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Menguak Esensi: Negara Hukum dalam Konstitusi: Sebuah Analisis Mendalam terhadap Perlindungan Hak-hak Warga Negara

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Abstract: Regulation of sanctions for criminal acts of human trafficking in Indonesia is specifically regulated based on Article 1 number 1 of the Law on the Eradication of Criminal Acts of Trafficking in Persons which defines human trafficking as various acts of surveillance, transportation, harboring, sending, transmitting or receiving a person in various ways for the purpose of exploitation, including sexual exploitation, with laws that cause dilemmas, especially regarding prospective Indonesian workers who are vulnerable to becoming victims of human trafficking. The research method used in this research is normative juridical using a statutory regulation approach and a context approach in answering problems. The results of the research show that the application of sanctions for criminal acts of trafficking in persons as regulated in Article 2 paragraph (1) of the Law on the Eradication of Criminal Acts of Trafficking in Persons against perpetrators who exploit victims, fraud in aggravation, sanctions are also applied to state administrators, corporations and their administrators, groups organized criminal acts of human trafficking. Legal uncertainty in the application of sanctions for criminal acts of human trafficking is a serious problem that can disrupt eradication and law enforcement. This primarily relates to legal provisions governing the crime of trafficking in persons, which is very important for effective law enforcement. This uncertainty is found in two main regulations: the Law on the Eradication of the Crime of Human Trafficking and the Law on the Protection of Indonesian Migrant Workers.

Keyword: Legal Certainty, Implementation, Crime of Human Trafficking

INTRODUCTION

The crime of human trafficking is usually carried out by means of exploitation of Indonesian workers carried out with or without the victim's consent, which includes but is not limited to prostitution, forced labor or services, slavery or practices similar to slavery, oppression, blackmail, physical, sexual or organ use. reproduction, or unlawfully moving or

transplanting organs and/or body tissue or exploiting a person's energy or abilities by another party to gain material or immaterial benefits. furthermore, acts of trafficking in persons are also carried out by means of sexual exploitation with all forms of use of the victim's sexual organs or other bodily organs to obtain profit, including but not limited to all activities of prostitution and fornication.¹

Juridically, the regulation of sanctions for the criminal act of trafficking in persons is regulated in a specialist manner based on Article 1 point 1 of the Law on the Eradication of the Crime of Trafficking in Persons, which states that trafficking in persons is an act of recruiting, transporting, harboring, sending, transferring or receiving a person with the threat of violence, use of force, kidnapping, confinement, forgery, fraud, abuse of power or a vulnerable position, debt bondage or providing payments or benefits, so as to obtain the consent of a person who has control over another person, whether carried out within countries or between countries, for the purpose of exploitation or resulting in people being exploited.²

The Criminal Code also regulates sanctions against perpetrators of criminal acts of trafficking in persons as stated in Article 455 paragraph (1) of the Criminal Code, which states that every person who recruits, transports, harbors, sends, transfers or receives someone with threats of violence, use of violence, kidnapping, confinement, forgery, fraud, abuse of power or a vulnerable position, debt bondage, or providing payments or benefits despite obtaining the consent of a person who has control over another person, for the purpose of exploiting that person in the territory of the Unitary State of the Republic of Indonesia, shall be punished for committing the crime of trafficking in persons, with criminal imprisonment for a minimum of 3 (three) years and a maximum of 15 (fifteen) years and a fine of at least category IV and a maximum of category VII. 121 If the act as intended in paragraph (1) results in someone being exploited, the perpetrator will be punished with the same crime. Perpetrators can be charged under Article 455 paragraph (1) of the Criminal Code if they carry out various actions with the aim of exploiting the person, whether in the form of sexual exploitation, forced labor or other forms of exploitation. Even if the perpetrator succeeds in getting consent from the person who is the victim, the action is still considered a criminal act of human trafficking.

Based on the description above, two problems will be formulated, namely how to implement the Sanction Regulations regarding the Crime of Human Trafficking in Indonesia and what is the legal certainty regarding the Sanction Regulations for the Crime of Human Trafficking in Indonesia.

RESEARCH METHOD

Research methods are a very important aspect in research. The research method will provide a structured and systematic study in answering the problems studied related to legal certainty in the implementation of sanctions regulations regarding the criminal act of human trafficking in Indonesia. This problem will be studied using normative juridical with a legislative approach. This will be focused on using positive law applicable in Indonesia regarding the criminal act of trafficking in persons and a conceptual approach related to the legal doctrine used in this research. These two approaches will become analytical tools and become the basis for analysis in answering these problems.

