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# Immigration Supervision Model for Detainees Living Outside Immigration Detention Centers: Case Study of Detainees for More Than Ten Years in Indonesia

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## Abstract

Article 85 of Law Number 6 Year 2011 on Immigration stipulates that detention of foreigners can be carried out until the detainee is deported. However, in the event that the deportation cannot be carried out, the detention may be carried out for a maximum period of ten years. The designated Immigration Officer may remove the detainee from the Immigration Detention Centre if the ten-year period is exceeded and allow the detainee to stay outside of the Immigration Detention Centre by stipulating the obligation to report periodically. To date, there are eight detainees who have been placed outside the Jakarta Immigration Detention Centre due to their detention period of more than ten years. Some of them have even worked and married Indonesian citizens. This social fact needs to be seriously examined, as it has the potential to cause social pathology in the community. The formulation of the problems to be discussed in this research are as follows (1) How is the supervision of detainees who are more than ten years outside the Jakarta Immigration Detention Centre? (2) What is the effective form of field supervision for detainees who are more than ten years outside the Jakarta Immigration Detention Centre? The research method used in this research is normative-empirical legal research which is analysed with the Theory of Law Enforcement Effectiveness and Legal Certainty. Based on the results of the research, it can be concluded that the supervision of detainees who are more than ten years outside the Immigration Detention Centre has not been implemented optimally. The implementation of field supervision of detainees has not been carried out due to the absence of rules or mechanisms related to field supervision of detainees who are more than ten years outside the Jakarta Immigration Detention Centre. In fact, the supervision carried out so far has only been carried out administratively and the field supervision, especially for officers, has not been carried out thoroughly for the detainees. In this case, the importance of field supervision is to see that the reported report is in accordance with what they reported, starting from the change of address, status to activities carried out and to control the condition of detainees who are outside living with the general public. This supervision needs to be done in order to avoid any violation of the law by the detainees in social life with the surrounding community.

**Keywords:** Detainees, Immigration Supervision, Immigration Detention Centre, Ten Years

## 1. Introduction

The existence of international crossings has made it easier for everyone to move from one country to another. The freedom of movement between countries makes the existence of basic rights or human rights regulated in the constitution (Syahrin, 2018). The development of international migration shows the main role of the state. The state acts as a facilitator to facilitate access for individuals or groups to carry out migration in accordance with the national interests of each country (Sande, 2020).

The presence of the technological era to support the progress of the country cannot be distinguished through the activities, validity and arrival of foreigners in Indonesia (Hendrawan and Shatrya, 2022). As a country that has a qualified location in international relations, starting from a geographical point of view or the ability of natural resources and human resources, causing the flow of people entering and leaving the territory of Indonesia to increase (Anjasmara, et.al., 2022).

The presence of foreigners in Indonesia, in addition to making a good influence, also makes a bad image related to the emergence of criticism of the progress of a nation. The discovery of an illegal immigrant trafficking, infiltration of people, international sale of children and women and the addition of international unions in the aspects of terrorism, narcotics, money laundering, infiltration and others (Wilis, 2009).

The role of control makes a meaningful dimension in protecting government functions according to plan because supervision is equally significant through the implementation of the expected good governance. Supervision in its understanding is aimed entirely at staying away from acts of abuse or deviation related to the objectives to be achieved (Pertiwi, et.al., 2023). With the existence of supervision, it hopes to be able to support the implementation of regulations that have been regulated in achieving the goals that have been prepared effectively and efficiently and to create public governance that is in the nature of organising good governance (Jazuli, 2018).

In terms of understanding, foreigner control is all implementation aimed at controlling the inflow of foreigners in Indonesia who do not comply with immigration regulations (Al-Asfahni, et.al., 2022). The supervision of foreigners has essentially been implemented and started by the Indonesian Representative Office abroad at the time of acceptance to make a visa (Santoso, 2004).

Foreigner supervision is divided into two parts, the first is administrative supervision and field supervision. In its definition, administrative supervision is supervision aimed at the commencement of the initial stage of the immigration process for foreigners, which can be carried out at the Immigration Office or on conveyances found to have foreigners in them. The second is field supervision, which is a foreigner supervision activity carried out outside a certain place within the working area of the Immigration Office (Bahri, 2013).

This field supervision is carried out alone or in combination. In-house field supervision is field supervision conducted by involving officials and employees of the Immigration Office. Joint field supervision is supervision of foreigners carried out simultaneously between other law enforcement agencies whose duties and functions are directly related to foreigners such as the Civil Registration Office and the Education Office (Ahmad and Sa'adah, 2021).

In carrying out the supervision of foreigners through administrative supervision, the first administrative stage is implemented with the receipt of immigration service files sent by foreigners or their guarantors. The entire application data is checked by the officer manually or by the system that checks the application file and banned data by the immigration information system (Muharam, et.al., 2022).

The system is implemented with the intention of collecting all information data on foreigners needed later for field supervision activities. In addition, in relation to the supervision of foreigners through field supervision, the administrative process starts from the issuance of the Head of the Immigration Office's Task Letter that there is a field supervision activity to form a task force and give task force orders in carrying out the implementation of foreigner supervision (Syahputra, 2019).

In exercising such control, a selective policy is needed, which is a policy that applies to all people to enter Indonesian territory. This policy requires only foreigners who provide benefits and are not harmful to security and public order to be given permission to enter and be in the territory of Indonesia. Foreigners who will enter and reside must have appropriate intentions and objectives while in Indonesian territory (Widyanto, et.al., 2020). With the existence of security and public order, there is a functioning state in society as a condition for the national development process regarding the expectations of national goals obtained by regulating the functions of security, order, and the rule of law as well as the fostering of comfort that contributes to the ability to enforce and prevent the occurrence of anything in legal sanctions with several other disturbances that have caused public unrest (Wilis, 2009).

