The Phenomenon of Human Trafficking in Indonesia: A Case Study in Kupang, East Nusa Tenggara, Indonesia

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Abstract

Human trafficking cases are now a serious problem in Indonesia. This problem has reached remote areas. Victims of People Trafficking Crimes (TPPO) come from low-educated and poor families. The beginning of this victim is because an invitation from someone, usually from the family itself persuades the prospective victim to work in the land of people in the hope of earning a large income to change the family life. Most of the TPPO victims are about 15-20 years old and do not finish school, they are tempted by the promise of working abroad. In reality, what is promised is not realized. Kupang is one of the many regions in Indonesia that is the largest TPPO victim sender area in Indonesia. TPPO cannot be eradicated because of the involvement of Law Enforcement Officials in Indonesia, in addition to the lack of understanding of law enforcement officials related to the use of TPPO legislation. This study uses a qualitative method with a case study approach, the location of data collection is in Kupang, East Nusa Tenggara. This study concluded that TPPO law enforcement in the area is still not running to the maximum, some shortcomings occur in the field in addition to the inconsistency among law enforcement officials. As for the recommendations of this study is the need to provide intensive training for Law Enforcement Officers to have a good understanding of TPPO, the head of law enforcement officials must dare to dismantle the mafia practices of people trafficking in their institutions.

Keywords: Phenomenon, Human Trafficking, Kupang.

A. INTRODUCTION

Indonesia in the past 10 years has not only become a source of sending countries and transit places for victims of people trafficking but also has become a destination country for people traffickers to trade victims from outside Indonesia (Prawira, 2019). Today, most countries in the world have experienced trafficking in persons, albeit in different modes. Some countries are the destination of people trafficking, transit countries, or countries where human trafficking occurs.

People trafficking today is one of the models of modern slavery, violating the dignity and dignity of a human being and also violating the humanistic side in general,
therefore the country that will take legal policy in law enforcement efforts must be oriented towards human rights protection.

The mode of people trafficking that often occurs in Indonesia is through the Agent of the Indonesian Labor Service Distributor (PJTKI). Other forms of people trafficking in Indonesia are child trafficking, human smuggling, pressured migration, child prostitution, adult female prostitution, forced sex work, domestic helpers, etc. TPPO is widely occurring in Indonesian regions such as Menado, Batam, Nunukan, Talaud, Kupang, and Medan.

The International Organization of Migration (IOM) said that Indonesia ranks first in the number of TPPO victims or 79.25 percent. Malaysia is the main destination for the "entry" of TPPO victims. TPPO, still according to IOM data, is widely done by recruitment agencies, or by visa abuse modes such as for umrah, a pilgrimage, or even tourism (Kemenko PMK, 2017. According to the International Organization for Migration (IOM), it is said that the number of TPPO victims in Indonesia in 2005-2017 was 8876 people (www.indonesia.iom). Women became the first victims of people trafficking, then minors reached 15%, then some men were victims of TPPO who worked on foreign fishing boats.

Meanwhile, the Indonesian Child Protection Commission (KPAI) stated that the number of TPPO cases targeting and exploiting children until August 2019 reached 154 cases. This trend is quite worrying, according to KPAI children as victims are framed through social media. The average victim is employed then exploited and becomes a victim of prostitution in apartments located in major cities of Indonesia. Boys are mostly victims of Child Commercial Sexual Exploitation (ESKA), and marital prostitution (bespoke brides, serial marriages, and contract marriages). As can be seen below:

Table 1 Victims of Child Commercial Sexual Exploitation (ESKA)

| Case                  | Year |
|-----------------------|------|
|                       | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 |
| Trafficking Victims   | 27   | 52   | 43   | 75   | 55   | 72   | 58   | 65   | 5    |
| Child Prostitution    | 16   | 27   | 60   | 83   | 117  | 112  | 104  | 93   | 1    |
| Victim                |      |      |      |      |      |      |      |      |      |
| ESKA Victims          | 59   | 37   | 51   | 46   | 72   | 69   | 89   | 80   | 5    |
| Victims of Child Labor| 58   | 57   | 30   | 59   | 102  | 87   | 96   | 91   | 4    |
| Exploitation          |      |      |      |      |      |      |      |      |      |
| Total Child Cases     | 160  | 173  | 183  | 263  | 345  | 340  | 347  | 329  | 15   |

Source: KPAI 2019

The dangers of people trafficking begin to enter into remote areas even to areas that fall into the poor category. One of the areas that became the object of this research is East Nusa Tenggara Province (NTT) especially in the Kupang region, both cities, and
districts. Crime and the threat of people trafficking have been an issue that has always been hot in NTT in recent years. In recent years, NTT ranked first, said to be an area famous for victims of people trafficking crimes.

