

Analysis Legal Treatment Law to Detention Which Has Violated Public Order (Case Study: Rudenim Medan)

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Abstract

This study aims to determine: 1) The differences between Deteni and Rudenim and 2) How to implement the treatment of Deteni who violate public order. Types of approaches Which used is study Which nature qualitative. It means is research that describes, explains, analyzes, and develops the legal construction of state sovereignty from an immigration perspective. The results of the research discussion are: 1) Detention based on Law Number 6 of 2003 2011 about Immigration Chapter 1 paragraph 35 is person foreign Residents House Immigration Detention that has received a detention decision from an Immigration official. Foreigners in this case are people who are not Indonesian citizens. While the Immigration Detention House is a Technical Implementation Unit that carries out immigration functions as a place of shelter temporary for person foreign Which charged Action Administrative Immigration. 2) Implementation of legal treatment for detainees who violate public order will depend greatly on on type violation that is done, level its severity, and regulations which applies at the Immigration Detention Center.

Keyword: Treatment Law, Detainee, Violating The Order General

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1st International Conference on the Epicentrum of Economic Global Framework (ICEEGLOF)

Theme: Digital Marketing Strategy to Optimize Business Growth in the Modern Era

<https://proceeding.pancabudi.ac.id/index.php/ICEEGLOF>

Introduction

Immigration is the movement of people entering or leaving the territory of Indonesia and its supervision in order to maintain the sovereignty of the state (Budiman, 2020). Immigration has 4 (four) duties and functions, namely law enforcement, providing immigration services, facilitators of public welfare and state security. Person Which No inhabitant country Indonesia Which is at in Indonesia own specific purposes for living in the territory of Indonesia. Immigration as the front guard of the country's gateway in carry out immigration function, often finds immigration violations committed by both foreign citizens and Indonesians. The violations are entering or leaving Indonesian territory without going through the Immigration Checkpoint (TPI), foreigners entering or being in Indonesian territory who does not have visa travel document valid and still valid, foreigners who use fake travel documents, make or falsify visas, abuse residence permits, provide incorrect data, and change or remove information or stamps on travel documents (Gautama, 2007).

Immigration action against foreign nationals who commit immigration violations started with he did arrest by officer immigration to Foreign citizens who commit violations are then taken to the immigration office and placed in the Immigration Detention Room.

Immigration detention house or abbreviated as Rudenim in Article 1 paragraph 33 of Law No. 6 of 2011 concerning Immigration is a Technical Implementation Unit that carries out immigration functions as a temporary shelter for foreigners who are subject to administrative immigration actions (TAK).

In Chapter 1 verse 35 Constitution Number 6 Years 2011 explained that Foreign citizens who occupy the Immigration Detention Center or immigration retention room who have received a detention decision from an immigration official are referred to as detainees. In Article 85 Act No. 6 Year 2011 explain about the term time detention detainee in immigration detention house, namely until the detainee is deported. And if the detainee cannot be deported, the detainee can be detained for a maximum of ten years.

Formulation Problem

Based on the background description above, the formulation of the problem to be solved is: About Implementation Treatment Law to Detention Which violate Public Order at Rudenim

Method Study

The research method used in this study is qualitative research. Which means it is a research that analyzes, explains, describes and develops the construction of state sovereignty law in the perspective of immigration (Ginting, 2021). The collection of legal materials was attempted by identifying statutory regulations, studying library materials (writings and scientific works), as well as other sources. source material law Which Other Which there is its relevance with issue law in this research. Then the analysis method in this research uses mixed logic. It means reasoning (law) which is a combination of inductive and deductive thinking patterns in concrete factual legal cases. The processes that occur in this logic are abstraction, legal values, legal principles, concepts. law, and norms law Which formulated in a way general in rule-rule law positive. Then concretized or explained and applied for get a resolution to the issues discussed (Hamidi, 2021).

Review Library

Review General About Detention

Understanding Detention based on Act No. 6 year 2011 about Immigration Chapter 1 Article 35 is a foreign citizen who is a resident of the Immigration Detention Center who has received a detention decision from an Immigration official. Detention according to the Great Dictionary of the Indonesian Language is detention or captivity. Detention can also be interpreted as a process where someone is placed in an immigration detention house to carry out further examination processes in order to be able to deport a Detainee.

Term Time Pention

The detention period is the time limit determined for a Detainee to serve his/her detention period in the Immigration Detention Room or in a Detention House as determined by Law. According to Chapter 85 Law No. 6 year 2011 explains about term time detention of detainees in Rudenim, namely detainees detained in Rudenim or in the Immigration Detention Room until the detainee the deported. If detainee the not yet. Can deported, then detention can be done for a maximum of 10 years and if during 10 year's detention said not yet also deported, then detainee the can give residence permit outside or is at outside Rudenim by stipulating mandatory reporting obligations periodically. However, ministers or officials who appointed supervise detainee the still to strive so that detainee the deported.

