

## Artículos

## Legal Discourse and Challenges on Visa Exemption in Tourism Policy Framework of Indonesia\*

Discurso jurídico y retos de la exención de visado en el marco de la política turística de Indonesia

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## Abstract:

The formulation and implementation of the visit visa exemption (VVE) policy undoubtedly result in different issues related to its regulations, on-field execution, supervision, security levels, and potential legal loopholes leading to violations. Furthermore, the enforcement of existing regulations necessitates the involvement of policy implementers who require adequate human resources in the immigration field. Therefore, this research specifically and comprehensively examines and analyze the regulations of immigration, regarding the visit visa for foreigners. It also explores the implementation of these regulations and the impact of the VVE policy for foreign tourists concerning the role of the state in protecting and promoting the welfare of its citizens. This research uses legal factual, conceptual, and comparative approaches to generate insights into the VVE within the framework of tourism development based on considerations of security, policy, and economic interests. The results suggest the ability to exclude states from the list of VVE recipients based on low numbers of visits and extensive involvement in legal violations and crimes. Furthermore, the provision should be reconsidered for states that have not been declared free of specific diseases by the WHO and those supporting separatist movements within Indonesian territory.

**Keywords:** Visit Visa Exemption, Indonesia Tourism Policy, Legal Policy Orientation, Development.

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## Resumen:

La formulación y aplicación de la política de exención de visado de visita (VVE) da lugar sin duda a diferentes cuestiones relacionadas con su reglamentación, su ejecución sobre el terreno, su supervisión, sus niveles de seguridad y sus posibles lagunas jurídicas que den lugar a infracciones. Además, la aplicación de la normativa vigente requiere la participación de los responsables de la aplicación de la política, que necesitan recursos humanos adecuados en el ámbito de la inmigración. Por lo tanto, esta investigación examina y analiza de forma específica y exhaustiva la normativa de inmigración, en lo que respecta al visado de visita para extranjeros. También explora la aplicación de esta normativa y el impacto de la política de VVE para turistas extranjeros en relación con el papel del Estado en la protección y promoción del bienestar de sus ciudadanos. Esta investigación utiliza enfoques jurídicos fácticos, conceptuales y comparativos para generar ideas sobre la VVE en el marco del desarrollo turístico basado en consideraciones de seguridad, política e intereses económicos. Los resultados sugieren la posibilidad de excluir a Estados de la lista de beneficiarios de la VVE, basándose en un bajo número de visitas y en una amplia implicación en violaciones legales y en delitos. Además, la disposición debería reconsiderarse para los estados que no han sido declarados libres de enfermedades específicas por la OMS y los que apoyan movimientos separatistas dentro del territorio indonesio.

**Palabras clave:** exención de visado de visita, política turística de indonesia, orientación de la política jurídica, desarrollo.

## Introduction

Indonesia, as one of the world's favorite tourist destinations, has issued two regulations for foreigners, namely Law Number 6 of 2011 on Immigration and Presidential Regulation Number 21 of 2016 on visit visa exemption (VVE). According to the Immigration Law, the issuance of visas serves as a measure of prevention and control for foreign individuals seeking entry into Indonesia, whose presence may pose a threat to society. This regulation aligns with the fundamental objective outlined in the preamble of the 1945 Constitution of Indonesia, highlighting the need to safeguard the entire nation and all its citizens. It is noteworthy that the Presidential Regulation on VVE has introduced an altered policy for foreign tourists hailing from specific states, allowing them to enter Indonesia without the need for a visa.<sup>1</sup> The purpose of issuing the VVE Presidential Regulation is to increase tourist visits, which boosts Indonesian economics in the tourism sector.<sup>2</sup> The policy, signed by President Joko Widodo on March 2, 2016, allows VVE for citizens of 169 states into Indonesia, effectively opening the doors of Indonesia<sup>3</sup> for people to enter and exit its territory. Based on the impact of this policy, there are certainly positive and negative consequences for the state.<sup>4</sup>

