

The Role of Immigration Civil Service Investigators in Handling Immigration Criminal Actions

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Abstract: *The juridical basis regarding the regulation of traffic in and out of foreigners in Indonesia is contained in the Immigration Law, which establishes certain obligations and limitations. The purpose of this research is to find out and study the implementation of law enforcement against immigration crimes based on the Immigration Law and Criminal Procedure Law and to find out how to improve the role and function of Civil Servant Investigator (PPNS) law enforcement in law enforcement in the immigration sector. This research is a normative juridical study, using a descriptive analytical approach. It was concluded that every foreign citizen who deliberately abuses or carries out activities that are not in accordance with the intent and purpose of granting the residence permit granted to him may be subject to imprisonment and a fine under the Law on Immigration. Meanwhile, to arrive at the imposition of criminal sanctions against foreigners who perpetrate criminal acts of immigration through a process in accordance with the provisions of the Criminal Procedure Code, it is necessary to base judges' considerations in making decisions. To improve the role and function of PPNS law enforcement in law enforcement in the immigration sector, these obstacles must be overcome by means of such as determining the priority scale in carrying out investigative tasks; giving motivation; create comprehensive immigration PPNS education standards; conduct outreach on immigration issues in collaboration with related agencies; coordinate; and increase surveillance and prudence.*

Keywords: Immigration, Investigators, Civil Servants, Crime

1. Introduction

Indonesia is the largest archipelago country in the world which is crossed by the equator and is located between the mainland continents of Asia and Australia, and between the Pacific Ocean and Indian Ocean. Judging from its geographic and demographic location, Indonesia is one of the strategic crossings between countries. As for the consequences of the progress of the globalization era, including the development of information technology, communication and transportation, which is the tendency of increasing global relations between nations which encourages the flow of human traffic between countries, this linkage raises the complexity of problems and human mobility between countries.

As an archipelagic country that has the potential for abundant natural wealth, Indonesia has become the center of attention for countries in the world. Bilateral and multilateral relations between Indonesia and other countries have increased the flow of foreigners in and out. This needs to be observed and anticipated strategically in order to maintain, maintain and improve the quality of national development. Therefore, cooperation that is carried out both regionally and internationally must be able to provide positive benefits for the interests of the Indonesian nation.

The explanation of Law Number 6 of 2011 concerning Immigration has stated that immigration services and supervision are based on selective policy principles¹, where it

is stated that foreigners who can provide benefits for the welfare of the people, nation and state of the Republic of Indonesia and do not endanger security and order are also not hostile to the people and the state of the Republic of Indonesia based on Pancasila and the 1945 Constitution who are granted permission to enter and exit the territory of the Republic Indonesia. He said that the principle of this selective policy states that people who provide benefits can be granted entry permits and those who endanger and order the nation and state cannot be granted permission to enter and reside in the territory of the Republic of Indonesia.

Granting this entry permit, there are many policies to attract tourists, such as the existence of visa-free for certain people or countries or certain other policies that promote Indonesia as a country that is conducive to foreign investment and coupled with the increasing traffic of foreigners. entry and exit from one country to another which causes the flow of information and mobility of people to also be faster and more global, this is also what happens in Indonesia where these people enter Indonesia, as there is no distance between countries and countries can no longer carry out barriers -a partition between countries or in terms of also known as Borderless World (World Without Borders). The consequences of granting these permits are often misused for criminal purposes such as rampant drug smuggling, people smuggling, falsification of passports and visas, citizenship issues, abuse of immigration permits and various kinds of transnational crimes, all of which are classified as immigration crimes. At the Soekarno-Hatta Class I Immigration Office as an Immigration Checkpoint (TPI), for example, violations and crimes are often found in the immigration sector, but unfortunately there are still many cases that cannot be brought up to the court level. Broadly

¹ M. Iman Santoso. Perspektif Imigrasi dalam Pembangunan Ekonomi dan Ketahanan Nasional, (Jakarta: UI Press Jakarta, 2004), p. 4

speaking, this is due to the high choice of administrative action processes; organizational structure that does not support in carrying out immigration criminal investigations; and lack of coordination between Polri investigators and Immigration Civil Servant Investigators (PPNS) in the immigration sector, so that *pro justisia* action as law enforcement in the immigration sector is still not an option even though Law Number 6 of 2011 concerning Immigration has regulated criminal and law enforcement provisions. Criminal code by referring to Law Number 8 of 1981 concerning Criminal Procedure Law.

