

Legal Relationship of Licensing For Placement of Ship Crew In Cases of Human Trafficking Criminal Act

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Abstract

Trafficking in Indonesia has been regulated in Law Number 21 of 2007 concerning the Eradication of Criminal Acts of Human Trafficking. Interpretation of TPPO must fulfill the elements of the process, namely recruiting, transporting, sheltering, sending, moving or receiving someone. In addition to the elements of the process, it must also fulfill the elements of the method, namely by threats of violence, use of violence, kidnapping, confinement, forgery, fraud, abuse of power or vulnerable positions, debt trapping or giving payment or benefits. Then it must also fulfill the element of purpose, namely exploitation. This study uses normative legal research with a conceptual approach, where the research approach is based on the views and doctrines that develop in legal science. Understanding these views and doctrines is a basis for researchers in building a legal argument in solving the issues faced. This study also uses a statute approach, namely an approach carried out by examining all laws and regulations related to the legal issue being handled. Then this study, when viewed from its nature, is included in descriptive research. The results of this study are that in establishing a business entity engaged in the field of ABK/seafarer agency, it must obtain a business license from the Ministry of Law and Human Rights, but it must also obtain that the business entity must have a business license for recruitment and placement of ship crew (SIUPPAK) issued by the Minister. The absence of SIUPPAK in the business entity does not necessarily make a business entity that does not have a license then charged with alleged attempted TPPO.

I. Introduction

Human trafficking is an illegal business that can occur both on land and at sea. Human trafficking is common in Indonesia, considering that Indonesia is a country with many borders. Human trafficking can be said to be a modern form of human rights violations (hereinafter referred to as HAM), by enslaving humans for the benefit of a handful of people. The many exploitations that occur to children and women by force. The rampant cases like this make human trafficking an illegal act that violates the law.¹

Trafficking in Indonesia is regulated by law. Number 21 of 2007 concerning Eradication Action Criminal Human Trafficking (Law No. 21 of 2007), specifically Article 1 which states that act criminal human trafficking (TPPO) is action recruitment , shelter , transportation , transfer or reception somebody through threat violence , use violence , kidnapping , confinement , forgery , fraud abuse power or position vulnerable , debt trap or give payment or benefits , so that to obtain agreement from the person holding control over the other person , either That carried out within the country or between countries, with objective exploitation or causing people to become exploited . So from understanding said , interpretation against TPPO must fulfil process elements , namely do recruitment , transportation , shelter , sending , transfer or reception a person . In addition to the process elements , then he also has to fulfil element method namely with threat violence , use violence , kidnapping , confinement , forgery , fraud , abuse power or position vulnerable , trapping debt or give payment or benefit .

Then must also fulfills the elements objective namely exploitation . Because TPPO has three component main from human trafficking , namely recruitment , movement and exploitation all of which leading to aspects critical from human trafficking .² Interpretation on also stated in the Circular of the Deputy Attorney General for Criminal Procedure Criminal general Regarding pattern Handling case act criminal Human trafficking Number SE-185/E/ Ejp /03/2005 dated March 10, 2005 explains that a events can be categorized as human trafficking must meet at least of each of the elements it consists of from the process, method and also the goal .

Trading man or human trafficking is form crime international which can be a threat for security all countries, except form crime others . Bassiouni say that crime transnational

¹ Nurhenny , H, 2010, Action Criminal Human Trafficking : Criminal Law Policy and Prevention , Sinar Graphics , Jakarta

² Burke. MC, 2020, Human trafficking Interdiscipline Perspective, British, Routledge, p . 5

is act criminal international which contains 3 (three) elements , including the elements international , elements transnational and elements needs . elements international is elements that include element threat directly on peace humans and threats No directly on peace and security in a world that can shake element humanity . Then for elements transnational is elements in a action that gives impact for 1 (one) or more other countries, where the involve and/ or have an impact against 1 (one) or more countries, as well as facilities and infrastructure as well as the method used beyond the territorial boundaries of a country. And the elements need or necessity, is element need cooperation between countries in carrying out effort countermeasures . ³So it can be said that crime transnational is a crimes that are not recognize the territorial boundaries of a country, so that matter the make many countries involved even No just the country but also the system the law .

