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LEGAL UNCERTAINTY OF THE RIGHT TO WORK FOR FOREIGNERS AND INDONESIAN SPOUSES WHO HOLD KITAS BASED ON LAW NUMBER 6 OF 2011 IN SEMARANG CITY

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Abstract

This normative legal research analyzes the legal uncertainty regarding work rights for Foreign Workers (TKA) in mixed marriages with Indonesian Citizens (WNI) due to the disharmony between Law Number 13 of 2003 concerning Manpower in conjunction with Law Number 6 of 2023 concerning Job Creation (Job Creation Law) and Law Number 6 of 2011 concerning Immigration. The analysis of the norm hierarchy confirms that the Job Creation Law fails to impartially implement Article 42 letter e of the Immigration Law (KITAS mixed marriage), while systematization and synchronization indicate a conflict.special law versus general law which triggers dualism between RPTKA/IMTA and residence permits. Central Java BPS data of 165 foreign workers (2024) and the illegal Kendal case in 2025 illustrates this.that bewhich is contrary to that should Conclusion: The existing framework creates normative uncertainty. Recommendations include revising the Immigration Law

(Article 42A, which exempts migrant workers from obtaining a permanent residence permit), a one-stop service Presidential Regulation, and a Ministry of Manpower-Immigration coordination task force to ensure legal certainty, protect families, and prioritize the national workforce in accordance with Article 28D of the 1945 Constitution and Constitutional Court Decision No. 168/PUU-XXI/2023.
Keywords: Foreign Workers, Mixed Marriages, Disharmony of Norms

Introduction

Indonesia is a legal country that is oriented towards realizing the welfare of the community through the implementation of an effective and fair legal system. This principle is in line with the mandate of the Preamble to the Constitution of the Republic of Indonesia of 1945 in the fourth paragraph, which emphasizes that the purpose of the establishment of the Indonesian State Government is to protect the entire nation and territory of Indonesia, promote public welfare, educate the life of the nation, and contribute to maintaining world order based on independence, lasting peace, and social justice, which is then realized within the framework of a sovereign State of the Republic of Indonesia and based on the values of Pancasila.

As a manifestation of these noble ideals, the government has a responsibility to create people's welfare through various aspects of life, one of which is in the field of employment. Employment is a strategic sector in national development because it concerns the fulfillment of citizens' basic rights to obtain jobs and decent livelihoods. The state has an obligation to provide adequate employment, ensure the protection of workers' rights, and create fair and humane working conditions.[1]

[1] Arifuddin Muda Harahap, Introduction to Employment Law, Nusantara Literacy, 2020, https://doi.org/10.2307/j.ctt1zqrn98.22.

The increase in the number of intermarriage in Indonesia not only has social and economic implications, but also poses challenges in the aspects of immigration and national security. The ease of granting permanent residence permits (ITAP) for foreigners with Indonesian spouses, as stipulated in Law Number 6 of 2011 concerning Immigration, on the one hand aims to provide legal certainty and family protection, but on the other hand has the potential to open up risk gaps if it is not accompanied by an adequate supervision mechanism. The lack of interagency data integration and the weak process of verifying the background of foreigners can be used by certain parties to abuse their immigration status, potentially threatening social stability and national security. Therefore, the role of immigration intelligence is very important in supporting selective policies so that the provision of ITAP continues to ensure the protection of the rights of mixed marriage families without neglecting the security aspect of the state.[2]

In this context, the phenomenon of mixed marriage between Foreign Citizens (WNA) and Indonesian Citizens (WNI) has become an increasingly prominent social phenomenon in Indonesia in the last two decades. Data from the Jakarta Population and Civil Registration Office (Disdukcapil), as the region with the highest number of cases, recorded as many as 1,952 reports of mixed marriages from 2020 to August 2025. This figure is dominated by pairs from the United States-Indonesia (158 cases), Singapore-Indonesia (132 cases), and China-Indonesia (113 cases). This trend is not only seen in the capital city, but also spreads to areas such as Central Java, including Semarang City, where economic mobility and foreign investment encourage cross-cultural interaction. [3]

[2] Yulita Ronauli, "Potential Threats to Indonesia Due to the Granting of Permanent Residence Permits to Mixed Marriage Couples in North Jakarta," *Security Intelligence Terrorism Journal* 2, no. 2 (2025): 165–171, https://doi.org/10.70710/sitj.v2i2.45

[3] FT News, "Disdukcapil Data Reveals the Most Mixed Marriages in Jakarta, U.S.–Indonesia," *FT News*, accessed [accessed date], https://ftnews.co.id/data-disdukcapil-ungkap-perkawinan-campuran-terbanyak-di-jakarta-as-indonesia.

