

# IMMIGRATION SUPERVISION OF TRADITIONAL BORDER CROSSERS IN THE BORDER AREAS OF THE REPUBLIC OF INDONESIA AND PAPUA NEW GUINEA

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## Abstract

Supervision of foreign traffic entering or leaving the territory of Indonesia as well as monitoring the existence and activities of foreigners in the territory of Indonesia. The method used is analyzing the problem by combining legal materials (which are secondary data) with primary data obtained in the field using a qualitative approach. The purpose of this study is to determine the extent of the supervision carried out by the Immigration office on traditional border crossers on the PNG-Indonesia border in Merauke, To find out the obstacles faced by the Merauke Immigration Office in monitoring traditional border crossers. The results of this study are that the Immigration Office of Merauke Regency has conducted good supervision by forming a team consisting of relevant agencies, The obstacles encountered by the immigration office in carrying out surveillance were that the number of personnel at the cross-border post was very minimal, making it difficult to monitor border crossers whose numbers were relatively high, the number of mouse roads that were difficult to monitor and some borders that were rather difficult to reach. the lack of facilities at the border post so that to supervise and inspect luggage is still very limited because they still use the tool manually.

**Keywords:** border crossers, supervision, traditional.

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## Introduction

International law as a rule governing relations between countries today is experiencing very rapid development, especially in the diplomatic field.<sup>1</sup> Every country is in a relationship between one another.<sup>2</sup> State borders have a significant role in affirming state sovereignty at the from line<sup>3</sup> The Border Area is a strategic area in maintaining the integrity of the State Territory, therefore development in the border area is one of the development priorities in the work cabinet government which is on the third point, which is to build Indonesia from the periphery by strengthening regions and villages within the framework of the country unity. Development in border areas is the main thing so that the people in the border area also enjoy the attention of the government and also that the people who are on the edge have the same security as the people in the city.

Indonesia, which consists of islands, has a fairly long borderline with neighboring countries both land, sea and air, or what is called a State boundary which is a sovereign separator of a country based on international law. Part of the territory of the country which is located on the inner side along the borders of Indonesia and other countries is called the Border Area.<sup>4</sup> The definition of border can be divided into two parts, namely boundaries and frontier. Both of these definitions have different meanings and meanings, even though they complement each other and have strategic values for the sovereignty of the territory of the country.<sup>5</sup>

In this debate, some facts remain undeniable, when a number of mass transfers were still possible to prevent, no one volunteered to do so.<sup>6</sup> Functionally, the border area has strategic value in various dimensions: state sovereignty, defense, security and economy. At present the public awareness of the importance of structuring and optimizing the potential of the border area is increasing, replacing the old awareness that the border area is a "backyard" of the country which is moderately managed.<sup>7</sup> The Immigration function along the

<sup>1</sup> Kadarudin, *Praktik Spionase, Antara Kebutuhan Nasional dengan Pelanggaran Internasional*, (Practice of Espionage, Between National Needs and International Violations), Hukum Internasional Vol. I, No. 2 November 2013, p. 208

<sup>2</sup> Kadarudin, *Persona Non Grata dalam Praktik Hukum Internasional* (Persona Non Grata in International Law Practice), Jurnal Hukum "Justitia" Vol. I, No. 1 September 2014, p. 1

<sup>3</sup> See <https://batasnusa.wordpress.com/2009/04/02/masalah-perbatasan-negara/> accessed on March 20, 2019

<sup>4</sup> Article 1 of the Law of the Republic of Indonesia Number 43 Year 2008 on Territory of the Country.

<sup>5</sup> Suryo Sakti Hadiwijoyo, *Perbatasan Negara dalam Dimensi Hukum Internasional* (State Border in the Dimension of International Law), Yogyakarta: Graha Ilmu, 2011.

