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Protection for Women and Children Victims of Trafficking Based on PTPPO Indonesia and APOAPM Malaysia 2007: A Comparative Study

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Abstract:

Today, human trafficking especially on women and children is a global issue and known as a trans-national crime. This study aims to reveal the laws concerning protection for women and children victims of trafficking in Indonesia and Malaysia. As a result, the research found that 5 out of 7 indicators showed that Indonesia is better than Malaysia in protection for trafficking victims. First, the consistency in Law implementation, second, provides shelter and training, third, assistance before the court; fourth, providing counseling, the last is restitution. Meanwhile, there is an indicator showed that Indonesia as well as Malaysia in sanction for illicit agent of the migrant worker. Furthermore, the only indicator which showed that Malaysia is better than Malaysia is in the number of trafficking case which sent to the court. As conclusion, researcher recommends revising APOAPM 2007 Malaysia. It is necessary, not only to protect all trafficking victims but also make the relationship between Indonesia and Malaysia better especially in providing protection for trafficking victims in their own territory.

Keywords: *Human trafficking, victims, protection, comparative study*

1. Introduction

Universal Declaration of Human Rights states that everyone has the right to work, the right to choose a job, and are entitled to the terms of a fair and profitable work. However, in essence the community effort to obtain employment and decent life as defined by the Human Rights did not show satisfactory results (Achie Sudiarti, 2007). Attempts to obtain a job and a decent life many causes of women and children caught up in human trafficking. Their situation is very sad, their rights are violated, there are imprisoned, abused and forced to work against their will. They live in a situation of fear and feelings of survivors. It is contrary to human rights and a violation of the Criminal Code (Venny Andriana, 2003).

Through the UN Human Rights Commission to conduct research for two years and has published a book Crime & Servitude (Global Survivors Network, 1997). Of this study obtained some significant results, among which are:

1. syndicates trafficking in women and children gain about 7 billion dollars each year specifically from the sex trade.
2. Every day, thousands of women and children from remote areas deceived by the sweet promises to get an interesting life and work abroad.
3. Through different transportation equipment, greater part of them were sent to Germany, Switzerland, Japan, Macau and the United States, either legally or not.
4. Trafficking in women and children continues to rise because they lack the attention of the government and people are reluctant to talk about it (with impunity). It further noted that the trafficking of women and children is caused by the weakness of the law enforcement system, poverty, lack of education, gender differences, debt guarantees and domestic violence (Girl Arifia, 2003).

Victims in general promised a better life with a job and an adequate salary. In fact, they are used as prostitutes, forced laborers, domestic workers, and beggars. Various means are used to exploit the victim, such as threats, violence, and fraud. The number of women and children who are forced into prostitution around the world do not have accurate data. This is because there has been no detailed study and complete. However, according to a UNICEF report, worldwide there are 1.2 million women and children are trafficked for commercial sex work. Approximately 40% of that number are children who are minors.

This situation has received considerable attention in both the high unitary Republic of Indonesia and Malaysia's kingdom the adoption of Act PTPPO 2007 Indonesia April 21, 2007, and in Malaysia APOAPM, Act was passed in 2007, which was renewed in 2010. In the two neighboring countries and has a law on the protection of victims of trafficking, especially women and children, the author has conducted a study that aims to determine how the business under the protection of victims of trafficking in women and children in

both countries, including analyzing the content of the law PTPPO 2007 2007 Indonesia and Malaysia APOAPM so known similarities and differences to add repair law can be beneficial to both countries.

2. Methodology Research

This study uses the study of normative law and sociology. Comparison of the law, is a method of study and investigation in which laws and legal institutions of two or more countries compared. This method gives attention to the contents of the analysis system of different laws in order to answer a variety of legal issues. For the analysis of the data used quantitative and qualitative approaches (mixed method). This method is chosen because it combined both methods is very relevant to where they are complementary data between one source to another source (Cresswell, 1998). Qualitative data collection used by interview. The respondents of this study is the people of Indonesia and Malaysia were selected using a sample that aims (purposive sampling). Respondents in this study consisted of 338 people, that is, 200 people in Indonesia, and 138 respondents in Malaysia were divided into five groups, namely Victim, Police, Immigration, Justice and NGOs.

| No | Status | Indonesia | | Malaysia | |
|----|--------------------|-----------|---------|-----------|---------|
| | | Frequency | Hundred | Frequency | Hundred |
| 1 | Victims | 54 | 27.00 | 15 | 10.87 |
| 2 | Police | 46 | 23.00 | 35 | 25.36 |
| 3 | Imigration Officer | 30 | 15.00 | 30 | 21.74 |
| 4 | Judge | 34 | 17.00 | 28 | 20.29 |
| 5 | LSM/NGO | 36 | 18.00 | 30 | 21.74 |
| | Total | 200 | 100.00 | 138 | 100.00 |

