs consist of: (i) Ratification of company regulations and registration of collective work agreements for companies that only operate in 1 (one) district/city area; and (ii) Prevention and resolution of industrial relations disputes, labor strikes, and company closures in district/city areas.

- c. Law Number 6 of 2023 About the Determination of Perppu No. 2 of 2022 about Job Creation becomes Law

Article 81 number 4 amends Article 42 paragraph (1) of Law no. 13 of 2003, which states that (1) Every employer who employs foreign workers is required to have a plan for the use of foreign workers that the Central Government approves. Furthermore, in paragraph (2), individual employers are prohibited from employing foreign workers. Furthermore, in paragraph (2), individual employers are prohibited from employing foreign workers. Based on these provisions, it can be argued that companies cannot employ foreign workers freely without the Central Government knowing. This provision limits the use of foreign workers in order to protect Indonesian workers. Restrictions on the use of foreign workers also apply to non-company employers.

In Article 42, paragraph (4), Law No. 13 of 2003 was changed to state that foreign workers can be employed in Indonesia only in employment relationships for certain positions and specific times and have competencies by the position they will occupy. Foreign workers are prohibited from holding positions dealing with personnel. This provision limits the types of work that can be carried out by foreign workers, specifically for personnel positions that Indonesian workers must hold. The empowerment of Indonesian workers is also accommodated in Article 45 paragraph (1) letter a which states that Employers of Foreign Workers are obliged to appoint Indonesian Citizen Workers as accompanying workers for Foreign Workers who are employed to transfer technology and transfer skills from Foreign Workers.

Based on the abovementioned matters, none of the laws and regulations provide orders (delegations) to regional governments and/or governors/regents/mayors to make regional regulations or regent regulations regarding the obligation to use local workers by regional companies.

In the context of authority, the Regional Government only has the authority to regulate labor in general. This authority can be interpreted to include regulating local labor. However, Law No. 23 of 2014 does not stipulate that regions can regulate employment opportunities for local workers.

- d. Minister of Manpower Regulation Number 39 of 2016 concerning Workforce Placement

Based on Minister of Manpower Regulation No. 39 of 2016, the central, provincial, and district/city governments have the authority to regulate labor in their regions. Based on Article 8 of Minister of Manpower Regulation no. 39 of 2016, the Province has the authority to: a. inter-work services across districts/cities within 1 (one) provincial region; b. issuance of LPTKS permits in more than 1 (one) provincial area; and c. IPK management in 1 (one) provincial area. Meanwhile, according to Article 10 Minister of Manpower Regulation Number 39 of 2016, districts/cities have the authority to: a. inter-work services in district/city areas; b. Issuance of LPTKS permits in 1 (one) district/city area; and c. IPK management in district/city areas.

In line with Law No. 23 of 2014, Minister of Manpower Regulation No. 39 of 2016 also does not use the term "local workforce" but regulates workers in provincial or district/city areas. Thus, in positive law related to employment in Indonesia, not a single phrase, "local workforce," is found. Labor law politics in Indonesia only recognizes the phrases Labor (for Indonesian workers) and Foreign Workers.

3.1.2. Regulation of "Use of Local Workers" in regional regulations or regent/mayor regulations

Regional regulations or regent/mayor regulations regarding the use of local workers are regional regulations issued by regional governments in order to address employment opportunity problems in their regions. To see the picture in Indonesia, the author mapped it based on the islands in Indonesia, as shown in Table 1 below:

Table 1. Regional Regulations Concerning Local Workers (For Districts/Cities on Sumatera Island)

