



Preventive Protection for Indonesian Migrant Workers as Part of an Effort to Prevent Human Trafficking in Johor Bahru Malaysia

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Abstract

The issues of Indonesian migrant workers are interminable; practically all bordering countries, including Malaysia, are destinations for Indonesian migrant workers. Administrative issues, salary disparities, exploitation, and human trafficking are all issues that Indonesian migrant workers encounter abroad. As the country's representative, the Embassy/Consulate General of the Republic of Indonesia plays a vital role in defending Indonesian migrant workers and Indonesian nationals overseas. The government's legal protection normally begins with document registration, followed by preparation, training, and placement. This study used a normative strategy with a statutory and case approach. Preventive protection takes the form of providing protection based on Law Number 21 of 2007 about TIP, Law Number 18 of 2017 concerning PMI Protection, and Malaysian Law in Deed 670 concerning the Anti-Trafficking in Persons and Anti-Migrant Smuggling Deed 2007. The Consulate General of the Republic of Indonesia Malaysia provides legal protection for Indonesian employees who are victims of illegal acts of human trafficking through both litigation and non-litigation routes.

Introduction

Human trafficking is a modern kind of worker/person enslavement. Human trafficking is one of the transnational crimes that is an important problem that requires immediate and severe action. "Transnational crime happens when more than one country is involved in the preparation and execution of a crime" (Laily & Subekti, 2019). Human trafficking laws are more precisely defined in Law Number 21 of 2007 Concerning the Crime of Trafficking in Persons. There are currently several examples of human trafficking that have piqued the interest of many, particularly among Indonesian Migrant Workers who work overseas, such as Indonesian migrant workers in the informal sector such as House Maids. The responsibility of the Indonesian government in protecting Indonesian migrant workers should be consistent with current legislation. According to Article 54, paragraph (1) of the Law on the Eradication of the Crime of Trafficking in Persons, "In the event that the victim is abroad requiring legal protection due to the criminal act of trafficking in persons, then the Government of the Republic of Indonesia, through its representatives abroad, is obliged to protect the victims' personal and interests, and endeavor to return the victims to Indonesia at the expense of the state." However, reality indicates that not all Indonesian migrant workers or Indonesian residents who are victims of human trafficking can be deported in compliance with existing regulations (Munthe, 2015). Given a large number of Indonesian migrant workers abroad, as well as a large number of Indonesian migrant workers entering foreign countries without complete administrative evidence, proper procedures, or following legal recommendations, Indonesian State Representatives must make greater efforts to protect Indonesian migrant workers through repatriation or rehabilitation if they must go through legal routes. The same incident happened to Indonesian migrant laborers in Malaysia's Johor Bahru. Human trafficking is a type of

transnational crime that is becoming more common in modern times (Fadilla, 2016). Legal protection for Indonesian migrant workers overseas, both lawfully and illegally employed, must be provided both preventively and repressively. According to Philipus M. Hadjon, there are two types of legal protection:

Preventive Legal Protection

Is a legal subject or can also be called a legal entity, is allowed to file an objection or opinion before a government decision gets a final form. The purpose of this protection is to prevent disputes from occurring. Preventive legal protection means a government action that is based on freedom of action because, with the existence of preventive legal protection, the government is encouraged to be careful in making decisions. In Indonesia, there is no specific regulation regarding preventive legal protection itself. In other words, there are no specific rules governing preventive prevention.

Repressive Legal Protection

is a legal protection that aims to resolve disputes that have occurred in the environment. The parties that handle and provide legal protection are the General Courts and Administrative Courts in Indonesia. The principle of legal protection against government actions rests and originates from the concept of recognition and protection of human rights. Referring to the Law on the Protection of Indonesian Migrant Workers, it is stated that all employment risks (Suci Flambonita, Abdul Rachmad Budiono, Iwan Permadi, 2019) experienced by individual Indonesian migrant workers are the responsibility of the workers themselves (Suhardin, 2008). Such a statement makes Article 54 Paragraph (1) of the Criminal Act of Trafficking in Persons inconsistent and does not follow the current field conditions. A policy that harmonizes the rules on the protection of Indonesian migrant workers with the Law on the Eradication of the Crime of Trafficking in Persons is required by material law (Nugroho, 2018). In this scenario, all Indonesian migrant workers who have legal issues have the authority to preserve their rights. The declaration in Article 54, paragraph (1) of the Law on the Eradication of the Crime of Trafficking in Persons that "protection of state representatives is in the form of facilities for the settlement of labor issues" can be strengthened. As the State Representative, the Consulate General of the Republic of Indonesia in Johor Bahru Malaysia must protect Indonesian migrant workers (which in the following discussion will be shortened to the Consulate General of the Republic of Indonesia in Johor Bahru Malaysia). According to the Government of the Kingdom of Malaysia, the number of legal Indonesian migrant workers (the entry with complete documentation and procedures) is now estimated to be 1.1 million persons split over Peninsular Malaysia and East Malaysia (Sabah and Sarawak). Another 600,000 to 800,000 persons are estimated to be in the country illegally. However, given Malaysia's relatively broad area, the true number is likely to be substantially greater than the current numbers. In addition, there are still around 30,550 students, 5,000 expatriates, 200,000 Permanent Residence status holders, and 2 million Indonesian tourists every year.

