

The Role of the Police in the Legal Protection of Indonesian Migrant Workers (PMI) and the Crime of Trafficking in Persons (Human Trafficking) in the Batam City Area

Jonariko Simamora^{*)}

^{*)} Faculty of Law, Universitas Islam Sultan Agung Semarang, Indonesia, E-mail: jonariko.std@unissula.ac.id

Abstract. *Protection for Indonesian Migrant workers still requires more attention, in 2018 with the issuance of the Minister of Manpower Regulation Number 18 of 2018 concerning Social Security for Indonesian Migrant Workers. This study aims to determine the efforts of the government and also the Riau Islands regional police to eradicate human trafficking against Indonesian workers, including issuing various legal instruments, conducting bilateral, regional and multilateral cooperation, especially destination countries for TKI placements, and cooperating with non-governmental organizations. The government's efforts to provide legal protection to TKI victims of human trafficking are by providing restitution and compensation, counseling services and medical services or assistance. Legal assistance and provision of information as well as ensuring the fulfillment of the rights of TKI victims of human trafficking, such as confidentiality of identity to the right to receive rehabilitation. The city of Batam, one of the cities in Indonesia, located in the Riau Archipelago Province, is one of the gateways for the entry and exit of goods and services from Indonesia to neighboring countries such as Singapore, Malaysia, Thailand and others.*

Keywords: *Effectiveness; Human; Trafficking.*

1. Introduction

The State of Indonesia is a legal state based on Pancasila and the 1945 Constitution (hereinafter referred to as the 45th Constitution), which upholds Human Rights (hereinafter referred to as HAM), and provides guarantees to every citizen to have equal status in law and government without there are exceptions (equality before the law) law is a set of rules, both written and unwritten which intend to maintain order in society so that it can be orderly and

peaceful and in accordance with its actions. Human rights are basic rights and basic rights that humans have been born with as a gift from God Almighty and form the basis of other rights and obligations. and equality rights which cannot be violated by anyone. The embodiment of Indonesia as a country that upholds human rights has been regulated in Articles 27 to 33 of the 1945 Constitution.¹

Indonesia is one of the countries with the largest population in the world. In 2019, Indonesia's population is counted at 267 million people. Based on data from the Indonesia Global Workers Report, in 2016, the number of Indonesian migrant workers working abroad was recorded as more than 9 million people, with 3/4 of them being low-skilled workers. Of the 9 million migrant workers, around 32% work as housemaids or babysitters, 19% agricultural workers, 18% construction workers, 8% factory workers, 6% elderly nurses, shop/restaurant/hotel workers, 2% drivers, and 0.5% cruise ship workers. Even though this crime has been going on for a long time, in practice it continues to expand widely following technological developments.²

Indonesian Migrant Workers (hereinafter referred to as TKI) have a large impact and contribution to the country's economy, but many problems arise from sending these migrant workers. The Indonesian government is considered to have failed in providing protection and providing them with basic human rights.³

Protection for Indonesian Migrant workers still requires more attention, many Indonesian migrant workers often receive unfavorable treatment and some of them are caught in several cases that threaten the death penalty and some have even been sentenced. This is a job for the government to be able to guarantee safety at work and provide protection or legal assistance for Indonesian workers both at home and abroad, because basically every country is supposed to provide guarantees for rights, opportunities and protection for every its citizens without any discrimination in any way there is no obstacle for every Indonesian citizen to get protection by the government.⁴

The Police of the Republic of Indonesia is a law enforcement unit that maintains

¹Johan Silalahi, Juli Esther, & Jinner Sidauruk, "Police Efforts in Overcoming the Crime of Trafficking in Persons (studies in the North Sumatra Regional Police)", PATIK; Journal of Law, Vol. 7 No. 2, 2018, p. 100

²Safrida Yusitarani and Nabitatus Sa'adah, "Juridical Analysis of Legal Protection for Migrant Workers Victims of Human Trafficking by the Government", UNDIP Law Masters Study Program, Journal of Indonesian Legal Development, Vol. 2 No. 1, 2020, p. 25

