

Indonesian Crimmigration Law: Critics of Immigration's Law Enforcement Towards Illegal Expatriate Workers as The Impacts of Pro-Investment Policy

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Abstract: *This study examines the characteristics of Crimmigration law in Indonesia and the use of the concept of law enforcement towards illegal foreign labor. This research is doctrinal research using inductive-deductive logic using library materials. The data was then analyzed using qualitative methods. The results showed that First, the characteristics of Crimmigration Law in Indonesia, can be seen from the selective policy used to select the foreigners who will enter into Indonesian Authority and the penal sanction which rooted in the Immigration regulations and Indonesian Law. The end of law enforcement toward the defendant is imprisonment and deportation. Second, the implementation of the Crimmigration law toward illegal foreign workers in Indonesia only uses immigration regulation without regard to labor regulations. Third, the enforcement-only focuses on residential permit abuse and sentencing for minimum punishment, not the working permit or doing an illegal activity such as illegal labor. Hence, critics emerge to urge the legal review of the related regulation with Crimmigration to achieve the main purpose of the law itself, law must be the first indicator to control people's behavior as an Allien in foreign and the possible offenses threats can be reduced significantly.*

Introduction

Crimmigration is generally defined as the increased attachment to criminal and immigration procedures (César Cuauhtémoc García Hernández, 2019). This term has become a trend in the United States, Australia, and various European countries, as well as on other continents. In contrast to the traditional immigration law, in response to increased migration and mobility, the politicization, new era, and cultural shift have different ways in how the host countries view the immigrants. (Bowling, B., & Westenra, 2018). Afterward, Immigration and criminal law becoming more intertwined by increasing the number of people processed in the immigration system, detained, and deported then known as *Crimmigration*. (Kogovšek Šalamon, N., Frett, B., & Ketchum, 2020).

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A previous study related to immigration cases such as in maritime found that the most obvious weaknesses are seen in immigration control, where inadequate supervision, inefficient licensing processes, and weak law enforcement reduce the effectiveness of border management.(Arifin et al., 2024). In the tourism area, also found that the new regulation that is the Job Creation Law should resolve any matters that occurred before, but on the other hand, it seems to support the tourism side which caused illegal expatriate workers to come with tourist visas.(Widiatedja & Suyatna, 2022). In the Labour side, Limited visa quotas and high taxes trigger migrant workers to work illegally in a country. Apart from that, weak immigration law enforcement in several sectors affects the rate of increase in illegal foreign workers, especially when enforcement carried out by immigration is only limited to administrative enforcement.(Widiatedja & Suyatna, 2022).

Those are the reasons a form of immigration law enforcement when a legal event happens and requires the penal law system as the final punishment, (Spring, 2018), it has also created an increasing form of criminal and immigration crime control and formed a new crime both theoretically and empirically by taking into account the changing times that raced on securities, especially in political and policy discourse, migrant workers and some affect in the political-economic dimension. The enforcement is aimed at preventing illegal immigrants or aliens who do not have a valid residence permit from entering a foreign country and ensuring they return to their home country (Evans, 2021) and show a characteristic of migration criminalization that applies the characteristics of criminal law in the enforcement of immigration cases by showing how criminal law has a role in it (Di Molfetta & Brouwer, 2020).

Several examples of the *Crimmigration* system can be seen in Australia and the United States. *Crimmigration* in Australia shows how the law, policy, and practice of criminalization are realized in a contemporary way due to several factors (Jalušič, 2020), first, Australia's historical condition with the contemporary history and continuity of the country's past, which has been a destination country for migrants since long ago because of its more developed economic potential, and the location of Australia which is close to Indonesia as a transit country for migrants. Second, the border is the main point in protecting the enforcement of a territorial law that must be considered to maintain territorial sovereignty from foreigners. Third, revealing and analyzing differences in subjects, legal aspects, and policing/enforcement mechanisms in immigration; Fourth, revealing some of the main consequences and impacts of crime on humans; And, fifth, explore the concept of criminality from various perspectives, including race, feminist perspective, human rights, and political sociology.