DISCUSSIONS

1. Implementation of Sanction Regulations Regarding the Crime of Human Trafficking

Individual perpetrators who commit criminal acts of trafficking in persons are legally regulated based on Article 2 paragraph (1) of the Law on the Eradication of Criminal Acts of Trafficking in Persons that every person who recruits, transports, harbors, sends, transfers or

¹ Andrey Sudjatmoko, 2015 *Hukum HAM dan Hukum Humaniter*. Jakarta: Grafindo Persada, h. 19

² Aziz syamsuddin, 2013, *Tindak Pidana Khusus, Cetakan 3*. Jakarta: Sinar Grafika, h. 27

receives a person with the threat of violence, use of force, kidnapping, confinement, forgery, fraud, abuse of power or a vulnerable position, debt bondage or providing payments or benefits despite obtaining the consent of a person who has control over another person, for the purpose of exploiting that person in the territory of the Republic of Indonesia, shall be punished with a minimum imprisonment of 3 (three) years and a maximum of 15 (fifteen) years and a fine of at least IDR 120,000,000.00 (one hundred and twenty million rupiah) and a maximum of IDR 600,000,000.00 (six hundred million rupiah). (2) If the act as intended in paragraph (1) results in a person being exploited, then the perpetrator shall be punished with the same crime as intended in paragraph (1).

Based on the provisions above, the sanctions against individual perpetrators are as stated above in Article 2 paragraph (1) of the Law on the Eradication of Criminal Acts of Trafficking in Persons. Often perpetrators carry out recruitment with the intention of trafficking people, the action begins with the perpetrator carrying out recruitment, namely an attempt to invite or recruit someone, in this case the victim, for a specific purpose. In this context, the aim is to traffic people, that is, to sell or use victims for exploitative purposes, such as forced labor or sexual exploitation.

The criminal act of trafficking in persons by individuals is carried out with elements of fraud in recruiting, perpetrators often use elements of fraud. Fraud is an action carried out to deceive a victim by providing false or misleading information, in this case about working conditions, salary or other benefits promised to the victim. This false information makes the victim interested and decides to follow the perpetrator's invitation. so that the victim is deceived by the perpetrator's invitation because of fraud, the victim becomes deceived or tricked by the perpetrator. The victim believes in the promises made by the perpetrator and makes decisions based on this false information.³

Individual perpetrators who commit criminal acts of human trafficking against victims by the perpetrator with evil intentions after the victim is deceived and agree to follow the perpetrator's invitation, the victim is under the perpetrator's control. The perpetrator has evil intentions to exploit the victim according to his goals, which in this case is exploitation as a form of criminal act of human trafficking. After successfully gaining control over the victim, the perpetrator exploits the victim. Exploitation can take the form of forced labor, sexual trafficking, or other forms of exploitation that harm the victim's humanity. This exploitation is the essence of the crime of human trafficking.

Article 4 of the Law on the Eradication of Criminal Acts of Trafficking in Persons states that every person who takes an Indonesian citizen outside the territory of the Republic of Indonesia with the intention of exploiting him outside the territory of the Republic of Indonesia shall be punished with imprisonment for a minimum of 3 (three) years and a maximum of 15 (fifteen) years and a fine of at least IDR 120,000,000.00 (one hundred and twenty million rupiah) and a maximum of IDR 600,000,000.00 (six hundred million rupiah). Based on these provisions, individual perpetrators also carry out the criminal motive of trafficking in persons by exploiting outside the territory of Indonesia, with the intent and purpose of malicious intent, intentionally carrying out acts of recruiting, transporting, harboring, sending, moving or receiving someone with the threat of violence, use of violence, kidnapping, confinement, forgery, fraud, abuse of power or a vulnerable position, debt bondage or providing payments or benefits despite obtaining the consent of a person who has control over another person.

Individual perpetrators can be charged with malicious intent as regulated in Article 11. Every person who plans or carries out an evil conspiracy to commit the crime of trafficking in persons. The individual perpetrator is an individual or individual who is involved in certain activities or actions, in this case, the criminal act of trafficking in persons. An individual perpetrator can be a person without the involvement of other parties, such as a group or

³ Bismar Siregar, 1989, *Bunga Rampai Karangan Tersebar* Jakarta:Rajawali Pers, h. 51

organization. Perpetrators who deliberately plan or collaborate with bad intentions to commit criminal acts of human trafficking.