<sup>6</sup> Kadarudin, *Hubungan Indonesia dengan Prinsip Non Refoulement dalam Perspektif Hukum Internasional* (Indonesian Relations with the Non Refoulement Principle in the International Law Perspective), Jurnal Ilmu Hukum Amanna Gappa, Vol. 20 No. 2, June 2012, p. 139

<sup>7</sup> Decentralation Support Facility Indonesia, 2011, *Naskah Kebijakan Pengelolaan Perbatasan Secara Terpadu* (Manuscript of Integrated Border Management Policy), p.1

border line is in accordance with its duties, namely as the guardian of the gates of the country and part of the realization of the enforcement of sovereignty over the territory of Indonesia providing services and supervision of the traffic of people through the border region.

In order to improve services and facilitate the supervision of the establishment of Immigration Checkpoints (TPI) and Cross Border Posts (PLB) at several border crossing points for checking immigration documents for every person entering and leaving the territory of Indonesia carried out by immigration officials.<sup>8</sup> Papua is one of the provinces in a strategic position in the eastern part of the Republic of Indonesia, which is north of the sea bordering the Republic of Palau, south of Australia and east of the sea with Papua New Guinea. National border areas are the main manifestation and have an important role in determining sovereignty boundaries, utilization of natural resources, security and territorial integrity, where border areas have social, political, economic issues, defense security is becoming increasingly complex because it intersects with the sovereignty of other countries. The location of Papua Province (Republic of Indonesia) which borders sea and land directly with PNG makes Papua the gateway for the East in the Republic of Indonesia.<sup>9</sup>

One of the priorities for development which has become the focus of attention of the National Border Management Agency is the 10<sup>th</sup> priority, namely the Disadvantaged, Frontier, Outermost, and Post-Conflict Areas, including the border regions between countries.<sup>10</sup> The crossing point was established Cross-border Post is a place that serves to provide services to every person and goods that will cross the national border.<sup>11</sup> A conflict can occur anytime and anywhere, without being predictable by anyone, the conflict can occur because of an incompatibility between expectations and realities that occur, besides that conflicts can also occur due to misunderstandings among legal subjects, or the existence of disagreement between a certain object, where the legal subjects have an interest in it.<sup>12</sup>

Merauke Regency is an area directly adjacent to the State of PNG, in Merauke, there are 6 cross border posts but the most easily accessible cross-border post is a cross-border post located in Sota District, Merauke Regency. The activities on this Sota cross-border post are very diverse and the border crossing traffic in this region is very high, that is, on average, there are around 18 Indonesian citizens going to PNG a day and around 25 PNG citizens entering the Indonesian territory according to the data taken at the Sota cross-border post on March 9, 2019. With the number of border crossers every day that is quite high, it does not rule out the possibility of violations in this border area, for example illegal border crossers in the sense that they do not have entry permits or exit permits in the form of cross border passages, there are border crossers who enter or exit not through predetermined immigration checkpoints (TPI) and also there are border crossers who unknowingly pass the proper jurisdiction.

The borders of the PNG region and Indonesia which are in the Sota region of Merauke Regency are areas that are very crowded with people because this border is one of the recreational places or places to relax just to take photos as evidence of being on the border. Oversight of cross-border is very important to avoid violations in the border region. The objectives of this research are:

1. To find out how far the supervision is carried out by the Immigration office on traditional border crossers on the PNG-Indonesia border in Merauke.
2. To find out the obstacles faced by the Merauke Immigration Office in monitoring traditional border crossers.<sup>13</sup>

## Research Method

This type is socio-juridical research, namely analyzing the problems carried out by integrating legal materials (which are secondary data) with primary data obtained in the field using a qualitative approach. Data

<sup>8</sup> Article 1 point 3 of the Law of the Republic of Indonesia Number 6 Year 2011 on Immigration.