Table 1. Number of Indonesian Migrant Workers Processed by the Indonesian Consulate General in Johor Bahru.

Year	Number of PMI based on data of KJRI Johor Bahru Malaysia
2017	42.521 People
2018	43.211 People
2019	36.117 People
2020	40.321 People

Source: Consular Data of the Indonesian Consulate General in Johor Bahru Malaysia, 2020

Based on the data from the Consulate General of the Republic of Indonesia Johor Bahru Malaysia, it can be observed that the Consulate General of the Republic of Indonesia Johor Bahru Malaysia handles a large number of cases in both the formal and informal sectors. Furthermore, there are numerous and various issues. The occurrence of human rights cases involving Indonesian migrant workers/Indonesian workers have captured the attention of numerous countries, and even the entire world (Munthe, 2015). Human trafficking continues to occur in numerous circles due to a lack of public understanding that every human being has the same dignity and degree without distinction (Rahmi, 2018). This lack of education has persisted until today without being avoided or addressed. The motivation for the crime of human trafficking is essential to make the culprit a significant profit by committing crimes against humans. Economic factors are typically exploited by perpetrators to influence their victims, allowing the perpetrators to fulfill their respective roles and tasks as seekers and providers of services/people to be trafficked. These parties collaborate in a syndicate and conceal themselves so that they are not as visible in society, even though they are sometimes aware that their actions injure and harm other people. Human trafficking is a crime that is forbidden by law and international organizations because it is a unique crime whose victims require specific protection since the victim is traumatized not only by the criminal but also by the employer's behavior and actions while working (Suci Flambonita, 2017).

Malaysia is a strategic location for committing small to serious crimes due to its proximity to Indonesia, particularly in the south. Many Indonesian migrant laborers aspire to work in Malaysia, particularly in the Johor Bahru area of responsibility. Aside from Johor Bahru, Malaysia is a neighboring country to Indonesia and a developed country with a culture that is nearly identical to Indonesia's. Furthermore, Indonesian migrant workers are widely sought after and required in Malaysia since Indonesian employees are renowned to be industrious, hardworking, and unfussy. This makes Indonesian migrant workers eager to work in Malaysia, even if it is through routes that are not in conformity with the regulations and laws (Shasta Pratomo, 2014) When it comes to Indonesian migrant workers who select Malaysia, one of the main reasons is that it is close to Indonesia. In terms of everyday language, Malaysia shares enough similarities with Indonesian to be easily understood by Indonesians. Another reason why many Indonesian workers prefer to work in Malaysia is that their habits are nearly the same. The key motivator for Indonesian migrant workers to work in Malaysia is a high salary/wages combined with the lowest feasible departure fees. This encourages Indonesian migrant workers to compete to enter the country with the nickname of this neighboring country in various ways, both legal and illegal (individual).

Methods

The study method employed was normative legal research, which is research that is based on existing legislation as positive legal norms. In addition, the researcher attempts to describe, explain, and analyze the legal protection provided by the Consulate General of the Republic of Indonesia in Malaysia to Indonesian employees who are victims of human trafficking. The researcher also investigates whether the applicable legal requirements are suitable in light of what is happening in the community. A statutory method and a case approach were used in the research.

Results and Discussion

Preventive Legal Protection

Preventive legal protection is a type of legal protection offered by the government to avoid a violation from occurring. This takes the shape of government policies as well as internal policies implemented by protection organizations to protect Indonesian migrant workers while

they are abroad. Preventive protection can be defined as a series of efforts or a sequence of acts aimed at preventing future infractions or departures from present laws.

Based on the Government of the Kingdom of Malaysia, the number of legal Indonesian migrant workers now estimated to be 1.1 million persons split over Peninsular Malaysia and East Malaysia (Sabah and Sarawak). Another 600,000 to 800,000 persons are estimated to be in the country illegally. However, given Malaysia's relatively broad area, the true number is likely to be substantially greater than the current numbers. In addition, there are still around 30,550 students, 5,000 expatriates, 200,000 Permanent Residence status holders, and 2 million Indonesian tourists every year. Malaysia is a strategic location for committing small to serious crimes due to its proximity to Indonesia, particularly in the south. Many Indonesian migrant laborers aspire to work in Malaysia, particularly in the Johor Bahru area of responsibility.