In the United States, the main pillars of *Crimmigration* are fundamentally built on several key aspects (Billings, 2019). First, the deportation of the individual who have committed crimes, considering both their immigration status and involvement in criminal activities. Second, the implementation of strict penalties for the increased criminalization of migration—firm enforcement of the increasing number of violations of immigration laws. Third, the procedural amalgamation between criminal

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justice and immigration law administration which is a combination of law enforcement/police practices. The enforcement of Immigration law in the United States is primarily focused on a risk management approach which is rooted in their normative foundation of changes in laws and policies. (César Cuauhtémoc García Hernández, 2019).

Immigration laws in Indonesia, similar to those in Australia and the United States, aim to manage the complexities and risks associated with the movement of foreigners. According to Law No. 9 of the Year 1992 on Immigration, only foreigners who contribute positively to the welfare of the Indonesian people, nation, and state are permitted entry. This selective approach ensures that those who enter Indonesia do not pose a threat to its security or social harmony.

Furthermore, provisions of Law Number 8 of 1981 concerning Criminal Code Procedure complement these regulations by setting guidelines that align with the principles of Pancasila and the 1945 Constitution. These laws collectively safeguard Indonesia's interests while promoting beneficial contributions from foreign nationals. By balancing security concerns with the need for positive contributions, Indonesia seeks to create a safe and prosperous environment for all its residents.

The explanation of law No. 6 of 2016 concerning Immigration in paragraph 9, states that "Based on selective policies that uphold the value of human rights, the entry of foreigners into Indonesian territory is regulated, as well as for foreigners who obtain residence permits in Indonesian territory. must be following the aims and objectives of being in Indonesia. Based on the policy in question and to protect national interests, only foreigners who provide benefits and do not endanger security and public order are allowed to enter and reside in Indonesian territory. This is also supposed by the Indonesian condition as a Pro-Investment country, this term has become famous since the issuance of Law Number 1 of 1967 concerning Foreign Investment (Undang-undang Penanaman Modal Asing/UPMA).

Moreover, to support the program, President Joko Widodo legitimized Law No. 11 of 2020 concerning Job Creation (Undang-Undang Cipta Kerja/Omnibus law) will increase labor absorption by encouraging investment. The Job Creation Law, which consists of 186 articles, was ratified and signed by President Joko Widodo on November 2, 2020. The Omnibus Law, which summarizes 77 laws, is divided into 11 clusters, including the ease of doing business and improving the investment ecosystem and business activities. This policy means that the ease of doing business and investing, especially for foreign investors, has greater opportunities, especially after the impact of the Covid-19 pandemic which resulted in the era of digitalism throughout the world, increasing opportunities for investors to invest. The ease of investing provided by the pro-investment policy has influenced the increasing number of foreign companies in Indonesia that require a large number of experts in certain positions that may not be occupied by local workers. Foreign investment does have a positive impact on employment in terms of labor quality and vice versa, but the moderating role of labor quality does not support foreign investment in creating new jobs in recipient countries.(Nguyen et al., 2024).

This foreign investment policy, when implemented, can influence the policy implications of a country because the existence of this policy can influence the emphasis on limiting foreign ownership in sectors that are considered important in the country, which will most likely result in a loss of efficiency in the form of a decrease in productivity among companies. Local companies that exist primarily need skilled labor.(Genthner & Kis-Katos, 2022). This contributes to the increasing demand for foreign workers as it offers a solution for foreign companies seeking to strengthen their workforce with specialized skills. One of the conditions that must be met in occupying foreign workers is to invest and transfer knowledge or transfer of know-how from foreign workers to local workers (Hoang & Reich, 2017).