There are two main points of supervision of these people in Indonesia, namely supervision of their whereabouts and activities while they are still in Indonesia. The main thing is that the supervision of their activities requires a related activity between agencies regarding their supervision activities (Jazuli, 2018). Supervision of foreigners must be prioritised again given the increase in international crimes such as human trafficking, human smuggling, and narcotics offences that are often implemented by international crime syndicates structured in this realm (Mayang, et al., 2021).

Immigration function activities are very urgent to protect the sovereignty of the Republic of Indonesia, where Indonesia is the largest archipelago in the world which has 17,508 islands and has a strategic location that has an influence on the cultural, social, political and economic order (Wilis, 2009). Immigration control must be sought to control foreigners not only when they come, but also as long as the person stays in the territory of Indonesia along with their activities (Syahputra, 2019).

The role of the Government of Indonesia, especially the Directorate General of Immigration is explained in the General Elucidation of Government Regulation No. 31 of 2013 to protect the security and order as well as the interests of the state and the Government of Indonesia, prevention and deterrence are carried out on the basis of decisions, requests, or orders from officials authorised to carry out prevention in accordance with the Law, or related agencies in accordance with their duties and functions in terms of deterrence.

The Directorate General of Immigration must take firm action against those who do not comply with immigration regulations who commit immigration offences such as this, who deliberately commit immigration offences in Indonesian territory may be subject to Immigration Administrative Action. For foreigners who are subject to Immigration Administrative Action is one of them in an effort to wait for the sanction of immigration administrative action in Article 1 number 33 the person will be placed in the Immigration Detention Centre (Kurnia, 2019).

According to its definition, the Immigration Detention Centre is a Technical Implementation Unit in the field of Immigration within the Ministry of Law and Human Rights of the Republic of Indonesia which is under and responsible to the Regional Office of the Ministry of Law and Human Rights of the Republic of Indonesia. The function of the Immigration Detention Centre is to carry out part of the obligations to the Ministry of Law and Human Rights of the Republic of Indonesia in the field of Alien Detention, which is under the Directorate General of Immigration.

To carry out the duties of the Immigration Detention Centre, which has the function of carrying out repatriation, detention, determination, deportation and enforcement obligations (Kurnia, 2019). Initially, it was not an Immigration Detention Centre, but according to the explanation in 1992 based on Law Number 9 of 1992 concerning Immigration Article 1 number 15, it is explained that immigration quarantine is a place of temporary placement for foreigners who are subject to expulsion or deportation processes and other immigration actions. In March 2004, based on the Decree of the Minister of Justice and Human Rights of the Republic of Indonesia Number M.01.PR.07.04 of 2004 concerning the Organisation and Working Procedures of Immigration Detention Centres, it was known that the term Immigration Quarantine was changed to Immigration Detention Centres. At the end of this time, there are currently Immigration Detention Centres in thirteen cities in Indonesia, one of which is the Jakarta Immigration Detention Centre.

Elucidation of Article 1 number 33 of Law No. 6 Year 2011 confirms that the Immigration Detention Centre is a technical implementation unit that carries out the Immigration Function as a temporary shelter for Foreigners subject to Immigration Administrative Action. It can be interpreted that the residents of the Immigration Detention Centre are called Detainees based on Article 1 number 35 of Law No. 6 of 2011 concerning Immigration, which is defined as foreigners who have received a decision of detention from immigration officials. There are two criteria for foreigners who are placed in the Immigration Detention Centre.

The first criterion is illegal immigrants, namely foreigners who come or are present in the territory of Indonesia who are not listed in the provisions of the legislation in Article 1 paragraph (1) of the Regulation of the Director General of Immigration Number IMI-1489.UM.05 Year 2010 concerning Handling Illegal Immigrants. These criteria have origins from countries that are usually a problem and aim to choose to become asylum or want refugee status to another country, one of which is Indonesia, which is a transit country that he visited, related to his violation when in Indonesia was arrested by Immigration officers because the immigrant did not have sufficient documents (Sagala, et al., 2021). The next criterion is, immigratoir is a foreigner who comes to the Jakarta area officially, but in fact uses inappropriate documents and uses other people's official documents. The foreigner uses a document that is the same as the original, but not the same as the original document holder. He/she uses the document illegally to be in Indonesian territory as a legal immigrant (Darmawan, 2016).

Table 1: Data on Ten Year Detainees Outside Jakarta Immigration Detention Centre

| No. | Name | Gender | Place of Birth | Date of Birth | Citizenship state | Travel Documents | Status Offence                                | Date of entry into immigration detention centre | Guarantor                     |
|-----|------|--------|----------------|---------------|-------------------|------------------|---|---|-------------------------------|
| 1   | NYTK | L      | Vietnam        | 1961-01-01    | Vietnam           | -                | Immigratoir / Article 24 of Law No. 9 of 1992 | 1996-11-27                                      | SE (Wife)                     |
| 2   | MHI  | L      | Bangladesh     | 1977-01-01    | Bangladesh        | -                | Immigratoir                                   | 2000-09-13                                      | LA (Wife)                     |
| 3   | KK   | L      | Myanmar        | 1974-01-01    | Myanmar           | -                | Immigratoir / Article 39 of Law No. 9 of 1992 | 2003-11-11                                      | N (Wife)                      |
| 4   | MKT  | L      | Myanmar        | 1976-10-19    | Myanmar           | -                | Immigratoir                                   | 2003-11-13                                      | Siti Komaria (Wife)           |
| 5   | GA   | L      | Alzazair       | 1973-19-10    | Alzazair          | -                | Stateless                                     | 2005-04-08                                      | KH. MAI (Az Zikra Foundation) |
| 6   | OS   | L      | Daka           | 1972-02-03    | Bangladesh        | -                | Immigratoir / Article 42 of Law No. 9 of 1992 | 1999-11-24                                      | U (Wife)                      |
| 7   | EBW  | L      | Myanmar        | 1981-03-23    | Myanmar           | -                | Immigratoir / Article 39 of Law No. 9 of 1992 | 2000-04-19                                      | K (wife)                      |
| 8   | SA   | L      | Myanmar        | 1964-01-01    | Myanmar           | -                | Immigratoir                                   | 1987-05-25                                      | -                             |

Source: Jakarta Immigration Detention Centre, 2022

According to the information in Table 1 above, there are eight detainees who have been in Jakarta for more than ten years and have been granted permission to stay outside the Immigration Detention Centre. One of the detainees' immigration offences is violating Article 24 of Jakarta Law 9 Year 1992 regarding the presence of foreigners to have an immigration permit while in Jakarta.