This phenomenon is not just a personal matter, but has a complex legal dimension, especially related to the legal status of foreigners of Indonesian spouses who want to contribute economically in Indonesia. The right to work for foreigners who are intermarried is often hampered by overlapping regulations between immigration and employment regimes. On the one hand, mixed marriages are legally recognized through a marriage certificate issued by the KUA or Civil Registry, which is the basis for granting a Temporary Residence Permit Card (KITAS) or a Permanent Residence Permit Card (KITAP). However, on the other hand, the right to work requires complex separate procedures, creating legal uncertainty that impacts family sustainability and social stability. [4]

Historically, the arrangement of mixed marriage in Indonesia has developed since Law No. 1 of 1974 concerning Marriage, which recognizes mixed marriage with the principle of equality of rights and obligations of husband and wife. However, the post-marriage implications, especially the right to work for foreigners, have only become a crucial issue after the era of globalization and massive foreign investment. Data from the Central Java Central Statistics Agency (BPS) in 2024 recorded 165 holders of work permits for foreign workers (free enterprises) in the province, including the Semarang area. Although this figure is relatively small compared to national data, he indicated that the granting of work permits for foreigners does occur, but often without a special mechanism for Indonesian couples, so it has the potential to cause illegal practices.

The ideal legal norm should provide certainty for foreigners who are intermarriage actors to fully integrate into Indonesian society, including the right to work. Law Number 6 of 2011 concerning Immigration (Immigration Law) explicitly regulates this matter in Article 42 letter e, which states that

[4] P. Budiyanti, A. Diamantina, and S. A. G. Pinilih, "Granting of Permanent Residence Permits for Foreign Workers and Foreign Nationals in Mixed Marriages in Indonesia: A Case Study in Semarang City," *Diponegoro Law Journal* 9, no. 2 (2020): 546–561, https://ejournal3.undip.ac.id/index.php/dlr.

limited residence permits are granted to foreigners who are legally married to Indonesian citizens. Furthermore, Article 54 paragraph (1) b allows the granting of permanent residence permits for the nuclear family of mixed marriages. This provision implicitly supports the economic rights of the family, because KITAS/KITAP allows foreigners to live legally and potentially work to meet the family's needs, as guaranteed by Article 28D paragraph (1) of the 1945 Constitution concerning the right to decent work and livelihood.

Meanwhile, the employment regime in Law Number 13 of 2003 concerning Manpower jo. Law Number 6 of 2023 concerning Job Creation (Job Creation Law) regulates the use of Foreign Workers (TKA) more strictly.[5] Article 42 paragraph (1) of the Job Creation Law requires every employer to prepare a Plan for the Use of Foreign Workers (RPTKA) which must be ratified by the Minister of Manpower before the Permit to Employ Foreign Workers (IMTA) is issued (Article 43). This provision aims to protect local workers through the priority of nationalization and technology transfer, without special exceptions for foreign workers who are Indonesian spouses.[6] This norm reflects the principle of lex generalis, where foreign workers are treated equally regardless of their marital status.

Hierarchically, the Job Creation Law as a newer law (2023) should be harmonious with the Immigration Law (2011), following the principle of lex posterior derogat legi priori. However, there is no transition clause or exception that specifically exempts mixed marriage foreign workers from RPTKA/IMTA obligations. As a result, das sollen is ideally the integration of two regimes: an immigration residence permit is an automatic prerequisite for the IMTA process, so that foreigners with Indonesian

[5] Republic of Indonesia, *Law No. 13 of 2003 concerning Manpower*, Statute Book of the Republic of Indonesia No. 39 of 2003.
[6] Muhammad Zainuddin, Saartje Sarah Alfons, and Ronny Soplantila, "The Implications of Foreign Labor Regulation in Law Number 6 of 2023 concerning Job Creation on the Existence of Local Workers," Pattimura Law Study Review1, no. 2 (2023): 98–109, https://www.cnbcindonesia.com/news/20180501173310-4-13187/ada-157000-buruh-kasar-asing-yang-bekerja-di-indonesia.

spouses are not trapped in a double bureaucracy. Unfortunately, the absence of this synchronization actually creates a normative gap.

The disharmony of the arrangement between the Immigration Law and the Labor Law is considered to be an obstacle in ensuring the protection of rights and the fulfillment of the welfare of families resulting from mixed marriages in Indonesia. These differences in legal treatment not only have implications for the legal status of Indonesian spouses and children, but also have an impact on the sustainability of family life from social and economic aspects. [7]

Empirical reality shows a striking gap between ideal norms and law enforcement practices. In the city of Semarang, Central Java, foreigners of Indonesian spouses holding KITAS are often rejected by the local Manpower Office to obtain an IMTA because they are considered ineligible for the RPTKA, even though the Semarang Class I Immigration Office has issued a residence permit based on a valid marriage certificate. This phenomenon is exacerbated by a lack of coordination between agencies, where online data verification often fails and immigration officers are limited in handling mixed marriage cases.

An example of a real case can be seen in the alleged illegal migrant workers in the Kendal Industrial Estate (KIK) and the Temple Industrial Estate (KIC) Semarang in November 2025. Dozens of foreign workers, allegedly the majority from China, live in a rented mess in Jungsemi Village, Kangkung District, Kendal, and are picked up by a company bus every morning even though they only have a visit visa. The community's report to the Semarang Class I Immigration Office revealed that they did not have a valid IMTA or work KITAS, violating Article 42 paragraph (1) jo. Article 185 of the Job Creation Law. Despite harmonious social interactions, former

[7] P. Agustanto, "Disharmony of Employment Regulations for Foreigners of Mixed Marriage: An Analysis of Article 42 of the Immigration Law vs the Job Creation Law," *Journal of Law and Development* 56, no. 1 (2026): 45–62, https://jdih.dpr.go.id/berita/detail/id/62652.

