

Manifestations of State Sovereignty in Selective Immigration Policy: A Legal Analysis of the Implementation of the Clearance House Mechanism for Visa Calling Countries in Indonesia

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of increasing global mobility.

Abstract: *This study examines the manifestation of state sovereignty in Indonesia's selective immigration policy through the implementation of the Clearance House mechanism for calling visa countries. Grounded in a normative juridical method employing statute and conceptual approaches, the research analyzes key legal instruments, including Law Number 6 of 2011 on Immigration and Regulation of the Minister of Law and Human Rights Number 2 of 2024, alongside the theoretical framework of sovereignty as articulated by Jean Bodin. The findings demonstrate that the Clearance House functions as a risk-based entry control mechanism that institutionalizes sovereign authority by integrating administrative, intelligence, and security considerations in visa decision-making. Through the Visa Assessment Coordination Team (TKPV), the state exercises its prerogative to filter foreign nationals based on IPOLEKSOSBUDHANKAM parameters, reflecting a shift from administrative governance toward security-oriented legal governance. However, the study also identifies critical challenges, particularly the broad discretionary power and subjective nature of risk assessment, which raise concerns regarding legal certainty, accountability, and potential arbitrariness. Therefore, strengthening standardization, transparency, and oversight mechanisms is essential to ensure that the exercise of state sovereignty remains consistent with the principles of legality, proportionality, and the rule of law in the context*

Keywords: *State Sovereignty, Selective Immigration Policy, Clearance House*

Introduction

Globalization has transformed human mobility into a transnational phenomenon that cannot be understood within classical territorial boundaries. Developments in transportation and communication technology, and global economic integration have driven a significant increase in the flow of people moving across borders, whether for economic, educational, or protection purposes (Natasya 2025). Within the framework of international law, this mobility is often associated with human rights, as affirmed in Article 13 paragraph (2) of the Universal Declaration of Human Rights, which states that everyone has the right to leave any country and return to their own. However, this norm does not

automatically create a right to enter another country, thereby creating an inherent tension between the principle of freedom of movement and a state's sovereignty to control access to its territory (Salim 2017). In this regard, international migration must be understood as a systemic issue that places states in a dilemma between the obligation to respect human rights and the need to maintain sovereign integrity (Achsin 2021).

From a public law perspective, the state functions as a gatekeeper with exclusive authority to regulate the entry and exit of people into its territory. This principle is reflected in both international and national law, where a country is not obligated to accept foreigners into its territory (Hamidi 2021). In Indonesia, this principle is affirmed in Article 8, paragraph (2) of Law Number 6 of 2011 concerning Immigration, which requires that every foreigner must have a visa to enter Indonesian territory. This provision indicates that access to the country's territory is not a right but a privilege granted on the basis of legal considerations and state policy (Sande 2020). Article 1, number (1), of the Immigration Law emphasizes that the function of immigration includes monitoring the movement of people to uphold state sovereignty (Muharam 2022). Thus, the state acts not only as a facilitator of mobility but also as a regulator responsible for maintaining national security, public order, and the country's strategic interests.

Theoretically, the legitimacy of state authority can be traced to the concept of sovereignty put forward by Jean Bodin, who views sovereignty as the highest, absolute, and undivided power within a country. Within this framework, the state has full authority over its territory, including determining who can enter, remain, or be denied entry (Rusadi 2025). This concept of territorial sovereignty has subsequently evolved in modern legal practice to become the legitimate basis for border control and immigration policies. The relevance of this classical theory remains evident in the contemporary immigration legal regime, where the state maintains the prerogative to conduct border control through administrative instruments and selective policies (Nurvianti 2023). Thus, immigration control is not merely an administrative function but a direct manifestation of state power in maintaining its existence and stability.

