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Juridical Analysis of the Legal Liability of Human Smuggling Perpetrators According to Law Number 6 Of 2011 Concerning Immigration (Case Study: Decision Number 684/Pid.Sus/2025/PN Mdn)

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Abstract: Human smuggling is an immigration-related criminal offense that has serious impacts on state sovereignty and legal order. Although it has been explicitly regulated in Law Number 6 of 2011 concerning Immigration, the enforcement of this law still faces various challenges, particularly regarding the legal liability of perpetrators and judicial considerations in assessing the fulfillment of criminal elements, especially when the perpetrator is an Indonesian citizen. This research aims to analyze the legal liability of perpetrators who transport people across national borders without using valid travel documents and to examine the legal basis of judicial considerations in Decision Number 684/Pid.Sus/2025/PN Mdn. The method used in this research is normative legal research with statutory and case approaches. The results of this study indicate that legal liability can be imposed if all elements of Article 120 paragraph (1) of the Immigration Law are fulfilled, including the element of intent and the act of transporting people across national borders illegally. Judicial considerations are based on the proof of intent, the active role of the perpetrator, and the commission of acts outside the immigration inspection mechanism, so that the decision reflects efforts to protect state sovereignty and prevent human smuggling.

Keyword: Immigration, Human Smuggling, Legal Liability, Judicial Considerations

INTRODUCTION

Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia explicitly stipulates that Indonesia is a state based on the rule of law. As a state founded upon law, every action of state administration and its citizens should be based on the applicable laws and regulations. The concept of the rule of law is essentially designed to limit the power of the state and the government so that every governmental action is carried out in accordance with the prevailing law. This principle aims to prevent the abuse of authority and arbitrary actions, while also ensuring the protection of human rights, legal certainty, and the realization of a fair and accountable government (Simamora, 2014). The rule of law serves as a means of social control,

which allows every state administration action to be limited in order to prevent arbitrary conduct. This becomes the basis for the government in creating an orderly and just society that is in line with the applicable laws and regulations (Nugroho, 2025).

The principle of a rule of law state essentially aims to prevent the state or government from exercising power arbitrarily. This principle not only functions to limit the authority of the rulers but also regulates the boundaries of citizens' rights so that national and state life can take place in an orderly manner and in accordance with legal provisions. This affirmation contains the meaning that all aspects of national and state governance, including the behavior of every individual in society, must be guided by applicable legal provisions. Based on this, norms, ethics, and social order that develop within society must always be aligned with legal principles, so that every action taken by citizens can be held accountable both legally and morally as an effort to realize order, justice, and legal certainty.

Immigration is defined as a strategic sector in the administration of government that plays an important role in maintaining state sovereignty and ensuring the protection of national security (Puspitasari, 2024). In the Immigration Law, it is stated that immigration is the entire series of activities covering the management, supervision, and provision of administrative services related to the mobility of foreign nationals and Indonesian citizens, including entry, exit, residence, and travel within the territory of the Unitary State of the Republic of Indonesia (NKRI), with the aim of ensuring compliance with applicable legal norms, maintaining national security, and protecting individual rights.

According to Sutrisno Hadi, immigration is all activities related to the regulation of foreigners entering, staying, and leaving a country, including supervision and the granting of permits in accordance with the prevailing laws and regulations (Hadi, 2021). Meanwhile, according to Soerjono Soekanto, immigration can be understood as a series of legal and administrative activities that regulate the movement of individuals across national borders, both for citizens and foreigners, to ensure compliance with the law and the protection of citizens' rights (Soekanto, 2020). Based on the description above, immigration law is a set of legal provisions systematically arranged to regulate all activities related to the entry and exit of people into the territory of the Republic of Indonesia, as well as to cover the mechanism for monitoring the presence and activities of foreigners while they are within the legal territory of Indonesia (Wulansari, 2023).

The function of immigration is not only related to regulating the movement of people entering and leaving the territory of the Republic of Indonesia but also includes efforts in supervision, law enforcement, and protection of national interests. The meaning of immigration for citizens shows that all Indonesian citizens (WNI) have the right to leave and re-enter the territory of Indonesia. Based on this, every person who intends to enter or leave Indonesian territory is required to fulfill the requirements of valid travel documents. This is because every person who will travel in and out of the territory of Indonesia is required to pass through inspection points conducted by Immigration Officers at Immigration Checkpoints (TPI). This means that every person is only permitted to leave the territory of Indonesia after obtaining an exit permit issued by an immigration officer at the Immigration Checkpoint (Tempat Pemeriksaan Imigrasi/TPI). The permit is stamped on the travel document as proof that the person concerned has undergone the inspection process and has fulfilled all applicable immigration requirements. Likewise, every individual entering the territory of Indonesia must first obtain an entry permit, which is stated in a visa or other travel document issued by immigration officers at the Immigration Checkpoint (Tempat Pemeriksaan Imigrasi/TPI) (Laura, 2020).