In Article 1 paragraph (8) of Law Number 6 Year 2011 concerning Immigration (hereinafter referred to as the Immigration Law), states that: "Immigration Civil Servant Investigators, hereinafter referred to as Immigration PPNS, are Immigration Officers authorized by law to carry out criminal investigations. Furthermore, Article 107 paragraph (1) of the Immigration Law states "In conducting investigations, Immigration PPNS coordinates with investigators of the State Police of the Republic of Indonesia", according to the provisions of Article 7 paragraph (2) Civil Servant Investigators in carrying out criminal investigations are under coordination and supervision. Police investigators of the Republic of Indonesia, the form of coordination and supervision is mentioned in Article 107 paragraph (1), paragraph (2) and paragraph (3) of the Criminal Procedure Code, namely:

Article 107 paragraph (1)

For the purposes of investigation, Indonesian National Police Investigators provide instructions to civil servant investigators and provide necessary investigative assistance,

Article 107 paragraph (2)

Civil servant investigators report to the Police of the Republic of Indonesia about the existence of a criminal act that is being investigated, if the civil servant investigator finds strong evidence to bring the crime to the public prosecutor.

Article 107 paragraph (3)

Civil servant investigators, if they have finished carrying out an investigation, the results of the investigation must be submitted to the public prosecutor through the Indonesian Police Investigator.

In its implementation there is a dilemmatic fact that it is very rare that perpetrators of immigration crimes are brought to court (*Pro Justisia*) who first go through an investigation process carried out by Civil Servant Investigators (PPNS), but most of the perpetrators of immigration crimes are more subject to Immigration administrative measures in the form of deportation / expulsion and deterrence.

The juridical basis regarding the regulation of traffic in and out of foreigners in Indonesia is contained in the Immigration Law, which stipulates certain obligations and limitations. The regulation regarding immigration is the right and authority of the Republic of Indonesia and is one of the manifestations of its sovereignty as a rule of law based on Pancasila and the 1945 Constitution. However, in implementing law enforcement against immigration

violations it is still difficult to implement. This is due to the large number of related agencies involved but not accompanied by good coordination.

In conducting investigations, the Immigration PPNS is legally responsible for the investigative actions it carries out in accordance with the applicable laws and regulations, meanwhile. Official responsibility is carried out hierarchically in this case the Director General of Immigration can provide instructions, direction and support investigative activities in the context of carrying out immigration criminal investigations. PPNS Immigration is also required to coordinate with relevant government agencies and agencies in the implementation of supervisory duties on the activities and presence of foreign nationals, including the Ministry of Foreign Affairs, Ministry of Home Affairs, Ministry of Defense and Security, Ministry of Manpower, Attorney General's Office and even with the State Intelligence Coordinating Agency.

In the provisions of criminal law enforcement in the immigration sector, there are two ways to resolve immigration crimes, namely through immigration measures and through *pro yustisia*. Violations and crimes in the immigration sector must be prevented and eradicated through law enforcement in the immigration sector. In formal juridical immigration criminal acts are every act that violates immigration regulations in the form of crimes and violations that are punishable by criminal penalties which explain the provisions of immigration criminal acts in the form of crimes and immigration crimes as regulated in Article 113 s.d. Article 120, where the perpetrator can be sentenced to imprisonment of 5 (five) years with a fine of Rp. 500,000,000.00 (five hundred million rupiah).

The functions, roles and authorities of the Immigration PPNS in reality in this field often do not work optimally, so that many of their roles are taken over by police officers. The weak performance of PPNS Immigration against immigration violations implies that many criminal cases of immigration violations are not handled quickly, while violations have developed rapidly. Not to mention the technical matters such as the incomplete investigation because it still contains weaknesses, such as writing the legal basis for investigation, writing down the report register numbers, then the investigation process that is not in accordance with the criminal procedural law. On the other hand, coordination with the police is also weak, although Article 107 of the Immigration Law has authorized PPNS Immigration to carry out investigations, can coordinate with investigators of the Indonesian National Police.

