

Law Enforcement of Deportation By Medan Immigration Detention Center Against Foreigners Who Commit Immigration Crimes in North Sumatera

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Abstract

A country has the right to carry out deportation actions against foreign nationals who are in its territory. However, even though the act of deportation is law enforcement which is a forced action, in practice it cannot violate humanitarian values and human rights. Article 133 of Law Number 6 of 2011 concerning Immigration explains that every person who deliberately enters and exits areas of Indonesia that do not undergo inspection by Immigration Officials at Immigration Checkpoints can be punished with imprisonment for a maximum of 1 (one) year and/or a fine of a maximum of 100,000,000 (one hundred million rupiah). In this journal using qualitative analysis to analyze data obtained from legal materials based on laws and regulations, or the researcher's own opinion. This type of research is normative legal research. This research is a legal application research, which attempts to analyze the application of immigration rules, namely regarding the Enforcement of Deportation Law by the Immigration Detention Center of Medan Against Foreigners Who Commit Immigration Crimes in North Sumatra. In Indonesia, several reasons that can cause a foreign citizen to be deported include: being listed on a deportation list, not having valid travel documents, having fake immigration documents, not having a visa (except those exempted from visa requirements), providing false information when applying for a visa, suffering from a contagious disease that endangers public health, being involved in international crimes and transnational organized crime, being on a wanted list for arrest by a foreign country, being involved in treason against the Government of the Republic of Indonesia and being involved in a prostitution networks, human trafficking, and human smuggling. Deportation is a forced action to remove a foreigner from the territory of Indonesia related to legal issues, so it is necessary to implement immigration prevention and deterrence measures. Prevention and deterrence are special authorities regulated in immigration law, aiming to prevent anyone from leaving the territory of Indonesia and preventing anyone from entering the territory of Indonesia, deportation is also one of the Immigration Administrative Actions that can be taken by Immigration Officers against foreigners outside the judicial process.

Keywords: Deportation, Foreigners, Crime, Migration.

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Background

Immigration is a vital State Institution for the movement of people between countries, Immigration itself is a matter of the movement of people entering or leaving the territory of Indonesia and its supervision in order to maintain the sovereignty of the state. In the administrative function of immigration is concerned with administrative immigration actions. Administrative immigration actions are usually carried out if there is misuse of residence permits or violations of both regulations and norms that apply in society by foreign citizens living in the territory of the Republic of Indonesia. The country of Indonesia has various attractions such as natural resources and tourism that cause foreigners to want to visit and live in Indonesia.

Immigration Detention Center or Rudenim is a technical implementation unit under the Directorate General of Immigration which has the task and function to carry out enforcement tasks, isolation and repatriation tasks and expulsion/deportation, and as a temporary shelter for foreigners who are subject to administrative immigration actions, Law Number 6 of 2011 concerning Immigration states that Immigration Detention Centers can be established in the capital city of the country, province, district and city. Currently, Immigration Detention Centers are spread across 13 regions in Indonesia, one of which is in the city of Medan, Medan Immigration Detention Center has a working area ranging from Aceh Province to North Sumatra Province.

One of the real instruments in immigration services for foreigners is immigration permits. Immigration permits for foreigners, either in the form of visas or entry stamps at Immigration Checkpoints, serve as legality for the presence of foreigners in Indonesian territory. According to the Immigration Law, residence permits are granted to foreigners according to the type of visa they hold. Immigration residence permits consist of 5 types, namely:

1. Permission diplomatic stay is granted to foreigners who enter Indonesian territory with a diplomatic visa;
2. Permission Official stays are granted to foreigners who enter Indonesian territory with an official visa;
3. Permission Visiting stay, granted to foreigners who enter Indonesian territory with a visiting visa or to children who are newly born in Indonesian territory and at the time of birth the father and/or mother hold a visiting stay permit;
4. Permission limited stay is granted to foreigners who enter Indonesian territory with a limited stay visa;
5. Permission Permanent residence is granted to foreigners holding limited residence permits who have been in Indonesia for 5 consecutive years.

