

# Immigration Law Enforcement against Abuse of Overstay Permits for Foreign Citizens

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**Abstract.** This research aims to examine the implementation of law enforcement by immigration based on Law Number 6 of 2011 concerning immigration, which regulates residence permits, especially to determine the response to criminal acts of misuse of overstay permits for foreign nationals. This research was carried out normatively, a literature study by reviewing books, literature, statutory approaches, and conceptual approaches. The data source used is secondary data. Qualitative descriptive were carried out in data analysis. Decisions were made utilizing an insightful strategy, in particular finishing up from general to explicit, particularly those connected with the exploration point, specifically Migration Policing Maltreatment of Outstay Licenses for Unfamiliar Residents. The consequences of this examination take a gander at how migration policing completed by Regulation Number 6 of 2011 concerning Movement by monitoring the completeness of administrative procedures for foreigners' residence permits and taking administrative action against violators of residence permits by imposing sanctions on foreigners to pay fees and costs. return to the country of origin (deportation).

**Keywords:** Abuse, Expiration of Deadline, Immigration, Law Number 6 of 2011.

## 1 Introduction

The word immigration comes from English, from the noun migration or the verb migrate, which has meaning the development of an individual or individuals from one nation, region, spot of home, and so forth., to get comfortable another. The movement of individuals, either individually or collectively, from a country, region, place of residence, etc. is referred to as migration. to get comfortable another country. Migration regulation is one of the general sets of laws that applies in Indonesia. Regulation Number 6 of 2011 is the legitimate premise administering migration.

The significant job of movement angles in the request for state life will be found in the guideline of the passage or exit of individuals from and into Indonesian domain, the conceding of Section Testaments to outsiders at Migration designated spots, and the giving of Movement home licenses and management of outsiders while they are an in Indonesian area. With respect to presence and exercises did by outsiders by the Visa or Movement Stay License they use in Indonesia.

The issue of abuse of home grants an in Indonesian area by outsiders is the least demanding an open door for unreliable outsiders to do things like searching for work or remaining to gather individual benefits. In the meantime, Indonesia needs to safeguard the privileges of its residents

in getting work. To be able to stay in Indonesia, foreigners must comply with the rules and register a permit as needed, which will affect the length of time they can stay. It makes the state be cautious in making strategy strides to serve the economy and soundness. state security and does not harm international relations.[1]

Migration is an organization that has the position to complete movement investigation obligations, for example, giving endorsement, passage allows, or declining outsiders to enter a nation, setting appearance limits (time span for outsiders to show up), and affirming to outsiders what is allowed and what isn't. There should be firm requirement of movement regulation for outsiders who don't conform to the principles for their presence in Indonesia to understand the sway and nobility of the country. [2] As part of the visa-free policy, the Directorate General of Immigration is responsible for protecting the nation's borders and enforcing immigration laws in accordance with Law No. 6 of 2011 concerning Movement.

Looking at the problem of the background description in this research, the main issues that will be studied can be formulated, namely: 1. Reviewing the regulations for granting residence permits to foreign citizens by the provisions of immigration law, 2. Reviewing forms of supervision and prevention of misuse of residence permits past the time limit, 3. Review immigration action against foreigners who misuse their visit visa permits after the time limit (overstay). The aim of this research is so that foreigners can comply with immigration law rules implemented by immigration agencies strictly in implementing the applicable legal rules. In previous research related to law enforcement by immigration against foreigners, misuse of visit visas over the time limit (overstay) had never been carried out.

Research by Ariani discusses law enforcement against illegal foreign workers in Indonesia. Research by Syahrin discussing law enforcement in measuring state sovereignty from an immigration perspective focuses on anticipating the impact of granting visa exemptions on state sovereignty in the concept of immigration.[3] Robert Warren's research discusses efforts carried out by the United States with the Department of Homeland Security to emphasize reducing the growth of the overstaying foreign refugee population.