<sup>9</sup> See [https://www.researchgate.net/publication/324236833\\_Optimalisasi\\_Pos\\_Lintas\\_Batas\\_Tradisional\\_dalam\\_Pelaksanaan\\_Fungsi\\_Keimigrasian\\_Studi\\_Kasus\\_Imigrasi\\_Entikong](https://www.researchgate.net/publication/324236833_Optimalisasi_Pos_Lintas_Batas_Tradisional_dalam_Pelaksanaan_Fungsi_Keimigrasian_Studi_Kasus_Imigrasi_Entikong) accessed on March 20, 2019

<sup>10</sup> Wanggai Annisa, 2017, *Upaya-upaya penanganan wilayah perbatasan republik indonesia-papua new guinea oleh badan pengelola perbatasan dan kerjasama luar negeri provinsi Papua* (Efforts to deal with the border region of the Republic of Indonesia-Papua New Guinea by the border management body and the cooperation of the foreign provinces of Papua), See <http://Jurnal.uniyap.ac.id/index.php/Fisip/article/download/83/78>

<sup>11</sup> Elfin Elyas, 2011, *Semangat Baru Mengubah Wajah Perbatasan Negara* (New Spirit Changes Face of State Border), Jakarta: Badan Nasional Pengelola Perbatasan.

<sup>12</sup> Kadarudin, *Potensi Indonesia Menjadi Protecting Power dalam Memberikan Good Offices Terhadap Penyelesaian Konflik Internasional* (Indonesia's Potential to Be Protecting Power in Providing Good Offices to International Conflict Resolution), *Jurnal Hukum "Justitia"* Vol. II, No. 1 September 2014, p. 29

<sup>13</sup> Firdaus Insan, *Optimalisasi Pos Lintas Batas Tradisional dalam Pelaksanaan Fungsi Keimigrasian, Studi Kasus Imigrasi Entikong* (Optimization of Traditional Cross-Border Posts in the Implementation of Immigration Functions, Entikong Immigration Case Study). *Jurnal Ilmiah Kebijakan Hukum* Vol. 12 No. 1 March 2018, p. 57-71

collection are secondary data based on library research and primary data (field research) are collected through an observation, namely the supervision carried out by the Merauke Immigration Office Class II and conducting interviews with several officers in the post across borders and also to the head of the Merauke Immigration Office Class II.

## Results and Discussion

### A. Supervision of Traditional Border Crossers on the Indonesia-PNG Border in Merauke

The concept of human security began to develop along with the development of human thought about the sense of security and security for his family. The concept of human security is regarded as the most modern concept and replaces the classic concept that prioritizes the national security of a country. International law as a law governing relations between countries in its development cannot be separated from the concept of human security, because the concept of human security is used by the state as an indicator of fulfilling a sense of security for its citizens.<sup>14</sup> The supervision carried out by the immigration office in the border region adheres to the basic agreement between the Indonesian government and the Papua New Guinea government regarding known border regulations "Basic Agreement between the Government of the Independent State of Papua New Guidelines on Border Arrangements" and special arrangements for traditional cross-border activities and the habits of the Republic of Indonesia and Papua New Guinea issued by the Papua provincial government.

Supervision in border areas across Sota boundaries needs to be improved and needs special attention because these borders are far from urban areas so that they do not rule out the possibility of crimes because it is assumed that the border supervision is weaker, especially coupled with equipment possessed by cross-border posts.

Immigration has the authority to supervise including:

1. Oversight of Indonesian citizens who request travel documents, leave or enter the territory of Indonesia, and who are outside the territory of Indonesia
2. Supervision of foreign traffic entering or leaving the territory of Indonesia as well as monitoring the existence and activities of foreigners in the territory of Indonesia.<sup>15</sup>

In addition to the supervision carried out by immigration officers who are on cross-border posts, supervision of these border crossing communities must continue. Therefore, the regional government in this case the Basic Agreement between the Government of the Independent State of Papua New Guidelines on Border Arrangements conducts Integrated Supervision in collaboration with the Fish Quarantine Station, Merauke Quality and Safety Control Class II with other agencies namely Customs, Sota Police, Class I Merauke Agricultural Quarantine Station, Pamtas RI-PNG and Ministry of Health's Human Health Quarantine. This oversight is mainly to monitor the traffic that occurs at the border including supervising goods that are under the community both from PNG and from Indonesia. Because sometimes people carry goods that are legally prohibited and are most often found at this time are carapace turtles, long neck turtles, swimming bubbles of fish, knives or machetes, deer antlers, matches and also corn or other food crops that are prohibited (results of interviews with borderline postal officers on February 27, 2019).