A large number of foreign companies and the ease for foreigners to enter Indonesian territory pose a potential threat to the existence of local workers over the presence of foreign workers, (Nguyen et al., 2024). Although foreign workers also provide benefits for many companies that need experts. (Xu et al., 2023). However, this instead presents a new term in which many entrepreneurs argue that immigrants are more productive than natives, immigrant collaborators create a very strong positive externality on the innovation production of natives so that local workers are a poor substitute for foreign workers, especially in innovative start-ups. (Chen et al., 2021). Those conditions emerge as a big challenge for Indonesia in facing a new era due to new normal habits that cannot be separated from the digital or cyber world as well as supporting policies that still have a negative or positive impact on economic development and state security, in particular, the increased need for foreign workers(Farida, 2021), who have the potential to violate immigration policy and lead to criminal sanctions for violators.

Therefore, problems related to foreign workers are included in the category of social problems(Wang et al., 2024) or wicked problems because there are several government regulations and policies that create complexity, differences in values and views, and the uncertainty of overlapping rules regarding the use of foreign workers. The results of the research in the Final Report of Legal Analysis related to Immigration in 2020 found that there were still many deficiencies in the immigration regulation policy that require a new judicial review so that law enforcement against immigration violations could be carried out optimally by applicable regulations and the purpose of the law itself. (Mirwanto, 2018).

Previous studies in some areas such as maritime, tourism, economics, and labor underscore the urgent need to address challenges related to foreign workers with immigration seriously needs to be resolved. First, in Hasmiati's research regarding the enforcement of immigration law on visa protection, she found that there are many opportunities for foreigners to work in Indonesia illegally due to weak supervision, the absence of participation by corporations, and the non-implementation of reporting the whereabouts of foreigners by corporate guarantors which resulted in several Immigration action increases every year, however, immigration action is dominated by administrative rather than criminal proceedings. (H et al., 2017)

Second, in maritime focus, Arifin tried to explore and reconstruct the legal framework governing the maritime border control of Indonesia, examine

the clearance and reconstruction process, and redefine the associated concepts. It focused on immigration surveillance, operations, patrols, and control with data-driven profiling and border risk assessment. (Arifin et al., 2024). He found that the shortcomings included fragmented policies, overlapping authorities, and provisions that were unable to control maritime immigration. The need for distinct legal frameworks designed to address the unique challenges in each area, the concepts of Formality, Facilitation, and Security, served as the theoretical basis for controlling maritime immigration borders. He found that the shortcomings included fragmented policies, overlapping authorities, and provisions that were unable to control maritime immigration. The need for distinct legal frameworks designed to address the unique challenges in each area, the concepts of Formality, Facilitation, and Security, served as the theoretical basis in maritime immigration border control. However, this concept is only limited to granting immigration permits and is less focused on the concept of law enforcement.

Nonet and Selznick in the 1970s explained that the law will give its own form in society. Give its own form in society. Furthermore, it is said, that developing countries have their own characteristic problems. Therefore, it cannot be forced to follow the established ways of organizing law in Western countries of organizing law that has been established in Western countries. Nonet and Selznick are examples of the currents of thought regarding the implementation of law in developing countries and the administration of law in developing countries. Both recognize that when a nation still has to face basic problems (such as nation-building or a new political order), it is understandable that (such as nation-building or a new political order), there is understandably a poverty of resources on the part of the ruling elite. Poverty of resources on the part of the ruling elite. As a result, leaders fall back on the use of power. The essence of the idea of legal order introduced by Nonet & Selznick in their *Law & Society in Transition: Toward Responsive Law* (1978) is modernization theory. This theory states that developing countries will reach a level of legal development enjoyed by developed/modern countries, as long as they are willing to do so developed/modern countries, as long as they are willing to follow the path that has been traveled by the developed countries by these developed countries. (Antasari, 1970)

Third, In the tourism area, research from Widyatedja, Parikesit, and Suyatna also found that the new regulation of the Job Creation Law should resolve any matters that occurred before, but on the other hand, it seems to support the tourism side which caused illegal expatriate workers to come with tourist visas. (Widiatedja & Suyatna, 2022). They concluded that The Job Creation Law is inconsistent with the Indonesian Labor Law Article 2(1) of Government Regulation No. 34 of 2021 concerning the Use of Foreign Workers then obliges every employer of foreign workers to prioritize the use of Indonesian workers in all types of available positions, with an exception that if there is no domestic workers can occupy it. It gives much Special attention to the tourism sector, the fact is that many foreigners work in positions that should be occupied by local workers.

