

## CIQ : MIGRANT CONTROL AT AIRPORT ENTERACE

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### ABSTRACT

An increase in a percentage of annual foreigners entering to Indonesia through the airport entrance also means that it is an additional work for the Directorate General of Immigration to provide more oversight for public traffic. Therefore, it needs to be anticipated through a rigorous screening by Custom, Immigration and Quarantine (CIQ). Checking process for both Indonesian and foreigner passengers through airport entrance is a duty for the immigration. Furthermore, following the entry into force of the visa-free visits policy for 169 countries has added foreigners from various countries to Indonesia makes the Immigration Control has a very important role. Surveillance and monitoring of migrant movement through 29 airports entrance must through rigorous screening by the immigration to ensure that migrants who entered is not involved with the falsification or others illegal documents. This paper examines the role of Immigration against migrants through airport entrances in Indonesia. As a result of this study, it has been known that immigration control has not been optimal yet due to the increase in passengers coming through the Indonesian airport entrance. In addition, it needs has a good coordination between the manager of the airport and the Immigration, so the migrants who enter airport is passing through Immigration inspection process. Thus, every International airport in Indonesia needs to be equipped with sophisticated equipments of information and technology and improve human resources associated with the immigration checking.

Keywords: *custom, immigration, quarantine, airport entrance, migrant control.*

### A. Introduction

Air transport is one of conveyance having advantages infast and precise<sup>3</sup> in terms of time, therefore the transport increasingly in demand of passengers.<sup>4</sup> Air transport technological development shows dynamic and significant movements of

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<sup>3</sup>Rohani Abdul Rahim. et.al, 2015, *Pemalsuan Dokumen : Isu dan Perlaksanaan Perundangan Imigresen*, dalam *Buruh Asing Dan Migrasi, Isu Perundangan*, (edit) Kamal Halili Hassan, Universiti Kebangsaan Malaysia Publishing, Bangi, P.92.

<sup>4</sup>Annalisa Y, scientific speech on 124th graduation Fakultas Hukum Universitas Sriwijaya, 24 August 2016 at Tower Building Fakultas Hukum Universitas Sriwijaya Palembang, P.1.

people around the world. Moreover, transportation by aircraft is the most preferred choice for migrants to enter certain countries.<sup>5</sup>

The Push and pull theory mentions that push and pull factors influence international migrations. This theory considers interaction between the push factors of migrants from country of origin and factor migration in destination country. The push factors resulting from the country of origin are high unemployment and poverty, no opportunity for self-advancement, lack of agricultural land, political instability and war which encourages migrants (workers) to migrate to other country. Meanwhile, the pull factors of migration to destination country, namely economic prosperity, high wages, education and training opportunities, political stability and more liberal immigration.<sup>6</sup>

Indonesia is an archipelago state which is one of the states visited by many foreigners for various purposes, such as vacation, visiting family as well as study. The influx of foreigners to Indonesia's international airport entrance through 29 immigration checkpoints (TPI) located in Sumatra, Java, Bali and Nusa Tenggara, Kalimantan, Sulawesi and Papua. Immigration checkpoints are found only at international airports which foreign passengers get into Indonesia, with some of requirements, namely has custom,<sup>7</sup> immigration,<sup>8</sup> and quarantine facilities.<sup>9</sup>

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<sup>5</sup>Rohani Abdul Rahim. et.al, 2015, *Sekuriti di Pintu Masuk Lapangan Terbang: Isu, Peraturan dan Perundangan Malaysia*, in Buruh Asing Dan Migrasi, Isu Perundangan, (sunt) Kamal Halili Hassan, Penerbit Universiti Kebangsaan Malaysia, Bangi, P.39.

<sup>6</sup>Kamal Halili Hassan, 2015, *Buruh Asing dan Migrasi: Sorotan Perundangan*, (edit) Kamal Halili Hassan, Universiti Kebangsaan Malaysia Publishing, Bangi, P.22.

<sup>7</sup>The Law No. 17 of 2006 on Customs.

<sup>8</sup>The Law No. 6 of 2011 on Immigration.

<sup>9</sup>The Law No. 16 of 1992 on Animals, Fish, and Plant Quarantine.