The perpetrators of TPPO tend to utilization related issues with factor camouflaged economy become distributor power Work fake then to launch his action towards the victim for the sake of personal .⁴ Based on matter the Lots Indonesian citizens who then become a victim of fraud work fake which often gives promises with high income . Often from victims of trafficking with objective is to exploit sexual or made into power Work force on illegal industries , such as online scams or to promote gambling online . However they ca n't do Lots Because they get threat violence if No comply Instructions from giver work , while passport they detained .

As has been as stated above, Indonesia has issued Law No. 21 of 2007, regarding with matter Indonesia also has this a number of instrument applicable law in a way positive in dealing with act criminal human trafficking . Instruments law the Criminal Code Law (hereinafter referred to as Criminal Code) called with the Criminal Code), Law Child Protection (hereinafter called with UUPA) and several rule other related with TPPO.

In this research , we will discuss about TPPO based on the case has been decided by the Garut District Court with Number decision 385/ Pid.Sus /2023/PN.GRT which occurred at PT. Raya Mulya Bahari. Where PT. Raya Mulya Bahari was charged as a person in this case the director of PT. Raya Mulya Bahari who carries out , supervises do

³ Zulkarnain I, 2019, Cooperation in Combating Transnational Crime in ASEAN, National University, Stimulus Research , <https://repository.unas.ac.id/3784/>

⁴ Lopian ., ES, 2017, The Role of the ASEAN Convention Against Trafficking in Persons (ACTIP) in Overcome Trafficking Problems in North Sulawesi (Thesis , Salatiga , Satya Christian University) Discourse , <https://repository.uksw.edu/handle/123456789/14827>

or participate as well as do actions , which help or do TPPO trial that brought Indonesian citizens leaving the territory of Indonesia with the intention of do exploitation outside Indonesia. PT. Raya Mulya Bahari operates in the field of power Work service service , services connection community , services field purification and processing of clean water and waste , consultation field telecommunications and consulting mass media field .

PT. Raya Mulya Bahari was charged do TPPO trial , because recruit people to be employed as child fruit ship (next called with ABK) in the country of Fiji. Meanwhile, to carry out business said , the company must have a Ship Crew Recruitment and Placement Business License (SIUPPAK) and are registered with the Directorate General General Ministry of Sea Relations Transportation . recruitment and placement crew boat regulated in the Minister of Transportation Regulation Number 84 of 2013, which regulates about permission for company . And sailors based on international labor convention Organizatio (ILO) C97 article 11 states that sailor No lah worker migrants . That is carried out by PT. Raya Mulya Bahari in 2023 with method persuade workers to apply / register as ABK/ sailor with condition bring file / document personal , after that's the recruitment process started which among other things did interview , make agreement work , do a medical check up, make passport , BST and book sailor . Then after condition all fulfilled , the candidates worker sent to Fiji as ABK/ sailor .

When interview that Director of PT. Raya Mulya Bahari offers wages of 350 USD to with 600 USD, which will later will cut from salary received by ABK/ sailors who have leave for 4 months with magnitude piece is 100 USD a month first , month second 300 USD, month third 300 USD and month fourth 200 USD. After to inform matter the Director of PT. Raya Mulya Bahari threatened if all condition has finished and the ticket to leave is already there , then prospective ABK/ sailor to resign self so will be fined amounting to Rp. 3,000,000 (three million rupiah) to Rp. 10,000,000 (ten million rupiah). million rupiah), then all prospective ABK/ sailor obey all request director of PT. Raya Mulya Bahari. Between PT. Raya Mulya Bahari and the Agency located in Fiji. there is already communication that will There is prospective ABK/ sailors who will working in the country of Fiji, then agreement between second his made .