Fachini and Testa, On the Labour side, said that the limited visa quotas and high taxes trigger migrant workers to work illegally in a country. Apart

from that, weak immigration law enforcement in several sectors affects the rate of increase in illegal foreign workers, especially when enforcement carried out by immigration is only limited to administrative enforcement. (Facchini & Testa, 2021). His research concluded that taxation and immigration policies impact widespread tax avoidance, which often has first-order consequences for the actual distribution of the tax burden.

The study above highlights the weaknesses in immigration law enforcement, although in different sectors the threat of immigration shows that illegal workers occupy a position that deserves attention, but the research above has not shown much in the way of legal construction that can answer strategic problems regarding how to overcome immigration crimes. and employment which directly carries two different forms of policy. To differentiate from previous research, this paper will take four examples of decisions related to immigration law enforcement and prove whether the effectiveness of the policy has been implemented according to the desired legal objectives or not. Philosophical thinking is needed to carry out legal interpretation and in-depth analysis of the object of the problem.

Method

This research employs a normative approach by identifying and reviewing relevant laws and regulations regarding the use of foreign workers, employment, and immigration in Indonesia, as well as research results, assessments, and other references related to this issue. The data consists of four decisions regarding foreign workers who misused immigration permits and regulations related to immigration and employment. The approach used is a statutory approach in analyzing legal arrangements relevant to immigration and employment law. All collected data was then processed using qualitative methods and the findings were explained descriptively. This article begins by explaining the existence of Crimmigration including concepts, definitions, and objectives. The existence of crime in the field of immigration crime and how foreign workers are identified as objects of crime. Then several regulations related to immigration regulations in Indonesia are explained descriptively. Lastly, look at the immigration-related provisions of other related laws to analyze in depth whether these arrangements have been implemented properly by the objectives of the law itself.

Results and Discussion

Indonesian Crimmigration Law

The enforcement of immigration law in Indonesia is aimed at preventing illegal immigrants or aliens without valid residence permits from entering a foreign country and ensuring they return to their home country and show a characteristic of migration criminalization that applies the characteristics of criminal law in the enforcement of immigration cases by showing how criminal law has a role in it. (Directorate General of Immigration Indonesian Annual Report Year of 2020, 2020). To find out how immigration law enforcement is enforced based on immigration law in Indonesia, four decision studies will be taken to be used as study material in finding normative implementation of the

law. This decision shows that there was an unlawful act committed by a foreign citizen who misused his immigration permit to work illegally in the territory of the Republic of Indonesia.

According to some experts, immigration will undoubtedly be one of the most important public policy issues in the years and decades to come, shaping societies in economic, social, and political terms. (Glitz & Rapoport, 2024) The development of technology and information has become the main infrastructure used by immigration in filtering the acceptance of foreigners in their country, (Mustafa & Deodatus, 2021) some developed countries have used the creep function which is a technology interconnection design by synchronizing someone's data from the country of origin. (Marouf & Herrera, n.d.). An increasingly sophisticated transnational surveillance system is also developing as a vital aspect of the criminality control system, this system can be used to obtain data from public and private data sources, across borders and institutions which will automatically be accessed when someone performs biometrics, this is what is known as a digital "social sorting" process, (Ziadah, 2021) which classifies which foreigners are allowed to enter the territory of a country or not. Unfortunately, problems related to the boundaries of the unitary state of a country arise when there is a desire to improve one's standard of living towards a country with a more developed economy, (De Haas, H., Castles, S., & Miller, 2019), this is what dominates the emergence of foreign workers, in which these workers migrate to developed countries. Finally, in the 1970s there was a mobilization movement in various countries regarding migration throughout Asia. (Hugo, 2005).