Actions to eradicate immigration crimes have been carried out by the government for years, including amending and adding regulations regarding immigration offenses. However, all the efforts made were still not as successful as expected. From the perspective of public legal awareness, the current legal awareness of the public to obey or comply with legal regulations in the immigration sector is still weak. In terms of criminal law, the task of eradicating immigration crime is the duty of law enforcers who use statutory means, the authority to carry out investigations of immigration crimes previously carried out by the Indonesian Police

(Polri) however immigration crimes are still ongoing. Lack of understanding of immigration crime has a negative impact on the application of regulations on immigration crime, so that in the implementation there are still gaps where in the implementation of immigration criminal investigations it is possible to have three investigations, namely:

- 1) Two investigators handled immigration crime so that there were two case files for the same case.
- 2) Immigration crime is handled by one of the investigators
- 3) Immigration crime is not handled because each investigator is hands off.

PPNS Immigration is an investigator authorized to carry out investigations into immigration crimes according to the Immigration Law. As an investigator who is authorized to handle immigration crimes, he has a tough task to be able to handle immigration crimes because of the dualism of understanding contained in the Immigration Law, regarding investigators who are authorized to handle immigration crimes, plus the public's understanding of immigration crimes is still lacking so that demand increased capability and professionalism from the Immigration PPNS. PPNS Immigration in carrying out its duties in the field of Immigration, besides being subject to the Immigration Law, it is also subject to the Criminal Procedure Law and other statutory regulations. Therefore it is necessary to have synchronization in enforcing the law in a criminal manner in the Indonesian criminal justice system.

2. Problem Identification

Based on the problems described in the background above, the problem formulation in this legal research is:

- 1) How is the application of law enforcement against immigration crimes based on Law Number 6 of 2011 concerning Immigration and Law Number 8 of 1981 concerning Criminal Procedure Law?
- 2) How to improve the role and function of Civil Servant Investigators (PPNS) law enforcement in law enforcement in the immigration sector?

3. Literature Review

Previous research aims to obtain comparison and reference material. In addition, to avoid the notion of similarities with this study. So in this literature review the researcher includes the results of previous research as follows:

- 1) M. Zulfa Jamalullaili; *PERAN PENYIDIK PEGAWAI NEGERI SIPIL KEIMIGRASIAN DALAM PENEKAKAN HUKUM TINDAK PIDANA PENYALAHGUNAAN VISADI PROVINSI KEPULAUAN BANGKA BELITUNG (Studi Kasus Di Kantor Imigrasi Kota Pangkalpinang)*; The results show that the role of the Immigration Civil Servant Investigator in law enforcement of the crime of visa abuse in the Bangka Belitung Islands Province, namely the Immigration Civil Servant investigator in the Immigration Agency has a very important role to enforce the law against the crime of visa abuse by securing people suspected of committing crimes. abuse of visas, conduct examinations of persons suspected of committing visa abuse, coordinate with the prosecutor's office and the police

regarding criminal acts of visa abuse, make news on events, filing, submitting files to prosecutors via the POLRI, judiciary, execution, detention, deportation, and prohibited from being in Indonesian territory. Prosecution carried out by Civil Servant Investigators of Immigration based on Law Number 6 of 2011 concerning Immigration. As for the factors that influence Immigration Civil Servant Investigators in law enforcement of visa abuse in the Province of Bangka Belitung Islands, namely factors of law, law enforcement factors, facilities and facilities factors, community factors and cultural factors.

- 2) Albert Sanusi; *PENEKAKAN HUKUM TERHADAP TINDAK PIDANA PENYALAHGUNAAN IZIN TINGGAL KEIMIGRASIAN (Studi Kantor Imigrasi Kelas I Bandar Lampung)*; The results of the research and discussion show that law enforcement of the abuse of residence in immigration permits is carried out by administrative actions and immigration pro-justice measures. Constraints to law enforcement against criminal acts of abuse of residence permit immigration because the number of immigration officers who conduct surveillance and monitoring of the presence of foreigners is still lacking, lack of coordination and cooperation across sectors, lack of immigration master investigators for foreign languages other than English, limited number of operational support facilities and people. Lampung, which is non-cooperative, which reports or complaints from the public about the presence or activities of foreigners who are nearby is very limited. The suggestion from this research is that immigration officers should increase supervision of the presence and activities of foreigners. Pro-justice in law enforcement actions must be carried out, to ensure a deterrent effect on the perpetrators and other foreigners from committing the same immigration crime. In addition, Lampung people are expected to cooperate with immigration officers to make complaints about the presence or activities of foreigners who are nearby.

4. Research Methods

1) Spesifikasi Penelitian

This study uses descriptive analytical research specifications. According to Soerjono Soekanto and Sri Mamudji: ²

“Describe the situation or event that is being researched and then analyzed based on facts in the form of secondary data obtained from primary and secondary legal materials”.

