

## Immigration Law: Analysis of The Application of Criminal Law Towards Immigration Permit Abuse in Bima

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|| Received : 15-04-2025 || Accepted: 25-06-2025 || Published: 29-06-2025

### Abstract

The misuse of immigration permits constitutes a legal violation that can disrupt public order, threaten national security stability, and undermine the integrity of a country's immigration system. This study aims to comprehensively analyze the application of criminal law to the misuse of immigration permits, whether committed by foreign nationals or domestic actors. The primary focus is on evaluating the effectiveness of criminal law norms within the Immigration Law and their implementation in practice, including both juridical and non-juridical obstacles faced by law enforcement authorities. The research employs a normative juridical method with statutory and conceptual approaches, complemented by case studies from several relevant court decisions. Data were collected through literature review and analyzed qualitatively. The findings reveal a gap between established legal norms and their implementation in the field. Law enforcement is often hindered by weak inter-agency coordination, limited human resources, and the suboptimal use of legal instruments to create deterrent effects. These findings highlight the urgency of reformulating clearer criminal law norms and strengthening the institutional capacity of immigration authorities and law enforcement agencies. The novelty of this research lies in its integrative approach, bridging immigration law and criminal law, which are often applied in a sectoral manner. This study is expected to contribute scientifically to improving immigration policy and enhancing the effectiveness of criminal law enforcement against immigration violations in Indonesia..

*[Penyalahgunaan izin keimigrasian merupakan bentuk pelanggaran hukum yang dapat mengganggu ketertiban umum, mengancam stabilitas keamanan nasional, dan melemahkan integritas sistem keimigrasian suatu negara. Penelitian ini bertujuan untuk menganalisis secara komprehensif penerapan hukum pidana terhadap praktik penyalahgunaan izin keimigrasian, baik oleh warga negara asing maupun pelaku domestik. Fokus utama terletak pada evaluasi efektivitas norma hukum pidana dalam Undang-Undang Keimigrasian serta implementasinya dalam praktik, dengan menyoroti berbagai kendala yuridis dan nonyuridis yang dihadapi aparat penegak hukum. Metode yang digunakan adalah yuridis normatif dengan pendekatan perundang-undangan dan konseptual, serta didukung oleh studi kasus dari beberapa putusan pengadilan yang relevan. Data dikumpulkan melalui studi pustaka dan dianalisis secara kualitatif. Hasil penelitian menunjukkan adanya kesenjangan antara norma hukum yang berlaku dengan realitas implementatif di lapangan. Penegakan hukum seringkali terhambat oleh lemahnya koordinasi antar lembaga, keterbatasan*

*sumber daya manusia, serta belum optimalnya instrumen hukum dalam menimbulkan efek jera. Oleh karena itu, perlu dirumuskan norma hukum pidana yang lebih operasional dan penguatan kelembagaan dalam sistem keimigrasian. Kebaruan dari penelitian ini terletak pada pendekatan integratif antara hukum keimigrasian dan hukum pidana yang selama ini cenderung diterapkan secara sektoral. Penelitian ini diharapkan dapat memberikan kontribusi ilmiah dalam pembaruan kebijakan keimigrasian dan peningkatan efektivitas penegakan hukum terhadap pelanggaran keimigrasian di Indonesia.]*

**Keywords:** immigration law, criminal law, misuse of permits, Bima NTB.

**How to Cite:** Wardin, W., Syamsuddin, S., & Ihlas, I. (2025). Immigration Law: Analysis of The Application of Criminal Law Towards Immigration Permit Abuse in Bima. *Jurnal Mediasas: Media Ilmu Syari'ah Dan Ahwal Al-Syakhsyiyah*, 8(2), 440–448.

<https://doi.org/10.58824/mediasas.v8i2.366>



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## INTRODUCTION

Globalization has brought about the movement of people across national borders with increasing intensity. Cross-border mobility occurs not only for reasons of tourism and education, but also for economic, business, and even socio-political reasons (Könönen, 2023). Indonesia as one of the destination countries of international migration, faces considerable challenges in regulating and controlling the influx of foreigners. In this context, immigration regulations and policies become crucial to safeguarding national sovereignty, maintaining national stability, and ensuring that the presence of foreign nationals in Indonesia does not lead to legal issues (Fajar & Singke, 2021).