The legal regulation that serves as the legal basis for the implementation of immigration in Indonesia today is Law Number 6 of 2011 concerning Immigration in conjunction with Law Number 63 of 2024 concerning Amendments to Law Number 6 of 2011 concerning

Immigration. With the enactment of the law, this regulation comprehensively regulates the types of violations committed by both Indonesian citizens (WNI) and foreign nationals (WNA), including actions related to the entry and exit of people from Indonesian territory, the use of invalid travel documents, abuse of residence permits, and various forms of organized crime in the field of immigration (Astuti, 2020).

The phenomenon of immigration law violations has become one of the serious problems faced by Indonesia as a maritime country with a strategic position in the Southeast Asian region. The geographical location of Indonesia, whose territory directly borders various countries, both by land, sea, and air, makes Indonesian territory vulnerable to various forms of immigration-related criminal acts (Sineri, 2023). This situation also places significant pressure on security efforts in border areas. Limitations in access to monitoring technology capable of covering all regions of Indonesia also become an obstacle, thereby creating opportunities for the increasing prevalence of transnational crime activities (Dakhi, 2022). In this regard, the government needs to develop an integrated, accurate, and easily accessible application system and database for immigration officers to support the optimal implementation of supervision functions (Sitanggang, 2025).

One of the increasingly prominent problems is the rising involvement of Indonesian citizens (WNI) in immigration-related crimes, particularly the act of transporting or sending people across national borders without valid travel documents. Immigration crimes committed by Indonesian citizens themselves are considered quite complex violations because, in addition to harming the state in terms of law and sovereignty, they also violate the obligation of citizens to comply with prevailing laws and regulations. One of the most common forms of violation is the act of transporting or sending people out of or into Indonesian territory without valid and still applicable immigration documents. In essence, this act is not merely an administrative violation but has developed into part of organized transnational crime, namely human smuggling. This crime can cause highly detrimental consequences for the victims, not only in the form of physical suffering due to violence or inhumane treatment, but also in the form of prolonged psychological trauma (Laoly, 2025).

Human smuggling is a deliberate act of assisting or facilitating a person to cross national borders illegally, which is generally carried out to obtain economic benefits. In practice, the perpetrators prioritize profit over the safety or condition of the smuggled persons, so this crime differs from human trafficking, which focuses on exploitation (Hamzah, 2021). This act not only threatens the security and public order of the state, but is also often related to human trafficking networks, labor exploitation, or other transnational illegal activities. In the context of the applicable legal provisions in Indonesia, the provisions regarding immigration-related criminal acts, particularly human smuggling, have been regulated. The definition of human smuggling is stipulated in Article 1 paragraph (32) of the Immigration Law, which explains that:

“Human smuggling is an act aimed at obtaining profits, either directly or indirectly, for oneself or for others, by transporting a person or a group of people, whether in an organized or unorganized manner, or by ordering others to transport a person or group of people, whether in an organized or unorganized manner, who do not legally have the right to enter the territory of Indonesia or leave the territory of Indonesia and/or enter the territory of another country which such person does not have the legal right to enter, either by using valid documents or fake documents, or without using travel documents, either through immigration inspection or otherwise.”

Meanwhile, the provisions regarding criminal threats for the crime of human smuggling are regulated in Article 120 paragraphs (1) and (2) of the Immigration Law, which state that: (1) *“Any person who commits an act aimed at obtaining profit, either directly or indirectly, for himself or for another person by transporting a person or a group of persons, whether*

organized or unorganized, or ordering another person to transport a person or a group of persons, whether organized or unorganized, who do not legally have the right to enter the Territory of Indonesia or to leave the Territory of Indonesia and/or enter the territory of another country, where such person does not have the legal right to enter such territory, either by using valid documents, counterfeit documents, or without using travel documents, whether through immigration inspection or not, shall be punished for human smuggling with imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years and a fine of at least IDR 500,000,000.00 (five hundred million rupiah) and at most IDR 1,500,000,000.00 (one billion five hundred million rupiah).”

(2) “An attempt to commit the crime of human smuggling shall be punished with the same penalty as referred to in paragraph (1).”