According to Ronny Hanitijo Soemitro: ³

“Analytical descriptive method is a method that describes Indonesian legislation and applicable international legal provisions that are linked to legal theories in practice in connection with the problem under study.”.

² Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif*, (Jakarta: PT. Raja Grafindo, 2014), p. 12.

³ Ronny Hanitijo Soemitro, *Metodologi Penelitian Hukum dan Jurimetri*, (Jakarta: Ghalia Indonesia, 1990), p. 15.

Analytical descriptive research is intended to describe the data that is as accurate as possible about the abuse of visit visas, conditions or other symptoms by limiting the problem so that they are able to carry out the prevailing laws and regulations and can paint facts to get a picture of the abuse of residence permits so that they can draw conclusions, without using statistical formulas or mathematical formulas.

2) Research Approach

This study uses a Juridical-Normative approach. According to Ronny Hanitijo Soemitro, the approach or legal research uses approaches / theories / concepts and analysis methods that are included in dogmatic legal disciplines.⁴

Normative legal research is legal research conducted by examining library materials / secondary data only. This research focuses on the science of law and examines the rules of law that apply to law in general, especially on the study of law enforcement regarding the abuse of visit visas in terms of applicable laws (laws and regulations), where legal regulations are reviewed according to studies, literature, as well as data collection is done by making an inventory, collecting, researching, and reviewing various library materials (secondary data), both in the form of primary legal materials as well as secondary and tertiary legal materials.

3) Research Stage

The research stage used was carried out in 2 (two) stages, namely library research. Library research is research conducted to obtain theoretical data by studying reading sources that are closely related to the problems in this thesis research. This library research is called secondary data which consists of:

- a) Primary legal materials, according to Anthon F. Susanto, are binding legal materials consisting of laws and regulations relating to the object of research.⁵ In this paper the authors use the primary legal materials as follows:
 - The 1945 Constitution of the Republic of Indonesia 4th Amendment.
 - Law No. 8 of 1981 concerning the Criminal Procedure Code.
 - Government Regulation of the Republic of Indonesia Number 58 of 2010 concerning Amendments to Government Regulation Number 27 of 1983 concerning Implementation of the Criminal Procedure Code.
 - Law Number 6 of 2011 concerning Immigration.
- b) Secondary legal materials, according to Soerjono Soekanto, are materials that provide an explanation of primary legal materials, such as draft laws, research results, works from legal circles, and so on.⁶
- c) Tertiary legal materials, according to Soerjono Soekanto, are materials that provide instructions and explanations

for primary and secondary legal materials,⁷ such as: dictionaries, encyclopedias, data from the internet, articles, newspapers, and so on.

4) Method of Analysis

The analysis of the above data used qualitative and argumentative descriptive analysis methods. The description is a description of the legal materials as they are then followed by an evaluation in the form of an assessment of the legal materials. The legal materials are interpreted by the method of legal interpretation, both grammatical interpretation, systematic interpretation, authentic interpretation, which are then analyzed based on relevant legal theories and doctrines related to the problem.⁸

5. Results/ Findings

5.1 Implementation of Law Enforcement Against Crime of Immigration Based on Law Number 6 Year 2011 concerning Immigration and Law Number 8 Year 1981 concerning Criminal Procedure Law

Law enforcement is an effort to bring ideas about justice, legal certainty and social benefits into reality. The process of embodying ideas is the essence of law enforcement.⁹ Law enforcement does not merely mean the implementation of legislation, although in reality in Indonesia the tendency is like that, so the definition of "Law Enforcement" is so popular. There is even a tendency to interpret law enforcement as the implementation of court decisions. This narrow definition clearly contains weaknesses, because the implementation of legislation or court decisions, can actually disturb peace in our life.¹⁰

According to Joseph Goldstein, criminal law enforcement can be divided into 3 (three), including:

1) Total Enforcement

The scope of criminal law enforcement as formulated by the substantive criminal law of crime. This total enforcement of criminal law is impossible, because law enforcers are strictly limited by the criminal procedure law, which includes rules for arrest, detention, embezzlement, confiscation and preliminary examination.

2) Full Enforcement

Within the scope of which law enforcers are expected to uphold the law maximally. However, Goldstein considered this hope impossible to come true due to the limitations of time, personnel, investigative tools, funds and so on, all of which had to be discretionary.

3) Actual Enforcement

To overcome various problems in criminal law enforcement in an effort to tackle crime, the crime prevention policy is what is commonly known as "criminal politics". Using

⁴Ibid, p. 106.