Eradicating people trafficking in NTT is not easy and has been a concern of various circles. The Ministry of Social Affairs signaled that the problem of Indonesian Migrant Workers (PMI) in NTT has reached a critical point so that the handling step becomes urgent with all relevant stakeholders (Ever, 2017). The trafficking of people in NTT is currently said to be dangerous because many NTT citizens, especially 15-year-old girls who are used as migrant workers in Malaysia, Singapore, Taiwan, and other countries.

Referring to the background that has been described above by the author can be identified the problem in this study is the many modes of TPPO that occur in Indonesia through the services of the Indonesian Labor Supplier, then the target victims of TPPO are children aged 15-20 years who have limited knowledge and education. NTT especially Kupang became one of the cities/districts that took a lot of victims TPPO, the average of these victims came from poor families and low-educated. This real condition causes the number of TPPO victims to come from NTT and also most of them are victims of fraud from the next of kin who initially lured to work abroad and get a large salary.

Law enforcement issues are also the main focus in efforts to eradicate people trafficking crimes, the presence of certain persons who help and participate in the smooth trade of people in NTT. In addition, the problem that is rooted in Kupang is the problem of the mindset of people who want to change their fate in any way including it being an Indonesian Migrant Worker either legally or illegally.

The condition of law enforcement against people trafficking in Indonesia can be said to have not gone with ideal where this can be seen in the news in the media in Indonesia both in print and electronic media there are many cases of trafficking people identified as victims of TPPO but for tplo actors, it is difficult to be touched because seeing the modus operandi performed turns out that this perpetrator is already an accomplice, more than one person and corporate, then at the time one perpetrator was found more difficult to process to the court to get sanctions Pidanya because in terms of proof must refer to the criminal procedural law that is the Criminal Procedure Law that says that a judge can not give a criminal to a person unless there are at least two tools of valid evidence, and the judge has a belief that a criminal offense actually occurred and that the guilty defendant did so, as mentioned in article 183 of the Criminal Procedure Law (Kamea, 2016).

On this basis, researchers conducted a study with the title Phenomenon of People Trafficking in Indonesia (Kupang Case Study, NTT), researchers consider that the phenomenon of people trafficking has become a serious concern in Indonesia, almost every year there are cases of people trafficking.
B. METHOD

Researchers use qualitative methods, according to Strauss and Corbin in the book Prof. Dr. Afrizal, M.A "Qualitative Research Method, An Effort to Support the Use of Qualitative Research In Various Disciplines" he defines qualitative research methods are types of research whose findings are not obtained through statistical procedures or other forms of calculation.

This research is descriptive research with a case study approach. Descriptive research is a study that aims to describe in detail a problem in an area chosen by the researcher or at a certain time. The author tries to reveal the facts in the field by the rules of existing research.

Through case study research, the "cases" studied can be expressed in detail and thoroughly and not only about their characteristics, but also through the process of finding the characteristics of the cases chosen by the researchers. This case study research explains and reveals the case that is used as the object of the overall and comprehensive research (Arifianto, 2016).

Researchers collect data through observations, in-depth interviews, and library studies. This research was conducted from March to November 2019 and took locus research in Kupang, East Nusa Tenggara. The informants interviewed are relevant stakeholders as well as TPPO victims living in Kupang Regency and Kupang City, not only that the trafficking of people in the police, the following are research informants: 1) Ministry of Women Empowerment and Child Protection; 2) Indonesian Child Protection Commission; 3) Coordinating Ministry for Human Development and Culture; 4) LIPI; 5) Ministry of Manpower; 6) Sister Laurentina; 7) Sebania Buti; 8) Lusia da Silva; 9) Rudy Soik; 10) Kesbangpol NTT Province; 11) NTT Police; 12) NGO Women's House.