The table shows that the period of detention of the detainee has exceeded the period of time to be in the Jakarta area. This is in accordance with Article 85 paragraph (2) of Law Number 6 Year 2011 explaining that a detainee cannot be deported, then the detainee can be detained for a maximum period of ten years. If it is more than ten years, a minister or immigration official may remove the detainee from the Immigration Detention Centre. Then in ten years a detainee still has not been deported, the Minister and Immigration Officials will try to deport the detainees so that later they will not have a negative impact on Indonesian society (Hermawan, 2020).

It can be seen that according to the information above, the detainee has been living in Jakarta for more than ten years and should have been deported from Jakarta. When the detainee is given permission to be outside the Immigration Detention Centre, the detainee is obliged to report periodically to the Head of the Immigration Detention Centre every month with a period of one month as described in Article 221 of the Government

Regulation of the Republic of Jakarta Number 31 Year 2013 (Ryanindityo, 2019). However, in this case it needs to be seen again because with a long enough period of time outside the Immigration Detention Centre, there needs to be a review of the implementation of this reporting every month optimally in accordance with the regulations described. This is important to do in terms of administrative supervision so that there is no legal non-compliance in the implementation (Syahrin, 2017).

From the urgency of the research above, there is a legal impact from the urgency, it is seen that there is a legal vacuum in terms of field supervision of detainees who live outside the Immigration Detention Centre, as explained in Article 174 paragraph (1) of Government Regulation No. 31 Year 2013, namely supervision is divided into two, namely administrative supervision and field supervision. Of course, the role of field supervision is an obligation for Immigration Detention Officers as law enforcement officers or Immigration Officers in conducting field supervision of detainees who are outside the Immigration Detention Centre, but the mechanism or guidelines related to field supervision of detainees who are granted permission outside the Immigration Detention Centre have not been regulated in the rules and regulations to conduct field supervision of detainees.

Secondly, there is legal uncertainty in terms of deportation policy which is explained according to Article 85 paragraph (2) of Immigration Law Number 6 Year 2011 on Immigration that deportation should be carried out for a maximum of ten years for the detainee, but in its implementation according to the detainee's statement above that there are still detainees who are more than ten years still in Jakarta.

Based on the background description, the formulation of the problem to be discussed is as follows (1) How is the supervision of detainees who are more than ten years outside the Jakarta Immigration Detention Centre? (2) What is the effective form of field supervision for detainees who are more than ten years outside the Jakarta Immigration Detention Centre?

## **2. Method**

The research method used in this research is normative-empirical legal research. The normative method explains legal principles and legal theories from legal experts. The purpose of this paper is to explain that normative research has a relationship to law developed on the basis of the ideology of jurists (Tan, 2021). This method is interpreted in the legal order at the level of norms, rules, principles, theories, philosophies, and legal policies to find out problem solving or answers to conflicts either in the form of a regulatory vacuum or the vagueness of a provision in the norm (Qamar and Rezah, 2020). Normative research uses prescriptive analysis which will produce new findings in research. Furthermore, the empirical method is research conducted through a field approach. In the case of this writing, it is put together into data, and processed by means of descriptive analysis techniques, to obtain factual conditions from various field conditions (Benuf and Azhar, 2020).

## **3. Discussion**

### *3.1 Implementation of Supervision of Detainees outside Jakarta Immigration Detention Centre*

#### **3.1.1 The Urgency of Monitoring Detainees Over Ten Years**

In its implementation, the role of immigration control is very important in maintaining or protecting the interests of all aspects, especially the guarding of detainees and all aspects in the Immigration Detention Centre environment which includes human resources and security (Duantara, et al., 2023). A detainee is someone who is subject to Immigration Administrative Action and is accommodated in an Immigration Detention Centre or Immigration Detention Centre.

Based on the results of the field analysis, it can be seen that there is a policy of supervising detainees who are more than ten years old which is regulated in Article 85 paragraph (3) of Law Number 6 Year 2011. This provision explains that such detainees are allowed to stay outside with the approval of the Head of the Immigration Detention Centre.

In conducting supervision of detainees who are outside the Immigration Detention Centre, there is no further regulation, especially regarding field supervision of detainees. Immigration supervision itself is divided into two forms, namely administrative and field supervision according to the explanation in Article 174 of Government Regulation Number 31 Year 2013 (Nugroho and Wahyudi, 2018). Based on this regulation, the detainee is required to report periodically every month to the Immigration Detention Centre. This is a form of administrative supervision that is carried out once a month to the Immigration Detention Centre. As for field supervision, there are no specific guidelines to conduct direct supervision outside the Jakarta Immigration Detention Centre.



Figure 2: Administrative Periodic Reporting

Source: Jakarta Immigration Detention Centre, 2022

The implementation of administrative reporting as described in the regulation, especially in Article 221 of Government Regulation Number 31 Year 2013, has been implemented in relation to the status of detainees and the last address that must be reported to the Immigration Detention Centre. The process carried out at the Immigration Detention Centre is by signing as proof that the detainee has reported to the Registration, Administration and Reporting Section every month. The results of the report are then recapitulated manually and stored through archives at the Immigration Detention Centre (Darmawan, 2016). The importance of reporting by detainees is to see any changes in their status or address which are intended for all detainees who are outside and can be monitored by the Jakarta Immigration Detention Centre (Afirda, et al., 2022).

According to the interview with one of the detainee subjects who has been outside the Jakarta Immigration Detention Centre for more than ten years, it is known that there are indeed changes such as the status of the detainee who is married and there is also a change of address from what was originally reported to the latest change from what was originally reported by the detainee.