Immigration issues in Indonesia are not only limited to the administrative aspects of entry and residence permits, but have also extended into the realm of criminal law. One of the main problems is the misuse of immigration permits, whether in the form of visa abuse, limited stay permits, permanent stay permits, or violations of other immigration provisions (Fahrizal et al., 2024). Foreign nationals who engage in activities that do not comply with the permits granted can be classified as having committed a legal violation. This provision is explicitly regulated in Law Number 6 of 2011 on Immigration, which provides a legal basis for both administrative and criminal actions against such violations (Ladino, 2021).

The misuse of immigration permits is a complex phenomenon that cannot be regarded as an ordinary violation. In many cases, such misuse is closely related to other acts categorized as transnational crimes, such as human trafficking, smuggling of persons, illegal employment, identity fraud, and even economic espionage (Marie & Pinotti, 2024). The law enforcement approach cannot be partial or merely administrative. A criminal law approach as a penal instrument needs to be applied firmly and proportionally to provide a deterrent effect and to protect the legal interests of the Indonesian society (Emilia & Nadirah, 2024).

However, the application of criminal law to immigration permit violations in Indonesia still faces a number of serious obstacles, especially in areas that lack strong immigration monitoring centers. Bima Regency, located in the eastern region of West Nusa Tenggara Province, is one of the areas that has begun to show a tendency of increasing immigration violations by foreigners. This is inseparable from its strategic geographical

position as a transit and interregional trade route, as well as the presence of local resource potential that attracts foreign nationals to engage in direct economic activities.

This condition is exacerbated by the lack of direct immigration supervision in the Bima region. The absence of a permanent first-class immigration office, the limited human resources with expertise in immigration law, and the suboptimal synergy among institutions such as the Police, the Prosecutor's Office, and Immigration have resulted in weak enforcement against the misuse of immigration permits in Bima. Many violations are only dealt with by deportation or light administrative actions, without further criminal legal proceedings, even though the acts have fulfilled the elements of immigration criminal offenses as regulated in Articles 122 and 123 of Law No. 6 of 2011 (Bedi et al., 2024).

From the law enforcement perspective, this condition raises serious questions about the effectiveness of criminal law as a means of controlling immigration violations. Has criminal law been optimally used to handle violations that have a significant impact on national sovereignty? Do law enforcement officers in the regions, particularly in Bima, have adequate understanding and capacity to implement criminal sanctions against foreign nationals who violate residence permit regulations?

Previous studies have highlighted similar issues in other regions. For example, research by Yuliana in Batam shows that the weak implementation of criminal law in immigration cases is more caused by overlapping authorities and a lack of technical training for law enforcement officers (Palmer, 2021). Another study by Rachman in Bali highlights the lack of understanding of substantive and procedural law in the prosecution process of immigration violations, which causes many cases not to proceed to legal trials in court (Kafrawi et al., 2021). Both studies indicate that there are structural and institutional problems within the immigration law enforcement system in Indonesia.

Based on the previous studies, it appears that the issue of criminal law enforcement against immigration violations is a national issue that requires more in-depth study in the regional context. However, there has been no study specifically examining how the application of immigration criminal law is implemented in Bima, West Nusa Tenggara. In fact, the characteristics of this area are quite unique compared to other regions, both in terms of demographics, the level of foreign nationals' access, and the institutional conditions of the local government. Therefore, this study will fill that gap and simultaneously provide scientific and practical contributions to the formulation of immigration policies in border and non-metropolitan areas.

This research is also important because, in practice, regional officers often find themselves in a dilemma between enforcing the law firmly and considering local socio-political aspects. In the context of Bima, many local economic activities involve direct interaction with foreign nationals, especially in the trade and mining sectors. Criminal law enforcement against immigration permit violations often triggers resistance or certain social pressures (Widjanarko & Cornelis, 2022). It is important to examine how the balance between law enforcement and social stability is considered in the process of handling immigration cases.