⁵ Anthon F. Susanto, Penelitian Hukum Transformatif-partisipatoris: Fondasi Penelitian Kolaboratif dan Aplikasi Campuran (Mix Method) dalam Penelitian Hukum, (Malang: Penerbit Setera Prees, 2015), p. 163

⁶ Soerjono Soekanto, *Op.Cit.*, p. 52

⁷Ibid, p.52

⁸ Bahder Johan Nasution, Metode Penelitian Ilmu Hukum, (Bandung: Mandar Maju, 2008), p. 27

⁹ Satjipto Raharjo, Hukum dan Masyarakat, (Bandung: Penerbit Angkasa, 2001), p.15

¹⁰ Soerjono Soekanto, *op.cit.*, p. 5

measures in a fairly broad scope, namely by overcoming efforts through the penal route (criminal law) and through the non-penal route (not criminal law).¹¹

Law enforcement efforts must be systematic, so that the process of law enforcement and justice itself can be realized internally. Law enforcement is not merely the implementation of legislation, but there are inhibiting factors that can influence it, namely

- a) The legal factor,
- b) Law enforcement factors, namely the parties who form or implement the law.
- c) Facility and facilities factors that support law enforcement
- d) Community factors, namely environmental factors where the law is applied.
- e) Cultural factors, namely as a result of a creative taste based on human initiative in social life.¹²

In the same concept, Lawrence M. Friedman argues that the effective and successful act of suppression is very dependent on the reality of law enforcement. This is closely related to legal elements, namely the structure of the law, legal material (substance of the law), and legal culture in a society. The legal structure concerns law enforcement officers, then legal material includes statutory regulations, and legal culture is a living law adopted in a society, Friedman explained:

To begin with, the legal system has the structure of a legal system consist of elements of the kind, the number and size of court; their jurisdiction..., structure. Also means how the legislative is organized..., what procedures the police department follow, and go on, structure is a way is a kind of cross section of a legal system...a kind of still photograph, with free theaction.¹³

This means that the structure of the legal system consists of the following elements, the number and size of the courts, their jurisdiction (including the types of cases they hear), and the procedure for appeal from court to court. Structure also means how the legislature is organized, what can and cannot be done, what procedures are followed by the police and so on. So the legal structure (legal structure) consists of existing legal institutions intended to carry out existing legal instruments. An understanding of the substance of the law is as follows:

Another aspect of the system is its substance. By this means the actual rules, norms behavioral patterns of people inside the system ...the stress here is on living law not just rules in law goods.¹⁴

Another aspect of the legal system is its substance. What is meant by substance are the rules, norms and patterns of real human behavior within the system. So the substance of the

law (Legal substantiation) concerns the applicable laws and regulations which have binding power and become a guideline for law enforcement officers. Apart from the need for structural and substantial synchronization between civil servant investigators and police investigators, in carrying out investigations there is also a need for coordination. Coordination, according to Ricky W. Griffin, mentions the meaning of coordination is

"coordination is the process linking the activities of the various departments of organization" (koordinasi adalah suatu proses menghubungkan kegiatan-kegiatan dari bermacam-macam instansi organisasi).¹⁵

In Indonesia, immigration regulations are based on Law no. 6 of 2011 concerning Immigration stipulates procedures for people to enter and exit the territory of Indonesia which include administrative immigration actions as well as immigration crimes against violations of immigration norms. Every person who commits immigration violations, both Indonesian citizens and foreign nationals, can be subject to sanctions in accordance with their actions.⁴³ In the implementation of penalties and regulations of a country it can be seen from the legal system based on certain legal sources of norms. The legal system itself has the highest power in a sovereign state, and a sovereign country has various exclusive rights in the form of power, namely:

- 1) Power to control domestic matters;
- 2) Power to accept and expel strangers;
- 3) Privileges to open diplomatic representation in other countries;
- 4) Full jurisdiction over crimes committed by representatives in their territory. The state is said to be sovereign if a country has the highest power, namely regulations.

Even so, this supreme power has various boundaries, which are meant by various boundaries, namely the territory of a country. The definition of sovereignty as the highest power contains two important limitations in itself, namely:⁴⁴

- 1) Limited power over the borders of the state that has this power;
- 2) This power ends when the power of another country begins. The principle of state sovereignty states that the state has power over an area and the use of territorial rights. Sovereignty means that the state has full power to implement the rules and regulations that apply in a country. Thus it can be interpreted that in a state's sovereignty there is authority or jurisdiction inherent in the sovereignty itself. Jurisdiction is the authority owned by the state to implement the provisions of the national law of a sovereign state.

