LEGAL PROTECTION OF VICTIMS OF TRAFFICKING IN PERSONS IN INDONESIA (A REALITY IN EAST INDONESIA)

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ABSTRACT

Trafficking in persons is an act that is inhumane and is a serious problem that must be resolved immediately. Indonesia is no longer a transit country but has also become a destination country for shipments and a sending country for victims of trafficking in persons. The mode that can occur in cases of trafficking in persons is through the Indonesian Migrant Workers mode. A person who is a victim of trafficking in persons is usually lured into working abroad with a large income. Trafficking in persons is a form of transnational crime, where there is usually involvement of people abroad and activities that occur across national borders. This research is a qualitative research with the research locus in Kupang, East Nusa Tenggara and also in Jakarta. The purpose of this study is to find out how the process of sending victims of trafficking in persons and the reasons why someone becomes a victim of trafficking in persons is, and how the law is implemented in Indonesia.

Keywords: Legal Protection, Victims, Trafficking in Persons

INTRODUCTION

Trafficking in persons is a form of transnational crime that is increasingly occurring within and across national borders, making it increasingly difficult to predict. This can also be likened to an iceberg phenomenon, which looks small on the surface but is large at the bottom. This can be interpreted, the numbers hidden under the surface are much larger than those seen on the surface (Utami Penny Naluria, 2019). In less than 10 years, Indonesia has become not only a sending country for victims and a transit point, but also a destination country for traffickers to traffic in victims from outside Indonesia (Prawira Adam, 2018 dalam Toruan Gerald Theodorus Lumban, 2019).

Based on the current reality, women and children are the category most victims of the crime of trafficking in persons. Victims are trafficked not only for the purpose of prostitution or other forms of sexual exploitation, but also include other forms of exploitation, for example: forced labor or forced services, slavery, or practices similar to slavery (Sumirat Iin Ratna, 2017). Cases of trafficking in persons are increasing because the amount of profit earned by the perpetrator is very large. According to the United Nations, the crime of trafficking in persons is one of the 3rd largest criminal companies in the world which generates around 9.5 million USD in annual taxes, and this criminal enterprise is closely related to money laundering crimes (Makhfudz M, 2103).

The mode of occurrence of trafficking in persons is dominated by offering potential victims to work abroad, traffickers usually make promises that attract the attention of potential victims, luring them with a large salary abroad. Victims of trafficking in persons usually come from poor families. For the area around East Nusa Tenggara, from time immemorial there has been a principle among the people of NTT that they must change their fate in any way, be it legally or illegally.
The desire for someone to work abroad to become an Indonesian migrant worker is caused by the lack of employment opportunities in the country. Those who do not have sufficient education find it difficult to compete with those who have education, so in the end those who do not have education take shortcuts to become Indonesian migrant workers. Situations like this are used by certain elements to gain profits from victims of trafficking in persons.

The practice of human trafficking has existed since the dawn of human civilization. Slavery can be seen as the historical root of human trafficking. At that time, slavery was accepted as part of the prevailing norms in society. Slavery was present in almost all ancient civilizations in the world, including Asia, Africa, Europe, America, the Middle East and in the Mediterranean (Kathryn, 2009).

Human Trafficking is one of the crimes in the world, which is a threat to society, nation and state, as well as to norms and violates human rights. The rise of trafficking in persons is the impact of poverty, low levels of education and limited employment opportunities as well as the lack of socialization of regulations related to the crime of trafficking in persons (https://www.dpr.go.id/doksetjen/document/minangwan-seminar-Human-Trafficking-Human-trafficking-1432261240.pdf).

Indonesia itself is known as a source country, a transit country, as well as a destination country for human trafficking. As a source country, based on a 2019 report by the US Department of State Human Rights, it was stated that Indonesian women and children were trafficked for sexual and labor exploitation to Malaysia, Singapore, Brunei, Taiwan, Japan, Hong Kong and the Middle East. Victims are trafficked from villages to big cities for sexual exploitation and made into underage workers (Abdullah, 2017).

According to an expert from the Witness and Victim Protection Agency (LPSK), Syahrial Hartanto, said that victims of trafficking in persons were dominated by women, based on data from the IDIC in 2021 there were 210 victims of trafficking in persons, the details of the victims were 75 men and 135 people women (Tribunnews.com, 2021). Looking at the data from the LPSK, it is clear that the problem of trafficking in persons is not a light problem and during the Covid-19 pandemic, cases of trafficking in persons still emerged in Indonesia. Meanwhile, in the year before 2020, cases of trafficking in persons increased to 400 cases, where in 2019 there were 231 cases. According to data from the International Organization of Migration, some of the victims are women and children (Liputan 6.com, 2021).

The Crime of Trafficking in Persons is a crime against humanity whose root causes are complex, varied with modes that continue to develop. For this reason, in an effort to eradicate trafficking in persons, synergy and harmonization are needed from all relevant parties, ranging from families, communities, educational institutions, businesses, community institutions and government institutions at the village, district, city, provincial and central levels (Kemenppa.go id, 2019).