Increase in the percentage of foreigners visiting Indonesia from year to year (table1) has consequences, that is surveillance in the immigration area at International Airport as a gateway to Indonesia in order to anticipate illegal migrant or others who are prohibited under the Indonesian Immigration Act.

Table1: Number of Foreign tourist arrivals in Indonesia

Year	Airport					Amount
	Soekarno Hatta	Igurah Rai	Polonia/ Kualanamu	Batam	Other airport	
2010	1 823 636	2 546 023	162 410	007 446	1 463 429	7 002 944
2011	1 933 022	2 788 706	192 650	161 581	1 573 772	7 649 731
2012	2 053 850	2 902 125	205 845	219 608	1 663 034	3 044 462
2013	2 240 502	3 241 889	225 550	336 430	1 757 758	3 802 129
2014	2 246 437	3 731 735	234 724	454 110	1 768 405	9 435 411
2015	68 628	3 936 066	201 447	1 585 719	2 138 915	1 230 775

Source : Central Bureau of Statistics at Indonesia, 2015.

Supervision and monitoring of migrant movements through international airport entrances in particular, are important things to ensure the migrant arrived are not involved in falsification of documents, fraud, people smuggling, human trafficking and non-documents<sup>10</sup> and travel visa's foreigners<sup>11</sup> as well as those who are prohibited under the Indonesian Immigration Law. Thus it should be known

<sup>10</sup>Rohani Abdul Rahim, 2008, *An Interpretation on The Malaysian Anti-Trafficking in Person Act, 2007 (Act 670) and Its foreseeable Impact on the Indonesian Women Migrant Labour*, In *Women in Public Sector*, Pusat Studi Wanita, Universitas Gajah Mada, Tiara Wacana, Yogyakarta, P.29.

<sup>11</sup>Rohani, 2015, dalam *Buruh Asing Dan Migrasi Isu Perundangan*, disunting oleh Kamal Halili Hassan, Penerbit Universiti Kebangsaan Malaysia, Bangi, P.39.

the role of immigration as a unity of Custom, Immigration and Quarantine (CIQ) at International Airport to detect illegal migrant. Supervision of immigration becomes an integral part of security activities in its implementation. The role of CIQ to maintain security of a state and its citizens is vital because it can involve harming the state through international airport therefore the CIQ (Immigration) should be more rigorous in maintaining the human traffic. Although in practice it has been known the new phenomenon of return migration.<sup>12</sup>

The Directorate General of Immigration of the Ministry of Law and Human Rights as the institution dealing with entry and exit for foreign and domestic subjects, has duties and obligations, in order to support national security, to maintain, protect, and secure any potential national threats that exist in the territory of Indonesia. In addition, it is also to cope with, overcome, and prevent all form of threats and disasters that may arise as a result of the entry and exit of foreign subjects.

## **B. The Provisions of Immigration in International Law**

The term of immigration, immigrant, migrant and illegal migrants should be understood comprehensively because the terms, indirectly, are related to the legal terms. In the Oxford Learner's Dictionaries, on a one hand, the word of immigration has two meanings. First “the process of coming to live permanently in a country that is not your own; the number of people who do this. ”Second it can be meant “(also **immigration control**) the place at a port, an airport, etc. where the passports and other documents of people coming into a country are

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<sup>12</sup>Mónica Vereá, Immigration Trends After 20 Years Of Nafta , NORTEAMÉRICA, Year 9, Issue 2, July-December 2014.

checked.”<sup>13</sup> The second meaning is directed to the Immigration duty against foreigners and citizens who enter the territory of Republic of Indonesia through airport entrance.

On the other hand the word immigrant has a meaning “a person who has come to live permanently in a country that is not their own.”<sup>14</sup> This meaning is directly proportional to the meaning given by Cambridge Dictionary.<sup>15</sup> Compare to the word of migrant which has a meaning “a person who moves from one place to another, especially in order to find work”<sup>16</sup> or in the Cambridge Dictionary means “a person that travels to a different country or place, often in order to find work.”<sup>17</sup> By comparing the two terms between migrants and immigrants in the two prominent dictionaries it can be concluded that the word immigrant has a slightly different meaning to the word migrant because migrants simply refers to the movement of a person or group of people between countries who have a goal to work, while immigrants focus on inter-state movement of a person or group of people who want to become permanent residents.<sup>18</sup>

With respect to international flights, the main reference to international law governing civil aviation is the Chicago Convention of 1944 which came into

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<sup>13</sup><http://www.oxfordlearnersdictionaries.com/definition/english/immigration>, retrieved 15 February 2017.