The traffic for immigration in the political economy is as follows: first, there is attention to the politico-economic dimension of criminality which allows us to unravel the important nuances of national criminal regimes. Second, and related, there is the political economy of immigration crime which provides strong evidence that advocacy for criminalized migrants must go beyond an exclusive focus on migrants and challenge the criminal justice system itself – that is, the analysis that has emphasized earlier approaches based on prison abolition. (Brisman, 2017). This criminalization is not an ordinary expulsion but rather for those who are illegally in a certain area without a legal permit stay. (Reiter, K., & Coutin, 2017).

In this case, *Crimmigration* is then concluded as an alternative problem solution to manage the excess or surplus migrants in a state, and *Crimmigration* itself must follow the provisions of applicable norms without denying its political economics. The era of digitalism, technological advances varying levels of wages and the effect of migration on economic welfare affect the benchmark of security in a country, migration is not only driven by high unemployment or low wages but also by lack of access to public welfare, for example, no pension facilities, lack of capital flows, insurance, and low education. (Miller, 2016). *Crimmigration* then is authorized by a unique set of immigration laws the criminal control system utilizes all elements of the crime control industry: physical defense; intelligence gathering and monitoring mechanisms; police and law enforcement; special legal proceedings, courts, and detention. (Rajendra, 2017). So in immigration law, there are four distinguishing elements from criminal law, namely the proficiency of

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immigration officers in enforcing the law, deportation, additional obligations, and creative civil exceptions. Hence, immigration law is also categorized as blacklisting, greylisting, and greenlisting.(Bowling, B., & Westenra, 2018).

Two dimensions commonly need to be discussed when talking about migration and foreign employment in Indonesia, that is the immigration policy which is concerned with the control of foreign traffic which is regulated in Law No. 6 Year 2011 concerned Immigration and its explanation pages which focus on the selective policy, this policy only permits all foreigners who will bring the benefits to Indonesia to enter and stay in Indonesia. The second dimension is the manpower policy which relates to the demand for skilled laborers, transfer knowledge obligation, and the regulation of working permits which is strictly ruled by Law No.13 Year 2003 concern on Manpower, The Omnibus Law or year 2020. Some political side of these regulations is the allowance to hire or use expatriate labor in Indonesia without reducing the local workers to get worthy jobs in Indonesia, According to Government Regulation No. 24 Year 2021 concerning using expatriate labor arranges certain positions that only can be occupied by the expatriates which showed by the license of expatriate using or RPTKA (Rencana Penggunaan Tenaga Kerja Asing), third, only companies that meet specific criteria are allowed to hire foreign worker.

Displays the regulations and norms associated with Crimmigration in Indonesia. It lists various forms of regulations and their corresponding legal references.

1. Laws: This section includes several laws such as Law Number 6 of 2011 regarding Immigration, Law Number 13 of 2003 concerning Manpower, Law Number 11 of 2019 concerning the National System of Science and Technology, and Law Number 25 of 2007 concerning Investment;
2. President and Government Regulations: The second part consists of regulations issued by the President and the Government, including Government Regulation Number 31 of 2013 concerning Implementing Regulations of Law Number 6 of 2011 regarding Immigration, Presidential Regulation Number 21 of 2016 regarding Visa Free Visits, Presidential Regulation Number 105 of 2015 regarding Foreign Yacht Visits to Indonesia, and Presidential Regulation Number 20 of 2018 concerning the Use of Foreign Workers;
3. Ministry Regulations: Under this category are regulations issued by the Ministry of Law and Human Rights. Examples include Regulation of the Minister of Law and Human Rights Number 24 of 2016 concerning Technical Procedures for Application and Granting of Visit Visas and Limited Stay Visas, Regulation of the Minister of Law and Human Rights Number 16 of 2018 concerning the procedure for applying for Visas and Stay Permits for Foreign Workers, and Regulation of the Minister of Law and Human Rights Number 1 of 2019 concerning Amendments to Regulation of the Minister of Law and Human Rights Number 33 of 2018 concerning the Immigration Control System; and
4. Regulations in COVID-19: Lastly, the table includes regulations pertinent to COVID-19 issued by the Ministry of Law and Human Rights, such as Minister of Law and Human Rights Number 3 of 2020 concerning Temporary Suspension of Visa Free Visits and other related regulations.

