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Implementation Of Law Number 6 Year 2011 Concerning Immigration Administrative Actions Against Policies Applicable At The Immigration Office

¹Achmad Aziz, ²Ady Arif, ³Gyan Samladandi Gumay

¹²³ Badan Pengembangan Sumber Daya Manusia Hukum Dan HAM
Kementerian Hukum Dan Hak Asasi Manusia RI

¹²³ Politeknik Imigrasi Jl. Raya Gandul No.4, Cinere, Depok, Jawa Barat, Telepon: (021)7530001

E-mail: ¹Achmad.aziz98@gmail.com, ²Adyarif99@gmail.com, ³gyangumay@yahoo.com

Abstract

The purpose of this research is to explain, analyze, and develop the law in immigration. Indonesia's strategic geographical location has always been a crossroads of world traffic, both air and sea traffic, it cannot be denied because of the strategic location of the Indonesian state, the traffic of foreigners entering or leaving the territory of the Indonesian state is very congested, foreigners entering the country are very dense. Indonesian territory certainly has goals and interests, thus immigration has a function to maintain the upholding of the sovereignty of the Indonesian state. In order to realize the principle of "selective policy" it is necessary to supervise foreigners. This supervision is not only when they enter, but as long as they are in the territory of Indonesia, including their activities. Immigration supervision includes the enforcement of immigration law, both administrative and criminal in nature. To prevent crime or criminal acts from occurring, immigration officers carry out super strict inspections of travel documents owned by people who want to enter or leave Indonesian territory.

Keywords : Passport, Immigration Control, crossing.

A. Introduction

The Indonesian state is a sovereign state consisting of a population or community, meaning that the Indonesian nation has the highest power to regulate people's lives. The people are included in one of the elements to fulfill the requirements for the formation of a state as mandated in Article 2 of Law Number 12 of 2006¹ concerning Citizenship which stipulates that "Those who become Indonesian citizens are the original Indonesian people and people from other nations. Authorized by law as a citizen". According to the explanation of the article, what is meant by "original Indonesians" are Indonesians who have been Indonesian citizens (WNI) since their birth and have never received another citizenship of their own free will. The strategic location of the State of Indonesia, located between the continents of Asia and Australia, and surrounded by the Pacific and Indian oceans, actually brings many benefits to Indonesia.

¹ "Undang-Undang 12/2006: Kewarganegaraan RI | Imigrasi Kotabumi," accessed October 8, 2021, <https://kotabumi.imigrasi.go.id/berita/uu-12-2006-kewarganegaraan>.

This strategic location makes Indonesia a country at the crossroads of world traffic. Indonesia's strategic geographical location has always been a crossroads of world traffic, both air and sea traffic, it cannot be denied because of the strategic location of the Indonesian state, the traffic of foreigners entering or leaving the territory of Indonesia is very congested, foreigners entering the country are very dense. Indonesian territory certainly has goals and interests, thus immigration has a function to maintain the upholding of the sovereignty of the Indonesian state. According to Law No. 9 of 1992² concerning immigration, the aspect of immigration services implies facilitating and facilitating people entering and leaving the territory of Indonesia. In the service aspect, including the arrangement of Visa exemption for foreigners from certain countries. These various forms of services cannot be separated from the national interest, therefore any immigration facilities provided to foreign nationals from one or several certain countries are carried out by as much as possible trying to apply the principle of reciprocity that allows Indonesian citizens to enjoy the same facilities from other countries. who get immigration facilities in Indonesia. In order to realize the principle of "selective policy" it is necessary to supervise foreigners. This supervision is not only when they enter, but as long as they are in the territory of Indonesia, including their activities. Immigration supervision includes the enforcement of immigration law, both administrative and criminal in nature. Entering with developments in the international world, there have been changes in the country that have changed the paradigm in various aspects of the state administration along with the rolling of reforms in all fields.

