

Misuse of Visitation Visas by Foreigners

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ABSTRACT

The Arrival of foreigners in Indonesia is a tourist visit and comes with the purpose of state or business visit, in tourism science known as "Business Tourism." For example, the Arrival of foreigners in Indonesia is the leading destination for business. However, the rest of the time is used to make tourist visits; nowadays, the event is increasing. Based on this, the problem is formulated: what form of abuse of visiting visas by foreigners? Moreover, how are the legal sanctions of the misuse of visit visas by foreigners? The research method uses normative legal research with the general legal approach in Indonesia, a conceptual approach supported by literature material. The results of the study, a form of abuse of foreign visit visa identified that conduct activity not following the purpose of issuance of visas such as foreign visitor visas used to work in the Bali area, elderly visas used to work living in Indonesia exceeded the validity period of Visa so that it is categorized as an overstay. Legal sanctions for misusing foreign visitor visas imposed administrative sanctions (forced expulsion from Indonesian territory) or criminal sanctions (punishment of confinement).

Keywords: *Abuse of Visit Visas, Foreigners.*

1. INTRODUCTION

The application of foreign visa obligations to visit Indonesia sometimes still finds many problems. The Visa granted is often misused, so the use deviates from the expected purpose, namely the Visa granted is for a visit or a socio-cultural visa. However, foreigners work in Indonesia, ranging from practicing as a Legal Consultant to English Teachers or other jobs that are unquestionably very detrimental to the state in terms of the job taking and foreign exchange should be accepted by the state.

Seeing the reality above, it is now signaled that many foreigners come to Indonesia abusing their visas, thus impacting the field of economy and national stability. Then the author is interested in discussing this in a scientific paper entitled "Misuse of Visit Visas by Foreigners."

From the background as described above, there can be some problems, namely:

1. What are the forms of abuse of visitation visas by foreigners?
2. How are legal sanctions for the misuse of Visit Visas by foreigners?

2. METHOD

2.1 Types of Research and Problem Approaches

Legal research uses normative legal research type by using the prevailing legal approach in Indonesia and supported by literature materials in the form of literature, articles, and journals.

2.2 Source of Legal Materials

The legal materials used in this study are sourced from primary legal materials, which are legal materials of binding content, because it is issued by the government, in this case, namely: Law No. 6 of 2011 on Immigration, Government Regulation No. 32 of 1994 on Visas, Entry Permits, Immigration Permits. Moreover, secondary legal materials were used, obtained through literature research in literature, articles, and journals.

2.3 Legal Material Collection Techniques

The Collection of legal materials with the study of documents and recording techniques, namely by studying the existing primary legal materials, both in the form of legislation and secondary legal materials through works of literature, journals, articles related to research issues. First of all, an inventory of primary and secondary legal materials is carried out, then classified and subsequently selected legal materials that suit the needs of the research.

2.4 Legal Materials Analysis

Against existing legal materials, systematically arranged from things of a general nature to things of an exceptional nature-based on existing problems. Then the source of legal materials is chosen based on their respective proportions so that the technique of processing legal material sources carried out is qualitative. Descriptive analysis techniques analyze primary and secondary legal materials by answering problems based on the field.

3. RESULT AND DISCUSSION

3.1 Forms of Abuse of Visiting Visas By Foreigners

In Chapter I of the General Provisions, Article 1 part 7 is determined, referred to as Visa for the Republic of Indonesia, hereinafter referred to as Visa is written permission given by an authorized official to the Representative of the Republic of Indonesia or elsewhere determined by the Government of the Republic of Indonesia which contains the approval of foreigners to enter and travel to the territory of Indonesia. Unlike passports, in Law No. 6 of 2011 on Immigration, visas are not further elaborated. At the same time, the provisions on the type of passport are stipulated in article 29 to article 35 of Law No. 6 of 2011 on Immigration. In article 29, it is determined that the Travel Letter of the Republic of Indonesia consists of :

- a. Ordinary Passport.
- b. Diplomatic Passport.
- c. Service Passport.
- d. Hajj passport.
- e. Passports for foreigners.
- f. Passport-Like Travel Letter for Indonesian Citizens.
- g. Travel Letter Like Passport for Foreigners.
- h. Travel letter like a Service Passport.