No.	District/City	Information
1.	Ogan Komering Ulu Regency Regional Regulations Number 5 of 2017 concerning Empowerment of Local Workers	Regency in South Sumatra Article 7 paragraph (2) When filling job vacancies, employers are obliged to prioritize the recruitment of local workers, especially job seekers who have registered with the Manpower Service.
2.	Musi Banyuasin Regency regional regulations Number 2 of 2020 concerning Empowerment and Placement of Workers	Regency in South Sumatra Article 16 paragraph (1) TKL empowerment carried out by the Department as follows referred to in Article 15 includes: a. providing job vacancy information; b. Job Seeker registration; c. education and training through BLK; d. apprenticeship/field work practice; e. ease of administrative services; f. guidance and counseling/counseling; g. guidance and supervision; And h. follow-up on job placement. Article 25 paragraph (3) To avoid the emergence of social jealousy in people who live around the Company's location, the Company can accept TKL who do not meet the criteria, to be employed as Workers in types of work that do not require special skills/expertise which include: a. gardener; b. janitor; c. night guard; d. housekeeping manager at an employee's official residence; and e. types of work that do not require technical or other special skills.
3	Pekanbaru City Regional Regulation Number 4 of 2002 concerning the Placement of Local Workers	City in Riau Province Article 18 Employers must make gradual efforts within the first 5 years to fill job vacancies in their company with local workers of at least 50% and, in the following 5 years, at least 75% of the number of workers working there.
4	Batubara Regency Regional Regulation Number 5 of 2017	City in North Sumatra Province Article 9 paragraph (1) In order to place local workers,

	concerning the Placement of Local Workers	large and medium companies are obliged to prioritize the recruitment of local workers in accordance with the company's workforce needs.
5.	Kampar Regency Regional Regulation Number 05 of 2009 concerning Workforce Placement	Regency in Riau Province Article 7 paragraph (2) Every company must employ 40% (forty percent) local workers and 60% (sixty percent) non-local workers, both skilled and unskilled workers.

Source: processed data from various sources, 2024

Based on Table 1, it can be explained that of the 5 (five) districts/cities on the island of Sumatra which regulate the protection of local workers with different titles, only 3 (three) district/city regulations use the phrase "local workers" in the title. The regional regulations are Ogan Komering Ulu Regency Regional Regulation Number 5 of 2017 concerning the Empowerment of Local Workers, Pekanbaru City Regional Regulation Number 4 of 2002 concerning the Placement of Local Workers and Batubara Regency Regional Regulation Number 5 of 2017 concerning the Placement of Local Workers. Meanwhile, based on Table 1 above, there are only 2 (two) districts/cities that determine the percentage of local workers, namely Musi Banyuasin Regency Regional Regulation Number 2 of 2020 concerning Empowerment and Placement of Workers and Kampar Regency Regional Regulation Number 05 of 2009 concerning Workforce Placement.

Furthermore, based on Table 2, the following will explain the districts/cities that accommodate local workers on the island of Java. Table 2 is mapped as follows:

Table 2. Regional Regulations Concerning Local Workers (For areas on the island of Java)

No.	District/City	Information
1.	Jombang Regency Regional Regulation No.13 of 2016 concerning Employment	Regency in East Java Province Article 20 paragraph (1) Every company can enter into cooperative relationships with educational institutions in the Region to accommodate local workers under the coordination of the Department. Article 21 paragraph (1) In handling unemployment and hiring workers, companies provide opportunities for local workers by prioritizing local residents in accordance with the company's needs without ignoring the workforce competency standards required by the company concerned.
2.	Purwakarta Regency Regional Regulation Number 5 of 2013 concerning Empowerment and Placement of Local Workers	Regency in West Java Province Article 19 paragraph (1) In order to support efforts to empower TKL, companies that employ a workforce of more than 100 (one hundred) people are required to: a. submit job vacancy information in writing or electronically to the Department before announcing job vacancies via print or electronic media; b. organize TKL education and training for communities around the company's domicile c. provide opportunities to improve skills and career development for TKL who are already working in the

