

Immigration Law Regulations Against Traditional Border Crossers in the Border Area of Merauke Regency

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ABSTRACT

The state of Indonesia is a state of law, everything is regulated by law. The Indonesian territory from Sabang to Merauke has borders with other foreign countries. The West is bordered by other countries even though it is separated from the sea, in the north it is directly adjacent to the mainland area with Malaysia, in the south it borders on land with Timor Leste and in the eastern part it is directly adjacent to Papua New Guinea. The entire area bordering either directly or indirectly is regulated by immigration law. Immigration law regulations have been well regulated, starting from the highest regulations to the lowest regulations in their respective regions. In this case, in the border area of Merauke district, which is directly adjacent to Papua New Guinea, there are immigration law regulations that are used based on positive Indonesian law, in this case laws and there are also customary laws from the local community. The occurrence of legal pluralism in the land border area of Merauke district is due to the existence of customary law that is still thick in the lives of the people in this border area, resulting in an immigration law regulation that must conform to the policies of local indigenous peoples who always cross borders from Indonesia to Papua New Guinea or vice versa, known as the designation of traditional border crossers.

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1. INTRODUCTION

Indonesia is an archipelagic country with a coastline of about 81,900 kilometers, has a border area with many countries, both land (continental) and sea (maritime) borders. The land boundaries of the Republic of Indonesia are directly bordered by the States of Papua New Guinea (PNG), Malaysia and Timor Leste. Indonesia's land borders are spread across three islands, four provinces and 15 districts / cities, each of which has different border characteristics. Likewise with neighboring countries which have borders, both in terms of their social, economic, political and cultural conditions.

Meanwhile, Indonesia's sea territory borders 9 countries, namely India, Malaysia, Singapore, Thailand, the Philippines, Australia, Timor Leste and Papua New Guinea. The sea border areas are generally small islands. Some of them still need more intensive arrangement and management because they tend to have problems with neighboring countries.

The Republic of Indonesia (RI) and Papua New Guinea (PNG) are neighboring countries by land and sea whose borders are located in the Papua Province in the eastern part of Indonesia. Initially, the bilateral relations between Indonesia and PNG had a long history, which began with the opening of the Consulate General between the two countries in 1972.

The relations between Indonesia and PNG have increased to diplomatic relations marked when PNG gained independence from Australia on September 16, 1975. Since then the two countries agreed to build a bilateral agreement marked by the agreed upon basic agreement, namely the arrangement of cooperation in handling borders in the Papua Province region, which was previously called Irian Jaya. The agreement is called the Basic Agreement between the Government of the Republic of Indonesia and the Government of Papua New Guinea regarding border arrangements (Basic Agreement between the Government of the Republic of Indonesia and the Government of the Independent State of Papua New Guinea on Border Arrangements) which was signed in 2013.¹ The Basic Agreement between the two countries, after Papua New Guinea became independent, was signed for the first time on 17 December 1979. Although it has undergone several revisions, but substantively there has been no change. This agreement is the forerunner of the cooperation between Indonesia and PNG in several fields, namely, health, politics, security and economy with the aim of building a better society in the region of the two countries.

The territory of the Republic of Indonesia, hereinafter referred to as the territory of Indonesia, is the entire territory of Indonesia as well as certain zones which are determined based on the statutory zone.² The border area consists of the Census Divisions within Papua Newguenea and border villages within the Republic of Indonesia as defined, where the borders are part of the census divisions and border villages. State border areas are the main manifestation and have an important role in determining the boundaries of the border areas, exploiting natural resources, security and territorial integrity. The border area has social, economic, and security problems that become complex because it intersects with the sovereignty of other countries. Cooperation at the border in the establishment and implementation of good relations between neighboring countries is necessary to take steps to prevent conflict between the two bordering countries. Of course, paying attention to the improvement of the

¹ Kementerian Luar Negeri, Basic Agreement: between the Government of the Republic of Indonesia and the Government of the Independent State of Papua New Guinea on Border Arrangements.