In Indonesia, this manifestation of sovereignty is articulated through the principle of selective immigration policy, which serves as the normative basis for immigration administration. The General Explanation of Law Number 6 of 2011 explicitly states that only foreigners who provide benefits and do not endanger public security and order may be permitted to enter and reside in Indonesian territory. This principle emphasizes that immigration policy is not open-ended, but rather selective, based on national interests (Sande 2020). The implementation of this principle is further emphasized by regulations on visa countries, namely those categorized as having a certain level of vulnerability based on ideological, political, economic, social, cultural, defense, and security parameters (IPOLEKSOSBUDHANKAM) (Puspitaisari 2025). This grouping is not a form of discrimination, but rather a risk-based legal classification intended to conduct initial screening of potential transnational threats.

The strengthening of this selective principle is operationalized through the Clearance House mechanism, as stipulated in the Minister of Law and Human Rights Regulation Number 2 of 2024. This regulation provides a clear legal basis for the establishment of the Visa Assessment Coordination Team (TKPV), as stipulated in Articles 5 and 6, which

involves various strategic agencies such as the Directorate General of Immigration, the Ministry of Foreign Affairs, the State Intelligence Agency, the Indonesian National Police, and the Indonesian National Armed Forces (Gunawan 2023). This mechanism reflects a multi-agency decision-making model in the visa-granting process, in which assessments are based not only on administrative factors but also on security, intelligence, and geopolitical considerations. Furthermore, Articles 15 and 16 regulate a multi-layered interview mechanism for applicants and guarantors, while Article 18 authorizes the TKPV to recommend visa denials (Praditya 2025). Thus, the Clearance House functions as a strategic legal instrument that institutionalizes state sovereignty through risk-based entry control and sovereign security filtering.

However, implementing this mechanism is not free of various normative and practical issues that require critical analysis. The use of the multidimensional IPOLEKSOSBUDHANKAM parameters opens the door to subjectivity in the assessment process, potentially leading to broad discretionary practices without measurable standards. From an administrative law perspective, this situation risks arbitrariness and weak accountability if not balanced with the principles of legality, proportionality, and transparency. Furthermore, there is a tension between national security interests and human rights protection, particularly when restricting access to certain citizens. Policy inconsistencies can also be seen in practice, for example, in the case of Israeli citizens' participation in international activities in Indonesia, which demonstrates the dynamic and contextual nature of the calling visa policy. Amid these conditions, studies on Clearance House as a manifestation of state sovereignty remain relatively limited, particularly in connecting sovereignty theory, state discretionary practices, and cross-institutional coordination mechanisms. Therefore, this research is important not only to fill an academic gap but also to make theoretical contributions to the development of a modern concept of sovereignty and to provide practical contributions to the evaluation of Indonesian immigration policy amid the increasing complexity of global mobility and transnational threats.

Methodology

This research employs a normative juridical method to analyze positive legal norms governing immigration policy, particularly the Clearance House mechanism for visa-calling countries in Indonesia. The approaches used are a statutory approach and a conceptual approach. The statutory approach is carried out by systematically reviewing various relevant regulations, including Law Number 6 of 2011 concerning Immigration, specifically Article 1 number (1), Article 1 number (3), and Article 8 paragraph (2), as well as Regulation of the Minister of Law and Human Rights Number 2 of 2024, which regulates the Clearance House mechanism, including provisions in Articles 5, 6, 15, 16, and 18 concerning the establishment of the Visa Assessment Coordination Team (TKPV), verification mechanisms, and visa denial authority. Furthermore, this research examines relevant international legal norms, such as Article 13, paragraph (2), of the Universal Declaration of Human Rights, as a normative framework for understanding the boundaries between individual mobility rights and state sovereignty. Meanwhile, a conceptual approach is used to analyze legal concepts developed within doctrine, particularly the theory of state sovereignty advanced

by Jean Bodin, as well as the concepts of selective immigration policy, state discretion, and risk-based entry control, serving as theoretical foundations for interpreting prevailing legal practices. By combining these two approaches, this research aims to develop a comprehensive legal argument regarding how the Clearance House mechanism functions as a legal instrument representing state sovereignty in controlling the influx of foreigners.