		<p>company.</p> <p>Article 19 paragraph (2) The company's participation in the placement of TKL is carried out in the form of prioritizing TKL to fill required job vacancies with priority absorption in sequence including:</p> <ul style="list-style-type: none"> a. TKL with BLK certification b. TKL of local residents resulting from company education and training; c. TKL with LPKS certification; And d. General TKL
3.	Yogyakarta City Regional Regulation Number 13 of 2009 concerning the Implementation of Employment	<p>City in DI Yogyakarta Province</p> <p>Article 17 paragraph (3) When filling job vacancies, employers are obliged to prioritize the recruitment of local workers, especially job seekers who have registered with the SKPD.</p>
4.	East Java Province Regional Regulation No. 8 of 2016 concerning the Implementation of Employment	<p>Article 26 paragraph (1) every company can enter into cooperative relationships with educational institutions in the region to accommodate local workers.</p> <p>Article 27 paragraph (1)</p> <p>In handling unemployment and recruitment, the company provides opportunities for local workers by prioritizing local workers in accordance with the company's needs, leaving aside the workforce competency standards required by the company concerned.</p>
5.	Bojonegoro Regency Regional Regulation No. 3 of 2021 concerning employment management	<p>Regency in East Java Province</p> <p>Article 16</p> <p>Every company in the region is obliged to prioritize the placement of local workers according to their competence and expertise as an effort to carry out community participation in regional development.</p> <p>Article 10</p> <p>Every company/investor that invests capital in the region is obliged to train local workers to be placed and fill their workforce needs.</p>
6.	Tegal Regency Regional Regulation No. 10 of 2017 concerning Empowerment and Placement of Local Workers	<p>Regency in Central Java Province</p> <p>Article 31 paragraph (2)</p> <p>Local governments can provide progressive rewards for the placement of local workers</p> <ul style="list-style-type: none"> a. 50 % b. 70 % c. 85 %

Source: processed data from various sources, 2024

Based on Table 2 above, it can be stated that of the 6 (five) districts/cities on the island of Java that regulate the protection of local workers with different titles, only 2 (two) district/city regulations use the phrase "local workers" in the title of the regional regulation is Purwakarta Regency Regional Regulation Number 5 of 2013 concerning Empowerment and Placement of

Local Workers and Tegal Regency Regional Regulation No. 10 of 2017 concerning Empowerment and Placement of Local Workers. Meanwhile, based on table 2 above, there is only 1 (one) district/city that determines the percentage in the use of local workers, namely Tegal district regional regulation No. 10 of 2017 concerning Empowerment and Placement of Local Workers.

Furthermore, based on Table 3, the following will explain the districts/cities that accommodate local workers on the island of Kalimantan. Table 3 is mapped as follows:

Table 3. Regional Regulations Concerning Local Workers (For areas on the island of Kalimantan)

No	Regency/City	Information
1.	Bulungan Regency Regional Regulation No. 6 of 2019 concerning Placement of Local Workers	Regency in North Kalimantan Province Article 25 paragraph (1) In order to place local workers, employers are obliged to prioritize the recruitment of at least 80% of local workers in by the required qualification requirements for the position.
2.	Berau Regency Regional Regulation No. 8 of 2018 concerning the Protection of Local Workers	Regency in East Kalimantan Province Article 20 paragraph (1) Companies must try to fill job vacancies in their companies with at least 80% local workers or workers/laborers per the required job qualification requirements.

Source: processed data from various sources, 2024

Based on table 3, it can be explained that the regional regulations that accommodate the protection of local workers on the island of Kalimantan have used the phrase "local workers" as the title of the regional regulations and set a percentage for the use of local workers.

Furthermore, based on Table 4, the following will explain the districts/cities that accommodate local workers on Sulawesi Island. Table 4 is mapped as follows:

Table 4. Regional Regulations Concerning Local Workers (For areas on the island of Sulawesi)

No	District/City	Information
1.	East Kolaka Regency Regional Regulation No. 4 of 2017 concerning Local Workers	Regency in Southeast Sulawesi Province Article 9 paragraph (1) Every company/employer is obliged to make maximum efforts and priority so that open job vacancies are filled by local workers or workers/laborers who meet the requirements, especially job seekers who have registered with employment agencies.
2.	Bitung City Regional Regulation Number 13 of 2018 concerning Protection of Local Workers	Article 29 paragraph (1) In handling unemployment and recruiting workers, employers provide opportunities for TKL by prioritizing local residents in accordance with the company's needs.
3.	North Penajam Paser Regency Regional Regulation Number 8 of 2017 concerning Protection and Placement of Local Workers	Regency in East Kalimantan Province Article 6 paragraph (1) Companies are obliged to ensure that at least 80% (eighty percent) of job vacancies in their company are filled by local workers or workers/laborers, in accordance with the required job qualification requirements.