² Directorate General of Immigration, Law number 6 of 2011 concerning Immigration, chapter 1 article 1 paragraph 2.

welfare of the people in border areas and the optimization of the potential, along with the development of cooperation with neighboring countries, will also result in minimizing the occurrence of problems. Given the border area as an economic center based on the characteristics of the border area, it has a high intensity in the flow of people and goods. This condition will have a positive or negative impact on both countries.

The Papua border area has enormous natural resources in the form of forests, both conversion forest and protected forest and national parks along the border. Almost entirely of the forest that stretches along the border is still untouched or exploited, except for a few locations that have been developed as conversion forests. Apart from forest resources, this area also has the potential for quite large water resources from rivers flowing along the border area. Likewise, mineral and metal content in the undeveloped soil such as copper, gold, and other metals with high economic value.³

A country with a very large area, of course, has many entrances or Immigration Checkpoints (TPI), both land, sea and air TPI. Especially in Merauke there is a land TPI in the form of a traditional Border Crossing Post. In terms of supervision of border crossers, officers refer to Law No. 6 of 2011 concerning Immigration Articles 66,67 and 68.

Merauke class II immigration office as a technical implementation unit that carries out part of the main tasks of the Indonesian Ministry of Law and Human Rights in the immigration sector carried out in Merauke, which is in the southern region of Papua and directly adjacent to Papua New Guinea both land and sea which then overhauls 6 border immigration posts. There are two districts, namely Merauke and Boven Digoel districts which cross traditionally, the border posts are as follows: (1) Sota border crossings; (2) condo border crossing posts; (3) Erambu border crossings (4) Bulupul border crossing posts; (5) Mindiptana border crossings; (6) Waropko border posts

Data obtained from the Sota border crossing, the traffic in and out of border crossers is quite significant. With an average number of 18 Indonesians going to PNG and 211 WN-PNG who have entered, it is not impossible that there will be loopholes for breaking the law. With the RI and PNG border areas, there are still frequent incidents of border violations, both in the sea and land border areas. For example, illegal border crossers in the sense that they do not have an entry permit or exit permit in the form of a cross-border pass, there are still many passers who enter or leave not through the designated TPI, there are still many border crossers who cross the line of jurisdiction that they should.

With the minimum number of cross-border post officers, namely only 2 officers at each post, it is not impossible that the officers will experience problems in carrying out

³<http://repository.unpas.ac.id/571/2/BAB%20II%20FENOMENA%20LINTAS%20BATAS%20INDONESIA-PAPUA%20NUGINI.pdf> accessed on February 18, 2019 at 19.10 WIT.

immigration supervision, so that immigration supervision cannot run optimally.⁴ If this continues, it is feared that unwanted things will happen, for example border crossers are getting out of control, an increase in illegal traditional passers, and moreover the movement of separatism.

2. METHOD

This research was conducted using empirical juridical methods that see a statutory regulation as a benchmark and see the facts and phenomena that occur in the field, especially in Merauke. The approach used in this study is the statute approach, which is research that focuses on the study of legislation related to the legal issues in this study. The source of legal research material consists of primary, secondary, and tertiary legal materials, to support the legal material data, there is also a process to collect the data from the interviewees. This research has the descriptive nature of analysis, which provides a description of the problems discussed in this study and analyzes the relevant legal regulations and is linked to the results of interviews conducted on the research object to provide answers to the problems formulated.

3. RESULTS AND DISCUSSION

Juridical Arrangements for Supervision of Boundary Crossers

3.1 Legal arrangements in the laws and regulations in Indonesia

According to Bagir Manan, who quoted P.J.P's opinion about Wet in material zin, describing the notion of legislation in a material meaning, the essence of which is as follows: ⁵

- 1) Legislation in written form. Because it is a written decision, statutory regulation as a rule of written law (*geschrevenrecht* written law)
- 2) Legislative regulations are formed by the official or office environment (body, organ) which has the authority to make "rules" that apply or bind the general public (*algemeen*)
- 3) Legislation is generally binding, not intended to always be binding on everyone. Binding general only shows that laws and regulations do not apply to concrete events or certain individuals.

