

Law Enforcement Against Criminal Acts of Misuse of Immigration Residence Permits (A Study at the Class II Non-TPI Immigration Office of Baubau City)

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Received: 21/08/2026

Revised: 20/07/2026

Accepted: 25/08/2026

Abstract

This research aims to examine the process and mechanism of law enforcement against the criminal offense of residence permit misuse by foreign nationals, as well as the factors influencing its effectiveness, at the Class II Non-TPI Immigration Office of Baubau City. This study employs an empirical legal research method, combining a statute approach to Law Number 6 of 2011 on Immigration with a sociological approach, using primary data from a structured interview with an Immigration Analyst and secondary data from relevant literature, analyzed descriptively and qualitatively. The findings show that law enforcement runs through an orderly and consistent procedure, beginning with report verification and culminating in the imposition of Immigration Administrative Actions, as evidenced in three major cases during 2023–2025 involving nationals from India, Spain, and Vietnam, all resolved administratively without any proceeding to criminal investigation. This consistency is driven by the alignment of five factors of legal effectiveness according to Soekanto, namely regulatory clarity, adequate apparatus capacity, available reporting facilities, active community participation, and an established local legal culture. However, the criminal pathway under Article 122 letter a has never been applied, indicating that the deterrent effect of immigration law enforcement in Baubau has not yet been fully achieved, with direct implications for the strengthening of institutions under the SDGs.

Keywords

Law Enforcement; Residence Permit Misuse; Immigration Effectiveness

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1. INTRODUCTION

The Class II Non-TPI Immigration Office of Baubau City, within its jurisdiction covering Baubau City and its surrounding areas, has handled a number of residence permit misuse cases involving foreign nationals through a consistent and measured handling pattern. During the 2023–2025 period, three major cases were recorded: 11 Indian nationals who overstayed in August 2023, 1 Spanish national in October 2024, and the case that drew the most public attention, the deportation of 31 Vietnamese nationals in July 2025 after they were proven to have violated their residence permits. All three cases were handled through a clear procedure, beginning with verification of the validity of the report, followed by determining the handling path based on the type of violation, up to the imposition of



sanctions in the form of Immigration Administrative Actions (TAK) such as cost imposition, deportation, and blacklisting.

The Baubau Immigration Office itself considers that the law enforcement carried out so far has been effective. This assessment is further supported by community participation, which is considered quite good in reporting suspicious activities by foreign nationals in their surroundings, in line with the availability of a reporting channel provided by the Baubau Immigration Office. Cooperation between the community and immigration authorities has run without significant obstacles, so that every case that arises, including cases involving a relatively large number of offenders such as the 31 Vietnamese nationals, can be identified and followed up properly by the authorities.

This consistent handling pattern shows that all residence permit misuse cases in Baubau have been successfully resolved without a single one proceeding to criminal investigation. The smoothness of this process, from initial detection and verification to the execution of sanctions, indicates that immigration law enforcement in Baubau City runs in an orderly manner and in accordance with applicable procedures, while also reflecting the institutional readiness of the Class II Non-TPI Immigration Office of Baubau in responding to the dynamics of foreign nationals entering and leaving its area of jurisdiction.

Ideally, the success of law enforcement should not be determined solely by the smoothness of administrative procedures, but also by the fulfillment of five interrelated factors according to Soekanto, namely the legal factor, the law enforcement apparatus factor, the facilities factor, the community factor, and the legal culture factor, where a weakness in any one factor will affect the overall effectiveness of law enforcement (Soekanto, 2014). Furthermore, normatively, the misuse of a residence permit by a foreign national is classified as an immigration criminal offense as regulated in Article 122 letter a of Law Number 6 of 2011 on Immigration, which threatens criminal sanctions for any foreigner who intentionally misuses their residence permit (Republik Indonesia, 2011). Ideally, this criminal provision should also be applied proportionally to produce a deterrent effect, as emphasized by Hamzah, who states that an act can be categorized as a criminal offense if it fulfills the elements of an unlawful act threatened with criminal sanctions by law (Hamzah, 2017). Prior research further reinforces this ideal condition, as Pratama (2020) found that immigration law enforcement is often hindered by a limited number of officers and weak inter-agency coordination, while Anggraini (2018) concluded that immigration law enforcement in general has not been fully effective due to the dominance of administrative sanctions over criminal sanctions. Thus, theoretically, the process of law enforcement against residence permit misuse should still be marked by various structural obstacles and would not necessarily achieve maximum effectiveness, particularly regarding the application of criminal proceedings, which should ideally serve as an important instrument for generating a deterrent effect on