The role of the Immigration Detention Centre, especially in conducting supervision, must still be carried out because there are still eight detainees who have been outside the Jakarta Immigration Detention Centre for more than ten years. The detainees are still under the supervision of the Immigration Detention Centre, but because the regulations are allowed, especially by the Head of the Immigration Detention Centre, to allow the detainees to be outside but still under the supervision of the Jakarta Immigration Detention Centre (Indah, 2019).

So far, administrative supervision has been carried out by detainees to report their whereabouts to the Immigration Detention Centre, especially in the Registration, Administration and Reporting Section. While in the field supervision, it has not been implemented by the Jakarta Immigration Detention Centre. Based on observations in the field, the Jakarta Immigration Detention Centre officers only wait for the arrival of detainees to report to the

Registration, Administration and Reporting Section to carry out the signature as proof that the detainees have carried out their obligations every month, namely periodic reporting.

The Head of the Security and Order Section, said that there is a need for detailed regulations or guidelines for officers in terms of conducting field supervision of detainees outside the Immigration Detention Centre, so that the Immigration Detention Centre can run in accordance with the regulations set by the State, especially the Immigration.

The importance of field supervision regulations is related to the Theory of Legal Certainty. Soedikno states that an implementation of the law must be in accordance with predetermined rules. The existence of regulations aims to regulate field supervision so that it can be carried out by Officers to carry out supervisory duties towards these detainees.

With the existence of a legal certainty that has been regulated, Immigration Detention Officers and detainees must carry out what is ordered by the regulation. Of course, the regulation aims to be implemented, especially in reporting can be optimised every month and the data attached is in accordance with the original. Furthermore, field supervision by officers can be monitored if there is a change in status or address that detainees report to the Immigration Detention Centre.

### 3.1.2 2. Suboptimal Monitoring and Reporting of Detainees Over Ten Years

Effectiveness in every activity is very important in the implementation mechanism. With a policy or regulation that regulates the running of an activity that is an obligation to be carried out in each implementation.

In its understanding, effectiveness is a relationship between the intended results through the intended results. Effectiveness in running a programme is the ability to carry out the duties and functions of a programme or planning that is carried out in accordance with the regulations that have been regulated or made (Lathif, 2017). The importance of effectiveness is to be able to see as the implementation that has been carried out in the course of a policy (Sukananda, 2018). The activity can be seen as effective or not from various parties that are carried out, especially in this case from the Immigration Detention Centre and from the Detainees.

Detainees have obligations as stipulated in the regulations in terms of periodic reporting, so this is the measure of effectiveness in terms of the continuity of reporting to the Jakarta Immigration Detention Centre.





Figure 3: Periodic Reporting Documents by Detainees Over Ten Years Old  
Source: Jakarta Immigration Detention Centre, 2022

Based on the document, it can be seen that detainees have not been reporting regularly once a month to the Immigration Detention Centre as required in the regulation. The example above is the result of data obtained from the Jakarta Immigration Detention Centre, especially in the Registration, Administration and Reporting Section. In this implementation, there are still detainees who have not reported periodically, especially to report changes in address, status and daily activities. Related to this, the Jakarta Immigration Detention Centre can return the detainee to the cell again because they do not carry out reporting obligations to the Immigration Detention Centre (Widyaningrum, et al., 2021). The reporting obligation should be carried out by detainees every month to the Immigration Detention Centre, because they have been allowed to be outside the Immigration Detention Centre as a form of respect for human rights.

Based on Article 222 of Government Regulation No. 31 Year 2013, it is stipulated that if the detainee does not perform the mandatory reporting, the detainee may be returned to the Immigration Detention Centre, for not performing the obligations that the detainee should perform. During the revocation period, the detainee is placed in a cell again for a period of six months. Therefore, it requires awareness from the detainee to carry out his obligation to report periodically to the Immigration Detention Centre. On the other hand, Immigration Detention Officers must continue to appeal and remind detainees of their obligations while outside the Immigration Detention Centre, namely to report periodically every month to the Immigration Detention Centre.

The reporting procedure to the Immigration Detention Centre is done by the detainee coming to the Registration, Administration, and Reporting Section, then reporting to the officer about the latest development of the detainee's status and daily activities. The reporting is done by signing on a sheet such as the documentation sheet previously described (Morradi, 2015). The officer prepares the sheet for each detainee who is outside, then signs or initials it as a sign that the detainee has fulfilled the mandatory reporting obligation. Based on the observation, it is found

that the implementation of this supervision has not been running optimally, because only some detainees have reported back the change of address, as well as their status. So far there are only four detainees who have regularly reported themselves periodically to the Jakarta Immigration Detention Centre.

For detainees who have not carried out the reporting should be taken into consideration by the Head of the Immigration Detention Centre so that this implementation can be optimally implemented, and consider imposing sanctions if detainees do not carry out their obligations. After the warning, the field supervision is again effective. Based on the data collected, there are two detainees who actively report their whereabouts again. The Immigration Detention Centre has reintroduced periodic reports for all detainees who are outside the detention centre. However, only a few of them can be contacted again because the address is still the same as the one originally reported.

Based on the statement of the Head of the Registry, Administration, and Reporting Section, cooperation is needed between the Jakarta Immigration Detention Centre and out-of-cell detainees to periodically report their whereabouts to the Immigration Detention Centre so that the implementation can run or be effective again in accordance with existing regulations. In the observation in the field, there is an assumption from detainees that they are considered free when they are given permission outside and should not report to the Immigration Detention Centre. Therefore, it is necessary to coordinate or appeal to detainees to continue to carry out the reporting that has been regulated in the legislation (Sentono and Syarhin, 2021).

One of the detainee subjects, KK from Myanmar, stated that the assumption is that if you have already reported, then there is no need to report again in the following month. This is because there is no data change, and the officer already knows his whereabouts. According to him, so far there has been no appeal from the officer to ask him to report to the Immigration Detention Centre.

