THE CAUSES OF HUMAN SMUGGLING(INDONESIA-MALAYSIA) AND THE POLICIES TAKEN BY THE INDONESIAN GOVERNMENT TO OVERCOME IT

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Abstract: This research aims to analyze the causes of Human Smuggling experienced by Indonesian workers in Malaysia. The basic point of this research is the assumption that Indonesia, as a country that quantitatively contributes a very large number of labor exports (TKI) to other countries, at the same time on the "Tier 2 watch list", means there is a significant increase in human smuggling cases in Indonesia. The Human Smuggling cases that are of concern in this research are those that occur between Indonesia and Malaysia. The method used in this research is qualitative exploration, and the data collection used in this research is from journals, books, scientific reports, and others related to the research topic. The results consist of two things; first, human smuggling between Indonesia and Malaysia occurs due to the lack of education by migrant workers, which in turn affects the workers' mentality. In this aspect, the economic condition of workers is also an important cause of human smuggling. Second, legal politics in the aspect of migrant worker friendliness has not been maximized.

Keywords: Human Smuggling, Political Policy, Law Enforcement, Migrant Workers

INTRODUCTION

In the line of history, the term Human Smuggling, which is the Indonesian equivalent of human smuggling, has gone through so many complexities, both from the aspect of understanding itself, cases, and even to the tendency or standardization of categories classified as human trafficking cases. Jean Allain, a scholar focusing on international law studies at Monash University, in his presentation entitled "Genealogies of Human Smuggling and Slavery", displays the face of this complexity. According to him, some people conflate human smuggling and slavery. The two are very different. The difference can be seen in the intertwining histories that make each of them different. His argument is simple, "....slavery and the slave trade were legal while Human Smuggling, at no time, was legal: rather, it was criminal". (Allain, 2017). However, Allain's argument is certainly not to be taken at face

value. Galma Jahic and James Finckenauer provide reasons why they do not necessarily agree with Allain's argument. According to them, any definition that leads to human smuggling always has several interests behind it, in other words, it is always being processed and politicized for various purposes. (Jahic & Finckenauer, 2005)

However, this research does not want to enter into the two levels of philosophical-historical debate about human smuggling. Rather, it seeks to find and fix the tangled threads of human smuggling that occur in Indonesia, especially those that afflict Indonesian workers in Malaysia. Even so, this research still relies on a theory of Human Smuggling that is certainly considered appropriate and has relevance to this research. In this aspect, the standard used to define Human Smuggling departs from the Smuggling of Migrants Protocol, which in principle requires every country to prevent and combat immigrant smuggling, protect the rights of smuggled immigrants, and encourage cooperation between countries. (UNODC, 2022). Article 3(a) defines human smuggling as:

"The business of obtaining, directly or indirectly, financial or another material benefit from the unlawful entry of a person into a State Party of which that person is not a national or has a residence permit".(UNODC, 2022).

In addition, human smuggling is closely tied and intertwined with human trafficking. In every case, it is found that human smuggling is often a practice of human trafficking. Thus, it is difficult to separate the form of the problem. The definition of human trafficking is:

> "Human Trafficking is the recruitment, transportation, transfer, harboring or receipt of people through force, fraud or deception, to exploit them for profit. Men, women and children of all ages and from all backgrounds can become victims of this crime, which occurs in every region of the world. Traffickers often use violence or fraudulent employment agencies and false promises of education and job opportunities to trick and coerce their victims." (Nations, 2000).

In the same vein, the definition is confirmed through positive law in Indonesia as stated in Law No. 21/2007 which reads:

> Human trafficking is the act of recruiting, transporting, harboring, sending, transferring, or receiving a person by threat of violence, use of force, abduction, harboring, falsification, deception, abuse of power or vulnerable position, debt bondage or giving payments or benefits, to obtain the consent of the person who has control over the other person, whether carried out within the country or between countries, for exploitation or resulting in exploitation.[1]

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[1] Lihat pasal 1 nomor 1 Undang-Undang Pemberantasan Tindak Pidana Penyeludupan orang Nomor 21 Tahun 2007

For more clarity on the boundaries between Human Smuggling and Human Trafficking can be seen in the following scheme (Sri Wiyanti Eddyono & Et.all, 2020):
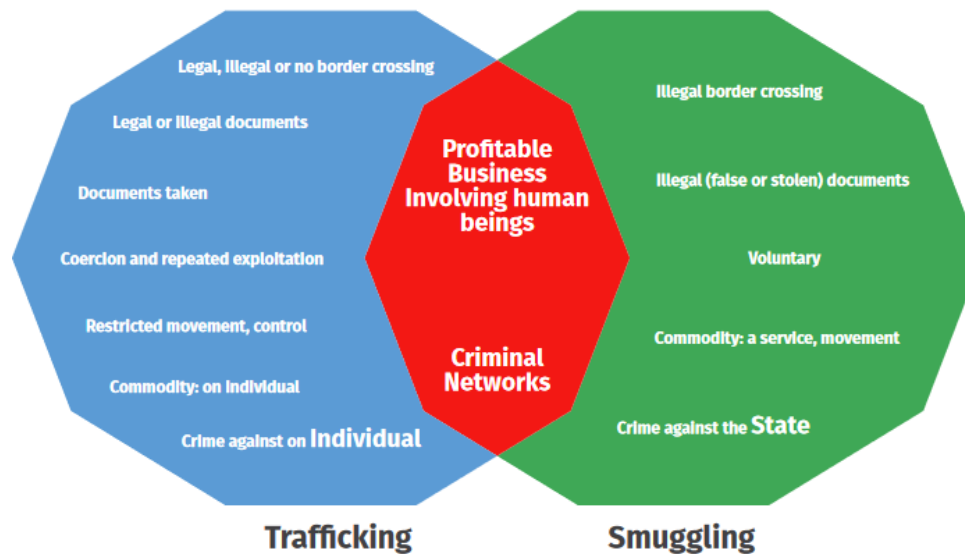
The above scheme suggests that Human Smuggling and Human Trafficking have very different characteristics. However, human smuggling can also be categorized as human trafficking. That the two are not separate, but rather become one whole thing together. To quote Bassioni, people smuggling is a continuum of coercion and exploitation even though there seems to be an element of individual will and the victim is a victim of his or her will. (Sri Wiyanti Eddyono & Et.all, 2020). Thus, it can be concluded that people smuggling also counts as a criminal offense of trafficking in persons, or is also a case of human trafficking. (Sri Wiyanti Eddyono & Et.all, 2020)

At this point, the direction of the above definition of human smuggling can also mean one of the serious crimes rampant around the world. It involves the sale, transportation, and exploitation of humans for sexual exploitation, forced labor, slavery, or other illegal activities. (Feingold, 2005) revealed that human smuggling is a very large and deep-rooted crime. It is an illicit business that often occurs in developing countries, especially in Asia and others. However, no matter how big the case is, human smuggling is a type of "disorganized crime", a crime that takes place in a small group that is connected ad hoc, and the practice is often carried out by layers of society with different backgrounds, be it the police, state officials, or even transport drivers. (Feingold, 2005).

Another tendency of human smuggling, affirming Feingold's point above, is that the consequences of an unorganized crime such as human smuggling are evident when law enforcement is negligent and policies ebb and flow. This is recognized by Frank Lazko and Marco Gramegna. In their research, they reveal that cases related to human smuggling are more complex because they do not have quantitatively precise data on how many or at least who is included in the list of human trafficking, both in terms of victims, and perpetrators.