This is part of the implementation of sovereignty in the

¹⁵ Ricky W. Griffin, Management: second Edition, (Boston: Houghton Company, 1987), p. 311.

⁴³ Syahrin, M.A. & Saputra, S., 2019. Tindakan Hukum terhadap Orang Asing Mantan Narapidana yang Memiliki Kartu Pengungsi UNHCR dalam Perspektif Keimigrasian. Jurnal Ilmiah Kebijakan Hukum, 13(2), p.139.

⁴⁴ Subardjo, 2017. Kedaulatan Dan Sistem Perwakilan Di Dalam Negara.

¹¹ Muladi dan Barda Nawawi, Teori dan Kebijakan Pidana. (Bandung: Penerbit Alumni. 1996), p. 12.

¹² Soerjono Soekanto, *Op.Cit.*, p. 5

¹³ Lawrence M. Friedman, American Law, (New York: W.W. Norton And Company, 1984), p. 5-6.

¹⁴ *ibid*

state's jurisdiction in the various territorial boundaries inherent in each sovereign state.⁴⁵The national law in Indonesia that regulates population migration between countries is contained in the integration regulations. This regulation regulates every person who enters and leaves a country. As stated in the immigration regulations for foreign nationals, there are requirements on how foreigners can be granted visas, entry permits, stay permits and stay or be denied entry into Indonesian territory. With regard to these immigration regulations, every foreigner who has met the requirements can enter the territory of Indonesia after obtaining an entry token from the immigration official, the application of the entry sign in the process must be in accordance with the immigration selective policy.

This policy means that only foreign citizens who are useful, able to contribute to social, national economic, intellectual development as well as provide multi facets of added value to Indonesia can be granted entry permits. The process of population migration has various problems, namely illegal immigrants, human trafficking, people smuggling, and refugee. This problem is a problem that must be faced by a country and internationally.

Visas on arrival are given on the basis of benefits, do not cause security problems and are mutually beneficial. When passing through the TPI, the foreign citizen is granted a visit residence permit as a sign of entry given by immigration officials. A valid entry pass as a visiting residence permit is granted to:⁴⁶

- 1) Foreign nationals who are exempted from the obligation to have a visa;
- 2) Foreign nationals holding a visiting visa;
- 3) Foreign citizens who enter Indonesian territory in a state of emergency; or
- 4) Conveyance Crew.

In granting a residence permit there is immigration control of foreigners, immigration control of foreigners is carried out at the time of visa application, entering or leaving, and granting a residence permit is carried out by:

- 1) Collecting, processing and presenting data and information;
- 2) Compilation of a list of names of foreigners who are subject to deterrence or deterrence;
- 3) Supervision of the presence and activities of foreigners in Indonesian territory;
- 4) Taking photos and fingerprints; and
- 5) Other activities that can be justified legally.

As intended, immigration control of foreigners is carried out at the time of visa application, exit or entry, and the granting of a residence permit is carried out by:

- 1) Collection, processing, and presentation of data and information;
- 2) Compiling a list of names of foreigners who are subject

to deterrence or prevention;

- 3) Supervision of the presence and activities of foreigners in Indonesian territory;
- 4) Taking photos and fingerprints; and
- 5) Other activities that can be accounted for legally.

Various activities of foreigners while in the territory of Indonesia in the context of inspirational monitoring to find out the activities and whereabouts of foreigners can be carried out field surveillance of foreign citizens, namely monitoring the presence and activities of foreign citizens in Indonesian territory, including checking the presence of foreign citizens; activities of foreign citizens; as well as completeness of travel documents or residence permits held to foreigners who wish to visit Indonesia in the context of tours, social, cultural visits, business visits, or government duties by considering the principle of benefit. Every foreign citizen who deliberately misuses or carries out activities that are not in accordance with the intent and purpose of granting the residence permit granted to him may be subject to imprisonment for a maximum of 5 (five) years and a maximum fine of Rp. 500,000,000 (five hundred million rupiah). based on Article 122 (a) of Law Number 6 of 2011.

