

Glorification Trap in Combating Human Trafficking in Indonesia: An Application of Three-Dimensional Model of Anti-Trafficking Policy

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Abstract—This paper discusses the risk of glorification trap in combating human trafficking, as it is shown in the case of Indonesia. Based on a research on Indonesian combat against trafficking in 2017-2018, this paper shows the tendency of misinterpretation and misapplication of the Indonesian anti-trafficking law into misusing the law for glorification, to create an image of certain extent of achievement in combating human trafficking. The objective of this paper is to explain the persistent occurrence of human trafficking crimes despite the significant progress of anti-trafficking efforts of Indonesian government. The research was conducted in 2017-2018 by qualitative approach through observation, depth interviews, discourse analysis, and document study, applying the three-dimensional model for analyzing human trafficking in the source country. This paper argues that the drive for glorification of achievement in the combat against trafficking has trapped Indonesian government in the loop of misinterpretation, misapplication, and misuse of the anti-trafficking law. In return, the so-called crime against humanity remains high and tends to increase in Indonesia.

Keywords—Human trafficking, anti-trafficking policy, transnational crime, source country, glorification trap.

I. INTRODUCTION

THIS paper discusses the problems in the data of the combat against human trafficking in Indonesia. Indonesia is a source, transit and destination country in human trafficking nexus in the region. The importance of the fight against human trafficking in the country is reflected in the number of victims of trafficking. Based on estimation from the International Organization of Migration (IOM), there are 70,000 to 80,000 victims of trafficking from Indonesia annually [1]. Indonesian government's estimation of the number of victims is even higher, one million people every year [2]. Since 2005 the IOM has been present in Indonesia to assist Indonesia to fight against human trafficking, including in data collecting. Data on the crime are very important for

fighting against human trafficking [3]. Without valid and reliable data, it would be difficult to design an effective strategy to combat human trafficking. However, collecting accurate and reliable data of trafficking crime is not easy for two reasons. First, the victims of human trafficking were mostly developed psychological barriers as victims and poor people [3], and particularly in developing countries, the capacity to collect data is low [4]. In the discourse on the size of trafficking in persons, the number of victims reported by the authorities tends to be accompanied by the higher estimation on the real number of victims unknown. In Indonesia in 2017, the reported number of trafficking victims rescued by the police was 1,451 people [5], [13]. IOM and the government believe that there are more victims out there unreported and unknown yet by the authorities. In practice, in fact, the police admitted that identifying the victims or potential victims from migrant labors is almost impossible except for those of child trafficking. Identifying child trafficking during transport from a source country is easier because of identifiable physical appearance of children. But other than that, the police and immigration would need a report to take action against the crime, rescue and protect the victims.

The problem with the absence of data on the criminal network and difficulty in identification of the crime during its operation is that the authorities cannot proceed with investigation, arrest, prosecution, or protection and rescue of victims. The operations of human trafficking crimes are usually secretive and covert. Except for child trafficking cases, the police had been relying on reports from the victims or family and relatives of the victims to take action against trafficking crime. Without reports and valid identification of the crime, there would be no case of human trafficking. This is the case in Indonesia, especially prior to 2017.

In 2017, the police started the initiative to become more proactive in human trafficking crime prevention by tightening border control as the exit point for Indonesian illegal migrant workers that are vulnerable to the transnational crime. The local police started to ambush illegal migrant during transit. The initiative has increased the number of victims of trafficking in persons in the police report, from 336 people in 2016 to 1451 people in 2017, or more than 300% increase [5], [6], [13]. This led us the question, is the new approach really combat human trafficking? Or is it just interrupting minor cases of illegal labor migration without necessarily reducing the threat of human trafficking?

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This paper examines the picture of the fight against human trafficking in Indonesia in its three dimensions, i.e. institutional, socio-cultural, and crime-process dimensions. Interviews were conducted with the authorities in the central and local governments, traffickers, and victims of human trafficking. We also studied the reports on the crime by the authorities and discourse on the crime in the mass media. The objective of this study is to provide a thorough and comprehensive understanding of the crime and counter trafficking.

This paper is written in four main sections. The next section exposes the theoretical basis for this study. The third section discusses the shift in policy of antitrafficking by the government. The fourth section discusses the problems shown in the three dimensions. And lastly the fifth section will discuss the analysis on the problems of antitrafficking policy and actions in Indonesia. This paper will then be closed by a conclusion section emphasizing the main arguments in this paper and its implications. Let us start with the first section on the theoretical basis.