In reality, immigration residence permits are often misused by several foreigners in Indonesia, such as carrying out activities that are not in accordance with the granting of the residence permit they have, or carrying out acts that are contrary to the regulations, laws and norms in force in Indonesia, such as carrying out acts that violate the law or carrying out acts that are dangerous and are suspected of endangering public security and order. Immigration law is part of the substance of State Administrative Law which functions as an organizer of state administration or an organizer of government administration. (Iman Santoso, 2004: p. 1). The immigration function regulated in Law Number 6 of 2011 concerning Immigration aims to implement and determine policies in the immigration sector. Immigration law also regulates the rights and

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obligations of foreign citizens in obtaining immigration services, especially in terms of immigration permits. The consequence of the movement of people is the many immigration violations, both administrative violations and immigration crimes committed such as inter-country traffic without going through inspection by immigration officials at immigration checkpoints, misuse of immigration permits, passport forgery, visa forgery and so on. Based on this reality, the legal process of *pro justisia* and non justisia is part of the consequences of immigration violations, so it is inevitable that the challenge for immigration officials to be able to carry out their functions as law enforcers. Efforts regarding immigration administration actions can be in the form of prevention, deterrence, cancellation of residence permits, prohibitions on being in certain places, the requirement to occupy a specified place, the imposition of burden fees and deportation for foreigners who commit dangerous acts and also violate the regulations and norms applicable in Indonesia.

Foreigners who enter Indonesian territory without going through immigration checkpoints are often closely related to human rights issues and the arrival of refugees in Indonesian territory, human smuggling perpetrators that occurred in North Sumatra, precisely in Langkat Regency in May 2024, around 51 people suspected of being Rohingya ethnic refugees arrived in the waters of Kwala Langkat Village, Tanjung Pura District using a ship, after going through the identity verification process, 22 Bangladeshi citizens were found to have entered with Rohingya ethnic refugees, the identity verification process involved consular representatives of the Bangladesh Embassy, the Directorate of Immigration Cooperation, the Immigration Division of the Ministry of Law and Human Rights of North Sumatra, the Medan Immigration Detention Center, Tanjung Pura Police and Koramil 11/Tanjung Pura, until September 2024 the deportation of the 22 Bangladeshi citizens had been carried out in stages.

If we refer to Law Number 6 of 2011 concerning immigration, then the 22 Bangladeshi citizens have fulfilled the requirements in Article 113, Any person who intentionally enters or leaves Indonesian territory without being checked by an Immigration Officer at an Immigration Checkpoint as referred to in Article 9 paragraph (1) shall be punished with imprisonment for a maximum of 1 (one) year and/or a maximum fine of IDR 100,000,000.00 (one hundred million rupiah) , however, administrative immigration action in the form of deportation is a law enforcement measure that can be taken by immigration officers as a repressive measure that can be taken in accordance with applicable law.

Formulation of The Problem

1. How does the deportation of foreigners who commit immigration crimes occur?
2. What are the consequences of deporting foreigners who commit immigration crimes?

Theoretical Study

A theoretical framework is an abstract concept derived from intellectual contemplation or perspective that attempts to identify related social aspects recognized by the researcher. Theoretical reflection always accompanies every research effort because of the relationship between theory and the process of collecting, organizing, and examining data.

Research as a scientific endeavor requires the use of theories containing assumptions, concepts, definitions, and frameworks to explain social phenomena systematically by building relationships between various concepts. Given the research problems above, various theories are

used as analytical instruments to deconstruct the research problems discussed in this journal. The following theories can be mentioned as follows:

A. Grand Theory: Theory Enforcement Law Soerjono Soekanto

In Dutch, the term law enforcement is *rechtstoepassing* or rechtshandhaving. In English, law enforcement includes macro and micro concepts. Macro encompasses all aspects of social, national, and state life. Micro is limited to the judicial process which includes the stages of investigation, prosecution, and implementation of criminal decisions that have permanent legal validity. ultimately culminating in the translation of these values to build and maintain a peaceful social order.

Disturbances in law enforcement can arise when there is no harmony between the “trinity” of values, rules, and behavioral patterns. These disturbances occur when paired values clash, causing conflicting rules and behavioral patterns, thus disrupting the peace of community life.

The government's efforts to uphold justice in society are realized through law enforcement. However, the current implementation of law enforcement is very contrary to the basic principles that must be upheld. Instead of protecting individual rights, those who should be protected by law are actually oppressed. It is important to examine the phenomenon where the law is unable to provide a sense of security, justice, and security.

Law enforcement has the same purpose as law, which is to achieve certain desired results. The purpose of law is to uphold order and justice, and if the law is ignored, then order will not be achieved. Obedience and understanding of the law by the community not only has an impact on order and justice, but also contributes to shaping the legal culture of a society by regulating its behavior.