³Daniell, Wibhawa, & Budhi, "Human Trafficking in East Nusa Tenggara", Social Work Journal, Vol. 7, No. 1, 2018, p. 25

⁴Rahmi Ayunda, et al, "Effectiveness of Government Policy Concerning Social Protection of Indonesian Migrant Workers; Legal Studies in the Riau Archipelago Province", Justisi, Vol. 7 No. 2, 2021, p. 90

and enhances law and order and together with all other national defense and security forces fosters public tranquility within the territory of the state in order to realize security and public order and is one of the institutions or bodies to investigate and resolve all cases of violations laws that are widespread among the community in general. Article 2 of the Law of the Republic of Indonesia Number 2 of 2002 concerning the Indonesian National Police clearly states that the function of the police is one of the functions of the state administration in the field of maintaining public order and security, law enforcement, protection, protection and service to the community. One part of the police that is in accordance with its function is the investigator. Investigators are one of the functions of the police whose job is to carry out investigations to find confidential information, often called the secret police. In this case investigators have a big role in disclosing criminal acts that occur a lot in society, one of which is uncovering criminal acts of trafficking in persons.⁵

In addition, the Indonesian National Police uses preventive efforts, namely by conducting socialization in the community, such as inviting the community to work together to protect each other around the environment, inviting the community to coordinate if they see a crime of trafficking in persons to immediately report it to the authorities; circulate brochures (appeal) to all layers of society whose contents urge people not to be easily tempted by people acting on behalf of certain agencies to offer jobs and in brochures for the Indonesian National Police explaining the effects of trafficking. This is so that it can reduce the high number of criminal acts of trafficking in persons that occur all the time.

Migrant workers who were repatriated were not all in good condition, but were already in deplorable condition both physically and mentally. The government continues to make efforts so that Indonesian workers can be provided with definite protection and guarantees wherever Indonesian workers are located, one way for the government to overcome this is by issuing policies related to the protection of Indonesian workers, one of which is by issuing Minister of Manpower Regulation No. 2018 concerning Social Security for Indonesian Migrant Workers (PEMNAKER No. 18 of 2018) which is one of the efforts to provide social protection to all Indonesian migrant workers and aims to minimize problems related to Indonesian workers.⁶

Riau Archipelago Province is one of the provinces that has a fairly large distribution of migrant workers and its territory is very close to the borders of Singapore and Malaysia, this condition makes it easier for migrant workers to access and work in these neighboring countries, both legally and illegally. . The

⁵Op. Cit Johan Silalahi, Juli Esther, & Jinner Sidauruk, p. 112

⁶Hanifah, "The Role and Responsibilities of the State in the Legal Protection of Troubled Indonesian Migrant Workers Overseas", DE LEGA LATA: Journal of Legal Studies, Vol. 5 No. 1, 2020, p. 23

number of migrant workers in the Riau Archipelago Province from the 2018 period totaled 1,224 people, then in 2019 there were 1,043 people, and in 2020 there were 54 people (Indonesian Migrant Worker Protection Agency, 2021).

The problem of poverty that continues to make many people want to work abroad through a fast and easy route. But unfortunately, this causes them to become victims of human trafficking because they do not go through procedures according to applicable law. Exploitative experiences are also often experienced by undocumented migrant workers. There are two main causes of undocumented migrant workers. The first is through illegal migration, most of them are poor people who cannot afford the expensive migration fees if they go through the official legal process. Second, legal workers who run away from their employers because their employers withhold all their documents.

2. Research Methods

To conduct research in this writing, the authors use the normative juridical method. Writing specifications are carried out using a descriptive analytical approach. The data used for this writing is secondary data. To obtain the data in this writing, secondary data collection methods were used which were obtained from literature books, laws and regulations, as well as the opinions of legal experts. The data that has been obtained is then analyzed by qualitative analysis.