This policy is anticipated to augment the foreign exchange earnings and ameliorate the welfare of the local community, enabling them to generate revenue by vending their products in prominent tourist spots for international visitors.<sup>5</sup> However, the establishment does not consider the principles of reciprocity and benefit as indicators for policy determination. This policy contradicts the Immigration Law and potentially provides an opportunity for problematic tourists to enter the state freely. The condition can lead to an increase in immigration crimes, national and international crimes such as document misuse, natural resource theft (patents, money laundering), organized transnational crimes (smuggling, illegal fishing, women and child trafficking), cybercrime, drug trafficking, health risks, threats to national security, and others.<sup>6</sup>

The legal facts outlined above give rise to several issues regarding the VVE policy and its impact on the protection of Indonesian citizens. Furthermore, control measures are necessary for foreign tourists entering Indonesia. The implementation of the VVE policy should also focus on increasing both the quantity and quality of tourists.<sup>7</sup> To address these issues, it is essential to conduct an inventory and analysis of immigration-related legal regulations. Conducting legal research holds significant importance in formulating suitable policies for the entry of foreign tourists into Indonesian territory that align with the objectives outlined in the preamble of the 1945 Constitution. This approach ensures that the policies not only fulfill the state's objectives but also foster favorable international relations with other states, as subjects of international law.

The VVE policy is regulated by Article 43 Paragraphs (1) and (2) letter a of Law Number 6 of 2011 concerning Immigration. The provision states that citizens of certain states may be exempted from the obligation to have a visa as regulated by the presidential regulations. The policy is subsequently implemented through Presidential Regulation Number 21 of 2016 with the main objective of increasing the number of foreign tourists to enhance foreign exchange earnings in the tourism sector. This policy may be advantageous in terms of increasing the number of tourists to Indonesia and having a positive impact on the trend of boosting foreign exchange in the tourism sector. However, it also poses problems such as the entry of problematic tourists, immigration-related crimes, national and international crimes such as document misuse, natural resource theft (patents, money laundering), organized transnational crimes (smuggling, illegal fishing, women and child trafficking), cybercrime, drug trafficking, health risks, threats to national security, and others.

Some analyses were conducted on the granting of visa exemption. First, research titled “Implications of Visa Exemption Policy Based on Presidential Regulation on Visit Visa Exemption: Employment Perspective” by Wicipto Setiadi and Rakha Aditya Afriza, published in the Scientific Journal of Legal Policy, Vol. 13, Number 3, 2019, discussed the impact of granting visa exemption to 169 states from an employment perspective and the efforts to address these impacts. Second, research titled “Visit Visa Exemption Policy: Eliminating or Preserving Bali’s Local Wisdom” by Anak Agung Ayu Intan Prameswari, published in the Hasanuddin Journal of International Affairs, Vol. 1, Number 2, August 2021, explored the elimination or preservation of the existing local wisdom, thereby maintaining the welfare of the local community and examined the role in protecting the values to ensure the social system in Bali remains intact and preserved as a unique attraction of the Island of Gods.

This research is significantly different from others because it examines and evaluates the VVE policy by analyzing the two underlying principles of benefit and reciprocity. Specifically, the principle of benefit refers to granting VVE only to foreign nationals beneficial to Indonesia through tourism policy orientation. This research aims to discover, examine, and analyze the regulations on the visit visa for foreign nationals in Indonesia and their implementation. It also strives to formulate future perspectives to observe the implementation and impacts of VVE on foreign tourists concerning the role of the state in protecting and advancing the welfare of its citizens.

## **VVE Policy in Indonesian Tourism Policy Orientation And Legal Construction**

The mandate of the Fourth Paragraph in the Preamble of the 1945 Constitution is to protect citizens under the goal of Indonesia regarding immigration, particularly in maintaining order as well as advancing a just and prosperous society. The current global development has led to increased population mobility, resulting in various impacts to benefit or harm the interests and lives of the nation and state. In this situation, the role of the state through the government is necessary to achieve these goals through governmental actions in the form of state policy directions that ensure legal certainty in line with the respect, protection, and promotion of human rights.<sup>8</sup> Furthermore, immigration regulations, including the entry or exit of individuals from a territory, are the rights and prerogatives of every independent and sovereign state to determine policies for accepting or rejecting foreigners entering its territory, including Indonesia. This is one manifestation of sovereignty as a rule of law based on Pancasila and the 1945 Constitution in the implementation of national development with an archipelagic outlook as well as in relations between nations and states.<sup>9</sup> The principle of sovereignty allows the government to establish

regulations regarding the entry and exit of foreigners from its territory. These include monitoring the presence of foreigners within Indonesian territorial jurisdiction as a form of law enforcement in the field of immigration. It cannot be separated from the geographical nature consisting of islands that are close in proximity and even directly border neighboring states.<sup>10</sup>