To find out the reasons for the non-optimal implementation of periodic reporting carried out by detainees outside the cell can be analysed based on Soerjono Soekanto's Theory of Law Enforcement Effectiveness. According to him, the applicability of law in society is influenced by five factors, namely:

#### a. Legal Factors

The legal factor is the regulation that regulates the existence of detainees who have been more than ten years and are given permission to leave the Immigration Detention Centre by the Head of the Immigration Detention Centre. This provision has been regulated in Article 85 of Immigration Law Number 6 Year 2011 regarding the release of detainees to be outside the Immigration Detention Centre on the basis of permission from the Head of the Immigration Detention Centre. This provision has also been regulated in Article 174 of Government Regulation Number 31 Year 2013 which explains that supervision consists of administrative and field supervision. In terms of administrative supervision, it is regulated in Article 221 related to periodic reporting. For field supervision, especially for officers in carrying out field supervision of out-of-cell detainees who are granted permission, until now there is no rule or guideline for officers in carrying out field supervision of detainees who have been outside the Immigration Detention Centre for more than 10 years. Furthermore, Article 221 regulates periodic or administrative reporting which requires detainees to report once a month to the Immigration Detention Centre. In the implementation, the detainee shall report related to his/her status, change of address and activities conducted while outside the Immigration Detention Centre. Furthermore, if the detainee does not carry out the periodic reporting obligation, then in accordance with the explanation in Article 222, the detainee will be returned to the Immigration Detention Centre and his/her licence will be revoked within a period of six months in accordance with the explanation in the article.

DEPARTEMEN HUKUM DAN HAM RI  
 DIREKTORAT JENDERAL IMIGRASI  
 KARANTINA IMIGRASI JAKARTA  
 JALAN PETA SELATAN 5 D  
 JAKARTA BARAT

**SURAT – JAMINAN**

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 Tempat / Tgl. Lahir : [REDACTED]  
 Pekerjaan : Ibu Rumah Tangga  
 No. KTP : 09 . 5207 . 501082 . 5508  
 Alamat : Kalideres RT 007 / 001 Jakarta Barat

-----Dengan ini saya menjamin terhadap Warga Negara Asing yang tersebut di bawah ini :-----

Nama : [REDACTED]  
 Tempat / Tgl. Lahir : [REDACTED]  
 Pekerjaan : -  
 No. Paspor : -  
 Alamat : Asrama Karantina Imigrasi Jakarta.  
 KEPERAWAN : [REDACTED]

-----Atas pengawasan dan keberadaan Warga Negara Asing tersebut di atas, selama dalam proses penyelesaian penyidikan yang melanggar Pasal 42 Undang-Undang No. 9 Tahun 1992 tentang Keimigrasian dan peraturan perundang-undangan yang berlaku -----

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-----Demikian Surat Jaminan ini saya buat dengan sebenarnya dan penuh tanggung jawab.-----

[Signature]  
 [Signature]  
 METERAI TEMPEL  
 6000  
 (UMAILAH)

Figure 4: Letter of Guarantee on behalf of Detainee OS

Source: Jakarta Immigration Detention Centre, 2022

Furthermore, in the licensing of detainees to be outside, in accordance with the explanation of Article 215, it is determined that the licence to be outside the Immigration Detention Centre must also be submitted to the guarantor or his/her family as well as to the ambassador concerned. In this case, one of the conditions for granting permission is also the existence of a guarantor's statement to guarantee the detainee's stay outside the Immigration Detention Centre. The detention of the detainee is in accordance with the explanation of Article 214 that the deportation action against the detainee has not been implemented, then the detention is carried out for a period of ten years. Article 220 explains that if the period has exceeded ten years, the Minister or the designated Immigration Officer, in this case the Immigration Detention Centre, must continue to implement and seek the deportation of the detainee from Indonesia.

#### b. The Law Enforcement Factor

This factor is from the legal organiser that must be carried out as regulated in the law. In this case, the law enforcer is the Immigration Detention Centre that carries out the supervisory function to detainees who carry out periodic reporting every month. The mechanism for the implementation of the reporting has been administratively regulated in the regulations regarding the detainees' obligation to report once a month to the Immigration Detention Centre. Facts in the field or direct observation of the implementation of the law from the Immigration Detention Centre as well as from the detainees outside the cell, it turns out that the implementation has not been optimised. It can be seen in accordance with the data in the field that detainees who have been outside the Immigration Detention Centre for more than ten years have not carried out their obligations by routinely reporting every month to the detention centre. This becomes an obstacle and lack of optimal law enforcement to detainees who are more than ten years outside the Immigration Detention Centre, because these detainees are still under the supervision of the Jakarta Immigration Detention Centre who should carry out their obligations as regulated in the Law. For this reason, more optimal law enforcement is needed again in carrying out the supervisory function to detainees so that it can run according to the regulations and can be monitored by Immigration Detention Officers.

### c. Facility Factor

In supporting the implementation of detention, reporting, and carrying out the supervisory function, the officer waits for the arrival of the detainee to prepare a report sheet for the detainee. The sheet is then initialed or signed as proof that the detainee has reported monthly to the Immigration Detention Centre. In the field observation, the facility factor has not been implemented optimally, because the detainee only comes once a month to report and the Immigration Detention Centre only prepares administratively for the detainee's reporting.

### d. Community Factors,

In this case, detainees are given permission to stay outside the Immigration Detention Centre with the approval of the Head of the Immigration Detention Centre. Detainees who are outside live with the surrounding community in their neighbourhood. In the field observation, the surrounding community does not know that the detainee is a foreigner whose status is as a detainee. The surrounding community believes that their presence is difficult to recognise as foreigners, because in terms of language and physically they are almost similar to native Indonesians. Based on an interview with the Head of Kalideres Village, it was found that the village as a representative of the Regional Government has not been aware of the existence of these people or detainees who are not Indonesian citizens and live with the surrounding community. In his statement, it can be feared that legal and social deviations may be committed by the detainees. The village administration said that until now there had been no report related to the disturbing activities carried out or the daily life of the detainees with the community in the Kalideres neighbourhood. It is necessary to coordinate with various parties including the Immigration Detention Centre as an institution that gives permission for detainees to live outside the Immigration Detention Centre and to report to the kelurahan on detainees who are outside and urge detainees to always carry out periodic reporting every month. Next is the Kalideres Village as the domicile of detainees who live in the local area. It is important to coordinate with the Immigration Detention Centre regarding the detainees who live outside in terms of reporting the detainee's address, as well as their daily activities. Lastly, the detainees themselves must always be active in carrying out periodic reporting obligations every month, by coming to the office and always maintaining good relations with the surrounding community.