This emphasizes that under Article 120 of the Immigration Law, every Indonesian citizen (WNI) involved in the act of transporting people across national borders without valid documents may be subject to criminal punishment in accordance with the level of their guilt, as such conduct is considered the crime of human smuggling. This provision shows that immigration offenses are not only intended for Foreign Nationals (WNA) who violate Indonesian immigration laws, but also for Indonesian Citizens (WNI) who actively assist or facilitate illegal border crossings (Hutapea, 2022). The phenomenon of Indonesian citizens (WNI) being involved in human smuggling is becoming increasingly complex, often driven by economic factors, lack of legal awareness, and involvement in international criminal networks. Many Indonesian citizens (WNI) are recruited as intermediaries in the field to send migrant workers through unofficial channels to Malaysia, Singapore, the Middle East, or Australia in exchange for a certain amount of payment (Lestari, 2021). Although these roles appear simple, they still fulfill the elements of the crime of human smuggling, because the perpetrator knowingly assists other people in crossing borders without valid travel documents.

In the perspective of international law, human smuggling is regulated under the “Protocol Against the Smuggling of Migrants by Land, Sea and Air,” which affirms that people smuggling is a serious transnational crime that threatens national security and human safety. Indonesia has ratified this protocol and is therefore obliged to strengthen law enforcement against human smuggling, including when the perpetrators are its own citizens. This requires consistency in law enforcement in assessing the elements of intent, involvement, and motives of Indonesian citizens as regulated in Article 120 paragraph (1) of the Immigration Law. For such acts, the perpetrators must be held legally accountable for their actions. Legal liability for human smuggling perpetrators must also consider the aspect of utility or benefit. Punishment is not merely intended as a form of retribution for the criminal act committed but also has certain objectives that provide benefits for the perpetrator, the victim, and society.

However, in practice, its implementation does not always run effectively against Indonesian citizens (WNI) as perpetrators. In fact, it often raises various issues, both in terms of proving the element of intent, the role of the perpetrator, and the motives behind the act. As seen in Case Decision Number 684/Pid.Sus/2025/PN Mdn, the defendant received an offer to transport passengers from Kuala Tanjung, Batubara Regency, North Sumatra Province, to Malaysia and agreed to do so. The defendant then departed to Bagan Asahan, where, in the middle of the sea, a small boat transported 12 Indonesian citizens to board the ship that was captained by the defendant. Subsequently, the ship continued its journey to the border between Malaysia and Indonesia, where it met a Malaysian-flagged ship. The passengers from the ship under the defendant’s command then transferred to the Malaysian ship, while the passengers from the Malaysian ship transferred and boarded the ship under the defendant’s command. After all passengers had boarded, the defendant resumed the journey back to Indonesia.

From the chronology of the case above, it is necessary to carefully assess whether the perpetrator’s actions demonstrate conscious involvement as part of a human smuggling

network, or whether they occurred merely due to a lack of understanding of the law. Therefore, a more in-depth analysis is required regarding how the court interprets the elements of Article 120 (1) of the Immigration Law in assessing the legal liability of an Indonesian citizen (WNI) who is charged with transporting people across national borders without valid travel documents in the court decision. Through this case study, the author aims to analyze the form of legal liability applied to Indonesian citizens (WNI) as perpetrators of immigration law violations as regulated in Article 120 paragraph (1).

METHOD

The object of this research is the provisions of Article 120 paragraph (1) of Law Number 6 of 2011 concerning Immigration, which regulates the criminal act of human smuggling, as well as Decision Number 684/Pid.Sus/2025/PN Mdn to analyze the interpretation of criminal elements and the legal liability of the perpetrators. This research uses a normative legal research method with secondary data consisting of primary, secondary, and tertiary legal materials. Primary legal materials include relevant immigration laws and court decisions, while secondary legal materials consist of relevant books and scientific journals, and tertiary legal materials are used as supporting references. Data collection was conducted through literature study using the statute approach and case approach. Data analysis was carried out qualitatively by examining and interpreting written legal materials to connect legal facts with applicable legal norms, so that systematic and academically accountable conclusions could be obtained.