Tourism is a sector that achieves significant success in the economic and territorial development of states when implemented at a higher level, resulting in significant benefits and profits.<sup>11</sup> Meanwhile, states such as Turkey, France, Italy, Spain, Switzerland, and Mexico continue to grow and innovate in the travel and tourism industry. Tourism has three important outcomes, namely economic, socio-cultural, and environmental outcomes. Several researches focused on the economic, socio-cultural, and environmental impacts of tourism.<sup>12</sup> In recent years, cultural tourism has become increasingly important in the globalization era. Currently, people understand the importance of cultural tourism in paying attention to travel and learning about other heritage. Learning about a nation is a primary reason for visiting cultural tourism destinations. For an ordinary person, this type of tourism is often seen as a form of entertainment-oriented experience.<sup>13</sup> Cultural tourism, as one of the most important branches of the industry, has gained popularity due to increased awareness of assets. One of the actions taken to enhance popularity, which has an undeniable contribution to social, cultural, and economic development, is to facilitate access to targeted destinations. Cultural tourism is a form of economic development based on cultural resources. It is also a form of development that goes beyond the role of tourists in economic reality by acquiring knowledge and understanding of the past.<sup>14</sup> As an enlightening and beneficial experience, tourism can be a permanent tool for cultural, intellectual, emotional, and spiritual enrichment. Similarly, the flow and exchange between people distinguish tourism from other mechanistic forms of trade and economic development worldwide.<sup>15</sup>

According to the World Tourism Organization (WTO), cultural tourism is one of the fastest-growing sectors in the industry, specifically in the last few decades. The concept has long been present and subjected to extensive debate since there are numerous definitions. Cultural tourism encompasses more than mere visits, participation, and enjoyment of museums, galleries, art events, festivals, heritage attractions, sites, and other cultural experiences.<sup>16</sup> In the era of globalization, the core of cultural tourism lies in the interaction of the younger generation with the history and heritage of destination places. It involves exploring the narratives, individuals, landscapes, and urban environments in cultural transformations influenced by the passage of time.<sup>17</sup> Another perspective defines cultural tourism as the act of discovering the unique, genuine, and unforgettable aspects that distinguish a destination. It holds significant value for both domestic and international tourists, as well as individuals with a genuine interest in cultural exploration. Furthermore, cultural tourism encompasses and embraces various geographical regions, underscoring its widespread presence. The material traces are one aspect that supports the development of cultural tourism as well as enables the identification of intense periods and the economic development of the population in the analysed geographic areas.<sup>18</sup>

Indonesia with its cultural tourism strength is based on Pancasila in the context of the philosophy which encompasses the “*de zin van wereld en leven*” (the meaning of the world and life).<sup>19</sup> Pancasila has been widely accepted and acknowledged as the national philosophy of Indonesia, a truth that stands firm without requiring additional validation.<sup>20</sup> Therefore, all activities and actions in the development of the Indonesian state and society should be rooted in Pancasila.<sup>21</sup> This includes areas such as law, health, education, economy, arts, governance, and others.<sup>22</sup> Bernard Arief Sidharta stated that the legal ideals of the nation were rooted in Pancasila, established by the founding fathers as the philosophical foundation for organizing the framework and basic structure of the state as formulated in the 1945 Constitution.<sup>23</sup>

In this case, a visa is a form of international relations and reflects a state's status within the community. The visa exemption policy granted by a state is influenced by its international relations status,<sup>24</sup> and a visit visa can be given to foreigners. Article 34 of Law Number 6 of 2011 concerning Immigration (Law 6/2011) determines several types of visa, such as Diplomatic, Service, Visitor, and Limited Stay Visas. The definition of a visit visa is explicitly regulated in Article 38 of Law 6/2011 where "it is granted to foreigners traveling to the territory of Indonesia for governmental tasks, education, social-cultural activities, tourism, business, family, journalism, or transit to other states."<sup>25</sup>