Immigration Officers have the authority to carry out immigration administrative actions against foreigners who are in Indonesian territory who carry out dangerous activities and are reasonably suspected of endangering security and public order⁵⁰ or not respecting or not obeying laws and regulations. (2) Immigration administrative measures as intended in paragraph (1) can be in the form of:

- 1) Inclusion in the list of prevention or deterrence;
- 2) Restriction, change or cancellation of residence permit;
- 3) Prohibition to be in one or several certain places in the territory of Indonesia;
- 4) The obligation to reside in a certain place in the territory of Indonesia;
- 5) Charging of expenses; and / or
- 6) Deportation from Indonesian territory. As in Article 75 paragraph 1 of Law Number 6 Year 2011

As it is known that anyone who is proven to have committed a criminal act which results in detrimental or harm to the community in a broad sense will be applied a punishment regulation that contains legal norms and criminal sanctions. As well as Law Number 6 Year 2011 contains criminal threats imposed on any foreigner or citizen himself who is found guilty of committing criminal offenses in the immigration sector. Because all criminal cases submitted to court for settlement, a process is required to obtain the truth in accordance with material facts or truths. In this series of processes, the most important thing is the process of evidence to find facts and aims to obtain the truth of an event which is very necessary to foster the judge's conviction because the judge must decide the case and pass the sentence. In accordance with the formulation of Article 183 Law No. 8 of 1981 concerning the Criminal Procedure Code (hereinafter referred to as KUHAP) which reads:

⁵⁰ Syahrin, Muhammad Alvi. "Penerapan Wewenang Penyidik Pegawai Negeri Sipil dalam Melakukan Penyidikan Tindak Pidana Keimigrasian." *Seminar Nasional Hukum Universitas Negeri Semarang*. Vol. 4. No. 01. 2018.

⁴⁵ Tasyrif, Y., 2000. Peraturan Perluasan Yurisdiksi Pidana Di Suatu Wilayah Negara. *Jurnal Hukum & Pembangunan*, 30(1), P.7.

⁴⁶ Karyadi, K. & Hestiana, M., 2016. Kualitas Pelayanan Pembuatan Tanda Izin Masuk Daerah Keamanan Terbatas Atau Kartu Pas Orang Di Unit Penyelenggara Bandar Udara Tjilik Riwut Palangka Raya. *Restorica: Jurnal Ilmiah Ilmu Administrasi Negara Dan Ilmu Komunikasi*, 2(2), Pp.34-36.

“A judge may not impose a sentence on a person unless with at least two valid pieces of evidence he is convinced that a crime actually occurred and that the defendant was guilty of committing it.”.

To arrive at the imposition of criminal sanctions against foreigners who perpetrate criminal acts of immigration through a process in accordance with the provisions of the Criminal Procedure Code and a basis for consideration of judges in decision making both in terms of juridical, socio-economic and other factors that affect law enforcement such as national interests and others Considerations as a basis for decision making are usually obtained from evidence and evidence presented at court and disclosed at the evidentiary stage. Then the judge conducts an evaluation, selection and reduction that is matched with the indictment, charges, plea (pledoi), replicas, duplicates or clues presented as facts so that the judge believes that the defendant is guilty of immigration crime. In the context of law enforcement, the judge can finally determine what punishment should be imposed on the defendant, after also considering the existence of aggravating and mitigating factors.

2. How to Improve the Role and Function of Civil Servant Investigators (PPNS) in Law Enforcement in the Immigration Sector

According to the Government Regulation of the Republic of Indonesia Number 58 of 2010 concerning Amendments to Government Regulation Number 27 of 1983 concerning the Implementation of the Criminal Procedure Code, Article 1 point 6 states that Civil Servant Investigating Officers, hereinafter referred to as PPNS officials, are certain civil servants. as referred to in the Criminal Procedure Code, both at the central and regional levels which are given special authority by law.

As part of a law enforcement institution, the rationale for Civil Servants to become Civil Servant Investigators must meet the requirements stipulated in the Regulation of the Minister of Justice Number: M-05.PW.07.03 Year 1984 regarding Proposing the Appointment and Dismissal of Civil Servant Investigators as stated in mentioned in Article 1, namely:¹⁶

- a) Civil servants with the lowest rank of Junior Administrators Level 1 (group II / b) who are in charge of investigations in accordance with the Law which is their respective legal basis;
- b) Have a minimum education of Senior High School or special education in the field of investigation or specifically in the field of technical operations or at least 2 (two) years of experience in the operational technical field. In such appointments, priority is given to civil servants who attend special education in the field of investigation;
- c) The list of assessments for the implementation of the work of civil servants (DP3) for 2 (two) consecutive years must be filled with good scores and in good health as stated by a doctor's statement.