4.	South Barito Regent Regulation Number 26 of 2020 concerning Empowerment of Local Workers by Companies in the South Barito Regency Area	Regency in South Kalimantan Province Article 5 paragraph (1) The regional government regulates the provision of local labor in adequate quality and quantity needed by companies or job seekers.
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Source: processed data from various sources, 2024

Based on Table 4 above, it can be stated that the districts/cities on Sulawesi Island have used the phrase "local workforce" in the title of the regional regulations which accommodate the protection of local workers, there are even regulations regarding local workers in the Regent's Regulations and Regional Regulations.

Meanwhile, based on Table 4, there is only 1 (one) district/city that determines the percentage in the use of local workers, namely North Penajam Paser Regency Regional Regulation Number 8 of 2017 concerning Protection and Placement of Local Workers.

Furthermore, based on Table 5, the following will explain the districts/cities that accommodate local workers on Papua Island. Table 5 is mapped as follows:

Table 5. Regional Regulations Concerning Local Workers (For Provinces/Regencies/Cities on Papua Island)

No	District/City	Information
1.	Papua Province Regional Regulation Number 4 of 2013 concerning the Implementation of Employment	Article 21 paragraph (1) in filling job opportunities, local governments or business entities prioritize the placement of native Papuan workers and immigrants who have lived in Papua for a long time, especially job seekers who have registered with the District/City Office.
2.	Merauke Regency Regional Regulation Number 6 of 2014 concerning Employment	Article 13 (1) Workforce Placement consists of: a. placement of workers within the country; and b. placement of workers abroad. (2) The placement of workers as intended in paragraph (1) is given the opportunity and priority is given to native Papuans. (3) Opportunities and priority for native Papuans as intended in paragraph (2) if there are no native Papuan workers, opportunities will be given to non-Papuan people. (4) Non-Papuan people as referred to in paragraph (3) are given criteria including: a. reside continuously in the Region for 2 (two) years; And b. domiciled continuously in the area for 5 (five) years.

Source: processed data from various sources, 2024

Based on Table 5 above, it can be stated that districts/cities on Papua Island do not use the phrase "local workforce" in the title of the regional regulations which accommodate the

protection of local workers and do not specifically stipulate the percentage of use of local workers.

Furthermore, based on Table 6, the following will explain the districts/cities that accommodate local workers on the islands of Bali, East Nusa Tenggara and West Nusa Tenggara. Table 6 is mapped as follows:

Table 6. Regional Regulations Concerning Local Workers (For Provinces/Regencies/Cities on the Islands of Bali, NTT and NTB)

No	District/City	Information
1.	Bali Province Regional Regulation Number 10 of 2019 concerning the Implementation of Employment	Paragraph 2 Placement of Local Workers and Local Residents Article 37 (1) The Company gives priority to local residents who have work competencies in accordance with the provisions of the Legislative Regulations. (2) Priorities for local residents as intended in paragraph (1) are coordinated with village officials, Provincial Services and/or Regency/City Services in an open and transparent manner.
2.	Buleleng Regency Regional Regulation No. 8 of 2016 concerning the Implementation of Employment	Article 11 In recruiting workers in the region, the company provides opportunities for local workers, according to the company's needs without ignoring the workforce competency standards required by the company.
3.	Badung Regency Regional Regulation No. 8 of 2014 concerning the Implementation of Employment Services	Article 11 In recruiting workers in the regions, the Company provides opportunities for local workers, in accordance with the Company's needs without prejudice to the competency standards for workers required by the Company.
4.	Sumbawa Regency Regional Regulation Number 4 of 2023 concerning Protection of Local Workers	Article 23 (1) Companies can accept TKL who do not meet the criteria as intended in Article 6 paragraph (2) letters b and c to be employed as workers in types of work that do not require special skills/expertise which include: a. gardener; b. janitor; c. night guard; d. domestic servants at employee official residences; And e. types of work that do not require technical or other special skills. (2) TKL as intended in paragraph (1), is a community that lives around the company location.

