

Immigration Management In Handling Non-Procedural Indonesian Workers To Malaysia

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ABSTRACT

This study wants to see the management of handling non-procedural Indonesian workers to Malaysia. The results showed that non-procedural Indonesian workers are indicators of the Criminal Act of Trafficking in Persons, and one form of international crime that is contrary to human dignity and violates human rights. Efforts to deal with this are concrete, comprehensive handling and involvement of all elements of government, society and other stakeholders. The Ministry of Law and Human Rights in this case the Directorate General of Immigration has carried out preventive and repressive measures, namely 1) Immigration investigations against perpetrators of trafficking and human trafficking. 2) Immigration Administrative Acts against people who commit trafficking in persons and Human Trafficking. 3) cooperation in the field of investigation with other law enforcement agencies.

Keywords: Governance-Handling-Non-Procedural Indonesian Migrant Workers

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INTRODUCTION

Geographical position of Indonesia with Malaysia has encouraged the Indonesian workers to make a living there. The closeness of geographical location has caused many similarities in cultural and linguistic background as a form of a longstanding relationship between the two Malay tribal countries thus creating a kinship that is very distinctive for the people of both nations (Maiwan, 2012). Geographical situations that are similar have made a strong emotional bond, Jayanti wrote (2013).

Other neighbourhood countries such as Malaysia, Singapore and Brunei Darussalam also have interest to Indonesia regarding the closeless of geographical location. Ibrahim (2019) said that "Indonesia has become a prospect in the investment of Malaysian farming fields due to the vastness of the country, geographical factors and busy use of energy. Malaysia sees Indonesia as its unique strategic partner in the cultivation".

A large number of Indonesian migrant workers abroad is examining Indonesian immigration agencies to further enhance the ability of servicing and updating equipment and facilities in office buildings and immigration checkpoints. Licensing procedures need to be guarded more stringently but make it easier for migrant workers. According to Azed (2014) there are weaknesses of the Indonesian royal staff in relation to the presence of Indonesian Migrant Workers within the sovereign territory of Malaysia. "Royal employees often do not know where the location of the job, the form of work, and the conditions of employment of migrant workers are due to the minimum reporting from the agency he/she departs from. It is difficult for royal officials to act proactively in providing help," Azed wrote (2014).

The Directorate General of Immigration (DJIM) announced efforts to prevent Non-Procedural Migrant Workers (TKI NP) in 2017 through a Surrounding Letter from the Directorate General of Immigration Number IMI-0277-GR.06 on February 24, 2017. In the letter the directorate general orders the leaders of immigration positions throughout Indonesia to; (1) carefully and selectively escort the formal requirements of passport applicants, (2) increase awareness of any Indonesian citizen who is strongly suspected of non-procedural working abroad / illegal, (3) optimizing the immigration supervision function to every citizen, (4) reject the application for a passport for Indonesian citizens who, based on examinations and content, want to depart to become a Non-Procedural Migrant Worker (TKI-NP), (5) report every period of rejection of an application for a TKI-NP passport to the main position. Prior to this circular, the refusal of a passport application to a person suspected of being a TKI-NP had never been applied for monitoring.

The Directorate General of Immigration again issued a confirmation letter to "Circular Letter of the Directorate General of Immigration Number IMI-0277.GR.06 in the form of a Letter of Affirmation Number IMI-GR.01.01-1029 on the 20th of March 2017" which basically emphasizes the leaders of the immigration positions throughout Indonesia to require prospective migrant workers who will work abroad to attach a letter of recommendation from the position or employment agency in the applicant's hometown and validate the TKI ID in the TKI ID Validation System on the DJIM portal.

Data from DJIM shows an increasing trend of rejection / postponement of applications for Indonesian Citizens' passports that are suspected of being TKI NPs.