Detention House Immigration (Rudenim)

The Immigration Detention Center is a Technical Implementation Unit that carries out immigration functions. as place shelter temporary for person foreign Which charged Immigration Administrative Actions. (Hartono, 2001) Meanwhile, detainees who are or are placed in the Directorate General of Immigration or the Immigration office are placed in a room called the Immigration Detention Room. (M. Alvi, 2016) The main task of Rudenim in general as regulated in the Letter of the Minister of Justice and Human Rights Number: M.01. PR.07.04 of 2004 concerning the Organization and Work Procedures of Rudenim, is to carry out the main tasks and functions of the Department of Justice. And HAM in matter detention inhabitant country foreign. For carry out in this function, Rudenim has the function of carrying out the tasks of enforcement, isolation, as well as repatriation and expulsion/deportation.

In carrying out his duties, Head of Immigration Detention Center, Head of Sub-Section, Head of Section, Head of Sub-Section Sexy, Head of Affairs, must implement principles of coordination, integration and synchronization in the environment Immigration detention house and other agencies in accordance with their respective main tasks and functions.

In daily practice, must also follow the provisions other provisions under the Ministerial Decree in on, like Regulation Director General Immigration Number: F1002.PR.02.10 2006 about Layout Method Detention of Foreigners. In this regulation it is stated that the Head Rudenim has the authority to detain foreigners in accordance immigration action decision letter issued by the Head of the Immigration Office, Head of the Immigration Division, or director General Immigration.

For Detention Which new enter Rudenim, done medical examination detainee and searches of the body and belongings of detainees, in polite orderly and careful. Goods private property then recorded and stored by officers, and dangerous goods are secured. Before the process is carried out registration, especially previously requested health data that may be held, or asked health status. This is to prevent the possibility of spreading disease infectious or dangerous. After his health rated worthy, the registration process is carried out. After registered, next Detainee a Detention Card is created. This Detention Card functions as card loading control full name of detainee, gender, place and date of birth, nationality, number, place and date of issue of travel document, date of entry, sending agency, And chapter violation.

If the requirements have been met, the detainee will be deported or repatriated. Deportation/expulsion is for detainee Which during is at in region Indonesia committing a crime or serious immigration violation. However, the obstacle is the rejection from the detainee. This rejection is caused by the reason of having a family in Indonesia, insisting on only being willing to be deported to a certain country of destination, and so on. There are some detainees who cannot be deported because no country wants to recognize their citizenship, so they become stateless, and become permanent detainees (Muhammad Indra, 2010).

Order General

Public order has a broad meaning and can be considered to contain ambiguous meanings. In practice, various interpretations have arisen regarding the meaning and significance of public order, including in the narrow sense, namely that what is meant by violators/contrary to public order is only limited to violations of laws and regulations, therefore, arbitration decisions that are contrary to or violate order general is decision Which violate or contrary to Indonesian laws and regulations.

Whereas Interpretation Wide is Interpretation Wide No limit scope and meaning of order general on provision law positive only, will but covering all values and the legal principles that live and grow in the public consciousness, including the values of propriety and the general justice *principle*.

Public order is seen as one of the most important but also the darkest issue (Peter Mahmud Marzuki, 2005). Kollwin argues that we can *á priori* determine what constitutes public order. general it's (Yudha Bakti Ardhiwastra,2008). Affirmed by C.F.G. Sunaryati Hartono that No There is Which can find criterion order general Good from for expert and also from theory, but Only judges (in certain cases) can determine what may be contrary to the public interest or public order. This is due to factors of time, place, philosophy statehood Which adopted public Which concerned, system economic, cultural and political factors differ from one country to another, and it is even possible that other factors will emerge.

There is three Conception order general Which present in atmosphere HPI, that is French–Italian conception, German conception, and Anglo-Saxon conception. (BIRCI, 2021). According to the French–Italian conception, public order applies to foreign legal rules that conflict with national law. In this case, public order is used as a sword (*merely as a sword*). According to the German conception, public order (*Vorbehaltklausel*) is used when foreign law truly conflicts with national law. In this case, public order is used as sparingly as possible, namely only as an emergency brake or used only as a shield (*merely US a shield*). Whereas in Conception Anglo–Saxon, order Public *policy* emphasizes the political aspect and is known as the act of state doctrine.

Discussion

Immigration have four function that is as part from affairs state government in providing immigration, security, state enforcement, legal services, and facilitators of community welfare development (Law Number 6 of 2011). See from policy selective Which is rule base about it is permissible or not person foreign enter to Region Indonesia is only person Which beneficial for Indonesia as well as No endanger allowed enter and is at in Indonesia, besides that foreigners Which to obtain permission stay in Indonesia must do all activity in accordance with its objectives in Indonesia (Ismaidar, 2013).

Foreign citizens who have been detained at the Medan Immigration Detention Center are citizen's country foreign Which Already enter and is at in Indonesia. Person foreign This allowed to enter and be in Indonesia because they have met the criteria as explained previously (A,Septiawan, 2024).