B. Applied Theory: Theory Effectiveness and Theory Legal certainty

The word "effective" means "effective" in English, and means "successful" or "successful". The general scientific dictionary defines effectiveness as the accuracy of application, beneficial results, or support for a goal. According to the Great Dictionary of the Indonesian Language, what is meant by "effective" is a regulation that has an impact (effect, influence, impression) since it was enacted.

On the other hand, effectiveness itself is a situation used for supervision. in terms of law "he" here means the authorized party, namely the police. The word effectiveness itself comes from the word effective which means an action produces the desired result or outcome. Efficient work means effective because it is seen in terms of the results of the goals achieved or achieved by the action.

Basically, effectiveness is the level of success in achieving a goal. Effectiveness functions as a measure that shows the extent to which the goals that have been set can be achieved. In the sociology of law, law acts as a tool of social control that aims to create balance in society. This aims to produce a harmonious situation between social stability and the changes that occur. In addition, law also has another function: as a tool of social engineering, namely a tool for reforming society, law plays a role in changing the way people think from traditional to rational or modern. Legal effectiveness is a process that aims to ensure that the implementation of the law runs effectively.

If you want to know the level of effectiveness of a law, then it can be said that the legal regulation in question is effective, unless it can first be measured to what extent the law is followed by the majority of subjects. However, even if the rules adopted are said to be valid, their validity

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can still be questioned, because whether someone follows a legal rule depends on the interests of that person. As mentioned, there are various concerns, including compliance, identification, and internalization.

Gustav Radbruch's theory of legal certainty states that everything that is created must have a purpose and goal. All legal regulations have a purpose, and that purpose is the value that society wants to realize. There are three main legal purposes, namely:

- a. Justice for balance
- b. Certainty for determination
- c. Benefits for happiness

Legal certainty requires the creation of general regulations or general rules that apply universally, and general laws to achieve legal certainty (for the sake of order and justice for all Indonesian people, obligations arise). This is done to create a safe and peaceful atmosphere in the wider community. Regulations and the implementation of these regulations create legal certainty. Legal certainty refers to a situation in which human actions, whether individual, group, or organization, can be bound within a framework determined by legal regulations.

Research Methods

In this journal using qualitative analysis to analyze data obtained from legal materials based on laws and regulations, or the researcher's own opinion. Data analysis is an explanation of how data processing works. Therefore, it can be information and material used in research. This type of research is normative legal research. In other words, research on legal norms contained in a law, the types of data used in this study are secondary data and primary data.

This research is a legal application research, which attempts to analyze the application of immigration regulations, namely regarding Law Enforcement. Deportation by Medan Immigration Detention Center Against Foreigners Who Commit Immigration Crimes in North Sumatra. The type of research conducted is empirical legal research, the type of data used in this study is secondary data and primary data. Which refers to the application of law from regulations to Indonesian people and foreigners in Indonesia.

Results And Discussion

Deportation is a forced act to remove foreigners from Indonesian territory. There is no explicit regulation regarding the period of deportation, there is only a period of time for foreigners to wait before being deported. According to Law No. 9 of 1992 concerning Immigration, immigration services and supervision are carried out based on the principle of selective policy. This states 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, and do not have bad intentions towards the people or the state, can be granted permission to enter and exit the territory of the Republic of Indonesia in accordance with Pancasila and the 1945 Constitution. The principle of this selective policy states that individuals who can provide benefits will be granted permission to enter, while those who can endanger the security and order of the nation and state will not be allowed to enter or reside in the territory of the Republic of Indonesia.

A country has the right to deport foreign nationals in its territory. Although deportation is a forced act, its implementation must still respect humanitarian values and human rights.

Indonesia, as a country that respects human rights, guarantees the protection of these rights through Law Number 39 of 1999 concerning Human Rights. In the context of International Law, the Universal Declaration of Human Rights (UDHR) is considered an important source in regulating human rights, because it contains basic principles that are universal and are the basis for the protection and development of human rights throughout the world. These principles are a moral obligation that must be followed by all members of the United Nations (UN) as a form of protection of human rights.

Based on Article 42 paragraph (1) of Law Number 6 of 2011, it is stated that administrative immigration actions are carried out against foreigners in Indonesian territory who carry out activities. dangerous and reasonably suspected of being dangerous to public security and order and society. This administrative immigration action is carried out as an implementation of the immigration supervision policy against foreigners in the territory of the Republic of Indonesia who carry out activities that are contrary to applicable laws and regulations.