Source: processed data from various sources, 2024

Based on Table 6 above, it can be stated that some districts/cities on the islands of Bali, NTT and NTB use the phrase "Local Workers" and some do not use the phrase "local workers" in the title of regional regulations that accommodate the protection of local workers and do not specifically determines the percentage in the use of local workers. In addition, there are regions that do not impose an obligation on companies to employ local workers, they only need to report job vacancies.

Furthermore, based on Table 7, the following will explain the districts/cities that accommodate local workers on Maluku Island. Table 7 is mapped as follows:

Table 7. Regional Regulations Concerning Local Workers (For Provinces/Regencies/Cities on Maluku Island)

No	District/City	Information
1.	Maluku Province Regional Regulation Number 14 of 2014 concerning Worker Protection	Article 21 paragraph (1) Every entrepreneur must prioritize the placement of local workers according to their competencies and skills.

Source: processed data from various sources, 2024

Based on Table 7 above, it can be stated that the districts/cities on Maluku Island do not use the phrase "local workforce" in the title of the regional regulations which accommodate the protection of local workers and do not specifically stipulate the percentage in the use of local workers.

Based on Table 1 to Table 7 above, 5 (five) clusters can be classified regarding local labor arrangements in the regions:

- a. First cluster: regulations in the form of regional regulations issued which have a general title relating to labor but in their body they specifically regulate local labor.
- b. Second cluster: regulations in the form of regional regulations issued whose title contains the phrase local workforce and requires companies to employ local workers without specifying a certain percentage and without containing sanctions.
- c. Third cluster: regulations in the form of regional regulations issued whose title contains the phrase local workforce and requires companies to employ a certain percentage of local workers without including sanctions.
- d. Fourth cluster: regulations in the form of regional regulations issued whose title contains the phrase local workforce and requires companies to employ a certain percentage of local workers and contains sanctions for companies that do not fulfill this obligation.
- e. Fifth cluster: regulations related to local labor in the form of regent/mayor regulations.

From a juridical perspective, of the five clusters, Local Employment Regulations are stronger with regional regulations than regent/mayor regulations because in terms of the hierarchy of statutory regulations, Regional Regulations are higher than regent regulations.

3.2. The Urgency of Regulation on the Use of Local Labor in the Regions

3.2.1. The urgency of regulating the use of local labor in fulfilling the constructs of justice, benefit and legal certainty

Regional Regulations on the Use of Local Labor can be viewed from the theoretical perspective of Gustav Radbruch. According to Gustav Radbruch, there are 3 (three) legal

objectives which are used as three basic legal values which include, justice (philosophical), legal certainty (juridical), and benefits for society/sociological (Satjipto Rahardjo, 2019).

1) Justice theory

In the context of justice theory, there are various opinions of experts. There are those who link justice to the foundations of our country so that Indonesia is said to adhere to Pancasila justice. This means that Indonesia emphasizes justice based on the values contained in the fifth principle of Pancasila. In the fifth principle of Pancasila there are values that are based on and imbued with the essence of human justice, namely justice in the relationship between humans and themselves, humans and other humans, humans and society, nation and state, as well as the relationship between humans and their God (Agus Santoso, 2014) .