Table 1: Characteristics Responde

Table 1 show's in Indonesia 54 respondents (27%) were the victim. 46 people (23%) were the police. 30 people (15:00%) were the migration of employees. 34 people (17%) was the judge 36 people (18:00%) status as a member of an NGO or NGOs. Also respondents Malaysia 15 people (10.87%) was the victim, 35 people (25.36%) was the police, 30 people (21.74%) was the migration of employees, 28 people (20:29%) were the judge, and 30 people (21.74%) status as a member of the NGO. Thus, Majority of respondents Indonesia is the victim. That is, as many as 54 people (27%) and Majority of respondents in Malaysia is the police. That is, 35 people (25.36%). Minorities Indonesian respondents are employees of migration that is. As many as 30 people (15%) and Malaysia are victim's minorities respondents (10.87%). Also data has been collected through interviews, recorded and collected while the data obtained from the questionnaires were collected and analyzed based on the frequency distribution between the two countries, and after that compared with the conduct test-t to know the distinction, and the equation is then followed by levene's test to determine significant or not the distinction.

3. Research Result

To know the differences between the two countries Indonesia and Malaysia in terms of the protection of victims of trafficking, researchers using Test-T... Furthermore, to determine whether or not related distinction intended, followed by Levene-test with the provision that: a related distinction if a sig-2 tailt <0.05 and the distinction is not significant if the value of sig -2> 0.05.

| | County | N | Mean | Std deviation | Std Error Mean |
|--|-----------|-----|--------|---------------|----------------|
| The government consistently implement PTPPO 2007 Indonesia and APOAPM | Indonesia | 200 | 3.9300 | .79262 | .05605 |
| | Malaysia | 138 | 3.6232 | .73696 | .06273 |
| The Government is providing safe houses and training | Indonesia | 200 | 3.9200 | .81048 | .05731 |
| | Malaysia | 138 | 3.6594 | .67809 | .05772 |
| The government cancel the license agents are not responsible for sending the TKI | Indonesia | 200 | 3.5100 | .84467 | .05973 |
| | Malaysia | 138 | 3.5290 | .81224 | .06914 |
| The fact that there is not the same case with the case in court | Indonesia | 200 | 3.6550 | .76741 | .05426 |
| | Malaysia | 138 | 3.9928 | .84141 | .07163 |
| Do companion's victims in court by NGOs | Indonesia | 200 | 4.0050 | .79885 | .05649 |
| | Malaysia | 138 | 3.7029 | .93128 | .07928 |
| Provide protection and counseling to victims. | Indonesia | 200 | 4.0250 | .87335 | .07494 |
| | Malaysia | 138 | 3.7391 | .81982 | .05738 |
| Giving the judge's ruling compensation to victims | Indonesia | 200 | 3.9050 | .81196 | .05741 |
| | Malaysia | 138 | 3.5362 | .79377 | .06757 |

Table 2: Results of Test-T Protection of Victims

Based on the data in Table 2, note that;

3.1. Implement Consistent Government Act (X1)

From Table 2.1 above, it is known that there is a distinction between Indonesia and Malaysia. Indonesian X1 mean value (3.93) is greater than the mean value of Malaysia (3.62). This bererti superior THAT Indonesia Malaysia in terms of consistency to implement the law on trafficking in persons from Malaysia.

3.2. Provision of Safe House (X2)

From Table 2.2, it is known that in terms of providing a safe house, there is a difference between Indonesia and Malaysia. Indonesian X2 mean value (3.92) is greater than the mean value of Malaysia (3.65). This bererti superior THAT Indonesia Malaysia.

3.3. Cancellation of Permit Agent (X3)

From Table 2.3 above it is known that in the case of cancellation of license agents that do not comply with the law, the two countries Indonesia and Malaysia do not have differences. The mean value X3 Indonesia (3:51) equal to the mean value of Malaysia (3:52). This bererti-two country that both Indonesia and Malaysia have in common.

3.4. Number of Cases (X4)

From Table 2.4 above it is known that the number of cases-cases that there are up in court, there is a difference between Indonesia and Malaysia. Indonesian X4 means value (3.65) is smaller than the means value of Malaysia (3.99). This means THAT Malaysia superior in that situation to the Court.