<sup>14</sup><http://www.oxfordlearnersdictionaries.com/definition/english/immigrant?q=immigrant>, retrieved 15 February 2017.

<sup>15</sup>Immigrant is a person who has come to a different country in order to live there permanently. <http://dictionary.cambridge.org/dictionary/english/immigrant>, retrieved 15 February 2017.

<sup>16</sup>[http://www.oxfordlearnersdictionaries.com/definition/english/migrant\\_1](http://www.oxfordlearnersdictionaries.com/definition/english/migrant_1), retrieved 15 February 2017.

<sup>17</sup><http://dictionary.cambridge.org/dictionary/english/migrant>, retrieved 15 February 2017.

<sup>18</sup>Herlin Wijayanti, *Hukum Kewarganegaraan dan Keimigrasian*, Banyumedia Publishing, Malang, 2011, p129.

force on April 4, 1947.<sup>19</sup> In this convention there are only two recognized term,namely immigration<sup>20</sup> and (illegal) migrant(s).<sup>21</sup> Article 23 of the Chicago Convention expained that state parties can take steps to continue to develop immigration and customs procedures in accordance with the practice developed over the time.<sup>22</sup> In this case, the International Civil Aviation Organization (ICAO) as the primary organization of international flights may adopt the development of customs procedures and immigration when it is necessary.<sup>23</sup> Thus, it can be stated that the development of immigration and customs procedures done through the practices of ICAO member then these practices can be adopted by ICAO to serve as an international aviatiionsstandard.

### **C. Illegal migrants in the Immigration Act**

Literally, the word of illegal migrant can be found in Cambridge Dictionary stated that the illegal migrant is "someone who lives or works in another country when they do not have the legal right to do this."<sup>24</sup>This definition emphasizes that the word of illegal formulated with "do not have the legal right" which means that a person does not have a legal right to live or work in other country.The word

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<sup>19</sup><http://www.icao.int/publications/Documents/chicago.pdf>, retrieved 16 February 2017.

<sup>20</sup>The Chicago Convention 1944 on International Civil Aviation, Article 13, 22, 23, 37, and Annex 9.

<sup>21</sup>The Chicago Convention 1944 on International Civil Aviation, Annex 9.

<sup>22</sup>The Chicago Convention 1944 on International Civil Aviation, Article 23. "Each contracting State undertakes, so far as it may find practicable, to establish customs and immigration procedures affecting international air navigation in accordance with the practices which may be established or recommended from time to time, pursuant to this Convention. Nothing in this Convention shall be construed as preventing the establishment of customs-free airports."

<sup>23</sup>The Chicago Convention 1944 on International Civil Aviation, Article 37. "International Civil Aviation Organization shall adopt and amend from time to time, as may be necessary, international standards and recommended practices and procedures"

<sup>24</sup><http://dictionary.cambridge.org/dictionary/english/illegal-immigrant>, retrieved 15 February 2017.

intersecting with the law that should be traced to the international regulations, such as the Chicago Convention and the Indonesian laws concerning the subject for immigration.

Illegal migrants directly mentioned in the 1944 Chicago Convention, but it does not explained of what is the meaning of illegal migrants. Annex 9 simply stated that states have an obligation to deal with forgery of travel documents and the original documents were used improperly having petency to overflow of illegal migrants. In the ICAO Council meetings also do not described explicitly what does mean by illegal migrants. However, it is actually Annex 9 can also be used as the basis and limitations that most illegal migrants include two things. The first is people who travel cross-country using false documents. The second is people who travel using the original document but does not used the document appropriately.