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This comprehensive list provides an overview of the legal framework surrounding Crimmigration in Indonesia, highlighting the various laws, regulations, and norms governing immigration and related matters. The forms of regulations and norms above show that the Crimmigration system in Indonesia especially for expatriate laborers already arranged with some regulations, this not only supports the Pro-Investment policy but also expands the ease of foreigners' visits to Indonesia. Those regulations seem only to give the threatened administrative sanction when the penal threats only refer to the immigration law and penal law itself, this means that even for the expatriate labor offence the regulation of the penal threatened only focuses on the immigration problem that stays permit or the abuse of permits which makes them becomes illegal. He may be only sanctioned administratively and allowed to present in Indonesia which can emerge as another potential threat.

The policies and regulations above mentioned that there are many regulations regarding immigration permits, while regulations on employment permits are quite minimal when examining the four decisions analyzed in the following cases.

First, (Decision No. 03/Pid.B/2015/PN. Jkt. Brt) study from the decision number 03/Pid.B/2015/PN. Jkt. Brt— Regarding the use of foreign doctors without permission by the “Practama Metropole” Health Clinic. The decision shows that the defendant was intentionally negligent in carrying out his work as the person in charge at the Metropole Clinic in November 2013 and immediately replaced the previous person in charge. While carrying out his work, Defendant knew that there were foreign doctors at the Metropole Clinic, but Defendant did not cross-check the legality of these foreign doctors. Furthermore, in this decision, it was found that there were no legal facts regarding who was the employer or guarantor of foreign doctors from Korea, namely dr. Song, dr. Shen and dr. Li at the Metropole Clinic, West Jakarta. However, based on RRI Ministry of Health Regulation Number 9 of 2014 concerning Clinics, the obligations of the person responsible for the clinic are not specifically stated, but Article 37 states the obligations of the clinic organizer. The person who organizes the clinic should be the person who founded the clinic and is the owner of the clinic. This means that the authority regarding data collection on health workers and medical personnel at the Metropole Clinic, both foreign doctors and local doctors, is the obligation of the person in charge. This case was closed with the imposition of administrative sanctions on the person responsible and the morning deportation of the foreign doctor.

Second, Kuldeep Singh, an Indian, (decision No 2/Pid.Sus/2022/PN Jkt.Utr) was sentenced to imprisonment for 8 (eight) months and a fine of 100 million with the provision that if the fine is not paid, it will be replaced by imprisonment for 2 (two) months. Legal consideration by the Panel of Judges regarding the criminal act of entering and/or remaining in Indonesian territory without having valid Travel Documents and Visa in carrying out the sentence implies a lack of justice because the Judge in case Number 2/Pid.Sus/2022/PN Jkt. Utr imposed the sentence or issuing the decision is felt or appears to be less than optimal with the demands put forward by the Public Prosecutor if

studied and examined more deeply, the Judge handed down the decision even though it was by existing considerations based on the testimony of witnesses, expert testimony, and the defendant's statement according to Article 184 of the Criminal Procedure Code is valid evidence and has also been proven regarding the reduction in the period of arrest and detention that has been served by the Defendant during the court process. However, apart from the misuse of immigration documents, the facts show that he is also an Illegal Foreign Worker who does not respect the regulations governing the presence of foreigners in the territory of the Republic of Indonesia. The decision on light sanctions and punishments considering that the violations committed over a long period seems to show that the power of immigration law is not so heavy, so it is possible to eliminate the deterrent effect that might be caused.

Third, a Chinese man was sentenced to four months imprisonment and a fine of IDR. 300,000,- (Decision No.327/Pid.Sus/2018/PN Bls). He had a work permit as a Quality Control officer at PT. Aice Cream Multirasa Indonesia, but even though he already had a work permit, he was proven to have misused his work permit for personal gain by doing other work that was not following his work permit as a manager at the company PT. Aice Cream Multirasa Indonesia, namely by reselling ice cream products to other parties. Fourth, another Chinese man with a free arrival visa was sentenced to three months and 20 days' imprisonment and fined IDR. 5.000.000,-. However, if the fine is not paid, he will be replaced with imprisonment for one month. The man was proven to have entered Indonesia several times using a free visa and was only recently caught doing illegal work by selling goods from China in the form of accessories in the Bitung area.