Perpetrators who carry out planning means consciously and deliberately planning steps to carry out acts of human trafficking. Evil conspiracy reflects an agreement between the perpetrator and another party, either another actor or a group, to carry out this criminal act. Individual perpetrators in carrying out the Crime of Human Trafficking have the ultimate goal of planning or conspiracy. The crime of human trafficking involves the exploitation of human beings through various acts such as recruiting, transporting, harboring, shipping, transferring, or receiving a person for the purpose of exploitation, such as forced labor or sexual trafficking.⁴

Sanctions for criminal acts of trafficking in persons are also imposed on legal subjects of state administrators as regulated in Article 8 paragraph (1) of the Law on the Eradication of Criminal Acts of Trafficking in Persons. Any state administrator who abuses their power which results in the criminal act of trafficking in persons as intended in Article 2, Article 3, Article 4, Article 5, and Article 6 then the penalty is increased by 1/3 (one third) of the criminal threat in Article 2, Article 3, Article 4, Article 5, and Article 6. (2) In addition to the criminal sanctions as referred to in paragraph (1) The perpetrator may be subject to additional punishment in the form of dishonorable dismissal from his position. (3) Additional penalties as intended in paragraph (2) are included at the same time in the court's decision.

Article 8 Paragraph (1) in the explanation of the Law on the Eradication of Criminal Acts of Trafficking in Persons that the legal subjects of state administrators are government officials, members of the Indonesian National Army, members of the Indonesian National Police, security forces, law enforcers or public officials who abuse their power to carry out or facilitate criminal act of people-trafficking. The element of the act of abusing power in exercising the power available to him in a way that is not in accordance with the purpose for which the power was given or exercising it in a way that is not in accordance with the provisions of regulations which is oriented towards malicious intent to commit the criminal act of trafficking in persons.

Imposing sanctions on state officials involved in criminal acts of human trafficking. State administrator refers to an individual or official who has a position and role in the government or administration of a country. The role and position of state officials in the crime of human trafficking. State officials often have access to a variety of resources, information, and power that can be leveraged to engage in human trafficking practices. so that state officials have the potential or opportunity to be involved in criminal acts of human trafficking. This can happen because they have access to policy, administrative, licensing and decision processes that can influence the dynamics of human trafficking.

Elements of corporate action that commits the criminal act of trafficking in persons as regulated in Article 13 (1) if the criminal act is committed by people acting for and/or on behalf of the corporation or for the interests of the corporation, whether based on work relationships or other relationships, acting within the corporate environment both individually and together. In the event that the criminal act of trafficking in persons is committed by a corporation, investigation, prosecution and punishment will be carried out against the corporation and/or its management.

Elements of Corporate Actions carried out by a corporate entity. In this context, this action is related to the criminal act of trafficking in persons, namely activities that involve recruiting, transporting, harboring, sending, transferring or receiving someone with the aim of exploitation..⁵ Criminal Acts by Persons Acting for and/or on Behalf of a Corporation or in the Interests of a Corporation who are involved in the criminal act of trafficking in persons if the

⁴ Henny Nuraeny, 2011, *Tindak Pidana Perdagangan Orang*. Jakarta : Sinar grafika, h. 44

⁵ Suhardin, Yohanes. 2008, "Mengenai Perdagangan Orang Dari Prespektif Hak Asasi Manusia". *Mimbar Hukum*, 20(3) h. 107

act is committed by individuals who work for or on behalf of the corporation, or in the interests of the corporation.⁶

Corporations that have a form of relationship involving individuals involved in criminal acts of human trafficking with corporations, both in formal work capacities and other relationships related to corporations that carry out actions in the context and environment of the corporation. so that efforts are made to investigate, prosecute and punish corporations and/or their management who are involved and have a legal relationship in a series of criminal acts of human trafficking carried out by a corporation, then legal action such as investigation, prosecution and criminalization will be directed at the corporation itself and/ or individuals who act as administrators in the corporation.

