Enhancing the Skills of POLRI Investigators in Managing the Human Trafficking Study Program through International Cooperation

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Abstract

The crime of human trafficking, often referred to as trafficking in persons (TPPO), is diverse and frightening. It is a serious form of crime against humanity that requires reliable, strategic, and comprehensive management, especially in the wide Indonesia–Malaysia border area. Law enforcers in Indonesia, especially police investigators, have yet to acquire the correct and comprehensive knowledge and understanding of trafficking in persons. This paper aims to identify and analyze the obstacles to dealing with human trafficking. Unit investigators at the Police of the Republic of Indonesia (POLRI) handle cases of human trafficking and exploitation in Malaysia. This article also seeks to determine what knowledge, experience, and skills need to be acquired by the Indonesian Criminal Investigation Agency to investigate trafficking in persons. This paper also aims to analyze and formulate POLRI’s human trafficking investigation efforts through the National Police Criminal Investigation Unit in improving investigators’ skills to deal with cases of human trafficking and exploitation in Malaysia. This study adopts a qualitative research approach through interviewing and observing POLRI in their investigation of human trafficking in the Indonesia–Malaysia border area. Fact finding on laws and regulations governing TPPO and crimes against humanity in Indonesia have been basically performed by the Indonesian government. However, the problem lies in the prevention and law enforcement efforts of government officials; their understanding, knowledge, and skills are not yet comprehensive with those of police investigators. In addition, the lack of ability and knowledge of some Indonesian citizens both socially and economically makes the handling and disclosure of TPPO challenging.

Keywords—enhancing skills; investigators; trafficking

1. Introduction

The phenomenon of human trafficking (TPPO) is developing in many different countries including Indonesia. Globalization, ease of information sharing, technology, and transportation make it easier for criminals to cross national borders. This includes TPPO, which has become a transnational organized crime through passage to several countries even in systematic and organized ways. Thus, TPPO occurs not only within the Indonesian state but also across the boundaries of many other countries (Rochaeti, 2005).

The West Kalimantan region is often used by criminals who deal directly with Malaysian territory. Of the five regencies in the West Kalimantan border area, only the Entikong region of Sanggau Regency has an official border gate immigration system while the other four only have transboundary checkpoints (PPLB), whose facilities are different from those of the official immigration border gate. Also, the four regencies still have large forest areas, which security personnel cannot cover even to a very limited extent; thus, these areas are often used as “rat roads” by perpetrators. One area that is often the target of TPPO implementation is the Jagoi border (Niko, 2016).

Indonesian worker smuggling is also often carried out in border areas, especially Indonesia–Malaysia. Research findings in the ranks of the Police College of Higher Education (PTIK) found at least 67 “tikus rat ports” that were often used as Indonesia’s transportation routes to Malaysia. Using a “tikus rat harbor” or “tikus rat road” is the modus operandi of cross-border traffickers. Given that TPPO is an organized crime that operates across borders and is most common in the
border region, the Indonesian government cannot monitor these crimes alone and needs collaborative efforts (Irdayanti, 2013).

With regard to TPPO investigations, the Indonesian government, especially the National Police of the Republic of Indonesia (POLRI), collaborates with the Malaysian government through the Police of the King of Malaysia (PDRM) facilitated by the Australia–Asia Program to Combat Trafficking in Persons (AAPTIP). This agreement was set forth through an MoU, which will be followed up through other pacts. Besides agreements, the Republic of Indonesia and Malaysia also conduct information exchange and bilateral meetings to discuss transnational human trafficking, among other areas. These discussions include focusing on prevention efforts, protecting victims, and prosecuting perpetrators and other related parties. In addition to its bilateral cooperation with Malaysia, Indonesia also signed an agreement requiring the development of a cooperation framework. This collaboration serves as a medium of exchange and establishes communication procedures between the countries. The agreement is also expected to improve coordination and cooperation especially with regard to border issues and transnational crimes such as human trafficking (Irdayanti, 2013). This agreement is in line with the mandate of the international convention against transnational crime. Collaboration in the deterrence of these crimes is described in the United Nations Convention against Corruption, the United Nations Convention on Transnational Organized Crime, and Association of Southeast Asian Nations (ASEAN) cooperation in the form of mutual legal assistance (http://www.hukumonline.com).