Result and Discussion

The Legal Construction of the Clearance House Mechanism in the Indonesian Immigration Legal Framework

The legal construction of the Clearance House mechanism in the Indonesian immigration legal system is rooted in the national legal framework, which positions immigration as a strategic instrument for maintaining state sovereignty. Law Number 6 of 2011 concerning Immigration explicitly provides this normative basis, particularly in Article 1(1), which defines immigration as the movement of people into or out of Indonesian territory and its supervision to uphold state sovereignty. Furthermore, Article 1, number (3), emphasizes that the function of immigration includes services, law enforcement, state security, and facilitation of community welfare development. This norm shows that immigration is not merely administrative, but has a strategic dimension in state protection. In this context, Clearance House can be understood as an extension of this supervisory function, institutionalized to ensure that every foreigner who enters does not threaten national sovereignty and interests (MACHMUDI. 2025).

The state's legitimacy in controlling foreign entry is affirmed by Article 8, paragraph (2), of Law Number 6 of 2011, which states that every foreigner entering Indonesian territory must possess a valid and current visa, unless otherwise stipulated by law. This provision emphasizes that a visa is not merely an administrative document but a legal instrument that reflects the state's permission for a foreigner to be present in its territory. From an administrative law perspective, a visa is a concrete, individual, and final form of state administrative decision. Therefore, the visa-granting process, including through the Clearance House mechanism, is part of the state's discretionary authority, which must be based on legal considerations and national interests. This aligns with Article 75 paragraph (1) of the Immigration Law, which authorizes immigration officials to take administrative immigration actions against foreigners to maintain public security and order (Aji 2022).

At the technical-operational level, Regulation of the Minister of Law and Human Rights Number 2 of 2024 on Visas and Stay Permits serves as the primary legal basis for implementing the Clearance House mechanism. This regulation specifically governs visa applications from countries and risk-based visa assessment procedures. Article 1, number (1) of the regulation defines calling visa countries as countries with a certain level of vulnerability based on ideological, political, economic, social, cultural, defense, security, and immigration aspects (IPOLEKSOSBUDHANKAM) (Purba 2024). This provision demonstrates that the state has normatively adopted a risk-based classification approach to determine which legal subjects require stricter oversight. Thus, the Clearance House is not

merely an administrative policy but a legal construct explicitly recognized in statutory regulations.

The establishment and authority of the Clearance House are institutionalized through Articles 5 and 6 of Regulation of the Minister of Law and Human Rights Number 2 of 2024, which regulates the formation of the Visa Assessment Coordination Team (TKPV). This team consists of representatives from various ministries and institutions, including the Ministry of Law and Human Rights, the Ministry of Foreign Affairs, the State Intelligence Agency (BIN), the Indonesian National Police (Polri), and the Indonesian National Armed Forces (TNI). From a constitutional law perspective, the establishment of the TKPV reflects a multi-agency governance model that integrates administrative, diplomatic, intelligence, and security functions into a single decision-making mechanism. This demonstrates that visa-granting decisions, particularly for countries with visa requirements, are no longer sectoral in nature but rather the result of cross-institutional coordination that reflects the state's overall interests (Sriwidodo 2025).

The discretionary authority of the Visa Assessment Coordination Team (TKPV) is not absolute, as it is constrained by statutory regulations, administrative law principles, and judicial review mechanisms. Legal safeguards include adherence to established visa assessment criteria, the obligation to provide administrative justification for decisions, and the possibility of challenging decisions through administrative remedies and judicial proceedings. From a Rule of Law perspective, discretionary powers are legitimate only when exercised transparently, proportionately, and consistently with legal norms. Nevertheless, the study finds that the broad formulation of TKPV's authority may create legal uncertainty and inconsistent implementation, highlighting the need for clearer regulatory standards and more detailed procedural guidelines to ensure accountability and legal certainty.