Immigration supervision is one of the duties carried out by the Directorate General of Immigration, in accordance with the mandate of Law Number 6 of 2011 concerning Immigration. In general, the concept of immigration supervision emphasizes supervision inherent in the subject, both Indonesian citizens and foreigners. Regarding Indonesian citizens, immigration supervision includes services both domestically and abroad, as well as the process of leaving and entering Indonesian territory. Meanwhile, for foreigners, the immigration supervision in question includes the process of entering and leaving Indonesian territory, as well as their presence and activities within Indonesian territory. Deportation of foreigners who commit immigration crimes occurs because of an understanding that does not respect or comply with the regulations stated in the Immigration Law. In law enforcement, this is considered equivalent to a violation of Article 122 of the Immigration Law, so that the legal steps taken are more inclined towards deportation. Another cause is the complexity of the bureaucracy in managing case files with the National Police as the PPNS supervisor, coupled with a fairly long time and court decisions that often do not fulfill the sense of justice for law enforcers, because the decisions tend to be lighter than the criminal sanctions stipulated in the Immigration Law.

According to Law Number 6 of 2011 concerning Immigration, deportation is one of the administrative immigration measures taken against foreigners in Indonesia, which is caused by activities that are considered dangerous and suspected of threatening public security and order, or due to non-compliance with applicable laws and regulations in Indonesia. Administrative immigration measures in the form of deportation can also be carried out against foreigners who are in Indonesia because they are trying to avoid threats or punishment in their home country. There are various reasons underlying the deportation of foreigners to leave the country. In Indonesia, Article 13 of Law Number 6 of 2011 outlines several reasons why a foreign citizen can be deported, including:

1. His name is on the blacklist
2. Do not have valid and valid travel documents
3. The Immigration Documents held are fake;
4. Not having a visa, except those exempted from the requirement to have a visa
5. In obtained a visa, has provided incorrect information

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6. Having an infectious disease that can endanger public health.
7. Involved in international crimes and transnational organized crime.
8. Entered the wanted list of people wanted for arrest by a foreign country.
9. Involved in activities or acts of treason against the Government of the Republic of Indonesia
10. Involved in a network of prostitution practices or activities, human trafficking, and human smuggling.

One of the main forms and strengths in immigration supervision is the compilation of a list of names of individuals, both Indonesian citizens and foreigners, who are indicated to be involved in legal problems, so that immigration prevention and deterrence measures need to be imposed. Prevention and deterrence are special authorities regulated in immigration law, aimed at preventing anyone from leaving the territory of Indonesia and preventing anyone from entering the territory of Indonesia. The basis for implementing prevention and deterrence is mainly related to special reasons that are considered to protect national interests.

Prevention and deterrence, in its development, face many challenges in the era of globalization and reform, especially related to the concept of immigration law which has a close relationship with human rights. Based on the history of immigration law related to the concept of prevention and deterrence, the old immigration law stated that everyone, both Indonesian citizens and foreigners, can be subject to prevention and deterrence measures. In fact, Indonesian citizens can also be refused entry into their own country in very special circumstances. According to Law Number 6 of 2011 concerning Immigration, immigration crimes are used as a reference to punish foreigners who violate immigration permits. The threat of criminal penalties, as a form of sanction, is determined within a certain period of time and is accompanied by the threat of fines, which are applied based on the Criminal Procedure Code (KUHAP). The Immigration Office, through immigration officials, has the authority to take administrative immigration action against violations committed by foreigners in the territory of Indonesia. This action refers to the applicable provisions, based on facts or evidence sufficient to impose sanctions for the violations committed.

Based on the results of field studies and interviews conducted by the author with former detainees at the Medan Rudenim named Osman Goni, one of 22 Bangladeshi citizens along with 29 Rohingya refugees who entered Indonesian territory in Langkat Regency by ship, entered the territory of the Republic of Indonesia without going through an Immigration Officer's inspection at the Immigration Checkpoint, after going through a verification process directly involving the Consular Representative of the Bangladesh Embassy, the Directorate General of Immigration, the Police and the Local Koramil and the Regional Government in Langkat Regency to ensure that the law enforcement process is in accordance with applicable regulations, on July 21, 2024 Osman Goni and 21 other Bangladeshi citizens were then placed in the Medan Rudenim for further deportation, the deportation process against Osman Goni and 21 Bangladeshi citizens has been carried out by the Medan Rudenim in stages starting from August 17, 2024 to September 24, 2024, if referring to article 113 of Law number 6 of 2024. 2011 on Immigration, the 22 Bangladeshis can be processed pro-justice with the threat of 1 year in prison and/or a fine of up to one hundred million rupiah.