¹⁶ Peraturan Menteri Kehakiman RI No. M-05.PW.07.03 Tahun 1984 tentang Petunjuk Pelaksanaan Pengusulan Pengangkatan dan Pemberhentian Penyidik Pegawai Negeri Sipil, Jakarta, 1984, Pasal 1 .

Then after the Civil Servant is appointed as a Civil Servant Investigator, he is assigned to enforce the criminal law regulations which include:

- 1) Orders and prohibitions on which violations against them by organs that are declared authorized by law are associated with (threats) of punishment; norms that must be obeyed by everyone;
- 2) The provisions that determine what means can be utilized in reaction to violations of the norms of penitentiary law or the extent of the laws on sanctions and regulations that are temporally or within a certain period determine the scope of work of the norms. That way, criminal law (should be) is aimed at upholding law order and protecting the legal community.

In conducting investigations into violations of Law no. 6 of 2011, carried out by PPNS Immigration did not always run smoothly and sometimes encountered various obstacles. These obstacles make it difficult for investigators to uncover a case or make clear a criminal case. These obstacles can come from within (internal) and from outside (extern). To improve the role and function of Civil Servant Investigators (PPNS) law enforcement in law enforcement in the immigration sector, these obstacles must be overcome. So to fix this, it can be done in the following ways:

- 1) Overcoming Internal Barriers, namely obstacles faced by investigators from within the Directorate General of Immigration itself, which consists of:
 - a) So far, PPNS Immigration is still a job that is attached to existing fields or activities, so that the investigative duties which are the responsibility of Immigration PPNS have not been fully handled. In general, PPNS Immigration does not only have investigative tasks that require high concentration and are very specific, but are also burdened with administrative tasks, even other tasks that are completely unrelated to law enforcement, so that investigative tasks have not been properly touched. To overcome this, the PPNS Immigration Office determines the priority scale in carrying out investigative tasks.
 - b) The limited personnel of the Immigration PPNS causes the handling of violations of the Immigration Law often runs less quickly. To overcome this, PPNS Immigration is always given motivation to work optimally with all existing limitations, both regarding the number of personnel or the budget..
 - c) Another thing related to the condition of the Immigration PPNS is that the quality of the resources is still inadequate. Until now there is no standard on Immigration PPNS Education, both regarding curriculum, length of education and education delivery. Therefore it is necessary to have a comprehensive immigration PPNS education standard in order to improve the quality, capability and integrity of PPNS.
- 2) External Barriers, are the obstacles faced by investigators from outside the Immigration Agency.
 - a) There is still a lack of public awareness to participate in reporting the presence of suspicious strangers in the neighborhood. To overcome this obstacle, socialization on immigration issues was

- carried out in collaboration with related agencies;
- b) There is still miscommunication or differences in perceptions between the police and the prosecutor's office in assessing the completeness of a case file. Action taken to overcome this obstacle is to always coordinate horizontally with fellow law enforcement agencies;
- c) Lack of caution or accuracy from the competent authorities in issuing population documentation against someone who should be suspected. To overcome this obstacle, it is necessary to increase supervision and caution against applicants for suspicious population documentation.

6. Conclusion

Every foreign citizen who deliberately misuses or carries out activities that are not in accordance with the intent and purpose of granting the residence permit granted to him may be subject to imprisonment and a fine under the Law on Immigration. Meanwhile, to arrive at the imposition of criminal sanctions against foreigners who perpetrate criminal acts of immigration through a process in accordance with the provisions of the Criminal Procedure Code, it is necessary to base judges' considerations in making decisions in terms of juridical, socio-economic and other factors that affect law enforcement such as national interests and others.

In conducting investigations into violations of Law no. 6 of 2011, carried out by PPNS Immigration did not always run smoothly and sometimes encountered various obstacles. To improve the role and function of Civil Servant Investigator (PPNS) law enforcement in law enforcement in the immigration sector, these obstacles must be overcome in ways such as determining the priority scale in carrying out investigative tasks by Immigration PPNS; provide motivation to work optimally for Immigration PPNS; create comprehensive immigration PPNS education standards in order to improve the quality, capability and integrity of PPNS; conduct outreach on immigration issues in collaboration with related agencies; carry out horizontal coordination with fellow law enforcement agencies; and increasing surveillance and prudence against applicants for suspicious population documentation.

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