RESULTS AND DISCUSSION

Legal Liability of Perpetrators of Immigration Crimes Who Transport People Across State Borders Without Valid Travel Documents

Legal liability is the legal consequence attached to a person for unlawful acts committed consciously and for which he or she is legally accountable. In the context of criminal law, legal liability is closely related to the presence of fault (*schuld*) on the part of the perpetrator, which includes the ability to be held responsible for the act committed, the existence of fault in the form of intent or negligence, as well as the absence of justifying or excusing reasons (Moeljatno, 2019). In relation to immigration criminal offenses, particularly the act of transporting or facilitating the crossing of a person across national borders without valid travel documents, the legal liability of the perpetrator is explicitly regulated under Law Number 6 of 2011 concerning Immigration. This law clearly stipulates that every person who travels in and out of Indonesian territory must possess valid and still-active travel documents (Law Number 6 of 2011 concerning Immigration, Article 8 Paragraph (1)). The travel documents include passports or legally recognized substitute travel documents. Therefore, the act of transporting people across national borders without valid travel documents constitutes a serious violation of state sovereignty and the immigration control system.

To assess the existence of legal liability for perpetrators of immigration crimes who transport people across national borders without valid travel documents, it is necessary to analyze it based on the legal facts of the concrete case. In this regard, the discussion is focused on the description of Case Decision Number 684/Pid.Sus/2025/PN Mdn as elaborated below: Based on the trial facts, it is known that the Defendant, Irwansyah, rented one unit of the KM. Rezeki Rayyan vessel owned by witness Aswat for a period of one year. During the rental period, the defendant received an offer from a person named Mondut/Ondut (a fugitive/DPO) to transport passengers from Kuala Tanjung, Batubara Regency, North Sumatra Province, to Malaysia, and the defendant agreed to the offer. On January 16, 2025, at around 11:00 PM Western Indonesian Time (WIB), the defendant, acting as the ship captain, sailed the vessel toward Bagan Asahan. The following day, on January 17, 2025, at around 02:00 AM, in the

middle of the sea, a small boat transported 12 Indonesian citizens onto the vessel commanded by the defendant. At around 07:00 PM, the defendant's vessel continued its journey toward the maritime border area between Malaysia and Indonesia, and at around 10:00 PM, the defendant's vessel met a Malaysian-flagged ship, and a passenger exchange occurred, where passengers from the defendant's vessel were transferred to the Malaysian vessel, and passengers from the Malaysian vessel were transferred to the defendant's vessel. After that, the defendant's vessel continued sailing back toward Indonesian waters. On January 18, 2025, at around 02:00 AM, the defendant's vessel was stopped by the Customs Patrol Vessel BC20004 around the waters of Jemur Island, Indonesia. From the inspection results, 8 Indonesian migrant workers who did not follow official procedures were found, along with a sum of cash, passports, travel documents equivalent to passports, and ship navigation equipment.

Based on the explanation above, the actions committed by the Defendant, Irwansyah, fulfill the characteristics of an immigration criminal offense in the form of human smuggling. The act of transporting people across national borders without valid travel documents constitutes a serious violation of the provisions of Law Number 6 of 2011 concerning Immigration. Article 8 paragraph (1) of Law Number 6 of 2011 stipulates that every person crossing the Indonesian border, whether entering or leaving, is required to possess valid and still valid travel documents. However, in fact, the passengers were transported via sea routes without undergoing immigration inspection, indicating an intentional effort to evade the law. Thus, such an act is no longer administrative in nature, but has entered the realm of criminal law.

Furthermore, Article 120 paragraph (1) of Law Number 6 of 2011 stipulates that any individual who intentionally provides assistance, facilities, or convenience to transport a person out of or into the territory of Indonesia illegally may be criminally punished for human smuggling. In this case, the defendant played an active role as the captain of the vessel that transported and facilitated the illegal cross-border movement of people.

The legal liability of perpetrators who transport or carry people without valid travel documents can be imposed based on Article 120 paragraph (1) of Law Number 6 of 2011 concerning Immigration, which regulates the criminal act of human smuggling, stating that: *“Any person who commits an act aimed at obtaining profit, either directly or indirectly, for themselves or for another person, by transporting an individual or a group of persons, whether in an organized or unorganized manner, or by ordering another person to transport an individual or a group of persons, whether in an organized or unorganized manner, who do not legally have the right to enter the Territory of Indonesia or to leave the Territory of Indonesia and/or enter the territory of another country, where such person does not legally have the right to enter such territory, either by using valid documents or counterfeit documents, or without using travel documents, whether through immigration inspection or not, shall be punished for the crime of Human Smuggling with imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years and a fine of not less than IDR 500,000,000.00 (five hundred million rupiah) and not more than IDR 1,500,000,000.00 (one billion five hundred million rupiah).”*

