

THE ROLE OF THE INDONESIA EMBASSY IN HANDLING CASES OF SEXUAL VIOLENCE AGAINST FEMALE PMI IN MALAYSIA IN 2014-2019

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Abstract

Indonesian Migrant Workers or abbreviated as PMI are workers from Indonesia who work abroad. Malaysia as the main destination country for PMIs has more access to employ workers from Indonesia. The large number of PMIs in Malaysia also causes a high level of violence that occurs in Malaysia, especially cases of sexual violence against female PMIs in Malaysia. This is being a particular concern to efforts to protect PMI's human security through protective diplomacy carried out by the Indonesian Embassy in Malaysia. The research method used is reviewing data from the official website. It was found that the Indonesian Embassy was supervising cases of sexual violence against female PMIs in Malaysia by making protection diplomatic efforts with related parties to uphold the human security of female PMIs in Malaysia.

Keywords: human security, Indonesian Embassy, PMI, protection diplomatic

1. Introduction

Violence action can be experienced by anyone, it can happen anytime, and also anywhere. Everyone has an equal chance of being targets of the violence action. However, what happens in the field that is the most frequent being victim of violence action is women. Violence action that experienced by women is having of various kinds. This violence can be in the form of physical, psychological, and even sexual violence(Husna, 2014). Violence occurs regardless of time and place. In fact, anyone can become a victim of violence action. The most frequent incident is violence against women who work as Indonesian Migrant Workers or in Indonesian called as "PMI" or *Pekerja Migran Indonesia*(Husna, 2014). Migrant worker is a term used to describe people who migrate from their hometown to another place and then settle there to work (Husna, 2014). More specifically, PMI is an Indonesian citizen who will, is, or has been doing work with wages outside the territory of the Republic of Indonesia (Pemerintah Indonesia, 2017).

The most reason that often stated by female PMIs is that they want to improve the economic condition of their families, one of which can be realized by becoming PMI. Daily needs that are getting more and more in price are not

proportional to the salary that women get. This often happens for those who are not lucky to have a proper education (NN, 2018). For these many reasons, the number of PMIs continues to grow from year to year. The number of PMIs have been increased. As of 2019, there were 283,640 PMIs with Malaysia as the main destination country for PMIs. The number of PMIs in Malaysia is 90,671 or around 31.9% of the total PMIs. Malaysia as the main destination country for PMIs has more access to employ workers from Indonesia. 53% of the total number of PMIs in Malaysia work as informal workers (BNP2TKI, 2019).

As a country with the highest number of PMIs, there is also a lot of potential to generate the amount of violence against PMI in Malaysia. It was recorded that from 2014-2019 every year there were acts of sexual violence against female PMIs in Malaysia whose cases were published by the media. This was marked by violence against female PMI from Kupang who was found to have injuries to her female organs in 2014. Followed in 2016 there was a case of rape of a female PMI that was committed by a Malaysian canteen guard. In 2017 there was a female PMI who died as a result of sexual violence. Rape of female PMI by employer occurred in 2018 (CNN, 2019).

The recent case happened in mid-2019 was sexual violence against female migrant workers from Indonesia by Malaysian politicians. In this case the culprit was highlighted more. In this case, the representatives of the Indonesian government are obliged to provide protection for the victim. If we look further, every country that has diplomatic relations with Indonesia, of course, has Indonesian representatives in that country. The Indonesian Embassy, which is the representative of the Indonesian government abroad, has the duty to protect Indonesian citizens in the country where they are assigned and also as a means of diplomacy for Indonesia's political interests abroad. This research serves to see the function of the Indonesian Embassy in protecting PMIs in Malaysia as one of its main tasks. Because of the importance of this, the authors are interested in conducting research on the role of the Indonesian Embassy in handling cases of sexual violence against female PMI in Malaysia in 2014-2019.

2. Literature Review

2.1. Protection Diplomatic

Diplomacy is one of the most important things for a country in achieving that country's national interest (Roy, 2016). The origin concept of protection diplomatic is an action taken by a state against another state in respect of injury to the person or property of national caused by an internationally wrongful act or omission attributable to the latter state (Djelantik, 2016). Protection diplomatic is being used in cases happen An International Wrong, Exhaustion Local Remedies, dan Link of Nationality (Forcese, 2017).

2.2. Human Security

The concept of human security was emerged after the cold war (Kristiadi, 2017). Human security appears because of the increasing number of civil wars and conflicts within the country, the spread of democracy, humanitarian intervention, and the increasing number of poverty and unemployment (Acharya, 2011). The aim of human security is to provide a sense of security to individuals who experience shocks and involve other parties.