The type of Visa seen in Government Regulation No. 32 of 1994 concerning Visas, Entry Permits, and Immigration Permits in Chapter I of Section I of The First Section on the type and form of Visa in article 1 paragraph (1) is determined that the visa type consists of:

- a. Diplomatic Visa.
- b. Official Visa
- b. Layover Visa
- c. Visit Visa
- d. Limited Stay Visa.

The occurrence of visa abuse if a foreigner entering the territory of Indonesia conducts activities/activities that are not following the intention of granting visa/permit to him or doing things outside the permission of the foreigner.

For example, a Visit Visa should be used for non-working purposes whose activities include all aspects related to government, tourism, socio-cultural, and business activities, given a maximum of 60 days, such as:

- a. Cooperation visit between the governments of other countries and the state of Indonesia,
- b. Family or social.
- c. Take short training and so on.

After foreigners arrive in Indonesia (Bali Island), then the permit is not used as stated in the Visa, but instead used for other purposes, for example, for work or business, so that foreigners have manifestly violated some legal provisions, for example in the field of labor, taxes, Immigration and so on.

The misuse of foreign visitor visas that can be identified immigration class I Special Ngurah Rai is conducting activities that do not follow the visa/permit granted. Such visa violations violate the provisions of Law No. 6 of 2011 and can be subject to a maximum prison sentence of 5 years or a maximum fine of Rp.25,000,000 (twenty-five million rupiahs), this is following the provisions of Article 50 of Law No. 6 of 2011 and in reality, accompanied by deportation from Indonesia.

Then secondly, the form of visa abuse is staying beyond the given time limit (overstay), which is approximately 75% of the total cases as described above, while the rest in other forms of violations, such as mental illness and so on. Visa holders are granted a residence permit in the Territory of Indonesia according to the type of Visa held. For tourist visas, residence permits in Indonesia for 30 days, then business visas residence permits in Indonesia for 60 days, and for Social and Cultural visas, the residence permit is 60 days. If a foreigner lives on the island of Bali beyond the time limit set in the Visa, then the person is categorized as overstaying or past the specified time limit. This person may be subject to criminal provisions following Law No. 6 of 2011 on Immigration, namely article 52, where the threat of punishment is a maximum imprisonment of 5 years or a maximum fine of Rp.25,000,000 (twenty-five million rupiahs).

Other violations that can be identified as misuse of visit visas are foreigners entering Indonesian territory without having a visa (illegal immigrants) and obtaining an illegal entry/departing stamp and/or forged. Then when foreign tourists enter the territory of Indonesia or the island of Bali through the specified entrances, immigration officers will put an entry permit in the form of a box-shaped stamp/stamp. The stamp stated the date of Arrival, the purpose of Arrival (visit), and the validity period/residence permit of tourists for 60 days. Before or when the validity period of the visit permit expires, tourists must immediately leave the territory of Indonesia through the designated exit. At the exit, the immigration officer will put a stamp in the shape of a triangle. On the stamp is listed the date of departure and the immigration office that affixed the stamp.

Foreigners who do not meet the requirements mentioned above means that the person forgery visa so that it is classified as an illegal immigrant, the provisions

of the penalty is 6 (six) years, this is stipulated in article 49 of Law Number 6 of 2011, which fully specifies that:

Sentenced to a maximum imprisonment of 6 (six) years and a maximum fine of Rp.30.000.000,-(thirty million rupiah) :

1. Foreigners who intentionally falsely create or falsify Visas or immigration permits; or
2. Foreigners who knowingly use visas or fake or forged immigration permits to enter or are on Indonesian territory.

3.2 Legal Sanctions for Misuse of Visiting Visas By Foreigners

The Immigration Office Class takes preventive measures I Special Ngurah Rai Denpasar in tackling the influx of foreigners who abuse Visa are:

1. Open complete access to the public about the prevailing immigration laws so that the public understands the content of the law and is ready to assist the authorities in the implementation of their duties.
2. Tightening supervision on the entry of Foreign Nationals (Foreigners) when foreigners are at immigration checkpoints (TPI) entering the territory of Indonesia (Bali Island).
3. Conduct intensive surveillance activities, both administrative supervision, and field supervision of foreign nationals (Foreigners) who enter and are in Indonesia (Bali).

In addition to preventive measures taken by Immigration in tackling visa abuse, repressive measures or legal handling measures are processed legally after a criminal offense. The first step of countermeasures began with information that the foreigner had misused the Visa given to him.