Based on the explanation above, the researcher feels that it is necessary to conduct a study to look at the phenomenon of trafficking in persons in Indonesia, especially in eastern Indonesia, therefore the researcher takes the title of the study entitled "Legal Protection of Victims of Trafficking in Persons in Indonesia (A Reality in Eastern Indonesia). The formulation of the problem in this research is: How can someone become a victim of trafficking in persons and how is the legal protection provided by the government?
RESEARCH METHOD
This research is a qualitative research using a descriptive approach, while the data collection methods are interview, literature study and observation. Researchers conducted interviews with informants who came from ministries and institutions that were directly related to trafficking in persons, researchers also conducted direct observations and met with victims of trafficking in persons in Kupang, East Nusa Tenggara.

RESULT AND DISCUSSION
Legal Protection Theory
According to Satjipto Raharjo, legal protection is to provide protection for human rights that are harmed by others and that protection is given to the community so that they can enjoy all the rights granted by law. The theory of legal protection is a theory that examines and analyzes the form or purpose of legal protection, protected legal subjects and the object of protection provided by law to the subject. The elements listed in the theory of legal protection include:

- There is a form or form of protection;
- Legal subjects;
- The object of legal protection.

Theoretically the form of legal protection is divided into 2 (two), namely protection that is preventive (prevention) and repressive.

Causes of Trafficking in Persons in Indonesia:

- a) The visa-free policy and visa-on-arrival facilities are intended to invite as many foreign tourists as possible to visit Indonesia. This policy opens up opportunities for foreigners to take advantage of entering Indonesia to trick Indonesian citizens, especially women and children, for example pretending to teach English so that sexual harassment occurs, or worse, being kidnapped or trafficked abroad. In addition, there is another mode that most often occurs in this TIP case, which is contract marriage. Many tourist areas in Indonesia have a high contract marriage rate;
- b) The difficulty of eradicating the mafia of trafficking in persons, considering that many government officials are involved;
- c) Human trafficking cases tend to be hidden. The government does not have exact data on the number of TIP cases that occurred in Indonesia, because there are still many victims who do not want to report, besides the data from each K/L is different, there is no national data unit;
- d) Lack of awareness of parents about the dangers of TIP, especially at the grassroots and in rural areas, who are often tempted by the lure of large sums of money that will be earned if their children go abroad;
- e) Brokers who are looking for TIP victims to villages, village heads and village officials are tempted to give approval for false data, such as age, address, etc. for making documents (KTP, etc.) for potential victims;
- f) Prevention efforts that have been carried out so far, such as socialization and education, are still not sufficient. Efforts are mainly aimed at grassroots and rural communities so that they have sufficient understanding and literacy of the dangers of Human Trafficking.

The mode used by Human Trafficking actors is generally related to the lure of working abroad with a high salary:

- a) Sending female migrant workers;
- b) Delivery of Domestic Helpers (PRT);
c) Sexual exploitation;  
d) Slavery;  
e) Bride of the order;  
f) Child labor;  
g) Harvesting organs;  
h) Adoption of children;  
i) Bondage;  
j) Become an ambassador for arts, culture and language;  
k) Forced labour;  
l) The abduction of children or adolescents;  
m) Internet crimes, such as virtual courtship.

The Current Condition of Trafficking in Persons in Indonesia

Human trafficking in Indonesia has many characters, the common ones are those who are the first leaders, meaning that the person becomes a migrant worker and then experiences trafficking. The word trafficking is not only getting bad treatment, but also when they don't get a salary. The second pattern is people who are intended to be directly sent as victims of trafficking in persons. Indonesia is one of the sending countries for trafficking in persons. Foreign countries that mostly use victims of trafficking in persons are Malaysia, Taiwan, Saudi Arabia, Japan and China. The third pattern is those who work in the plantation or construction sector, most of whom are from eastern Indonesia.

The character of the people of eastern Indonesia are those who want to change their fate by looking for work abroad, most of them work in Malaysia, especially in Sabah and Sarawak in the plantation sector. Then the fourth pattern is in the fisheries sector or those who are crew members (ABK) which are usually in Taiwan. The problem that exists in Indonesia today is that Indonesia is not only a source country, but is now also a transit and destination country.

Public Understanding of Trafficking in Persons.

Communities in villages, especially in poor and disadvantaged areas, already know about TIP, have been given a lot of counseling and have also posted an announcement on the dangers of TIP by the local government, but if parents have children, they are given 2 million rupiah to give their children to traffickers. people, the parents will give their children because of economic factors.

DISCUSSION

Trafficking in Persons in East Nusa Tenggara

In NTT, the issue of migrant workers leaving illegally abroad is quite worrying, starting from being illegal in the end these migrant workers become victims of Human Trafficking, then the issue of migrant workers who die abroad is also a concern. The mindset of the people in NTT is that they want to improve their fate by working abroad, by whatever means they must be able to go abroad. Close family such as parents or uncles are the main keys in Human Trafficking. Parents give permission to brokers who are looking for children to be given abroad, besides that uncles also play a role in which uncles send children who are victims of Human Trafficking abroad.