3. Research Methods

The research method is a systematic way to solve the problems raised by the researcher. The research method studies the various steps that are generally used by researchers in analyzing the problems raised based on existing theories. It is important for researchers to understand the research methodology, not just the technique (Khotari, 2014). The research method is usually carried out by studying the theories that are in accordance with the problems discussed by the researcher, the absoluteness of the problems raised. This method is used to collect data compiled collectively as material for a study study (Khotari, 2014).

3.1. Type of Research

In this research, the writer used qualitative research. Qualitative research contains explanations and descriptions of the problems raised in the research. Then the researcher is obliged to present the results of the collective data and conduct a descriptive analysis (Khotari, 2014). This type of qualitative research focuses on a problem that is qualitative and descriptive in nature that requires an analysis.

3.2. Source of Data

The data source is the subject from which data can be obtained. Obviously, if researchers use research techniques, the data source is a process of something

that is observed (Arikunto, 2014). In this research, the researcher tried to study the data based on secondary data sources. Sources of secondary data are obtained from news and official websites on the internet that discuss cases of sexual crimes experienced by female PMIs in Malaysia.

3.3. Object of Research

The object of this research is the real role played by the Indonesian Embassy in Kuala Lumpur in cases of sexual crimes experienced by female PMI in 2014-2019. This is because in that year there are cases of sexual violence against female PMIs in Malaysia, which is the country with the highest number of PMIs.

3.4. Data Collection Technique

Researchers used literature review techniques. The literature review is obtained from official library documents on trusted internet sites which will later be used as data sources.

3.5. Data Analysis Technique

Data reduction is a data analysis technique in qualitative research. Data reduction also means summarizing data to make it more concise so that it makes presentation easier. The presentation of data is an activity of compiling data that allows the conclusion of a study to be drawn. Data presentation in qualitative research will be summarized in the form of narrative text. Data verification is also called the process of drawing conclusions, which is the result of analysis that can be used to take further action. The purpose of data verification is to test the correctness or validity of existing results and maintain objectivity from different views.

4. Result and Discussion

4.1. Indonesian Embassy Overview

Indonesia has cooperated relations with Malaysia since 1957 (Yaakub, 2013). Therefore, it is not surprising that Malaysia is a country with the highest number of PMIs. This affects the level of violence against PMI in Malaysia, also included in it sexual violence. The data obtained shows that from year to year from 2014-2019 there have always been acts of sexual violence against female PMI in Malaysia. In 2014, there was violence against female PMI in Malaysia with the discovery of wounds on her female organs. Followed in 2016, it was revealed that a case of rape of female PMI was carried out by a canteen guard in Malaysia. In 2017 there was

another case of female PMI who died allegedly due to sexual violence. Rape of female PMI by employers in Malaysia took place in 2018. In 2019 there was sexual violence against female PMI perpetrated by Malaysian politicians, namely members of the Malaysian Executive Board. (CNN Indonesia, 2019).

The cases of sexual violence that have occurred have received special attention among the citizen. Many consider it as the government's negligence and not a few think that this is the fault of the PMI channeling agency. Apart from all that, there are actually domestic laws that discuss the protection of PMI. The Indonesian Embassy, which is a government representative in another country, has the authority to take such protection measures.

Keputusan Presiden Republik Indonesia No. 108 Tahun 2003 Pasal 1 Ayat 4 Concerning Representative Organizations of the Republic of Indonesia Abroad, states that a Diplomatic Representative is "the Embassy of the Republic of Indonesia and Permanent Mission of the Republic of Indonesia which carries out diplomatic activities throughout the territory of the Recipient Country and / or in the Organization. International to represent and fight for the interests of the Nation, State and Government of the Republic of Indonesia. "(Keputusan Presiden Republik Indonesia Nomor 108 Tahun 2003 Pasal 1 Ayat 4)

The functions of the Diplomatic Representative above are based on Article 3 Paragraph (1) of the 1961 Vienna Convention, namely representing the State in the Receiving Country, protecting the interests of the State and Citizens of the Receiving Country, conducting negotiations with the Receiving Country, reporting to the State regarding the state and development of the Receiving State and improving friendly relations and developing economic, cultural and scientific relations. In addition, Diplomatic Representatives can also carry out consular duties as regulated in Article 3 Paragraph (2) (Suryokusumo, 2013).

4.2. Protection Diplomatic Efforts for Female PMI's Human Security

One of the roles of the Indonesian Embassy in the realization of protection diplomacy is the protection of its citizens. Protection of Indonesian citizens is also one of the things to uphold their right to life, which is summarized in human security or human security. The concept of human security emerged after the cold war (Kristiadi, 2017).