Furthermore, the verification mechanism within the Clearance House is detailed in Articles 15 and 16 of Minister of Law and Human Rights Regulation Number 2 of 2024, which governs interviews with visa applicants and guarantors or sponsors. This provision demonstrates a due diligence approach that focuses not only on document completeness but also on substantive factors such as the purpose of the visit, the applicant's background, and the guarantor's credibility. From an administrative law perspective, this mechanism reflects the prudential principle in public officials' decision-making. Article 18 authorizes the TKPV to issue recommendations for visa denials, indicating broad discretion in the assessment process. This discretion is a logical consequence of the nature of immigration policy, which must be responsive to the dynamics of threats and national interest (Sari 2023).

The legal construction of the Clearance House mechanism demonstrates a paradigm shift in Indonesian immigration law, moving from an administrative approach to security-oriented legal governance. This aligns with modern legal developments that position immigration within the national security system. The use of a risk-based approach (risk-based entry control), institutionalized through legislation, demonstrates that the state is not merely reactive but also preventive in anticipating potential threats. Thus, Clearance House can be understood as a legal instrument that not only regulates administrative procedures

but also embodies the exercise of state sovereignty in controlling foreign entry in a measured, systematic, and national-interest-based manner.

Clearance House as a Manifestation of State Sovereignty in Selective Immigration Policy

The concept of Clearance House in Indonesian immigration policy is a concrete manifestation of state sovereignty in controlling foreign entry into its territory. Theoretically, sovereignty, as proposed by Jean Bodin, places the state as the holder of absolute, undivided, and supreme power, including over territorial control and the regulation of the movement of people. Within this framework, a state has the exclusive right to determine who may enter, remain, or be excluded from its territory, without any third-party intervention. This principle is known in international law as territorial sovereignty, which grants a state full legitimacy to implement selective and protective immigration policies. Therefore, Clearance House cannot be viewed merely as an administrative procedure, but rather as a concrete manifestation of the state's power to safeguard territorial integrity and national interests.

In the context of national law, this principle is operationalized through a selective immigration policy, explicitly affirmed in the General Explanation of Law Number 6 of 2011 concerning Immigration. This principle states that only foreigners who provide benefits and do not endanger public security and order are permitted to enter and remain in Indonesian territory. This provision is reinforced by Article 8, paragraph (2), which requires every foreigner to have a valid visa as a prerequisite for entry, and by Article 75, paragraph (1), which authorizes immigration officials to take administrative action against foreigners deemed to endanger security and order. This norm demonstrates that the state has the right to exclude, that is, the right to reject foreigners as part of its sovereignty. In this regard, the Clearance House serves as a pre-entry screening mechanism to ensure the effective implementation of this selective principle.

The legal framework for calling visas, as stipulated in Minister of Law and Human Rights Regulation Number 2 of 2024, reinforces a risk-based approach to immigration policy. Article 1, number (1), defines calling visa countries as those with a certain level of vulnerability, based on the IPOLEKSOSBUDHANKAM parameters: ideology, politics, economics, social issues, culture, defense, security, and immigration. These parameters demonstrate that the state considers not only administrative aspects when granting visas but also conducts a strategic evaluation of the potential threats posed by certain citizens. From a legal perspective, this classification constitutes a legitimate risk-based classification, provided it is based on national interest and does not violate basic legal principles. Therefore, the Clearance House serves as an instrument to operationalize this classification through a systematic assessment process.

The implementation of the Clearance House also reflects the institutionalization of state sovereignty through an integrated institutional mechanism. Articles 5 and 6 of Minister of Law and Human Rights Regulation Number 2 of 2024 stipulate the establishment of a Visa Assessment Coordination Team (TKPV), comprising representatives from various strategic agencies, such as the Directorate General of Immigration, the Ministry of Foreign Affairs, the State Intelligence Agency (BIN), the Indonesian National Police (Polri), and the

Indonesian National Armed Forces (TNI). The involvement of these various institutions demonstrates that visa-granting decisions are no longer purely administrative but rather the result of cross-sectoral considerations encompassing security, intelligence, and geopolitical aspects. In this context, the state serves a dual function, serving as both an administrative regulator and a security actor. This reinforces the argument that the Clearance House constitutes a form of institutionalized sovereignty, where state sovereignty is embodied in concrete structures and procedures.