Maria Farida Indrati Soeprapto stated that the term legislation (*legislation, wetgeving, or gezeetgebbung*) has two definitions:⁶

- 1) 1). Legislation - Invitation is a process of formation / process establish state regulations, both at the central and national levels at the regional level.
- 2) 2). Legislation is all state regulations, which are the result of the formation of regulations, both at the central level and at the regional level.

⁴ Decree of the Head of the Class II Merauke Immigration Office, Number: W30.FD-0023-KP.04.01 Year 2019

⁵ Mahendra Kurniawan, dkk, *Pedoman Naskah Akademik PERDA Partisipatif*, (Yogyakarta: Kreasi Total Media, 2007) Cetakan ke . p. 5

⁶ Ibid

H Soehino explained the following terms of legislation:⁷

- 1) First, it means the process or procedure for the formation of laws and regulations of the highest type and level, namely laws to the lowest, which are generated by attribution or delegation of statutory powers.
- 2) Second, it means the whole product of these laws and regulations.

In Indonesian positive law, the meaning of legislation is stated in article 1 paragraph (2) of the Basic Law of the Republic of Indonesia Number 10 of 2004 concerning the formation of statutory regulations which are written regulations established by State institutions or authorized officials and are generally binding.⁸

Article 7 paragraph (1) of law number 10 of 2004 states that the types and hierarchy of statutory regulations are as follows:

- 1) The 1945 Constitution of the Republic of Indonesia
- 2) Laws / government regulations in lieu of laws
- 3) Government regulations
- 4) Presidential decree
- 5) Regional Regulations

3.1.1. State Territory Law.

The unitary state of the Republic of Indonesia is an archipelagic State which has sovereignty over territory to be managed and utilized to the greatest extent for the prosperity of the Indonesian people in accordance with the mandate of the 1945 Constitution article 25A that the unitary Republic of Indonesia is a sovereign archipelagic State characterized by an archipelago with territories and boundaries - The limits and rights are regulated in the law which adopts the system of:

- 1) The regulation of an Indonesian government that protects the entire nation and state of Indonesia and all spilled Indonesian blood.
- 2) Utilization of the earth, water and the wealth contained therein to be used maximally for the prosperity of the people.
- 3) Social welfare for all Indonesian people.

In Law No. 43 of 2008 concerning the territory of the State, it is stated that: The territory of the Unitary State of the Republic of Indonesia, hereinafter referred to as the Territory of the State, is one of the elements of the state which is a unitary land area, inland waters, archipelagic waters and territorial seas along with the seabed and the land below, as well as the air space above it, including all the resources contained therein.

Considering that the outer side of the territory of the State of Indonesia is a very strategic area or it can be said to be the face and identity of the Indonesian nation in maintaining national sovereignty and the territorial integrity of the State, special regulations governing borders are needed. These arrangements are intended to provide legal certainty regarding the scope of the State's territory, the State's territorial management authority, and other rights for sovereignty. The State has an interest in

⁷ Ibid

⁸ Ibid

and contributes to regulating the management and use of land, sea and air in accordance with international law.

The definition of a border in general is a demarcation line between two sovereign states. At first the border of a State or state border was formed with the birth of the State. Previously, residents who lived in certain areas did not feel that difference, in fact, it was not uncommon for them to come from the same ethnicity. However, with the emergence of their State they were separated and with the demands of that State they had different nationalities.⁹

A country has boundaries to what extent a country is sovereign and has sovereign rights over its territory. This can be seen from the territorial borders of one country with other countries, both land and sea borders. The border area as the boundary of a country's sovereignty has an important meaning in the policies of a government, both for national interests and relations between countries (international). One country that has more meaning, in relation to the management of border areas, namely those directly adjacent to Indonesia, is Papua New Guinea