offenders.

This gap between the ideal and the reality reveals a fact that is quite interesting to examine further. Theoretically, immigration law enforcement should face various structural obstacles, ranging from limited personnel and weak inter-agency coordination to minimal application of criminal proceedings as a deterrent instrument, as found in previous research conducted in various regions. However, the facts on the ground show something different: law enforcement against residence permit misuse at the Class II Non-TPI Immigration Office of Baubau actually runs in an orderly and consistent manner, where all handled cases, including those involving a relatively large number of offenders, are successfully resolved through administrative procedures without significant obstacles, further supported by community participation considered to be quite effective.

This gap between the ideal and the reality gives rise to a research problem that is important to explore further, namely how the implementation of law enforcement against the criminal offense of residence permit misuse at the Class II Non-TPI Immigration Office of Baubau can run so consistently, including why the criminal pathway as regulated in Article 122 letter a of Law Number 6 of 2011 has in practice never been applied despite being normatively available. From this problem, the research questions underlying this study emerge, namely how the process and mechanism of law enforcement undertaken by the Baubau Immigration Office in handling residence permit misuse cases actually work, and what factors genuinely influence the level of effectiveness of such law enforcement within the jurisdiction of the Class II Non-TPI Immigration Office of Baubau.

Studies on immigration law enforcement against residence permit misuse have been widely conducted by previous researchers across various regions and perspectives. Pratama (2020) examined immigration law enforcement in Makassar City and found that its implementation was not yet optimal due to a limited number of officers and weak inter-agency coordination. Nurhaliza (2019) highlighted the role of the Immigration Office in supervising foreigners in the Southeast Sulawesi region, finding obstacles in the form of minimal data and low community participation. Ramadhan (2021) examined law enforcement against visa misuse in Indonesia in general and concluded that administrative resolution dominates over criminal proceedings, while Anggraini (2018) found a similar pattern in her research on the effectiveness of law enforcement against residence permit violations. In addition, Sanusi (2017) examined law enforcement against the criminal offense of residence permit misuse in a case study at the Class I Immigration Office of Bandar Lampung, and Qalandy and Syahrin (2021) discussed instruments of law enforcement for foreign workers who misuse residence permits.

These studies generally focus on the effectiveness of and obstacles to immigration law enforcement in various regions with differing regional characteristics (Pratama, 2020; Nurhaliza, 2019; Ramadhan, 2021; Anggraini, 2018; Sanusi, 2017; Qalandy & Syahrin, 2021), yet none has specifically examined the

practice of law enforcement against the criminal offense of residence permit misuse at the Class II Non-TPI Immigration Office of Baubau City, a jurisdiction with distinctive geographical and historical characteristics as a shipping corridor for eastern Indonesia. This research therefore has a gap worth exploring further, as it not only examines the procedural implementation of law enforcement but also analyzes the factors influencing its effectiveness specifically within the local context of Baubau, so as not to be a repetition of previous studies.

The novelty of this research lies in its specific focus on revealing the implementation and effectiveness of law enforcement against the criminal offense of residence permit misuse at a research locus that has not previously been examined, namely the Class II Non-TPI Immigration Office of Baubau City, while also examining the dominance of the administrative pathway over the criminal pathway and its implications for the deterrent effect on offenders of residence permit misuse.