In the implementation of the ASEAN–Transnational Investigative Cooperation Training between the Royal Malaysian Police and POLRI on March 20–24, 2017 in Kuala Lumpur, Malaysia, the Indonesian delegation, led by the deputy director general of POLRI’s Criminal Investigation Agency, presented several TPPO cases involving Indonesian victims in Malaysia, with actors and networks involving both Indonesian and Malaysian citizens. They also discussed the steps that can be taken by the two state police organizations in handling TPPO through joint operations. Several factors for consideration in these joint efforts include (i) the objectives to be achieved, (ii) reasons for initiating cooperation in investigating cross-border crimes, (iii) international legal issues relating to TPPO, (iv) operational constraints, (v) forms of supervision and accountability, and (vi) forms and systems of communication between each country’s law enforcement groups. These are important elements that must be discussed by police investigators in dealing with TPPO cases from Indonesia and in Malaysia.

2. Problems

a. How is human trafficking constructed/projected in Indonesian law?

b. What are the obstacles faced by POLRI’s investigators when handling TPPO cases in Malaysia?

c. What is the knowledge, experience, and skills of the police in dealing with TPPO?

d. What efforts can be made by the Police of Indonesia (Dittipidum Bareskrim) to improve the skills of investigators handle TPPO exploitation cases in Malaysia?

3. Term of Reference

Irdayanti (2013) shows that human trafficking is a form of transnational organized crime and thus cannot be solved by one victim country alone.

Article 2, Paragraph (1), of Law Number 21 of 2007, concerning trafficking in persons, states that

The crime of trafficking in persons is an unlawful act by anyone who recruits, transports, holds, transfers, transfers or accepts someone with the threat of violence, use of violence, kidnapping, confinement, forgery, fraud, abuse of power or vulnerable position, debt bondage or pay or benefit despite obtaining approval from the person in control of another person, for the purpose of exploiting that person in the territory of the Republic of Indonesia, shall be sentenced to a minimum of 3 (three) years imprisonment and a maximum of 15 (fifteen) years and criminal a fine of at least Rp.120,000,000.00 (one hundred twenty million rupiah) and a maximum of Rp. 600,000,000.00 (six hundred million rupiah). If the act as referred to in Paragraph (1) results in an exploited person, then the offender is sentenced to the same sentence as referred to in Paragraph (1).

4. Fact Finding

The TPPO law, which was enacted through the Republic of Indonesia State Gazette Number 58 (2007), supplement to the State Gazette of the Republic of Indonesia Number 4720, is a concrete form of the Indonesian government’s obligation to sign the Palermo Protocol, which specifically relates to the implementation of the 2000 UN protocol on preventing,
eradicating, and punishing TPPO perpetrators. The TPPO act is also proof of the Indonesian government’s efforts to uphold human rights in the country through measures to prevent and overcome TPPO, which is a clear violation of and crime against human rights.

The Indonesian government has established the following:

(a) 123 integrated service centers (PPT) tasked to provide services to victims of violent acts or physical coercion.

(b) In an effort to involve the local government, 247 integrated service centers for women and children empowerment (P2TP2A) at the district/city level were also formed. Thirty-three P2TP2As were also established at the provincial level to protect women’s and children’s rights.

(c) While outside Indonesian territory, the government established 24 citizen services (social services for Indonesian citizens outside the territory of Indonesia) in several representatives of the Republic of Indonesia, both at the embassy and consulate levels.

(d) Regarding health services, the government of Indonesia also strives to provide facilities, services, and management in certain Puskesmas so that they can deal with the consequences of violence against women and children. In certain city areas, hospitals were also established and specifically used as a treatment center for labor migrants with health problems caused by violence or coercion.

(e) Besides physical health services, the government also provides shelter and rehabilitation through a trauma center protection house (RPTC), the child social protection house (RPSA), and the women’s social protection house (RPSW).

(f) Even from a nonformal or nongovernmental perspective, the Indonesian government also established several humanitarian NGOs, LBHs, or women’s social organizations especially in the cities and villages.

According to Phillip C. Yessup, the term “transnational organized crime,” or “transnational,” was formulated in laws enacted to regulate things, monetary amounts relating to an event, or acts performed across a country’s boundaries (Atmasasmita, 2007).

The UN Convention on Transnational Organized Crime was then ratified by the Indonesian government through Law Number 5 of 2009. The characteristics of organized and cross-border crimes have led to the term “transnational organized crime,” which refers to networks of relations, contacts, coordination, and cooperation formed among perpetrators worldwide. Therefore, the existence of ethnic elements (ethnicity) is not an important concern especially when associated with the phenomenon of contemporary organized crime in a particular country. The discussion of transnational crime is more directed toward the mobility or migration of human, social, economic, geographical, and intercultural goods (Massari, 2001).