These changes have had a very wide influence on the creation of equal rights and obligations for every Indonesian citizen as part of human rights. With these developments, every Indonesian citizen has the same opportunity in exercising his or her right to leave and enter the Indonesian Territory. According to Law number 6 of 2011 concerning Immigration³, in carrying out its duties and functions, the Directorate General of Immigration carries out immigration supervision of Foreign Citizens and Indonesian Citizens. Supervision of Indonesian citizens is carried out during the passport application process, when entering or leaving the territory of Indonesia, and while being abroad. The need to maintain the door of state sovereignty to avoid potential threats that enter from various angles, one example of which is like people smuggling. Immigration has the main duties and functions of immigration including the following: Regulation of various matters regarding the traffic of people going out, entering and staying from and into the territory of the Republic of Indonesia. Regulations regarding various matters regarding the supervision of foreigners in the territory of the Republic of Indonesia. Examination of travel documents, both countries left, countries visited, and countries traversed.

From the immigration point of view that within the scope of territorial boundaries, immigration serves to minimize negative impacts and encourage positive impacts from temporary jurisdictions arising from the temporary presence of foreigners while in Indonesian territory. Therefore, the immigration function can be on

² "UU No. 9 Tahun 1992 Tentang Keimigrasian [JDIH BPK RI]," accessed October 8, 2021, <https://peraturan.bpk.go.id/Home/Details/46601/uu-no-9-tahun-1992>.

³ "2-Dengan Persetujuan Bersama DEWAN PERWAKILAN RAKYAT REPUBLIK INDONESIA Dan PRESIDEN REPUBLIK INDONESIA" (n.d.).

land, sea and air in the territory of Indonesia. Immigration checkpoints (TPI) are divided into three parts, namely land immigration checkpoints, sea immigration checkpoints, air immigration checkpoints, immigration checks can also be carried out in places that are not immigration checkpoints, based on article 74 of the Regulation of the Minister of Law and Human Rights number. 44 of 2015 concerning how to check in and out of Indonesian territory at TPI under certain circumstances, immigration checks can be carried out in other places that are not TPI which function as Immigration Checkpoints based on the approval of the director general⁴, namely as follows:

- 1) Immigration checks at places that are not immigration checkpoints.
- 2) Immigration checks on the means of transportation on the way to the territory of Indonesia.
- 3) Immigration checks on military crews or warships and foreign crossing ships only apply to foreign nationals.
- 4) Immigration checks in other places that function as immigration checkpoints and only apply to foreign nationals.
- 5) Immigration checks on foreign tourist ship crews.
- 6) Immigration checks for foreigners who enter with a limited stay visa in the context of work (Foreign Workers).

For immigration checks of Indonesian citizens who enter or leave the territory of Indonesia, Article 33 and 34 of the Regulation of the Minister of Law and Human Rights Number 44 of 2015, checks travel documents, conducts interviews, scans docjal, checks the list of prevention (Out of Indonesia) and stamping the sign in or out. According to Law no. 6 of 2011 concerning immigration, article 14:

- 1) Every Indonesian citizen cannot be refused entry into the Indonesian Territory.
- 2) If there is any doubt about the Travel Document of an Indonesian citizen and/or his/her citizenship status, the person concerned must provide other valid and convincing evidence showing that the person concerned is an Indonesian citizen.
- 3) In order to complete the evidence as referred to in paragraph (2), the person concerned may be placed in an Immigration Detention Center or Immigration Detention Room.

B. Research Methods

This study aims to explain and develop the immigration function in the aspects of immigration administrative actions. This function is of course very important because it must describe and explain and develop the function of immigration administrative actions contained in Article 75 of Law No. 6 of 2011 concerning Immigration. The research method used is normative juridical, namely tracing the fines for damaged and lost passports by Indonesian citizens. The approach used is a statutory approach and a conceptual approach. The results of the study show that Indonesian citizens are subject to fines if their passports are lost or damaged, while the role of the function of article 75 is devoted to foreign citizens.

⁴ Peraturan Menteri Hukum dan HAM RI, "Peraturan Menteri Hukum Dan HAM RI Nomor 44 Tahun 2015 Tentang Tata Cara Pemeriksaan Masuk Dan Keluar Wilayah Indonesia Di Tempat Pemeriksaan Imigrasi," no. 1834 (2015), www.peraturan.go.id.