3. Results and Discussion

3.1 Legal Protection for Indonesian Migrant Workers (PMI) Victims of Human Trafficking

Various studies and reports from a number of NGOs state that Indonesia is still a source area for trafficking in persons, as well as a transit and receiving country. At least 10 provinces in Indonesia were identified as sources, 16 provinces were used as transit points, and at least 12 provinces as recipients. There has not yet been found an accurate figure for the number of women and children who are victims of trafficking in persons in Indonesia. The available data varies from 74,616 people to 1 million per year. Around 199 people have been arrested and 5,668 people suspected of being victims of human trafficking have been returned to their homeland. Many victims are afraid to report crimes of human trafficking to local state officials, because of the possibility of deportation and also the possibility of retaliation from the perpetrators.⁷

The government must be serious and work hard so that the number of human

⁷Akbar, "Legal Review and the Government's Role in the Crime of Trafficking in Persons (TPPO) in Karimun and Batam Regencies", Selat Journal, Vol. 5 No. 2, 2018, p. 145

trafficking can be reduced. However, on the other hand, the government has also opened the faucet for sending migrant workers abroad, where this has become an opportunity or one of the factors causing human trafficking. It is recorded that there are approximately 10 laws and regulations made from the national to regional levels as the government's political will to prevent and deal with this problem, but the fact is that the government's political will has not brought about significant changes.⁸

Based on data from the International Organization for Migration (IOM) and Anti-Trafficking Non Governmental Organizations (NGOs), an estimated 43%-50% or around 3-4.5 million Indonesian migrant workers become victims of human trafficking. Based on identification results, 90% of the 3,840 trafficking victims were women and 56% were exploited as domestic workers. Human trafficking generally occurs due to high levels of poverty, unemployment and limited job opportunities, as well as the difficulty of obtaining an education so that it is easier for traffickers to lure victims by becoming migrant workers and being lured by high pay and a better life. Besides the above factors, Cultural factors and a consumptive lifestyle due to high globalization are also the reasons for the easy recruitment of victims by traffickers. Victims were sent to many countries such as Singapore, Malaysia, Brunei Darussalam, Hong Kong, Taiwan, Korea, Japan, Australia, the Middle East, England, to countries in Europe.

They are trafficked to become laborers, sexually exploited, and even become victims of organ sales. This business can be easily carried out by traffickers due to the large number of transportation routes both land and sea that are not well guarded and these areas are directly adjacent to neighboring countries such as Singapore and Malaysia (Utami, 2017). A large number of Indonesian women migrant workers who are victims of trafficking suffer abuse and violence, including sexual harassment, poor working conditions, long working hours, and debt bondage.⁹

The crucial problem in eradicating the criminal act of trafficking in persons is that there is still a patriarchal culture in which women are not equal to men and there are still limited career opportunities for women. The paradigm regarding the ability and professionalism of women has not been considered equal to men, women are still considered as subordinates in the family. In many cases there is still a culture of shame or taboo on reporting the abusive treatment of husbands towards wives, children and women in their environment and so on.

Related to workers, legal protection is defined as safeguards so that workers can

⁸Ibid Akbar p. 150

⁹Putri Utami, "The Indonesian Government's Efforts to Overcome Human Trafficking in Batam", *Journal of International Relations*, Vol. 5 No. 4, 2017, p. 1256

do decent work for humanity. Efforts to provide protection to workers are one of several ways that must be done to create conditions so that workers can carry out their rights and obligations and of course create a harmonious working atmosphere.¹⁰The functions of legal protection that can be provided by representatives of the Republic of Indonesia include preventing or correcting discriminatory practices from placement countries against the state and its citizens, providing assistance or services to citizens who violate legal regulations abroad, and providing legal protection and assistance. .¹¹

Basically, forms or models of protection for victims of crime can be given to victims of the crime of trafficking in persons, in order to be able to explore the forms or models of legal protection that can be given to victims, namely as follows: (1) Provision of Restitution and Compensation, (2) Counseling Services and Medical Services/Assistance, (3) Legal Aid, (4) Provision of Information.¹²