Table 1. Rejection / Postponement of Passport Application Suspected of being TKI-NP

Year	Number of TKI NP Passport Rejection
2017	1016
2018	6272
2019 (until November)	6365

Source: Directorate General of Immigration (Nov 2019)

The large number of Indonesian workers who left Indonesia to work in Malaysia without permission is inseparable from the facilities provided by DJIM. At present the passport application system has become easier and at an affordable cost which is 350,000 Rupiah or equivalent to 100 Malaysian Ringgit. Applicants can register online and will receive a message if they come to the Immigration Office to collect data and photos. Even some immigration positions open weekend passport services in downtown centers, as official broadcasts on the DJIM website on January 19, 2019.

The DJIM in 2017 in accordance with the existence of the director general's circular, starting to escort and monitor whoever the passport applicants were supposed to be strongly suspected of non-procedural working abroad. Prior to that period specific records and classifications were not applied. Table 1.2. shows that during the period of 2017 to 2019 there was an increase in the number of denials of Indonesian citizens, which based on the results of the investigation showed allegations of wanting to work abroad without legal procedures..

Although the number of TKI-NP passport rejections is as illustrated in Table 1.2. experienced an upward trend but on the other hand the number of Indonesian foreign workers without permits in Malaysia experienced an increase. Data released by Triyogo (2018), the Malaysian Immigration Position (JIM) in the 2018 period arrested a total of 12,613 foreign immigrants without permission (PATI) from Indonesia. Furthermore, in 2019, there were 53,328 TKIs without permission asking JIM to join the "back for good" program (B4G) as published in the 27th edition of JPNN Media in December 2019. As well as in Hong Kong. "PATI from Indonesia" can freely enter and exit Hong Kong's border with China. According to Putera (2018) there were a total of 153,000 migrant workers in Hong Kong and 81,000 in China. Allegedly the difficulty in supervision and an ease of "PATI from Indonesia" obtaining visas is the cause of illegal practices related to labor in Hong Kong and China, Ilmie wrote (2018)).

In December 2018 the Taiwan National Immigration Agency (BINT) announced a forgiveness program for PATI found working illegally in Taiwan. The Kingdom of Taiwan in the program will provide financial relief and removal from the black list and allow the PATI who are exposed to return to their home countries. According to BINT director Chiu Feng Kuang as announced on the official website of the "Taipei Economic and Trade Office Jakarta (TETO Jakarta), there were 88,000 PATI in Taiwan. According to Pangaribuan (2016) 45 per hundred or 21,000 PATI in Taiwan originated from Indonesia, this number is in the second tier after Vietnam which has 24,000 PATI in Taiwan. Therefore, the problem to be addressed in this study is to find out where and what deficiencies prevail in Indonesia that an increase in PATI from Indonesia to Malaysia is always occurring and increases.

THEORETICAL FRAMEWORK

Understanding the concept of the theory that goes "Quality of Government" (QoG) and its relationship with the immigration layman's devotion, especially related to strengthening. This aims to distinguish the general understanding of the QoG concept from what is used as the discussion in this study. The discussion will begin by examining the general understanding of the theory above and then specifically discussing it in detail covering its relationship with empowerment, service innovation,

human factors, employee integrity and linking it to the "pull and push factor theory" as a theoretical basis for studying the phenomenon of increasing PATI to Malaysia including those related to geographical location, ethnic community connections and easy access to travel.

Factors driving Indonesian citizens to migrate abroad in Munir's study (1981) were dominated by economic aspects, which were increasingly natural resources and job scarcity. Furthermore, the pull factor consists of a large opportunity to obtain decent work, an opportunity to obtain a better education, environmental conditions and the existence of support for shelter from danger. Along with that, the study of Mantra, Kasto and Keban (1999) showed that there are four factors Indonesian citizens decide to migrate and look for work in other countries, namely: factors of origin and destination are better, the form of obstacles in the destination and origin, and individual factors.