However, in empirical practice, the implementation of this policy exhibits complex and inconsistent dynamics. Data on visa applications and approvals from calling visa countries such as Nigeria, Afghanistan, and Somalia show a significant upward trend in recent years, indicating increased mobility from countries with a high-risk profile. Conversely, the increasing rate of visa rejections, particularly for citizens of Afghanistan and Nigeria, suggests that the Clearance House mechanism serves as a fairly stringent screening tool. For example, the surge in visa rejections for Afghanistan is often linked to concerns about political stability and potential abuse of stay permits, while the Nigerian case is largely related to immigration issues such as overstaying and misuse of visit visas. This phenomenon demonstrates the implementation of a risk-based policy, but also raises questions about the consistency and objectivity of the assessment process.

Furthermore, contextual policy dynamics exist, such as Israeli citizens' participation in international activities in Indonesia. Although Israel is categorized as a visa-on-arrival country, in some cases, the government grants entry based on diplomatic considerations and international interests, such as during sporting events. However, in other cases, such as refusals to participate in certain events, the policies adopted are quite different. This demonstrates that the implementation of Clearance House is not entirely normative, but is also influenced by political, social, and diplomatic factors. Thus, although Clearance House is conceptually a manifestation of state sovereignty, its empirical practice demonstrates a degree of flexibility that reflects the dynamic, adaptive, and contextual character of modern sovereignty in addressing the complexities of international relations and global mobility.

State Discretion, IPOLEKSOSBUDHANKAM Parameters, and Accountability Issues in Clearance House Implementation

The use of IPOLEKSOSBUDHANKAM parameters in the Clearance House mechanism demonstrates that the state is consciously adopting a risk-based assessment approach to immigration policy, encompassing ideological, political, economic, social, cultural, defense, security, and immigration dimensions. This approach is normatively legitimized by the Minister of Law and Human Rights Regulation Number 2 of 2024, specifically Article 1(1), which defines the countries eligible for the calling visa based on multidimensional vulnerability levels. However, from a state administrative law perspective, the use of such broad, qualitative parameters can introduce subjectivity into the assessment process. Unlike measurable administrative indicators, ideological or political aspects are difficult to quantify objectively, so decisions are highly dependent on the interpretations of the institutions involved. This situation challenges the principle of

legality, as an administrative decision should ideally be based on clear, measurable, and testable norms.

Furthermore, the scope for state discretion within the Clearance House mechanism is expanded by Article 18 of the Minister of Law and Human Rights Regulation Number 2 of 2024, which authorizes the Visa Assessment Coordination Team (TKPV) to issue recommendations for visa denials. This authority reflects broad discretionary power, which, in administrative law theory, must be limited by the principles of proportionality and accountability. Discretion is an essential tool in modern governance for addressing gaps or unclear norms. However, if not balanced with adequate control mechanisms, it can give rise to arbitrariness or arbitrary action. In this context, the absence of detailed standard operating procedures in assessing IPOLEKSOSBUDHANKAM parameters can lead to inconsistencies in decision-making, especially when assessments are conducted by various institutions with different perspectives.

This problem becomes even more complex when linked to the protection of human rights, particularly the principles of non-discrimination and legal certainty. Under international law, although a state has the right to control its borders, such policies must still align with basic human rights principles. When a country classifies a particular country as a calling visa and applies stricter standards to its citizens, the potential for nationality-based discrimination arises unless it is supported by a transparent and rational justification. Furthermore, the lack of clarity in the assessment parameters can reduce legal certainty for visa applicants, as they lack clear standards regarding the criteria used to accept or reject their applications. This indicates a tension between national security interests and the protection of individual rights, which must be balanced.