Indonesia is a state party to the 1944 Chicago Convention which entered into force for member countries on April 4, 1947. Indonesia deposited it's instruments of adherence on 27 April 1950 and entered into force to Indonesia 30 days after the deposit date.<sup>25</sup> Hence ICAO is a specialized agency under the United Nations, it has also been influenced to ICAO's membership of a country in which when a state resign from the United Nations membership, the country is automatically retire from ICAO membership unless otherwise stipulated by the UN General Assembly.<sup>26</sup>

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<sup>25</sup>The Convention on International Civil Aviation, Article 92.

<sup>26</sup>The Convention on International Civil Aviation, Adendum No. 1, Article 93 bis. "A State which has been expelled from membership in the United Nations shall automatically cease to be a member of the International Civil Aviation Organization unless the General Assembly of the

In Indonesia, the Law No. 6 of 2011 on Immigration (Immigration Law) expressed that immigration is directly related to state sovereignty.<sup>27</sup> In the law the word of migrants do not known, but mentioned the word of (obscure) immigrant.<sup>28</sup> Although there is a word of “(obscure) immigrants” in this legislation, it do not mentioned in detail about what is the meaning of (obscure) immigrants. Is it the meaning of illegal migrants as stated in the Chicago Convention same as (obscure) immigrants as mentioned in Immigration Law?

In the area of jurisprudence, legal phrase has a sacred meaning and absolute truth till there is other equal laws mention that it is wrong. Authors are more likely to choose the word violation of immigration documents or violation of travel documents in order to avoid improper interpretation of the law against (obscure) immigrants. Travel documents and immigration documents stipulated in the Immigration Law Article 1 (14)<sup>29</sup> and 1(15).<sup>30</sup> In this provision is stated that anyone who travel outside the territory of the Republic of Indonesia or enter are required to have travel documents and immigration documents. In other words, a person must have a passport as a travel document and a visa as a basis for granting residence permit in the territory of Indonesia. These documents are then checked by the immigration authorities. The absence of such documents, immigration officials must refuse foreigners who enter the territory of Indonesia.

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United Nations attaches to its act of expulsion a recommendation to the contrary.” This amendment Applicable on 20 March 1961. [http://www.icao.int/publications/Documents/7300\\_2ed\\_add\\_01.pdf](http://www.icao.int/publications/Documents/7300_2ed_add_01.pdf)

<sup>27</sup>The Law Number 6 of 2011 on Immigration, Article 1 (1).

<sup>28</sup>The Law Number 6 of 2011 on Immigration, General explanation.

<sup>29</sup>The Law Number 6 of 2011 on Immigration, Article 1 (14), *Dokumen Keimigrasian adalah Dokumen Perjalanan Republik Indonesia, dan Izin Tinggal yang dikeluarkan oleh Pejabat Imigrasi atau pejabat dinas luar negeri.*

<sup>30</sup>The Law Number 6 of 2011 on Immigration, Article 1 (15)., *Dokumen Perjalanan Republik Indonesia adalah Paspor Republik Indonesia dan Surat Perjalanan Laksana Paspor Republik Indonesia.*



Thus it can be said that the term of "(obscure) immigrants" in Immigration Law, do not use the standard term as specified in the Chicago Convention which states directly about illegal migrant. Moreover, a clear definition of illegal immigrants do not mentioned in the Immigration Law, while Indonesia deposited the instrument of adherence (ratification) and legally has to be bound to the Chicago Convention.

#### **D. Practice of Immigration policy in Indonesia**

Indonesia is categorized as *non-immigrant state*.<sup>31</sup> Indonesia, therefore, could not provide a residence permit without calculating a period of time to persons who are not Indonesian citizens. Moreover, the permission always consider beneficial aspects to the interests of Indonesia.

In practice, the Indonesian government sets immigration policy through relevant ministry which is the Ministry of Justice and Human Rights, the Directorate General of Immigration. The Regulation of the Director General of Immigration No. IMI-459.GR.01.01 of 2011 on the Standard of Operating Procedure of Border Control Management.