During wait answer from the country of Fiji, then for prospective ABK/ sailors accommodated at home Director of PT. Raya Mulya Bahari. Each ABK has received a departure date and placement based on Name ships in the country of Fiji. All cost dr starting from medical check up until Ticket aircraft financed by the accused . However departure the delayed Because party authorized secure the accused . Based on case above

, then There is a number of identification problem in position this matter , the first is whether acts carried out by PT . Raya Mulya Bahari enters into the test Action criminal ?, second , is it acts committed by the defendant is TPPO category or is violation administration ? because according to Law No. 21 of 2007 that objective from trafficking is exploitation or resulting in people being exploited .

This research uses study law normative with approach conceptual , which is the approach study move on from views and doctrines that develop in science law . Understanding will views and doctrines the is backrest for researchers in building a argumentation law in solving issues faced .⁵ This research also uses approach legislation (*statute approach*), namely The approach taken with to examine all relevant laws and regulations link with issue the law being handled . Then this research if seen from its nature , then included in the research descriptive , which is research conducted to provide an overview and explanation about factors the driving force behind that case PT. Raya Mulya Bahari does not enter into the type No criminal human trafficking and implementation from act criminal human trafficking case So that objective his clear , whether PT. Raya Mulya Bahari is included in the trial act criminal supported human trafficking with the arguments , norms, values and rules contained in the law positive Indonesia, or the act of committing get into error administration in the field recruitment and placement of ABK/ Sailors .

2. Results and Discussion

Union Nations (UN) in 2000 , has set rules regarding prohibition trading man via the Palermo protocol, namely regulations to prevent , eliminate and punish perpetrator trading human beings , especially women and children . In the Palermo protocol, that trading man defined as recruitment , transportation , transfer , landing or accept somebody with use threat or coercion or form other violence , kidnapping , bribery , fraud , abuse power , giving , receiving payment or profit with the purpose of getting agreement from the person who has power over others with objective his is exploitation . And the form exploitation including prostitution or form sexual others , work force or service in a way forced , slavery or practice similar slavery , servitude or organ transplantation .⁶

⁵Peter Mahmud Marzuki . (2011). *Legal Research , 11th edition* , Jakarta : Golden , p. 157 .

⁶ Protocol to Prevent, suppress and punish Trafficking in Persons, Especially Women and Children, Article 3

EXPLOITATION IN HUMAN TRAFFICKING

Article 1 number 1 of Law No. 21 of 2007 contains: about understanding from act criminal human trafficking, states that human trafficking have objective that is exploitation or resulting in people being exploited. The exploitation referred to in Law No. 21 of 2007 is contained in Article 7 which explains that exploitation is action with or without victim's consent which includes However No limited to prostitution, work or service forced, slavery or practice similar slavery, oppression, extortion, exploitation physical, sexual, reproductive organs, or in a way oppose law move or transplanting organs and/ or network body or utilise power or ability somebody other party to get profit Good profit material or immaterial benefits. Then in Law No. 21 of 2007 the subject includes: 1. victims, namely someone who experiences suffering psychological, mental, physical, sexual, economic and/ or social, which is caused by act criminal human trafficking. In the case of PT. Raya Mulya Bahari, the workers Work prospective ABK/ sailor No feel forced and more appropriate No become a victim, because as the subject of the alleged TPPO is not experience suffering psychological, mental, physical, sexual, economic and/ or social, which is caused by act criminal human trafficking. then the 2nd subject is every person, namely an individual or corporations that do act criminal trade. PT. Raya Mulya Bahari in this case is A corporation new allegedly do test act criminal human trafficking, of course matter the must proven.