This article stipulates that any person who knowingly provides assistance, means, or facilities to bring someone into or out of the territory of Indonesia illegally, either directly or indirectly, may be subject to criminal punishment (Law Number 6 of 2011 concerning Immigration, Article 120 Paragraph (1)). To determine the legal liability of the defendant, the elements of Article 120 paragraph (1) of Law Number 6 of 2011 concerning Immigration need to be analyzed as follows:

a. The Element of “Any Person”

In Law Number 6 of 2011, there is no specific definition of the phrase “any person.” Therefore, its meaning refers to the general provisions in criminal law, namely any legal subject who is legally capable of being held responsible for their actions and does not have any justification or excuse defenses. In this case, the defendant, Irwansyah, is an adult, served as the captain of a ship, and committed the act consciously. There are no facts indicating that the act was committed under coercion, by lawful official orders, or under a state of emergency. Thus, the defendant fulfills the element of “any person” and can be held criminally responsible.

b. The Element of “For the Purpose of Seeking Profit”

Although Article 120 does not explicitly require the intent to obtain financial gain, in practice human smuggling is generally carried out for economic purposes. In this case, the discovery of cash—constituting the proceeds earned by the defendant for transporting Indonesian nationals from Malaysia to the territory of Indonesia and vice versa—along with the involvement of other parties (fugitives/DPO), indicates the existence of a network and an economic motive underlying the defendant’s actions.

c. The Element of “Intentionally Providing Assistance, Means, or Facilitation”

Intent in criminal law is defined as the will and awareness of the perpetrator regarding their actions and the consequences arising therefrom. The defendant consciously agreed to the offer to transport passengers outside the territory of Indonesia, operated the vessel, and conducted a meeting with a foreign ship in border waters. The acts of chartering a vessel, arranging the sailing route, and receiving passengers from a small boat in the middle of the sea constitute concrete forms of providing means and facilitation. This demonstrates that the defendant’s conduct was not accidental, but rather had been planned and carried out with full awareness.

d. The Element of “Transporting a Person Out of or Into the Territory of Indonesia Without Valid Travel Documents”

The facts presented during the trial show that the passengers being transported were Indonesian migrant workers suspected of being non-procedural. They did not undergo immigration inspection, and the defendant, acting as the captain, did not possess valid and lawful travel documents as required under immigration law. The transportation was carried out via sea routes in order to evade the supervision of immigration authorities. Therefore, the element of transporting persons across national borders without valid travel documents has been clearly and convincingly fulfilled.

Based on the analysis of the elements of Article 120 paragraph (1) of Law Number 6 of 2011, it can be concluded that the Defendant, Irwansyah, has fulfilled all the elements of the criminal offense of human smuggling. Therefore, the defendant may be held legally liable for his actions in transporting individuals across national borders without valid travel documents. Furthermore, the Immigration Law also stipulates criminal sanctions for any person who knowingly and intentionally brings others into or out of the territory of Indonesia without undergoing inspection procedures by immigration authorities or without valid travel documents. The sanctions take the form of imprisonment and/or fines, which are intended to create a deterrent effect and to protect the interests of the state (Law Number 6 of 2011 concerning Immigration, Article 113 and Article 119). Thus, the perpetrator is not only burdened with moral responsibility, but also with criminal liability for his or her actions. Accordingly, the legal accountability of offenders in immigration crimes who transport individuals across national borders without valid travel documents constitutes a form of legal

protection for state sovereignty, as well as an effort to supervise the implementation of the law in preventing human smuggling practices. With clear regulations governing legal responsibility in immigration crimes, law enforcement is expected to operate effectively in preventing and combating the practice of cross-border movement of persons without valid travel documents.

The Judge's Legal Considerations in Assessing the Fulfillment of the Elements of the Criminal Offense of Human Smuggling in Decision Number 684/Pid.Sus/2025/PN Mdn

In rendering a criminal judgment, judges essentially rely on two categories of considerations, namely juridical considerations and non-juridical considerations. These two forms of consideration complement one another in order to produce a decision that not only fulfills legal certainty but also reflects a sense of justice and social utility for the community. Juridical consideration refers to the judge's legal assessment based on the facts revealed during the trial and the applicable laws in force. This consideration includes an analysis of lawful evidence, witness testimony, the defendant's statement, as well as the application of legal norms to the alleged acts in order to determine whether the elements of the criminal offense and the perpetrator's legal liability have been fulfilled. Through juridical considerations, the judge ensures that the decision is rendered based on the principle of legality and lawful evidence in accordance with the law (Mulyadi, 2020).