#### **E. The Role of Immigration in Indonesian Airport**

Immigration control is a sub-system of immigration security.<sup>32</sup> Immigration control focused on security is a key factor for realizing national security and defense from entry and exit of people in a country, including Indonesia because

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<sup>31</sup>Bagir Manan, 2015, *Memantapkan Peranan Imigrasi Dalam Pelayanan, Penerapan dan Penegakkan Hukum Keimigrasian Pada Era Globalisasi*, in Bilal Dewansyah, *Perkembangan Politik Hukum Dan Kebutuhan hukum Keimigrasian Indonesia : Menjawab Sebagian, Melupakan Selebihnya*, Hasanuddin Law Review, Vol. 1 Issue 2, Agustus 2015, P.150.

<sup>32</sup>See Article 66 (2) The Law No. 6 of 2011 on Immigration.

these activities are the law enforcement of state sovereignty.<sup>33</sup> Immigration control in Indonesia is the authority of the Intelligence Directorate of Immigration as the gate keeper in the land, sea and air.

As a security institution, the Directorate General of Immigration undertake a security measures to prevent irregularities, abuses and violations of immigration as well as crime. The security measures are formulated in the form of every effort, work, action, and prevention or thwart as well as investigate any irregularities, abuse, violations, and crimes committed by both Indonesian citizens and foreigners.

The security measures are in the form of supervision as defined in Article 66 paragraph (2) of Law No. 6 The year 2011 such as control of Indonesian citizens who propose travel documents to exit or entry Indonesian territory, and who are outside the Territory of Indonesia; and control of traffic foreigners entering or leaving Indonesia's territory as well as control to the existence and activities of Foreigners in the territory of Indonesia. The preventive security measures aimed to prevent any irregularities, misuses, abuses and immigration crimes. For example, every foreigner in Indonesia is required to provide any information or assistance to identify themselves.

#### **F. FreeVisitVisa Policy in Indonesia**

Passport is a person's identity when he is outside his country, while the visa is permit entry to other countries.<sup>34</sup> Free visit visa policy for ASEAN countries

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<sup>33</sup>Jazim Hamadi dan Charles Christian, 2015, *Hukum Keimigrasian Bagi Orang Asing di Indonesia*, Jakarta, Sinar Grafika, P.115.

between 14 and 30 days<sup>35</sup> is one reason for the high number of air passengers visiting Indonesia. People who accept free visits visa are permitted to exit and enter through 29 immigration checkpoint.<sup>36</sup> Free visit visa policy from 169 countries came to Indonesia since this policy applies on March 10, 2016, has an impact to the flow of foreigners.<sup>37</sup> Free visit visa is granted to foreigners who will travel to Indonesia in the context of the state assignment, education, social, cultural, tourism, business, family, journalism, or just transit to another country.<sup>38</sup>

Free visit visa for foreigners may rise abuses of national security. The implementation of the free visit visa is also impacted to the immigration for information of foreigners entering to Indonesia. Hence, it is necessary to set up more sophisticated equipment and good human resources to monitor traffic flow of foreigners through airport entrance. Since free visit visa policy is applied, the immigration abuses increase. Throughout the year 2016 recorded 8116 violations of immigration. Most violations committed by foreigners from China, 1,268

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<sup>34</sup>Aprilia Nurohmah, 2017, 57 Negara ini bebas visa bagi WNI, bikin ingin cepat berkunjung, <https://www.brilio.net/jalan-jalan/58-negara-ini-bebas-visa-bagi-wni-bikin-ingin-cepat-berkunjung-60219p.html>, retrieved 19 February 2017.

<sup>35</sup>170 Negara Bakal Bebas Visa di 2016, <http://bisnis.liputan6.com/read/2415452/170-negara-bakal-bebas-visa-di-2016>, retrieved 19 February 2017. Brunei Free Visit Visa for 14 days, Indonesia Free Visit Visa for 30 days, Malaysia Free Visit Visa for 30 days, Filipina Free Visit Visa for 21 days, Kamboja Free Visit Visa for 30 days, Laos Free Visit Visa for 30 days, Myanmar Free Visit Visa for 14 days, Singapura Free Visit Visa for 30 days, Thailand Free Visit Visa for 30 days, and Vietnam Free Visit Visa for 30 days.

<sup>36</sup>Annex the Ministry of Law and Human Rights No 17 of 2016 on Immigration Checkpoints (TPI) determined, requirement, And Arrival Destinations For Foreigners to get Free Visit Visa.