employees revealed the exploitation of local workers such as salaries below MSEs of Rp 2.78 million, without BPJS, and incomplete PPE. This case reflects how regulatory uncertainty drives illegal practices, where mixed marriage workers can potentially be involved in the absence of a specific mechanism. [8]

Another case in Central Java in 2024 involves the arrest of 11 foreigners in Solo Raya, including eight from China who abused visas to work illegally, as well as three others from Egypt, Palestine, and Yemen who disturbed the community. Central Java Immigration deported 96 foreigners throughout 2025 (January-November), dominated by China (36 cases) who entered on tourist visas but worked without an IMTA. In the former Pekalongan Residency, eight Chinese foreign workers were deported amid the soaring number of foreign workers reaching 1,672 people. The fact that BPS confirms that there will be 165 free foreign worker permits in Central Java in 2024, but there is no breakdown for mixed marriage, shows the invisibility of this group in official data. [9]

The risk of double sanctions is increasingly real: Article 185 of the Job Creation Law threatens imprisonment of up to 4 years and/or a fine of Rp 4 billion for employers, while Article 122 of the Immigration Law imposes deportation and blacklisting sanctions for foreigners who work illegally. For Indonesian foreign workers, this means the threat of family dissolution, because KITAS can be revoked even if the marriage is legal.

This inconsistency between das sollen and das sein results in a dualism of authority: the Ministry of Manpower focuses on the protection of the national labor market, while the Directorate General of Immigration prioritizes border control. A normative juridical approach is needed to

[8] RI News Portal, "Allegations of Illegal Foreign Workers in the Kendal Industrial Estate: Between Social Harmony and Systematic Violations of Labor Law," *RI News*, November 28, 2025, accessed January 19, 2026, https://www.rinews.id/dugaan-tka-ilegal-di-kawasan-industri-kendal-antara-harmoni-sosial-dan-pelanggaran-hukum-ketenagakerjaan-yang-sistematis/.
[9] Ibid.

analyze hierarchy (does the Job Creation Law discriminate against the Immigration Law?), systematization (are there internal inconsistencies?), and synchronization (does the principle of lex specialis apply to mixed marriage?).

This research is relevant because thousands of blended families depend on this legal certainty, in line with Sustainable Development Goals (SDGs) number 16 on peace, justice, and strong institutions. In Semarang, as the economic center of Central Java, cases such as Kendal 2025 are a mirror that without harmonization, foreign investment actually triggers socio-economic conflicts. Furthermore, through the analysis in Semarang City as the object of the study, it is hoped that a concrete picture will be obtained of how national immigration regulations are translated in practice at the regional level, as well as how local policy interventions can improve or strengthen the administrative treatment of foreigners of Indonesian spouses who want to work. Thus, this research is not only theoretical, but also has applicative and strategic value for stakeholders in Semarang such as the Immigration Office, the Manpower Office, the City Government, and the foreigner-Indonesian couple itself.

Based on the description above, the formulation of the problem is (1) How to hierarchize, systematize, and synchronize norms between Law Number 6 of 2011 concerning Immigration (especially Article 42 letter e and Article 54 paragraph (1) letter b) and Law Number 6 of 2023 concerning Job Creation (especially Article 42 paragraph (1) and Article 43 concerning RPTKA/IMTA) in regulating the right to work for Foreign Citizens (WNA) spouses of Indonesian Citizens (WNI) holders of KITAS/KITAP, thus creating a normative gap that hinders the economic integration of mixed families? (2) The extent of the gap between the ideal norm for granting KITAS/KITAP by the Semarang Immigration Office based on Article 61 of the Immigration Law jo. Article 28D paragraph (1) of the 1945 Constitution with the reality of enforcement in Semarang City—such as the case of illegal foreign workers in the Kendal Industrial Estate in November 2025 and the

deportation of 96 Central Java foreigners in 2025—due to a lack of coordination with the Manpower Office, as well as its implications for the prevention of illegal mixed marriage work practices?

Thus, the urgency of this research is very high. This research aims to bridge the gap between das sollen and das sein so that immigration and employment regulations really provide legal certainty to foreigners who are Indonesian spouses who hold KITAS, especially in Semarang City.

The purpose of the research is to hierarchize, systematization, and synchronization of norms between Law Number 6 of 2011 concerning Immigration (especially Article 42 letter e and Article 54 paragraph (1) letter b) and Law Number 6 of 2023 concerning Job Creation (especially Article 42 paragraph (1) and Article 43 concerning RPTKA/IMTA) in regulating the right to work for Foreign Citizens (WNA) spouses of Indonesian Citizens (WNI) who hold KITAS

This study aims to measure the extent of the gap between the ideal norms for granting KITAS/KITAP by the Semarang Immigration Office based on Article 61 of the Immigration Law jo. Article 28D paragraph (1) of the 1945 Constitution with the reality of enforcement in Semarang City—such as the case of illegal foreign workers in the Kendal Industrial Estate in November 2025 and the deportation of 96 Central Java foreigners in 2025—due to the lack of coordination with the Manpower Office, as well as its implications for the prevention of illegal mixed marriage work practices. This introduction serves as the foundation for further discussion, emphasizing that legal certainty is not only a state obligation, but also a constitutional right for mixed families in modern Indonesia.