Theoretically for justice, this study will approach the opinions of John Rawls and Thomas Hobbes. In Rawls's assessment (sunaryo.2022), a position can be called fair if that position guarantees that all parties involved in it are free and equal people. In justice as fairness (John Rawls, 2001), Rawls distinguishes three levels of social justice subjects based on the application of its principles. In the order from inside to outside. The three levels of social justice are 1) local justice, justice that is applied directly to social practices, (2). domestic justice, the principles of justice applied to the basic structure of society; (3) global justice principles of social justice applied to relations or international law or justice between countries.

According to Thomas Hobbes (Muhammad Syukri Albani Nasution, 2017) justice is an action that can be said to be fair if it is based on an agreed agreement. From this statement it can be concluded that justice or a sense of fairness can only be achieved when there is an agreement between the two promising parties. The agreement here is interpreted in a broad form, not only limited to an agreement between two parties who are entering into a business contract, lease, etc. However, the agreement here is also a decision-making agreement between the judge and the defendant, legislation that does not favor one party but prioritizes the interests and welfare of the public.

Regional regulations regarding the use of local workers by companies in the region can be categorized as an effort to fulfill a sense of justice in the principle of fair equality of opportunity proposed by John Rawls. Apart from that, regional regulations regarding the use of local labor are also in line with Thomas Hobbes's justice that which applies to laws and regulations that do not favor one party but prioritize public interests and welfare.

2) Utility theory

The famous proponent of utility theory is Jeremi Bentham. In his view, humans are living creatures who are always shadowed by feelings of happiness and pain. These shadows will later determine their behavior, for example by knowing that humans are shadowed by these two feelings, we will know what motivates someone to carry out their actions, what underlies someone's hopes and ideals, and we will also know what he will do in the future.

Everything (according to him) will definitely be based on happiness for himself, and avoiding pain for himself (Jeremy Betham, 2001).

In this premise, it is explained that happiness is enjoyment/pleasure, and enjoyment/pleasure is goodness (Happiness is leisure, and pleasure is good). Unhappiness is suffering, and suffering is bad (Unhappiness is pain, and pain is bad). The calculation between the two is considered to be an important thing; therefore, even though it is known that qualitatively, other things are considered as happiness values, these qualitative values must be put aside first unless these values are then restated as quantitative values (Jeremy Betham, 2001).

Some expert opinions call this theory the utilitarian school of thought, while others call it the utilitarianism paradigm. In essence, the utilitarian school and the utilitarianism paradigm share Jeremy Betham's mindset. Happiness is the greatest good (Lindabaum, 2017), and John Stuart Mill reveals that this paradigm is directed towards the greatest benefit or principle of happiness.

From the perspective of utility theory, regional regulations regarding the use of local workers by companies in the region can be seen as regulations that have direct consequences for local workers in the region. In other words, regional regulations or regent/mayor regulations are beneficial for local workers for the welfare of regional communities. This of course concerns happiness in line with Stuart Mill's utilitarianism paradigm.

Several studies show that regional regulations regarding regional regulations regarding the use of local workers in the regions have not been maximized. For example, research on Berau Regency Regional Regulation No. 8 of 2018 concerning the Protection of Local Workers (East Kalimantan) and Pekanbaru Regional Regulation No. 4 of 2002 concerning the Placement of Local Workers. In research on Berau East Kalimantan Regional Regulation No. 8 of 2018 regulates the obligation for companies to employ 80% (eighty percent) local workers. This regional regulation has at least had an impact on the local community because coal mining companies in Berau Regency have absorbed 40% (forty percent) of the local workforce (Aprilia, Haris Retro Susmiyati and Erna Susanti, 2019). Meanwhile, in research on Pekanbaru City Regional Regulation Number 4 of 2002 concerning the Placement of Local Workers, it regulates the obligation of companies to employ a maximum of 50% local workers. In 2020 local labor absorption has reached 61.4% (Selvia Junita Prajal and Faiq Auzola, 2021). By setting aside the obstacles in the implementation of these regional regulations, from these two studies it can be concluded that the existence of regional regulations in the form of regional regulations has an impact on the use of local workers in the regions.