II. THREE MAINSTREAMS IN ANTI-TRAFFICKING STUDY

In the study on human trafficking, there are many approaches from various disciplines. Lobasz listed 7 approaches, i.e. (1) trafficking as security threat; (2) trafficking as abuse of human rights; (3) trafficking as migration; (4) trafficking as prostitution; (5) trafficking as coerced and exploited labor; (6) trafficking in international relations; and (7) feminist, critical constructivist approach [7, p.29-59]. The various approaches came out with differing understanding of human trafficking and their recommendation of anti-trafficking policies. The study on anti-trafficking policies, however, can be summarized into three mainstreams, as noted by Krieg [8]. The *first* is border control approach. This group of anti-trafficking studies emphasizes the importance on cutting the flow of trafficking in persons from the source counties/regions to the destination countries/regions. Many among scholars and policy makers believe that human trafficking mostly consists of migration control problem, and thus, the solution of countering human trafficking is border control. See for instance Rusev on EU border control [9]. The *second* approach is law enforcement approach. In this group, scholars and policy makers [10], [14], stressed out the importance of a strong anti-trafficking policy to include every process of the crime (i.e. recruitment, transporting, shelter, and exploitation), victim protection (i.e. protection in the destination country, deportation, advocacy, and rehabilitation), and prevention. The antitrafficking policy in this approach is suggested to include social, economic, and cultural aspects of the vulnerable, in order to reduce the vulnerability and potential of becoming victims of human trafficking. In this approach, community and economic development are two important issues in the agenda for fighting human trafficking, in addition to the prosecution as the preexisting agenda. The two issues are important for preventing human trafficking from keep happening, or in other words, to reduce the vulnerability of potential victims. The

third approach is human rights approach. This approach demanded the authorities to promote paradigmatic change in dealing with human trafficking, to see human trafficking not as a mere political product as resultant of the shift in the global geopolitics, or the long term movement of feminist activists, but as an actual human rights protection. The paradigmatic change from border control and law enforcement into human rights oriented will change the way the authorities treat victims and local community. The examples in this category are [7] and [10].

In order to examine Indonesia's antitrafficking policy, in this paper we use three-dimensional model that we developed during our research in 2017 [11]. This model of analysis derived from the need for comprehensive analysis in multidisciplinary perspective. The three dimensions being examined here include policy implementation related aspects, and the problems surrounding the implementation, both in the crime operation and the proximate factors. The first is *institutional dimension*. In this dimension, there are three aspects that we examine.

1. Regulation (set of regulations on human trafficking and smuggling),
2. The role of government institutions (ministries, local government, agencies, police, and courts),
3. The role of societal institutions (civil society organizations, communities, family, and leaders).

The second is *socio-cultural dimension*. This dimension includes the following aspects:

1. Socio-economic structure (victims' economic strata, access to jobs and capital),
2. Cultural values of society (orientation to modernity, knowledge on human trafficking, and collectiveness),
3. Anti-trafficking socialization (by the government, mass media, communities, school and family).

The third is *process dimension*. This dimension consists of five important aspects as follows:

1. Characteristics of traffickers (organization, network, and socio-economic strata),
2. Recruitment method (inducement, threat, deception, family and debt bondage),
3. Pre-trafficking shelters (transportation, paperwork, job information and training),
4. Exploitation (type of jobs, contract, payment, and work facilities),
5. Liberation, protection, and justice (liberation process, protection from threats, advocating rights, and rehabilitation).

III. ANTI-TRAFFICKING POLICY IN INDONESIA: LAW ENFORCEMENT ORIENTATION AND THE GLORY IN FIGHTING TRAFFICKING

Indonesian policy on human trafficking is firm as shown in the institutionalization of antitrafficking norms. As early as 2007, Indonesia issued the antitrafficking law, Law No. 21 Year 2007. The spirit of the law has already incorporated the 4P principles of anti-trafficking, i.e. protection, prosecution, prevention, and partnership. The sanction is clearly defined in

the law, not only as punishment against the crime, but also as deterrent with relatively hard sanction so that people would be discouraged from participation in the crime. Perpetrators who trafficked a victim that caused the victim's death will face the threat of 5 years to lifetime imprisonment, and IDR 200 million to 5 billion fine (USD 14,000 – 357,000). The lowest sanction to recruiter among traffickers will face 3 – 15 years imprisonment with IDR 120 million to 200 million fine (USD 8,500 to 14,000), sufficiently hard for Indonesian people with per capita income USD 4,051, particularly rural citizens.