Referring to the provisions of the aforementioned article, the granting of a visit visa differs from other types, such as diplomatic, service, or limited-stay visas. One of the main differences lies in the purpose of granting the visa to foreigners. The reason for recreational tourism can be the basis for considering the granting of a visit visa.<sup>26</sup> Furthermore, this is clarified in Article 38 of Law 6/2011 that "a visit visa, in its implementation, can be granted for activities including tourism, family, social, arts and culture, governmental tasks, non-commercial sports, benchmarking, short courses, and short-term training, providing guidance, counseling, and training in the application and innovation of industrial technology to improve the quality and design of industrial products as well as foreign marketing cooperation for Indonesia, emergency and urgent work, journalism with permission from the competent authority, non-commercial film production with permission from the competent authority, business discussions, purchasing goods, giving lectures or attending seminars, participating in international exhibitions, attending meetings held by headquarters or representatives, conducting audits, production quality control, or inspections at company branches, foreign workers in trial employment, continuing the journey to other states, and joining transportation vehicles within the territory of Indonesia."

The process of granting a visit visa falls within the authority of the minister to be given and signed by immigration officials at Indonesian representations abroad. In the case of Indonesian representations, there are no immigration officials who can grant and sign visas. Therefore, the granting can be carried out by foreign service officials after obtaining a Ministerial Decree, as stated in Article 40 of Law 6/2011. Referring to Article 42 of Law 6/2011, several factors can result in the rejection of a visa application, including being listed on the blacklist, not having valid and current travel documents, insufficient funds to cover living expenses for oneself and family members during their stay, not having a return ticket or onward ticket to continue the journey to another state, not having a Return Permit to the home state or not having a visa to another state, suffering from contagious diseases, mental disorders, or other conditions that may endanger public health or order, being involved in organized transnational crimes or activities threatening the integrity of Indonesian territory, and being part of networks involved in prostitution, human trafficking, and smuggling.<sup>27</sup>

From another perspective, Law 6/2011 provides some leeway for the government in the narrow sense to grant visa exemption to foreigners. This provision is regulated through Article 43 of Law 6/2011 which, in certain cases, foreigners can be exempted from the obligation of possessing a visa. Foreigners exempted from the requirement are citizens of certain states determined by the Presidential Regulation by considering the principles of reciprocity and benefit, foreign nationals holding a valid Residence Permit with a valid Return Permit, ship captains, pilots, or crew members on duty, ship captains, crew members, or foreign experts on board a vessel or floating structure arriving directly with their means of transportation to operate in Indonesian waters, territorial seas, continental shelves, and Exclusive Economic Zone.<sup>28</sup>

Reviewing the provisions of the aforementioned article, there are limitations for the government in determining the VVE policy for foreigners. In its implementation, the government is required to grant VVE while considering the principles of reciprocity and benefit. This is a logical and juridical consequence of

past issues from the implementation of the VVE policy. In the historical context, VVE has been introduced in 1983 during the New Order government through Presidential Decree Number 15 of 1983 concerning Tourism Development Policy regulated by the Minister of Justice Decree Number M. 01-IZ.01.02 of 1983.<sup>29</sup>

There were often issues of VVE facility misuse for purposes other than tourism, such as working as consultants, practicing medicine, technicians, and others. Therefore, the Indonesian government imposed limitations in determining the VVE policy while considering the principle of reciprocity through Presidential Decree Number 18 of 2003.<sup>30</sup> Reflecting on this historical aspect, as a nation's effort to achieve a legal immigration regulation regime that provides legal certainty, benefits, and fairness, Law Number 6 of 2011 was enacted, including legal politics on controlling the entry of foreigners.<sup>31</sup>

In its development, Presidential Regulation Number 43 of 2011 on the Third Amendment to Presidential Decree Number 18 of 2003 concerning Short Visit Visa Exemption (SVVE) was issued, granting VVE to only 15 states and implemented at all entry and exit points. Furthermore, Presidential Regulation Number 69 of 2015 on VVE was established, adding 30 states to the original 15 with a total of 45 through 9 entry and exit points, namely 5 Indonesian airports and 4 seaports. Presidential Regulation Number 104 of 2015 on the Amendment to Number 69 of 2015 on VVE was then issued, adding 45 states with a total of 90 through 50 entry and exit points, including 19 Indonesian airports, 29 seaports, and 2 land borders. Considering the current development, after several amendments, the VVE policy is based on Presidential Regulation Number 21 of 2016 on VVE, allowing access through 124 entry and exit points, including 29 Indonesian airports, 88 seaports, and 7 land borders. The considerations stated in Article 21 of Presidential Regulation Number 21 of 2016 indicate that the implementation of VVE is based on a Commitment to enhance Indonesia's relations with other states. This is conducted by providing ease of access for foreign nationals and efforts to improve the Indonesian economy, specifically through increasing the number of foreign tourists visiting Indonesia.