In essence, the Indonesian border is the end of the full sovereignty of the Government of Indonesia over its territory and all contents above, surface and below it. This implies that legally (national and international) the full sovereignty of the Indonesian Government only reaches the pre-determined border areas of the Republic of Indonesia. In exercising this sovereignty, the Government of Indonesia has the right to do anything (to govern itself) with regard to the content and space of its border areas in accordance with the ideals and goals of the Indonesian state and the direction of development of the Indonesian state as outlined through short, medium and long term development plans. . In addition, in exercising full sovereignty in border areas, the Government of Indonesia has the right to reject any interference / intervention from other parties or countries.

In the opinion of the author, the role of government and regional government is very important in relation to government functions in accordance with the principles of regional autonomy in terms of development and progress of border areas. Considering that the border area is a very strategic area in maintaining the integrity and sovereignty of the State, the role of the government is needed to make legislation specifically for the sake of the nation's and State's sovereignty.

3.1.2. Immigration Law.

Immigration is one of the government agencies which one of the activities is to provide services to the community. Services in terms of providing all immigration permits in the form of visas, entry permits, foreigner registration, re-entry permits, non-return exit permits, RI travel documents, departure signs, entry signs, immigration certificates

⁹ Julianto Jover Jotam Kalalo. (2018). Politik Hukum Perlindungan Hak Ulayat Masyarakat hukum Adat di Daerah Perbatasan. Makassar: Disertasi Universitas Hasanuddin. p.49

and immigration changes. Immigration service places, include immigration field or sub-sector at RI Representatives abroad, on trips in airplanes or ships, immigration checkpoints, Immigration Offices, Immigration Fields at the Regional Offices of the Ministry of Law and Human Rights, as well as the Directorate General of Immigration.¹⁰ The entry and exit of people from and from the territory of Indonesia is regulated in the immigration law no 6 of 2011, which regulates all matters concerning immigration. This is in accordance with the article 1 paragraph 1 Immigration matters regarding the traffic of people entering or leaving the Indonesian Territory and its supervision in order to maintain the upholding of state sovereignty.

Referring to the purposes and objectives of this article, immigration as a government agency that safeguards the sovereignty of the State must be able to guard and monitor the actions of foreign nationals who are inside the territory of Indonesia, whether their exit or entry must be in accordance with statutory regulations.

In the event of doubt as to the validity of travel documents and / or a person's identity, immigration officials can be authorized to conduct searches of the body or luggage and can proceed to the immigration investigation stage. As stated in the immigration law number 6 of 2011, article 9 reads:

- (1) Every person who enters and leaves the territory of Indonesia is obliged to go through an inspection conducted by an immigration official at an immigration check point.
- (2) The examination as referred to in paragraph (1) includes examination of travel documents and / or legal identity.
- (3) In case there is doubt as to the validity of travel documents and / or one's personal identity, immigration officials are authorized to conduct searches of the body and luggage and can be continued with the immigration investigation process.

However, if it is found that there is a violation of the provisions of the laws and regulations or there is a criminal act for any person who enters and or leaves without going through the immigration checkpoint, then he or she may be subject to a crime and or a fine. This is in accordance with the provisions of Article 113 which reads;

"Every person who deliberately enters or leaves the territory of Indonesia who does not go through the examination by immigration officials at the immigration checkpoint as mentioned in article 9 paragraph (1) shall be punished with imprisonment of a maximum of one year and / or a maximum fine of Rp. 100,000,000. ,- (one hundred million rupiah)"

3.1.3. Border Crossers Act.

The immigration law, namely Law No.6 of 2011 has stipulated that all aspects related to immigration services and supervision are inseparable from the geographical area of Indonesia consisting of oceans and islands that are far and near distance, even direct borders with the State. neighbor, whose implementation of the immigration function is