C. DISCUSSION

Law Enforcement

Jimly Asshidiqie said that law enforcement is a process of efforts to enforce and function legal norms in real terms as a guideline in behaving in public or state life. Judging from the subject, law enforcement can be done by a broad subject and can also be interpreted as law enforcement efforts by the subject in a limited or narrow sense. In a broad sense, a law enforcement process involves all legal subjects in any legal relationship. Anyone who enforces normative rules or does something or doesn't do something by basing themselves on the norms of the rule of law means he or she is running or enforcing the law. In a narrow sense, in terms of the subject, law enforcement is only interpreted as the efforts of certain law enforcement officials to
ensure and ensure that a rule of law runs as it should. In ensuring the establishment of the law, if necessary, law enforcement officials are allowed to use force.

Soekanto (2019) said that law enforcement is an activity of curating the relationship of values described in the rules or views of steady values and depreciative and action attitudes as a series of elaboration of the final stage values to create, maintain and maintain the peace of life association.

The definition of law enforcement according to Harun M Husen in his book can also be interpreted as the implementation of the law by law enforcement officers and by everyone who has interests by their respective authorities according to the rule of law. Criminal law enforcement is a whole process that begins with the stages of investigation, arrest, detention, the trial of defendants and ends with the correctional of a convicted (Husen, 1990).

Lawrence M Freidman asserts that the success or absence of law enforcement has a dependence on; legal substance; a legal structure or legal structure; and legal culture. The explanation is as follows:

**Legal substance:**

Freidman's theory is said to be a substantial system that determines whether or not the law can be implemented. The substance also means products produced by people who are in the legal system that includes the decisions they issue, the new rules they draft. The substance is also a living law (living law), not just the rules that exist in the law books). Indonesia is a country that adheres to the Civil Law system or continental European system affects the legal system in Indonesia, one of the influences is the existence of the principle of legality in the Criminal Code.

**Legal structure/legal structure:**

This legal structure is referred to as a structural system that determines whether or not the law can be implemented properly. The legal structure based on Law No. 8 of 1981 on Criminal Procedural Law is initiated from the Police, Prosecutors, Courts and Criminal Implementing Bodies (Prisons). The authority of law enforcement agencies is guaranteed by law, so that in the implementation of duties and responsibilities regardless of the intervention of government power and other influences. The law will not run if no law enforcement officer has credibility, competent and independent. No matter how good a rule of law maybe, if there is no support from good law enforcement officials, justice is only an ideal. The weak mentality of law enforcement officials resulted in law enforcement not running as expected.
Legal culture:

Freidman encourages the culture of law in terms of human attitudes towards the law and the legal system of belief, values, thoughts, and expectations. Legal culture is an atmosphere of social thought and social power that determines how laws are used, avoided, abused. Legal culture has a close relationship with public legal awareness, the higher the legal awareness of the community, the more good legal culture will be created and can change people's mindset about the law during this time (Freidman, 1975).

Criminal Acts of People Trafficking

In the past, people trafficking was a symbol of social status, where people of high social class (economic, power, and political status) would certainly have slaves or slaves bought, meaning slaves were people who were bought and made slaves, servants, or jongos. In ancient times everyone who employed slaves would be considered a person of high social status, so this was a common thing, which did not need to be studied from scientific developments (Nuraeny, 2013).

In its history at first, the object of people trafficking was women. In ancient Greek society, women were used as a means of buying and selling transactions in the market, just like animal merchandise or other goods. The subsequent development of women in the ancient Greek era served as an impediment to sexual lust, women were completely worthless. This is evidenced in the famous legend in Greece, namely the story of the Goddess Aphrodite.

Indonesia has, regulations on people trafficking and has been regulated in Law No. 21 of 2007 on Eradication of People Trafficking Crimes (TPPO Law). In this law it is explained that what is meant by TPPO is "the act of recruitment, transport, shelter, delivery, transfer or receipt of a person with threats of violence, use of force, kidnapping, confinement, forgery, fraud, abuse of violence or vulnerable position, bondage or payment or benefit, thus obtaining the consent of the person in control of the other person, whether committed within the country or between countries, to exploit or cause people to be exploited".