Still referring to Lazko and Gramegna, human smuggling is a crime that has no data basis for its case reports. (Laczko & Gramegna, 2003). It stands to reason, then, that there is always a curtain that prevents this type of crime from being uncovered, because it is so complex that even the suspicion of a state structure intervening in the crime of human smuggling is temporarily plausible. (Brown & Barron, 2018).

Returning to the topic of the research above, Indonesia-Malaysia human smuggling, where the object of torture and crime is the Indonesian people, and the labor producer in Malaysia. According to a report by BBC.com, between 2014 and 2022, 700 Indonesian workers from East Nusa Tenggara (NTT) had to be repatriated from Malaysia in coffins. (Lumbanrau, 2023). Meanwhile, data from the National Agency for the Placement and Protection of Indonesian Workers (BNP2TKI) shows that specifically, the data of Indonesian workers who died and returned to Indonesia in 2017 were 36 people, 2018, 30 people, and 2019 15 people. (BPNP2TKI, 2020).

 The Trafficking in Person Report (TIP) in July 2022 listed Indonesia as the world's "Tier 2 watch list" in handling human smuggling cases. (Report, 2022) . In this sense countries that were formerly in Tier 3 such as Indonesia continue to maximize efforts to eliminate human smuggling, to be eligible to move up to a higher level, namely "Tier 2 watch list", then Tier 2 to Tier 1, which is the first level that has the best efforts to eliminate human smuggling.

Gambar 1: Rangking Tier 2 Indonesia setiap Tahun (2022)
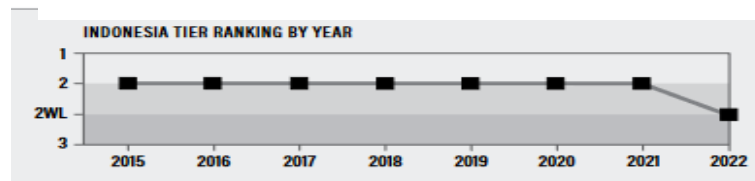
Tier 2 watch list, then Tier 2 to Tier 1, which is the first tier of countries that have the best efforts to eliminate human smuggling.

Meanwhile, if tracked further, the trend of human smuggling on an Asian scale shows an unfortunate position. With such a large population, Indonesia contributes to the practice of human smuggling, including workers in Malaysia. (UNODC, 2022)
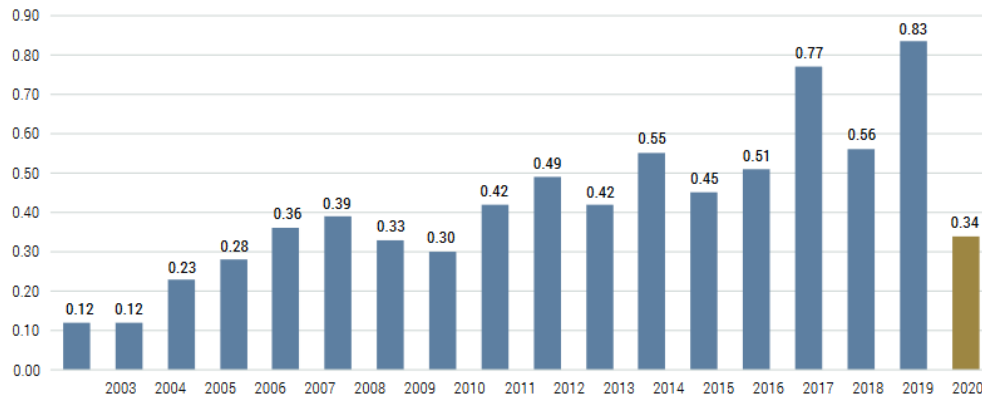
Source: UNODC elaboration of national data and UNDESA World Population Prospects 2019.

Figure 3: Average number of human trafficking in sexual exploitation and domestic labour 2012-m2020 and 2017-2020

Number of victims of trafficking for sexual exploitation detected per 100,000 population, East Asia and the Pacific, 2012 to 2020
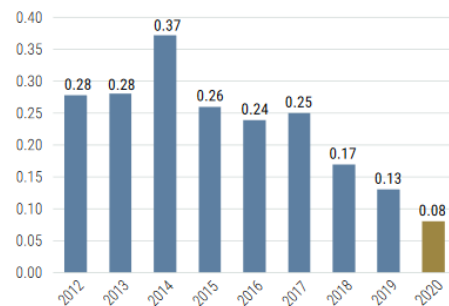
Source: UNODC elaboration of national data and UNDESA World Population Prospects 2019.

Number of victims of domestic trafficking detected per 100,000 population, East Asia and the Pacific, 2017 to 2020
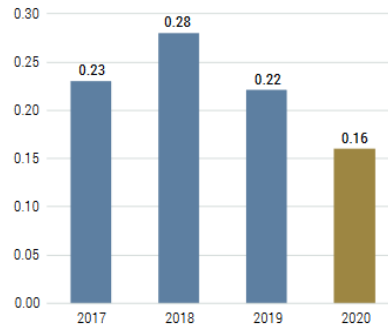
Source: UNODC elaboration of national data and UNDESA World Population Prospects 2019.

If observed, the main cause of the increase in human trafficking between Indonesia and Malaysia is quite complicated. However, at least this can shed some light on the illustration provided by Kevin Bales. For Bales, there is a push and pull factor when human smuggling takes place. These factors are (Bales, 2007) :

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┌─────────────────────┐
│  Conflict & Social  │
│       Unrest        │
├─────────────────────┤
│ Population Pressure │
└─────────────────────┘

┌─────────────────────┐
│       Poverty       │
├─────────────────────┤                    ┌──────────────────┐
│     Government      │                    │  TRAFFICKING and │
│     Corruption      │                    │  Smuggling FROM A │
├─────────────────────┤                    │      COUNTRY     │
│ Lack of Opportunity │                    └──────────────────┘
└─────────────────────┘

┌─────────────────────┐
│ Demographic Provile │
│  (origin country)   │
└─────────────────────┘
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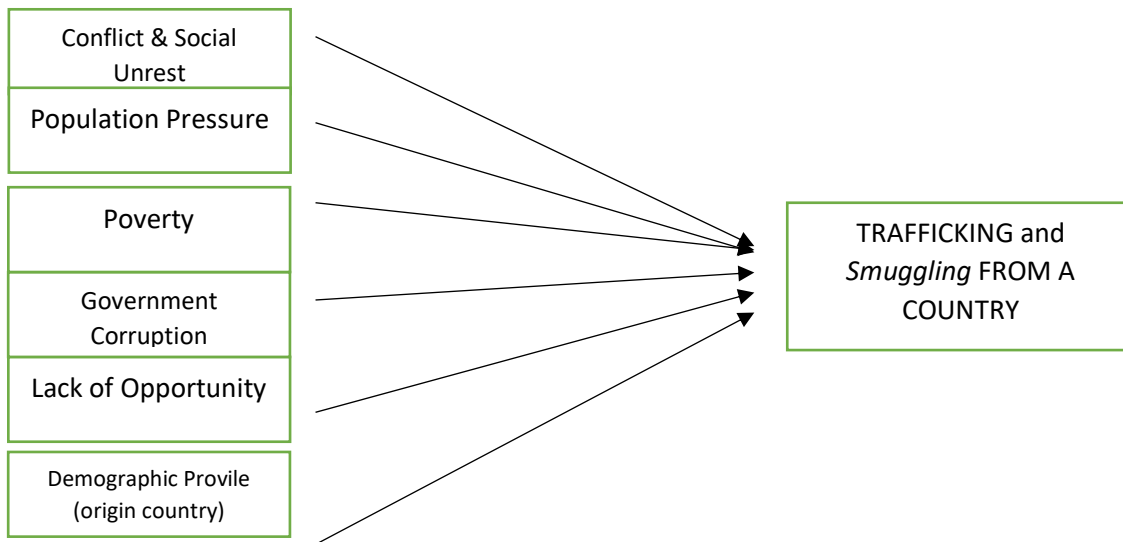
With the illustration above, Bales seems to tell us that human trafficking is conditioned from external factors to internal factors. Bales estimates that all of the above actions lead to an act of exploitation in which humans are forcibly treated, deceived, employed, and finally trafficked. (Bales, 2007)

