

RINGKASAN

**ELLA ANNISA SALIHA
NIM 210510099**

**PENEGAKAN HUKUM TERHADAP TINDAK
PIDANA PENYELUNDUPAN PEKERJA
MIGRAN (Studi Putusan Mahkamah Agung
Nomor 615 K/PID.SUS/2017)
(Romi Asmara, S.H., M.Hum. dan Dr.
Malahayati, S.H., LL.M.)**

Fenomena maraknya penyelundupan pekerja migran secara ilegal masih menjadi persoalan serius meskipun peraturan perundang-undangan telah mewajibkan penempatan melalui prosedur resmi sebagaimana diatur dalam Pasal 27 ayat (2) UUD 1945 dan Undang-Undang Nomor 39 Tahun 2004. Salah satu contoh dapat dilihat dalam Putusan Mahkamah Agung Nomor 615K/PID.SUS/2017, di mana terdakwa Frens Angkaw selaku Direktur Keuangan PT Gayung Ikif terbukti menempatkan calon Tenaga Kerja Indonesia secara ilegal tanpa dokumen resmi dan di luar jalur mitra usaha yang sah, sehingga menimbulkan kerentanan terhadap eksploitasi dan pelanggaran hak asasi.

Penelitian ini bertujuan untuk mengetahui dan menganalisis penegakan hukum terhadap tindak pidana penyelundupan pekerja migran berdasarkan Putusan Mahkamah Agung Nomor 615K/PID.SUS/2017 dan pertimbangan hakim mahkamah agung dalam kasus penyelundupan pekerja migran pada Putusan Mahkamah Agung Nomor 615K/PID.SUS/2017.

Penelitian ini menggunakan metode yuridis normatif dengan pendekatan perundang-undangan dan pendekatan kasus dalam Putusan Mahkamah Agung Nomor 615K/PID.SUS/2017. Sumber data yaitu data sekunder dari bahan hukum primer, sekunder, dan tersier. Data dikumpulkan melalui studi kepustakaan dan dianalisis secara deskriptif-analitis.

Hasil penelitian ini menunjukkan bahwa penegakan hukum terhadap tindak pidana penyelundupan pekerja migran berdasarkan Putusan Mahkamah Agung Nomor 615K/PID.SUS/2017 dilakukan dengan pendekatan yang komprehensif, progresif, dan substantif, yang berfokus pada penilaian alat bukti yang sah, pembuktian niat jahat (*mens rea*). Mahkamah Agung menegaskan bahwa alat bukti, seperti dokumen dan keterangan saksi, cukup kuat untuk membuktikan keterlibatan terdakwa. Pertimbangan hakim mahkamah agung dalam kasus penyelundupan pekerja migran pada Putusan Mahkamah Agung Nomor 615K/PID.SUS/2017 menunjukkan bahwa meskipun terdakwa, sebagai Direktur Keuangan, tidak terlibat langsung di lapangan, perannya dalam membiarkan proses ilegal berjalan menunjukkan adanya niat jahat yang disengaja. Putusan ini menolak dalih pembagian kerja internal korporasi sebagai alasan untuk melepaskan tanggung jawab pidana.

Disarankan agar pemerintah dapat mereformulasi tanggung jawab pidana dalam korporasi agar pejabat struktural tidak lagi bisa berlindung di balik jabatan administratif dalam kasus penyelundupan tenaga kerja.

Kata Kunci : Penegakan Hukum, Penyelundupan, Pekerja Migran.

SUMMARY

ELLA ANNISA SALIHA **LAW ENFORCEMENT AGAINST THE CRIMINAL
NIM 210510099** **ACT OF MIGRANT WORKER SMUGGLING (Study
of Supreme Court Decision Number 615
K/PID.SUS/2017)**
**(Romi Asmara, S.H., M.Hum. and Dr. Malahayati,
S.H., LL.M.)**

The pervasive phenomenon of illegal migrant worker smuggling remains a serious issue, even though legislation has mandated placement through official procedures as regulated in Article 27 (2) of the 1945 Constitution and Law No. 39 of 2004. An example of this can be seen in Supreme Court Decision Number 615K/PID.SUS/2017, where the defendant, Frens Angkaw, the Finance Director of PT Gayung Ikif, was proven to have illegally placed prospective Indonesian migrant workers without official documents and outside legal business partnerships, leading to their vulnerability to exploitation and human rights violations.

This research aims to analyze the legal enforcement against migrant worker smuggling based on Supreme Court Decision Number 615K/PID.SUS/2017, and to understand the considerations of the Supreme Court judges in this case.

This study uses a normative juridical method with a statutory and case-based approach, focusing on Supreme Court Decision Number 615K/PID.SUS/2017. The data is derived from secondary sources, including primary, secondary, and tertiary legal materials. Data was collected through a literature study and analyzed using a descriptive-analytical approach.

*The findings of this research indicate that the legal enforcement against migrant worker smuggling, based on Supreme Court Decision Number 615K/PID.SUS/2017, was carried out with a comprehensive, progressive, and substantive approach. This approach focused on the assessment of valid evidence and the proof of malicious intent (*mens rea*). The Supreme Court affirmed that the evidence, such as documents and witness testimonies, was sufficient to prove the defendant's involvement. The judges' considerations in the migrant worker smuggling case, as reflected in Supreme Court Decision Number 615K/PID.SUS/2017, showed that even though the defendant, as Finance Director, was not directly involved in the field operations, his role in allowing the illegal process to proceed demonstrated a deliberate malicious intent. This decision rejected the defense that the internal division of corporate labor could serve as an excuse to escape criminal responsibility.*

It is recommended that the government reformulate the criminal responsibility within corporations so that structural officials can no longer hide behind administrative positions in labor smuggling cases.

Keywords: Law Enforcement, Smuggling, Migrant Workers.