This decision demonstrated that the efforts taken by law enforcement officials through criminal means have indeed ended, but it is necessary to pay further attention to the level of errors committed with the rewards received compared to the losses to the state and the strength of the law enforced. Most of the cases above are resolved only by using immigration policy as the legal basis, namely by accusations of violating administrative regulations without paying attention to employment regulations which are more potentially serious. Then the question arises whether deportation as the end of the implementation of immigration law has answered all existing concerns, whether it can guarantee that cases of illegal workers in Indonesia will decrease or vice versa. The existence of law enforcement against foreign workers can be seen in Table 2, which shows immigration law enforcement against illegal foreign workers in Indonesia.

The Enforcement of Illegal Expatriate Workers in Indonesia According to Crimmigration System: Study from Four Illegal Labor Cases Decision

Relate to illegal labor, other regulations need to be noted for the implementation of a law that as the Manpower Regulation year 2003 and Omnibus law or Job Creation Law number year 2020. In the last 5 years, immigration has given sanctions to illegal workers by using both penal and administrative sanctions as follows:

Table. 1 The Law Enforcement of Immigration Law in 2017-2022.

No	Year	Forms of Action	
		Administrative	Pro-Justisia
1	2017	9.154	273
2	2018	11.769	246
3	2019	10.925	155
4	2020	2.932	14
5	2021*	0	0
6	2022*	0	0
Total		34.780	588

The table above shows that administrative enforcement is higher than pro-Justicia or penal enforcement, the total amount from 2017 to 2019 increased while in 2021 it decreased due to a pandemic. This data is the result of data processing taken from the Indonesian Directorate General of Immigration, in August 2023 and the results of interviews with the Head of the Visa Sub-Division and the Investigation and Enforcement Unit Division of the Indonesian Directorate General of Immigration in Jakarta. To get more information about the implementation of penal enforcement and find out how the immigration system is also used in Indonesia, we can see from the verdicts below:

This report presents instances of pro-justicia enforcement utilizing immigration law and related regulations in Indonesia. Each entry includes details of the verdict, the offense committed, mitigating factors considered, and the judge's decision. The first case, 03/Pid.B/2015/PN. Jkt. Brt, revolves around the unauthorized use of foreign doctors at the "Practama Metropole" Health Clinic. The offense pertains to the misuse of immigration permits by illegal foreign workers, violating specific articles of Law No. 6 of 2011 concerning Immigration. Despite the defendant's polite behavior during the trial and lack of prior convictions, the judge sentenced them to eight months in prison and a fine of IDR 100 million. Failure to pay the fine would result in an additional two months of imprisonment.

In Decision No. 327/Pid.Sus/2018/PN Bls, a case involving the abuse of working permits by expatriate labor at Aice Krim Multirasa Indonesia was considered. This constitutes a violation of immigration laws, leading to a sentence of four months in prison and a fine of IDR 300,000. The defendant's polite demeanor, remorse, and promise not to repeat the offense were taken into account during sentencing.

Furthermore, Decision No. 35/Pid.Sus/2019/PN. Bit addresses the misuse of a free visa by Chinese nationals to work illegally in Indonesia. This

offense carries a maximum sentence of five years imprisonment and a fine of IDR 500 million. However, the defendant's politeness, regret, promise of non-repetition, and family dependence in China led to a reduced sentence of three months and 20 days in prison, along with a fine of IDR 5 million.