The state foundation, specifically the Migration Division under the protection of the Service of Regulation and Basic freedoms (HAM), plays a vital part in making a move to keep up with the security and power of the Unitary Condition of the Republic of Indonesia. Therefore, the Immigration Department carries out immigration functions, namely selective policy, and issues residence permits to foreign citizens specifically to be able to provide benefits, improve the welfare of the people, and develop the Republic of Indonesia. Residence permits given to foreigners are often violated or misused the number of such cases is quite small. [4]

In comparison, the author's research here shows updates related to discussing how to monitor and prevent misuse of stay visas for visits past the time limit, and discussing how stay permit regulations are by immigration law provisions.

## **2 Methods**

This sort of exploration is regulating research which is subjective in nature. What is implied by the use of subjective regulating regulation is research that depicts, makes sense of, examines, and fosters the legitimate development of state sway according to a migration viewpoint.[5] The methodologies utilized are a legal methodology and a calculated methodology. Secondary data were used as the data source. As per Mooing, the information assortment strategy in this exploration is by examining peculiarities, distinguishing guidelines,

depicting words from research materials (logical works), and different wellsprings of lawful material that have importance to the examination conversation raised.[6] Determinations were made utilizing a rational technique, in particular finishing up from general to explicit, particularly those connected with the exploration subject, to be specific Movement Policing Maltreatment of Exceed Licenses for Unfamiliar Residents.

### **3 Findings and Discussion**

#### **3.1 Residence Permit Regulations for Foreign Citizens in Accordance with Immigration Law Provisions**

Based on Law No. 6 of 2011 concerning Immigration, this is stated in Article 48 paragraph (1) which explains that they (foreigners) must have residence permit information. The residence permits that foreigners can have are a Visit Stay Permit (ITK), Limited Stay Permit (ITAS), and Permanent Stay Permit (ITAP). Foreigners who want to have a residence permit in Indonesia have made it very easy with online residence permit registration. However, there are still foreigners who violate the procedures and provisions that have been formalized based on applicable regulations.

In Law No. 55, Article 55 6 of 2011 concerning Movement, it is made sense of that the giving, augmentation, and abrogation of Visit Stay Grants, restricted Stay Licenses, and Extremely durable Stay Licenses can be done by the Priest or selected Migration Authorities.

Article 56 paragraph:

- (1) A Stay License that has been conceded to an Outsider can be moved to status.
- (2) The status of a home license that can be moved is a visit home grant to a restricted home grant and a restricted home grant to a long-lasting home license.
- (3) The exchange of Stay Grant status as characterized in passage (2) is formalized by Clerical Pronouncement.

Clarification of Article 56 section (1) What is characterized as "move of status" is an adjustment of the situation with an Outsider's presence from a meeting Stay License to a restricted Stay Grant and from a restricted Stay License to a Super durable Stay License.

To control various forms of foreigners entering Indonesian territory, the government adheres to the principle of selective policy in the immigration sector. According to this principle, only foreigners can allocate public utilities for the benefit of individuals, state, and the Unitary Condition of the Republic of Indonesia, without hurting security and request, nor making antagonism the Indonesian country or the unitary province of Indonesia, in light of Pancasila and the State Constitution. Republic of Indonesia 1945 (UUD) 1945, which is allowed to pass through Indonesian territory. Therefore, if foreigners want to live in Indonesia, they must formulate regulations and boundaries in the form of granting residence permits to foreigners.[7]

As a form of sovereignty of a country, permission is given to foreigners to stay in Indonesia while ensuring that restrictions for foreigners to stay in that country are still based on applicable law. This is a form of privilege given by a country to foreigners.

Therefore, restrictions regarding residence permits are very necessary to protect the interests of the nation and state from all aspects such as economic, cultural, social, employment, security, and order.

In forming concepts for policies in the immigration sector, it is necessary to be based on goals on a national scale and common interests rather than establishing the Unitary State of the Republic of Indonesia (NKRI), as defined in the Preamble to the 1945 Constitution's fourth paragraph. When coming up with immigration policies, you need to remember what a country's administration is built on, especially when it comes to immigration. Open door politics is not applied in the immigration sector in Indonesia, but rather filter politics which means that the government only allows entry to foreigners who want to bring benefits to Indonesia. In the process of maintaining the integrity of the country, we must also ensure that foreigners have followed the existing procedures. Every person traveling within Indonesia must have complete travel documents and not violate the rules. Each country definitely has its own procedures for entering and exiting the country, and Indonesia is no different. Both from foreigners and Indonesian citizens themselves. In protecting domestic security and comfort, immigration carries out routine supervision of foreigners who arrive and leave Indonesian territory or when the foreigner has entered Indonesian territory. By carrying out strict and precise supervision and action, it can be easier for us to confirm that the foreigner has followed the residence permit regulations that apply in Indonesia and will not disturb the sovereignty of the Unitary State of the Republic of Indonesia.