Law No. 21 of 2007 also describes the scope of People Trafficking Crimes, namely:

1. Any action or set of actions that meet the elements of a criminal act specified in this law. In addition, this law also prohibits anyone who enters the territory of the Unitary State of the Republic of Indonesia (NKRI) to be exploited.
2. Bring Indonesian Citizens (WNI) outside the territory of the Republic of Indonesia for exploitation.
3. Raise a child by promising something or giving something for exploitation.
4. Sending children into or out of the country in any way and any person who uses or exploits TPPO victims using sexual intercourse or fornication, employing victims for exploitation or taking advantage;

5. Any person who provides or enters false information on state documents or other documents to facilitate TPPO;

6. Any person who gives false testimony, submits false evidence or false evidence, or influences witnesses unlawfully;

7. Any person who physically attacks a witness or officer at a TPPO court case; any person who prevents, obstructs, or thwarts directly or indirectly, investigations, prosecutions, and trials in court hearings against suspects, defendants, or witnesses in TPPO cases; anyone who assists the escape of TPPO perpetrators;

8. Any person who gives the identity of a witness or victim when it should be kept secret.

If it refers to the above definition, then there is no restriction that people's trade is only related to a certain gender or age. People trafficking is not a new phenomenon in Indonesia, and although the criminalization of this person's trade can be related to anyone, it often identifies it with the trafficking of women and children. This is quite reasonable because in many cases, victims of crowd trafficking come from women and children.

TPPO in NTT

TPPO in NTT originated from the issue of migrant workers who departed illegally abroad, starting from illegal in the end these migrant workers became victims of TPPO, then the problem of migrant workers who died abroad was also a concern. The mindset of the people in NTT is to want to improve their fortunes by working abroad, in any way they should be able to go abroad.

In 2018 105 PMI victims died in Malaysia, the cause of death due to work accidents; drunk; pain; until eaten by crocodiles. A total of 105 people were almost entirely nonprocedural PMI, then in 2019 until October 89 people became the death toll in Malaysia, where 100% is nonprocedural PMI. Nonprocedural PMI is the forerunner of TPPO in the PMI sector. Close family such as parents or uncles are the main keys in TPPO. Parents permit touts who are looking for children to be given abroad, in addition, uncle/om also plays a role where this uncle/om who sends the child victims TPPO abroad.

The tradition of betel nut money is used as a model for recruiters TPPO victims recruiters. This betel nut money is given to the parents of TPPO victims to permit their children to join touts working abroad. The amount of betel nut money varies, ranging from Rp. 500.000,- up to Rp. 2.000.000,-. If the tout gives betel nut money
and is accepted by the victim's parents then, there is a bond that indirectly the parents feel indebted to the TPPO recruiter touts.

The existence of people trafficking in NTT is influenced by the most prominent economic factors, NTT people's income is relatively low, in addition to the lack of available jobs in NTT resulted in many NTT people who have the mind of working abroad through legal or illegal means. In addition to economic factors, there are also educational factors, the level of education in NTT is relatively low. The victims of TPPO in NT mostly came from children who only graduated from elementary and junior high school, these victims did not have enough knowledge and also did not understand that they were used as objects of people trafficking.

Victims of TPPO in NTT are mostly promised at the beginning of working as Indonesian Migrant Workers (PMI) abroad, but in reality, they do not work as PMI abroad, many of them working in the prostitution sector and exploited abroad. The following are the pockets of regions in NTT that send Indonesian Migrant Workers abroad:

1. Sumba;
2. Soe;
3. Kefamenanu;
4. Kupang Regency;
5. Rote;
6. Atambua;
7. Malacca.

TPPO victims from NTT are usually not eligible for work, not old enough to be employed, then the residence documents are falsified and there is the involvement of the Occupation And Civil Records Service in NTT to create a fake ID card. The man has now been jailed.

The number of TPPO victims who have the status of Indonesian Migrant Workers returning to NTT has become a body, in 2018 there were 108 cases of coffins repatriated to NTT, then in 2019 until October amounted to 90 coffins. The bodies are from Ende, Sumba, Flores, and Rote.

The current condition of TPPO in NTT has decreased a lot since NTT was held by Governor Victor Laiskodat, he implemented a moratorium policy on sending NTT PMI abroad. The previous regional head did not make a moratorium policy, causing many cases of TPPO in NTT. The impact of TPPO on NTT residents.

**Trauma**

Trauma is a psychological problem that afflicts an individual or group for a traumatic act. These types of trauma can come from acts of violence, torture, and other repressive acts that exert psychological distress. NTT residents, especially the
women who were victims experienced deep trauma, alienation, and social problems due to the experience experienced. Social problems in the form of psychological pressures affect social activities and interactions in the community.