C. Result and discussion

1. Definition of Immigration Administrative Acts (TAK)

Let's discuss the words of Immigration Administrative Actions, Actions in the Big Indonesian Language Dictionary (KBBI)⁵ have 2 meanings, namely steps and actions or something that is done or something that is taken action or steps, then administrative is something that is concerned with administration or affairs that have in relation to administration, in other words⁶, it is an office affair or not a business in reality on the ground. And finally there is the word Immigration based on the basic word, namely Immigration which means the movement of people from one country to another with the aim of settling, then the definition of Immigration according to Law number 6 of 2011, Immigration is a matter of traffic of people entering or leaving the territory. Indonesia and its supervision in order to maintain the upholding of the sovereignty of the Indonesian state. In terms of migration, it can be concluded that immigration has a main task, namely traffic, supervision of foreigners and Indonesian citizens and then maintaining the upholding of the sovereignty of the Republic of Indonesia.

Immigration Administrative Actions are administrative sanctions given to Foreign Citizens (WNA) determined by the Immigration Officer who is on duty and has the authority, and this sanction is outside the judicial process. In the sense stated in the Act, it can be interpreted that TAK is an action given by the Immigration Officer to Foreigners who have errors in the administrative field and are not intended for Indonesian Citizens.

In the Government Regulation of the Republic of Indonesia Number 31 of 2013 the same thing is explained in Article 1 paragraph 23 that TAK is an administrative sanction given to Foreigners by Immigration Officers⁷ outside the legal process of justice. It is not explained again whether TAK can be given to Indonesian citizens or not because in 1 Law and its derivatives there is no detailed explanation regarding the TAK. It is concluded that TAK is only imposed on foreigners who are in Indonesia and then violate administrative provisions and are given administrative sanctions by the authorized Immigration Officer outside the judicial process.

2. Types of Immigration Administrative Actions

In article 75 paragraph 1 which reads "Immigration officials are authorized to take Immigration Administrative Actions against Foreigners who are in the Territory of Indonesia who carry out dangerous activities and are reasonably suspected of endangering security and public order or not respecting or disobeying the laws and regulations." This means that immigration officials have the authority to take action

⁵ "Kamus Besar Berbahasa Indonesia (KBBI) <https://Lektur.Id/Arti-Tindak/>. - Penelusuran Google," accessed October 8, 2021,

[https://www.google.com/search?q=Kamus+Besar+Berbahasa+Indonesia+\(KBBI\)+https%3A%2F%2Flektur.id%2Farti-tindak%2F.&oq=Kamus+Besar+Berbahasa+Indonesia+\(KBBI\)+https%3A%2F%2Flektur.id%2Farti-tindak%2F.&aqs=chrome..69i57.1165j0j7&sourceid=chrome&ie=UTF-8](https://www.google.com/search?q=Kamus+Besar+Berbahasa+Indonesia+(KBBI)+https%3A%2F%2Flektur.id%2Farti-tindak%2F.&oq=Kamus+Besar+Berbahasa+Indonesia+(KBBI)+https%3A%2F%2Flektur.id%2Farti-tindak%2F.&aqs=chrome..69i57.1165j0j7&sourceid=chrome&ie=UTF-8).

⁶ "Kamus Besar Berbahasa Indonesia (KBBI) <https://Jagokata.Com/Arti-Kata/Administratif.Html>. - Penelusuran Google," accessed October 8, 2021,

[https://www.google.com/search?q=Kamus+Besar+Berbahasa+Indonesia+\(KBBI\)+https%3A%2F%2Fjagokata.com%2Farti-kata%2Fadministratif.html.&oq=Kamus+Besar+Berbahasa+Indonesia+\(KBBI\)+https%3A%2F%2Fjagokata.com%2Farti-kata%2Fadministratif.html.&aqs=chrome..69i57.1304j0j7&sourceid=chrome&ie=UTF-8](https://www.google.com/search?q=Kamus+Besar+Berbahasa+Indonesia+(KBBI)+https%3A%2F%2Fjagokata.com%2Farti-kata%2Fadministratif.html.&oq=Kamus+Besar+Berbahasa+Indonesia+(KBBI)+https%3A%2F%2Fjagokata.com%2Farti-kata%2Fadministratif.html.&aqs=chrome..69i57.1304j0j7&sourceid=chrome&ie=UTF-8).