International Organization for Migration Indonesia or IOM Indonesia has become one of the key actors and partners of the Indonesian government in eradicating human trafficking. As part of its Victim Assistance Program, IOM Indonesia provides return, recovery and reintegration assistance to Indonesian and foreign victims through the “victim assistance fund” program. Reintegration assistance includes programs for physical and mental health care, temporary shelter, family counselling, educational assistance, livelihood assistance and legal assistance. Assistance is provided through referral mechanisms in cooperation with more than 80 countries and non-states. Between 2005 and 2013, IOM Indonesia assisted more than 6,432 victims of trafficking in persons together with its partners.

In addition to protection, the law also provides rights to victims of human trafficking in the form of the right to keep the victim's identity confidential, the right to get protection from threats that endanger their lives and/or property. This also includes the right to receive restitution, the right to obtain rehabilitation, health, social rehabilitation, return and social reintegration from the government. Victims who are abroad have the right to be protected and repatriated to Indonesia at state expense. Meanwhile, legal protection for TKI victims of trafficking at this time places more emphasis on fulfilling the rights of victims. Such as getting legal assistance from a local lawyer appointed by the ambassador of the Republic of Indonesia in a receiving country for TKI, assistance by psychologists and clergy, bringing victims' families, compensation, and

¹⁰Bambang, J, *Employment Law*, Bandung: Bandung Faithful Library, 2013, p. 39

¹¹Rudi, T. May, *International Law 2*, Bandung: PT Refika Aditama, 2009, p. 35

¹²Mansur, Dikdik M. Arief, Gultom, & Elisatris, *The Urgency of Crime Victim Protection Between Norms and Reality*, Jakarta: Raja Grafindo Persada, 2007, p. 57

insurance claims.

3.2 Police Efforts in Tackling the Crime of Trafficking in Persons (Human Trafficking) in Batam City

Indonesia has clearly and firmly regulated the criminal act of trafficking in persons which is contained in Law Number 21 of 2007 concerning the Eradication of the Crime of Trafficking in Persons. In Law Number 21 of 2007 in Article 2 it is stated that: "everyone who recruits, transports, accommodates, sends, transfers, or receives someone with threats of violence, use of violence, kidnapping, confinement, falsification, fraud, abuse of power or position vulnerable, debt bondage or giving payments or benefits even though obtaining consent from a person who has control over another person, for the purpose of exploiting that person in the territory of the Republic of Indonesia, shall be subject to imprisonment for a minimum of 3 (three) years and a maximum of 15 (fifteen) years and a minimum fine of Rp. 120,000,000.00 (one hundred twenty million rupiah) and a maximum of Rp. 600,000,000.00 (six hundred million rupiah).

Law enforcement of the crime of trafficking in persons is played by the police, as stipulated in Law Number 2 of 2002 Article 2, which states that "the function of the police is one of the functions of the state government in the field of maintaining public order and security, law enforcement, protection, protection and service to the community." Based on the elucidation of Article 2, the function of the police must pay attention to the spirit of upholding human rights, law and justice. Article 5 paragraph 1 of Law Number 2 of 2002 reaffirms the role of the Police, namely: "The National Police of the Republic of Indonesia is a State instrument that plays a role in maintaining public security and order, enforcing the law, and providing protection, shelter and service to the public in the context of maintaining internal security".

Based on the provisions above, it seems explicitly stated that one of the roles of the Indonesian National Police is law enforcement. Law enforcement is one of the main tasks that must be carried out by members of the Police. Meanwhile, the role of the Police in efforts to criminalize trafficking in persons is one way through the prevention and eradication of criminal acts of trafficking in persons.

As for the factors that cause the crime of trafficking in persons, the data that the authors obtained from the Riau Islands Police are as follows:

1. Economic Factors. One of the reasons for the crime of trafficking in persons is due to the background of economic factors where victims are easily influenced and believe in the lure of a job offered by someone without looking into the ins and outs of the job being offered. So that becomes one of the factors of human trafficking.