In line with these considerations, the legal politics of the VVE policy in Presidential Regulation Number 21 of 2016 provide economic benefits to Indonesia by strengthening international relations through the provision of visa facilitation. Additionally, the specific criteria for foreign nationals are explicitly stated in Article 1, paragraph 3 of Presidential Regulation Number 21 of 2016, namely "foreign nationals from a certain state, the government of a special administrative region of a state, and specific entities."

VVE recipients are granted certain freedoms and privileges to be exempted from the obligation to have a visit visa to enter Indonesian territory, as stated in Article 3, paragraph (1) of Presidential Regulation Number 21 of 2016. They are allowed to enter Indonesian territory through specific immigration checkpoints, as stated in Article 3, paragraph (2), and granted a visit stay permit for a maximum period of 30 days, as stated in Article 4, paragraph (1). The procedures for entry and exit from Indonesian territory and the immigration checkpoints for VVE recipients fall under the authority of the Minister as stipulated in the Ministerial Regulation. Furthermore, Presidential Regulation Number 21 of 2016 also empowers the Minister to temporarily suspend the VVE policy. This is stated in Article 6 of the Presidential Regulation that "in certain circumstances related to national security and public health, the Minister temporarily suspends VVE for states, the government of a special administrative region, and specific entities as referred to in Article 3, paragraph (3)."<sup>32</sup> The concept of granting VVE to foreign nationals is not conducted arbitrarily but with certain limitations or considerations. Explicitly, Article 43 of Law 6/2011 specifies several fundamental provisions in implementing the VVE policy, namely:

**Existence of criteria.** The term "*can*" in Article 43, paragraph (1) is interpreted as the emphasis on discretion (*beoordelingsvrijheid*). The freedom to consider arises when the law presents two alternative options for certain requirements and the implementation is selected by the government body.<sup>33</sup> In the theoretical framework, freedom to consider can be subjective (*subjective beordelingsruimte*), which is the freedom to determine how and when the authority is exercised, and objective (*objective beordelingsruimte*) focused on the freedom to interpret the scope of

authority formulated in its basic regulation.<sup>34</sup> The emphasis on discretion (*beoordelingsvrijheid*) in the relevant provision is related to interpreting the scope of authority to determine criteria, including the possibility of a rejection policy.

**Existence of restrictions.** Article 43 paragraph (2) letter a of Law 6/2011 explicitly states that the granting of exemption to citizens of certain states from the obligation to have a visa is based on Presidential Regulation by considering the principles of reciprocity and benefit. In the explanation of Article 43 paragraph (2) letter a of Law 6/2011, the principle of benefit encompasses tourism interests beneficial for national development. Furthermore, the principle of reciprocity emphasizes that visa exemption should only be granted to foreigners from states granting visa exemption to Indonesian citizens.

The principles of reciprocity and benefit as the basis for the implementation of the VVE policy have also been affirmed in Article 2 of Presidential Regulation Number 21 of 2016, where VVE is granted to recipients based on the principles of reciprocity and benefit. There are critical notes that need to be examined regarding the policy based on Presidential Regulation Number 21 of 2016 concerning the two underlying considerations. Referring to the Performance Report of the Ministry of Tourism in 2019, foreign tourist visits generated foreign exchange of IDR 280 trillion, while the number of tourist arrivals in 2019 was 16.1 million people.<sup>35</sup> This figure increased compared to 2018 where foreign exchange from foreign tourists amounted to IDR 229 trillion and the number of tourist arrivals was 15.81 million people. The increase in the number of foreign tourists does not correspond to the improvement in the economics of the local community in tourist destinations. This is because the daily spending of foreign tourists has decreased each year. The adherence to the principle of reciprocity in the implementation of the VVE policy is not observed, evident in the designation of 169 states as recipients. However, only 79 states grant VVE to Indonesia, and out of those, 59 apply the principle of reciprocity.