¹⁰ Rumokoy N.K: Penerapan Undang-Undang keimigrasian no. 6 tahun 2011 terhadap pelayanan public kota dan kabupaten (jurnal vol.1/No.3/Juli-September /2013) p.98

the authority of the immigration agency. Along the border in certain areas there is traditional traffic entering and leaving the territory of Indonesia and citizens of neighboring countries. In the framework of improving immigration services and supervision of these traditional passers, cross-border agreements can be arranged and efforts are made to expand the immigration checkpoints, thereby avoiding the presence of passers who enter or leave not through immigration checkpoints. Because every person who enters and / or exits the territory of Indonesia is required to have a valid travel document and still valid, be it a passport, a travel document is like a passport, which in this case is a cross-border pass / cross-border card for community members who live and live in border areas in accordance with applicable cross-border agreements.

In the Basic Agreement between the Government of the Republic of Indonesia and the Government of the Independent State of Papua New Guinea on Border Arrangements) which was signed in 2013 in Jakarta and emphasized by special arrangements called special arrangements for cross-border activities traditional and custom between the Republic of Indonesia and Papua New Guinea (special arrangement). The governments of Indonesia and Papua New Guinea impose a Cross Border Card (KLB) for people living on the RI-PNG land border. This KLB is a travel document that functions as a passport (as well as a visa) for people who live in the land border area of Indonesia - PNG. This KLB is issued free of charge at the request of the applicant at a designated border post, where the applicant's house or residence is located, by the border administration official or border immigration officer of each country, for citizens who meet the following requirements:

- (1) Whereas he is a male or female citizen of Indonesia or PNG who is 18 years old or already married.
- (2) That he is a resident of the border.
- (3) Whereas the entry into border areas is only for traditional or customary purposes.
- (4) Whereas he is not a person who has been blocked or prevented from entering or leaving the territory of the respective country.
- (5) Whereas he is not a defendant awaiting trial for his crime.

This KLB is valid for 3 years, for several trips, with a stay in Indonesia and PNG (for Indonesian citizens and PNG citizens) of 30 days and can be extended depending on the two border officials.

Border crossing activities around the Indonesia-Papua New Guinea border area are in the form of traditional border crossers such as those carried out by close relatives or relatives from Papua to the Papua New Guinea region and vice versa, while economic activities such as commodity trading between the two countries pass through the border. The existence of communal land or customary land in the two regions of the country is a dynamic in the Indonesia-Papua New Guinea border region. Part of this communal land has become a livelihood field that is processed daily by the border

community, so that crossing borders between countries has become a common practice every day.

The development of cross-border trade can be seen from the increasing mobility of the flow of goods, services and people between the two regions. Commodities traded include clothing, food, agricultural products, and others. However, on the other hand, there are several obstacles such as the limited availability of service trade facilities, the absence of public transportation in border areas and inadequate management.

The activities of border crossers at the border gate in Marauke are relatively more limited, with the main activities of the cross-border flow of the people of the two countries in the context of family visits and traditional trade. Relatively larger trading activities actually take place at unofficial entrances that connect the people of the two countries illegally without the existence of border crossings or official security posts. This is also exacerbated by the lack of knowledge and understanding of the people around the Indonesia-Papua New Guinea border area towards the boundary line that separates the two countries, even among these residents many do not have identification or identity such as identity cards or other identification.¹¹ Merauke Regency is one of the areas located in the eastern tip of Indonesia, the Papua province is one of the national food barns, where the commodity needed is rice in addition to paddy provided by the community such as meat, fish, and sago.¹²

A border crosser is a resident who resides or resides within the border region of the country and has an identity card issued by the competent authority and travels across borders in the border area through the Border Crossing Check.¹³ The conditions for cross-border activities in the Indonesia-PNG border area are quite diverse. In the case of land, the government guarantees protection for land ownership. Land is given to the community to be used either as a business land, residence or residence and so on.¹⁴