3.5. Providing Assistance to Victims (X5)

From Table 2.5 above in mind that in terms of providing assistance to the victim at the time of the court, there is a difference between Indonesia and Malaysia. The mean values X5 Indonesia (4:00) is greater than the mean value of Malaysia (3.70). This means superior THAT Indonesia Malaysia.

3.6. Providing Protection and Counselling (X6)

From Table 2.6 above in mind that in terms of counseling for victims, there is a difference between Indonesia and Malaysia. The mean values X6 Indonesia (4:02) is greater than the mean value of Malaysia (3.70). This means superior THAT Indonesia Malaysia.

3.7. Providing Compensation to Victims (X7)

From Table 2.7 above it is known that in the case of the judge's decision on granting compensation to the victims, there is a difference between Indonesia and Malaysia. Indonesian X7 means the value (3.90) is greater than the mean value of Malaysia (3:50). This means that Indonesia is superior than Malaysia.

Furthermore, to know that there is a related difference or not, can be seen from the results of Levene's test with the provisions THAT: the distinction is related if sig (2-tailed) <0.05. Distinction is not significant if the value sig (2-tailed) > 0.05

| | Levene's Test for Equality of Variances | | t-test for Equality of Means | |
|--|---|------|------------------------------|-----------------|
| | F | Sig. | Sig. (2-tailed) | Mean Difference |
| The government consistently implement PTPPO Indonesia and Malaysia APOAPM | .270 | .603 | .000 | .30681 |
| The Government is providing safe houses and training | .330 | .566 | .002 | .26058 |
| The government canceled the license agents are not responsible for sending the TKI | .243 | .623 | .837 | -.01899 |
| Number of cases that there is not the same as the case is in court | .716 | .398 | .000 | -.33775 |
| Companion's victims in court by NGOs | 10.505 | .001 | .002 | .30210 |
| Government to provide protection and counseling to victims. | 1.350 | .025 | .007 | -.03413 |
| The decision Judge Gives Compensation to Victims | 1.554 | .213 | .000 | .36877 |

Table 3: Value Levene's Test

Table 3.1 will show above is known that there are six parameters that have a sign <0.05 die, five more significant in Indonesia, namely: 1) the consistency of implementing legislation, 2) provision of safe houses 3) assisting victims in court, 4) providing counseling, 5) provide compensation, while in Malaysia a more relevant as an illustration: 1) the number of cases, not the same as the case is in court. Where Malaysia ahead of Indonesia and there is a similarity between Indonesia and Malaysia that is, in canceling license agents is not responsible in sending workers.

Thus, based on the test-T, followed by Levene-test of safeguard's victims of trafficking in women and children between Indonesia and Malaysia can be summarized as follows:

1) In the case of consistently implementing legislation, Indonesia is significantly compared with Malaysia. This means superior Indonesia Malaysia In providing protection to victims of trafficking. Based on the above explanation, the researchers found consistent in implementing laws, including the Law on the Protection of humane trafficking of children needs to be done to avoid the increasing number of victims of humane trafficking.

2) In the case of the provision of safe houses, Indonesia is more significant compared to Malaysia. This means superior Indonesia Malaysia in providing protection to victims of trafficking of women and children. Furthermore, researchers found the provision of safe houses is very important not only to provide protection for the victims, but also as a portion of the recovery process of mental and spiritual those who have experienced stress and disruption after being trafficked human. overcomes the problem of lack of protection in Malaysia is expected to add kingdom safe house in every province and did not rule out the provision of safe houses by private parties.

3) In case of cancellation of an employment agency license no difference between the two countries. This was the two countries have the same effort in providing protection to victims of trafficking. Based on the above explanation, the researchers argue that supervision must still be done to the agent. According to Law No. 39 Years 2004 regarding the placement and protection of Indonesian workers abroad. Recruitment agency and the agency should be more careful in placing workers, including the falsification of documents or the identity of children. This can lead to company recruitment agency or the agency closed and subject to punishment.

4) If the number of cases there is the number of incoming cases, the court of Malaysia is more significant than Indonesia. This means superior Malaysia Indonesia. Based on the above explanation, the researchers found due to the lack of consciousness of law enforcement in dealing with victims of human trafficking and the fear associated with the legal community, and the culture of shame that is still high in the community. So, we need a friendly attitude of law enforcement in dealing with cases of trafficking of women and children and prevent corruption in handling the matter in court.