The legal consequences if a corporation is involved in committing a criminal act of trafficking in persons based on the provisions of Article 15 paragraph (1) apart from imprisonment and a fine against its management, the punishment that can be imposed on the corporation is in the form of a fine with a weighting of 3 (three) times the fine that the corporation can impose additional punishment in the form of revocation of business license; confiscation of wealth resulting from criminal acts; revocation of legal entity status; dismissal of management; and/or prohibition of the management from establishing a corporation in the same business field.

Based on criminal law sanctions against corporations involved in criminal acts of human trafficking, the legal consequences that will be applied are imprisonment and fines for the corporate management. This means that individuals who have a role in corporate management will be sentenced to prison and/or fines. additional penalties that can be imposed on corporations in cases of criminal acts of human trafficking.

Sanctions against organized groups that commit criminal acts of trafficking in persons as regulated in Sanctions against organized groups that commit criminal acts of trafficking in persons. Article 16 If the criminal act of trafficking in persons is committed by an organized group, then every perpetrator of the criminal act of trafficking in persons within the organized group shall be punished with the same penalty as intended in Article 2 plus 1/3 (one third). Based on the explanation of Article 16 in this provision, what is meant by "organized group" is a structured group consisting of 3 (three) or more people, whose existence is for a certain time and acts with the aim of committing one or more criminal acts as regulated in the Law. This is with the aim of obtaining material or financial benefits, either directly or indirectly.

2. Incompatibility of Sanction Arrangements for the Crime of Human Trafficking

Legal uncertainty regarding the implementation of sanctions against perpetrators of criminal acts of trafficking in persons is a problem that will have a negative impact on eradication and law enforcement, because the application of sanctions related to criminal acts of trafficking in persons is a very important or crucial aspect. "Crucial" indicates that this matter has a very high level of urgency and cannot be ignored which will have a large and significant impact in the context of law enforcement. This shows that sanctions are not just punishment, but have a central role in maintaining social order, justice and human rights.⁷

Legal uncertainty in the application of sanctions for criminal acts of human trafficking in cases of Indonesian workers, there are two regulations that are the problem, namely the Law on the Eradication of Criminal Acts of Trafficking in Persons and Law of the Republic of Indonesia Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers

⁶ Erdianto Effendi, 2011, *Hukum Pidana Indonesia Suatu Pengantar, Cetakan Kesatu*. Refika Aditama, Bandung, h. 72

⁷ Lilik Mulyadi, 2007, *Kompilasi Hukum Pidana dalam Perspektif Teoritis dan Praktek pradilan*. Jakarta: Mandar Maju. h. 50

(hereinafter referred to as the Law on the Protection of Indonesian Migrant Workers). In their implementation, these two regulations create legal uncertainty in enforcing criminal acts of human trafficking because illegal Indonesian workers are very vulnerable to being targeted for human trafficking, because often cases of illegal workers who do not meet the requirements as workers are actually prosecuted against the perpetrators on the basis of administrative errors even though illegal labor by perpetrators who have evil intentions to traffic.

Acts that are prohibited in the provisions of the Law on the Eradication of the Crime of Human Trafficking are as follows: Article 19 Prohibits giving or including false information in state or other documents to facilitate the crime of human trafficking. Criminal threat: 1-7 years in prison and a fine of IDR 40 million - IDR 280 million, Article 20, Prohibits giving false testimony, false evidence, or influencing witnesses in human trafficking trials. Criminal threat: 1-7 years in prison and a fine of IDR 40 million - IDR 280 million, Article 21 prohibits physical attacks on witnesses or officers in trials of human trafficking cases. Criminal threat: 1-15 years in prison and a fine of IDR 40 million - IDR 600 million and Article 22 prohibits preventing, obstructing or thwarting the investigation, prosecution and examination in court of human trafficking cases. Criminal threat: 1-5 years in prison and a fine of IDR 40 million - IDR 200 million.

Based on the prohibited acts above, there is a criminal threat which has a legal correlation with criminal sanctions as regulated in the Law on the Protection of Indonesian Migrant Workers, namely Article 65 which regulates that it is prohibited to provide incorrect data on documents related to Indonesian migrant workers. Criminal threat: maximum 2 years in prison and/or a fine of IDR 200 million, Articles 66-71 prohibit various activities that are detrimental to migrant workers, such as placing workers in inappropriate positions or not meeting requirements. Criminal threat: maximum 10 years in prison and/or a fine of up to IDR 15 billion and Article 72: Prohibits the placement of migrant workers without complete documents. Criminal threat: maximum 5 years in prison and a fine of up to IDR 1 billion. Based on the provisions of the Indonesian Immigrant Worker Protection Law, the emphasis is more on aspects of criminal acts that are administrative in nature. because Indonesian workers often do not have legal permits as workers. so that the elements of criminal acts imposed on Indonesian workers are limited to administrative violations. This is the origin of a problem that has an impact on ineffectiveness in law enforcement for the crime of human trafficking.