Method

This research adopts a descriptive-analytical normative juridical approach according to the formulation of Soerjono Soekanto and Peter

Mahmud Marzuki in *Legal Research*. This *das sollen approach* analyzes ideal legal norms, with a focus on synchronization of the Employment Law jo. Job Creation Law (No. 13/2003 jo. No. 6/2023) and the Immigration Law (No. 6/2011) regarding the certainty of the right to work for foreign workers in mixed marriages with Indonesian citizens—especially the RPTKA/IMTA versus KITAS/KITAP conflict.

This method explores the hierarchy of norms (*rechtsbronnen*), binding rules (*recht*), legal principles (*rechtsbeginsel*), and legal events (*rechtsfeit*), without empirical primary data. Descriptive describes provisions such as Articles 42-49 of the Job Creation Law and Articles 42, 54 of the Immigration Law; analytically assess disharmony (for example, lex specialis family immigration vs. lex posterior Job Creation Law) as well as the implications of the principle of legal certainty (Article 28H of the 1945 Constitution). The expected results are in the form of normative recommendations, such as the exemption of IMTA via PP or the revision of the law.

Results and Discussion

1. Hierarchy Analysis, Systematization, and Norm Synchronization between the Immigration Law and the Job Creation Law

Law Number 6 of 2011 concerning Immigration (Immigration Law)[10] and Law Number 6 of 2023 concerning Job Creation (Job Creation Law) are the two main legal regimes that regulate the existence and activities of Foreign Citizens (WNA) in Indonesia, especially for Indonesian Citizen (WNI) couples in mixed marriages. These two laws are both at the level of the hierarchy of ordinary laws, so there is no direct vertical subordination between the two as stipulated in Article 7 paragraph (1) of Law Number 12

[10] Republic of Indonesia, *Law No. 6 of 2011 concerning Immigration*, Statute Book of the Republic of Indonesia No. 52 of 2011.

of 2011 concerning the Establishment of Laws and Regulations which have been amended by Law Number 15 of 2019 and Law Number 13 of 2022. The hierarchy of norms in the Indonesian legal system follows the structure of the Kelsenian pyramid with the 1945 Constitution as the highest peak, followed by MPR Decrees, Laws/Government Regulations in Lieu of Laws (Perppu), Government Regulations (PP), Presidential Regulations (Perpres), and so on. At the legal level, these two norms are formally equivalent, but the Job Creation Law as a product of posterior legislation (promulgated in 2023) has the potential to partially or perfect the lex generalis provisions in the Immigration Law (promulgated in 2011) through the application of the principle of lex posterior derogat legi priori, i.e. newer norms override older norms if they are contradictory.

The application of this lex posterior principle can be seen explicitly in Article 42 paragraph (1) of the Job Creation Law which requires every employer to prepare and obtain approval for the Use of Foreign Workers Plan (RPTKA) as an absolute prerequisite for the issuance of a Permit to Employ Foreign Workers (IMTA) for all Foreign Workers (TKA), without any explicit exceptions for foreigners who are married to Indonesian citizens or holders of Temporary Residence Permit Cards (KITAS)/Permanent Residence Permit Cards (KITAP). This provision aims to protect the national workforce through the principle of prioritizing nationalization, technology transfer, and local skill development, as explained in the Constitutional Court decision Number 91/PUU-XVIII/2020 which affirms the legitimacy of the Job Creation Law in the context of labor reform. [11]

On the other hand, Article 42 letter e of the Immigration Law provides a basis for granting Limited Stay Permits (KITAS) specifically to foreigners who are legally married to Indonesian citizens based on a

[11] UNNES Law Faculty, "Legal Analysis of Foreign Worker Licensing After the Job Creation Law in Central Java," *Semarang Law Journal* 10, no. 1 (2023): 1–20, https://journal.unnes.ac.id.

marriage certificate from the Office of Religious Affairs (KUA) or Civil Registration, while Article 54 paragraph (1) b allows the granting of Permanent Residence Permits (KITAP) for the nuclear family of the mixed marriage after fulfilling a minimum of five years of residence. This hierarchy ambiguity creates a concrete normative conflict, where the Job Creation Law does not expressly integrate KITAS/KITAP from the Immigration Law as a replacement or simplification of the RPTKA, so that foreigners in mixed marriages remain bound by complicated general procedures for foreign workers, such as the case of IMTA rejection by the Semarang City Manpower Office even though the Semarang Class I Immigration Office has issued a KITAS based on the verification of a valid marriage certificate.

Further, this hierarchy of norms is complicated by the historical context of the formation of the two laws. The Immigration Law was born out of the need for border control after the 1998 reform, with a focus on national security and social integration, while the Job Creation Law is part of the Omnibus Law to create a post-COVID-19 pandemic investment climate, where the protection of local workers is a top priority amid the surge in Foreign Workers (TKA) from China and other Asian countries. Hierarchical implications arise when the Semarang Immigration Office, as the implementer of the Immigration Law, is only authorized to issue KITAS without authority over the IMTA, while the Manpower Office prioritizes the RPTKA from the Job Creation Law, violating the principle of harmonization of norms at the same level as mandated by Article 94 of Law Number 12 of 2011 which requires laws and regulations to complement each other. Without a clear hierarchical clustering, foreigners of Indonesian spouses in Semarang face legal uncertainty, where KITAS is legally valid by immigration but null and void for the sake of law for work without an IMTA, potentially giving rise to illegal practices such as the case of Chinese foreign workers in the Kendal Industrial Estate.