In addition, the judge also applied non-juridical considerations, namely considerations related to the sociological aspects and the defendant's personal circumstances, such as the offender's background, the defendant's conduct during the trial, expressions of remorse for the committed act, as well as the impact of the offense on society. Non-juridical considerations are generally reflected in the assessment of aggravating and mitigating circumstances of the defendant, aimed at ensuring that the sentence imposed is proportional and humane (Mertokusumo, 2021). In rendering its verdict against the defendant in the human smuggling case, the panel of judges at the District Court of Medan conducted a juridical assessment of the elements of the offense as stipulated in Article 120 paragraph (1) of Law Number 6 of 2011 concerning Immigration. The judge's assessment of those elements constitutes part of the *ratio decidendi*, which serves as the legal reasoning forming the basis of the judgment (Sitohang, 2025). The following are the considerations taken into account by the judge:

a. Juridical Considerations of the Judge

- 1) The judge first examines whether the defendant qualifies as a subject who can be held criminally liable. Under the principles of Indonesian criminal law, the element of "any person" requires that the perpetrator be a legal subject who is an adult, legally competent, and does not have any justifying or excusing grounds for his actions. The judge's analysis in this decision shows that the Defendant, Irwansyah, is an Indonesian citizen who is legally capable of acting under the law and was fully aware of his actions when he agreed to transport passengers from Kuala Tanjung, Batubara Regency, North Sumatra Province to Malaysia. The defendant, who acted as the captain of the vessel, did not use valid travel documents when crossing the national border. Based on these considerations, the element of "any person" has been juridically fulfilled.
- 2) The judges' considerations emphasized the existence of *mens rea*, or intent, in the defendant's actions. In immigration criminal law, intent refers to the conscious will of the perpetrator to commit a prohibited act while understanding its legal consequences. In the context of this case, the panel of judges assessed the facts presented at trial and found that the defendant knowingly accepted an offer to transport individuals to the border area between Malaysia and Indonesia without undergoing immigration inspection procedures and without using valid travel documents. This fact was corroborated by the testimonies of the witnesses, whose statements were consistent with one another, as well as by the defendant's own statement acknowledging and confirming the charges brought against

him and the evidence presented before the court. The judge's decision in assessing this element is consistent with the findings of legal studies, which state that judges must strictly evaluate the element of intent in the crime of human smuggling in order to ensure that the function of criminal law operates effectively (Siahaan, 2024).

- 3) The judge's subsequent legal consideration relates to the objective element of the offense, namely the act of "transporting persons out of the territory of the Republic of Indonesia without valid travel documents or without undergoing immigration inspection procedures." In Decision Number 684/Pid.Sus/2025/PN Mdn, it was recorded that the defendant transported eight non-procedural Indonesian migrant workers (PMI) without passing through immigration inspection procedures and without possessing valid travel documents. This affirms the fulfillment of the objective elements of the offense as stipulated under Article 120 paragraph (1) of Law Number 6 of 2011. The judge assessed these facts comprehensively based on documentary evidence, witness testimonies, and the examination conducted during the trial proceedings. This interpretation is consistent with the principles of Indonesian immigration, which mandate the regulation of the entry and exit of persons through lawful procedures and valid documentation (Karisoh, 2025).
- 4) In addition to the objective and subjective elements, the panel of judges, in its legal considerations, also assessed the economic motive associated with the criminal offense. The facts revealed during the trial demonstrated that there was an exchange of passengers with a Malaysian-flagged vessel and that a sum of cash was discovered, which constituted the defendant's profit from transporting Indonesian citizens from the territory of Indonesia to the territory of Malaysia, and vice versa from Malaysia to Indonesia. Although Article 120 of Law Number 6 of 2011 does not explicitly require a specific motive, the judges considered that the act was committed in the context of obtaining financial gain or other benefits, which constitutes a common characteristic of human smuggling perpetrators in transnational practice. The judge's assessment is also consistent with academic findings that economic factors often constitute the primary motive in the crime of human smuggling, and therefore should be taken into consideration in measuring legal liability (Singke, 2021).
- 5) The final basis in the judges' reasoning is a broader interpretation of the legal system, namely the function of immigration criminal norms to protect state sovereignty and border security. In addition to assessing the evidence and facts, the panel of judges also emphasized that the enforcement of Article 120 paragraph (1) of Law Number 6 of 2011 aims to provide a deterrent effect and public legal protection against human smuggling practices that undermine the national immigration order. This approach is consistent with contemporary academic perspectives that highlight the importance of judicial prudence in implementing criminal norms so that they are not merely retributive in nature, but also structurally preventive.