Based on the judge's decision in decision 385/ Pid.Sus /2023/PN.GRT, that there are several the article contained in Law No. 21 of 2007, which explains that which is meant with perpetrator act criminal human trafficking divided into 4 groups, which include: ⁷a. individuals, namely each individual or individuals who are direct act do action criminal human trafficking regulates acts committed by individuals as in Article 2, Article 3, Article 4, Article 5, Article 6 and Article 12, b. Groups, namely a group of more than two people working together to do something criminal human trafficking, where everyone has their respective roles with the purpose is each other help to achieve a act criminal. The perpetrators are in groups mentioned in Law No. 21 of 2007 can be seen in Article 9, Article 10, Article 11 and Article 6. c. Corporations that is gathering from people and/ or organized wealth Good is a legal entity and also not a legal entity. every act crimes that have been regulated in Law No. 21 of 2007, it is very possible for corporations to carry it out, so that matter can differentiate punishment between acts committed by corporations or by the

⁷ Sulistyowati Irianto, 2012, Women and the Law Towards a Law with a Perspective Equality justice, Jakarta, Torch Foundation p. 277

perpetrator others , and are listed in articles 13, 14 and 15 and d. State administrators , namely civil servant (PNS) or official the government given authority certain However do abuse authority . the state administrators , can be punished in accordance with the provisions contained in Article 8.

Temporary if reviewed through the Criminal Code, then there is a number of the article states perpetrators of TPPO, including Article 55 and Article 56, which state that perpetrator includes:⁸ a. They do and order do and participate as well as do . b. Those who give or promising something with to abuse power or dignity with violence threat or misdirection or also with give chance means or statement , intentionally encourage others to do so do actions . c. They as advocate , only deliberate act recommended to be taken into account as well as as a result . d. They did it on purpose give help in time crime done . Those who intentionally give opportunities , means and information to do crime .

Director of PT. Raya Mulya Bahari, was charged by the prosecutor general with Article 4 of Law No. 21 of 2007 which reads that :

Everyone who brings Indonesian citizens leaving the territory of the Republic of Indonesia with intent to exploit outside the territory of the Republic of Indonesia is subject to criminal penalties with criminal imprisonment for a minimum of 3 (three) years and a maximum of 15 (fifteen) years and a fine a fine of at least Rp. 120,000,000,- (one hundred and twenty million rupiah) and a maximum of Rp. 600,000,000,- (six hundred million rupiah)

So it must be seen exploitation here need outlined the elements include : every person , brings Indonesian citizens outside the territory of the Republic of Indonesia, with Meaning exploited outside the Republic of Indonesia. So in order to be punished on the basis of TPPO, then all of them element on must fulfilled (Article 1 number 2). For the elements First that is, everyone is fulfilled , then for the second bring Indonesian citizens who leave the territory of the Republic of Indonesia also meet the requirements , then Then element third that is with Meaning exploited , then must reviewed back . The exploitation referred to in Law No. 21 of 2007 Article 1 number 7 which states that exploitation is action with or without victim's consent which includes but No limited to prostitution , work or service forced , slavery or practice similar slavery , oppression , extortion , exploitation physical , sexual , reproductive organs or in a way oppose law move or transplant organs and/ or network body or utilise power or ability someone by another party to obtain profit Good

⁸ Ibid

material or immaterial, then for the case of PT. Raya Mulya Bahari, then see from purpose and intent to establish the business stated in the deed Notary Public precisely Article 3 point 1, that purpose and objectives to establish company that is strive in the field services , trade , transportation , then in the Company at point 2 to achieve the intent and purpose of point 1, then the Company can carry out businesses which include a. operate business in the field services , services distributor power work , services sailing , b. running one of the businesses in the field agency Good from companies both domestic and foreign abroad , c. Running business , one of which is in the field of transportation on land , at sea and in rivers , things This has become the Decree of the Minister of Law and Human Rights Basic The People of the Republic of Indonesia with Number AHU-2462782.AH01.01 of 2015 concerning Validation Establishment of a limited liability company legal entity , which then changed with Number AHU-0076323.AH01.02 of 2020, so that based on establishment company limited the PT. Raya Mulya Bahari has authority to recruit power work to be done employed in or abroad .

Then if seen from definition exploitation in Article 1 number 7 can be stated that all No happen to the candidates power work to be done become a crew member/ sailor . because of the process that is gone through started from condition bring file / document personal , after that's the recruitment process started which among other things did interview , make agreement work , do a medical check up, make passport , BST and book sailor . Then after condition all fulfilled , the candidates worker sent to Fiji as ABK/ sailors . So the candidates power Work knowing and being aware that they will Work in accordance with objective apply work , then form from exploitation Alone No appears in the process until will dispatched .