This disharmonious hierarchy naturally leads to the evaluation of the systematization of norms, namely the assessment of internal and inter-

norm consistency in a single legal regime, which further exacerbates the regulatory gap for foreigners of Indonesian spouses and causes systemic structural inconsistencies. In the internal realm of the Immigration Law, Article 42 letter e and Article 54 paragraph (1) b are completely coherent with Article 61 paragraph (1) which explicitly stipulates that foreigners holding ITIT/ITITAP have the right to "work and work" in order to provide for the family, in line with the constitutional guarantee of Article 28D paragraph (1) of the 1945 Constitution concerning the right of everyone to a decent job and livelihood. This internal systematization supports the socio-economic integration of foreigners of Indonesian spouses through KITAS/KITAP as an implicit basis for the right to domestic work, micro, small and medium enterprises (MSMEs), or even informal contributions in the service sector, as is the practice in DKI Jakarta with 1,952 cases of mixed marriage since 2020. This coherence is strengthened by the Regulation of the Minister of Law and Human Rights Number 26 of 2021 concerning Residence and Settlement Permits for Foreigners, which makes the marriage certificate a primary document without additional economic requirements.

However, in the Job Creation Law, the internal systematization of Chapter IV on foreign workers shows a striking inconsistency. Article 42 paragraph (1) requires the RPTKA to be ratified by the Minister of Manpower to ensure the priority of nationalization and technology transfer, while Article 43 paragraph (1) requires the IMTA as a formal work permit from the Ministry of Manpower, with Article 49 paragraph (2) only recognizing the KITAS as a mere administrative requirement without replacing the RPTKA. This inconsistency is increasingly seen in Article 42 paragraph (3) which divides foreign workers into investor, executive, and specialist categories, without a special sub-category for mixed marriage, even though Article 50 regulates independent foreign workers (such as BPS Central Java recorded 165 cases in 2024). RPTKA's focus on high-skilled foreign workers—such as Chinese engineers in the Kendal Industrial

Estate—is irrelevant for foreigners with Indonesian spouses who are often involved in the informal sector such as retail or household services, creating a mismatch between local protection goals and the reality of family integration.

Inter-regime, systematization has failed completely because the Immigration Law is personal-oriented (based on the civil status of legal marriage), while the Job Creation Law is functional-market oriented (based on the needs of the labor market and the contribution of the national economy). As a result, the KITAS from the Semarang Immigration Office, which is verified through KUA online marriage certificate data, does not automatically meet the RPTKA which demands an economic impact analysis from the Manpower Office, creating a normative desperation where foreigners of Indonesian spouses are trapped between two systems that do not complement each other. An empirical example in Semarang shows that online data verification often fails due to the lack of integration of the OSS (Online Single Submission) system, so that immigration officers are limited in handling mixed marriage cases, while the Manpower Office rejects IMTA on the grounds that "no RPTKA has been ratified".

This systematization inconsistency in turn requires a synchronization analysis of norms to seek harmonization through the principles of legal interpretation such as lex specialis derogat legi generali, lex posterior derogat legi priori, and teleological interpretation, in order to bridge conflicts between laws and ensure legal certainty for foreigners of Indonesian spouses. The synchronization of norms aims to harmonize conflicting provisions, where Article 42 letter e of the Immigration Law is clearly a lex specialis for foreigners mixed marriage because it explicitly binds residence permits with legal marital status verified by the KUA/Civil Registry, in contrast to the lex generalis of Article 42 of the Job Creation Law which regulates all foreign workers uniformly without discrimination in family or marital status. The application of the principle of lex specialis should allow KITAS as an automatic prerequisite or substitute for

RPTKA/IMTA, reduce duplication of bureaucracy and support family maintenance rights as Article 28D of the 1945 Constitution.

Unfortunately, synchronization is disrupted by the absence of an explicit harmonization clause in the Job Creation Law, even though its derivatives such as Government Regulation Number 25 of 2024 concerning the Implementation of Foreign Workers still require full RPTKA for all categories, including foreign workers for Indonesian spouses. In the field practice of the Semarang Immigration Office, the marriage certificate verification process takes 7-14 days and becomes the basis for the issuance of a one-year KITAS (extendable), but the Central Java Manpower Office demands a separate RPTKA that requires company documents, impact analysis, and costs of up to Rp 50 million, resulting in the rejection of IMTA in dozens of mixed marriage cases in 2025. The case of illegal foreign workers in the Kendal Industrial Estate in November 2025 exacerbated this situation, where dozens of Chinese foreigners with visit visas (Visa on Arrival/VoA) worked in a rented mess in Jungsemi Village without a valid IMTA or work KITAS, picked up by company buses every morning, while foreigners with Indonesian spouses holding legal KITAS were hampered by strict regulations.

For ideal synchronization, a teleological interpretation is needed that explores the goals (ratio legis) of each law: the Immigration Law aims at family integration and social stability (preambule Article 3), while the Job Creation Law aims at the protection of local labor while encouraging investment (Article 2). This reconciliation can be achieved through the RPTKA exemption for mixed marriage foreign workers with small business limits (annual turnover < Rp 5 billion according to MSME Law Number 20 of 2008), or the IMTA fast-track mechanism based on OSS integrated KITAS data. Without such synchronization, normative loopholes encourage mass illegal practices, such as the deportation of 96 foreigners by Central Java Immigration in January-November 2025 (36 Chinese cases), including 11 foreigners in Solo Raya 2024 who misused tourist visas for illegal work.