2. Family factors are not harmonious. In this factor the role of the family is also very influential in the occurrence of trafficking in persons, usually the victims come from families with broken homes (loss of attention from parents and family). So that victims do not get attention and affection.

3. Victims of sexual abuse at an early age. This factor is also one of the causes of trafficking in persons because they have been victims of sexual abuse at an early age so that victims feel frustrated by the events they have experienced.

Several modes are often used by traffickers, one of which is the trend of recruiting Indonesian migrant workers in Malaysia with the lure of Umrah, Religious Pilgrimage to Mecca, Saudi Arabia which takes place throughout the year. However, when they arrived in Saudi Arabia, the Indonesian migrants were trafficked elsewhere in several countries in the Middle East. There were also those who were initially recruited with offers of work in restaurants, factories, or as housekeepers before they were forced into prostitution. Various promises, comfort and high salaries are also separate advertisements made by the network of perpetrators to recruit victims.

In this discussion, the author raises research on human trafficking located in Batam City, Riau Archipelago Province. Batam City is famous for being a very strategic city and has sea borders with Singapore and Malaysia. This causes Batam to often become a stopover for tourists and traffickers. One of the humanitarian activists in Batam, Paschalis said that the government was not serious in dealing with cases of trafficking in persons in Batam City, Riau Islands so that there were still many Mafia trafficking on the prowl. Especially during the current pandemic, the squeezed people's economy is one of the triggering factors for human trafficking in Batam City.¹³

According to Arie Darmanto (Director of General Crime of the Riau Islands Regional Police, Chief Commissioner), cases of trafficking in persons are difficult to eradicate because of sectoral egos and the level of the economy of the Indonesian State which triggers the presence of mafia trafficking.

Table 1: Suspects of TIP in Batam City (Kepri Police Data, 2021)

YEAR	SUSPECT
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¹³Syailendra, P. (2021). The Case of Trafficking in Persons in Batam: Struck in the Economy in the Middle of a Pandemic. (<https://nasional.tempo.co/read/1452721/kases-perdagang-orang-di-batam-terhimpit-ekonomi-di-tengah-pandemi/>, Accessed on 25 August 2022)

2017	7
2018	17
2019	6
2020	18

There are several factors that trigger the emergence of human trafficking, among others; There is a poverty factor that makes these people willing to do things that are not normally done, a lack of supervision of human trafficking cases, and there are weaknesses in recording child birth certificates. Usually the perpetrators of human trafficking carry out their actions in various modes. And the targets of this mode are usually minors. Victims of perpetrators of human trafficking are usually used as slaves, or forced to serve, as well as prostitution activities.¹⁴

Table 2: The mode of the Trafficking in Persons case in the Riau Islands (Head of the BP2MI Tanjungpinang Technical Implementation Unit (UPT) for the Riau Islands Mangiring Sinaga region, 2021)

TYPE	MODE
PMI-Non-Procedural/No Documents	The victim traveled through the rat port located in Bintan, Mata Ikan Bay, Nongsa, Galang Island, Sebong Bay and Sungai Kecil.
PMI Non-Procedural through the Agency	The victim departed via official channels but used an illegal agent/ The victim used a traveler's passport.

¹⁴Dadang, A, "Criminal law policies in preventing and dealing with the crime of trafficking in children and women study at the Banyumas Regional Police", Thesis on the Unseod postgraduate program, Purwokerto, 2010, p. 1

Independent PMI	Usually the victim is brought by his own family
PMI Passing/Seasonal	The victim used a residence permit of 20 days to work

Human trafficking is a violation of human rights for minors because it includes activities of sexual violence, threats, torture so that victims want to be traded in order to obtain fantastic profits. So that there are violations of human rights for minors because they experience harassment and are forced to do any activities that should not be done. The number of TIP cases from year to year is always increasing, especially during the current pandemic. IOM data noted that in 2019 there were 318 cases and this has increased to 400 cases in 2020. The number of victims of child trafficking is 80% exploited sexually.¹⁵