Preventive protection by law can take the following forms:

Socialization

Socialization is a type of preventive protection that is also legally mandated. However, in practice, even Article 58 of Law Number 21 of 2007 has not been able to enhance the types of prevention that have been implemented. As a result, many Indonesian migrant workers continue to enter the country where they work via individual/illegal means, despite the lack of standards and equipment (Fadilla, 2016).

Given the enormous number of Indonesian migrant workers that work through illegal or informal channels, no additional socialization is offered. The socialization provided is typically limited to internal topics, such as who will be their employer's boss. This certainly makes the socialization process carried out by the necessary institutions difficult, if not fruitless. Even while the Indonesian government may have taken an effort to avoid it by performing socialization in areas where the domination of Indonesian migrant labor is lawful or illegal, this is insufficient given the difficulty of sending prospective Indonesian migrants. When difficulties arise overseas, officials of the Indonesian state must, of course, resolve them. Such an incidence is highly overlapping with current law. The author was aware of this when she completed an internship at the Consulate General of the Republic of Indonesia in Johor Bahru, Malaysia, at the end of 2019. This is also limited since the Indonesian Consulate General in Johor Bahru Malaysia, as the guardian of Indonesian residents overseas, must prepare and acquire prior approval from the company's superiors or the employer of the Indonesian migrant worker. The socialization activities are intended to help increase the knowledge of Indonesian migrant workers working overseas. In this instance, the company and the employer must ensure that the first recruit employees through legal channels and then follow the proper administrative procedures.

Information Dissemination

This form of information dissemination is carried out by the Indonesian Consulate General in Johor Bahru Malaysia, such as providing information online through social media Instagram, Facebook, and the website of the Consulate General of the Republic of Indonesia, Johor Bahru Malaysia. This effort was made because many of these cases led the government to take not only repressive measures but also preventive actions through laws, even though in reality the forms of prevention in the law were not fully implemented. This is because the situation and condition of prospective Indonesian migrant workers or Indonesian migrant workers who have limited access to technology and information such as cellphones and access to knowledge in terms of social media are very minimal. Regarding information dissemination, this has been

explained in Article 8 Paragraph (3) of Law Number 18 of 2012 concerning the Protection of Indonesian Migrant Workers.

The active role of the Indonesian Consulate General in Johor Bahru Malaysia regarding information dissemination is by making articles regarding the activities of the Consulate General of the Republic of Indonesia Johor Bahru Malaysia in dealing with political and consular issues through the website <https://kemlu.go.id/johorbahru/id> which can be accessed by all parties in Indonesia. anywhere and anytime. However, the situation on the ground has not yet reached all Indonesian migrant workers and prospective Indonesian migrant workers. This is a special concern that should be watched out for and used as a reminder for Indonesian citizens, especially Indonesian migrant workers (Nugroho, 2018).

Human trafficking has always been a sensitive topic to broach. Furthermore, as the country's representation, the Consulate General of the Republic of Indonesia, Johor Bahru, Malaysia, has carried out the mandate of written legislation through various other organizations to spread information. According to Article 60 of Law Number 21 of 2007, "the community plays a role in assisting efforts to prevent and handle victims of the crime of human trafficking." Community engagement is critical since the environment is always a position that everyone uses to learn and understand anything.

International Cooperation

International collaboration can sometimes be classified as bilateral or multilateral. This type of international cooperation has long existed between nations. The most well-known type of international collaboration between Malaysia and Indonesia nowadays is the MoU (Memorandum of Understanding). Since 2016, the two countries' memorandum of agreement has expired. This demonstrates that the Consulate General of the Republic of Indonesia, Johor Bahru, Malaysia, has handled criminal actions of human trafficking in various ways. Various kinds of cooperation are created as a result of the arrest of Indonesian residents in places prone to human trafficking, such as the Pasir Gudang area and other areas, where financiers/brokers/senders of illegal migrant workers end up.

Although human trafficking is difficult to abolish and overcome (Services, U.S. Department of Health and Human, 2003), preventive actions like this one have a long-term connection to repressive protection (Suhardin, 2008). However, this International Cooperation also results in the repatriation of Indonesian migrant workers, which is also legal. As a result, both nations, Malaysia and Indonesia, must support the law and international cooperation in dealing with Indonesian migrant workers who enter Malaysian territory on their own, particularly Johor Bahru Malaysia.

Conclusion

Preventive protection is provided by conducting information dissemination and dissemination, as well as international cooperation, as an effort of the Consulate General of the Republic of Indonesia Johor Bahru Malaysia to carry out the protection mandated by Law Number 21 of 2007 concerning TIP, Law Number 18 of 2017 concerning Protection of PMIs, and the Malaysian Law in Deed 670 concerning the Anti-Trafficking Deed and Anti-Smuggling of Migrants 2007. Training activities are carried out in partnership with numerous relevant entities to prevent the crime of human trafficking. Furthermore, preventive measures are in the form of a policy of the Consulate General of the Republic of Indonesia, Johor Bahru Malaysia, to receive online reports on Indonesian labor issues.

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