5) In terms of assistance, Indonesia is more significant compared to Malaysia. It is superior to Indonesia Malaysia in providing assistance to trafficking victims in court. Based on the above explanation, the researchers found the protection, and assistance should be in accordance with the universal declaration of human rights, which has been ratified by both Indonesia and Malaysia, as the realization that the implementation of the declaration is one of the government's commitment to rescue victims of trafficking who lay in the law with respect rights where their human rights as set out in human rights.

6) In the case of Indonesia counseling is more significant than in Malaysia. Means the provision of counseling services for trafficking victims superior Indonesia from Malaysia. Based on the above explanation, the researchers argue THAT important counseling for victims, especially those who have experienced depression and mental disorders as a result of the treatment they receive, either as illegal immigrants as well as trafficking victims. With the counseling of victims can socialize back in the community as well as the skills and expertise that it receives during counseling can be used to make a living in his life.

7) In terms of compensation, Indonesia is more significant compared to Malaysia. It is superior to Indonesia Malaysia in providing compensation. Based on the above explanation, the researchers argue compensation to victims is reasonable because the trafficking of women and children is a violation of human rights and transnational crime. It is expected the court to punish traffickers with severe punishment with an obligation to give compensation in the form of restitution and compensation for the suffering experienced by the victim. Compensation and redress no regulated in Malaysia Act 2007 should APOAPM adds a chapter to suit the purposes Unifersal ratification of the Declaration Of Human Rights.

Furthermore, researchers also conducted an analysis of the Contents Of The Law on the protection efforts of victims of trafficking of women and children who are owned by Indonesia (Law No. 21 of 2007 concerning PTPPO) and Malaysia (APOAPAM 2007). The study found no difference between these two laws, as shown in Table 4 as follows:

| No | PTPPO 2007 Indonesia | APOAPM 2007 Malaysia |
|----|---|---|
| 1 | Protection of victims executed by Act No. 13 of 2006 (Article 43) | Shelters governed by Article 42; 43; 44 (sub 2.3); 7 sub 1: c |
| 2 | Confidentiality Indentiti, set forth in article 44: 1; 2; 45; 46; 47. | Confidentiality Indentiti: Article 58 (c) |
| 3 | Restitution and Compensation: Article 48; 49 and 50. | There is no set should be added a clause in APOAPM Malaysia. |
| 4 | Rehabilitation of health: article 51; 52; 53. | Care and Treatment: Article 45; 46; 47; 48; 49. |
| 5 | Victims Protection abroad: Article 54; 55. | Protection orders: Article 51 (sub 2,3,4,5,6) |

Table 4: Content Analysis of Aspects Protection Act

Based on Table 4 above is known that the safeguards set out in the Deed PTPPO 2007, Indonesia and Malaysia have different APOAPM 2007

1. Deed PTPPO Indonesia in more detail in providing a guarantee of protection for the victim, that is, in addition to physical protection, (Article 51) the victim is also entitled to protection from the point of that is, a material that is to obtain restitution from the offender and receive compensation from the Kingdom. (chapters 48-50). Protection in terms of material there is no organized Malaysia should add a clause in APOAPM 2007, so that the protection of the victim not only physically but also in terms of protection in the form of matter.

2. In 2007, Indonesia PTPPO protection does not differentiate Indonesian citizens and strange nationals, while in 2007 the Deed APOAPM distinguishes between foreigners and native citizens who when strange nationals are trafficked protection granted only for 3

months, if the problem is not finished decided by Pengadilan, they are deported to their country in accordance with Law 1959/1963 Malaysian Immigration. Conversely, if a citizen original or preemption protection is given for two (2) years.

3. In terms of identity and confidentiality of medical rehabilitation there are similarities.

4. Conclusion

1. Based on the seven parameters of the protection of victims of trafficking in women and children at the top, there are five more significant distinction Indonesia from Malaysia and a more significant factor Malaysia. And there is one common factor that is, cancellation of license agent. Kesimpulanya superior THAT Indonesia Malaysia in an effort to provide protection to victims of trafficking in women and children.

2. To provide protection to victims of trafficking in women and children should not distinguish between foreign 1. Based on the seven parameters of the protection of victims of trafficking in women and children at the top, there are five more significant distinction Indonesia from Malaysia and a more significant factor Malaysia. And there is one common factor that is, cancellation of license agent. In conclusion superior THAT Indonesia Malaysia in an effort to provide protection to victims of trafficking in women and children.

3. To provide protection to victims of trafficking in women and children should not distinguish between foreign nationals with original citizenship and if proven that a person is a victim of trafficking in persons, should he get restitution and compensation, especially children under age should receive special attention . Indonesia and Malaysia are expected kingdom over Improving the protection of victims of trafficking.

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