Violence and Death Toll.

The accumulation of problems arising from torture and violence experienced by victims of human trafficking presents a variety of social problems in society. Especially the problem experienced by TPPO victims in NTT is not only psychological pressure but more extreme can cause the victim to die.

TPPO Law Enforcement in Kupang

Law enforcement in dealing with TPPO cases should be based on several laws, namely Law no. 21 of 2017 on PTPPO, Criminal Code, KUHAP, and several other legal regulations. Law enforcement officials have been using the Criminal Code (Criminal Code), to ensnare cross-border human traffickers (trafficking) whose networks are expanding. Law enforcement using the Criminal Code makes TPPO victims become a suspect. In the case of trafficking people like sex workers, for example, those who are victims of trafficking networks are instead punished for peddling sex.

So far, law enforcement related to TPPO issues in the region is still relatively weak, the weakness here in the sense of understanding the Law Enforcement Officials against the use of TPPO laws has not been fully implemented, then also the restitution costs that should be paid to the victims have not been realized. Most TPPO cases use the Migrant Worker Protection act injunctioned to the Child Protection act, not entirely the TPPO law. The use of migrant workers protection law because most of the victims of TPPO come from Indonesian Migrant Workers.

The implementation of Law No. 21 of 2007 on The Eradication of People Trafficking (PTPPO) is still very weak beyond ideal expectations. There has been no coordination and understanding between law enforcement agencies related to the handling and enforcement of cases that require the movement of one language, uniform and simultaneously in the fight and eradication of TPPO cases through an integral and quality criminal justice process so that there are still differences in perception between law enforcement officials (APH) in defending victims of TPPO. One of the weaknesses of TPPO law enforcement in Kupang is the presence of law enforcement such as police, prosecutors, and judges who already understand and master the articles of the TPPO Law including recruitment patterns, elements supporting TPPPO but must be mutated to other places and the replacement of the transferred APH does not understand TPPO then has not controlled the NTT area so
that if there is a new TPPO case then this apparatus will have difficulty in handling the TPPO case.

Law enforcement is still colored by unhealthy games conducted by people or groups of people (syndicates, mafia courts) involved in the scenario of setting cases in all stages of the judicial process, even the arrangement of cases that occurred at the time before the TPPO case was reported to the police, therefore there are many differences in the number of cases coming from the community with the number of cases that go into the stage of the criminal justice process. So it is a fairness of the TPPO case that has a large echo, but in reality, it becomes less and less and even becomes no case that is processed and brought to justice.

Law Enforcement Officials (APH) have been having difficulty to collect evidence of TPPO victims, such as the example of someone who is not yet 17 years old but made an id card to be 20 years old where the birth certificate in question has been withheld by touts or may also have been discarded, then the manufacture of KTP is not made in the origin city of TPPO victims but in other cities, such as in Surabaya, Medan, and Batam. The prosecutor always asks the police investigators to collect the original evidence if the KTP documents are fake, the prosecutor refuses to accept documents duplicated with the legalization stamp from the village.

D. CONCLUSION

Based on the explanations that have been conveyed above about TPPO law enforcement in NTT, especially in Kupang, it was found that law enforcement officers involved in the TPPO case, this involvement can be in the form of the investigation process until it enters the court. In addition, there are also officials in NTT who help create false identities.

People trafficking in NTT has been in the form of a network and so far only the touts in action in NTT, for agents or companies have not been caught even to the big bosses who in Malaysia have not been revealed. In terms of the ability of law enforcement officials to apply articles related to TPPO to date, some have not mastered the legislation governing TPPO, there is a case of TPPO but using migrant worker protection laws.

This study concludes that TPPO law enforcement, especially in Kupang, can be said to have not gone as expected, some things must be seriously improved especially in the Law Enforcement Apparatus itself, no matter how good the law is made if there is no integrity for professionals in enforcing the law then the existing laws will be useless at all.

The results of this study provide advice for 1) Law Enforcement Officials who have mastered TPPO should not be mutated first; 2) The need for training to equalize the
perception of TPPO among Law Enforcement Officers; 3) The need for restrictions on PMI shipments in the region; 4) Local governments need to provide TPPO hazard counseling in the community massively.

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