Empirically, this problem is evident in fluctuations in visa approval and denial rates for countries with visa restrictions, such as Nigeria, Afghanistan, and Somalia. The high rate of visa denials for certain countries is often attributed to security concerns and the potential for abuse of stay permits, but this is not always accompanied by transparency into the specific reasons for the denials. Furthermore, there are inconsistencies in policy implementation, such as in the case of Israeli citizens participating in international activities in Indonesia, where on some occasions entry was granted, while on others it was denied. This phenomenon demonstrates that the implementation of the Clearance House is not entirely based on fixed standards, but is also influenced by situational political, diplomatic, and social considerations. This situation reinforces the argument that state discretion in this policy still has significant room and is not fully standardized.

To address these issues, concrete steps are needed to strengthen the accountability and transparency of the Clearance House mechanism. First, the government needs to develop more detailed, measurable standard operating procedures (SOPs) for IPOLEKSOSBUDHANKAM parameters, so that each assessment aspect has clear, testable indicators. Second, a reasoned decision-making mechanism needs to be established that requires every visa denial decision to be accompanied by clear and documented reasons, thereby increasing transparency and providing legal certainty for applicants. Third, internal and external oversight mechanisms are needed, including the possibility of reviewing

decisions through state administrative courts, as stipulated in Law Number 5 of 1986 concerning State Administrative Courts and its amendments. These steps are crucial to ensure that state discretion remains within the law and is not abused.

Furthermore, strengthening the institutional capacity of the TKPV is a crucial aspect in improving decision-making quality. Inter-agency coordination must be supported by an integrated information system that enables real-time data exchange, enabling more objective, evidence-based assessments. The government can also adopt a risk-scoring system that combines quantitative and qualitative indicators to reduce subjectivity in assessments. Thus, while the Clearance House retains its character as an instrument of state sovereignty, its implementation can be more transparent, accountable, and in line with the principles of the rule of law (*rechtstaat*). These efforts will ultimately strengthen the legitimacy of Indonesian immigration policy at the national and international levels, while ensuring that protection of national security does not compromise fundamental principles of law and human rights.

Conclusion

The conclusion of this study confirms that the Clearance House mechanism in the calling visa policy is a concrete manifestation of state sovereignty in controlling the flow of foreigners into Indonesia. Based on Law Number 6 of 2011 concerning Immigration and Regulation of the Minister of Law and Human Rights Number 2 of 2024, the state normatively has full legitimacy to implement a selective immigration policy as a form of risk-based entry control. Within the framework of Jean Bodin's theory of sovereignty, the state's authority to determine who may enter and who may be denied entry is an essential attribute of the state's supreme power. The implementation of the Clearance House through the Visa Assessment Coordination Team (TKPV) demonstrates that Indonesian immigration policy has transformed from a mere administrative function into a strategic instrument that integrates legal, security, intelligence, and geopolitical aspects. However, this study also found that the multidimensional nature of IPOLEKSOSBUDHANKAM parameters leaves room for subjectivity in the assessment process, potentially leading to inconsistencies and challenges to the principles of legality, proportionality, and accountability in state administrative law.

Based on these findings, concrete and systematic corrective measures are needed to strengthen the legitimacy and effectiveness of the Clearance House mechanism. The government needs to develop more measurable, indicator-based standard operating procedures for interpreting IPOLEKSOSBUDHANKAM parameters, so that the assessment process does not rely solely on subjective interpretation. Furthermore, transparency mechanisms need to be developed by providing clear reasons (reasoned decisions) for each visa denial, as well as opening up oversight through legal mechanisms, including the possibility of judicial review in state administrative courts. Strengthening inter-agency coordination within the TKPV must also be supported by an integrated information system and an evidence-based policy approach to minimize bias and increase decision consistency.

Thus, the Clearance House mechanism not only functions as an instrument of state sovereignty, but also as a policy that is accountable, transparent, and in line with the principles of the rule of law (*rechtstaat*) and respect for human rights amidst the dynamics of global mobility.

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