The real threat of transnational organized crime cannot be linked to a reduction in violence as well as other criminal acts. However, it would be better if transnational organized crime were seen from an impact standpoint, which includes direct consequences related to humanitarian aspects such as security, comfort, and community welfare. Meanwhile, with regard to long-term indirect consequences, transnational organized crime can underestimate the government, among other things, by ignoring the prevailing provisions and the efforts of law enforcement and by legalizing improper commercial activities (TOCTA Report, 2010). Thus, because of the extent of the impact of transnational organized crime, law enforcement officers handling TPPO must always seek development opportunities and expand their relations with the international community to jointly eradicate well-organized transnational crime.

5. Discussion

POLRI’s Criminal Investigation Agency faces several hindrances in handling Indonesian TPPO exploitation cases in Malaysia. The victims were unwilling to testify to investigators or at trial, considering months of waiting during hearings, and they did not receive any benefits from the Malaysian government. In addition, it was well-known that victims’ reluctance is due to their fear of threats from perpetrators to terrorize and injure their family members in Indonesia.

The obstacles faced by the police are also related to social, economic, and community knowledge. Therefore, TPPO crimes in the country cannot be dealt with solely by the national police; instead, joint efforts with other institutions or ministries are paramount. TPPO handling and disclosure involving transnational actors or parties also require collaboration with other institutions or countries.

POLRI, through the Criminal Investigation Agency, is tasked to enforce TPPO law. Bareskrim uses three strategies to enforce TPPO law: preemptive, preventive, and repressive. Preemptive efforts entail creating a database, forming a TPPO
unit, establishing and developing integrated service centers, and promoting collaboration between agencies. Preventive tasks involve developing and holding trainings, Dikjur, seminars, socialization, overseeing the enclave, and creating special monitoring posts. Finally, repressive efforts include establishing a special task force against trafficking in persons, conducting special operations and raids, and cracking down on TPPO perpetrators.

Only around 50% of TPPO cases can be resolved by the national police. It can be said that TPPO law enforcement has not been maximized, meaning the national police still faces obstacles in handling TPPO. Considering that the crime has developed into an organized transnational crime, handling and disclosure would require quite a comprehensive set of skills and information along with knowledge and technological development. Therefore, police personnel who do not adapt to these developments will hinder the police’s efforts. These constraints can be technical, such as budgets, or nontechnical, such as knowledge and skills as well as coordination with domestic ministries or institutions and other state institutions and international governments.

Feasible Efforts by the Dittipidum National Police Criminal Investigation Unit to Improve Investigators’ Skills in Dealing with TPPO Exploitation Cases in Malaysia

To prevent, eradicate, and overcome TPPO, the Indonesian government formed a task force based on not only government and law enforcement officers but also family and society. In 2015, this task force held a national coordination meeting (Rakor), which produced the following recommendations:

(a) Include TPPO issues in local government policies;
(b) Help facilitate coordination in returning foreign TPPO victims found in Indonesia back to their home countries;
(c) Improve coordination and cooperation among related institutions or government agencies in Indonesia;
(d) Increase multilateral, regional, and bilateral cooperation within the international community;
(e) Improve the facilities and capabilities of personnel within the Ministry of Foreign Affairs and the Republic of Indonesia Representative Council, the Ministry of Law and Human Rights, POLRI, the Attorney General’s Office, the Ministry of Women’s Empowerment and Child Protection, and other relevant institutions; and
(e) Support the establishment of nongovernmental organizations or institutions that can help raise community awareness about TPPO and its consequences.

The national police performs their duties to prevent and eradicate TPPO by collaborating with a nongovernmental organization funded by the Australian government. This nonprofit institution is called the Australia–Asia Program in Combating Trafficking in Persons (AAPTIP). The AAPTIP is a government initiative to strengthen law enforcement efforts in eradicating TPPO. It is a continuation of two previous programs, namely, the Asia Regional Cooperation to Prevent Trafficking in Persons (ARCPPT: 2003–2006) and the Project for Combating Trafficking in Persons in the Asian Region (ARTIP: 2006–2012). The AAPTIP was implemented for five years (2013–2018) at the regional level of Southeast Asia, in collaboration with the ASEAN and the ASEAN Secretariat, and also at the national level with the implementation of government programs.