Based on the provisions in the article, a question arises regarding the constitutionality of regulations at the ministerial level overriding presidential regulations, which hold a higher position than ministerial regulations. According to Oce Madril, the content of ministerial regulations cannot be used to nullify provisions in presidential regulations<sup>36</sup> that hold a higher position, as shown in Article 8 paragraph (2) of Law Number 12 of 2011 in conjunction with Law Number 13 of 2022. The rationality behind the enactment of ministerial regulations in the context of VVE is the existence of an authority delegation clause to establish and nullify provisions in presidential regulations, under the provisions of Article 6 of Presidential Regulation Number 21 of 2016 that "In certain circumstances related to national security and public health, the Minister can temporarily suspend VVE for a state, special administrative region, and certain entities as referred to in Article 3 paragraph (3)."

## **Application of Articles in Legislation Regulating VVE: Positive and Negative Issues/Impacts as Well as Future Thoughts Regarding VVE Policy in Indonesia's Tourism Policy Orientation**

The VVE policy has purpose to attract tourists to Indonesia and promote the development of tourism accommodation services, despite facing opposition from the Parliament, Indonesian Army, and Police. The implementation of this approach has led to certain detrimental effects on tourism, including the influx of low-quality tourists, the rise of backpacker-style tourism, an increase in petty crimes, and the issue of numerous tourists from African states overstaying their visas. There is also the potential for the infiltration of foreign ideologies into Indonesia, which creates resistance to the VVE provision.

This research highlights the perception of stakeholders based on policy evaluation as one of the functional activities. Policy evaluation is conducted by following previous activities such as enactment and

implementation, and can occur in the other functional part of the policy process.<sup>37</sup> Therefore, policy evaluation covers content, implementation, and impact carried out in the problem identification phase, policy proposal formulation, implementation, and policy legitimacy.<sup>38</sup> The scope of this evaluation includes policy formulation and implementation. Following a comprehensive evaluation of public policy, it has become evident that further actions are necessary. These actions may include terminating the policy, implementing policy changes, or introducing a new policy altogether. Policy evaluation is not the final stage of the policy process, but rather it catalyzes formulating new policies or enhancing existing ones.<sup>39</sup>

Based on this framework, the VVE policy is examined within the framework of policy evaluation to discover its practical implementation, including the potential main impacts and side effects of the evaluated policy.<sup>40</sup> This evaluation also explores the negative impacts and positive contributions, in line with the understanding that the evaluation of the VVE policy is related to explanation. The implementation of the VVE policy can be accurately depicted, enabling the identification of patterns and relationships among different dimensions of the observed reality. Evaluators can effectively identify issues, conditions, and actors that contribute to the success or failure of the VVE policy. This enables a comprehensive understanding of the policy's effectiveness and provides valuable insights for future improvements or modifications. Secondly, compliance can be assessed to determine the actions taken by actors, within the bureaucracy and other stakeholders, under standards and procedures established by the VVE policy. Thirdly, evaluation plays a crucial role in auditing, determining whether the desired outputs of the VVE policy effectively reach the intended target groups or if there are instances of leaks or deviations during its implementation. Moreover, evaluation allows for an examination of accountability, shedding light on the socioeconomic consequences associated with the VVE policy. This comprehensive assessment helps ensure transparency and enables policymakers to make informed decisions based on the outcomes and impacts of the policy.

However, the existence of the VoA policy limits the ability of Indonesia to address these challenges effectively.<sup>41</sup> It is evident from a conceptual standpoint that the uncertainty surrounding policy objectives plays a significant role. In cases where the objectives are unclear or fragmented, the challenge arises in assessing the degree accomplished.<sup>42</sup> The lack of clarity of objectives usually stems from the policy-setting process. To be enacted, a policy should usually have the support of a majority coalition to secure enactment. It requires the attention of people or groups, triggering a lack of clarity of objectives due to the many interests and values of the actors involved in public policy formulation.<sup>43</sup> The second aspect pertains to causality, and when employing systematic evaluation to assess policy programs, it is crucial to ensure that policy actions engender tangible changes in real-world scenarios. The third aspect involves diffuse policy impacts, and when examining policy impacts, it is essential to acknowledge the existence of externalities or spillover effects from a policy's influence on circumstances or groups. The fourth aspect revolves around the challenges associated with obtaining data. Insufficient statistical data and relevant information impede evaluators from effectively appraising public policies. The fifth aspect concerns official resistance since evaluators strive to acquire knowledge impartially. However, administrative agencies and program officials tend to prioritize assessing the potential consequences of policy implementation.<sup>44</sup> This appears to be broken down into the following five things, namely:

**First, regarding the issue of relations with other states**, the issuance of the VVE policy does not necessarily encourage the achievement of Ministry of Tourism and Creative Economy targets, including through the Bali entrance with no significant increase. No VVE is given in return from states that received visas from Indonesia, hence, the policy does not significantly affect relations between states. This is also tied to the realization that achieving reciprocal requests is not easily feasible due to the distinct rules and



considerations upheld by each state. Therefore, the significance of reciprocity in the field of VVE with other relevant states exhibits a considerable degree of asymmetry and disparity.

The VVE presidential regulation tends to be insignificant in increasing foreigners and causing problems. This policy leads to the income of the quantity of tourists and overrides the quality.<sup>45</sup> The Ministry of Law and Human Rights and the Ministry of Tourism and Creative Economy have different interests. The Ministry of Tourism and Creative Economy wants quantity, such as Malaysia's application of the VVE policy. However, there needs to be a selection not to trigger problematic states such as Bangladesh to be given VVE.

**Second, economic improvement**, in this case, VVE has a different impact on increasing the income of each region. There is no significant difference in the pattern of visits by VVE tourists who were previously VoA.<sup>46</sup> Visa exemption has contributed to increased spending and per capita economic income. According to available data from 2016, the implementation of VVE resulted in an influx of 11 trillion billion into the economy. Subsequently, this figure rose to 13 trillion billion in 2017, 16 trillion billion in 2018, and 19 trillion billion in 2019. It is important to verify these figures with the relevant data center for accurate and up-to-date information. The potential for expanding tourism should be considered, but it is crucial to establish appropriate regulations. While material benefits are important, other factors such as security considerations must also be addressed when implementing a visa system. Visa processes can be streamlined through the use of applications, thereby offering convenience and simplifying the overall experience. It can control and prevent various potential problems from entering Indonesia.

**Third, public health and environmental protection**, related to the potential transmission of diseases from states that have not been declared clean or free of certain diseases by WHO. The issue of preventing virus transmission in Indonesia has consistently revolved around immigration procedures.<sup>47</sup> However, this also poses challenges for the Ministry of Tourism and Creative Economy. Amidst the pandemic, a dedicated Covid task force oversees border control and flight regulations. Visa exemptions are limited to ASEAN countries, while others are required to obtain a VoA. Some countries still apply for VoA, and the principle of reciprocity remains in effect, subject to consultation with the Task Force.<sup>48</sup> VVE brings forth several advantages for the tourism sector, but it is important to acknowledge its potential impact on the environment, as exemplified in the Labuan Bajo region of Komodo Island. This includes adverse consequences such as the domestication of wild dragons, waste management issues, and a threat to the preservation of rare animal species. Consequently, the Napoleon fish and manta rays have seen a decline in numbers, while the delicate coral reef ecosystem has suffered damage.<sup>49</sup>

**Fourth, security aspect** becomes very crucial considering that VVE is used for immigration and labor violations as well as banking crimes, transnational crimes, smuggling, immoral acts, violations of customs, acts of terrorism/FTT, drugs, radicalism, illegal immigrants, pedophilia, fraud, and foreign espionage.<sup>50</sup> The presence of VVE among backpackers results in an absence of regulated timelines for their departure, while personal choices determine the extent of life assurance coverage. The ability of individuals with certain financial means to travel to Indonesia can make them less susceptible to negative socio-cultural influences. However, the lack of a visa system as a control mechanism exposes security vulnerabilities due to the absence of effective filters. The policy regarding VVE appears to be primarily focused on the interests of the Ministry of Tourism and Creative Economy, with limited involvement or consultation from the Director General of Immigration and other relevant institutions. Therefore, it is crucial to conduct a comprehensive evaluation of the VVE policy to assess its effectiveness and address any potential shortcomings.