b. Non-Juridical Judicial Considerations

After all the elements of the criminal offense of human smuggling were declared fulfilled, the panel of judges subsequently considered the aggravating and mitigating circumstances of the defendant as the basis for sentencing. In Decision Number 684/Pid.Sus/2025/PN Mdn, the defendant's conduct was deemed aggravating because it had the potential to disrupt diplomatic relations between states, considering that human smuggling is a transnational crime that affects state sovereignty. As for the mitigating circumstances, the defendant behaved respectfully during the trial, admitted his actions and expressed remorse, and had never previously been convicted of a criminal offense. These considerations demonstrate that the judges assessed not only the juridical aspects but also

took into account the personal condition of the defendant in order to render a proportional and just decision.

c. Analysis of Judicial Considerations

According to the author's analysis, the panel of judges' considerations in Decision Number 684/Pid.Sus/2025/PN Mdn reflect a proper and systematic application of the law. This is because the judges did not merely assess the fulfillment of the subjective elements under Article 120 paragraph (1) of the Immigration Law, but also examined the objective elements, namely the element of intent and the active role of the defendant as the captain who knowingly facilitated the cross-border movement of persons without valid travel documents. The evaluation of witness testimonies, the defendant's confession, and mutually corroborating evidence demonstrates that the act was not committed accidentally, but rather through a series of deliberate actions, including the collection of passengers at sea and the transfer of passengers to a foreign vessel. Furthermore, the judges' consideration of the existence of economic motives and the potential threat to state sovereignty indicates that the decision was not solely focused on juridical proof, but also took into account the protection of public interests. Accordingly, the author concludes that the judges' reasoning fulfills the principles of legal certainty, justice, and expediency, while simultaneously affirming the function of immigration criminal law as an instrument for preventing the practice of human smuggling.

This assessment is essential to ensure that sentencing is carried out fairly and proportionately, in accordance with the principles of justice and legal certainty. Such an assessment becomes increasingly relevant in concrete cases, such as Decision Number 684/Pid.Sus/2025/PN Mdn, in which the panel of judges evaluated the perpetrator's role and awareness in transporting individuals across national borders without valid travel documents as the basis for imposing criminal sanctions. By taking both types of considerations into account, judges are expected to render decisions that are not only legally sound but also socially just.

CONCLUSION

Based on the results of the research and discussion, it can be concluded that legal liability for perpetrators of immigration crimes who transport individuals across national borders without valid travel documents has been expressly regulated under Article 120 paragraph (1) of Law Number 6 of 2011 concerning Immigration. In Decision Number 684/Pid.Sus/2025/PN Mdn, the defendant was lawfully and convincingly proven to have fulfilled all elements of the criminal offense of human smuggling, including both the subjective element in the form of intent and the objective element in the form of the act of transporting persons across national borders without valid immigration documents. The judge's considerations in rendering the decision were based on a comprehensive assessment of the facts revealed during the trial, the evidence presented, the role of the defendant, as well as the objectives of immigration law enforcement to safeguard state sovereignty, ensure legal certainty, and create a deterrent effect against perpetrators of transnational crimes.

This study further recommends that law enforcement officials, particularly immigration and judicial institutions, strengthen cross-sectoral coordination and enhance the quality of evidence in establishing the elements of intent and the active involvement of perpetrators in the crime of human smuggling. This is necessary to ensure that the implementation of Article 120 of the Immigration Law can be carried out more consistently and fairly. In addition, the government needs to intensify supervision of border areas and expand legal education for coastal communities and vulnerable groups in order to prevent the involvement of Indonesian citizens in illegal cross-border activities. At the same time, criminal sanctions should not

merely focus on deterrence, but must also adopt preventive and sustainable approaches in safeguarding national sovereignty.