The AAPTIP supports law enforcement officers by providing several workshops, capacity building training, and consultation meetings at the ASEAN regional level. Investigators from Unit IV of Directorate General III, Tipidum Bareskrim National Police Headquarters, NCB Interpol, prosecutors at the Terrorism Crime Task Force and Transnational Crimes at the Attorney General’s Office, the Witness and Victim Protection Agency (LPSK), and the Ministry of Foreign Affairs have attended the following:

(a) Workshop for Head of Special Anti-Trafficking in Persons in ASEAN (Head of Specialist Work Unit), Brunei, September 9–11, 2014. This meeting discussed the formation of focal points and their working mechanisms.
(b) Regional Workshop on Victims of Trafficking in Persons in the Criminal Justice System, Bangkok, April 7–9, 2015. This workshop discussed the importance of protecting victims, especially those who will take their cases to the courts.
(c) Senior Officials Meeting on Transnational Crimes Consultation Meetings - Work Group on Trafficking in Persons, Kuala Lumpur, May 11–12, 2015. This meeting discussed AAPTIP and ASEAN regional work plans.
(d) Regional Program Steering Committee (RPSC) AAPTIP meeting, Cambodia, June 12, 2015. This meeting discussed program development and future work plans in seven AAPTIP countries.
AAPTIP has also contributed greatly to supporting two bilateral meetings between the POLRI and PDRM in Kuala Lumpur and Penang, Malaysia, in 2017. In these meetings, POLRI and PDRM each submitted a report on the handling of TPPO involving Indonesian citizens and Malaysia.

6. Conclusion

The laws and regulations governing TPPO and crimes against humanity in Indonesia are basically enforced by the Indonesian government. However, the problem is that prevention and law enforcement efforts by government officials, including their knowledge and skills, are not yet comprehensive from a police investigation perspective. In addition, the lack of social and economic knowledge and skills of some Indonesian citizens makes TPPO handling and disclosure challenging.

So far, the obstacles faced by investigators of POLRI’s Criminal Investigation Bureau in handling TPPO cases of exploitation in Malaysia, among others, have come from the victims themselves. Victims are mostly hesitant in revealing the names of brokers, agents, and intermediaries for fear of risking their family’s safety. Thus, many victims avoid acknowledging the existence of coercion, pressure, or violence from parties involved in TPPO. In addition, transnational action against TPPO is often constrained by law enforcement efforts in foreign regions, especially Malaysia, which necessitates special coordination and cooperation with foreign parties.

The national police’s knowledge, experience, and skills in handling TPPOs remain constrained as stated above. Some human resources in the POLRI body, that is, the national police investigators, also continue to experience difficulties in apprehending TPPO criminals; some still enforce child protection or labor laws. Therefore, actions against TPPO are still inadequate with respect to disclosure.

Efforts that can be carried out by Dittipidum Bareskrim Polri to improve investigators’ skills in handling TPPO exploitation cases in Malaysia include increasing the knowledge and skills of its human resources. Also, the national police must coordinate and collaborate with the government, especially Malaysian law enforcement, and other relevant international institutions.

7. Suggestions

First, we recommend that the POLRI organization improve their facilities and budget system to support the skills and knowledge improvement of INP investigators handling TPPO cases so that they can address knowledge, technology, and community needs, among others, by participating in seminars, workshops, and international cooperation. In doing so, investigators would be expected to more competently deal with TPPO both in Indonesia and abroad, expose it comprehensively, and diminish its occurrences.

We also suggest that KAPOLRI and POLRI officials provide direction to their members, especially investigators, to continue to improve coordination and good cooperation with relevant agency ministries in Indonesia, the Indonesian government, and related law enforcement agencies abroad, as well as other relevant humanitarian agencies both bilaterally, regionally, and internationally, as TPPO has now developed into an organized transnational crime. Disclosure also requires not only the knowledge and skills of the police and the citizenry but also the development of information and technology.

Finally, we recommend that KAPOLRI and POLRI officials continue to improve coordination and cooperation with Indonesian governmental institutions as well as those in other countries, especially within the region. Also, humanitarian and anti–transnational crime organizations, educational institutions, and religion and society can help expose TPPO networks and perpetrators as well as take action in crime prevention.

Acknowledgment

References


Indonesian Law Number 21 of 2007 on human trafficking