Visa abuse can be known usually from reports of public members that there has been an abuse of immigration permits by the visa holder, or the person is caught in the hands during an examination, search, or other action under the law. The actions taken in the repressive step are:

- a. Coordinate with other parties/agencies to supervise foreign nationals (Foreigners) who enter and are in Indonesia (Polri, Depnaker, Local Government).
- b. Conducting immigration action is by applying strict sanctions against foreigners who violate following the applicable Immigration Law. This crackdown can be done in two ways, namely Immigration and projustisia (submitted to the court).

Article 1 paragraph 14 of Law No. 6 of 2011 on Immigration determines that what is meant by immigration action is an administrative action outside the court process. The decision on immigration action is made in writing and aims to ensure the existence of legal

certainty. In Law No. 6 of 2011, the issue of immigration action is stipulated in articles 42 to 45. In addition, immigration measures are regulated in Government Regulation No. 31 of 1994, challenging Foreign Surveillance and Immigration Measures, stipulated in articles 24 to 30.

Immigration measures can be imposed on foreigners who misuse immigration permits; especially Visa can be:

1. Restrictions, changes, or revocation of existing permits.
2. Prohibition of being in a particular place or place in the territory of Indonesia.
3. The necessity to live in a particular place in the territory of Indonesia.
4. Expulsion or deportation from the territory of Indonesia or refusal to enter the territory of Indonesia (Article 42 paragraph 2 of Law No. 6 of 2011)

For foreigners who violate immigration measures are also charged a burden, following the provisions of article 45 of Law Number 6 of 2011.

The Constitution of the Republic of Indonesia year 1945 confirms that Indonesia is a country of law. In line with this provision, one of the essential principles of the state of the law is the guarantee of the implementation of independent judicial power, free from the influence of other powers to conduct the judiciary to enforce the law and justice. So in the event of violations of immigration actions committed by foreigners residing in Indonesia, then against this person will be subject to the provisions of the law applicable in Indonesia, whose system is the same as that applied to Indonesians.

Article 47 of Law No. 6 of 2011 on Immigration specifies that in addition to investigators of the State Police Officers of the Republic of Indonesia, as well as certain Civil Servant Officials in the Department environment whose scope of duties and responsibilities include the construction of Immigration, given special authority as investigators as referred to in Law No. 8 of 1981 on Criminal Procedure Law, to investigate immigration crimes.

The Investigator of the Civil Servant Office, as referred to above, has the authority:

- a. Receive reports of immigration crimes.
- b. Calling, checking, searching, arresting, detaining a person suspected of immigration crimes.
- c. Checking and/or confiscating letters, documents, Travel Letters, or objects related to immigration crimes.
- d. Calling people to be heard as witnesses.
- e. Conduct checks in certain places where there are suspected immigration papers, documents, travel letters, or other items related to immigration crimes
- f. Take fingerprints and photograph suspects.

The authority of the Investigator, as mentioned above, is carried out according to Law No. 8 of 1981 on Criminal Procedural Law.

The occurrence of immigration crimes, the legal provisions are the same as other crimes, namely starting from the investigation conducted by the Investigator, then if it is considered sufficient evidence continued to the Prosecutor's Office and then is the judicial process, which is the principle, principle, and others following the provisions applicable in Law No. 4 of 2004 on the Basic Law of Judicial Power.

4. CONCLUSION

Based on the above descriptions, it can be concluded as follows:

1. The forms of visa abuse by foreigners can be identified are:
 - a. Conducting activities or activities that are not following the purpose of issuance of the Visa, for example:
 - a) Visit Visa owned by foreigners is used to work in the Bali area.
 - b) Senior visas are also used for work.
 - b. Staying in Indonesia exceeds the validity period of the Visa given so that it is categorized as overstay, for example:
 - Travel Visa period for 30 days, then Visa Business period of 60 days, Social and cultural Visa permit for stay 60 days, but they are in Bali exceeds the time of stay
 - c. Entry into The Territory of Indonesia does not use Visa (Illegal Immigrants).
2. Legal sanctions for the misuse of visas for foreigners are that foreigners are subject to sanctions either in administrative sanctions or in the form of criminal sanctions, namely the punishment of confinement or expulsion from Indonesian territory by forcibly.

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