In this border area, cross-border conditions can be seen through the conditions of cross-border defense and security, cross-border economy, cross-border socio-culture and cross-border facilities and infrastructure. In the aspect of cross-border defense and security, cross-border problems related to defense and security are marked, namely various forms of vulnerability threats / criminal acts due to the illegal flow of goods, services and people from and to the Republic of Indonesia - neighboring countries / PNG. Indications of a violation of the cross-border defense and security aspects can also be seen with the number of pathways that are difficult to detect in border areas

¹¹ <http://repository.unpas.ac.id/571/2/BAB%20II%20FENOMENA%20LINTAS%20BATAS%20INDONESIA-PAPUA%20NUGINI.pdf> accessed on 27 February 2019

¹² Yuldiana Zesa Azis, Nasri Wijaya. (2019). Analysis of Socio-Juridical Participation of Sota Village Government in Increasing Income of Marind Kanum Indigenous People in Sota Merauke Village. *Musamus Law Review*, 1 (2), 115-126

¹³ <http://bcjayapura.beacukai.go.id/index.php/faq/kepabeanan/51-pelintas-batas> accessed on 18 February 2019 at 18.30 WIT

¹⁴ Yana Ardila, Julianto Jover Jotam Kalalo. (2019). Arrangement for Issuance of Certificate of Substitute of Land Rights. *Musamus Law Review*, 2 (1), 36-49

with forest cover which is misused by a group of people to carry out illegal border crossings. This happens because the facilities & infrastructure services across the CIQS border have not been optimal because not all land border areas have adequate PLB.¹⁵ The impact of the lack of functioning of Cross-Border Posts, including the increased potential for security disturbances, being unattended and unable to serve Indonesian citizens and foreigners who will leave and enter across borders, as well as being used as an entry point for trans-national legal violations such as the entry of separatist movements.

Immigration functions along the border line in accordance with their duties, namely as guardians of the gates of the country and part of the realization of the implementation of enforcement of sovereignty over Indonesian territory to provide services and supervision of the traffic of people passing through the border area. In order to improve services and facilitate supervision, Immigration Checkpoints (TPI) and Border Crossings (PLB) were established at several border crossing points for inspection of immigration documents for everyone entering and leaving Indonesian territory which is carried out by immigration officials.¹⁶

Based on data from the Directorate General of Immigration, there are 79 cross-border posts throughout the Indonesian border area, which are spread across 6 provinces, namely West Kalimantan, East Kalimantan, Papua, East Nusa Tenggara, Riau Province and Riau Islands and North Sulawesi.

In Papua Province itself, there are 2 Immigration Offices that oversees the Cross-border Posts, namely the Jayapura Class I Immigration Office and the Merauke Class II Immigration Office.

Cross Border Post (PLB) consists of two types, namely:

1. PLB International

PLB International is a cross-border checkpoint for Passport holders and Cross-Border Passport ID holders. So anyone who has a passport or holder of a Cross-Border Pass Identity is entitled or allowed to enter and exit through this international PLB, not only for border communities with the terms and conditions that apply.

2. Traditional PLB

Traditional PLB is a cross-border checkpoint for holders of Cross Border Pass identities.

¹⁵ Insan Firdaus. 2017. Optimalisasi Pos Lintas Batas dalam pelaksanaan Fungsi Keimigrasian. Pusat Pengkajian dan Pengembangan Kebijakan Badan Penelitian dan Pengembangan Hukum dan HAM Kementerian Hukum dan HAM RI. p. 59.

¹⁶ Republic of Indonesia Law No.6 of 2011 concerning Immigration Article 3 point 3.

This PLB is only intended for cross-border pass identification holders, namely those who live and reside in the border area based on applicable provisions. This traditional PLB is not intended to pass people for passport holders.¹⁷

3.2. Legal arrangements based on policies that live in the Border Area Community.

There is no law without society. Because the law is created and created by the community to be used as a guide for the behavior of community members in relation to each other. In addition, of course, to maintain the integrity of the community itself. Furthermore, because society has different characteristics and experiences, laws will also differ in each society. This is because society has different needs and values. The development of the community itself is then related to legal changes tailored to their needs.¹⁸

Policies are actions or activities that are intentionally carried out or not carried out by a person, group or government in which there is an element of decision in the form of an effort to choose between the various alternatives that exist in order to achieve certain goals and objectives. These policies in society.