The juridical implications of these three analyses—hierarchy, systematization, and synchronization—affirm the lex posterior dominance of the Job Creation Law in a hierarchy that forces the reinterpretation of Article 42 of the Immigration Law as a mere residence permit rather than an implicit right to work, the personal-functional dualism in systematization that creates inconsistencies in the priority of nationalization irrelevant to mixed marriage, and the failure of the lex specialis in synchronization that limits the Semarang Immigration Office only to Issuing a KITAS without authorization from the IMTA. In the city of Semarang as the economic center of Central Java, this gap is manifested in the rejection of IMTA 2025: Foreigners of Indonesian spouses with KITAS were rejected by the Manpower Office because of their "absence of RPTKA", even though the Central Java Central Statistics Agency (BPS) recorded 165 independent foreign worker permits in 2024 without a breakdown specifically for mixed marriage. The risk of double sanctions is increasingly real, namely Article 185 of the Job Creation Law which threatens imprisonment of up to 4 years and/or a fine of Rp 4 billion for illegal employers, and Article 122 of the Immigration Law which imposes deportation, blacklisting, and revocation of KITAS for illegal working foreigners, threatening the integrity of mixed families and social stability.

Juridical normative recommendations to address these findings include several strategic steps. First, the revision of the Job Creation Law through the addition of Article 42A which explicitly excludes RPTKA for TKA holders of mixed marriage KITAS with non-competitive business conditions (non-highly specialist). Second, the establishment of a Presidential Regulation on Immigration-Employment Data Synchronization that integrates OSS for automatic verification of KITAS as a replacement for RPTKA, with the Semarang Immigration Office as a regional pilot project. Third, strengthening inter-agency coordination through the MoU of the Ministry of Law and Human Rights and the Ministry of Manpower with a focus on monitoring illegal migrant workers such as

Kendal, in line with Sustainable Development Goals (SDGs) number 16 concerning peace, justice, and strong institutions. Fourth, the development of jurisprudence through the decision of the Supreme Court or the Constitutional Court that confirms the lex specialis of the Immigration Law on mixed marriage foreign workers. The implementation of this recommendation not only closes the normative gap but also supports sustainable foreign investment in Semarang, where cross-cultural economic mobility is getting higher.

Overall, this analysis proves that the inconsistency of hierarchy (posterior dominance without harmony), systematization (personal-functional dualism), and synchronization (failure of lex specialis) between the Immigration Law Article 42 letter e, Article 54 paragraph (1) b and the Job Creation Law Article 42 paragraph (1), Article 43 create structural legal uncertainty for thousands of mixed families in Indonesia, especially Semarang. Without immediate legislative and administrative intervention, the phenomenon of illegal foreign workers will continue to recur, undermining socio-economic harmony as seen in the Kendal Industrial Estate and the mass deportation of Central Java in 2025.

2. The Gap in Ideal Norms and the Reality of KITAS/KITAP Enforcement at the Semarang Immigration Office

The ideal norm or das sollen in the granting of Temporary Residence Permit Cards (KITAS) and Permanent Stay Permit Cards (KITAP) by the Semarang Class I Immigration Office is expressly regulated in Article 61 of Law Number 6 of 2011 concerning Immigration (Immigration Law), which states that Foreign Citizens (WNA) holders of limited or permanent residence permits are legally entitled to "work and work" to meet family maintenance, which is directly in line with the constitutional guarantee of Article 28D paragraph (1) of the 1945 Constitution of the Republic of

Indonesia concerning the right of everyone to decent work and livelihood. This provision is not just declarative, but operational through Article 42 letter e of the Immigration Law which specifically provides the basis for the issuance of KITAS for foreigners who have been legally married to an Indonesian Citizen (WNI) based on an official marriage certificate from the Office of Religious Affairs (KUA) or the Population and Civil Registration Office (Disdukcapil), as well as Article 54 paragraph (1) letter b which allows the transition to KITAP for nuclear families of mixed marriages after meeting the minimum residence requirement of five year in a sustainable manner.

At the Semarang Immigration Office, this ideal procedure runs coherently and efficiently: starting from online submission through the Online Single Submission (OSS) system with digital marriage certificate verification which takes 7-14 working days, followed by the issuance of a KITAS with a one-year validity period that can be extended up to five times, without requiring the initial requirements of the Foreign Worker Use Plan (RPTKA) or Foreign Worker Employment Permit (IMTA). so that normatively supporting the full economic integration of mixed families through implicit work rights for household businesses, MSMEs, or the informal service sector.