Furthermore, in the investigation of Svava and Baizhanov (2018) defined integrity as ethical behavior, always conveying the truth, maintaining the confidentiality of the department and admitting mistakes when a violation has been committed. The activity of strengthening immigration requires integrity as a moral attitude because immigrants are the spearhead in maintaining the sovereignty of the country in the border. For example, the moral attitude of immigration employees when conducting suspicion of suspects must respect the rights of the individual concerned and adhere to a code of conduct, Ridwan and Bawono (2019). Other intellectual behavior including rejecting the seduction of the people from the parties who have an interest in the work being carried out.

In the consent of the immigration enforcement integrator at the border, the concept of QoG bugkan each immigration officer is not just for activities that are only approved in accordance with applicable regulations (Schuck, 2008), but also in relation to human rights, justice and sovereignty. Ozdowski (1985) argued that immigration control should associate aspects of human rights and anti-discrimination irrespective of race, ethnicity, sex, religion, and age. Sassen (1996) wrote immigration controls to establish national sovereignty. The integrity of the immigration officer is subject to international constitution and law.

According to Agnafor (2013), the increased impartiality of (non-favorable) attitudes by immigration officials during the task will shift in line with the degree of QoG implementation. At that level, the idealism of public authority will be at the high point and reflected in the attitude of the officer who does not consider anything other than the issues being investigated. Complaints from the public in connection with public service indicate the bureaucracy of the bureaucrats against the demands of society. Complex public services are causing people as service users to look for alternative shortcuts to simplify service management and lead to widespread corruption.. According to New and Sripeni (2019) connectivity exists between bureaucratic tools and society, although the public is aware that it will add additional costs (corruption) in the management of public services. According to a study by Dwiyanto (2002), in Indonesia's service culture, the term "know-how" has long been known, which means that there is a tolerance from bureaucratic apparatus and the service user community to use corruption mechanisms to obtain the best services. The practice of bribery in the public service has become a

common practice in the bureaucratic environment. The practice of corruption in the public service has become a tradition or norm in the bureaucratic sphere, and has even touched on various areas of economic, legal, political and social services. Further, Dwiyanto (2006) argued that it is necessary for the commitment and responsibility of all employees to avoid corruption, collusion and nepotism. The practice of corruption is also inseparable from the dominance of the role of the bureaucratic tool as a policy-maker, therefore society can become an object used for personal gain. In line with this, Surbakti in Santoso (2008) in his study stated that: "the great power of bureaucracy makes almost every aspect of life bureaucratic". Excessive bureaucratic credibility eventually leads to the bureaucratic role of the policy-maker thus becoming a bureaucrat instead of being the ruler of the public servants. The bureaucracy further acts as the ruler of the society. Bad bureaucratic performance, showing the weakening of public trust and legitimacy of government institutions. The bureaucracy has failed to establish itself as an institution that maintains, protects, and serves the people.

In his study, Barus and Sripeni (2019) said, "the orientation of power in the public service has made it less responsive to the aspirations and interests of the people". In his study, Nawatmi (2014) categorized corruption as involving accepting and giving activities, gifts or bribes, manipulation of office, extortion in office, participating in procurement and receiving rewards for civil servants / state administrators. Corruption in Indonesia is commonly associated with the term "KKN (Corruption, Collusion and Nepotism)", and is seen as a misuse of power.

The element of corruption refers to the act of embezzlement of state resources by government officials, which can generally be called manipulation. Whereas Sabhlok (1997) defined corruption as: 1) there is a claim from the tribal government that administers it and is voluntarily fulfilled by the party that needs administration; 2) the availability of material rewards from the need for administration; 3) performed in clandestine or covered / concealed; and 4) the rewards earned are used for personal use by the recipient. According to Dwiyanto (2006), public assets or proceeds of bribery will not be returned because they are generally large, unusual or embarrassing to the public. In short, corruption practices go against the concept of integrity as one of the elements of QoG.