PMI is also entitled to protection for the life they have, which is manifested in the concept of human security. The state guarantees and protects human rights as well as the protection of its citizens both at home and abroad on the basis of the principles of equality, democracy, social justice, equality, anti-discrimination, anti-human trafficking and gender justice. The purpose of PMI protection as stipulated in UU o. 39 of 2004 are (1) empowering and empowering manpower optimally and humanely, (2) guaranteeing and protecting PMI candidates from within the country, destination countries, to returning to Indonesia, and (3) improving the welfare of PMI and their families (Soerjosoeminar, 2011).

It has been clearly stated that the government is fully responsible for the welfare, right to life, and guarantee of security or human security for PMI wherever it is placed. In this case it also means that Indonesia through the Indonesian Embassy is obliged to protect PMIs who are there. The government is obliged to provide protection for PMIs who are there and also make more efforts to protect victims of violence, in this case it is against female PMI victims of sexual violence in Malaysia.

From 2014 to 2019 every year in Malaysia there were acts of sexual violence against female PMIs. This incident is of particular concern to both Indonesian citizens and local communities there. This can be seen from the large number of media that contain news related to these cases. The Indonesian Embassy in Kuala Lumpur as the representative of the Indonesian government in Malaysia has a major role in handling this case. The case that just happened was a case of sexual violence against female PMI in July 2019.

The case began on July 8, 2019, when a female PMI from Indonesia reported to the local police that she had been raped by her employer. It is known that the employer of the complainant was a Malaysian politician, who at that time served on the Malaysian Executive Board. According to reports, the rape took place at the place where the reporter worked, namely in the Meru City area, Klang District, Selangor State, Malaysia. The police acted quickly, a day after receiving the report, the perpetrators were immediately arrested (Kompas.com, 2019).

Responding to cases of rape of its citizens, the Indonesian Embassy did not remain silent. Various efforts have been made by the Indonesian Embassy to provide a sense of security to these citizens who are victims of sexual violence by Malaysian politicians. The Indonesian Embassy as the representative of the

Indonesian government in Malaysia undertakes negotiation efforts by the parties concerned. In this case, the Indonesian Embassy conducted diplomacy and negotiations with the police who handled the rape case. The Indonesian Embassy gives full authority to the authorities to carry out investigations and resolve cases. The Embassy is not only trying to protect diplomacy, but the Embassy is also taking care of victims. The Indonesian Embassy prepared a special lawyer to accompany the victim and provide assistance for the victim in order to feel safe (Kompas.com, 2019).

The efforts made by the Indonesian Embassy in cases of sexual violence against female PMI in 2019 also represent the handling of previous cases. The Indonesian Embassy has made diplomatic efforts to protect female PMI victims of sexual violence in Malaysia. Protection diplomacy can be carried out if there is (1) An International wrong, which means that there is a violation of international law committed by a citizen of the sending country in the country where he is located, (2) Exhaustion Local Remedies, meaning that protection diplomacy will be carried out when it is really required. When there are acts of violence or other actions that harm citizens of the sending country and have taken local legal remedies but there is no further process. In this case protection diplomacy functions to make legal aid efforts against the legal rules of the recipient country, and (3) Link of Nationality, where protection diplomacy is carried out if the citizen has experienced a violation of the law by the citizen of the recipient country (Forcese, 2017). Sexual violence committed by Malaysian citizens is included in the third point of diplomacy protection, namely the Link of Nationality. So, in this case protection diplomacy is very much needed for the Indonesian Embassy to make efforts to protect Indonesian citizens in the country of assignment.

Meanwhile, the protection diplomacy carried out by the Indonesian Embassy is to make victims feel safe. PMI is also entitled to protection for the life they have, which is manifested in the concept of human security. The state guarantees and protects human rights as well as the protection of its citizens both at home and abroad on the basis of the principles of equality, democracy, social justice, equality, anti-discrimination, anti-human trafficking and gender justice. The purpose of PMI protection as UU no. 39 of 2004 are (1) empowering and empowering manpower optimally and humanely, (2) guaranteeing and protecting PMI candidates from

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5. Conclusions and suggestions

5.1 Conclusions

Based on the research conducted, it was found that in 2014-2019 there were several cases of sexual violence against female PMIs in Malaysia. Representatives of the Republic of Indonesia government in Malaysia, namely the Indonesian Embassy in Kuala Lumpur, have made efforts to protect female PMI victims of sexual violence there. The Indonesian Embassy conducts diplomacy with the Malaysian police to resolve these cases. On the other hand, the Indonesian Embassy also provides protection as a manifestation of human security protection efforts for victims until the victim has fully recovered from the trauma.

5.2 Suggestions

From the research that has been done, it is hoped that in the future the government can be more assertive in making efforts to protect PMI in accordance with applicable regulations. It is hoped that there will be transparency in the resolution of cases, especially cases of sexual violence against women PMI so as not to raise questions among the community to what extent these cases have been handled.

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