Furthermore, to be clear, specifically for Indonesia-Malaysia human smuggling, the modes that develop and are so strongly discussed when Indonesian workers become victims in Malaysia include at least:

1. Laborers/Migrant Workers
   On 13 February 2023, Indonesian police named Malaysian national suspects in four cases for allegedly supplying illegal immigrant workers. (WIYOGA, 2023). Separately, Benny Ramdani as Head of BP2MI stated that there are as many as 9 million Indonesians who are migrant workers and only 4.6 million are legally registered, which is a larger number of immigrant worker placements to Malaysia. (Sahputra, 2023)

Chart 1Figure 4: Percentage of Human Trafficking Cases of Indonesian Citizens in Malaysia
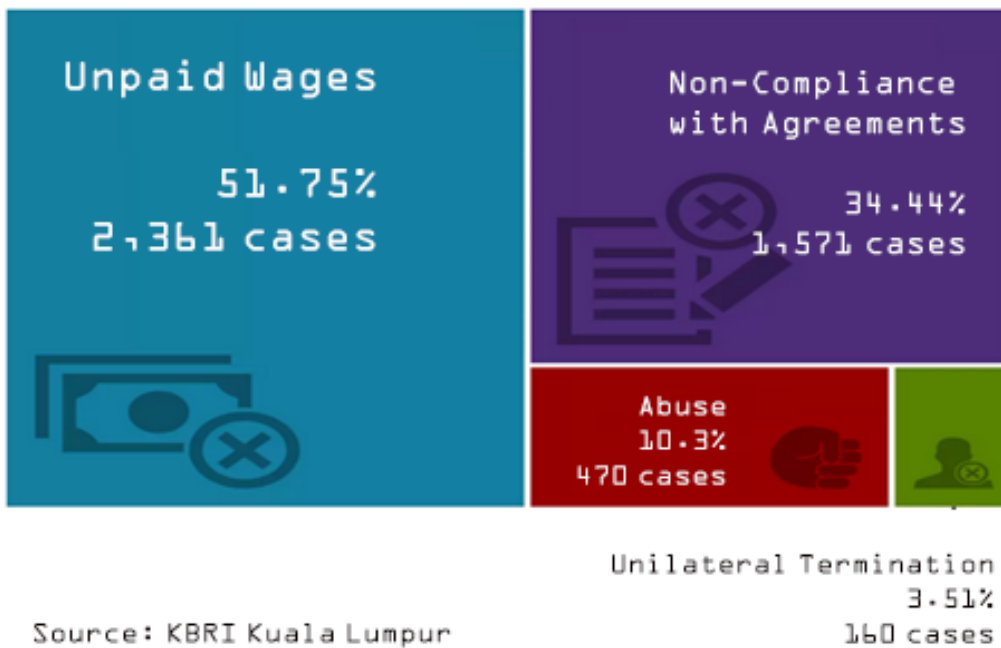
2. Domestic Workers (PRT) Domestic workers or PRTs have become a very vulnerable occupation. Many Indonesians are trapped, even cheated, through this job. BBC.com reports that domestic workers have become a business for a handful of people looking for profit. There are 100,000 Indonesian migrant workers in Malaysia, including domestic workers. Meanwhile, the violence often experienced by domestic workers includes: non-payment of wages, abuse, torture, and even death.(Nurdin & Lumbanrau, 2023).

3. Forced Sex Labor/Sex Exploitation
4. Human smuggling, including human smuggling for sex work, is a serious problem that occurs all over the world, including Indonesia and Malaysia. Human smuggling involves the abuse and exploitation of individuals by coercing, trafficking, or enslaving them for financial or other benefits. Indonesia is one of the countries of origin of human smuggling victims, including victims of human smuggling for sex work. Many Indonesian women and girls are forced or tricked into working as sex workers in various countries, including Malaysia.
5. Malaysia, on the other hand, is one of the destination countries for human trafficking of sex workers, including from Indonesia. Several factors make Indonesia a significant source country for human smuggling to Malaysia for sex work. These factors include poverty, lack of decent work opportunities, lack of education, and ignorance of the risks and consequences of human smuggling. Human traffickers, often organized crime networks, take advantage of victims' vulnerability and economic need to recruit them. They use a variety of methods to coerce, trick or enslave victims, including rape, beatings, detention, threats and deception. After arriving in Malaysia, Indonesian victims of human smuggling of sex workers are often forced to work in the sex industry that is not legally regulated. They may be placed in places such as brothels, nightclubs, or other illegal places of prostitution. They often live in horrific conditions, with their human rights violated, such as freedom, privacy, and dignity. (Monique & Amalia Puspamawarni, 2020)

With the above preliminary data, this research explores and analyzes the importance of understanding the causes of human smuggling between Indonesia and Malaysia, as well as the steps taken by the Indonesian government in dealing with this problem. Through an in-depth understanding of the drivers of this crime and the policies that have been implemented, we can identify the efforts needed to effectively tackle human smuggling. Thus, the foremost and important issues to be developed later in this research are: Firstly, what are the causes of human smuggling between Indonesia and Malaysia? And secondly, to what extent do the political policies outlined in Indonesian law bridge the interests of Indonesian workers? And are these laws and political policies friendly to Indonesian workers?

METHOD
Qualitative-exploratory research is a type of research that aims to understand and explore a particular phenomenon or problem through a qualitative approach. This research aims to gain a deep understanding of the research subject, see things that have not been known before, and produce new findings. Qualitative-exploratory research is often conducted when existing knowledge about a topic is still limited or when previous research has not provided adequate answers. (Creswell & W, 2013).

The qualitative-exploratory research method involves data collection consisting of in-depth interviews, participatory observation, document analysis, or field notes. The researcher used an inductive approach in analyzing the data, which means not having a clear hypothesis or

theoretical framework before starting the research. Instead, it sought to understand patterns, themes, and relationships that emerged from the data collected. Specifically this study, this qualitative-exploratory research wanted to reveal several main things, namely: (Michael Quinn Patton, 1990):

1. Flexibility: This research did not have a strict structure or well-defined procedures. Researchers have the flexibility to adjust their approach according to the development of emerging findings.
2. In-depth data collection: The researcher collected data from books, journals, and scientific reports. This allows the researcher to gain a comprehensive understanding of the research subject.
3. Interpretation of meaning: Researchers endeavor to understand the meaning contained in the data collected. They analyze emerging patterns, themes and social contexts to build a comprehensive understanding.
4. New findings: This research often produces novel findings and can pave the way for further research. Researchers may discover unexpected patterns or relationships that could lead to discoveries or improved theory development.