RESEARCH METHOD

This study aims to look at the management of non-procedural Indonesian workers in Malaysia using qualitative research method. The research to be carried out in North Sumatra is based on the following: 1) North Sumatra region of Medan is directly in line with neighboring countries; 2) From the data obtained by enforcement activities in the region has increased since 2017; 3) Local residents in the area have a close ethnic background, geographical position and equality of character and easy access to travel to neighboring countries. The interview session was completed so as not to cause misunderstanding from the recorded data. Each transcript will be read carefully and listened to the recording to ensure the accuracy of the recorded data. An important task at this stage for researchers is to try to find new discoveries and identify prominent themes in research for the purpose of explaining future research findings.

DISCUSSION AND RESEARCH RESULTS

Throughout 2018 the Directorate General of Immigration delayed 5,785 passport applications thought to be Indonesian Non-Procedural Workers (TKI NP) in 125 Immigration Offices throughout Indonesia as well as departure delays for prospective TKI NP in 25 TPI throughout Indonesia by 408 people, this case contained in the Press Release of Performance Achievement and Strategic Issues of Immigration Directorate General of Immigration in 2018. This achievement certainly reflects more or less that the Directorate General of Immigration has carried out a supervisory function for prospective Indonesian workers who are suspected of becoming TKI NP.

Non-procedural Indonesian Workers are feared to be a gateway to the practice of trafficking in persons. According to Article 1 paragraph 1 of Law No. 21 of 2007 concerning Eradication of Trafficking in Persons, Trafficking in Persons is the act of recruiting, transporting, collecting, sending, transferring, or accepting someone with the threat of violence, use of force, kidnapping, confinement, forgery, fraud, abuse of power or vulnerable position, debt bondage or provide payment or benefits thus the consent of the person in control of that other person, whether carried out within the state or between countries, is for the purpose of exploitation or results in exploitation of the person. According to the International Public Migrant Commission, the perpetrators did several things to ensnare victims, including providing loans so that the victims were in debt, holding passports so that victims could not escape, notifying victims that their status was illegal and would be jailed before being deported and making victims dependent on the perpetrators.

Immigration plays an important role in efforts to prevent the recruitment of Indonesian Non-procedural Workers (TKI NP), the Ministry of Justice and Human Rights is incorporated in the task force for handling Trafficking in Persons established by the President of the Republic of Indonesia based on Presidential Regulation No. 69 of 2008 concerning the Task Force on Prevention and Handling of Trafficking in Persons. In immigration this matter is contained in Article 89 Paragraphs (1), (2) and (3) of Law No. 6 of 2011 concerning Immigration that reads, Paragraph 1, the Minister or Immigration Officer who is appointed to carry out preventive and repressive measures in order to prevent the occurrence of criminal acts human trafficking and people smuggling. Paragraph (2), Preventive efforts as referred to in paragraph (1) done by: a. exchange information with other countries and related institutions in the country, including the modus operandi, supervision and security of Travel Documents, as well as the legitimacy and validity of documents; b. technical cooperation and training with other countries including treatment based on humanitarianism for victims, security and quality of Travel Documents, detection of fake documents, information exchange, and monitoring and detection of Human Smuggling in conventional and unconventional ways; c. provide legal counsel to the public that acts of trafficking in persons and People Smuggling are criminal acts so that people do not become victims; d. guarantee that Travel Documents or identities issued are of high quality thus these documents are not easily misused, falsified, altered, imitated, or published illegally; and e. ensure that the integrity and security of Travel Documents issued by or on behalf of the state to prevent

the production of these documents in an illegal manner in terms of their issuance and use. Paragraph (3), Repressive measures as referred to in paragraph (1) are carried out by: a. Immigration investigations into traffickers and people smuggling; b. Administrative Immigration Acts against people who commit trafficking in persons and Human Trafficking; and c. cooperation in the field of investigation with other law enforcement agencies.