The urgency of this research is significant given that the effectiveness of immigration law enforcement directly contributes to the creation of legal order, legal certainty, and the protection of state sovereignty from potential residence permit misuse by foreign nationals, in line with the achievement of the Sustainable Development Goals (SDGs), particularly the goal of peace, justice, and strong institutions, which emphasizes strengthening effective, accountable, and transparent legal institutions at all levels. Thus, this research is expected to make a real contribution to strengthening immigration law governance and supporting the achievement of stronger legal institutions at the Class II Non-TPI Immigration Office of Baubau.

Based on the gap between the ideal and the reality outlined above, this research is formulated to address two central problems. First, this study seeks to determine how law enforcement against the criminal offense of residence permit misuse by foreign nationals is implemented at the Class II Non-TPI Immigration Office of Baubau, in order to obtain a picture of the handling procedures, the determination of resolution pathways, and the forms of sanctions applied in the practice of such law enforcement. Second, this study aims to reveal what factors influence the effectiveness of law enforcement against the criminal offense of residence permit misuse at the Class II Non-TPI Immigration Office of Baubau, given that the consistency of results observed in the field indicates a fairly good level of effectiveness, thus warranting further investigation into the factors underlying this achievement.

2. METHOD

This research employs an empirical legal research method (*yuridis empiris*), which examines law as a real-world practice occurring within society, not only reviewing the normative provisions in immigration legislation but also examining how such provisions are applied in the practice of law enforcement against the criminal offense of residence permit misuse. The approach used is the statute

approach, examining Law Number 6 of 2011 on Immigration along with its implementing regulations, combined with a sociological approach to observe its implementation in the field. The research was conducted at the Class II Non-TPI Immigration Office of Baubau City, whose jurisdiction covers Baubau City and its surrounding areas.

The data sources consist of primary data, obtained through a structured interview with the First Immigration Analyst of the Class II Non-TPI Immigration Office of Baubau, and secondary data, obtained through a literature study of legislation, legal textbooks, academic journals, and relevant prior research. Data collection techniques were carried out through interviews and literature study, while the collected data were analyzed using descriptive qualitative analysis, systematically organizing the data and linking normative provisions with empirical facts found in the field in order to answer both research questions.

3. FINDINGS AND DISCUSSION

3.1. The Process and Mechanism of Law Enforcement Against the Criminal Offense of Residence Permit Misuse at the Class II Non-TPI Immigration Office of Baubau

The research findings show that law enforcement against the criminal offense of residence permit misuse at the Class II Non-TPI Immigration Office of Baubau runs through an orderly and consistent sequence, beginning with report verification, determination of the handling path based on the type of violation, up to the imposition of sanctions in the form of TAK. This consistency is clearly reflected in the three cases that occurred throughout 2023–2025, namely the 11 Indian nationals, 1 Spanish national (Toris, 2024), and 31 Vietnamese nationals (Attamimi, 2025), all of which were resolved through the same procedure without a single one proceeding to criminal investigation. The smoothness of this process, from initial detection and verification to the execution of sanctions, indicates that immigration law enforcement in Baubau runs in an orderly manner and in accordance with applicable procedures, while also reflecting the institutional readiness of the Baubau Immigration Office in responding to the dynamics of foreign nationals entering and leaving its jurisdiction.

This consistency aligns with the conception of law enforcement put forward by Satjipto Rahardjo, who positions law enforcement as a process of actualizing legal norms into social reality, the success of which is determined by the thoroughness of officials from the initial handling stage through to field implementation (Rahardjo, 2009). The determination of the handling path based on the type of violation is also consistent with Article 78 of Law Number 6 of 2011 on Immigration, which stipulates that foreign nationals holding an expired residence permit who fail to pay the associated cost are subject to TAK in the form of deportation and blacklisting, while those who

have exceeded 60 (sixty) days beyond the residence permit deadline are directly subject to deportation and blacklisting (Republik Indonesia, 2011).