### **3.2 Implementation of Supervision and Prevention of Misuse of Overstay Permits in Accordance with Immigration Law Provisions**

Oversight is a progression of endeavors pointed toward guaranteeing that a work cycle runs as indicated by a set arrangement. In order to avoid deviations both before and after the implementation of the work, supervision is essential. Migration regulation is a bunch of rules that control the request for individuals passing inside the domain of Indonesia and the management of outsiders, for this situation, the objectives of movement oversight are outsiders who enter or leave the Indonesian locale, so they are obliged to give data about their appearance. or departure in the form of personal identification, immigration permit documents in the form of a visa, whose validity will be checked by administrative means.[8]

Refusal is applied to outsiders who commit infringement, these infringement differ from authoritative infringement, late announcing, obligatory revealing of whereabouts that have passed the not entirely set in stone by the migration office since the outsider's appearance (outstay), abuse of movement home allows, and visit visa licenses., also, couldn't show his identification when the official completed the investigation.

A few instances of infringement by outside nationals that happened in Indonesia surely should be offered more consideration right now. The movement control framework and game plans for giving sans visa visits should be improved on the grounds that it will affect public government assistance and security. Migration establishments as facilitators of local area government assistance and gatekeepers of state sway are felt to be feeble in the execution of visa opportunity since it isn't by the standards contained in particular movement approaches.

Infringement that are in many cases committed by unfamiliar nationals visiting Indonesia are visits past as far as possible (outstaying), despite the fact that far off

nationals visiting An Indonesian area have consent.) days beginning from the giving of the section license, what frequently happens is that outsiders surpass the predefined time limit.

Endeavors that migration keeps on making by carrying out movement control designs for outsiders incorporate multiple times, including while applying for a visa, entering or leaving An Indonesian area, giving a Stay License; also, being and completing exercises in the area of Indonesia. There are likewise different ways of completing oversight did by movement to reduce the number of misuse of visit visas, namely by utilizing technology as a means of monitoring the whereabouts of foreigners, such as using the Foreigner Reporting application to make it easier for immigration officers to obtain information on the whereabouts of foreigners in real-time, even though they are not. The use of this online-based application is fully effective. Law enforcement in monitoring foreigners begins with the desire for foreigners to participate in obeying applicable regulations to avoid violations such as drug smuggling and several other prohibited items and if the Integrated Criminal Justice System is violated then it will be handled by the police authorities.[9] Efforts to regulate foreigners while they are in Indonesia to comply with the rules regarding the period of their presence and the presence and exercises of outsiders in Indonesian domain are regulated by the Public authority through the Chief General of Migration, Service of Regulation and Common freedoms. Oversight of outsiders in Indonesia incorporates two things, specifically the section and exit of outsiders to and from Indonesian domain. Management of outsiders is completed by the Public authority in the accompanying structures and strategies:

1. Collection and processing of personal data such as passports of foreigners to enter or leave Indonesian territory;
2. Detailed registration since the presence of foreigners in Indonesian territory;
3. The government carries out the collection, monitoring, and processing of data and information regarding the activities of foreigners while they are in Indonesian territory;
4. Develop and confirm entry prohibitions for the names of foreigners who do not desired to enter or leave Indonesian territory for reasons of state order and sovereignty; And
5. Other activities.

