

**REFORMULATION OF LAW REGARDING IMMIGRATION OFFICIAL'S DISCRETION IN DETERMINING DAMAGE TO REPUBLIC OF INDONESIA PASSPORTS**

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**ABSTRACT**

*This study examines the use of discretion by Immigration Officials in determining damaged passports and their implications for legal certainty and the quality of public services. With an empirical normative approach and qualitative methods, data was obtained through regulatory review (especially Permenkumham No. 8 of 2014 Article 35 paragraph (1) letter f), interviews at three Immigration Offices (Soekarno Hatta, Tangerang, and Bandar Lampung) as well as immigration officials in related fields (drafters of laws and regulations, immigration forensic laboratories, and standardization of Travel Documents), and is complemented by a comparison with ICAO Doc 9303 and the practices of several countries. The findings show that the phrase "giving an inappropriate impression" lacks technical indicators, leading to variations in assessment among officials and across different immigration offices, especially the determination of damaged passports on biodata pages (photo clarity, MRZ, lamination) and e-passport chip function, as well as physical damage (teared, wet, burned, perforated, mold). These variations potentially cause legal uncertainty and service inconsistency. This study recommends reformulating the regulation by establishing clear criteria for passport damage—covering biodata pages, physical integrity, and administrative categories—to effectively distinguish damage caused by force majeure (exempt from fines) from holder negligence (subject to fines), so that the determination of damaged passports throughout the Immigration Office has directed, consistent, and accountable guidelines.*

*Keywords: Discretion; Immigration Official's; Damaged Passport; Immigration Office.*

## INTRODUCTION

Globalization is an era marked by increased international mobility, creating new opportunities for everyone to explore the world, interact with different cultures, and expand their social and professional networks. Indonesia is a unitary state, as stipulated in Article 1 paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which states: "The State of Indonesia is a Unitary State, in the form of a Republic" (Indonesia, 1945). In line with the development of the world community, where the boundaries of countries become blurred or what is commonly called the world without borders (*Borderless World*). With its transcontinental position and large population, Indonesia occupies a strategic area, especially as a crossing route between countries. Human freedom to move from one country to another is a fundamental right that is a characteristic and objective regulated in the Indonesian constitution (Prasetya, 2015). The increasing flow of globalization is also reflected in the rapid development of information, communication, and transportation technology, which directly increases the intensity of human movement between countries. In essence, this movement creates complex challenges for human mobility and serves as an obstacle to achieving optimal and effective immigration governance. According to Article 1 of Law Number 25 of 2009, Public Service is defined as a series of activities aimed at fulfilling the service needs of all citizens and residents, including the provision of goods, services, and/or administrative services, in accordance with applicable legal provisions and executed by public service providers (Naku & Pohan, 2023).

The influence of globalization in the current era has a significant impact on developments in various aspects of life, including the economic, technological, social, and cultural sectors. One of the real manifestations of these developments is the increasing frequency of human interactions, both at the local and international levels. In order to meet their living needs, individuals are no longer limited to the area of residence, but can do so across geographical boundaries. Information openness, ease of transportation, and wider opportunities outside the home area are the reasons why many people choose to relocate. The desire to get a better life, a better job, higher education, or safer and more comfortable environmental conditions face of, encourages a person to leave their home area and move to another area called migration (Yunis, 2018). Along with the rapid development of technology and information in the era of globalization, Indonesia still has full authority in regulating the traffic of people in and out of its territory. This authority is a tangible form of the implementation of the immigration function, in this case the regulation is listed in Article 1 number 1 of Law Number 6 of 2011 concerning Immigration, which has the definition "Immigration is a matter of traffic of people entering or leaving Indonesian territory and its supervision in order to maintain the upholding of state sovereignty (Ininterpretbetwdonesia, 2011).

Article 2 of the Immigration Law also states that: "Every Indonesian citizen has the right to travel in and out of Indonesian territory." (Law No. 6 of 2011 concerning Immigration, 2011) Although the right to mobility is recognized by law, the fulfillment of these rights must be based on existing regulations. In line with this, Theodore Roosevelt argued that both freedom without rules and regulations without freedom are both destructive. Although every Indonesian Citizen (WNI) has the right to travel in and out of Indonesian territory, this freedom is not absolute, but remains subject to restrictions regulated through the provisions of the law (Anugerah, 2019).

This has been stated in Article 8 paragraph (1) which reads "Every person entering or leaving Indonesian territory is required to have a valid and valid Travel Document." (Indonesia, 2011). Thus, passports have a very important role in regulating the international mobility of Indonesian citizens. Every passport holder is required to have an official travel document issued in accordance with the applicable procedures. The function of passports is not only limited as a travel document, but also represents a symbol of state sovereignty and political legitimacy in global relations, as well as an effective instrument for identifying individual identities. Different legal and social dynamics have shaped policy in the field of Indonesian immigration over the past few decades. Problems in the form of document forgery, passport damage, and misuse of travel documents have the potential to disrupt the smooth running of international travel procedures and cause losses, both financially and reputationally for individuals and the country (Putri, et. al, 2021).