Problems with administrative aspects of violations which can be considered as violations of criminal law in the context of migrant workers. This means that if Indonesian migrant workers violate administrative regulations regarding the legality of work permits or other permits, they may face legal action or criminal sanctions. Indonesian migrant workers often face problems with the legality of work permits in the countries where they work. This can be caused by various factors, such as abuse by employers, complicated licensing processes, or a lack of adequate information for migrant workers about the procedures to be followed.⁸

The problem of uncertainty in the application of sanctions for the crime of trafficking in persons can be seen in the provisions of Article 79 of the Indonesian Immigrant Worker Protection Law that every person who deliberately provides incorrect data and information in filling out any document as intended in Article 65 shall be punished with a maximum imprisonment of 2 (two) year and/or a maximum fine of IDR 200,000,000.00 (two hundred million rupiah). This provision focuses on the aspect of discrepancy in information regarding worker documents. Furthermore, in the provisions of Article 19 of the Law on the Eradication of the Crime of Trafficking in Persons, every person who provides or enters false information in state documents or other documents or falsifies state documents or other documents, to facilitate the occurrence of the crime of trafficking in persons, shall be punished with

⁸ Bastianto Nugroho, M. Roesli, 2017, *Analisa Hukum Tindak Pidana Perdagangan Orang (Human Trafficking)*, Jurnal Bina Mulia Hukum, 2(1), h. 110

imprisonment for a minimum of 1 (one) year and a maximum of 7 (seven) years and a fine of at least IDR 40,000,000.00 (forty million rupiah) and a maximum of IDR 280,000,000.00 (two hundred and eighty million rupiah). These two legal regulations, both those regulated in the Law on the Eradication of Criminal Acts of Trafficking in Persons and the Law on the Protection of Indonesian Immigrant Workers, both question administrative elements which have an impact on uncertainty in the application of the law in the context of enforcing criminal law.

Legal uncertainty in providing sanctions for criminal acts of human trafficking becomes something that is very crucial and becomes a serious act when in its implementation there should be a malicious intent to commit criminal acts of human trafficking by deceiving administrative aspects which are also regulated in the Law on the Eradication of Criminal Acts of Human Trafficking. Based on the Lex Specialis Systematic Principle, it is a derivative of the Lex Specialis derogat Lege Generali Principle which is already familiar among legal people. This principle implies that a criminal provision is said to be special if the legislator intends to enforce the criminal provision as a special criminal provision of a special law that is more specific for criminal acts that are violated by a person.⁹ Based on this principle, it is related to the problem of two legal products, namely the Law on the Eradication of Criminal Acts of Trafficking in Persons and the Law on the Protection of Indonesian Immigrant Workers, both of which are specialist in nature, so the imposition of sanctions given to criminal acts of trafficking in persons is applied. This is based on the fact that the imposition of sanctions stipulated in the Law on the Eradication of Criminal Acts of Trafficking in Persons is more burdensome to the perpetrators who are suspected of committing the crime. Furthermore, the application of sanctions in the Indonesian Immigrant Worker Protection Law is only administrative in nature so that perpetrators and/or corporations cannot be charged even though there is a strong suspicion of committing a criminal act of human trafficking.

The application of the Systematic Lex Specialis Principle to the Law on the Eradication of Criminal Acts of Human Trafficking and the Law on the Protection of Indonesian Immigrant Workers in practice requires understanding the legal corridors when faced with the issue of alleged criminal acts of human trafficking which cannot be separated from elements of administrative action that are not fulfilled by the perpetrator, because when perpetrators and/or corporations who commit the crime of trafficking in persons do not only commit the crime of trafficking in persons, but also commit crimes related to administrative aspects as regulated in the Indonesian Immigrant Worker Protection Law. Based on this, these two legal products continue to create legal uncertainty in law enforcement efforts in criminal acts of human trafficking and criminal acts in the field of immigrant workers.