REFERENCE

- Astuti, A. N. P., "Pertanggungjawaban Pidana Pelaku Tindak Pidana Keimigrasian", *Jurnal Ilmiah*, 2020.
- Dakhi, D., "Pertimbangan Hakim Dalam Penjatuhan Pidana Denda Pada Tindak Pidana Penyelundupan Manusia", *Jurnal Panah Keadilan*, 1(2), 2022.
- Hadi, S., *Hukum Keimigrasian di Indonesia*, Rajawali Pers, Jakarta, 2021.
- Hamzah, A., *Hukum Pidana Khusus: Perkembangan dan Isu Kontemporer dalam Kejahatan Transnasional*, Kencana, Jakarta, 2021.
- Hutapea, R., "Pertanggungjawaban Pidana dalam Kasus Penyelundupan Manusia di Indonesia", *Jurnal Hukum Pidana dan Kriminologi*, 8(2), 2022.
- Karisoh, J. F., "Tindak Pidana Penyelundupan Manusia Menurut UU No.6 Tahun 2011 Tentang Keimigrasian", *Lex Administratum*, 3(6), 2025.
- Laoly, G. A. K. and Janpatar S., "The Role of Immigration in Preventing the Crime of Trafficking in Persons (TPPO)", *Golden Ratio of Data in Sumarry*, 5(1), 2025.
- Lauraa, S., "Pengaturan Hukum Mengenai Dokumen Perjalanan Menurut Undang-Undang Nomor 6 Tahun 2011 Tentang Keimigrasian", *Lex Et Societatis*, 8(2), 2020.
- Lestari, Y., "People Smuggling sebagai Kejahatan Transnasional dan Tantangannya bagi Indonesia", *Jurnal Keamanan Nasional*, 4(1), 2021.
- Mertokusumo, S., *Penemuan Hukum*, Cahaya Atma Pustaka, Yogyakarta, 2021.
- Moeljatno, *Asas-Asas Hukum Pidana*, Rineka Cipta, Jakarta, 2019.
- Mulyadi, L., *Putusan Hakim dalam Hukum Acara Pidana Indonesia*, Citra Aditya Bakti, Bandung, 2020.
- Nugroho, T. C., Aditya S., and Karman J., "Hukum Administrasi Negara sebagai Ilmu Pengetahuan dalam Membangun Transparansi dan Akuntabilitas Sektor Publik", *Jurnal Ilmiah Kutei*, 24(2), 2025.
- Puspitasari, A. G., Akhmad R., and Deny P., "Penegakan Hukum Terhadap Tindak Pidana Keimigrasian di Indonesia: Analisis Sanksi Administratif dan Kebutuhan Proses Peradilan Pidana", *Journal of Law and Border Protection*, 6(2), 2024.
- Siahaan, H. M. and Jogi T. S., "The Problems of Punishing People Smuggling Perpetrators as a Transnation Organized Crime Network", *Jurnal Penegakan Hukum dan Keadilan*, 6(1), 2024.
- Simamora, J., "Tafsir makna negara hukum dalam perspektif undang-undang dasar Negara Republik Indonesia tahun 1945", *Jurnal Dinamika Hukum*, 14(3), 2014.
- Sineri, T. dkk., "Strategi dan Mekanisme Prosedural Pengendalian Imigrasi Kawasan Perbatasan Tradisional Skouw untuk Meminimalkan Kejahatan Transnasional", *Jurnal Hukum dan Perlindungan Perbatasan*, 5(2), 2023.
- Singke, M. I., "Penegakan Hukum Keimigrasian Terhadap Penyelundupan Manusia Tenaga Kerja Asing Ilegal di Indonesia: Aksiologi Normatif-Empiris", *Journal of Law and Border Protection*, 3(2), 2021.
- Sitanggang, I. L. and Janpatar S., "Peran Imigrasi Kepada Warga Negara Asing dalam Menindaklanjuti Penyalahgunaan Izin Tinggal di Indonesia", *INNOVATE: Journal Of Social Science Research*, 5(1), 2025.
- Sitohang, Y. A. L., "Analisis Pertimbangan Hakim dalam Tindak Pidana Penyelundupan Manusia", *Jurnal Hukum dan Kewarganegaraan*, 11(7), 2025.
- Soekanto, S., *Sosiologi Hukum: Suatu Pengantar*, Rajawali Pers, Jakarta, 2020.
- Undang-Undang Dasar Negara Republik Indonesia Tahun 1945.

Undang-Undang Nomor 6 Tahun 2011 Tentang Keimigrasian Jo Undang-Undang Nomor 63 Tahun 2024 Tentang Perubahan atas Undang-Undang Nomor 6 Tahun 2011 Tentang Keimigrasian.

Undang-Undang Republik Indonesia Nomor 15 Tahun 2009 Tentang Pengesahan *Protocol Against The Smuggling Of Migrants By Land, Sea And Air, Supplementing The United Nations Convention Against Transnational Organized Crime* (Protokol Menentang Penyelundupan Migran Melalui Darat, Laut, Dan Udara, Melengkapi Konvensi Perserikatan Bangsa-Bangsa Menentang Tindak Pidana Transnasional Yang Terorganisasi).

Wulansari, E. M., “Konsep dan Urgensi Kemandirian Lembaga Keimigrasian Indonesia”, *Yustisia Tirtayasa: Jurnal Tugas Akhir*, 3(3), 2023.