3) Legal Certainty theory

According to Sudikno Mertokusumo (Asikin Zainal, 2012) legal certainty is a guarantee that the law must be implemented in a good manner. Legal certainty requires efforts to regulate law in legislation made by authorized and authoritative parties, so that these rules have a

juridical aspect that can guarantee certainty that the law functions as a regulation that must be obeyed.

According to Kelsen (Peter Mahmud Marzuki, 2008), law is a system of norms. Norms are statements that emphasize the "should" or *das sollen* aspect, by including several rules about what should be done. Norms are the product of deliberative human action. Laws containing general rules serve as guidelines for individuals to behave in society, both in their relationships with fellow individuals and in their relationships with society. These rules become limits for society in burdening or taking action against individuals. The existence of these rules and the implementation of these rules give rise to legal certainty.

Normative legal certainty (CST Kansil, Christine, S.T Kansil, Engelen R, Palandeng and Godlieb N Mamahit, 2009) is when a regulation is made and promulgated with certainty because it regulates clearly and logically. Clear in the sense that it does not give rise to doubt (multiple interpretations) and is logical. It is clear in the sense that it forms a system of norms with other norms so that it does not clash or give rise to norm conflicts. Legal certainty refers to the application of law that is clear, permanent, consistent and consistent, the implementation of which cannot be influenced by subjective circumstances. Certainty and justice are not just moral demands, but factually characterize the law. A law that is uncertain and unwilling to be fair is not just a bad law.

According to Utrecht (Riduan Syahrani, 1999) legal certainty contains two meanings, namely first, the existence of general rules so that individuals know what actions they can or cannot do, and second, in the form of legal security for individuals from government arbitrariness because of the existence of rules that general in nature, individuals can know what the State can impose or do on individuals.

In terms of legal certainty, laws and regulations relating to employment do not give authority to Regional Governments, in this case both Provincial Governments and Regency/City Governments specifically to provide protection for local workers. Regional regulations regarding the use of local workers provide legal certainty for companies in the regions and local workers in the regions.

3.2.2. The urgency of regulating the use of local workers in order to answer the legal vacuum

Based on Law no. 23 of 2014 concerning Regional Government, the authority of the Regency/City Government in the field of labor, both in the sub-matter of Job Training and Labor Productivity, Sub-matter of Workforce Placement and Sub-matter of Industrial Relations, there is no authority for the provincial government and district/city government to regulate specifically local workers. In addition, there is no district/city authority to carry out labor inspections because labor inspection is the province's authority.

In terms of authority, there are no statutory regulations that directly state that the provincial/district/city government regulates local workers, but the authority to "regulate

workers in the regions" can be interpreted as local workers. Thus, this becomes the basis for provincial/district/city government policies to make arrangements for the use of local workers.

The content factor of regional regulations is something that can also be the basis for consideration of whether it is appropriate or not for provincial and district/city governments to regulate the use of local workers in regional regulations. In Article 14 of Law no. 12 of 2011 which states that the content material of provincial Regional Regulations and Regency/City Regulations contains content material in the context of implementing regional autonomy and assistance tasks as well as accommodating special regional conditions and/or further elaboration of higher-level statutory regulations. The use of local labor in regions can be included in the content category of regional regulations, namely accommodating special regional conditions. Furthermore, based on Article 236 paragraph (3) and paragraph (4) of Law no. 23 of 2014, it is stated that the Regional Regulation contains the following material: a. implementation of Regional Autonomy and Assistance Tasks; and b. further elaboration of the provisions of higher laws and regulations. In addition to this content material, regional regulations can contain local content material in accordance with the provisions of statutory regulations. Article 14 Law no. 12 of 2011 and Article 236 paragraph (3) and paragraph (4) of Law no. 23 of 2014 provides justification for regional governments to regulate the use of local labor in their regions in order to accommodate special regional conditions and/or regional local content.