RESULT AND DISCUSSION
FACTORS CAUSING HUMAN SMUGGLING BETWEEN INDONESIA AND MALAYSIA
Anthropologically, the consequence that can be experienced when conducting a transaction or a trade, especially between two different countries, is the movement of people from one place to another. (Miswanto & Arfa, 2016). However, of course, the literal connotations of trade must be interpreted as a transaction that is legally agreed upon by two people with a strong basis, and does not open up wider polemics, including closing the potential for violations of citizens' rights in general and human rights in particular. In the international world, trade has gone beyond what was originally just an agreement between two parties. Furthermore, trade has included commitments to citizens' human rights. It has emerged as a response to demarcating what can be done and what cannot. Including human smuggling, the international community is deeply concerned about this heinous act.

Human smuggling, also known as modern slavery, is a complex issue involving the recruitment, transportation and exploitation of individuals through violence, deception or coercion for various purposes, such as forced labor, sexual exploitation or organ trafficking. Indonesia and Malaysia are both source and destination countries for human smuggling. Several factors cause human smuggling between these two countries. The causes of human smuggling internally in Indonesia are:

1. Economic Factors
   The economy is the entry point for human smuggling in Indonesia. Psychologically, Indonesians tend to do anything - without consideration of consequences - to fulfill their economic needs. (Nuryakin & Ananta, 2019). On the other hand, high economic growth can contribute to poverty reduction. When the economy grows, employment opportunities and incomes increase, lifting people out of poverty. However, economic

growth that is not inclusive or equitable can result in income inequality and social disparities that exacerbate poverty.

Data from the Central Bureau of Statistics shows that the poverty rate of Indonesians in September 2022 jumped to 9.57 percent, which means there are 26.36 million poor people in Indonesia (Badan Pusat Statistik Indonesia, 2023)

Figure 5: Statistics on the Poverty Level of Indonesian Communities in 2022
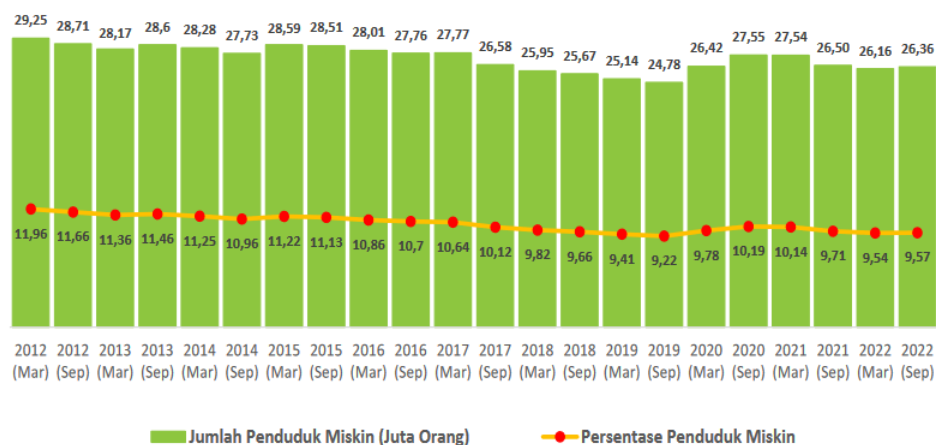
Thus, the poor economy of Indonesian society influences the prevalence of human smuggling. In other words, human smuggling has a strong relevance to economic poverty. This phenomenon often occurs in the context of economic inequality and social vulnerability, where people living in poor economic conditions become easy targets for human smugglers. A more detailed explanation of this relevance follows:

a. Economic Inequality: poor economic levels create significant inequalities in society. People living in poverty tend to have limited access to education, healthcare, and decent work opportunities. These limitations increase their vulnerability to false offers of employment and scams perpetrated by fake recruiters or recruiters. ((ILO), 2017).

b. Unemployment and Job Insecurity: High levels of unemployment or a lack of decent employment can drive individuals to seek economic opportunities elsewhere. Exploiters often capitalize on this situation by offering fake jobs or luring high salaries abroad. Individuals desperate to improve their economic conditions often fall into the human smuggling trap. (IOM, 2015)

c. Global Supply Chains: the existence of global supply chains involving industries such as agriculture, textile factories, construction and the informal sector can exacerbate the risk of people smuggling. Low wage rates and poor

working conditions in these industries make workers vulnerable to exploitation and abuse. They are often targeted for human smuggling with promises of better jobs abroad. (UNODC, 2018).

d. Conflict and Economic Crisis: Armed conflicts, natural disasters or economic crises that hit a country can create situations that exacerbate poverty and social vulnerability. In these situations, people smugglers capitalize on the chaos and vulnerability of communities to expand their operations. They may offer evacuation assistance or fake jobs as a trap for those affected. (GSI, 2021).

e. Lack of Awareness and Education: a lack of awareness and understanding of the risks of human smuggling can make poor individuals more vulnerable to scams and false offers. Lack of access to formal education can also affect their awareness of their rights, legal protections, and safer economic alternatives. (Rahman & Muttaqin, 2020).

2. Labor and the Informal Sector.

To combat human smuggling, it is important to understand the complex relationship between labor demand, working conditions, and vulnerability to human smuggling practices. Efforts to improve labor protections and rights, as well as effective enforcement measures, are important steps in preventing and combating human smuggling.

The relationship between labor, the internal sector, and human smuggling involves a complex dynamic between labor demand, working conditions, and levels of vulnerability to human smuggling practices. The demand for labor in the internal sector, such as the agriculture, construction, garment manufacturing and service industries, can create conditions that encourage human smuggling. High demand for cheap, low-skilled labor often involves exploitation, forced labor or human smuggling. (UNODC, 2018).

The demand for cheap labor, especially in low-skilled sectors such as construction, manufacturing, agriculture and domestic work, creates opportunities for human smuggling. The informal sector, which lacks regulation and oversight, often provides a conducive environment for human traffickers to exploit vulnerable individuals. The demand for labor in Malaysia, coupled with the lack of legal pathways for migration and permanent employment, creates fertile ground for human traffickers to operate. The data also shows that gender inequality plays a role in the relationship between labor, the internal sector and people smuggling. Women and girls are often victims of human smuggling, especially in the context of migrant labor. They can be trapped in practices of sexual exploitation or forced labor as domestic workers or migrant workers. (Julyati, 2023). For example, in the service sector, such as the hospitality and service industry, women are often targeted for human smuggling for sexual exploitation. The demand for commercial sex workers in this sector creates high risks for women who are in conditions of economic and social vulnerability.