⁷ "PP No. 31 Tahun 2013 Tentang Peraturan Pelaksanaan Undang Undang Nomor 6 Tahun 2011 Tentang Keimigrasian [JDIH BPK RI]," accessed October 8, 2021, <https://peraturan.bpk.go.id/Home/Details/5363/pp-no-31-tahun-2013>.

against foreigners who carry out activities that are dangerous and endanger state security and order or do not follow the laws in force in Indonesia and will result in threatening the sovereignty of the State of Indonesia. What is categorized as TAK by the Indonesian Immigration Law are as follows:

a) Inclusion in the list of Prevention or Deterrence;

If there is a Foreigner who is subject to a TAK sanction as well as he is still in a criminal process in Indonesia, the Foreigner will be prevented from leaving Indonesia until the criminal process against him is completed. During the criminal period the Foreigner is not allowed to leave the State of Indonesia and all immigration systems will include the Foreigner in the list of bans.

b) Restriction, change or cancellation of residence permit

If there is a Foreigner who makes falsification of the travel documents that he carries and is not included in the criminal realm, the Foreigner and his residence permit have been entered into the data, there will be a cancellation of the Foreigner's residence permit.

c) Prohibition to be in one or several certain places in the Unitary Territory of the Republic of Indonesia.

For certain reasons, foreigners can be ordered by the Indonesian government to be prohibited from going to some or a place for the reason of being afraid of doing things that can threaten the safety of the foreigner himself and or the sovereignty of the country.

d) The requirement to reside in a certain place in the Territory of the State of Indonesia. Foreigners have to be in a certain area the same as City/Provincial or village prisoners because of something related to the State.

e) Imposition of Charges In the case of Law no. 6 of 2011 stipulating that TAK expenses can only be imposed by foreigners such as fines if the residence permit that he has has passed the time limit that has been determined when he applied for the residence permit.

f) Deportation or expulsion from Indonesian Territory deportation is a forced act or expulsion of foreigners from the territory of Indonesia. For example, typing Foreigners overstay for more than 60 days or Foreigners who are unable to pay the specified load fees.

Deportation can also be carried out against Foreigners who are in the Territory of Indonesia with the aim of avoiding the ongoing legal process in their country or the general language is International Fugitives or People wanted because of a legal problem/case. So in that case Indonesia must repatriate the foreigner, otherwise Indonesia has violated applicable international law and will receive sanctions that have been stipulated in the United Nations (United Nations) conference.

3. Travel Documents of the Republic of Indonesia

Implementation of services for making RI travel documents (passports). Based on the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 8 of 2014 concerning Ordinary Passports and Travel Letters Like Passports. The Minister of Law and Human Rights regulation explains the procedures that need to be taken by the applicant to obtain the document. Legally, the procedure has been known and understood by the public or the wider community openly or transparently to the applicant (citizen / community). As an effort to socialize the procedure, all

immigration offices in Indonesia have made a procedure chart in the form of a leaflet which is placed in the service waiting room. This is so that applicants can easily access information about the procedure. Meanwhile, at the Immigration Office, officers are also placed as customer service to explain to applicants if they still do not fully understand the information⁸.

Passport turnaround time. It has been explained in the procedure for making a passport, that a passport can be obtained by an applicant if the applicant has sufficient or meets the requirements and follows the steps at the latest after the passport is completed, which is after 4 working days. Regarding punctuality in service, the Immigration Office employees at the passport service section have tried to make the best use of time in working to serve passports to applicants. We can all see that at the immigration office in Indonesia there have been no complaints from applicants explaining the delay in making passports.⁹