Policing the Migration Office is done as management and completing managerial activities. Management of outsiders is done by Article 66 section (2) of Regulation Number 6 of 2011 concerning Movement to oversee the exercises of outsiders living in Indonesian domain, whether visiting, briefly remaining, or remaining. Migration management incorporates: the main management is done when outsiders apply for a visa at the International safe haven of the Republic of Indonesia abroad. In the wake of being given the application, the following oversight is through checking regulatory culmination like travel papers and visas. Each outsider is obliged to give the fundamental data with respect to the character of himself or potentially his family, report in the event that there is an adjustment of common status (changes including marriage, separate, passing, birth of kids, evolving position, and stopping position), as well as changes in address at Movement Designated spots at air terminals or other section focuses like ports.

Overstaying and other administrative law violations will also be dealt with through immigration administrative actions taken outside of the judicial process, specifically administrative sanctions imposed on foreigners by Immigration Officials. Administrative immigration actions can include inclusion on a list of things that prevent people from

entering or living on Indonesian territory or acting as a deterrent; restrictions, modifications, or removal of residence permits; preclusion on being in one or a few certain spots in Indonesian area; Prerequisite to live in a specific spot in the Indonesian Area; the levy of burden fees; and additionally extradition from Indonesian region.

The supervision carried out by immigration is not to limit the rights of foreign citizens to carry out visiting activities, but the selectivity carried out by immigration is to maintain common peace, and the benefits are felt for foreigners who enter, and the Indonesian people do not become anxious about foreigners because its existence is legitimate. Hence, it does not carry out actions endangering security and order.

Actions taken by the Immigration Department against foreign nationals who commit immigration violations are Immigration Actions and law enforcement through pro-justice justice processes. Administrative immigration action is more effective and efficient, in terms of law enforcement against overstaying if it is based on the principle of subsidiarity in criminal law, namely prioritizing the principle of *ultimo remedied* in criminal law, then an administrative resolution is the right policy aimed at the target. The action taken if a foreigner violates immigration administration is by fining and deporting. It is as a form of firm action that is effective and efficient to carry out.

### **3.3 Immigration Action against Foreigners for Misusing Overstay Permits in Accordance with Immigration Law Provisions**

Immigration minimizes abuse of overstay attendance by foreigners, immigration in its field carries out selective policies in the form of immigration checks. Immigration policies, especially in processing the granting of visas and immigration permits, will have a big impact if they are improved. With the ratification of Presidential Decree No. 21 of 2016 concerning Visa Free Visits for foreign citizens to visit. Still inseparable from the guidelines of Law No. 6 of 2011 concerning Immigration.

Foreigners who are listed on the prohibition list, do not have valid and valid travel documents, fake immigration documents, do not have a Visa unless they are exempt from the obligation to have a Visa, provide information that is not appropriate to obtain a Visa, suffer from infectious diseases that are dangerous and have an impact on public health general, involved in international crimes, including a wanted list as a criminal perpetrator to be arrested and dealt with firmly by immigration based on article 13 of Law No. 6 of 2011 concerning Immigration. This action takes the form of a refusal to enter Indonesian territory.

The phases of authorization did by Migration start with authoritative management and field oversight via doing examinations by getting data from general society or government offices, and visiting places associated with outstaying outsiders' exercises. Immigration has the authority to implement immigration administrative measures under Chapter VII of Law No. if they discover a foreigner who has abused the permit. 6 of 2011 concerning Migration Article 75 section (1) Movement can make a regulatory move against outsiders who disregard public request and are viewed as not regarding regulations and guidelines. The managerial activity alluded to is, an unfamiliar resident who abuses the grant will be remembered for the rundown of discouragement and counteraction of their reality; restricting, changing, or dropping the presence of a home grant; forbiddance on being in one or a few spots in Indonesian area, being put in a

spot like quarantine in Rudenim; the levy of burden fees; and expulsion from Indonesian soil.

Implementing policies towards foreigners to avoid the possibility of a lack of prosperity, Indonesia rigorously chooses outsiders who will enter. This migration strategy additionally intends to acknowledge public request and public safety and deny activities that are in opposition to legal guidelines.

This was accentuated by the Advertising Sub-facilitator of the Directorate General of Migration, Achmad Nur Saleh, on the [immigration.go.id](http://immigration.go.id) page, "Foreigners who are proven to have violated laws and regulations or disturbed public security and order, can be deported. While waiting for deportation to take place, foreigners will be placed in the immigration detention room first."