In addition, the aspect of coordination among law enforcement agencies is also an important element in this study. Criminal law enforcement against the misuse of immigration permits ideally involves collaboration between Immigration, the Police, the Prosecutor's Office, and in some cases, the Courts. However, in reality, such coordination often does not function well. One of the main challenges is differing perceptions of case urgency, limited handling budgets, and regulatory inconsistencies among agencies (Wahab et al., 2024). This research will analyze in detail how the dynamics of coordination occur in Bima and how it influences the effectiveness of law enforcement.

In addition to the positive law aspect, this research will also raise sociological and criminological perspectives in understanding the motives and modus operandi of perpetrators of immigration permit misuse. With this interdisciplinary approach, it is expected to obtain a more comprehensive picture regarding the background of the perpetrators, the driving factors behind the violations, and how the local community responds to the presence of foreign nationals who violate immigration permits. This approach is important so that the formulation of immigration law enforcement is not only legalistic but also contextual and adaptive to local conditions.

Based on the above explanation, this study aims to critically and comprehensively analyze the application of criminal law against the misuse of immigration permits in the Bima region, West Nusa Tenggara. This research will explore the types of violations that occur, assess the extent to which criminal law is used in handling cases, and identify factors that hinder and support the effectiveness of law enforcement. Thus, the results of this study are expected to provide practical recommendations for local government, law enforcement officers, and other stakeholders in managing immigration issues more integratively and based on the principle of justice.

Ultimately, this research is not only academically relevant but also has practical urgency in strengthening the national immigration system and ensuring the supremacy of law throughout Indonesia. Bima, as a relatively under-explored area in immigration law studies, holds significant potential for the development of criminal law and immigration administrative law. Therefore, an in-depth analysis of empirical conditions in this region will provide a concrete contribution to responsive, fair, and locally based immigration policy reform.

## **METHOD**

The research method used in this study is an empirical juridical approach, which is legal research that examines the implementation of positive law in society. This approach is chosen to analyze the extent to which criminal law enforcement against the misuse of immigration permits is carried out by law enforcement officers in the Bima region, West Nusa Tenggara (NTB). Primary data were obtained through direct interviews with officials from the Immigration Office, police officers, as well as representatives from the prosecutor's office and courts involved in handling immigration cases. In addition, observations were conducted on legal processes and relevant case documents. The study also uses secondary data in the form of legislation, legal literature, and related court decisions.

Data analysis techniques are carried out qualitatively by processing data obtained through interviews and documentation into systematic descriptive information. This analysis aims to identify patterns of criminal sanctions enforcement, obstacles in the law enforcement process, and the effectiveness of criminal law application in addressing the misuse of immigration permits. This study is expected to provide an empirical overview of immigration law implementation in the region and serve as input for improving policies and law enforcement practices for greater effectiveness in the future.

## **RESULTS AND DISCUSSION**

### **Immigration Law Enforcement in the Globalization Era**

In the era of globalization marked by increasing human mobility, the regulation and supervision of immigration permits have become crucial aspects in maintaining national security and order. The misuse of immigration permits poses a serious challenge that not only threatens administrative aspects but also impacts criminal law. The application of

criminal law to immigration permit violations is an important instrument in upholding the rule of law and providing a deterrent effect for offenders. However, the effectiveness of criminal law enforcement in this context still leaves various problems that need to be analyzed in depth. This results and discussion section will elaborate on the research findings related to the implementation of criminal law in addressing the misuse of immigration permits, while also examining obstacles, challenges, and opportunities for improvement within the immigration law enforcement system. Thus, it is expected to obtain a comprehensive overview of the actual conditions as well as strategic recommendations to enhance the effectiveness of criminal law enforcement in the immigration sector.