In the spirit of prevention, the law also mandated the formation of a task force to coordinate and implement antitrafficking policy in the related ministry, including in initiating cooperation with international organizations, other governments, and society. The task force coordinates policy in the central government and monitors the policy making and implementation by the local task force at the provincial and regency level. The Law 21/2007 also mandated the central and local government to provide some budget for the activities of the task force.

In 2008, the President of the Republic of Indonesia issued a regulation on the establishment of the Task Force, Presidential Regulation No. 69 Year 2008. The document stipulated the formation of the Task Force of Human Trafficking Crime Eradication and Prevention. At the national level, the Task Force is led by the Coordinating Ministry of Public Welfare, and consists of 19 related government institutions, such as Ministry of Women Empowerment, Ministry of Law and Human Rights, Ministry of Foreign Affairs, National Police, Intelligence Agency and 13 others. The tasks of the institution are as follows.

1. Coordination and eradication of human trafficking;
2. Advocacy, socialization, training, and cooperation, domestically and internationally;
3. Monitor victim protection, from rehabilitation, repatriation, to social reintegration;
4. Monitor law enforcement; and
5. Evaluate and report.

In terms of National Action Plan for Eradication of Human Trafficking Crime, Indonesia has issued the action plans for two periods since 2009. The first National Action Plan (2009-2014) consists of the details of the strategy for combating human trafficking in Indonesia, from protection, prevention, prosecution, and partnership. The second (2015-2019) continued the previous National Action Plan with a few adaptations to the change in the structure of the cabinet. Both documents were enacted after the ratification of Palermo Protocol and UN Protocol earlier in 2009 so they are incorporated in the documents. Indonesia ratified UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons 2000 in January 2009, and Palermo Protocol in March 2009. Previously also in January 2009, the government also ratified UN Convention against Transnational Organized Crime. It was clear that the government has shown a great deal of attention to the institutionalization of anti-trafficking norms into national law.

In 2017, Indonesia ratified the regional agreement in

Southeast Asia, namely ASEAN Convention on Trafficking in Persons 2015. The agreement supposedly will enable cooperation and coordination between ASEAN nations to combat the transnational crime. The agreement includes cooperation and coordination in information sharing, protection of victims at the destination country, prosecution, repatriation, and investigation, that supposedly made easy the job for the Task Force for Prevention and Eradication of Human Trafficking that since 2015 led by the Coordinating Ministry for Human and Culture Development.

If we look at the set of regulations and institutional arrangement for combating against human trafficking as described here, it is clear that Indonesia has made serious effort to provide legal and institutional framework for combating against human trafficking. In the 2018 report of Department of State, the United States (US), Indonesia was put among the 'tier 2' category, "countries that has not yet meet the minimum standards of Trafficking Victim Protection Act (TVPA) but making significant efforts to bring themselves into compliance to those standards" [6]. After discussing the legal and institutional framework for combating human trafficking in Indonesia, in the next section, we will elaborate the implementation of the policy in practice.

IV. THE DARK SIDE: HUMAN TRAFFICKING PRACTICES IN THREE DIMENSIONS

Despite the institutional development of anti-trafficking policies, there are still thousands of victims of human trafficking every year. The number of reported trafficking victims in Indonesia in 2017 according to the National Police is 1,451 people from 123 cases [5]. Since 2005 until 2017, the IOM had helped 8,900 trafficking victims from Indonesia [13]. The international organization also estimated that the real number of human trafficking victims is still unknown and much larger than reported, between 60,000 and 70,000 annually.

Indonesian government's estimation on the number of trafficking victims from the country is much higher. The estimation was based on the number of illegal migrations of Indonesian labor. As also reported by US Department of State in their annual report on Trafficking in Persons in 2018 [5], there are approximately 4.5 million Indonesian migrant labors overseas, 1.9 of which are illegal, making them vulnerable to become victims of human trafficking crime. As illegal migrants, the 1.9 million Indonesian workers are undocumented and unprotected against traffickers.

On top of the trafficking victims among illegal migrants, there are still many victims of internal sex trafficking, or sex trafficking for domestic market by the domestic traffickers' network. According to IOM, the number of internal trafficking victims is approximately 40% of the total trafficking victims from Indonesia [15]. In total, Indonesian government estimated that the number of trafficking victims from Indonesia every year was 1 million people [2].