Trading man currently being done with a number of modes such as delivery power Indonesian work abroad without existence document official , Some even forged or to fake document official with pretext legal activities , while in this case the documents being processed are indeed document official for workers who will become ABK/ sailors . Human trafficking can be seen from purposes and forms , which include exploitation domestic , sex commercial , work force on the land agriculture , mining and fisheries . From that all in the case of PT. Raya Mulya Bahari, all matter the No fulfil elements from exploitation . Article 10 of Law No. 21 of 2007, which reads

Everyone who helps or do attempt to do act criminal human trafficking , punishable by law with the same crime as referred to in Article 2, Article 3, Article 4, Article 5 and Article 6

This article states that which helps will charged the same article as Article 2, which clearly states that in the said Article paragraph (1) states that every person who commits recruitment , transportation , shelter , delivery , transfer or reception somebody with threat violence , use of violence , kidnapping , confinement , forgery , fraud , abuse power or position vulnerable and others for the purpose exploitation or exploiting people in the territory of the Republic of Indonesia, is punishable by law with criminal minimum 3 years and maximum 15 years in prison as well as criminal a fine of at least Rp. 120,000,000.- and a maximum of Rp. 600,000,000,-, then to be continued with verse (2) If the act cause the person exploited , then need convicted with the same crime . Like explanation above , that elements exploitation No fulfilled , then this Article cannot be applied , and all the Articles listed in Article 10 cannot be fulfilled. elements exploitation

So the benchmark measuring about This exploitation is indeed must clear , and marked with treatment or actions that have already occurred , this is as explained in Law No. 21 of 2007 concerning the definition of exploitation , where matter the must truly happen in a way concrete towards workers who will made a crew member/ sailor So when the workers the conduct the recruitment process from apply until interview and accepted , then this cannot be stated yet aimed at exploitation , because the workers the Not yet departed so that results in people being exploited , which means that the person must truly experience exploitation so that " results in people are exploited " must experienced previously by the workers .

Furthermore about exploitation with use lure , promises from agent power The work in this case is PT. Raya Mulya Bahari so that the workers Work feel disadvantaged Good from physique or from psychic so that result in loss material and immaterial, on evidence in the field of candidates power Work feel No disadvantaged consequence what PT. Raya Mulya Bahari does , even the candidates power Work feel disadvantaged Because No So departed to work in accordance objective beginning that is become a crew member/ sailor in the country of Fuji, then element enticements and promises in terms of unusr exploitation No proven .

Allegations next one that is printed that PT. Raya Mulya Bahari, declared help or do attempt to commit TPPO/human trafficking, then seen from element subjective in TPPO , namely every person (mens rea), in this case PT. Raya Mulya Bahari and in do TPPO trial must under review in a way concrete , because No There is measure clear measure to limitations TPPO trial , while in the neither does the provisions of Law No. 21

of 2007 explain in a way concrete regarding limitations to what is called with the experiment conducted by PT. Raya Mulya Bahari in TPPO. The reason is is that PT. Raya Mulya Bahari has authority based on Number AHU- 2462782.AH01.01 of 2015 concerning Validation Establishment of a limited liability company legal entity , which then changed with the Decree of the Minister of Law and Human Rights Basic The People of the Republic of Indonesia with Number AHU-0076323.AH01.02 of 2020. So that PT. Raya Mulya Bahari has authority in preparing passport , tickets and related documents with departure , and put the power Work ABP candidate / sailor in a office that all financing his borne by PT. Raya Mulya Bahari, so matter the No fulfil element exploitation

Article 55 paragraph (1)

Perpetrator act criminal crime is the person who does (pleger), orders do (doenplegen) and participate as well as do (medpleger)