As revealed by Kompas.id, informal workers in Indonesian society are relatively large, totaling 667,114 workers between 2019-2022 or 53.9 percent. (MEDIANA, 2023). As other data reveals, specifically informal laborers who are abused and subsequently suspected of being the object of human smuggling in Malaysia persist in high numbers which are quite high. (IOM, 2015)

Chart 2 Figure 6: Indonesian Informal Labourers in Human Trafficking in Malaysia

V.30. JUMLAH TENAGA KERJA INDONESIA (TKI) MENURUT NEGARA PENEMPATAN
(Ribuan Orang)

	NEGARA	2016	2017	2018	2019	2020 Q1	Q2
1	ASEAN	2,000	2,004	2,031	2,019	1,731	1,731	1,730
2	Malaysia	1,862	1,876	1,902	1,883	1,633	1,633	1,631

DATA PENGADUAN PMI BULAN JULI 2022
SEBANYAK 163 PENGADUAN

5 NEGARA PENEMPATAN DENGAN PENGADUAN TERTINGGI

o1 SAUDI ARABIA — 47 Pengaduan 28,9%

o2 MALAYSIA — 28 Pengaduan 17%

o3 TAIWAN — 20 Pengaduan 12,2%

o4 HONGKONG — 14 Pengaduan 8,5%

o5 UAE — 10 Pengaduan 6,1%

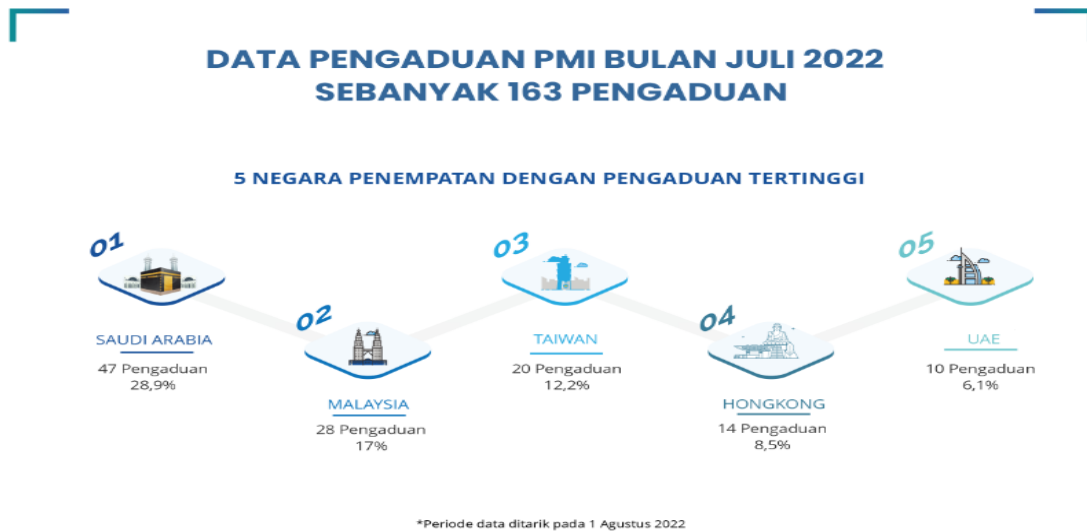*Periode data ditarik pada 1 Agustus 2022

Figure 7: Indonesian Labour Grievance Data

3. Lack of Awareness and Information

Lack of awareness and information has a significant link to human smuggling practices between Indonesia and Malaysia. Low awareness of human smuggling among the general public is a factor that exacerbates the situation. Many people do not have an adequate understanding of the definition, forms and indicators of human smuggling. This lack of awareness can make people more vulnerable to deception and manipulation by traffickers. Recent data shows

Most of the above complaints are about human smuggling, especially in Malaysia. This shows two main things: firstly, Indonesians are not well informed about the intricacies of the job, which implies that when they arrive in the destination country, they become victims of human smuggling, tortured and intimidated. Secondly, this is a concrete example that in the realm of migrant work, manipulative information is often provided to seduce workers. In addition, a lack of information about the risks associated with human smuggling and a lack of understanding of the rights and protections available can make it easier for individuals to fall into the human smuggling trap. Many people do not realize that they could be victims or recognise the early signs that indicate they are being targeted for human smuggling.

Further, the limited dissemination of information on human smuggling among the general public and in at-risk communities can hamper prevention and case identification efforts. Lack of access to accurate and easy-to-understand information on human smuggling makes it difficult for communities to recognize the signs and risks associated with human smuggling. (Chung, 2015). Coherently, the role of the media should not be overlooked. The media has an important role to play in raising public awareness and knowledge about human smuggling in Malaysia. Through extensive coverage and emotionally evocative storytelling, the media can help change public perceptions and attitudes towards people smuggling, as well as increase understanding of the risks and signs associated with it. (Kaur & Ganesan, 2018)

POLITICAL AND LEGAL POLICIES OF INDONESIAN MIGRANT WORKERS

In general, to mitigate the practice of human smuggling, the government officially enacted Law Number 21 of 2007 concerning the Eradication of Human Trafficking Crimes. Next, in terms of protection, there is Law No. 18/2017 on the Protection of Indonesian Migrant Workers, which is further affirmed by Government Regulation (PP) No. 59/2021 on the Implementation of the Protection of Migrant Workers. Not apart from that, the government showed its seriousness by ratifying the international convention - Convention On The Protection Of The Rights Of All Migrant Workers And Members Of Their Families - as stipulated in Law Number 6 of 2012.

Another seriousness is shown when the government so firmly ratifies international conventions whose function is to legitimize all protections to the community, including those related to the interests of Indonesian migrant workers. These include:

1. Law No. 7 of 1984 on the ratification of the Convention On The Elimination Of All Forms Of Discrimination Against Women.

2. Law No. 29 of 1999 on the Elimination of All Forms of Racial Discrimination (International Convention on The Elimination of All Forms of Racial Discrimination 1965)
4. Convention of the Universal Declaration of Human Rights
5. Law No. 11 of 2005 Concerning the International Convention on Economic, Political and Cultural Rights
6. ILO Convention No. 182 of 1999 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor
7. ILO Convention 189 on Decent Work for Domestic Workers
8. Law No. 21 of 1999 Concerning the Ratification of ILO Convention No. 111 Concerning Discrimination in Respect of Employment and Occupation

In terms of field practice, the Indonesian government has implemented several policies to protect migrant workers, including the establishment of the National Agency for the Placement and Protection of Indonesian Migrant Workers (BNP2TKI) and the signing of labor protection agreements with migration destination countries. These policies aim to ensure the rights, welfare, and protection of migrant workers throughout the migration cycle, from registration to return home. At the same time, the Government of Indonesia has launched a training and certification program to improve the skills and competitiveness of migrant workers. This program aims to prepare migrant workers with the skills needed in specific sectors in the destination country of migration so that they can get better jobs and better protection. (Batubara & Kumalasari, 2020).

On the other hand, Indonesia has also signed labor protection agreements with several migration destination countries. These agreements include provisions on migrant workers' rights, social protection, fair wages, and decent working conditions. The purpose of these agreements is to ensure fair treatment and adequate protection for migrant workers. At this point, with such a comprehensive formulation of protection, the next appropriate question is, why are Indonesian migrant workers still vulnerable? Despite strict legal regulations, inadequate law enforcement can allow human smuggling practices to take place. Some of the challenges in law enforcement include corruption and a tendency to be non-victim-centered. (Mustapha & Hasan, 2018). Thus, a more rigid explanation of these factors is as follows:

1. Corruption: Structural State Involvement in the Exploitation of Workers
    Corruption and complicity of authorities are factors that often contribute to law enforcement's inability to combat human smuggling. Corruption can undermine the integrity of the law enforcement system by providing protection to people smugglers or hindering law enforcement efforts. In addition, the involvement of authorities such as police officers, immigration officials, or other government officials in human smuggling can hinder law enforcement and put the safety of victims at risk. (Hossain & Zimmerman, 2010)
   In the findings in several regions in Indonesia, there is something so distressing, where law enforcement officials tend to strengthen human smuggling. This was the

case in 2020, which included thousands of people (Sri Wiyanti Eddyono & Et.all, 2020)

The practices that occur are found in the field, namely (Rahman & Muttaqin, 2020):