Our research in 2017-2018 shows that there is significant increase of reported victims and investigated cases. The number of victims rescued in 2016 was 332, and investigated

cases were 110. The increase of victims rescued was more than 300% in 2017 [5]. The police claimed that the significant increase was related to the initiative of the police to be more proactive in stopping the human trafficking crime at the exit point in the border area. After careful study on the pattern of the crime, according to the local police in West Kalimantan, they have learned that many among illegal migrant workers went for transit in Pontianak (the capital city of West Kalimantan) by plane before crossing the border to Malaysia by land transportation. Major increase in rescuing victims and arresting and prosecuting traffickers was right outside the airport in Pontianak. The police took the initiative to stop human trafficking during transport/transit, before arriving at the destination country and exploitation happened to the potential victims. This new approach of the police was taken based on awareness of the long time slow progress in anti-trafficking effort since the anti-trafficking Law No. 21/2007 was issued. Due to difficulty in identifying traffickers and victims during the operation of the crime, the police used to rely only on reports from the victims or family or relatives of the victims when a crime was done, and the victims have exploited and suffered losses. In most of the cases, the report was too late for the police to act to protect the victims, although prosecution of the traffickers in the domestic part of the network proceeded.

The initiative was not taken before due to the challenge of identifying victims and traffickers during transport or transit. The police asserted that the traffickers tend to be learning from the mistakes in the past on how the part of the network of traffickers was discovered by the police. In the past, shelters during transit were houses or particular buildings that are identifiable as transit house before the victims transported to the destination countries. The vehicles used for transport by the organized crime were owned by the traffickers. This identifiable pattern of transport and transit made it easier for the police to discover the traffickers and rescue the victims during the operation of trafficking.

In the 2000s, the *modus operandi* of the crime in transit and transporting was changed and harder to identify. According to the local police in West Kalimantan, the traffickers now tend to use "normal" transportation and accommodation. By "normal" we mean the public transportation such as buses and online taxi, and accommodation commonly used by regular travelers such as hotels. This new *modus operandi* made it difficult to identify victims from regular travelers on business or tourism trip.

Having learnt of the new *modus* of transit, Pontianak become one of transit cities other than Batam (Riau Islands, near Singapore) and Nunukan (North Kalimantan, near Sabah, Malaysia), the police made Pontianak as target of operation in stopping trafficking crime. It appears that the suspected victims were easily identifiable by their confusion and no sense of direction, as they were visiting the city for the first time, not accompanied by traffickers during air transport, and suppose to meet the unknown traffickers (or accomplices) outside of the airport which also they visited for the first time. Through 2017 and 2018, the police intercepted the meeting

between traffickers and victims just outside the airport. This explains how the number of victims rescued and trafficking crime cases filed by the police was increased dramatically in 2017 and 2018. This narration of the shift from reactive policy to proactive policy against human trafficking crime is also reflecting the shift from the tendency toward border control approach into law enforcement approach. This is the heart of the problem we are discussing in this paper. The government anti-trafficking policy approach is missing the protection of human rights. Further elaboration in the three dimensions (institutional, socio-cultural, and crime process) will show the absence of human rights approach in the government's current policy.

From interviews with the government officials, police officers, victims, and convicted traffickers, we got a few interesting facts about the anti-trafficking policy. The option of taking proactive measures against the crime was mainly applied by the police. The local Task Force for Eradication and Prevention of Human Trafficking has little contribution to the application of the policy. Unexpectedly, the Task Force has no funding from the central government or local government for any program or activity. The Task Force only met twice a year to discuss and coordinate policies of each agency.

Other government agencies that contributed to the implementation of anti-trafficking policy were Social Department and Department of Women Empowerment and Child Protection. The Social Department has routine however limited budget for repatriation of victims of trafficking from the border to the shelters in Pontianak city, and from Pontianak to the victims' hometown. The limited budget for rehabilitation, training and counseling at the Department's shelter, often forced the Department to return the victims at the soonest regardless to the rehabilitation, training and counseling program. Most importantly, the immediate repatriation often obstructs prosecution of the traffickers as the victims can no longer attend the courts.

Department of Women Empowerment and Child Protection contributes in providing shelter for the victims during their stay in Pontianak while waiting for repatriation by the police and Social Department. This Department also faces the same problem as Social Department, that is the lack of funding. According to the officials in the Department, they only receive funding as much as IDR 200 million (USD 14,000) per year and not exclusively for anti-trafficking program, or for programs in the shelter, such as rehabilitation, training, and counseling. They have to utilize the budget for many programs, including socialization, community empowerment, and others.

The local NGO has played important role in advocacy, providing shelter, and community empowerment. Due to the limit of international cooperation with destination country's authority, many among victims could not get help from the local police. Instead, they turn to the local NGO to advocate their liberation from the employer trafficker and payment of their salary. The local NGOs also provide shelters with rehabilitation, life skill training, and counseling programs.

Some of the NGOs are also known specializing in empowering the community to improve the level of education and welfare of local communities.