The Directorate General of Immigration released passport issuance data which showed a significant increase, in 2021 as many as 1,018,923 passports were issued, a drastic increase in 2022 to 3,878,904, and reached its peak in 2023 with a total of 5,053,315 passports. This statement was reinforced by the Public Relations (PR) team of the Directorate General, Agung Sampurno, who said that the increase in passport applications was due to changes in people's patterns in traveling abroad.

Some of the factors that affect include the rise of cheap travel promos abroad, the increasing number of prospective pilgrims who choose Umrah, and the increase in the number of Indonesian citizens working abroad (Rahmanto et. al, 2020). This shows a significant increase from year to year. The figures have reflected the great public interest in overseas travel in terms of tourism, business or education. However, the increase in passport applications also presents new challenges, because many passport holders experience obstacles when their passports are declared damaged by the Immigration Officer (Pejim) at the Immigration Checkpoint (TPI), so that it hinders access to travel because Pejim will determine whether their passport needs to be replaced or is still suitable for use (Adjie, 2018). Nata Saputra interprets discretion as the freedom given to government officials in carrying out their duties so that officials can prioritize the achievement of effective goals rather than being fixated on the applicable legal rules (Yunis, 2018).

**Table 1. Data on the Number of Damaged Passport Applications that have been approved at the Class I Special Immigration Office of TPI Soekarno Hatta, the Special Immigration Office of Class I Non-TPI Tangerang and the Class I Immigration Office of TPI Bandar Lampung (Year 2022–2024)**

	2022	2023	2024
Soekarno Hatta	72	100	180
Tangerang	98	107	125
Bandar Lampung	33	59	76
	<b>131</b>	<b>166</b>	<b>201</b>

Based on the table above, it can be seen that there has been a significant increase in passport replacement applications due to damaged passports in three different Kanim caused by several causes such as being hit by disasters (*Force Major*), accidents, carelessness or negligence committed by the passport holder himself, such as being exposed to water, being scratched, torn, holes, incomplete pages, being eaten by termites, and others. Based on the description in the background above, the author has the desire to redevelop the research that has been raised previously by previous research to review and provide advice to legal policymakers in order to reformulate regulations that contain the right criteria in determining damaged passports. Therefore, the author wants to analyze this problem by choosing the title of the research as the Final Project Entitled Legal Reformulation of the Discretion of Immigration Officials in Determining Damage to the Passport of the Republic of Indonesia.

## RESEARCH METHODS

This research employs an Empirical Normative approach. The normative approach is interpreted as the study that sees law as a set of norms, including the values contained in positive law. This means that this research studies written rules, such as laws, ministerial regulations, and other legal documents. On the other hand, an empirical approach is used to trace how the law is implemented in practice in society, especially through social facts that occur in the field (Muhammad, 2004). The qualitative method was chosen due to its capacity to explore data more comprehensively and in-depth. The data collected were in the form of descriptions, opinions from individuals and groups observed. The researcher aims to understand the underlying meaning of an event or policy, thereby focusing on the depth of interpretation and context (Abdussamad, 2015). To achieve a contextual understanding of culture within a specific society, the qualitative method is used extensively because it is effective in researching and interpreting documentary data (text, symbols, and visuals). (Ariska et al., 2022). The flow of qualitative research is carried out through two stages: literature study and field study. In the literature study stage, data is collected from primary and secondary sources, then classified and processed using research formulas and quoted from relevant references. Furthermore, at the field stage, the author compiles a research design, tests the instrument, and then determines the location, respondents, and informants. Implementation in the field involves observation, documentation, and interviews. The results of these two stages are presented as findings, summarized to provide a comprehensive picture of information, and then interpreted to draw in-depth conclusions (Darmalaksana, 2009).

Data analysis is the final stage in the research writing process. In this study, the analysis was carried out qualitatively, namely with a descriptive approach and more emphasis on the process and

meaning of the data collected. In the qualitative method, theory is used as a reference to ensure that the focus of research remains in accordance with the conditions found in the field and the data that has been obtained, especially from secondary data sources that are collected and described conceptually to clarify the understanding of the research object. Once the data is collected, the next step is to edit, process, and organize the data regularly. The results of the analysis are then formulated into conclusions using the deductive method, which is the reasoning from things that are general to more specific things. This approach assists the author in drawing logical and relevant conclusions based on the findings (Rifa'i et. al, 2023).

