

ABSTRACT

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(xii+163+Lampiran)

The Criminal Action of Human Trafficking in the Recruitment and Placement of Indonesia Labor Abroad in the Case No 144/Pid.Sus/2016/PN.WKB

In this era of globalization, it cannot be denied that many employment opportunities, especially in Indonesia, are depleting and job competition is increasing. This is one of the factors, why Indonesia labors seek employment abroad. Indonesian labors, of course, are faced with procedures that must be followed to ensure legal protection for Indonesia labors. However, in the recruitment process, several parties are involved to recruit workers instantly in order to save expenses regardless of the safety of Indonesian labors in the destination country. The act of illegally recruiting Indonesia labors, has made law enforcers to look at the Law No.39 of 2004 and Law No.21 of 2007 in taking action against perpetrators. Some of the law enforcers, even civil society, view the illegal recruitment as a form of modern slavery. This modern slavery activity can lead to human trafficking, even when the recruiter does not realize it. Human trafficking activities are also supported by the ignorance of Indonesia labors understanding the legal recruitment process and false promises given by several parties. Human trafficking, specifically, has already regulated in Law No.21 of 2007. In reality, the implementation of Law No. 21 of 2007 not accordance with the existing fact. The application of these provision seems “forced” by the state apparatus based on their ignorance. Judges, who should have known the law, ignored justice for the Defendant by using Law No. 21 of 2007 instead of law No. 39 of 2004 where law No. 39 of 2004 is more feasible to apply. This has an impact on the provision of serious criminal threats to the Defendant, even though the defendant had indeed violated the provisions of the law in recruiting illegal labor. However, this did not mean the Defendant had committed trafficking in persons. The application of Law No. 21 of 2007 against the Defendant caused the Defendant to be punished more severely than if the judge had applied law No. 39 of 2004.

Kata Kunci: human trafficking, illegal Indonesia labor, exploitation.

Referensi 33 (1971-2020)