The Movement Confinement Room is a brief sanctuary for outsiders who are dependent upon Migration Managerial Activity (TAK). The Directorate General of Immigration and its offices house this room. Foreigners can be placed in immigration detention for a maximum of 30 days. If foreigners need more time for the deportation process, they can be placed in an immigration detention center which is a separate immigration technical implementation unit (UPT), separate from the immigration office.

Costs arising as a result of administrative immigration action in the form of deportation, referring to Article 63 of the Immigration Law Paragraph (3) are borne by the foreigner's guarantor. The costs are charged directly to the person concerned if the foreigner does not have a guarantor. If you cannot afford it, the costs are borne by the family. If the family also cannot afford it, then the deportation costs are borne by the state representative.

In light of PP no. 28 of 2019, foreigners who stay in Indonesia for more than 30 days beyond the validity period of their residence permit will face penalties in the form of a daily IDR 1,000,000 fine. In the event that the outsider doesn't pay the fine, he will be dependent upon extradition and confinement. In the interim, outsiders who have overstayed for over 60 days will be promptly dependent upon removal and confinement. Arrangements in regards to outstay sanctions are contained in Article 78 of the Migration Regulation.

For foreigners who are detained for overstaying, the detention lasts for 6 (six) months. If a foreigner who has been detained wishes to visit Indonesia again, he or his guarantor must send a letter requesting the lifting of the detention to the Directorate of Immigration Supervision and Enforcement at the Directorate General of Immigration.

## **4 Conclusion**

1. The implementation of the law regarding misuse of residence permits has been running optimally and has been maximized as much as possible in making decisions regarding the residence permit issue. In any case, there will always be obstacles and obstacles to realizing a form of prosperity. From identifying existing cases related to residence permits, the sanctions imposed by law enforcement officials in cases of criminal acts of misuse of immigration residence permits are more non-projustitia in nature. In most cases of residence permit issues, action against the sanctions given does not amount to pro-justice action because administrative action can resolve the existing case. The immigration action that we often see is deportation. The pro-justice

method will be very difficult to implement considering the existence of appeals, cassation, or pardon efforts by the foreigner. Obstacles in law enforcement related to misuse of Immigration residence permits are often caused by a lack of Human Resources for Immigration officers who carry out regular monitoring and supervision as well as a lack of coordination and cooperation between relevant cross-sectoral institutions.

2. Based on the law, sanctions for violations of residence permits in Indonesia must be grouped according to the violation, including failure to report information and data, misuse of residence permits for personal gain and harm to the state, drugs, terrorism, and so on. This is supported by government regulations, implementing regulations, ministerial decisions, as well as established laws and regulations.

## **5 Suggestions**

1. Implementation of Law Number 6 of 2011 concerning Immigration in the Indonesian region is appropriate and reasonable to pay more attention to supervision of foreigners who arrive or are already in the Indonesian region so that there are no violations of residence permits. Violations of this residence permit should be immediately minimized so that they do not happen again. However, in reality, misuse of residence permits continues to occur, even with increasingly complex cases. Immigration enforcement must be stricter and still maintain the value of immigration law itself. When a foreigner enters Indonesian territory, it is important to know the purpose of the foreigner in coming to Indonesia. Supervision of foreigners will be stricter when granting residence permit visas. They must ensure that there is a guarantee that if they violate the regulations on residence permits in Indonesia, they will be subject to action or legal sanctions in accordance with the terms and regulations that apply in Indonesia.
2. Immigration Checkpoints (TPI) play a very important role in guarding and taking preventive measures against foreigners who would disturb the sovereignty of the Republic of Indonesia. Immigration officers must be more careful and thorough in checking the travel documents or visas of foreigners, and identify whether they are appropriate or not.
3. Supervision in the field is no less important. Supervision is carried out by paying closer attention to places frequently occupied by foreigners and double-checking the visas used by foreigners while in Indonesia. The principles of the state which are based on law and not on mere power should be reflected in the prevention of criminal acts of violation of immigration residence permits, in particular by carrying out deterrence and prevention (block lists) where these actions must be carried out quickly before the person concerned and identified disturbs universal discipline as well as endangering the country fleeing.



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