Lastly, in Decision No. 2/Pid.Sus/2022/PN Jkt.Utr, an Indian individual was found abused a resident permit to work in Indonesia. Similar to the first case, the defendant's polite behavior and lack of prior convictions were taken into account, resulting in a sentence of eight months in prison and a fine of IDR 100 million, with the provision of additional imprisonment if the fine remains unpaid. These cases illustrate the effective application of immigration laws and related regulations in Indonesia, ensuring justice and addressing violations within the country's jurisdiction.

If the administration's enforcement usually ends with an acceptable payment, license revocation, and deportation then pro-Justicia prefers to use a penal system such as imprisonment, detention, deterrence, blocking, and deportation. The penal law is strictly used when the case is bestowed to the police by the immigration officer. The immigration officer from a department named "Wasdakim (Pengawas Dokumen Keimigrasian)" or the Immigration document supervisor gives all case files to be transferred to the police which will then be submitted to the district court.

From the data above, it can be concluded that illegal foreign workers are only threatened by Immigration Law, even by the fact they also infringe other regulations such as working permit regulation which is ruled by the manpower regulation. The administrative system still dominates the forms of law enforcement in Indonesia which shows that the implementation of the Crimmigration system which is the use of immigration policy and the penal system has some deficiencies, the total cases of immigration and manpower regulation toward the foreign workers increasing every year.

Looking at the large number of cases of misuse of residence permits above shows a general phenomenon that a country's pro-investment policies do have a big influence on development itself, especially in the fields of immigration and employment (Glitz & Rapoport, 2024)(Mustafa & Deodatus, 2021). However, these policies also provide a greater potential for unlawful acts. Examining the four decisions above shows how light the sentences are given to illegal foreign workers in Indonesia, the minimum prison time and fines provide an indirect relationship to the number of crimes against immigration each year. Normatively, it shows that the law's task has been completed in providing punishment for every violator, but if we examine it more deeply, it turns out that legal implementation has not been able to control and discipline society to obey the law. The company may be to blame for this, remembering that only business entities may employ foreign workers by paying wages or other forms of compensation. The regulations of the Minister of Manpower of the Republic of Indonesia No. 15 of 2022 concerning amendments to the Minister of Manpower's regulation number 20 of 2019 concerning the administration of non-tax state revenues sourced from compensation funds for the use of foreign workers, article 1 explains that only business entities may employ foreign workers by paying wages or other forms of compensation. As guarantors who are responsible for all the behavior of

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foreign workers in their companies, they should also be given strict immigration and employment sanctions, not just foreign workers. This is to provide a deterrent effect for guarantors of foreign workers to comply with existing laws.

Based on the sample data and the conclusions of the study above, it can be seen that the migration crime system in Indonesia is dominated by administrative rather than criminal solutions, even though deportation is the last action for both forms of enforcement. It may affect the minimum impacts to the defendants, hence, there needs to be further policy construction regarding more effective policies to handle cases of foreign workers in Indonesia. To achieve this, three key reforms are necessary. First, by reforming and harmonizing policies in the immigration and employment sectors so that when a foreign worker violates a regulation, stronger laws will apply to convict them of the criminal realm. Second, pay attention to a more efficient judicial process, especially cooperation between the police and immigration investigators in obtaining evidence so that the law can maintain the position of criminal acts of foreign workers compared to acts of administrative violations. Third, it is necessary to construct policies for employers, not only in terms of administration and fines.

Conclusion

Indonesian Crimmigration law is characterized by two systems of regulation: immigration and penal systems. The end punishments are imprisonment and deportation. The enforcement of most illegal worker cases is resolved by administration action, and the Crimmigration system is rarely used based on the latest annual reports from Indonesian Immigration which showing the significant developing illegal worker cases in Indonesia. A legal review is needed to complete the deficiencies in the former Crimmigration system. First, by reforming and harmonizing policies in the immigration and employment sectors so that when a foreign worker violates a regulation, stronger laws will apply to convict them of the criminal realm. Second, pay attention to a more efficient judicial process, especially cooperation between the police and immigration investigators in obtaining evidence so that the law can maintain the position of criminal acts of foreign workers compared to acts of administrative violations. Third, it is necessary to construct policies for employers, not only in terms of administration and fines.

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