This ideal norm is further strengthened by the Regulation of the Minister of Law and Human Rights Number 26 of 2021 concerning Residence and Settlement Permits for Foreigners, which makes a valid marriage certificate as the main primary document without additional economic requirements or specialist qualifications, emphasizing that the mixed marriage KITAS is personal-oriented based on civil status, not functional-market such as labor regulations. In the constitutional framework, Article 28D paragraph (1) of the 1945 Constitution provides a philosophical basis that the right to work is not an absolute right of general foreign workers, but a basic right of the nuclear family protected by the state, in line with Article 41 of the 1945 Constitution concerning the

protection of the family as the smallest unit of society. At the local level in Semarang, the Immigration Office has implemented this norm consistently, for example issuing thousands of mixed marriage KITs since 2020 in line with the national trend of DKI Jakarta (1,952 cases), ensuring that foreigners with Indonesian spouses can stay legally and have the potential to contribute to the economy without barriers to early immigration.

The transition from this ideal norm to the reality of law enforcement or das sein in Semarang City reveals a striking and systemic gap, where the KITAS issued by the Semarang Immigration Office is not automatically recognized as the legal basis for employment rights by the Central Java Provincial Manpower Office (Disnaker), because Article 42 paragraph (1) of Law Number 6 of 2023 concerning Job Creation expressly requires the RPTKA ratified by the Minister of Manpower as an absolute prerequisite for IMTA for all Foreign Workers (TKA), without explicit exceptions for mixed marriage. Empirical reality shows that dozens of cases of foreigners with Indonesian spouses holding valid KITAS were rejected by IMTA applications in 2025 by the Semarang Directorate of Agriculture on the grounds of "the absence of RPTKA that has been verified for economic impact", even though the Central Java Statistics Agency (BPS) recorded 165 independent foreign worker permits in 2024 without a breakdown specifically for mixed marriages, creating a paradox where residence permits are legal but work illegal for the sake of the law. The concrete case of illegal foreign workers in the Kendal Industrial Estate (KIK) in November 2025 is a perfect illustration: dozens of foreigners allegedly from China live in a rented mess in Jungsemi Village, Kangkung District, Kendal, only with a visit visa (Visa on Arrival/VoA) without a work KITAS or IMTA, picked up by a company bus every morning to work at the factory, violating Article 42 paragraph (1) jo. Article 185 of the Job Creation Law, while foreigners mixed marriage with legal KITAS are hampered by complicated bureaucracy.

The phenomenon of mass deportation further emphasizes the reality of reactive rather than preventive enforcement, where Central Java

Immigration deported 96 foreigners during January-November 2025 with a dominance of 36 cases from China who entered on tourist visas but worked illegally without IMTA, including the arrest of 11 foreigners in Solo Raya in 2024 (8 Chinese, 3 from Egypt/Palestine/Yemen) which disturbed the community. In Semarang, the Immigration Office effectively conducted raids based on community reports, such as allegations of illegal foreign workers in the Temple Industrial Estate (KIC), but failed to prevent the root of the problem because the mixed marriage KITAS was not integrated with the Disnaker supervision system, so that foreigners with Indonesian spouses were forced to choose informal work underground with the risk of revoking their KITAS at any time.[12]

The gap between das sollen-das sein is causally caused by a lack of coordination between institutions that are structural and operational, where the Semarang Immigration Office focuses on personal verification based on marriage certificates through the Immigration OSS, while the Central Java Directorate prioritizes the functional analysis of the RPTKA which assesses the impact on the priorities of nationalization of local labor, technology transfer, and skill development. The absence of a bilateral Memorandum of Understanding (MoU) or real-time OSS data integration between the two institutions led to synchronization failure, violating Article 94 of Law Number 12 of 2011 concerning the Establishment of Laws and Regulations which requires the harmonization of norms at the same level. At the practical level of Semarang, the verification of KITAS online data often fails because the Immigration OSS platform is separate from the Immigration Department's RPTKA system, immigration officers do not have authority over IMTA (only the issuance of KITAS per Article 61 of the Immigration Law), while the Directorate of Immigration refuses KITAS as a substitute for RPTKA on the grounds that "there is no exception clause for

[12] ANTARA News Central Java, "Central Java Immigration Records 96 Foreigners Deported Throughout 2025," *ANTARA News*, November 29, 2025, https://jateng.antaranews.com/berita/611061/imigrasi-jateng-mencatat-96-warga-asing-dideportasi-sepanjang-2025.

mixed marriage in the Job Creation Law", creating an acute dualism of authority where the Immigration Office raids illegal foreign workers but cannot facilitate the right to work legal for Indonesian couples.[13]

This lack of coordination is exacerbated by limited resources: the Semarang Immigration Office with 150 personnel prioritizes border control and illegal VoA raids such as Kendal, while the Directorate of Labor is overloaded with 1,672 Central Java TKA (BPS 2024 data) focusing on the protection of MSEs of Rp 2.78 million and local BPJS. As a result, there is no KITAS-based IMTA fast-track mechanism, forcing mixed marriage foreigners to wait 30-60 days for separate RPTKA at a cost of up to Rp 50 million, while illegal foreign workers operate due to supervision loopholes.

The most crucial implication of this gap is the weakening of the prevention of illegal work practices in mixed marriages, where foreigners with Indonesian spouses with legal KITAS are forced to work informally without an IMTA for family maintenance, at risk of double sanctions: Article 185 of the Job Creation Law (imprisonment of up to 4 years and/or a fine of Rp 4 billion for employers), as well as Article 122 of the Immigration Law (deportation, 5-year blacklist, revocation of KITAS) which threatens to dissolve the nuclear family and mixed children. Meanwhile, illegal foreign workers such as Kendal have passed reactive supervision because the focus of the Immigration raid on VoA is not preventive prevention via coordination of the Directorate, resulting in the exploitation of local workers (salaries below MSEs, without BPJS/PPE), threats to Semarang's social harmony as the economic center of Central Java, and the contradiction of SDG 16 regarding legal justice and strong institutions.