<sup>37</sup>Kebijakan Bebas Visa, WNA Membeludak ke Indonesia, Kamis, 22 Desember 2016, <http://wartakota.tribunnews.com/2016/12/22/kebijakan-bebas-visa-wna-membeludak-ke-indonesia>, retrieved 19 February 2017.

<sup>38</sup>Article 89 (1) government regulations No. 31 of 2011 on Implementing Regulations of Immigration Act.

offenders, followed by Afghanistan (430), Bangladesh (176), the Philippines (153), and the rests are other foreigners.<sup>39</sup>

Sanction against violations of free visa visit abuses is deportation, for example a violation committed by Beng Beng Ong, an Australian. He was deported from the territory of Indonesia to his country on September 7, 2016 by the Central Jakarta Immigration. He violate immigration residence permit (free visa visit). He should use the limited stay permit visa<sup>40</sup> or visa on arrival.<sup>41</sup> Other violation is associated with Lion Air JT0161 from Singapore Airport at 18:50 and landed to Soekarno-Hatta Airport at 19:35 which does not passed immigration security at Soekarno Hatta Airport on May 10, 2016.<sup>42</sup> Over the incident, the Lion Air received sanction of a written warning by the Immigration Soekarno-Hatta Airport.<sup>43</sup> According to the Article 9 (1) of the Immigration Law, it is mentioned that any person entering or leaving Indonesia's territory shall pass security checking conducted by immigration officers at Immigration Check Point. It is also stated in Article 113 of the Immigration Law that any person who knowingly enter or exit Indonesian territory does not pass the inspection by immigration officers at Immigration Check according to the Article 9 paragraph (1) shall be

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<sup>39</sup>Rahmat Nur Madani, *Perlukah Bebas Visa 169 Negara ??*, <https://pemudaindonesiamadani.wordpress.com/2017/01/13/perlukah-bebas-visa-169-negara/>, retrived 19 February 2017.

<sup>40</sup>*See* Article 102 (2) Government Regulation 31 of 2011 on the Implementing Regulations of The Law No. 6 of 2011 on Immigration.

<sup>41</sup>Saksi Ahli Jessica Dideportasi Pagi Ini, <http://news.liputan6.com/read/2595825/saksi-ahli-jessica-dideportasi-pagi-ini>, retrieved 19 February 2017.

<sup>42</sup><http://www.tribunnews.com/nasional/2016/05/14/penumpang-lion-air-dari-singapura-tak-lewati-pemeriksaan-imigrasi-bandara-soetta>, retrieved 2 January 2017.

<sup>43</sup><https://www.gosumbar.com/artikel/nasional/2016/05/15/penumpang-dari-singapura-tak-lewati-imigrasi-3-petugas-lion-air-diperiksa#sthash.hLw8gTvz.dpuf>, retrieved 19 February 2017.

punished with imprisonment of 1 (one) year and/or a maximum fine of Rp100,000,000.00 (one hundred million rupiahs).

The purpose of the free visit visa is actually good, which is to increase the number of foreign tourists to Indonesia, twenty million tourists in 2019. However, free visit visa policy causes many problems for example, an increase in number of drugs into the territory of the Republic of Indonesia and the influx of workers from China. Therefore, there are several views associated with a free visit visa policy, namely:

**Firstly**, Free visit visa policy to 169 countries should be promptly evaluated and reduced to only the countries that give benefit to the interests of Indonesia, either unilaterally or both.

**Secondly**, immediately developed colleges with immigration major, in order to pursue urgent needs of Indonesia as an archipelagic state.

**Thirdly, immediately develop online visa and not free visa, so the** country not only gets financial income but also able to filter out people who will go to Indonesia. **Fourthly**, immediately revise the Presidential Decree No. 21 of 2016 on Visa-Free Visit and the Regulation of the Ministry of Justice No. 17 of 2016 on Specific Immigration Check Area, Requirements, and Destination For Foreigners Who Get Free Visa Visit.