However, this administrative smoothness leaves behind one fact worth examining more closely: the criminal pathway under Article 122 letter a of Law Number 6 of 2011, which threatens criminal sanctions against any foreign national who intentionally misuses their residence permit (Republik Indonesia, 2011), has in practice never been applied in Baubau, even in cases involving a relatively large number of offenders such as the 31 Vietnamese nationals. At first glance, this condition appears consistent with Bagir Manan's view that criminal law functions as an *ultimum remedium*, i.e., a last-resort legal measure taken only after administrative means are deemed no longer adequate (Manan, 2004), and with Ramadhan's (2021) finding that criminal enforcement against visa misuse is rarely applied due to its lengthy process and the need for inter-agency coordination. However, the Baubau Immigration Office's absolute consistency in choosing the administrative pathway for every single case, without exception, suggests something beyond the case-by-case application of the *ultimum remedium* principle; it more closely reflects a standardized operational handling policy at the Baubau Immigration Office, such that the criminal pathway under Article 122 letter a has virtually no room for application in daily practice, regardless of the severity of the violation's legal qualification.

This condition reinforces Andi Hamzah's view that an act may be categorized as a criminal offense if it fulfills the elements of an unlawful act threatened with criminal sanctions by law (Hamzah, 2017), meaning that normatively, a case such as the 31 Vietnamese nationals could plausibly meet those elements. Yet at the practical level, the complete absence of criminal pathway application, despite administrative smoothness being maintained, shows that the deterrent effect ideally produced by the threat of criminal sanctions has not been fully realized, a point also touched on by Hamzah regarding the importance of criminal sanctions as a preventive instrument (Hamzah, 2017). It can therefore be concluded that the process and mechanism of law enforcement at the Baubau Immigration Office do run in an orderly, consistent, and procedurally sound manner along the administrative pathway, but this procedural orderliness has not yet been matched by the utilization of the criminal pathway as a complementary instrument for cases that, in terms of legal qualification, could produce a stronger deterrent effect.

3.2. Factors Influencing the Effectiveness of Law Enforcement Against the Criminal Offense of Residence Permit Misuse

To answer why law enforcement at the Baubau Immigration Office can run so consistently, this research employs Soerjono Soekanto's theoretical framework of legal effectiveness, which holds that the success of law enforcement is determined by five interrelated factors, namely the

legal factor, the law enforcement apparatus factor, the facilities factor, the community factor, and the legal culture factor, where a weakness in any one factor will affect overall effectiveness (Soekanto, 2014).

Viewed from the *legal factor*, provisions concerning residence permits and their sanctions have been clearly regulated in Law Number 6 of 2011 on Immigration, specifically Article 48 on the obligation to hold a residence permit, Article 78 on TAK for permit violators, and Article 122 letter a on criminal sanctions (Republik Indonesia, 2011), which is further reinforced by Government Regulation Number 48 of 2021. This regulatory clarity is precisely what enables the Baubau Immigration Office to carry out its administrative procedures in a standardized and confident manner in every case handled, so that the legal factor in Baubau can be said to have supported the smooth running of law enforcement, even though the criminal provision under Article 122 letter a has not yet been fully internalized into practice.

Regarding the *law enforcement apparatus factor*, the consistent handling of three cases throughout 2023–2025, all of which were successfully identified and followed up with TAK without significant obstacles, serves as strong evidence that the institutional capacity of the Baubau Immigration Office in handling residence permit violations is relatively adequate for the scale and characteristics of its jurisdiction. The Immigration Office's internal assessment that the law enforcement carried out so far has been effective (Ramadhan, 2026) is consistent with this field evidence. This condition is interesting to compare with Pratama's (2020) findings in Makassar City, which showed that a limited number of immigration officers often becomes an obstacle in supervising foreign nationals across a broad jurisdiction; whereas in Baubau, with a relatively manageable case volume and a more focused jurisdictional scope, officers have been able to maintain consistent handling even when facing cases with a large number of offenders, such as the 31 Vietnamese nationals. This indicates that the effectiveness of the apparatus factor in Baubau does not depend solely on personnel numbers, but also on the clarity of standard operating procedures that have been applied repeatedly.