## **RESULTS AND DISCUSSION**

### **Immigration Officials' Discretion in Assessing Damage to the Passport of the Republic of Indonesia**

Interview results indicate that immigration officials' discretion is quite broad due to the non-detailed phrasing of the regulation, namely Article 35 paragraph (1) letter f of the Permenkumham on Passports and SPLP which only mentions "damaged in such a way that the information in it becomes unclear, or gives the impression that it is no longer appropriate as an official document" without any mention of the criteria for damaged passports in detail. Therefore, the assessment of the damage of the passport is largely supported by the experience of the officer himself, but also because of the physical condition of the passport, and also the opinion of the superior. A passport is a document that must be owned by everyone who will travel abroad. Through this travel document, the destination country government verifies the identity and nationality of the holder, in addition, immigration authorities abroad also provide security and protection guarantees to passport holders while in their territory. In practice, passports will be required to be checked multiple times, both when traveling by plane and when crossing borders. Therefore, physical damage or loss of a passport while abroad can be fatal, including being able to cancel the entire itinerary due to the absence of official documents showing his biodata (Sukmawati, 2023).

Replacement of an ordinary passport can be done if certain criteria are met, such as expired validity period, loss of passport, or damage either during the issuance process or due to negligence of the passport holder himself. For damage due to issuance, the passport will be immediately canceled by the Immigration Office that issued the passport, while damage outside the issuance process or due to negligence on the part of the passport owner such as tearing, wet, burning, or being crossed out, and others will be followed up through the BAP process before being revoked by the immigration official. In addition, passport replacement can also be done if the passport is caused by damage or loss due to force majeure (*Force Majeure*), such as floods, earthquakes, fires, riots as evidenced by a certificate from the authorized agency. In this case, the applicant is required to attach personal identity documents such as ID cards, family cards, birth certificates or other supporting documents, old passports, and additional letters according to the case experienced, such as a letter of loss from the police or a statement from the village if the passport is damaged due to force. The process not only focuses on the aspect of public services, but also includes the function of supervision and law enforcement (Edwinarta, 2025).

If the results of the examination show that the passport is damaged or lost due to force, replacement can be given immediately, without incurring a fine, but if due to negligence on the part of the passport holder himself, the person concerned will be subject to a fine, and if the damage or loss is due to unjustifiable negligence, the replacement of the passport can be suspended for a period of six months to two years. The fee provisions include the issuance of an ordinary passport with a validity period of 5 years is charged at IDR 350,000, an ordinary passport with a validity period of 10 years is charged at IDR 650,000, an electronic passport with a validity period of 5 years is charged at IDR 650,000, an electronic passport with a validity period of 10 years is charged at IDR 950,000, acceleration services are charged at IDR 1,000,000, fines for lost passports are charged at IDR 1,000,000, and a fine for damaged passports is charged at IDR 500,000.

### **Concept and Scope of Use of Discretion in Immigration**

Discretion is the authority given to state officials to make decisions when legal norms do not provide clear or detailed rules. In this case, the discretion in question is the authority used by immigration officials in determining a damaged passport because of Article 35 paragraph (1) letter f of the Minister of Law and Human Rights on Passports and SPLP, which states that "it is damaged in such a way that the information in it becomes unclear, or gives the impression that it is no longer

appropriate as an official document". This general phrase compels immigration officials to use professional judgment, experience, and legal intuition to determine whether a passport remains suitable for use or requires replacement (Sukmawati, 2023). So according to the results of the interview that has been conducted by the author, the practice that occurs in the field explains that each Immigration Office has different interpretations and views in determining a damaged passport, for example in the case of a passport that is exposed to liquid, there are traces of streples, or the presence of streaks, so that the decision is greatly influenced by the subjective assessment of the immigration officer who examines. This condition shows the importance of discretion, but at the same time opens up the opportunity for differences in the standards of determining damaged passports between immigration offices, which has implications for legal certainty and the protection of passport applicants' rights.

### **Criteria for Determining Damaged Passports According to Immigration Officials**

During the observation, the author found the criteria of the passport that was declared damaged so that it affected the legal validity and the main function of the passport. The criteria for a damaged passport are torn pages, there are graffiti, pages that fade due to exposure to liquid, *chips* for e-passports that cannot be scanned, pages with holes and burnt sheets. If the passport has met these criteria, it must be replaced immediately. If the passport is damaged, to take care of the replacement of a new passport, an additional requirement is required, namely a certificate from the village or the local BPBD (Regional Disaster Management Agency).

When taking care of replacing a damaged passport, the passport owner will be asked how the chronology of the passport can be damaged. If there is an indication of negligence from the passport owner himself, then the replacement to the new passport will be subject to a fine. But if the reason for the damage of the passport is due to natural disasters such as floods, fires and other natural disasters, then the passport owner is not subject to fines and only pays the cost of a new passport, but must complete the requirements, namely a letter from the village or BPBD stating that it is true that he is experiencing a state of force majeure (Sukmawati, 2023). In this case, people also still do not know what the consequences will be if their passports are considered as damaged passports. The consequences of the damage of the passport will be detrimental to the owner of the passport itself. One of the consequences that will be obtained if there is damage to the passport is the delay or cancellation of tourist trips to foreign countries, the long time and replacement process and the subject of fines or considerable costs. The fine for replacing a damaged passport is Rp. 500,000 (Sukmawati, 2023).