4. Types of passport

Indonesia has There are three types of passports¹⁰. Diplomatic Passport, Service Passport, and Ordinary Passport. The following is an explanation of the types of Indonesian passports: (1) Ordinary Passport is a Travel Letter of the Republic of Indonesia which is given to Indonesian Citizens (WNI) who will travel outside or enter the territory of the Republic of Indonesia. There are two types of ordinary passports, namely ordinary non-electronic passports and electronic passports. The location of this passport differentiator is on the electronic passport chip. Non-electronic passports do not have chips. Electronic passports have a higher price than ordinary non-electronic passports. And regarding travel documents such as passports, Travel Letters like Passports for Indonesian citizens are given to Indonesian citizens under certain circumstances, if the Ordinary Passport cannot be given in the context of returning to Indonesia because the person concerned is in a country illegally without being accompanied by a Travel Certificate of the Republic of Indonesia. This type of passport has been regulated on the legal basis of Government Regulation Number 31 of 2013 concerning the Implementation of Law Number 6 of 2011 concerning Immigration¹¹. Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 8 of 2014 concerning Ordinary Passports and Travel Letters Like Passports (2) Diplomatic Passports This passport is issued for Indonesian citizens who will travel outside the territory of Indonesia in the context of placements or diplomatic trips. This type of passport has been regulated on the legal basis of Government Regulation Number 31 of 2013 concerning the Implementation of Law Number 6 of 2011 concerning Immigration. This passport is commonly used by civil servants, members of the TNI/POLRI, and members of the DPR, DPD, and MPR¹². (3) This Passport Service

⁸ Valentinus Lucky H, Adam Idris, and . Masjaya, "IMPLEMENTASI PELAYANAN DOKUMEN PERJALANAN REPUBLIK INDONESIA (PASPOR) DI KANTOR IMIGRASI KELAS I KOTA SAMARINDA," *Jurnal Administrative Reform* 3, no. 1 (July 15, 2017): 161–172, accessed October 8, 2021, <http://e-journals.unmul.ac.id/index.php/JAR/article/view/559>.

⁹ Ibid.

¹⁰ "Varian / Jenis-Jenis Paspor RI - Kantor Imigrasi Kelas I TPI Balikpapan," accessed October 8, 2021, <https://kanibalikpapan.kemenkumham.go.id/varian-jenis-jenis-paspor-ri/>.

¹¹ "Permohonan Paspor Baru Untuk Masyarakat Secara Umum - Direktorat Jenderal Imigrasi Indonesia," accessed October 8, 2021, <https://www.imigrasi.go.id/id/permohonan-paspor-baru-untuk-masyarakat-secara-umum/>.

¹² "Permohonan Paspor Baru Luar Negeri - Direktorat Jenderal Imigrasi Indonesia," accessed October 8, 2021, <https://www.imigrasi.go.id/id/permohonan-paspor-baru-luar-negeri/>.

Passport is basically almost the same as a diplomatic passport in terms of submitting an application. Service Passports are issued for Indonesian citizens who will travel outside the territory of Indonesia in the context of non-diplomatic placements or official trips. Service passports have also been regulated on the legal basis of Government Regulation Number 31 of 2013 concerning the Implementation of Law Number 6 of 2011 concerning Immigration¹³.

Immigration services (Article 1 point 3 of Law Number 6 of 2011) Immigration as a government agency that provides services to the community. Services provided to the community include¹⁴:

- a) Provision of Travel Letters to Indonesian Citizens who wish to travel across countries. However, this provision must be in accordance with predetermined procedures and stages.
- b) Granting Immigration Permits to foreign nationals residing in Indonesia. This grant can be in the form of an extension of the residence permit and the issuance of a limited stay permit card by the local immigration office
- c) Issuance of visas to foreign nationals who will enter the territory of Indonesia according to the intent and purpose of their arrival to Indonesia. This service is provided by the Directorate General of Immigration as the institution authorized to issue visa approvals.
- d) Granting entry permits to foreign nationals as well as Indonesian citizens to the Indonesian territory legally. This service is provided at Immigration Checkpoints (TPI), both at airports, seaports and land.

Very strict supervision is carried out by immigration for Indonesian citizens and foreign citizens with the aim of creating a life that is in accordance with applicable regulations¹⁵.

5. Cases of Damage/Loss of Indonesian Citizens' Passports at the East Jakarta immigration office :

- a) May 2021
 - 1) Changes in five people's data
 - 2) Passport lost expires seven people
- b) June 2021
 - 1) Lost passport expired for sixteen people
 - 2) Passports that are lost are still valid for four people
 - 3) Changes to one person's data.
- c) July 2021
 - 1) Passport lost, expired five people
 - 2) Changes to one person's data.
- d) August 2021
 - 1) Lost passport expires 1 person
 - 2) One person's damaged passport.