One of the factors that make TIP difficult to eradicate is the lack of common legal perception. Law Enforcement Officials have different views and do not understand the definition of human trafficking and then do not fully understand the derivative factors of a human trafficking case.

The existence of trafficking in persons in NTT is influenced by the most prominent economic factors, the income of the people of NTT is low, in addition to the lack of available
job opportunities in NTT, many NTT people have thoughts of working abroad in any way including illegal ways. In addition to economic factors there is also an educational factor, the level of education in NTT is relatively low. The victims of TIP in NT mostly come from children who only graduated from elementary and junior high schools, these victims do not have sufficient knowledge and also understand that they are made objects of human trafficking.

The victims of Human Trafficking are Indonesian Migrant Workers who work abroad, especially in Malaysia. At first the PMIs worked legally, then because of violence from their employers and their salaries were not paid, they ran away from home and then worked again in other people's homes without incomplete documents through brokers who were abroad. Victims of TIP who come from NTT usually do not meet the requirements to work, are not old enough to be employed, then the residence documents are falsified and there is the involvement of the Office of Occupation and Civil Registration in NTT to make fake ID cards.

Adelina Lisao Case

This case caught the public's attention, because Adelina Lisao was a victim of Human Trafficking from NTT who died in Malaysia as a result of being abused by her employer. Adelina Lisao has gone became an Indonesian Migrant Worker twice in Malaysia, the first time she went through official and safe procedures to work in Malaysia. After a few years in Malaysia, he returned home to NTT, then departed again for the second time but non-procedurally, without parental permission and departed through individual brokers. The broker who dispatched this claimed to be close to Adelina Lisao's family but in reality it was not true.

Adelina Lisao is from the South Middle East region which has very poor infrastructure and also a lack of job opportunities in this region. This situation made Adelina Lisao tempted and wanted to follow the brokers who sent her to Malaysia. In 2018 Adelina Lisao returned to NTT already in the form of a corpse in a coffin due to violence from her employer.

The Initial Process of Trafficking in Persons in East Nusa Tenggara

After going through the interview process with informants who are trusted and have expertise in the field of Human Trafficking, it can be explained that the initial process of Human Trafficking is as follows;
The picture above can be explained as follows; the first stage is the existence of a big boss who has a lot of funds to get victims of Human Trafficking; then the second stage is the big boss providing funds to companies in Kupang to find a number of Human Trafficking victims wanted by big bosses abroad; third phase; this company cannot directly recruit to the regions; fourth stage; they need field officers to find and recruit victims of Human Trafficking. These field officers will be given capital by the company to recruit victims of Human Trafficking. Usually the victims are 15-20 years old, the capital provided is for betel nut money and also money for making money fake documents such as ID cards; field officers can directly recruit to the villages or villages or can also recruit more subordinates to help collect the requested Human victims. Human Trafficking victims are usually valued at Rp. 30,000,000, - per person for those who managed to bring the victim.

**Human Trafficking Law Enforcement**

According to Lawrence M. Freidman, the effectiveness of law enforcement is influenced by 3 factors, namely; Legal substance; Legal structure; and legal culture. The following will explain one by one the real conditions of law enforcement for TIP in NTT according to Lawrence M. Freidman's theory:

1) Legal Substance;  
The existing Human Trafficking law is substantially clear enough to regulate TIP, starting from the recruitment process to placement in the destination area, not only that for restitution, it has also been regulated in the TIP Law and until now this law still relevant.

2) Legal Structure;  
The legal structure based on Law Number 8 of 1981 concerning the Criminal Procedure Code is starting from the Police, the Prosecutor's Office, the Court and the Criminal Implementing Body (Lapas). The authority of law enforcement agencies is guaranteed by law, so that in carrying out their duties and responsibilities they are free from intervention by government power and other influences. The law will not work if there are no law enforcement officers who have credibility, competence and independence.  
In the case of Human Trafficking, especially in NTT, there are law enforcement officers who are not credible and also do not work independently. This is evident from several interviews with informants in NTT who said that starting from the police there were certain elements who were trying to close the ongoing Human Trafficking case.

3) Legal Culture.  
Legal culture is related to legal awareness, in Human Trafficking, the people of NTT know the dangers of trafficking in persons after the occurrence of a Human Trafficking case. As long as it hasn't happened, they still think it's normal, and the mindset of the NTT people who always want to migrate to change their fate will affect the legal culture that is built, some even feel ready to become victims of Human Trafficking as long as they can become Indonesian Migrant Workers abroad.

**CONCLUSION**

Based on the explanation and analysis that has been presented above, the researchers in this study can conclude that a person becomes a victim of trafficking in persons due to family economic factors, which usually come from poor families, besides that they are also
uneducated so they are easily deceived by unscrupulous persons. As for the problem of law enforcement for trafficking in persons, it has not gone well, there are still law enforcement officers who do not understand and master the laws and regulations governing trafficking in persons.

REFERENCES