The term customary law community is an official term that is contained in various laws and regulations, such as in the 1945 Constitution of the Republic of Indonesia, Law Number 5 of 1960 concerning Basic Agrarian Regulations, Law Number 41 of 1999 concerning Forestry, Law Number 23 of 2014 concerning Regional Government, and other laws and regulations. The term customary law community was born and used by customary law experts which is mostly used for academic theoretical purposes. Meanwhile, the term indigenous peoples is a term commonly expressed in everyday language by non-legal circles which refers to a number of international agreements.¹⁹

The definition of customary communities must be distinguished from customary law communities. The concept of indigenous peoples is a general term for referring to certain communities with certain characteristics. Whereas customary law community is a juridical technical definition which refers to a group of people who live in a certain area (ulayat) where they live and in a certain environment, have wealth and a leader who is responsible for protecting group interests (outward and inward), and has a legal system of rules and governance.²⁰ Customary justice is specifically regulated in Papua Special Regional Regulation No. 20 of 2008 concerning Customary Courts in Papua which provide clear understanding of customary and customary courts.²¹

¹⁷<http://imigrasi.go.id/index.php/hubungi-kami/tempat-pemeriksaan-imigrasi#pos-lintas-batas-darat-republik-indonesia> accessed on 17 June 2019 at 23.41 WIT.

¹⁸ <http://obor.or.id/Sosiologi-Hukum:-Kajian-Hukum-secara-Sosiologis> accessed on 21 July 2019, Pkl.12.11 WIT.

¹⁹ Julianto Jover Jotam Kalalo, Loc.it. p 36

²⁰ Ibid

²¹ Erni Dwita Silambi., Marlyn Jane Alputila, Syahrudin (2018). Customary justice model in resolving indigenous conflicts in Merauke Regency, Papua. *Musamus Law Review*, 1(1), 63-72

The form and structure of the legal community which is a customary law association, its members are bound by factors that are territorial and geneological. According to the definition put forward by legal experts in the Dutch East Indies era, what is meant by a legal community or a territorial legal community is a permanent and regular society, whose members are bound to a certain area of residence, both in terms of worldly as a place of life and in spiritual connection as a place of worship of ancestral spirits. Meanwhile, a genealogical community or legal association is an orderly community unit, in which members are tied to the same lineage from one ancestor, either indirectly due to marital ties or customary ties.²²

From the description above, it can be concluded that indigenous peoples also have legal regulations in the community, which are mutually agreed upon and if they are not implemented properly, there will be social sanctions that must be accepted.

In this case, the author can analyze that social life on the border of Sota is still thick with the lives of indigenous peoples who still continue to maintain their existence in everyday life. For example, in the case of marriage and other traditional events. However, in terms of crossing, there is no binding customary law norm, the community is only bound in terms of kinship.

4. CONCLUSION

Legal arrangements regarding immigration in Merauke, especially in the Sota border area, are in accordance with the Immigration Law Number 6 of 2011 article 66 paragraph 2, which includes the supervision of Indonesian citizens who apply for travel documents, leaving or entering Indonesian territory, and who are in outside the Indonesian Territory, as well as supervision of the traffic of foreigners in this case, especially PNG citizens who enter or leave the Indonesian Territory through the Sota Border Crossing Post and control the presence and activities of these foreigners in Indonesian Territory. There are still some problems in the application of legal arrangements in border areas, this is due to the existence of other legal rules that live in these border communities. Customary law is still very thick in social life so that there are a lot of legal conflicts that exist in border areas.

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²² Julianto Jover Jotam Kalalo, Loc.it. p 36

- <http://obor.or.id/Sosiologi-Hukum:-Kajian-Hukum-secara-Sosiologis>, accessed on 21 July 2019, 12.11 WIT.
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