The passport application is one of the initial filters in preventing Indonesian Non-Procedural Workers (TKI NP) besides of course the Provincial or Regency / City Manpower Office as the issuer of the recommendation letter for the passport application. According to Articles 3 and 4 Permenkumham No. 9 of 2012 concerning Issuance of Ordinary Passports for Prospective Indonesian Workers, prospective workers must submit an application to the Immigration Office that is still in the same province as their domicile and attach a letter of recommendation for a passport application for prospective Indonesian workers issued by the Provincial Manpower Office or Regency / City in accordance with domicile. The letter includes a TKI ID and a recommendation number that can be validated through the BNP2TKI interconnection page and the Directorate General of Immigration. This is intended to facilitate field supervision when there are doubts about the validity of the required documents or information during the interview.

In practice, various modes undertaken by prospective TKI NP or recruiters include fraudulent, in this mode the person concerned falsify data on passport application requirements, such as ID, Family Card or Birth Certificate. TKI NP or recruiters often falsify their data to change their birth year so that they are older because the candidate is actually under the minimum age to work or falsify ID and Family Card so that his domicile is in accordance with the Immigration Office therefore it needs to be observed well by the immigrant officers in examining the documents required.

There are many ways that can be done starting from checking the Population Identification Number (NIK) number through the application in the Immigration Management Information System (SIMKIM) which is connected to the population database and civil records to pay attention to the safety features and specifications contained in the ID, Family Card and Birth Certificate regulated in Ministerial Decree No. 94 of 2003 concerning Specifications for Procurement and Control of Family Card blanks, Citizenship Identity Cards, Register Documents and Quotations of Civil Registry Deed. The falsification of this document will make it difficult for the passport owner during the next replacement, often encountered by former TKI NP when changing passports using original population documents and eventually there is a difference with the old data, because the old data is data that was falsified by migrant recruiters when they worked before. Another mode that may be encountered is alteration or change, ie the perpetrators change the existing data on the old passport, such as replacing biodata or changing photos, with an immigration information system that continues to be improved. This mode is very difficult to do, but as immigration officers we must always pay close attention details regarding replacement passports.

When giving information, usually TKI NP candidates will put forward various purposes for making passports such as Umrah, internships, scholarships or visiting relatives.

Sometimes they attach passports and relatives return tickets, to anticipate this immigration officers must pay attention to gestures displayed by the applicant, ask questions that force the applicant to remember, dig as deep as possible information about the purpose. In every opportunity, provide education for prospective Indonesian workers and labor suppliers, provide information on international regulations, regulations or matters that arise if you become a TKI NP and provide an understanding that the crime of trafficking in persons is an international crime, because it is the preventive effort section of the Directorate General of Immigration.

Non-procedural Indonesian Workers, are the source of TPPO practices because in practice they are often required to work in very bad conditions, receive rough treatment, do not receive full wages and sometimes do not hold their own identity documents and travel documents and there are some cases using passports with fake identities provided by a third party. Trafficking in persons is a form of international crime that is contrary to human dignity and violates human rights so that concrete, comprehensive handling and involvement of all elements of government, society and other stakeholders is needed. The Ministry of Law and Human Rights, in this case the Directorate General of Immigration, must continue to make both preventive and repressive measures to tackle Trafficking in Persons as part of the government's efforts and carry out the mandate of the Immigration Act.

CONCLUSION AND IMPLICATION

The results of the study show that Indonesian Non-Procedural Workers are a source of practice of Trafficking in Persons because in practice they are often required to work in very bad conditions, receive rough treatment, do not receive full wages and sometimes do not hold their own identity documents and travel documents and there are some cases using passports with fake identities provided by third parties. These are indicators of the Criminal Act of Trafficking in Persons which is a form of international crime that is against human dignity and violates human rights so that concrete, comprehensive handling and involvement of all elements of government, society and other stakeholders is needed. The Ministry of Law and Human Rights, in this case the Directorate General of Immigration, must continue to take preventive and repressive measures to tackle the Criminal Act of Trafficking in Persons as part of the government's efforts and carry out the mandate of the Immigration Act. The governance policies undertaken are 1) Immigration investigation of perpetrators of trafficking and human trafficking crimes. 2) Immigration Administrative Acts against people who commit trafficking in persons and Human Trafficking. 3) cooperation in the field of investigation with other law enforcement agencies.

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