Detainees who are in Rudenim are foreign citizens who are in Indonesia who charged action administrative immigration because of do activity dangerous and worthy allegedly endanger security and order general or no respecting or disobeying laws and regulations (IJSL, 2024).

Detention Which There is in Rudenim consists of from people foreign Which disturbing public order, violating laws and regulations and violating immigration regulations. However, after the stranger has been detained There isn't any differences in legal treatment of detainees for various cases experienced by each detainee, both in terms of service, facilities and differences in detention rooms. Because detainees in the detention center are more focused on being deported and repatriated according to the function of the detention center, namely the function of action, isolation function, deportation and repatriation function (RECTUM, 2022).

Analysis Legal Treatment Law

Placement of detention rooms, food services and health of detainees in the detention center are carried out by considering gender, age and health conditions (Ivan Aditya, 2022).

If seen from side use budget, House Detention Immigration Medan has participated in the economic growth of the surrounding area by using the budget carefully and put forward provider goods and service sectoral or MSMEs Which is at around.

There are things that need to be changed at the Medan Immigration Detention Center in accommodating detainees while waiting for repatriation or deportation. As for detainees or foreigners who is at in in is people Which Already fulfil criteria for allowed to enter and is at in Indonesia as well as bring benefit to nation and country. This view is applied to existing detainees by exploring their existing expertise (Okta Lestari, 2022).

Public order violations by detainees refer to actions or behaviors of a person who is being detained or in the process of being detained that violate social norms and regulations in force in the detention center. These actions can disrupt security and order in the detention center.

Violations of public order in Medan City by detainees can vary, but in general can be categorized as follows:

1. Physical violence: Hitting, kicking, or committing other acts of violence against officers, other detainees, or agency property.
2. Threats: Saying abusive words, threatening the life or safety of others, or engaging in intimidating behavior.
3. Riot: Organizing or participating in a mass riot within a detention facility.
4. Escape self: Do effort for run self from place detention.
5. Violation of rules: Violating the rules in force in the detention institution, like No follow timetable activity, damage facility, or commit other disciplinary actions.

A number of factor Which can trigger the occurrence violation order general by detainees including:

1. Psychological conditions: Stress, depression, or anxiety disorders other mental disorders experienced by detainee.
2. Background behind criminal: History crime Which long or involved in crime group.
3. Condition environment detention: Overcapacity, lack of facility, treatment inhumane, or there is conflict between groups of detainees.
4. Influence bad from detainee other: The existence of influence negative from detainee other Which have criminal or radical behavior.

Violations of public order by detainees can have serious consequences, both for detainee Alone and also for rudenim and public in a way general. A number of Possible impacts include:

1. Escalating levels of violence: Acts of violence can trigger a cycle of violence that is difficult to stop.
2. Material losses: Damage to detention facility facilities and property can result in significant material losses.
3. Disruption of security and order: Violation of public order can threaten security and order within the detention center and even in the surrounding environment.

Implementation of legal treatment for detainees who violate public order will be very depends on type violation Which done, level its severity, And the regulations in force at the detention center.

1. Action Discipline Internal

The form of internal disciplinary action is by giving verbal warnings and written warnings in the form of imposing disciplinary punishment in the form of being placed in an isolation room and in the form of revoking certain rights of the detainee for a specified period of time (Pasal 1, UU No. 6, 2011).

2. Action Criminal

If violation Which done is act criminal, so detainee can bring to court for trial and sentenced to additional criminal penalties. For example, if a detainee commits assault against an officer or another detainee, he or she can be charged with the assault article in the Criminal Code. Basically, the crime of ordinary assault resulting in serious injury and death is regulated in Article 351 of the Criminal Code and Article 466 of Law 1/2023 concerning the Criminal Code (Pasal 1, UU No. 6, 2011).

Closing

Detainees based on Law Number 6 of 2011 concerning Immigration Article 1 paragraph 35 are foreigners who are residents of the Immigration Detention Center who have received a detention decision from an Immigration official. Foreigners in this case are not citizens Indonesia. Whereas Rudenim is Unit Executor Technical Which operate immigration function as place shelter temporary for person foreign Which charged Immigration Administrative Actions.

Detainees placed in Rudenim Medan have different types of immigration violations. Such as misuse of residence permits, falsification of documents, disturbing order general and etc. Will but detainee Which placed in Rudenim does not differentiated treatment law to detainee according to type his violation. Due to detention the more focused or attempted for deported or done repatriation in accordance with the duties and functions of Rudenim, namely the function of enforcement, isolation and deportation or repatriation.

Order general is a condition in where public life in condition safe, peaceful, and orderly in accordance with applicable norms and regulations. This means that all activities which is conducted by both individuals and group public do not disturb the rights of others, does not harm the public interest, and does not violate the law.

Violations of public order in Medan City by detainees can vary, such as physical violence, threats, riots, escape, assault, and violations of public order. orderly. To follow up on the violation, the detainee can be given actions such as verbal warnings and written warnings in the form of isolation and in the form of revocation of certain rights.

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