### e. Cultural Factors

This is a social ethic that contains good and bad values in the community. Currently, detainees live with the community because they are authorised by the Head of the Immigration Detention Centre. In direct observation, there has been no reporting to the kelurahan regarding the presence of detainees. The community assumes that the person is a local resident who lives with the community as in general. Regarding reporting, it is not optimal for all detainees to come to the office, only some of them come to the office to report. Some detainees behave well and cooperate in carrying out the supervisory function by answering questions well, reporting changes in address, status and others up to date. The importance of socialisation to detainees from the Immigration Detention Centre in order to carry out their obligation to report periodically every month.

In the results of observations and interviews with the above officials related to detainees who are more than ten years outside the Jakarta Immigration Detention Centre associated with the theoretical factors of law enforcement effectiveness, it turns out that it is not fully in accordance with the rules that have been made or in accordance with the provisions of the legislation. From some of these factors, it can be seen that the law enforcement factors that have been implemented have not been effective in their implementation. In its implementation, the ineffective law enforcement factor can be an influence on other factors that are not effective in accordance with applicable regulations. The implementation of law enforcement that has been carried out still has many shortcomings from the detainees and from the Immigration Detention Centre (Muhlisa and Roisah, 2020). As required by the regulation, detainees are required to report their whereabouts periodically every month to the Jakarta Immigration Detention Centre. The report includes changes in civil status, address, and daily activities.

But in fact, the detainee has not implemented the reporting as applied in the regulation and through data observation in the field. The Immigration Detention Centre should be able to enforce the law if the detainee does

not report to the Immigration Detention Centre once a month. The Immigration Detention Centre can revoke the detainee's permit to be returned to the cell if the detainee does not perform his/her obligation.

The next factor is from the community. Observations in the field and interviews with the Kalideres urban village stated that there has been no report or confirmation to the urban village. Detainees to date have never reported their presence as foreigners living with the community in Kalideres Kelurahan. Reporting to the kelurahan as the local representative is very important in preventing any irregularities in the field directly. This is very important so that the surrounding community can understand and comprehend the presence of the detainee while living with the community. So far, the community does not know the status of the detainees. The surrounding community assumes that they are just ordinary citizens or local residents who live with them. They also do not know the circumstances and status of the person as a detainee who is given permission to live outside the Immigration Detention Centre.

The suboptimal implementation of a regulation is certainly not in accordance with the expectations of the Law (Hartono, 2012). Therefore, further regulations or adjustments to the policy rules are needed from the Jakarta Immigration Detention Centre in handling out-of-cell detainees so that they can be properly monitored in accordance with applicable policies.

Based on the results of observations in the field and analysis in the discussion, the implementation of supervision of Detainees who are more than ten years outside the Immigration Detention Centre has been carried out only administratively as stipulated in the Law, namely administrative and field supervision. Administrative supervision is carried out by means of periodic reporting. However, the supervision does not run optimally because it is not fully implemented every month.

Cooperation between stakeholders is needed in carrying out the supervisory function so that it can be optimised as stipulated in the regulation. The Immigration Detention Centre must continue to appeal to detainees to carry out the reporting, as well as carry out law enforcement to detainees if they do not report to the Immigration Detention Centre once a month. This action is expected to cause a deterrent effect for the detainee to always obey in carrying out the supervisory function.

### *3.2 Monitoring Methods and Reporting of Detainees Over Ten Years Old*

The implementation of field supervision is an important action in supporting the implementation of administrative supervision, as regulated in Article 174 of Government Regulation Number 31 Year 2013. In the implementation in the field, this supervision has not been carried out optimally for out-of-cell detainees who live outside the Immigration Detention Centre. Based on an interview with the Head of Security and Order Section, Jakarta Immigration Detention Centre, it is known that the implementation of field supervision cannot be carried out because until now there is no regulation related to detainees who are more than ten years old. Officers have not been provided with legal guidelines that explain how the mechanism of field and administrative supervision of detainees outside the Immigration Detention Centre.

In relation to this issue, the researcher has conducted interviews and observations with several detainees to analyse the obstacles of not reporting detainees for more than ten years to the Jakarta Immigration Detention Centre. The first detainee is KK who is a Myanmar national. The detainee does activities outside as a trader and also a casual labourer to meet his daily needs with his family. The researcher asked whether the officer had conducted field supervision on him. He explained that the supervision had been carried out but not routinely and for quite a long time because the officer assumed that he already knew the KK's whereabouts and there was no need for direct supervision and reporting back. The same thing was also conveyed by other detainees, namely OS (Bangladesh) and NYKT (Vietnam). In their daily lives, they work as casual labourers to support their families while outside the Immigration Detention Centre. They conveyed that the officers already know their daily whereabouts and there is no need for routine reporting every month back to the Jakarta Immigration Detention Centre.

In the observation, it was found that only a few detainees have carried out routine reporting every month, which should be done by all detainees outside the Jakarta Immigration Detention Centre. The supervision can run optimally, if it is carried out in synergy between both administrative and field mechanisms. Administrative supervision has begun to be reactivated with some detainees who have reported, but the fact is that they have not fully reported on a regular and scheduled basis.

The implementation of field supervision can be carried out properly if administratively it can run as stipulated. The reporting includes changes in civil status, activities, and the latest address of the detainee. This is important in the role of field supervision implementation, because when the administration has been carried out maximally then the implementation of field supervision can be carried out. This supervision is important to directly see or review the validity of what the detainee actually reported to the Immigration Detention Centre.