Article 55 paragraph (1) is imposed against PT. Raya Mulya Bahari which is related with elements Article 2 paragraph (1) of Law Number 21 of 2007 in conjunction with Article 55 paragraph (1) of the Criminal Code, the elements of which are among others: debt or give payment or benefit although to obtain agreement from the one holding control over other people in this case is PT. Raya Mulya Bahari, with the aim is to exploit the person outside the territory of the Republic of Indonesia, namely First is elements that help in carrying out attempt to commit TPPO, both element as a person who does , orders or participate as well as do deeds , each person, second elements that do recruitment , transportation , shelter , sending , transfer or reception somebody with threat violence , use violence , kidnapping , confinement , forgery , fraud , abuse power or position vulnerable , debt trap or give payment or benefits to obtain agreement from the one holding control over others, with objective exploit the person outside the Republic of Indonesia, then element third elements that help or do attempt to commit TPPO, and elements final fourth that is element as a person who does , orders or participate as well as do action . So it is necessary seen back in Chapter I provisions general in Law No. 21 of 2007, which is called with do recruitment is Actions include : invite , collect , bring or separate somebody from family or his community with have objective exploiting the person outside the territory of the Republic of Indonesia. In the results the proof that the workforce work to be done become a crew member/ sailor No recruited but is desire Alone so that if associated with suspicion existence purpose to exploit cannot be proven .

Temporary if reviewed through the Criminal Code, then there is a number of the article states perpetrators of TPPO, including Article 55 and Article 56, which state that perpetrator includes : a. They do and order do and participate as well as do . b. those who give or promising something with abuse power or dignity with violence threat or misdirection or with give opportunity , means or statement , intentionally encourage others to do so do actions , c. They as advocate , only deliberate act recommended to be taken into account as well as as a result , d. They did it on purpose give help in time crime done , e. Those who intentionally give opportunity , means or description to do crimes . The articles it has a lot of limitations for use in the case of PT. Raya Mulya Bahari.

One thing that must be seen that in the regulations containing rule about human trafficking is still must clarified back , between his : a. not yet load clear definition about human trafficking , then to apply it to the case of PT. Raya Mulya Bahari it is not clearly , b. because definition his just Still Not yet clear , so too with sanctions criminal perpetrator crime human trafficking . Some the article used to ensnare PT. Raya Mulya Bahari, regarding objective exploitation and resulting in people being exploited by PT. Raya Mulya Bahari was emphasized that exploitation That is actions taken without the victim's consent to do work like prostitution , , work or service forced , slavery or practice similar slavery . So what PT. Raya Mulya Bahari did, at the time do recruitment clear , and the workers or ABK/ sailor broker No feel forced to register self become a crew member/ sailor as informed by PT. Raya Mulya Bahari. The candidates power work to be done being a crew member/ sailor also feels No disadvantaged with from start process until preparation for placement in Fiji.

Besides that, the most exploited or who are victims of human trafficking more Lots children and women . Hatta⁹ disclose that urgency problem economy is reason main the amount women and children who are trapped in the circle human trafficking . Problem economy make man make an effort look for road the exit is considered easy and fast to be able to meet all your needs , availability field jobs that many people do n't have nowadays in accordance with rate growth population and also the rate growth economy . It means that between rate growth resident with rate growth economy No balanced .

See from discussion to case with analyze decision 385/ Pid.Sus /2023/PN.GRT, that what is organized by PT. Raya Mulya Bahari, not fall into the category act criminal human trafficking. The first basis is that PT. Raya Mulya Bahari has a permit to operate recruitment based on the Decree of the Minister of Law and Human Rights Basic The

⁹ Moh. Hatta, 2012, Action Criminal Insider Trading Theory and Practice , Yogyakarta, Liberty, p. 2