1. Bribery and Receipt of Money: Some law enforcement officials may accept bribes or receive money from people smugglers to protect them from prosecution or avoid disclosure of their activities. This can include accepting money to allow perpetrators to flee, ignore investigations, or reduce their punishment.
2. Collusion and Protection: Some law enforcement officials may engage in collusion with people smugglers by protecting them. This can include providing information about upcoming law enforcement operations, destroying evidence, or ignoring reports and complaints involving people smugglers.
3. Abuse of Power: Law enforcement officials involved in human smuggling may abuse their power to manipulate cases and protect perpetrators. This can include manipulating evidence, influencing witnesses, or obstructing investigations and court proceedings.
4. Abuse of Immigration Authority: Some immigration law enforcement officials may utilize their position to facilitate human smuggling. This could include obtaining bribes from migrant workers to gain entry into the destination country or treating them unfairly by manipulating work permits or visas.
5. Discriminatory Acts: Discrimination in law enforcement can also be a form of corruption in people smuggling. Law enforcement officials may selectively pursue human smuggling cases based on factors such as social status, ethnicity, or religion. This can lead to unfairness in law enforcement and provide opportunities for perpetrators to continue their human smuggling activities unhindered.

Figure 8: List of people smuggling numbers by country and law enforcement intervention

Grafik 3. Jumlah Laporan Kasus Berdasarkan Negara Tujuan
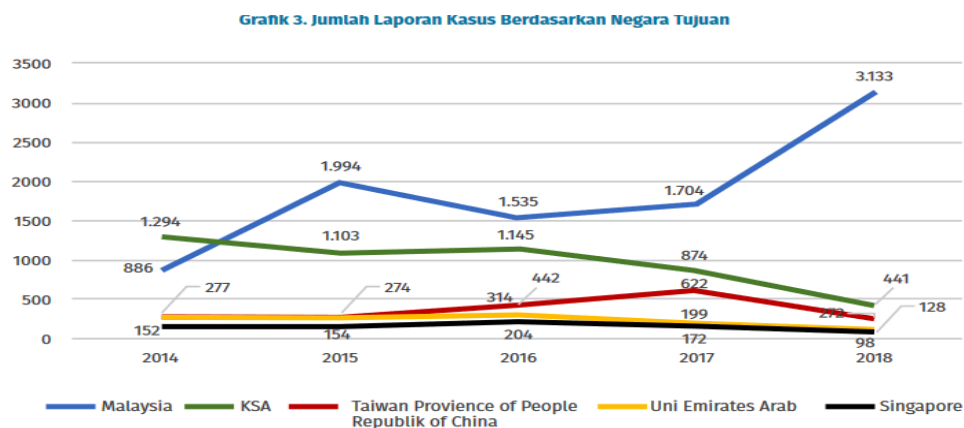
2. No Victim Perspective

    The tendency of the government not to use a victim approach to victims of human smuggling is a crucial factor. By understanding the logic of victims, it will be faster and easier to understand the complexity of human smuggling between Indonesia and Malaysia. Provisions regarding the protection of victims of human smuggling crimes in Indonesia are implemented based on Law No. 31 of 2014 on the amendment of Law No. 13 of 2006 on Witness and Victim Protection (hereinafter referred to as UUPSK), unless otherwise specified in Law No. 21 of 2007 on the Eradication of Criminal Acts of Human Smuggling (hereinafter referred to as UU PTPPO) by Article 43. (S & Wancik, 2020).

    The absence of a victim's perspective on victims of human smuggling between Indonesia and Malaysia can be caused by several interrelated factors. The following is a lengthy and detailed explanation of the factors that contribute to the invisibility of the victim's perspective in the context of human smuggling between Indonesia and Malaysia (Puspadewi, 2019):

1. Limited Access to Information: Victims of human smuggling often face limited access to information about their rights and how to report or seek help. Many victims come from remote areas or communities that are poorly connected to the information and resources necessary to combat human smuggling practices. In addition, victims may not have an adequate understanding of their rights and the importance of reporting the crimes they experience.
2. Fear and Threats: Victims of human smuggling often live in a state of fear and are threatened by their traffickers. They are threatened with physical violence, extortion, or arrest by authorities if they report or testify against the perpetrators. These threats make victims afraid to speak out or share their experiences, as they fear for the safety of themselves and their families.
3. Stigma and Discrimination: Victims of human smuggling often face strong stigma and discrimination in society. They may be regarded as "wrongdoers" or perceived to have involvement in illegal practices. This can make victims reluctant to speak out about their experiences for fear of being punished or condemned by their surrounding communities. Stigma and discrimination can also cause victims to feel ashamed or feel that they will not be believed or heard if they try to report a crime they have experienced.
4. Limited Legal Protection: Limited legal protection in the victim's home country, such as Indonesia, can also affect the invisibility of the victim's perspective. Weak legal

systems, lack of resources for law enforcement, and lack of awareness of the importance of protecting victims of human smuggling can lead to limited handling of victims' cases. This can result in victims' distrust of the legal process and ignorance of how to report their case.

5. Communication and Language Barriers: Victims of human smuggling may face significant communication and language barriers. Many victims come from regions of Indonesia that have different local languages, so they may struggle to communicate with law enforcement officials or service providers due to language issues. In addition, victims sent abroad, such as Malaysia, may also face language barriers in interacting with local communities and law enforcement agencies in the destination country. The inability to communicate fluently can hinder a victim's ability to disclose their experiences or seek assistance..

THE POLITICAL CONFIGURATION OF HUMAN SMUGGLING IN INDONESIA-MALAYSIA AND ITS RELEVANCE TO NATIONAL POLICY SCENARIOS

After the explanation above, which specifically tends to describe the origin of human smuggling practices in Indonesia, the following will rigidly analyze the foreign policy (Indonesia-Malaysia) of human smuggling opportunities that are then linked to collective prevention efforts, both at the structural level of the state (Indonesia) or collective mitigation relationship efforts between Indonesia and Malaysia, which at a certain level become a national policy call (downstream). Thus, to elaborate in a more focussed manner, the following explanation will be framed through three main factors, or three analytical approaches. Firstly, the opportunity for smuggling through the framework of a geographical approach. Second, is the Indonesia-Malaysia Troubleshooting approach. And third, Indonesia's political migration policy approach.

1. Geographical Approach

   In many of the findings, as can be seen in (UNODC, 2020), (Darmayani, 2021) and (Sri Wiyanti Eddyono & Et.all, 2020), Human smuggling often takes place in Indonesia's border areas. This is because the level of vulnerability of Indonesia's borders is still relatively high. One of these border vulnerabilities is often characterized by systematic corrupt practices. UNODC in 2018 revealed that human smuggling occurs due to massive corruption that affects every level. In full, UNODC's findings show that corrupt practices are intertwined through a network of networks that are divided at every level, from petty corruption in the aspect of border control, to grand corruption in the aspect of higher government. (UNODC, 2018).