#### **G. Immigration Security**

The development of immigration procedures to change practically by member of ICAO. In 2013, the Republic of Korea proposed amendments to Annex 9 of the Chicago Convention with respect to a standard immigration

procedure. The Standard was called Immigration Automated Clearance System using Machine Readable Travel Documents (MRTDs). The system was based on face detection, fingerprint and metal detector that had been done since 2008.<sup>44</sup> At the end, the proposal was approved by the ICAO Council at a meeting to eight Facilitation Panel (FALP) which states that:

“Automated Immigration Clearance System. A system with self-screen stands that processes passenger departures step-by-step in order to enhance the departure process through e-MRTDs with biometric recognition. Facial, fingerprint or any other applicable methods are utilized to prevent unlawful activities such as passport swapping.”<sup>45</sup>

In this case based on the amendment of Annex 9 that the members ICAO should facilitate the procedure in their airports to introduce and develop new systems immigration efficiently.<sup>46</sup>

For security, every state including Indonesia prefers to use the biometric system at different areas in the immigration process. This asymmetry impacts to challenge for international cooperation.<sup>47</sup> As the agency in charge of immigration,

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<sup>44</sup>As the number of MRTD users increased in the ROK, an Automated Immigration Clearance System based on facial and fingerprint recognition was developed and has been in operation since 2008. It includes a service model using fingerprints and facial recognition; the service model's security system (metal detector) enables simultaneous immigration clearance and security checking based on facial recognition. [http://www.icao.int/Meetings/FALP/Documents/Falp8-2014/Docs/wp267\\_en.pdf](http://www.icao.int/Meetings/FALP/Documents/Falp8-2014/Docs/wp267_en.pdf), retrieved 16 February 2017.

<sup>45</sup><http://www.icao.int/Meetings/FALP/Documents/Falp82014/AUTOMATED%20IMMIGRATION%20CLEARANCE%20SYSTEM.EN.pdf#search=immigration>, retrieved 16 February 2017.

<sup>46</sup><http://www.icao.int/Meetings/FALP/Documents/Falp82014/AUTOMATED%20IMMIGRATION%20CLEARANCE%20SYSTEM.EN.pdf#search=immigration>, retrieved 16 February 2017.

<sup>47</sup>Vanessa Díaz, 'Legal Challenges of Biometric Immigration Control systems,' *MEXICAN LAW REVIEW* Vol. VII, No. 1.

the Directorate General of Immigration performs security efforts in the implementation to enforce immigration law in order to prevent irregularities, abuses, violations, and crime in the scope immigration. These security measures include every effort, work, action, and action to prevent or thwart and investigate any irregularities, abuse, violations, and crimes of immigration committed by both Indonesian citizens and foreigners.

With regard to foreigners, the Directorate General of Immigration has an important role in monitoring activities of immigration in Indonesia, as mentioned in Article 68 of Law No. 6 of 2011:

1. Supervision of Immigration for Foreigners held at the time of application for visa, entry or exit, and the filing of Residence Permit is done by:
  - a. collection, processing, and presentation of data and information;
  - b. composition of the list of names of foreigners as a subject to rejection or prevention;
  - c. control of the existence and activities of foreigners in Indonesia's territory;
  - d. taking photographs and fingerprints; and
  - e. other activities that can be justified legally.
2. Immigration control results referred to paragraph (1) is the immigration data which can be determined as a confidential data.

Role of Immigration with regard to the monitoring of foreigners namely, the setting of people who enter or exit the territory of the Republic of Indonesia and Supervision to the presence and activities of foreigners in Indonesia. In these rules

applicable provisions and regulations of Indonesian immigration, such as : any person entering and leaving the territory of the Republic of Indonesia is valid if receive a permission to enter or exit permit immigration officials in charge of inspection at immigration checkpoints; any person entering or leaving the territory of the Republic of Indonesia must have valid travel documents on its own; and immigration officers have an authority to examine any person entering or leaving the territory of the Republic of Indonesia.

In connection with the enforcement regulations for people entering and leaving the territory of the Republic of Indonesia, Immigration officials are required to have his sense of security due to immigration provisions as mentioned above is a challenge and a guarantee for peace and national security. Moreover, an immigration official must be sure that permission to enter or exit the territory of the Republic of Indonesia which is given to a person the formal requirements should have been fulfilled. However, the role of the intelligence and security service are the most decisive, because everyone who entered Indonesian territory perhaps either has good purpose or bad intention.