Based on Government Regulation No. 45 of 2024 concerning Types and Tariffs on Types (PNBP) of Non-Tax State Revenue, the cost of making a passport in 2025 is a non-electronic ordinary passport with a 5-year validity period of Rp. 350,000, while a non-electronic ordinary passport for a 10-year validity period is Rp. 650,000. If you want to replace your electronic passport, the fee paid is different. For electronic passports with a validity period of 5 years of Rp. 650,000, while for electronic passports with a validity period of 10 years of Rp. 950,000 (Indonesia, 2024). Judging from this nominal, it can be stated that if the passport is damaged and lost, it will require a considerable amount of money. Therefore, people must be more careful in maintaining their passports or travel document.

In the results of interviews that have been conducted by the author with the sources, it can be concluded that the sources have criteria in determining damaged passports. The main criterion is on the passport holder's biodata page which is a crucial point in determining whether the passport is damaged or not. If the data is not readable by the system, caused by unclear or blurry photos, MRZ codes that do not appear after scanning, then the passport must be considered damaged. Then for additional criteria, namely in the form of physical damage such as tearing, folding, animal bites, burns, and lost pages. Then the contaminated passport is wet/scratched, moldy, there are liquid stains, and ink is overflowing. Altered passports are not valid such as the presence of scribbles, straples, and off-page signatures are allowed. In addition, there are differences in interpretation between officers, differences in interpretation appear in minor damage. For example, when there are officers who judge that small ink stains are not destructive, while other officers still refuse passports, then there are also differences in interpretation on the biodata page, such as minor damage. For example, some officers consider straples to be damaged only if they penetrate the MRZ, but others consider that straples anywhere are still considered destructive. These differences create non-uniform discretion that shows legal uncertainty for the public, which can undermine trust in immigration services.

**Table 2. Criteria for Damaged Passports According to Immigration Office of Bandar Lampung, Tangerang, and Soekarno Hatta**

<b>Bandar Lampung</b>	<b>Tangerang</b>	<b>Soekarno Hatta</b>
-Page 2 is unclear	-Folded	
-Photos faded	-Tear	-The front page cannot be scanned and looks faded
-MRZ is illegible	-Scribbled with a pen	
-Tear	-Burn	-There are permanent ink smudges / stains
-Scribbled with a pen	-Wet	
-Wet/moldy	-Scissors	-Torn / torn
-Perforated	-Termite ingestion	-Exposed to water/wet
-Bitten by an animal	-Strapless container	
-Folded	-Exposed to ink	-Burn

**Comparison of Criteria for Determining Damaged Passports at Three Immigration Offices**

In the results of an interview with Riri, as a BAP officer at Kanim Tangerang, the rate of cases of damaged passports is in the range of 30% of the total applications, although lost passports are still more dominant for the percentage. Immigration officials categorize damaged passports if physical conditions are found such as folded, torn, scribbled, wet, burned, eaten by termites, sheared, and strapped. However, there is an emphasis that damage that is still in the backyard and does not affect biodata pages, especially MRZ, can still be tolerated. However, if damage occurs on the biodata page, the passport must be replaced because it is considered unsuitable for machine scanning.

Based on the results of the interview at Kanim Soekarno Hatta with Arif Darius as a BAP officer at Kanim Soekarno Hatta emphasized the importance of consistency in regulations and the need for detailed criteria. This is mainly to minimize differences in assessment between officers and reduce the potential for passenger rejection in the destination country. Therefore, the results of this interview at Kanim will later be an important comparison of the practices at Kanim Tangerang and Kanim Bandar Lampung, because it can show how international standards and service demands at the airport affect the application of discretion in determining the category of damaged passports.

This was also stated by the Sub-Directorate of Travel Document Standardization of the Directorate of Visas and Travel Documents of the Directorate of Law and Human Rights on the Regulation on Passports and SPLP regarding the criteria for damaged passports, Misnal Ariyanto as the Head of the Sub-Directorate (Kasubdit) of Visa and Travel Document Standardization who revealed that the main responsibility of this unit is to ensure that Indonesian passports are in accordance with international standards, especially the guidelines set by ICAO. In practice, damage that makes data intangible such as torn, wet, or perforated is immediately categorized as damaged. However, he admitted that this standard is still subjective and can differ between countries and between officers. Therefore, a more standard SOP or circular is needed so that public services are more consistent.