Regarding the *facilities factor*, the availability of a reporting channel for the community (Ramadhan, 2026) serves as one important pillar supporting the smoothness of the report-verification process, which is the initial stage of the entire handling mechanism. As emphasized by Soekanto, the facilities factor encompasses skilled personnel, good organization, and adequate equipment, without which law enforcement struggles to achieve its objectives (Soekanto, 2014). The availability of this reporting channel further explains why findings of violations, including cases involving large numbers of offenders, can be detected relatively quickly before developing into more complex problems.

Meanwhile, regarding the *community factor*, community participation in reporting the activities of foreign nationals in their surroundings is considered fairly effective (Ramadhan, 2026), a condition that actually contrasts with Nurhaliza's (2019) findings in the Southeast Sulawesi region, which identified low community participation as one of the obstacles to immigration supervision. This difference is one of the keys explaining why law enforcement in Baubau can run more consistently compared to the general pattern found in prior research; active community participation functions as an extension of the eyes and ears of immigration officers in the field, thereby accelerating the early detection of potential residence permit misuse, including in the case of the 31 Vietnamese nationals that drew significant public attention (Attamimi, 2025).

As for the *legal culture factor*, which according to Soekanto encompasses the values underlying the applicable law as well as conceptions of what is considered good and bad within society (Soekanto, 2014), this is reflected in the pattern of cooperation between the community and the Baubau Immigration Office through the reporting channel provided. This culture of collective vigilance did not emerge instantly, but is closely tied to Baubau's historical position as a maritime trading hub that has long interacted with the movement of foreign nationals since the era of the Buton Sultanate (Mokodompit, 2025), such that community awareness of the importance of maintaining immigration order has become embedded as part of the local culture itself.

By examining these five factors together, it can be understood that the consistency of law enforcement at the Baubau Immigration Office, which at first appeared to contrast with the ideal conditions described in various prior studies conducted in other regions (Pratama, 2020; Nurhaliza, 2019; Anggraini, 2018), is in fact underpinned by the alignment of Soekanto's five factors within Baubau's local context: regulatory clarity, apparatus capacity adequate for the scale of its jurisdiction, the availability of reporting facilities, a high level of community participation, and a legal culture that has long been established. However, this alignment also reveals one consistent weak point across all factors, namely the underutilization of the criminal law pathway, such that even though the administrative process runs smoothly, the deterrent-effect dimension of immigration law enforcement in Baubau remains an aspect that needs to be strengthened going forward.

4. CONCLUSIONS

Law enforcement against the criminal offense of residence permit misuse at the Class II Non-TPI Immigration Office of Baubau has proven to run in an orderly and consistent manner through the administrative pathway, as reflected in the handling of three major cases during 2023–2025, all of which were resolved through Immigration Administrative Actions without a single one proceeding to criminal

investigation. This consistency is supported by the alignment of Soekanto's five factors of legal effectiveness, namely regulatory clarity, adequate apparatus capacity, the availability of reporting facilities, high community participation, and a legal culture rooted in Baubau's long history as a maritime trading and shipping hub in eastern Indonesia. Nevertheless, this dominance of the administrative pathway also leaves behind one consistent weak point, namely the underutilization of the criminal pathway as regulated in Article 122 letter a of Law Number 6 of 2011, so that the deterrent effect that should accompany immigration law enforcement has not yet been fully realized.

This condition carries important implications for the achievement of the Sustainable Development Goals (SDGs), particularly Goal 16 on peace, justice, and strong institutions. The procedural orderliness built in Baubau demonstrates a real contribution to strengthening accountable and transparent legal institutions, yet the consistent neglect of the criminal pathway risks weakening the dimension of legal certainty and substantive justice that lies at the core of that goal. Strengthening the synergy between the administrative and criminal pathways is therefore an urgent need going forward, so that immigration law enforcement in Baubau is not only procedurally orderly but also capable of producing an optimal deterrent effect in support of state sovereignty and sustainable legal order.

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