The current obstacle is the absence of further regulations related to the mechanism or guidelines that will be implemented by officers to carry out field supervision of detainees living outside the Immigration Detention Centre. This rule is needed to facilitate communication between out-of-cell detainees who have been more than ten years with officers. Supervision is expected to run well if there is a technical rule that will be used as a guideline to remind the out-of-cell detainees of their obligation to report their whereabouts in accordance with the established procedures.

After analysing and conducting field observations related to the implementation of field supervision to detainees, the implementation of supervision has not been carried out optimally, because there is no further regulation (Hasan, 2015). Therefore, recommendations are needed from various parties to examine various inputs to formulate the right field supervision method for officers in carrying out their functions. These recommendations are not only from internal parties but also suggestions and innovations from outside agencies, especially the local government which has the authority to know the whereabouts of the community in accordance with the domicile or residence that the community lives in.

With this legal vacuum, it is feared that it will hamper the performance of the Immigration Detention Centre. Supervision of detainees outside the cells is not optimal, so that the data obtained is not up-to-date. In addition, the absence of this regulation has the potential to cause unrest from the surrounding community regarding the presence of detainees (Surbakti, et al., 2021). To anticipate this problem, the Immigration Detention Centre has made several preventive efforts. For example, preparing a schedule of supervision activities for officers for 3 months to directly see the validity of the documents reported regarding the status, address, and activities of detainees to the Immigration Detention Centre.

This scheduling is expected to support the validity of administrative supervision. The Section Head of Registration, Administration, and Reporting stated that there should be an appeal to the out-of-cell detainees to report to the Immigration Detention Centre and coordinate with the Kalideres Village as the representative of the Local Government. Such cooperation is very important in order to improve effective supervision of the detainees.

Lurah Kalideres conveyed the need for a copy of the report submitted by the detainees to the Immigration Detention Centre, so that the sub-district office is also aware of their presence while living in their domicile. stated that so far there has been no direct reporting to them as representatives of the region regarding the presence and activities of detainees in their jurisdiction. They only know that detainees are foreigners with immigration detention status who are given access to live outside the Immigration Detention Centre. Furthermore, he conveyed the need for a copy of the report submitted by the detainees to the Immigration Detention Centre, so that the kelurahan also knows their whereabouts while living in their domicile. With this report, Kalideres Urban Village can know the activities or whereabouts of the detainees while in the Kalideres area, so that all activities or daily life can be monitored which hopefully will not cause unrest for residents around their destination. According to him, in addition to the need for reporting to the urban village, an identity card from the Immigration Detention Centre is also needed for out-of-cell detainees, as juridical evidence that they have been placed outside the Immigration Detention Centre because they have passed the detention period of more than ten years.

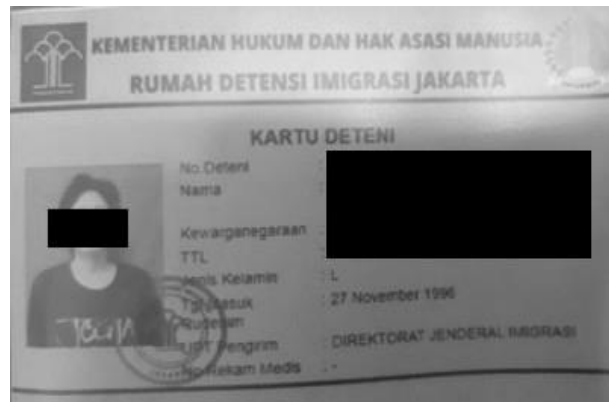


Figure 5: Detainee card for more than ten years outside immigration detention centre on behalf of NYTK  
 Source: Jakarta Immigration Detention Centre, 2022

Based on field observation and interview with the Section Head of Security and Order, the issuance of detainee card is intended for detainees who live outside the cell or who have been more than 10 years. The purpose of the card is as an identification to the detainee to signify that the detainee is still under the supervision of the Jakarta Immigration Detention Centre. However, in fact, almost all out-of-cell detainees who are outside the Jakarta Immigration Detention Centre, have not all received the card for several reasons. This policy was then re-implemented after the Immigration Detention Centre received complaints from the surrounding community. This obligation must be carried out periodically every month, and must be known by the Immigration Detention Centre and Kalideres Village. The existence of this card aims to make it easier for officers and the public to recognise them as detainees who are granted permission to stay outside the Immigration Detention Centre.

Lampiran XXIV  
 Peraturan Direktur Jenderal Imigrasi  
 Nomor : F-1002.PR.02.10 Tahun 2006  
 Tanggal : 11 September 2006

**KARTU DETENI**

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1

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Halaman depan

Catatan petugas:

1. Ciri-ciri Umum:
  - a. Tinggi Badan : .....
  - b. Warna Kulit : .....
  - c. Warna Rambut : .....
  - d. Bentuk Muka : .....
  - e. Etnik : .....
2. Ciri-ciri Khusus: .....
3. Lainnya: .....
4. Sidik Jari

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Petugas,  
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Halaman belakang