Thus, based on the results of an interview with Said Ismail as the Head of the Bandar Lampung Immigration Office he stated his hope for the Directorate General of Immigration to be able to develop technical guidelines that contain criteria for passport damage visually and descriptively, such as light, medium, and severe damage, as well as examples of passport conditions that are still acceptable or must be replaced. These guidelines can be compiled through joint studies between technical units, as well as field tests at several immigration offices to ensure their practicality and effectiveness. Thus, the assessment of passport damage will be more consistent and fair for the community. Because as is known, the provisions of the articles in the Permenkumham on Passports and SPLP are not fully adequate to be a standard reference. This confirms that the absence of detailed standards has the potential to cause differences in assessment, although there is a common view among officers that the biodata page is the most crucial aspect in determining whether a passport is still feasible or not.

The results of the interview with Reiza Mirhaj, as the Head of the Legislative Drafting Team of the Secretariat, in this case, especially in the field of immigration, show that the provisions regarding damaged passports in Permenkumham No. 8 of 2014 do not have a clear and detailed description.

The regulation only provides in general terms that passports can be revoked if they are "damaged in such a way that the information in them becomes unclear or gives the impression of inappropriateness," without providing criteria that can be used as a common reference in the field. As a result, the determination of a damaged passport often depends on the subjective interpretation of immigration officials in their respective offices.

### **Criteria for Determination of Damaged Passports by Immigration Officials at Bandar Lampung Immigration Office**

Geographically, Bandar Lampung is a disaster-prone area, especially floods. The lack of detail in this regulation makes it quite difficult for officers to provide an objective assessment to the public, especially in the case of passports that have expired but are still categorized as damaged passports and often protest against fines imposed because they feel they do not know the applicable rules. Based on the results of an interview by a BAP officer at the Bandar Lampung Kanim, Gabe, stated that the category of damaged passports generally depends on the condition of the biodata page on page two. Passports are considered damaged if the photo has faded, the MRZ cannot be scanned, there are tears, streaks, wet, holes, and are eaten by termites. The case of a damp passport that causes mold to damage most of the pages is also included in the damaged category. In addition, passports were also found that were scribbled or perforated to remove the prohibition mark in the form of red stamps. The variation of the damage shows that although the regulation only mentions the phrase "inappropriate impression," in practice the officers at the Bandar Lampung Kanim make the biodata page the main reference, because this page determines the eligibility of the passport to be used at the Immigration Checkpoint.

The Head of the Enforcement Branch, Karim Hongi also confirmed that the rate of damaged passport cases in Kanim Bandar Lampung has increased in the last three years, especially due to floods that often occur in the area. Although forcible damage such as floods or fires can be exempted from the obligation to pay fines, the applicant is still required to attach a certificate from BNPB. Unfortunately, many applicants are reluctant to take care of the certificate so that their cases are processed as ordinary damaged passports that are still subject to fines. Based on the results of the interview by Washono, as the Head of the Inteldakim Section at Kanim Bandar Lampung emphasized that the biodata page is the most important aspect in determining the condition of the passport. Passports are categorized as damaged if the photo on the passport holder's biodata page is faded, the registration number is missing, or the MRZ code is illegible. In addition, physical damage such as tears, ink stains, wet pages due to flooding, burned passports, and passports eaten by termites or moldy damp are also considered serious forms of damage. In some cases, even passports were found that were scribbled out, or biodata pages were separated from the sewing thread. Force phenomena such as floods are the dominant cause, although it still causes problems when the applicant cannot attach a certificate from the authorized agency in the local area.

### **Criteria for Determination of Damaged Passports by Immigration Officials at Tangerang Immigration Office**

According to Aji Arisandi, as the Head of the Enforcement Section at Kanim Tangerang, who stated that the procedure for handling damaged passports at Kanim Tangerang is carried out through a daily quota system. Applicants whose passports are indicated to be damaged are directed to undergo the BAP process before passport replacement can be processed. If the damage is assessed as a result of the holder's negligence, then the applicant will be fined according to the applicable rules. On the other hand, if the damage occurs due to *force majeure* such as floods or fires, the applicant can be exempted from the fine by attaching an official certificate from the authorities. Even so, many people do not understand the criteria for damaged passports and the consequences in the form of fines. Some only found out that their passports were damaged when they renewed them through the M-Passport application and their applications were canceled.

This condition causes confusion for the community, so the Tangerang Kanim is trying to socialize through social media and ball pick-up service activities such as *Eazy Passport* related to this. However, the officer admitted that the socialization is still limited because it still reaches certain community groups, especially elderly applicants who are not active in using social media. Therefore, the discretion of officers at the Tangerang Kanim to determine damaged passports still plays an important role, especially because the applicable regulations have not provided clear enough details

of the criteria. This provides flexibility, but also poses the risk of inconsistency in the implementation of policies between officers and between immigration offices.