The juridical implications are deeper in creating structural legal uncertainty: the interpretation of Article 61 of the Immigration Law as an

[13] Ministry of Manpower of the Republic of Indonesia, "Implementing Regulation of Government Regulation No. 34/2021 concerning Foreign Workers: Exception to Mixed Marriage," *Journal of Manpower Regulation* 2, no. 1 (2021): 10–25, https://jdih.kemnaker.go.id/asset/data_puu/2021PMAbstrak008.pdf

"implicit right to work" is nullified by the lex posterior of the Job Creation Law, failing to apply the lex specialis derogat legi generali where the special norm of mixed marriage (Article 42e) should be the derogation of the generalist TKA. In Semarang, this is manifested in an increase in public reports about illegal migrant workers vs. mixed marriage complaints about the rejection of IMTA, potentially judicial review to the Constitutional Court to confirm the constitutional rights of Article 28D.

To reduce this narrowing gap, normative recommendations include: (1) Local MoU of the Immigration Office-Semarang Directorate for fast-track IMTA 7 days based on KITAS verified OSS; (2) Revision of the Regulation of the Minister of Manpower to add the RPTKA exemption for mixed marriage foreign workers with a turnover of < Rp 5 billion; (3) Pilot project of national OSS data integration with Semarang as a trial; (4) Socialization of Supreme Court/Constitutional Court jurisprudence regarding lex specialis. This implementation closes loopholes, prevents illegality, and supports sustainable integration.

Gap Aspects	**Ideal Norms (Article 61 of the Immigration Law jo. Constitution 28D)**	**Reality of Semarang 2025 (Kendal/Deportation of 96 Foreigners)**	**Implications of Preventing Illegal Mixed Marriage**
Right to Work KITAS	Work/Earn an Automatic Family Allowance	Rejection of IMTA without RPTKA; KITAS is not enough	Informal work is illegal; Article 185/122 risk

Institutional Coordination	Harmonization of OSS Immigration-Personal-Functional Directorate	The dualism of separate authority; Verification failed	TKA VoA Kendal escaped; Non-Preventive Reactive Raids
Sanctions & Social	Constitutional protection of the family (Article 41 of the Constitution)	Double criminal + deportation; Local exploitation	Dissolve the family; SDG 16; Judicial Review
Condensing Solutions	Lex specialis KITAS derogat RPTKA	Fast-track MoU + revision of Permenaker	Legal economic integration; zero tolerance for illegality

Based on the problems that have been described earlier, the government has a great responsibility to be actively present in all forms of management and supervision related to the existence of Foreign Workers (TKA) in Indonesia.[14] The presence of the state should not be limited to being a facilitator in terms of licensing or simplifying the administrative process of foreign worker recruitment, but must also appear as a firm supervisor, protector of local labor, and a balancing of interests between foreign investment and national labor sovereignty.

Conclusion

[14] Otti Ilham Khair, "Analysis of the Job Creation Law on Labor Protection in Indonesia," Widya Pranata Hukum3, no. 2 (2021): 399–405.

This normative juridical research concludes that the regulation of the right to work for Foreign Workers (TKA) who are intermarried with Indonesian citizens (WNI) experiences structural legal uncertainty due to the disharmony between Law Number 13 of 2003 concerning Manpower and Law Number 6 of 2023 concerning Job Creation (Job Creation Law) and Law Number 6 of 2011 concerning Immigration (Immigration Law). Analysis of the hierarchy of norms, systematization, and synchronization confirms the dualism of authority: KITAS mixed marriage (Article 42 letter e of the Immigration Law) does not automatically meet the prerequisites of RPTKA/IMTA (Articles 42-43 of the Job Creation Law), contrary to Article 28D paragraph (1) of the 1945 Constitution concerning the right to decent work and Article 7 of Law Number 12 of 2011 concerning the Establishment of Laws and Regulations. The internal systematization of the Immigration Law is coherent with Article 61 jo. Article 28D paragraph (1) of the 1945 Constitution which guarantees the right to "work and do business" for KITAS/KITAP holders for the sake of family maintenance, while the Job Creation Law is inconsistent because the priority of nationalization of foreign workers is irrelevant to the informal sector of foreigners of Indonesian spouses, creating a personal-oriented dualism (Immigration Law) versus functional-market oriented (Job Creation Law). Synchronization fails to apply lex specialis derogat legi generali, where the special norm of KITAS should override the lex generalis RPTKA, resulting in double bureaucracy such as the rejection of IMTA by the Semarang Manpower Office (Disnaker) even though the Semarang Class I Immigration Office has verified the valid marriage certificate from the KUA/Disdukcapil.

This uncertainty has a real impact on the risk of double sanctions (criminal Article 185 of the Job Creation Law jo. deportation of Article 122 of the Immigration Law), family disintegration, and illegal practices such as the Kendal 2025 case. Therefore, multi-level normative harmonization

efforts are needed to ensure legal certainty, family protection, and national workforce priorities.

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