   The International Bar Association in its in-depth research titled Human Trafficking and Public Corruption asserts that the involvement of officials in border, immigration and customs areas plays an important role in facilitating the movement of people for human trafficking or smuggling.(BAR, 2016). The latest data shows that human smuggling efforts, which are then identified with the Distribution of Criminal Offences in Indonesia's border areas, are increasing from year to year. According to the type, there were 244 cases of human trafficking, followed by 49 cases of smuggling. And broken

down according to border areas, West Kalimantan 74 cases, North Kalimantan and Sulawesi 41 cases, North Kalimantan, Riau 27 cases. (Rizaty, 2023)

*Sumber Gambar: Kepolisian Republik Indonesia*
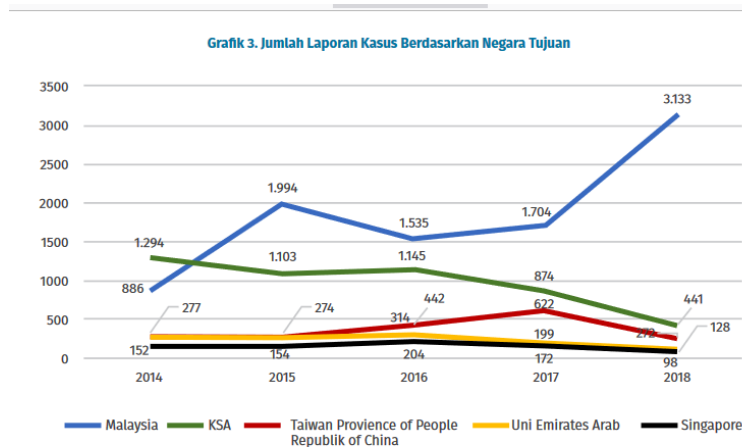
Source grafik: IOM

In the Kalimantan border region, for example. A research report from the International Organisation for Migration (2020), which looked specifically at the dynamics of human trafficking and smuggling in the districts of Sanggau, Sambas, Kapuas Hulu, and Nunukan, found that the graph of Malaysia-specific cases soared with the reporting scheme of human trafficking and smuggling based on the country of destination.

In addition, although overall the Kalimantan border, represented by 4 districts, shows a high vulnerability to human smuggling, each district is very different in terms of the

mode of practice in each district. Similarly, the actors involved, their influence and their involvement are different. In the context of Sanggau District, because the district is strategically located on the Malaysian land border, it is highly vulnerable to human smuggling. Between January and May 2019, Entikong Immigration Office refused to process 73 passport applications because they allegedly did not fulfill the requirements of work contracts, and work permits in Malaysia, and simultaneously prevented 19 prospective immigrant workers from going to Malaysia because they were found not to have work agreements with employers in Malaysia. (Sri Wiyanti Eddyono & Et.all, 2020). However, at the same time, several cases potentially belong to the Trafficking in Persons (TPPO) network in Sanggau District, but of these, only one case that falls under the TPPO criteria can be found through the Decision of the Sanggau District Court, with case number 301/pid.sus.2018.PNSag on 13 December 2018. (Sri Wiyanti Eddyono & Et.all, 2020).

As an area directly bordering Kuching-Malaysia, Sanggau Regency has the potential to practice human smuggling or human trafficking. The modes that are often used in carrying out smuggling and human trafficking can be seen at least as follows:

Figure: Schematic Modes of trafficking and smuggling in Sanggau District, Kalimantan. Source: IOM
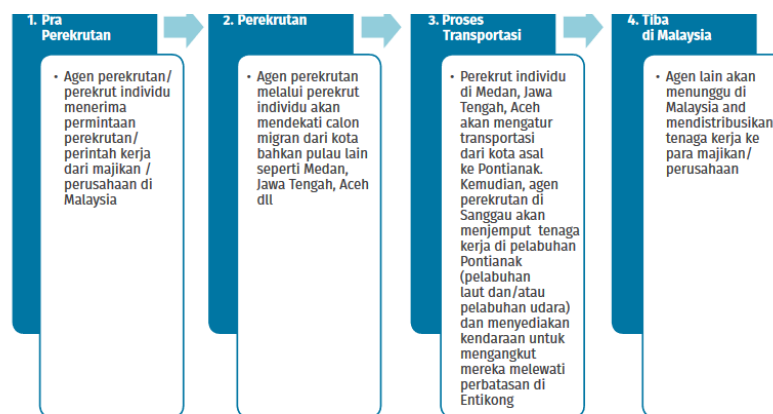
The key actors that influence the high and low rates of human trafficking and smuggling in Sanggau Regency are:

a. Task Force for the Prevention and Handling of Human Trafficking Offences (GT-PPTPO)

b. One-Stop Integrated Service Agency for the Placement and Protection of Indonesian Migrant Workers/LPTSA-P2TKI

c. Pos Pelayanan, Penempatan, dan Perlindungan Tenaga Kerja Indonesia (P4TKI)

d. Immigration Office

e. Consulate General of the Republic of Indonesia (KJRI)
f. Law Enforcement Agency
g. Non-governmental organisations and non-governmental organisations

As with any serious crime, human smuggling must be handled with a high level of seriousness and commitment by all the key actors mentioned above. This is considered because the level of complexity is so random that these key actors become a significant opportunity. On the other hand, in addition to the key actors above, in the context of immigrant smuggling, actors in the private sector also need to be mitigated. This is because in many studies - particularly in border areas - the private sector has the opportunity to be involved in providing smuggling and human trafficking services. These private actors include: carriers, transporters, labor agents, employers, security providers, fishing industry employees, education personnel, and port personnel. (UNODC, 2020).

No	Tahun	Nomor Keputusan Pengadilan	Dakwaan	Hukuman
1	2015	97/Pid.Sus/2015/PN Sbs	Dakwaan tunggal: UU No 21/2007	UU No 21/2007
2		34/Pid.Sus/2015/ PN Sbs	Dakwaan alternatif: UU No 21/2007 UU No 39/2004	UU No 39/2004
3	2016	28/Pid.Sus/2016/PN Sbs	Dakwaan alternatif: UU No 21/2007 UU No 39/2004	UU No 39/2004
4		29/Pid.Sus/2016/ PN Sbs	Dakwaan alternatf: UU No 21/2007 UU No 39/2004	UU No 39/2004
5		213/Pid.Sus/2016/PN Sbs	Dakwaan alternatif: UU No 21/2007 UU No 39/2004	UU No 21/2007
6	2017	34/Pid.Sus/2015/ PN Sbs	Dakwaan alternatif: UU No 21/2007 UU No 39/2004	UU No 39/2004
7	2018	34/Pid.Sus/2015/ PN Sbs	Dakwaan alternatif: UU No 21/2007 UU No 39/2004	UU No 39/2004

TPPO register at Sambas District Court. Image: IOM

In contrast to Sanggau, in Sambas Regency, between 2015-2018 the Sambas District Court has tried at least 7 cases of TPPO that were decided. In other findings, smuggling at the border often occurs not only as a person-to-person agreement. More than that, human smuggling is a big project whose income figures are very lucrative. (Wan Shawalluddin Wan Hassan et al., 2020). Similarly, because of the large amount of income, the people involved in the human smuggling process are not weak people or groups. This means that network connections and resources are the cornerstone of human smuggling activities. Thus, specifically for the Indonesia-Malaysia border area, strengthening the actor sector should not only be on the part of the Indonesian state, but also the part of the destination country of smuggling, namely Malaysia. That way, when there is collective work between countries to eradicate human smuggling and trafficking, the

case rate will practically decrease, and the projection of TPPO offenses will simultaneously decrease as well.