People of the Republic of Indonesia with Number AHU-2462782.AH01.01 of 2015 concerning Validation Establishment of a limited liability company legal entity , which then changed with Number AHU-0076323.AH01.02 of 2020, conducting business in the field of services , trade , transportation , then in the Company at point 2 to achieve the intent and purpose of point 1, then the Company can carry out businesses which include a. operate business in the field services , services distributor power work , services sailing , b. running one of the businesses in the field agency Good from companies both domestic and foreign abroad , c. Running business , one of which is in the field of transportation on land , at sea and in rivers , so that PT. Raya Mulya Bahari can carry out recruitment power work to be done distributed , then also those who support that PT. Raya Mulya Bahari carries out agency both for domestic and international abroad . So the case at PT. Raya Mulya Bahari is No case act criminal human trafficking , but more to violation administration in recruitment prospective ABK/ sailors . Because in the Regulation of the Minister of Transportation Number 84 of 2013 concerning Recruitment and Placement of Ship Crew (Minister of Transportation Regulation) Number 84 of 2013), the company PT. Raya Mulya Bahari does not have permission to distribute power Work in accordance with Minister of Transportation Regulation Number 84 of 2013.

ADMINISTRATIVE VIOLATION OF PT. RAYA MULYA BAHARI IN HUMAN TRAFFICKING CASE

Case decision 385/ Pid.Sus /2023/PN.GRT, against PT. Raya Mulya Bahari was stated by the Judge as violation administration in recruitment and placement candidate power work to be done become ABK/ sailors on the Fiji islands . This is based on the judge's decision that takes into consideration from indictment prosecutor general about PT. Raya Mulya Bahari which is not has a Ship Crew Recruitment and Placement Business License (SIUPPAK) as terms and conditions in the provider power work in the field of ABK/ sailors . This is included in the demands general as A form exploitation , then in accordance with Article 4 of Law Number 21 of 2007, no enter any element that must be fulfilled in TPPO or human trafficking. Because in article 4 of Law Number 21 of 2007, it is not mention about elements containing several sub elements concerning problem licensing . Because as the researcher convey above, related problem licensing That regulated in the regulations legislation separately , so that must There is restrictions to act of action criminal human trafficking as as stated in Article 4 of Law Number 21 of 2007.

So it is related question licensing , which is regulated in the Minister of Transportation Regulation Number 84 of 2013 which is stated in Chapter IV concerning sanctions Administration specifically Article 32 paragraph (1) where company agency crew the ship that did recruitment and placement sailor who doesn't in accordance with Regulation legislation , no fulfil his/her obligations and/ or not quite enough the answer in accordance with agreement Work sea charged sanctions administration . So based on matter said , will discussed violation administration carried out by PT. Raya Mulya Bahari. Before We discuss more continue , then researcher will discuss the right to work protected by the 1945 Constitution (UUD NRI 1945).

Article 27 paragraph 2 of the 1945 BRI Constitution states that each and every citizens have the right to work and a decent living for humanity , then from the Article emphasized that every citizen who is willing and able work to be given work those , and they can live in a way worthy as human beings who have rights protected by law . ¹⁰This is a base the law that is made guidelines in fulfillment workers ' rights .

On the Case decision 385/ Pid.Sus /2023/PN.GRT, against PT. Raya Mulya Bahari was stated by the Judge as violation administration in recruitment and placement candidate power work to be done become a crew member/ sailor on the Fiji islands , this based on on condition mandatory that must be filled with moving business entities in the field agency crew boat as has been stated in the Minister of Transportation Regulation Number 84 of 2013, namely business entities the must own business license recruitment and placement crew ship (SIUPPAK). PT. Raya Mulya Bahari in its establishment based on decision Minister of Law and Human Rights Number AHU-2462782.AH01.01 of 2015 concerning Validation Establishment of a limited liability company legal entity , which then changed with Number AHU-0076323.AH01.02 of 2020, conducting business in the field of services , trade , transportation , then in the Company at point 2 to achieve the intent and purpose of point 1, then the Company can carry out businesses which include a. operate business in the field services , services distributor power work , services sailing , b. running one of the businesses in the field agency Good from companies both domestic and foreign abroad , c. Running business , one of which is in the field of transportation on land , at sea and in rivers , then based on matter In this regard , PT. Raya Mulya Bahari carries out recruitment power work to be done made into ABK/ sailors in the country of FIJI.