**Criteria for Determining Damaged Passports by Immigration Officials at Kanim Soekarno Hatta**

As the largest TPI with the busiest international travel flow in Indonesia, Kanim Soekarno Hatta applies the same stringent assessment standards as other Kanim, although there are still some different criteria in determining damaged passports. The main focus of the assessment lies in the readability of the MRZ, the integrity of the biodata page, and the function of the electronic chip. Thus, the discretion of officers at Kanim Soekarno Hatta is relatively more limited, because passports that do not meet international standards have the potential to hinder the holder's travel.

**Proposed Improvements to the Rules on Criteria for Damaged Passports**

Based on the author's observations, in practice, all the sources agreed that page 2 on the passport containing the passport holder's biodata is the most important aspect of ethics at the checkpoint because the page contains photos, identities, and MRZ (*Machine Readable Zone*) codes which if the data cannot be read during scanning, then the passport can be categorized as a damaged passport. For other damages such as strapless and perforated marks, the decision depends on professional considerations and proof through BAP from the officer to the passport holder, including distinguishing natural damage (force) or indicated as intentional damage in damaging the passport. As a result, there are differences in interpretation between officers regarding passport criteria. The three Kanim also agreed that the provisions of Article 35 paragraph (1) letter f of the Minister of Law and Human Rights Regulation Number 8 of 2014 are still very general and lack detail, so that the discretion of officers becomes wide but at the same time opens up potential inconsistencies in implementation. This shows the need for more detailed and objective technical guidelines regarding the criteria for passport damage, so that the exercise of discretion can be more uniform, transparent and fair across Immigration Offices.

**Table 3. Legal Reformulation in Article 35 paragraph (1) letter f of Permenkumham No. 8 of 2014 concerning Ordinary Passports and SPLP**

Regulation of the Minister of Law and Human Rights on Passports and SPLP	Reformulation of the Minister of Law and Human Rights on Passports and SPLP
Article 35 paragraph (1) letter f: "Damaged in such a way that the information in it becomes unclear, or gives the impression that it is no longer appropriate as an official document"	Article 35 paragraph (1) letter f: "Damaged in such a way that the information in it becomes unclear, or gives the impression that it is no longer appropriate as an official document" A passport is declared damaged if it falls under the following conditions: <ol style="list-style-type: none"> <li>1. Biodata page: faded photo, missing register number, MRZ illegible, laminate peeled.</li> <li>2. Physical Damage: tears, detached yards, holes, folded, in animal bites, burns, damp/moldy.</li> <li>3. Damage due to Liquid: wet due to flooding, ink overflowing, liquid stain obscuring data.</li> <li>4. Intentional Damage: doodles, additional writing, unofficial stickers, unauthorized signatures, tearing to remove stamps, cutouts.</li> <li>5. Electronic Damage: the e-passport chip cannot be scanned.</li> <li>6. Cases affected by disasters, riots, and forcible causes: floods, fires, earthquakes are exempt from fines with proof of a certificate from the competent authorities.</li> </ol> Administrative Classification: - Category 1 Rp 0: It remains valid for damage caused by factors other than the passport holder's negligence (e.g. disaster, riot, or force majeure as evidenced by a certificate from the authorized agency).

- Category 2 (Tiered fines):  
Valid for damages due to the negligence of the passport holder with the following details:
    1. A fine of IDR 350,000 for the replacement of a Non-Electronic Ordinary Passport with a validity period of 5 years.
    2. A fine of IDR 650,000 for the replacement of an ordinary non-electronic passport with a validity period of 10 years.
    3. A fine of IDR 650,000 for the replacement of an Electronic Passport with a validity period of 5 years.
    4. A fine of IDR 950,000 for the replacement of an Electronic Passport with a validity period of 10 years.
    5. A fine of IDR 1,000,000 for the replacement of Electronic Passports made of Polycarbonate.
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This classifier is in line with the results of the BAP and the practices implemented at the Immigration Office and prioritizes more detailed standards of criteria so that there are no differences in interpretation between officials. Therefore, the author suggests that the Minister of Law and Human Rights Regulation No. 8 of 2014 concerning Passports and SPLP, especially in Article 35 paragraph (1) letter f, can be reformulated into a new rule from the Directorate General of Immigration which contains the criteria for damaged passports by distinguishing the categories in each existing passport damage criteria with details, namely category 1 is the criteria for damaged passports caused by force, Natural disasters, riots or other factors that are not caused by the negligence of the passport holder himself and are also exempt from fines or zero rupiah and category 2, namely damage due to the negligence of the passport holder. Currently, a fine of Rp 500,000 is applied evenly (*flat rate*) for all types of damaged passports. This policy does not take into account the difference in production costs and security levels between types of passport blanks.

Therefore, it is proposed that there be a differentiation or leveling of the nominal fine adjusted to the equalization of the nominal cost of issuing passports which are differentiated according to the type and validity period of the replaced passport. The rationale behind this proposal is to create a principle of proportional justice, where the cost of the fine charged to the applicant is commensurate with the cost of replacing the blanks issued by the state. In addition, higher fines for electronic passports will provide a stronger deterrent effect to make people more careful. These guidelines can be attached to the revision of the Regulation of the Minister of Law and Human Rights or outlined in the Guidelines, Service Memorandums, or Implementation Guidelines of the Directorate General of Immigration, so that they can be used uniformly throughout the Immigration Office.