This study deeply examines the phenomenon of immigration permit misuse in Bima Regency, West Nusa Tenggara Province, focusing on the application of criminal law as an effort to enforce the law against these violations. Based on primary data obtained through in-depth interviews with law enforcement officers (Immigration Office, Resort Police, District Prosecutor's Office), as well as secondary data in the form of case decision documents and official case handling reports, this research finds several important findings.

First, the misuse of immigration permits in Bima Regency is dominated by several forms of violations, including forgery of permit documents, misuse of permit types (for example, using a visit permit for illegal work purposes), as well as issuance of permits by unauthorized individuals or through non-transparent processes. Most of these cases involve perpetrators coming from the general public, business actors, and even bureaucratic officials who potentially engage in collusion.

Second, data show that although law enforcement officers have conducted investigation and prosecution processes against perpetrators of immigration permit misuse, the rate of case reduction is relatively slow. This is caused by several factors, among others: limited number of personnel and facilities of law enforcement officers in the region; weak coordination among related institutions; and the lack of an effective monitoring system in the process of issuing and utilizing immigration permits.

Third, interviews with law enforcement officers indicate difficulties in proving the criminal elements of immigration permit misuse. This is due to the lack of strong evidence supported by official documentation as well as insufficient understanding among the community and officers regarding the technical aspects of immigration law. On the other hand, this legal understanding gap contributes to systemic and recurring permit misuse practices.

Fourth, the research also reveals that the community and business actors in Bima Regency do not fully understand their rights and obligations in the immigration permit process. The lack of socialization and legal education makes them vulnerable to unintentionally committing legal violations. Some members of the community consider permit processing merely an administrative formality that can be circumvented without serious consequences.

### **The Enforcement of Criminal Law in Addressing Immigration Permit Violations in Bima**

Normatively, the Indonesian legal system has provided an adequate juridical basis to sanction the misuse of immigration permits through criminal channels. However, in its implementation, the criminal law enforcement against perpetrators of immigration permit violations is still considered weak and has not been running optimally (Suprihantoro et al., 2023). The majority of permit violations by foreign nationals have so far been handled



more often through administrative approaches such as deportation, inclusion on a blacklist, or cancellation of residence permits, rather than through criminal court processes.

The phenomenon of immigration permit misuse in Bima Regency must be understood within the framework of Indonesian positive law and the local socio-cultural dynamics. Legally, Law Number 6 of 2011 concerning Immigration has provided a clear legal basis regarding types of permits, issuance procedures, as well as criminal sanctions for perpetrators of permit misuse (Simatupang et al., 2025). However, the existing regulations have not yet fully guaranteed legal certainty at the implementation level.

Table 1. Application of Criminal Law to the Misuse of Immigration Permits

Aspect	Main Findings	Legal Implications
Type of Misuse	Overstay, document forgery, misuse visa kunjungan untuk bekerja	Here is the English translation of your sentence without changing the words or meaning: Potentially subject to criminal sanctions in accordance with Law No. 6 of 2011 Articles 119–129.
Application of Criminal Sanctions	Still minimal; perpetrators are more often subjected to administrative actions such as deportation.	Criminal law enforcement has not been optimal in creating a deterrent effect
Obstacles to Law Enforcement	Limited human resources, weak inter-agency coordination, and lack of understanding of criminal law among officers	Hinders the legal process and creates loopholes for repeated violations
Constructive Recommendations	Strengthening regulations, training officers, and inter-agency coordination.	An integrative approach between immigration law and criminal law is necessary.

The gap between regulations and field practices reflects the main challenge in the enforcement of immigration criminal law. Effective law enforcement requires synergy between legal-formal aspects and implementation capacity involving human resources, technology, and adequate supervisory management (Kirani et al., 2025). In the case of Bima Regency, these limitations contribute to the suboptimal control of the circulation of immigration permits, thereby creating opportunities for misuse practices.

Analysis of the *modus operandi* of violations shows that most permit misuse is closely related to administrative issues and governance that lack transparency. Document forgery and the use of permits beyond official provisions often occur due to weak internal and external controls. This aligns with law enforcement theory which states that the effectiveness of the law heavily depends on the quality of supervisory mechanisms and administrative controls (Setiawati, 2024).