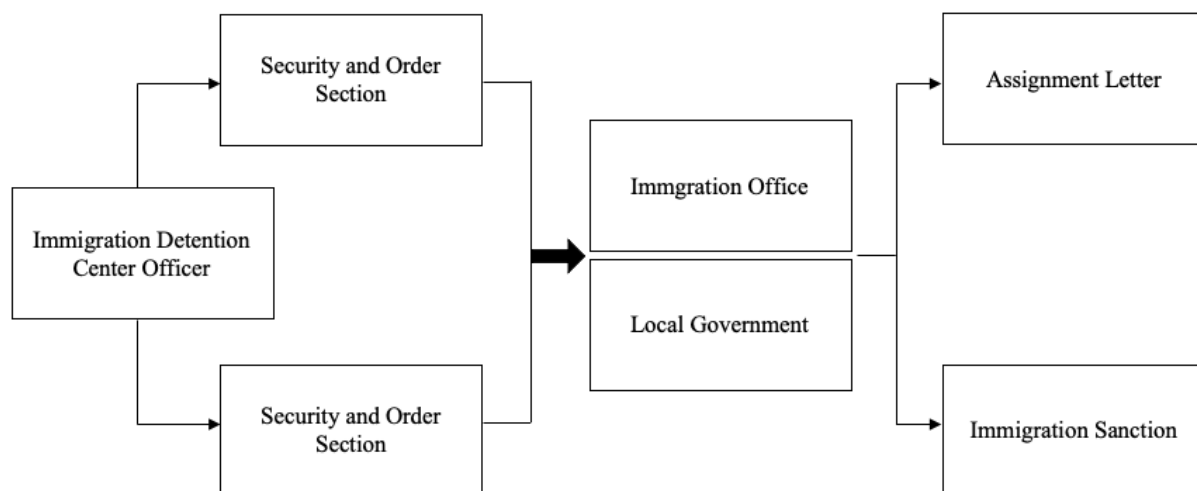
Catatan:  
 1. Warna Biru Muda, tulisan warna hitam;  
 2. Ukuran sesuai dengan Kartu KIMU

Figure 6: Detainee Card Attachment  
 Source: Jakarta Immigration Detention Centre, 2022

The picture above is an example of a detainee card attachment which is a format or example in making Detainee Cards for the Jakarta Immigration Detention Centre. Comparison with the one made by the Jakarta Immigration Detention Centre is quite good, but the data is not yet complete like the example in the format above. This is a matter for reconsideration for the Jakarta Immigration Detention Centre in terms of making the detainee card in accordance with the existing format.

The implementation of the card in fact has not been given to all detainees living outside. The Jakarta Immigration Detention Centre should make it in accordance with the above format before it is distributed to detainees who are outside. The existence of the detainee card is a marker that the foreigner concerned is still a detainee who is still in the supervision area of the Jakarta Immigration Detention Centre.

With regard to the supervision of out-of-cell detainees, the researcher coordinated with the Head of Deportation Section, Directorate General of Immigration. He stated that until now, there has been no detailed report on the number and whereabouts of detainees who have been outside the Immigration Detention Centre for more than ten years. This is an obstacle because there is no further regulation related to these detainees, especially in terms of supervision of these detainees. He suggested that the supervision should not only be imposed at the Immigration Detention Centre, but should also involve the Local Immigration Office. Coordination is needed between the Immigration Office, the Jakarta Immigration Detention Centre, and the Regional Representative (Kalideres Village), so that the presence of out-of-cell detainees can be monitored accurately. The mechanism that can be done in the event that the Immigration Office knows that there is an out-of-cell detainee can report his/her whereabouts to the Directorate General of Immigration cq. Sub Directorate of Detention and Deportation. This report is then followed up so that joint immigration supervision can be carried out with related agencies.



1. Immigration Detention Center officers conduct detainees surveillance once every three months.
2. Immigration Detention Center officers create a periodic reporting schedule for detainees

Figure 7: Immigration Supervision Model for Detainees with More than Ten Years of Detention Outside  
Immigration Detention Center

Source: Jakarta Immigration Detention Centre, 2022

To respond to the needs in the field, it is necessary to formulate further rules as guidelines or mechanisms for officers in carrying out field supervision functions in order to provide valid data to the Head of the Immigration Detention Centre. One of the main factors from observations in the field is that the absence of further rules related to the supervision of 10-year detainees living outside makes an assumption for detainees after being interviewed that they assume the officers already know their whereabouts and there is no need for direct supervision or review to the Jakarta Immigration Detention Centre. In carrying out this supervisory function, communication between all parties is required. Creating a flow or scheme of supervision of out-of-cell detainees requires coordination between all parties. The implementation can be done routinely or scheduled according to the reporting done by the detainee.



The Security and Order Section needs to create a schedule for officers to carry out supervision of detainees who have been outside the Jakarta Immigration Detention Centre for more than ten years. The making of detainee cards should be given thoroughly to all detainees who live outside. This is done in order to signify that the foreigner is still a detainee who is granted permission to stay outside with the approval of the Head of the Immigration Detention Centre. The Registration, Administration and Reporting Section prepares the latest data for officers to carry out the monitoring. If the detainee does not report, the above scheme can be a solution to carry out field supervision and carry out law enforcement against the detainee. This mechanism also needs to be done with coordination between all parties. Furthermore, law enforcement against offending out-of-cell detainees needs to be implemented, with the aim of preventing things that are not in accordance with the applicable laws. Officers in carrying out repressive measures, should consider revoking the licence of the detainee first. This is because the detainee is still under the supervision of the Immigration Detention Centre.

#### 4. Conclusion

Based on the results of the research, it can be concluded that the supervision of detainees who are more than ten years outside the Immigration Detention Centre has not been implemented optimally. Immigration Detention Centre and detainees have not performed their obligations as applied in the law. The law enforcement factor that is not implemented by the Jakarta Immigration Detention Centre to detainees related to the revocation of permits is not implemented by the Jakarta Immigration Detention Centre. This activity must be carried out considering that the detainee does not carry out his obligation to report his whereabouts to the Immigration Detention Centre. Periodic supervision that is required for detainees to carry out reporting has not run optimally, because it is not carried out regularly every month at the Jakarta Immigration Detention Centre.

The implementation of field supervision of detainees has not been carried out because there is no regulation or mechanism related to field supervision of detainees who are more than ten years outside the Jakarta Immigration Detention Centre. In fact, the supervision carried out so far has only been carried out administratively and the field supervision, especially for officers, has not been carried out thoroughly for the detainees. In this case, the importance of field supervision is to see that the reported report is in accordance with what they reported, starting from the change of address, status to activities carried out and to control the condition of detainees who are outside living with the general public. This supervision needs to be done in order to avoid any violation of the law by the detainees in social life with the surrounding community.

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