## **CONCLUSIONS**

The discretion carried out by immigration officials arises because of the regulation in Article 35 paragraph (1) letter f of the Minister of Law and Human Rights Regulation No. 8 of 2014 which only provides the general phrase "damaged in such a way that the information in it becomes unclear or gives the impression that it is no longer appropriate as an official document" without a detailed description of the criteria for determining damaged passports. As a result, immigration officials across the Immigration Office use subjective considerations influenced by experience, the physical condition of the passport, and internal policies. This makes the practice of discretion different between immigration offices, thus creating legal uncertainty for the community. From the perspective of Responsive Law (Nonet & Selznick), the criteria for damaged passports should be formulated clearly and objectively so that the law is able to adapt to the needs of society while providing certainty. The results show that immigration officials view biodata pages (photos, MRZs, e-passport chips) as the most crucial aspect. Other significant damage such as tearing, burning, wet, scratching, being eaten by termites, and indications of counterfeiting must also be formal indicators. Therefore, the criteria for damaged passports need to be reformulated by dividing into category 1 (without fines): damage due to disaster, riot, and force majeure and category 2 (with fine): damage due to negligence or

intentionality of the passport holder. With this criterion in place, the discretion of immigration officials remains responsive to social conditions, but does not eliminate legal certainty.

## BIBLIOGRAPHY

- Agus, Yulius. (2019). *Government Discretion in the Legal Dimension: A Normative, Practical, Theoretical, and Philosophical Study*. Bandar Lampung, Indonesia: Anugrah Utama Raharja.
- Ariska, J., Harahap, N., & Devianty, R. (2022). Public Relations Strategy for Institutional Image Building at the North Sumatra Regional Office of the Ministry of Law and Human Rights. *ALGEBRA: Jurnal Pendidikan, Sosial Dan Sains*, II, 1-8. <https://yana.web.id/index.php/algebra>. DOI: <https://doi.org/10.58432/algebra.v2i1.267>
- Bahri, Samsul. (2020). "Legal Analysis of Foreign Nationals Who Commit the Crime of Passport Forgery." University of Medan Area, Document Accepted 17/12/21 Access From ([repository.uma.ac.id](https://repository.uma.ac.id))17/12/21.
- Citriadin, Yudin. (2020). *Qualitative Research Methods (A Basic Approach)*. Mataram, Indonesia: Sanabil Creative.
- Darmalaksana, Wahyudin. (2020). "Qualitative Research Methods of Literature Studies and Field Studies" Pre-print Digital Library UIN Sunan Gunung Djati Bandung.
- Edwinarta, Caesar Demas. (2025). "The Dynamics of the Policy of Implementing Non-Tax State Revenue (PNPB) in Passport Services at the Blitar Immigration Office" 2, No. 1. Available online at <https://jurnalpradah.com/>.
- Esla Wira Yustisia Putri, Fajar Dimas Nur Islam, Liya Qothrun Nada Fauzia Fazril Habib Manurung, Francisco David Subiyanto, Hapsari Cahya Icha Putri, Moh. Zukhruf Fudin M. Rivaldy B, Margareth Marsya Glory, Mikalsyafiq Izzulhaq, and ISBN. (2021). *Immigration Policy Dynamics in the Era of Change of the Immigration Polytechnic Team*. Bekasi, Indonesia: Dewangga Energi International.
- Gios Adhyaksa, Voice of Akhmaddhian. (2016). "Implementation of Environmental Law Enforcement in the Regions (Study in Kuningan Regency)." *UNIFIATION: Journal of Law* 3, No. 1.
- Hidayat, Bagas, and Ridwan Arifin. (2020). "Design of Fake Passport Detection System: Immigration Inspection Solutions in Indonesia" 08, No. 4. DOI: 10.26418/justin.v8i4.42397.
- Indonesia. Law Number 6 of 2011 concerning Immigration.
- Indonesia. Law Number 30 of 2014 concerning Government Administration.
- Indonesia. Regulation of the Ministry of Law and Human Rights of the Republic of Indonesia Number 19 of 2013 concerning Amendments to the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number M.HH-05. OT.01.01 of 2010 concerning the Organization and Work Procedures of the Ministry of Law and Human Rights of the Republic of Indonesia.
- Indonesia. Regulation of the Ministry of Law and Human Rights of the Republic of Indonesia Number 8 of 2014 concerning Ordinary Passports and Travel Documents in Lieu of Passports.
- Indonesia. Government Regulation No. 45 of 2024 concerning Types and Tariffs on Non-Tax State Revenues Applicable to the Ministry of Law and Human Rights.
- Indonesia. Regulation of the Minister of Finance of the Republic of Indonesia No. 51/PMK.02/2020 concerning the Determination of Zero Rupiah Tariff for Lost or Damaged Passport Burden Fees Service Due to Force Majeure Applicable to the Ministry of Law and Human Rights.
- Indonesia. Guidelines for the Implementation of the Management of Travel Document Blanks of the Republic of Indonesia No. IMI-0558. GR.01.01 of 2024.
- ICAO. *ICAO Doc 9303 Part 3: Specifications Common to All MRTDs*, 2021.
- Jazuli, Ahmad. (2020). "Evaluation of Context, Input, Process, and Product in the Achievement of the Policy of Establishing the Work Unit of the Brebes Immigration Office." *Scientific Journal of Legal Policy* 14, No. 1. DOI: <http://dx.doi.org/10.30641/kebijakan.2020.V14.61-73>.
- Lucky, Valentinus. (2015). "Implementation of Travel Document Services of the Republic of Indonesia (Passport) at the Class I Immigration Office of Samarinda City" *Journal of Administrative Reform*, Vol.3 No.1, January-March. DOI: 10.37680/almanhaj.v4i2.2007.
- Muhammad, Abdulkadir. (2004). "Normative and Empirical Legal Research Methods: Distinctive Characteristics of Legal Research Methods" 8, No. 1.
- Muharam, Alfathur, Paranio Rajata Butar Butar, and Muhammad Rizky Yoga Wibawanto. (2022). "Implementation of the Immigration Function in State Security." *AL-MANHAJ: Journal of Islamic Law and Social Institutions* 4, No. 2.
- Naku, R. K., & Pohan, S. (2023). *Komunikasi Pelayanan Publik Kementerian Hukum Dan Ham Dalam*