In 2018 and 2019 the Supreme Court issued two decisions, namely Supreme Court Decision Number 67 P/HUM/2018 and Supreme Court Decision Number 83 P/HUM/2019 with review of Bekasi Regency Regional Regulation Number 4 of 2016 concerning Employment. The Decision states, among other things, that "The obligation to provide opportunities for local workers and residents around the company" does not mean it is discriminatory because it is still open while still prioritizing the principle of professionalism according to the standards of ability and skills of the prospective workers themselves. Provisions provide employment opportunities to local workers and communities around the company to create equal distribution of welfare, so that they are not just spectators, but can participate in production activities. Thus, this provision does not conflict with Article 5 of the Manpower Law.

4. Conclusion and Recommendations

In the dimension of legal regulations related to the use of local workers in the regions, it can be concluded that there is not a single legal regulation at the level of laws, government regulations, or ministerial regulations that specifically regulates local workers. In this case, Indonesian positive law does not contain the phrase "local workforce". Labor law politics in Indonesia only recognizes the phrases Labor (for Indonesian workers) and Foreign Workers. In this case, there are 5 (five) clusters of regional regulations, namely (1) regulations in the form of regional regulations, which are issued with general titles relating to labor but in their body are regulated specifically regarding local workers; (2) regulations in the form of regional regulations

which the title is issued containing the phrase local workforce and obliges companies to employ local workers; (3) regulations in the form of regional regulations whose title is issued contains the phrase local workforce and requires companies to employ a certain percentage of local workers; (4) regulations in the form of The title of the regional regulation issued contains the phrase local workforce and requires companies to employ a certain percentage of local workers and contains sanctions for companies that do not fulfill this obligation and (5) regulations related to local labor in the form of regent regulations.

The urgency of regulating local workers in the regions can be viewed from 2 (two) aspects, namely, first, to fulfill the construct of justice, benefit, and legal certainty, and second, to answer the legal vacuum. To fulfill the construct of justice, regional regulations related to the use of local workers by companies in the region can be categorized as an effort to fulfill a sense of justice based on the principle of fair equality of opportunity proposed by John Rawls. Apart from that, regional regulations regarding the use of local labor are also in line with Thomas Hobbes's justice that justice applies to laws and regulations that do not favor one party but prioritize public interests and welfare. To fulfill the construction of benefits, regional regulations regarding the use of local workers by companies in the regions have an impact or contribute to the use of local workers in the regions. To fulfill the construction of legal certainty, laws and regulations related to employment, in this case regional regulations regarding the use of local workers, provide legal certainty for companies in the region and local workers in the region.

To answer the legal vacuum, Article 14 of Law No. 12 of 2011 and Article 236, paragraph (3) and Paragraph (4) of Law No. 23 of 2014 justify for regional governments to regulate the use of local labor in their regions to accommodate special regional conditions and/or regional local content. This is confirmed by Supreme Court Decision Number 67 P/HUM/2018 and Supreme Court Decision Number 83 P/HUM/2019, which is related to the review of Bekasi Regency Regional Regulation Number 4 of 2016 concerning employment. The Decision stated, among other things, that "The obligation to provide opportunities for local workers and residents around the company" does not mean it is discriminatory because it is still open while still prioritizing the principle of professionalism according to the standards of ability and skills of the prospective workers themselves. Provisions provide employment opportunities to local workers and communities around the company to create equal welfare distribution so that they are not just spectators but can participate in production activities.

There are suggestions for the central government to revise laws and regulations that encourage regional governments to formulate regional regulations that empower local workers by providing obligations for companies in the regions so that employment opportunities are greater. In addition, to make regional regulations and/or regent/mayor regulations more effective and efficient, it is recommended that Law no. 23 of 2014 concerning regional government was revised to provide supervision over regional companies not only to the provincial government but also to the district/city governments so that they are more

empowered to supervise regional companies to employ local people. Apart from that, it is recommended that provincial and/or district/city governments make soft regulations without imposing sanctions on regional companies so as not to disrupt the investment climate in the regions.

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