In certain places along the border line there is traditional traffic in and out of Indonesian citizens and PNG citizens, so as a form of supervision carried out by the Immigration Office a Transboundary Post is established which is a place that serves to provide services to everyone and goods that will cross the border said. One of the functions of the Cross-Border Post is the immigration function of the traffic of people entering or leaving the Territory of Indonesia and its supervision in order to maintain the upholding of state sovereignty, which is the authority exercised by the Directorate General of Immigration of Ministry of Justice and Human Rights.<sup>16</sup> The supervisory objective is carried out by the actual Merauke Immigration Office Class II to see and find out whether the actual reality of the implementation of tasks and work, is in accordance with what is appropriate or not or has gone well in accordance with applicable regulations.

The Immigration function along the border line is in accordance with its duties, namely as the guardian of the gates of the country and part of the realization of the enforcement of sovereignty over the territory of Indonesia providing services and supervision of the traffic of people through the border region. In order to improve services and facilitate the supervision of the establishment of Immigration Checkpoints (TPI)

<sup>14</sup> Kadarudin, Human Security in International Law Perspective, Awang Long Law Review, Vol. I No. 1, November 2018, p. 36

<sup>15</sup> See [https://www.researchgate.net/publication/324236833\\_Optimalisasi\\_Pos\\_Lintas\\_Batas\\_Tradisional\\_dalam\\_Pelaksanaan\\_Fungsi\\_Keimigrasian\\_Studi\\_Kasus\\_Imigrasi\\_Entikong](https://www.researchgate.net/publication/324236833_Optimalisasi_Pos_Lintas_Batas_Tradisional_dalam_Pelaksanaan_Fungsi_Keimigrasian_Studi_Kasus_Imigrasi_Entikong) accessed on March 20, 2019

<sup>16</sup> Jum Anggriani, *Hukum Administrasi Negara* (State Administrative Law), Graha Ilmu, Yogyakarta, 2012, p. 97

and Cross Border Posts (PLB) at several border crossing points for checking immigration documents for every person entering and leaving the territory of Indonesia carried out by immigration officials.<sup>17</sup>

According to the Head of the Merauke Immigration Office Class II to supervise properly in this matter besides conducting integrated supervision the Immigration office has also formed a Team which at any time can supervise traditional crossers who every day are very high. The team formed consisted of immigration officers, TNI officers on duty at the border, Government officials in this case are employees in the Sota District of Merauke Regency. The team routinely will monitor the entry and exit of someone from Indonesia twice a month and also often patrol places that are considered vulnerable to entry or exit from the community illegal.

With the formation of this Team, the violations that occurred at the Sota border diminished. In accordance with the results of an interview with the head of the Immigration Office who said that since the establishment of the Team formed by the Regional Government, the violations were decreasing, further said that supervision was carried out not only for PNG people who would enter Indonesia but also Indonesian people who would enter PNG region. More people from PNG because they go to Indonesia shop for daily necessities because they think Shopping in Indonesia is cheaper even though they have to walk for about 1 hour.

In the Indonesian and PNG border areas, outbound and inbound traffic is a routine activity for local residents who are located in close proximity to both countries and these crossings have been around for a long time and are traditional. which is usually done by border communities in the form of trading activities, purchasing basic needs, family visits due to mixed marriages between Indonesian and PNG border residents, and other activities with high and recurring intensity every month or week or even daily.<sup>18</sup> The principles/principles contained in Indonesia border areas are transnational principle, principle of sovereign equality, recognition (non-recognition principle), defense and security (self defense principle), cooperation, sustainability principle, decentralization, deconcentration, assistance, justice, expediency, legal certainty, use of technology and island nations.<sup>19</sup>