In the context of criminal law enforcement, the enforcement actions carried out by officers in Bima Regency show serious intent and efforts to uphold the rule of law. However, obstacles such as the lack of strong evidence, limited human resources with specialized immigration competence, and suboptimal cooperation among law enforcement institutions hinder the acceleration of case handling. This indicates the need for a more holistic and integrated legal system reform.

From a social perspective, the low public understanding of immigration law aspects indicates that legal counseling and education have not yet become a top priority in this area. In fact, the preventive aspect through legal education plays an important role in reducing immigration permit violations, as stated in the theory of legal compliance (Chen et al.,

2023). Strengthening legal awareness at the community level can minimize both unintentional and systemic misuse actions.

This study also emphasizes the importance of enhancing the capacity of related institutions through training, the use of information technology in the licensing process (e-immigration system), as well as the establishment of strict and transparent cross-sectoral supervision mechanisms. Digital technology, for example, can help minimize the risk of document forgery and provide real-time data regarding the status and use of permits (Almomani et al., 2022). Meanwhile, coordination among agencies must be intensified to ensure that follow-up actions on violations can be carried out promptly and accurately.

Theoretically, the results of this study reinforce the understanding that the success of law enforcement does not only depend on the existence of normative regulations but is highly influenced by the effectiveness of implementation in the field, which includes aspects of resources, management, and the legal culture of the community. Immigration law enforcement in Bima Regency currently still requires a strategic synergy between repressive and preventive approaches to effectively address the complexity of permit misuse issues.

Criminal law enforcement against the misuse of immigration permits should be accompanied by improvements in administrative systems, enhancement of the quality of human resources among officers, as well as efforts in legal education and community empowerment. Thus, it is expected to create a conducive legal environment that supports the effective and just implementation of immigration law in Bima Regency.

The implications of this study indicate that the application of criminal law to immigration permit misuse requires strengthening in terms of regulation, institutional capacity, and human resources. From a regulatory perspective, reformulation of criminal norms is needed to make them clearer and easier to apply in law enforcement practices. Institutionally, strengthening coordination among law enforcement agencies is crucial to ensure that the handling of violations is conducted effectively and efficiently. Furthermore, increasing officers' capacity to understand criminal aspects of immigration law is essential for professional and accountable law enforcement.

From an approach perspective, integration between administrative and criminal sanctions must be optimized to create a stronger deterrent effect on perpetrators of permit misuse. Accordingly, these measures are expected to enhance the effectiveness of law enforcement in overcoming immigration permit misuse while safeguarding national sovereignty and security.

## **CONCLUSION**

Based on the results of the study on the enforcement of criminal law against the misuse of immigration permits in Bima, West Nusa Tenggara, it can be concluded that law enforcement still faces various structural and cultural obstacles. Although, from a formal juridical standpoint, adequate legal instruments such as Law Number 6 of 2011 concerning Immigration are available, their implementation at the local level has yet to show the expected effectiveness. Misuse of residence permits, whether by foreign nationals or parties facilitating their illegal presence, is often not met with firm criminal law actions but is mostly resolved administratively. This is caused by several factors, including the limited number and capacity of immigration officers, low coordination among law enforcement agencies such as immigration, police, and prosecutors, as well as suboptimal immigration supervision systems in border areas or remote regions like Bima. Furthermore, the lack of legal awareness among the local community and poor understanding of the legal consequences of immigration violations worsen the situation. Economic dependence on

foreign labor or illegal business cooperation often becomes a reason for tolerating immigration permit misuse practices. To address these issues, a firmer and more integrative law enforcement approach is required, including improving human resource quality in the immigration sector, strengthening cross-sectoral synergy, and conducting legal socialization to the community. Criminal law enforcement must be positioned as a real deterrent effect instrument, not merely a normative symbol. With comprehensive improvements, it is expected that the immigration control mechanism in Bima can operate more effectively and reduce the number of immigration violations that have frequently occurred.

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