The current VVE policy seems to prioritize quantity by significantly widening the entry gates, which warrants careful reconsideration. Even though numerous tourists persist in visiting states with limited visa exemptions, it is imperative to acknowledge and address additional influential factors within the tourism sphere,<sup>51</sup> specifically with the pandemic, there is also an opportunity to improve, and the Ministry of

Law and Human Rights and circular letters are also issued to limit. This issue also pertains to state security since other states' intelligence agencies can monitor the concept through 124 entrances. Effective supervision requires a significant allocation of human resources and the profitability of VVE must be carefully assessed.<sup>52</sup>

The introduction of VVE has implications on legal aspects, particularly concerning issues such as skimming. Under the VVE system, individuals enter Indonesia solely based on possessing valid passports, tickets, and meeting requirements, including not being on the ban list and being free of the COVID-19 pandemic. This eliminates the need to pay for VoA and other associated procedures. The implementation has resulted in the removal of several important mechanisms, leading to the influx of unqualified tourists, including backpackers arriving with their set of challenges. There are concerns regarding minor offenses, detentions of individuals without passports, and the issue of foreigners overstaying the permitted duration. There is a prevailing perception that provided foreigners are financially beneficial, certain cases involving foreigners renting villas and subsequently subletting them to others without proper adherence to regulations exist. Proving such criminal activities poses a challenge,<sup>53</sup> and these practices indirectly receive support from certain segments of the community.<sup>54</sup>

Similarly, concerning misdemeanor offenses and detention, it is important to address the issue of immigration trafficking, which refers to the illegal transportation of individuals across borders.<sup>55</sup> This illicit practice poses significant challenges to national security and requires comprehensive efforts to combat it effectively.<sup>56</sup> The average daily influx of passengers arriving in Bali post-pandemic amounts to 8,000 individuals, comprising both foreign nationals and Indonesian citizens. Approximately 80 % of these arrivals are facilitated through VoA arrangements. Meanwhile, the number of daily tourist flights remains significantly lower compared to pre-pandemic levels, ranging from 43 to 45 flights. China continues to refrain from entering Indonesia due to the ongoing pandemic, primarily due to the mandatory quarantine requirements that entail considerable expenses and time investments. The majority of deportation cases are associated with overstays, primarily involving individuals from Africa. This phenomenon runs contrary to the situation in developed countries, where entry is often challenging, and regulations governing stay tend to be more lenient, resulting in instances of overstay and subsequent appeals. In some cases, when the appeal is granted, individuals may obtain a new visa, a scenario that frequently occurs for foreigners seeking naturalization using *ius soli*. Another issue of concern relates to countering external ideologies in terms of VVE, which poses a significant problem. This concern is particularly relevant given the current presence of numerous foreign intelligence personnel, alongside the recent apprehension of individuals of Chinese nationality in the Nunukan area of North Kalimantan.

**Fifth**, there is the potential loss of non-tax revenues for the Ministry of Law and Human Rights. The factual data indicates that the potential loss from immigration services, specifically VKSK (VoA), amounted to 1,301,247,741,553 IDR or 81.38 % in 2016 and continued to decline.<sup>57</sup> This research is conducted by the Faculty of Tourism to determine the significant effects of VVE policy on the attached benefits. Before the implementation of VVE, there were 20,000 passengers per day in 2009. Subsequently, VoA contributed 3 trillion per day to the state's revenue, and after the implementation, the Non-Tax State Revenue decreased. The VVE policy has a direct impact on the community since the influx of many tourists affects airlines, airport taxes, vehicle rentals, hotels, and restaurants.

## Conclusion

The arrangement of granting VVE triggers complicated problems influenced by five factors, including problems with relations with other states, economic improvement, Public Health and Environmental Protection, security aspects, and the potential loss of Non-tax revenues for the Ministry of

Law and Human Rights. The government ought to devise stringent policies that entail the exclusion of states currently benefiting from VVE facilities with specific classifications. A reassessment of the provision should also be conducted for states whose classifications have not obtained clearance from WHO, as well as those associated with supporters of separatist movements. Regarding policy considerations and derivative regulations on the issuance of VVE against certain states, it is prudent to acknowledge the moderate level of risk involved. Consequently, a potential approach is to enable individuals from these states to enter Indonesia through VoA to conduct evaluations for the development of sustainable tourism regulations.

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