Table 3: The number of victims taking shelter in the Trauma Center Protection House (RPTC) (Kendar Umi Kulsum, 2021)

YEAR	TOTAL VICTIMS
2017	1,291
2018	490
2019	761

Furthermore, other efforts in tackling and preventing TIP child protection can be carried out through 2 (two) legal policies, namely Penal and Non Penal Policies. The definition of Penal Measures itself is a policy of criminal law in the form of an arrangement to carry out countermeasures against a criminal act. Indonesia made Law No. 21 of 2007 concerning the Eradication of Trafficking in Persons as a legal umbrella. UUTPPO has ties with other laws in dealing with cases of trafficking in persons, namely Law no. 35 of 2014 on Amendments to Law no. 23 of 2002

¹⁵Kendar, UK (2021), "Data and Facts of Trafficking in Persons in Indonesia", (<https://kompaspedia.kompas.id/baca/paparan-topik/data-dan-facts-perdatangan-orang-di-indonesia>. Accessed at August 27, 2022)

concerning Child Protection.¹⁶

While the definition of Non-Penal is a preventive effort that is to prevent something from happening and reduce the occurrence of a crime. Usually in non-penal legal remedies the things that are considered are the factors that cause TIP in Indonesia. In tackling TIP crimes, there are 2 steps of non-penal efforts that can be taken, namely: Preventive Efforts. In this effort it aims to take precautions in order to minimize the occurrence of criminal acts and can add insight to the community so that they understand the crime of trafficking in children, especially for groups that are considered vulnerable.¹⁷

Efforts can be made by carrying out an outreach to the community regarding the explanation of the crime of trafficking in persons and the laws that regulate it and also provide an understanding to women, especially minors, so that they do not easily fall prey to and become one of the victims of TIP. Furthermore, in the handling process it is necessary to carry out an order and supervision of the place of work service providers that are illegal and do not have legal permission. An example is a nightclub, this place is usually used as a place for human trafficking. The targets used as victims are minors and women, then victims will be used as prostitutes by the trafficking mafia. Especially in the current pandemic situation,

One of the preventive efforts that have been carried out by the City of Batam is the Riau Islands KPPAD to expand the Child protection network to all child Institutions/organizations in the regions and at the center. The forms of the network are SKPDs for fulfilling children's rights at the provincial, district/city Riau Islands levels, then there are law enforcers who take an active role, there are non-governmental organizations.¹⁸ Repressive Efforts. Can be interpreted as an action to deal with criminal acts but after the crime has occurred by imposing punishment as law enforcement. This effort aims to make criminals feel a deterrent effect on their actions and are afraid to repeat their actions. This effort is usually carried out in the form of investigations, courts, and finally a court decision in accordance with Law no. 21 of 2007 concerning the eradication of criminal acts of trafficking in persons.

4. Conclusion

The government's efforts to eradicate human trafficking in Indonesian workers include issuing various legal instruments ranging from the constitution to

¹⁶Barda, N. A, Anthology of Criminal Law Policies, Semarang: Fajar Interpratama, 2011, p.45

¹⁷Rani, K. W, & Levina.Y, "Legal Protection of Girls as Victims of Human Trafficking", Vol. 21 No. 1, 2021, p. 129

¹⁸Raissa, L, & Yuli. F, "Implementation of the International Convention on the Rights of the Child (Convention on The Rights of The Child) in Indonesia (Case study: Violations of Children's Rights in Riau Islands Province 2010-2015)", Vol. 4 No. 1, 2017, p.7

implementing regulations, cooperating bilaterally, regionally and multilaterally with other countries, especially destination countries for Indonesian migrant workers. In providing legal protection to TKI victims of human trafficking, the Indonesian government provides restitution and compensation, counseling services and medical services/assistance, legal assistance and provision of information as well as ensuring the fulfillment of the rights of TKI victims of human trafficking, such as confidentiality of identity and the right to receive rehabilitation.

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