Membangun Kesadaran Dan Budaya Hukum Di Lingkungan Sekolah. *ALGEBRA: Jurnal Pendidikan, Sosial Dan Sains*, 3(4), 218–224. <https://doi.org/10.58432/algebra.v3i4.1011>.

- Nursanto, Gunawan Ari. (2018). "Integration of Advance Passenger Information System in the Immigration Settlement Process for Non-Regular Marine Ships." *Scientific Journal of Immigration Studies* 1, No. 021.
- Ni made Nanda Sukmawati. (2023). *Procedure for Replacing Lost Passports at the Special Class I Immigration Office at the Ngurah Rai Immigration Checkpoint (TPI)*. Bali State Polytechnic.
- Putri, A. R. F. (2018). *The concept of Video Mapping "Isola Gama Part II" in the Djamoë 6 UPI event is seen from the Musical Aspect*.
- Prasetya, Sukma Perdana. (2015). *Political Geography as a Strengthening of National Insights*. Yogyakarta, Indonesia: Ombak Publisher.
- Rifa'i, Iman Jalaludin, Ady Purwoto, Marina Ramadhani, Muksalmina, Muhammad Taufik Rusydi, Nasruddin Khalil Harahap, Ibnu Mardiyanto, et al. (2023). *Legal Research Methods*. Banten, Indonesia: Sada Kurnia Pustaka.
- Rahmanto, Tony Yuri, Marwan Dianto Arief, Rianto Kurniawan, and Amin Salasa. (2020). "The effectiveness of the policy of establishing a passport service unit and an immigration office work unit as a function of immigration services and supervision in Indonesia." *Journal of Management and Public Policy* 5, No. 2.
- Rizky Anugerah, Nilam. (2019). "The Position of Immigration Law in the Indonesian Legal System (Law Enforcement Efforts Against Immigration Crimes)." *Journal of Law and Border Protection* 1, No. 2.
- Septiadi, Richo. (2021). "Juridical Study of Criminal Liability of Bangladeshi Citizens for the Forgery of Passport Management Documents of the Republic of Indonesia at the Class I Immigration Office of TPI Jambi according to Article 126 Letter C of Law No. 6 of 2011 concerning Immigration.
- Syahrin, Muhammad Alvi. (2021). "Legal Aspects of the Immigration Forensic Laboratory: A Case Study of the Examination of Fake Passports of British Nationality in the Name of Abbas Tauqeer." *Journal of Judiciary Act* 3, No. 1.
- Tirthayasa, Ikhsan, and Hernadi Affandi. (2019). "The legal politics of the visa-free policy of visiting to increase the number of foreign tourist visits in Law Number 6 of 2011 concerning Immigration." *Scientific Articles in the Field of Law, Legal Politics, Immigration*, November.
- Yunis, Alfitrul. (2018). "The Application of Criminal Sanctions Against Foreign Citizens Who Commit Immigration Violations (Study of Decision No. 34/Pid.Sus/2018/PN.Mdn)," No. 34.
- Zuchri, Abdussamad. (2015). *Qualitative Research Methods*. Media Press.