2. Troubleshooting Approach between Indonesia-Malaysia

Coherent with the above discussion about border areas that are often a convenient place for smuggling and human trafficking practices, Quoting (Wangke, 2017), In the interconnected and intertwined world of international politics, there is a fundamental term to describe the pattern. that term is "good fences make good neighbors". This means that if Indonesia wants to have good neighbors, then it should also start building its fences (border areas) to be good. And that is possible if it builds professional bilateral cooperation with neighbors as well. In the context of border crossing, Indonesia-Malaysia has an agreement stipulated in the Agreement Between the Government of the Republic of Indonesia and the Government of Malaysia on Border Crossing. (Wangke, 2017), In principle, this agreement is a collective effort of cooperation, both in the aspects of defense, bilateral relations, and law enforcement in the border area.

In Indonesian legal standards, the aspects of human smuggling can be traced as follows:

a. Law No.6 of 2011 on Immigration;
b. Government Regulation No. 31 of 2013 on the Implementing Regulations of Law No.6 of 2011 on Immigration;
c. Law Number 12 Year 2006 on Citizenship;
d. Law No. 5 of 2009 on the Ratification of the United Nations Convention Against Transnational Organized Crime;
e. Law No.14 of 2009 on the Ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime
f. Law No.15 of 2009 on the Ratification of the Protocol Against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention Against Transnational Organized Crime.

In addition, to identify, address and prevent this illegal behavior, Indonesia and Malaysia have developed several cooperation tactics and initiatives. Illegal human smuggling across borders is a serious problem that can result in exploitation, human rights violations, and a danger to regional security. Given that their respective territories are often transit points for human smuggling, both countries recognize the value of collaboration in resolving this issue. The strategies used by Indonesia and Malaysia to address the issue of human smuggling are as follows:

a. Indonesia and Malaysia maintain close intelligence cooperation to monitor the activities of human smuggling networks, identify smuggling routes, and exchange information on perpetrators and victims. This cooperation helps improve understanding of the tactics and strategies used by people smugglers.
b. Both countries are strengthening their border and coastal patrols to prevent people smuggling activities. Stricter surveillance in ports and border areas helps reduce the loopholes for smugglers to operate.

c. Indonesia and Malaysia can invest in advanced technology and modern detection tools to improve their ability to identify and confront human smuggling activities. The use of this technology allows for more efficient monitoring and faster apprehension of smugglers.

d. Both countries provide training to their security forces on human smuggling tactics, victim handling, and relevant legal procedures. This training increases officers' awareness of the complexity of the human smuggling problem and helps them deal with it more effectively.

e. Indonesia and Malaysia are working together to develop and enforce a robust legal system against human smuggling offenders. This includes stricter investigation processes, fair trials, and appropriate penalties for perpetrators of this crime.

g. Both countries are committed to providing protection and assistance for victims of human smuggling. They run rehabilitation programs that assist victims in their physical and mental recovery, and help them to return to a better life.

h. Indonesia and Malaysia also collaborate on public awareness campaigns to educate people about the risks and consequences of human smuggling. Engaging communities in prevention efforts can reduce the demand for human smuggling services.

As a result, this troubleshooting approach between Indonesia and Malaysia is more effective because it involves active cooperation and commitment from both parties. By working together, they can identify and address gaps in the system, improve border surveillance, and empower communities in prevention efforts.

3. Indonesia-Malaysia Immigration Policy Approach

As mentioned above, human smuggling crimes often go unaddressed because some actors tend to be corrupt and prioritize profit. The actors here are not only on the Indonesian side, but Malaysia also has actors who are almost similar to Indonesia. Each of them uses their connections and resources to make the most of their profits. However, with time and the seriousness of both countries, Indonesia-Malaysia finally managed to build a special joint agreement to eradicate the smuggling and trafficking mafia, especially in the context of immigration. This agreement took place through the signing of the MoU which took place on 28 July 2022.

The MoU emphasizes that to prevent and combat human smuggling and trafficking through the immigration mechanism, Indonesia-Malaysia will use a one-channel system (OCS). (Mulya, 2023). Where the OCS system emphasizes one-way information, migrants receive information only through one door. Furthermore, specific to Malaysia's policy, Malaysia has introduced various immigration programs, such as the Foreign Worker Recruitment Scheme which regulates the recruitment of migrant workers from certain countries, including Indonesia. (Kemenlu, 2018). On the Indonesian side, the Government has also signed bilateral agreements with Malaysia, such as the Indonesia-Malaysia Migrant Workers Protection Agreement in 2017, which seeks to improve the protection and welfare of migrant workers. (Kemenlu, 2018). In addition to bilateral

cooperation, the active involvement of Indonesia and Malaysia in regional frameworks is also an important step. Through active participation in regional forums such as ASEAN (Association of Southeast Asian Nations), both countries can jointly seek solutions and develop effective regional mechanisms to address issues of migration and population mobility.(ASEAN, 2017).

However, it does not stop there, mitigation efforts do not only take place on structural lines between countries. It must be even more far-reaching. Another challenge is addressing the social, economic and political issues associated with migration, such as social integration and cultural diversity. Migrant workers living and working abroad often face challenges in adapting to a new culture and social environment. Therefore, there need to be programs that support the social integration and economic empowerment of migrant workers, both when they are in the destination country and when they return home. In addition, the role of the private sector is also important in organizing and managing population mobility between Indonesia and Malaysia. Companies that employ migrant workers need to play an active role in ensuring the protection and welfare of workers, as well as complying with applicable laws and regulations.

CONCLUSION

Human smuggling between Indonesia and Malaysia is a complex problem that arises from multiple causes. Economic disparity, lack of employment opportunities, and the desire for a better life are some of the main factors that drive people to seek unofficial migration routes facilitated by smugglers. In addition, the geographical proximity and wide maritime border between the two countries provide opportunities for trafficking networks to exploit vulnerable individuals. To address these challenges, the Indonesian government has implemented several policies and strategies to effectively combat human smuggling. In addition to the policies that have been established by Indonesia, important things that deserve attention that are further accommodated in these policies include:

1. Strengthening Border Security: Indonesia has increased efforts to improve border control and surveillance to detect and prevent illegal crossings and activities of human smuggling networks.
2. Law Enforcement and Prosecution: The Indonesian government has enacted strict laws and regulations targeting people smugglers. They are committed to arresting and prosecuting those involved in human smuggling operations.
3. International Cooperation: Recognising that people smuggling is a transnational issue, Indonesia works closely with Malaysia and other neighboring countries to exchange information, coordinate operations and address common challenges.
4. Protection and Assistance for Victims: Indonesia has taken steps to improve the protection and assistance provided to victims of human smuggling. This includes

providing safe shelter, access to legal aid, and ensuring their welfare during the repatriation process.

5. Public Awareness Campaign: The Government of Indonesia conducts public awareness campaigns to educate the public about the dangers of human smuggling and the risks associated with irregular migration. This helps prevent potential victims from falling into the hands of smugglers.

6. Regional and Multilateral Agreements: Indonesia actively participates in regional and multilateral forums, such as ASEAN, to collectively address human smuggling issues. These agreements encourage cooperation and coordination among countries in the region to effectively combat this crime.

In principle, human smuggling between Indonesia and Malaysia is a pressing issue with far-reaching consequences for individuals and communities. The Indonesian government recognizes the importance of addressing this challenge and has taken proactive measures to effectively combat human smuggling. However, it is critical to continue to develop and implement comprehensive policies, focusing on prevention, enforcement and protection to address the root causes and protect vulnerable communities from falling victim to human smuggling networks. In addition, co-operation and collaboration with Malaysia and other regional partners remains essential in a joint effort to address the issue and create safer and more secure migration pathways for those seeking better opportunities and a brighter future.

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