¹⁰ H. Agusfian Wahab., 2001, Agreement Inter-Country Work , Jakarta, PT. Rajagrafindo The Kingdom

However it turns out based on Minister of Transportation Regulation Number 84 of 2013, that business entities engaged in the field of agency crew boat must have SIUPPAK. So when prosecutor general in the case that occurred at PT. Raya Mulya Bahari that licensing that is not owned , considered as one of the effort TPPO trial . While in the case licensing about SIUPPAK no enter into one TPPO elements . Regarding licensing as stated in the Minister of Transportation Regulation Number 84 of 2013 is stated in Article 2 paragraph (2) which states :

Established business entity exclusively for agencies crew boat in accordance with activity efforts , in carrying out recruitment and placement sailor boat must have a business license agency crew boat from the Minister.

So it is clear that PT. Raya Mulya Bahari, apart from get a business license from Ministry of Law and Human Rights , then must have a SIUPPAK issued by the Minister, p That related from field his efforts are one of his is as agent crew ship . And of course in terms of having SIUPPAK is a must fulfill condition administration as stated in the Minister of Transportation Regulation Number 84 of 2013. PT. Raya Mulya Bahari is in the process of submitting a SIUPPAK. However moment the occurrence case decision 385/ Pid.Sus /2023/PN.GRT , the permit Not yet out . However, PT. Raya Mulya Bahari has carry out recruitment power Work become ABK/ sailors in the country of Fiji. Meanwhile, PT. Raya Mulya Bahari has carried out violations stated in the Minister of Transportation Regulation Number 84 of 2013 Chapter IV Article 32, which in paragraph (1) states: about company agency crew ships that carry out recruitment and placement sailor who doesn't in accordance with regulation legislation in this case is Minister of Transportation Regulation Number 84 of 2013, is considered No fulfil his/her obligations and/ or his responsibility in accordance with agreement Work sea will charged sanctions administrative .

As for the sanctions his still in the same article and stated in paragraph (2), which is in the form of a. warning written 3 (three) times, b. Freezing temporary business license , c. Revocation of business license . Then The government also stipulates sanctions for company agency crew the ship that is not have a business license , and the activities carried out considered illegal activities , so they can be subject to criminal maximum 1 year in prison or a maximum fine of Rp. 200,000,000,- (two hundred million rupiah) as stated in the Law Cruise Number 17 of 2008 Article 290 which states that every person who organizes business service related without have a business license that is stated both in

Law Number 17 of 2008 in Article 33 which states that every business entity that is established specifically for services agency crew ship (ship manning agency) as defined in Article 31 paragraph (2) letter I then will charged sanctions criminal imprisonment for a maximum of I (one) year or a maximum fine of Rp. 200,000,000,-

4. Conclusion

Case verdict 385/ Pid.Sus /2023/PN.GRT experienced by PT. Raya Mulya Bahari which was accused has do act criminal human trafficking . Indonesia has issued Law No. 21 of 2007, related to with matter Indonesia has that a number of instrument applicable law in a way positive in dealing with act criminal human trafficking . Instruments law the Criminal Code Law (hereinafter referred to as Criminal Code) called with the Criminal Code), Law Child Protection (hereinafter called with UUPA) and several rule other related with TTPO. However, in the case that befell PT. Raya Mulya Bahari, that in accordance with decision Minister of Law and Human Rights Number AHU-2462782.AH01.01 of 2015 concerning Validation Establishment of a limited liability company legal entity , which then changed with Number AHU-0076323.AH01.02 of 2020 has authority to do recruitment power work to be done lifted become ABK/ sailors . So that the process carried out by PT. Raya Mulya Bahari is in accordance with field permission business then . if associated with TPPO it can certainly be seen from the purpose of TPPO is Alone that is exploitation or make exploitation to power work , while in this case , not yet appear Because of course exploitation That must happen can only be said what PT. Raya Mulya Bahari did was TPPO. According to researchers , this matter is more to violation administration , if seen from regulation legislation that regulates recruitment power work to be done made into ABK/ sailors , either That Constitution Cruise Number 17 of 2008 or Regulation of the Minister of Transportation Number 84 of 2013 concerning Recruitment and Placement of Ship Crew.

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