¹³ "Kedutaan Besar Republik Indonesia , Di NUR-SULTAN, , KAZAKHSTAN," accessed October 8, 2021, https://kemlu.go.id/nur-sultan/id/pages/paspor_diplomatik_dan_dinas/400/about-service.

¹⁴ M.Iman Santoso, "Perspektif Imigrasi, Dalam Pembangunan Ekonomi Dan Ketahanan Nasional," no. 0312078103 (2004): 18.

¹⁵ Tinggal D I Indonesia and Oleh Alan Hasan, "Pengawasan Dan Penindakan Keimigrasian Bagi Orang Asing Yang Melebihi Batas Waktu Izin Tinggal Di Indonesia," *Lex Et Societatis* 3, no. 1 (2015): 5–13.

The criteria for a damaged passport are as follows:

- 1) Tear
- 2) Perforated
- 3) Strike out
- 4) Wet
- 5) Folded

Based on Permenkumham No. 8 of 2014 article 35¹⁶, the passport is said to be damaged in such a way that it causes the information in it to be unclear, or gives the impression that it is no longer appropriate as an official document. Based on the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 8 of 2014 and the latest Government Regulation Number 28 of 2019, a damaged passport is subject to a fine of IDR 500 thousand rupiah¹⁷. And for lost passports, a bigger fine, worth Rp. 1 million rupiah. A damaged or lost passport may not be subject to a fine if the passport is damaged or lost during force majeure. Based on the Regulation of the Minister of Finance (Permenkeu) RI Number 51/PMK.02/2020. This Ministerial Regulation regulates the setting of a zero rupiah tariff for services for the cost of passports lost or damaged due to force majeure or force majeure conditions. In the Minister of Finance it is stated that any lost or damaged passport holders are no longer subject to fines. These conditions, as stated in Article 2 of the Minister of Finance No.51/PMK.02/2020¹⁸, in the event of force majeure such as floods, earthquakes, fires, riots, and other disasters determined by the authorized agency. It should also be remembered that in applying for a new passport to replace a damaged or lost passport due to force majeure, the applicant must include a number of information. Consists of name, domicile address, place and date of birth, occupation and reason for application. The application letter is addressed to the head of the immigration office or the relevant immigration official at the place where the applicant will apply for a new passport. The applicant then takes it to the nearest immigration office or representative of the Republic of Indonesia abroad. The data from the documents brought by the applicant will later be used as the basis for immigration officers to analyze whether the applicant has been approved for his application.

In the condition that the application is received by the head of the immigration office or the head of the representative of the Republic of Indonesia abroad, the relevant official will issue a statement letter of approval for the imposition of a tariff of Rp.0 to the applicant. Furthermore, the applicant will carry out the stages of taking biometric data and paying the normal fee for passport processing without being subject to fines.

D. Conclusion

After several discussions by the author and several examples of cases taken and data on passport damage and passport replacement at the immigration office, the fine for loss or damage to passports against Indonesian citizens is part of the Immigration

¹⁶ Kemenkumham, "Permenkumham No. 8 Tahun 2014," no. 879 (2014): 2004–2006.

¹⁷ "Ganti Paspor Hilang Atau Rusak Dikenai Denda," accessed October 8, 2021, <https://www.imigrasi.go.id/id/2020/10/20/ganti-paspor-hilang-atau-rusak-dikenai-denda/>.

¹⁸ "Denda Rp 0 Untuk Paspor Hilang Atau Rusak Karena Kondisi Force Majeur," accessed October 8, 2021, <https://www.imigrasi.go.id/id/2020/06/24/denda-rp-0-untuk-paspor-hilang-atau-rusak-karena-kondisi-force-majeur/>.

Administrative Action or TAK but is not listed in the Immigration Act (Article 75 of Law Number 6 of 2011), fines for loss or damage to passports (not due to natural disasters) against Indonesian citizens are included in TAK in the section on the imposition of Burden Fees in Article 75, To fulfill the lack of a few points in the explanation of the Law Number 6 of 2011 concerning Immigration, the author gives suggestions to further review the Immigration Law and improve or add points that are lacking because it will make it a legal loophole.

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