Anti-trafficking socialization and community empowerment is very crucial for the people in the regions with the largest number of victims in Indonesia, such as West Kalimantan, East Java, East Nusa Tenggara, and West Java. Our research reveals that most people in the mentioned regions supported their young and productive members to seek jobs abroad. The victims mostly came from the lowest stratum of socio-economy. Based on information from 80 victims interviewed at government's shelters in Pontianak (September 20-22, 2018), victims are usually farmers with average income of IDR 600,000 per harvest (4 times a year), or IDR 2,400,000 per year (USD 171 annually). They were informed that they would get IDR 24 million to 84 million (USD 1,712 – 6,000) per year income if they get a job at palm plantation or construction companies in Malaysia.

The convicted traffickers appear to have different perspective on the implementation of the new anti-trafficking policy. Most of the convicts interviewed at correctional facilities (September 21-24, 2018) mentioned their feeling of injustice about their conviction and punishment. One convict was imprisoned for internal sex trafficking, offering to a hotel guest an underaged prostitute girl who happens to be his friend seeking extra income. Another one was teenager, also imprisoned for internal sex trafficking by offering her teenage friend to the prostitution syndicate but being the only one prosecuted while there was no one from the syndicate was prosecuted. Some other convicted traffickers were prosecuted for "helping" their neighbors to find jobs abroad through personal contact with overseas employer, not by the legal recruitment company assigned by the government. One convicted trafficker is an Indonesian citizen working as businessman in Malaysia in construction business. He claimed that he was imprisoned for taking passengers on his way to the border, only to the border, not across and free of charge. His appeal all the way to the supreme court also resulted with the same judgment, guilty of human trafficking crime. If the claims of the convicts are all true, then the law enforcement of the anti-trafficking regulations have targeted the wrong people as human trafficking perpetrators, while the real criminals are still out there operating their crime. If this is the case, the government needs thorough evaluation of their policy orientation.

V. GLORIFICATION TRAP: MISINTERPRETATION, MISAPPLICATION, AND MISUSE OF ANTI-TRAFFICKING LAW

Although confirmed by US report on Trafficking in Persons 2018 [5] that Indonesia has achieved significant progress and done significant efforts to meet the minimum standards of protection of victims, the implementation of the norms institutionalization appears to be troublesome. The US report noted that one of the problems constrained Indonesian efforts in combating human trafficking is corruption. Our research does not exactly examine the effect of corruption on the implementation of anti-trafficking policies. Corrupt officers

may allow the transnational human trafficking organizations to operate under their watch for personal benefits [15]. However, the data collected revealed a certain kind of abuse of power, especially in interpreting and applying the anti-trafficking law. Instead of using the law to increase budget in community empowerment, prosecuting the transnational organized crime, and developing programs for social inclusion in promoting the awareness of the danger of the crime, the government kept the low budget rule application with high pressure for improvement to the government agencies and minimum cooperation with international actors.

What has been happening at the local level is unexpected. The local government, particularly the police, is trapped in the situation where they are demanded for achievement in combating human trafficking, under constraints of limited budget, support from other institutions, and practically very limited partnership. This is the situation that we called glorification trap. The local government has glorified their achievement in discovering cases of human trafficking crime, rescuing victims, and prosecuting traffickers, under the pressure of the government policy. It happens with misinterpretation, misapplication and misuse of the anti-trafficking law.

The danger of the occurrence of glorification trap is double edged. On the one side, the law-enforcement orientation in the anti-trafficking policy was applied on possibly innocent people mistargeted. On the other side, the actual nexus of the transnational organized crime is still free and operating their crime untouched.

VI. CONCLUSION

Throughout this paper, we have examined the consistency of the implementation of anti-trafficking policy in Indonesia. The discussion above has shown reconfirmation of US Trafficking in Persons Report 2018 [5] regarding the significant effort from the state in norms institutionalization that includes victim-oriented approach. However, the implementation of the policy has not been consistent with the norms. The implementation of the policy tends to be heavy on law enforcement.

The application of three-dimensional model in analyzing the anti-trafficking policy implementation found another problem besides inconsistency to the policy paradigm. The progress of the norms institutionalization in the form of anti-trafficking law and ratification of international agreements on anti-trafficking generates pressures to the local government for achievement. Under constraints of limited budget, internal cooperation, and international partnership, the law enforcement officers turned out misinterpreted, misapplied and misused the anti-trafficking policy into punishing the most likely innocent people for achievement in the policy implementation. In this regard, the law enforcement was trapped inside glorification situation.

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