The legal consequences of deporting foreigners who commit immigration crimes in North Sumatra are one of the law enforcement processes. The law enforcement process carried out by

the Medan Rudenim against foreigners who commit immigration crimes is not processed pro-justice, but only taken with administrative immigration actions in the form of deportation. Law enforcement in the field of immigration is one of the Action Programs of the Ministry of Law and Human Rights in 2013 as stated in the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 14 of 2013. Likewise, it has been prioritized in the Action Program of the Ministry of Law and Human Rights in 2014 through the Regulation of the Minister of Law and Human Rights Number 2 of 2014.

Immigration supervision is one of the duties carried out by the Directorate General of Immigration, in accordance with Law Number 6 of 2011 concerning Immigration. In general, the concept of immigration supervision emphasizes integrated supervision of subjects consisting of Indonesian citizens and foreigners. For Indonesian citizens, supervision is carried out in the context of immigration services both domestically and abroad, as well as when leaving and entering Indonesia. Meanwhile, for foreigners, supervision focuses on entering and leaving Indonesia, as well as their presence and activities in the region.

Supervision of foreigners is a step to prevent misuse of immigration permits. Lack of supervision of foreigners entering Indonesian territory can result in actions that have the potential to be crimes or violations, one of which is misuse of immigration permits. The role of immigration supervision includes security from the time the permit application is submitted until the permit expires, is extended, or even revoked because the foreigner returns to his/her home country.

The regulations regarding supervision of foreigners are regulated in Article 66 paragraph (1) of Law Number 6 of 2011 concerning Immigration, which states that immigration supervision of foreigners is carried out when applying for a visa, when entering or leaving, and when granting a residence permit, including by means of:

- a. Collection, processing, and presentation of data and information
- b. Compilation of a list of names of foreigner's subject to deterrence or prevention
- c. Supervision of the presence of foreign activities in the territory of Indonesia
- d. Taking photos and fingerprints
- e. Other activities that can be legally accounted for

Immigration officers who conduct inspections or supervision of foreigners at immigration checkpoints must have an attitude of protecting the territory of Indonesia from foreigners who enter with bad intentions that can disrupt national order and security. Therefore, the presence of foreigners who enter and reside in the territory of Indonesia must be considered from the political, economic, and socio-cultural aspects of the nation and state. This is important to ensure that their presence provides benefits in supporting national stability and interests. One of the main forms and strengths in immigration supervision is the compilation of a list of names of foreigners who are indicated to be related to legal problems, so that immigration prevention and deterrence measures need to be imposed. Prevention and deterrence are special authorities mandated by immigration law to prevent anyone from leaving the territory of Indonesia and to prevent anyone from entering the territory of Indonesia.

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The basis for the implementation of prevention and deterrence is mainly for specific and certain reasons related to considerations to protect national interests. Prevention and deterrence in its development have experienced many challenges in the era of globalization and reform, especially its concept in immigration law because it is strongly related to human rights. Based on the history of immigration law regarding the concept of prevention and deterrence, the old immigration law stated that every person, both Indonesian citizens and foreigners, can be subject to prevention and deterrence measures, even Indonesian citizens can be prevented from entering their own country based on very special circumstances.

Conclusion and Suggestions

Deportation is a forced action to remove a foreigner from Indonesia. One of the main forms of immigration control is the compilation of a list of names of foreigners suspected of being involved in legal problems, who are potentially subject to immigration prevention or deterrence. Prevention and deterrence are special powers regulated by immigration law, aimed at preventing someone from leaving Indonesia and preventing others from entering Indonesian territory.

The basis for implementing prevention and deterrence is mainly related to specific reasons aimed at protecting national interests. To prevent and overcome criminal acts of misuse of residence permits, preventive and repressive efforts are carried out. Preventive efforts include actions to prevent crimes or violations, which include supervision of foreigners which is divided into administrative and operational supervision, as well as providing counseling to foreigners who wish to enter Indonesia.

Meanwhile, repressive efforts are interpreted as efforts made after the crime or violation has occurred, which can be done by means of criminalization and administrative immigration actions in the form of inclusion in the prevention or deterrence list and deportation actions. It is recommended to the Director General of Immigration to propose the formation of a regulation or something similar that confirms that foreigners who commit immigration crimes are not subject to administrative immigration actions in the form of deportation. and increase the law enforcement budget.

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