To implement protective and preventive activities, an immigration official has a role in shaping security immigration, namely :

1. provide quick and careful attentions to the holder of a travel document with a photo in it, whether the holder is himself or not;
2. provide quick and careful attentions whether there are streaks or smear marks on identity in the passport;



3. perform a brief dialogue to ascertain whether the corresponding name matches the name of the passport;
4. check the list of cease-and-desist. Whether the person is including those who are not allowed to enter or exit the territory of the Republic of Indonesia;
5. provide quick and careful attentionsto the validity period of the visa travel documents.

Supervision by the immigration authorities about the existence and activities of foreigners in Indonesia is regulated in Article 71 of the Law No. 6 of 2011, that foreigners must :

1. have a valid permission to visit or temporary residence permit on its own name;
2. have a residence permit; residence permit expires if foreigners out of Indonesia, unless it has a valid permission back for his name;
3. provide all the information and help to identify themselves and their family members, and the changes, for example: civil status, nationality, occupation, guarantor or change addresses of the guarantor as well as disclose and assign a travel document or a residence permit if requested by immigration officials in order to control immigration;
4. Any person or entity that knows the existence of civil society organizations and / or activities of foreign suspect, must notify immigration officials or other authorized official.

In the implementation of supervisory duties the presence and activities of foreigners in Indonesia, an Immigration official must have a sense of security in which he had full confidence that the presence and activities of foreigners in Indonesia in accordance with the intent and purpose of his visit and do not commit irregularities, abuse as well as immigration violations that could disturb public order and national security.

Obligations that must be performed by an Immigration Officer or any other officer designated in order to control immigration are:<sup>48</sup>

1. Data collection services Immigration, both Indonesian citizens and foreigners;
2. Traffic data collection, both Indonesian citizens and foreign nationals entering or leaving Indonesia's territory;
3. Data collection of foreigners who have obtained a detention decision,<sup>49</sup> both at the Immigration detention room in the Immigration Office and in the immigration detention house; and
4. Data collection of foreigners in the process of immigration enforcements.[online.com](http://online.com)

Collection of the data is then entered on Immigration Management Information System built and developed by the Directorate General. That obligation is a manifestation of immigration control based on security and intelligence agencies of immigration. Immigration officials assigned to supervise immigration must have a strong basic security and immigration intelligence.

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<sup>48</sup> see Article 70 The Law No. 6 of 2011 on Immigration.

<sup>49</sup> see Article 75 (2) The Law No. 6 of 2011 on Immigration.

These principles should be made considering the duties and functions as a state gate keeper that has potency for both domestic and foreign threat.

According to Imam Santoso, to support success interaction, in immigration services at the Directorate General of Immigration, need to apply the principle of participation, the principle of continuity, and a holistic approach to face globalization and the ASEAN Economic Community.<sup>50</sup> Immigration officials have authority to perform administrative actions against foreigners who are in Indonesia's territory that perform malicious activities and is suspected of endangering security and public order or does not respect or obey Indonesian laws. Immigration Administrative Measures include : 1) included in the list cease or desist; 2) restriction, modification or cancellation of Residence Permit; 3) prohibition to be in one or a few specific places in the Territory of Indonesia; 4) having to stay at a certain place in the Territory of Indonesia; 5) charging load; and / or; 6) deportation from the territory of Indonesia.

## **H. Conclusion**

According to the discussion above, it can be concluded that there are three role of immigration, namely 1) function of the security as the Indonesian gatekeepers; 2) provide better services to the Indonesian citizen and foreigners; and 3) as a law enforcement related to traffic of foreigners through airports. Therefore, the Director General of Immigration should be able to identify any threats from inside or outside related to validity of documents, or other activities potentially lead to immigration crimes. Furthermore, the Director General of

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<sup>50</sup> M. Iman Santoso, 2015, Applying Interactive Planning on Public Service Leadership in The Directorate General of Immigration Indonesia, *Procedia - Social and Behavioral Sciences* 169, P.400 – 410.

Immigration should give a strict sanction against foreigners who violate the Immigration Law as well as immigration control at airport should be tightened included with renewing of equipment to the most advanced Information and technology.

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