The arrival of PNG citizens to Sota, because access to Sota is closer than to the city where their country of origin is. Generally, PNG residents from Wareber hamlet, and several villages near the border. According to Ma'ruf, PNG residents came to Sota with various purposes. But in general, they come to visit relatives in Sota, Indonesia "other than that, they shop for their daily needs, especially groceries. Instead from the village they brought deer horns, garden produce, fish and meat for sale". They can stay 2-3 days in Sota, it also depends on their needs. They come on bicycles, there is a walk. Some of them use motorcycle taxis, the motorcycle taxi drivers are our people". The mobilization of PNG residents in Sota is quite high, so cross-sectoral officials in Sota carry out strict supervision of border crossers. This was mainly to prevent the entry of prohibited items, such as marijuana. Cross-border documents from every border crosser were still checked by the Sota Immigration. While the inspection of PNG residents' luggage was carried out by the Pamtas Task Force in charge of Sota.<sup>20</sup>

Data taken at cross-border post that in one day border crossers entering Indonesia as many as 25 and border crossers who are going to PNG as many as 18 of these crossers are only crossers who enter through cross-border posts in Sota or via land posts. entering Indonesia or the number of PNG Citizens who cross Sota post every day because most of these people shop for their daily needs in shops in Sota District. Some of the cases that have occurred so far are the presence of several fishermen who have crossed national borders so that PNG officers who are conducting patrols are often caught and more of these fishermen do not have the right path so they need a very serious solution.

#### B. Constraints Faced by the Immigration Office in Conducting Supervision

As the region that has the most traditional TPI, performing immigration functions in the border area is certainly not easy if we compare it with conventional TPI which is in the average "habitable" area. So far the border areas in Indonesia have often escaped the attention of the government. Being part of a region that has been left behind, it is certain that the area has very little infrastructure to support its development. The border area remains the border area, which is always left behind with all its shortcomings. Related to the immigration function as the state gate guard institution, Immigration has tried to carry out its duties to the fullest.

In accordance with the results of interviews conducted by the author on officers at cross-border posts, the obstacle encountered was that many border crossers entering or exiting Indonesia did not go through the main road but were also passing through illegal roads so that supervision was rather difficult. Although the meauke district government has formed a team to handle supervision of border crossers in the Sota District but

<sup>17</sup> Article 1 point 1 of the Law of the Republic of Indonesia Number 6 Year 2011 on Immigration.

<sup>18</sup> Mahendra Putra Kurnia, *Hukum Kewilayaan Indonesia* (Indonesian Authority Law), Malang: Universitas Brawijaya Press, 2011, p. 84

<sup>19</sup> Adi Sumardiman, *Wilayah Indonesia dan Hukumnya, Buku I: Perbatasan Indonesia-Papua New Guinea* (Indonesian Territory and its Law, Book I: Border of Indonesia-Papua New Guinea), Jakarta: Pradnya Paramita, 1992, p. 20

<sup>20</sup> The results of the interview with Chief of the Sota Police, dated 26 February 2019

this team has not been able to work optimally even though according to the head of office violations can be reduced.

The obstacle faced by this team is the lack of infrastructure that is owned because the streets of rats that can be traversed are roads that are rather difficult to reach and also personnel are still very lacking. crucial problems that also often arise are the transfer of boundary stakes, environmental damage, and various border violations, the community does not understand the existence of impassable boundaries.

People's lack of understanding about boundaries that cannot be passed is often a problem because they are not aware that they have crossed the State line. In addition to the problems raised above other problems that arise are the lack of personnel available at cross-border posts, namely that each post has only two officers so it is rather difficult to serve and supervise the relatively large number of border crossers every day.

## Conclusion

The Merauke Immigration Office Class II has carried out a good supervision by forming a Team consisting of relevant agencies and also by placing personnel at cross border posts in the working area of the Merauke Immigration office. Supervision carried out serves to monitor the traffic of people who cross cross-border posts both in and out of Indonesia whose numbers are relatively high in a day, especially those who enter namely PNG citizens who will shop for basic necessities in Sota District. The obstacles encountered by the immigration office in carrying out surveillance were that the number of personnel in cross-border posts was very minimal, making it difficult to monitor border crossers whose numbers were relatively high, the number of mouse roads that were difficult to monitor and some borders that were rather difficult to reach, lack of facilities at the border post so that to supervise and inspect luggage is still very limited because they still use the tool manually.

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