Based on the certainty theory put forward by Lon L. Fuller, one of them is "A failure to achieve rules at all, so that every issue must be decided on an ad hoc basis".¹⁰ based on this opinion it is argued about the failure to achieve any rules at all, so that every issue must be decided on an ad hoc basis' refers to a situation where there is no established system of rules or guidelines to regulate behavior or resolve a particular problem. As a result, every situation or problem must be faced and decided on spontaneously and situationally, without having a clear framework for making decisions.¹¹ In this context, 'ad hoc' refers to an approach taken or decided specifically to address a particular situation as it arises. In many cases, the existence of clear and consistent rules helps ensure fairness, equality of treatment, and consistency in decision making.¹² When there are no rules that cover the range of situations or problems that

⁹ O.S Eddy Hiariej, 2021, "Asas Lex Specialis Systematis dan Hukum Pidana Pajak". *Jurnal Penelitian Hukum De Jure*, 21(1), h. 5

¹⁰ Lon L. Fuller, 1969, *The Morality of Law, revised edition*, London: Yale University Press, h. 39

¹¹ *ibid*, h. 40

¹² *ibid*, h. 40

may arise, this can result in uncertainty, unfairness and confusion. In a legal context, failure to achieve rules at all can hinder a fair and effective law enforcement process, as actions or decisions may be based on personal preferences or ad hoc considerations, rather than on established guidelines.

The theory of legal certainty proposed by Lon L. Fuller emphasizes the importance of the existence of clear, consistent and understandable legal rules to achieve certainty for citizens in their behavior and enable the legal system to function fairly and effectively.¹³ In the context of providing sanctions for criminal acts of human trafficking, uncertainty or failure to achieve comprehensive regulations can have a serious impact on the legal system. A situation where each issue must be decided on an ad hoc basis, meaning without clear legal guidance, can lead to ambiguity in defining what actually constitutes the crime of human trafficking. This has the potential to disrupt the integrity and consistency of the legal system.

Failure to have clear and specific rules for defining the crime of trafficking in persons can result in varying interpretations of what actually falls under this category of crime. Without proper guidance, law enforcement officials may have varying perceptions of the elements necessary to impose sanctions on perpetrators. The lack of clarity in the definition of criminal acts can result in varying interpretations among law enforcement officials. This could be due to differences in approaches, views or legal interpretations that they hold. As a result, the handling of criminal cases of human trafficking can be inconsistent and unfair.

For law enforcement in cases of criminal acts of human trafficking, there are two relevant laws, namely the Law on the Eradication of Criminal Acts of Human Trafficking and the Law on the Protection of Indonesian Immigrant Workers. The lack of clarity in the definition of criminal offenses and differences in approaches between the two laws can complicate law enforcement and leave room for different interpretations. As a result, situations like this can disrupt effective and fair law enforcement efforts against criminal acts of human trafficking. To overcome this, it is very important to clarify and harmonize the definition of criminal acts in applicable law, provide consistent training to law enforcement officials, and encourage cooperation between various institutions to ensure that legal interpretation is consistent and in accordance with the principles of justice.

Ambiguity in providing sanctions is an important part of the legal system for punishing perpetrators of criminal acts of human trafficking. This results in confusion in defining the crime of human trafficking and the crime of Indonesian migrant workers. This gives rise to legal interpretations that can vary among law enforcement officials. This could be due to the similarity of approaches, points of view, or interpretations regulated in the Law on the Eradication of Criminal Acts of Trafficking in Persons and the Law on the Protection of Indonesian Immigrant Workers. This kind of uncertainty can hamper the legal system's ability to provide consistent and fair sanctions against perpetrators of human trafficking crimes.

The crime of human trafficking is a very serious form of crime that involves human trafficking to obtain financial or other benefits, with the aim of detrimental exploitation and violation of human rights. This is due to illegal actions involving the transfer, transportation, recruitment, storage or receipt of people through threats, coercion, fraud or abuse of power.¹⁴ People who are victims of human trafficking are often abused, exploited, and forced to engage in harmful activities they do not wish to undertake. Human trafficking aims at exploitation in various forms, such as prostitution, forced labor, modern slavery, organ trafficking, or sexual exploitation. This means victims are forced to carry out acts against their will and often under very poor conditions.

¹³ *ibid*, h. 40

¹⁴ Alfian Alfian, 2015, *Upaya Perlindungan Hukum Terhadap Korban Tindak Pidana Perdagangan Orang*, *Fiat Justisia Jurnal Ilmu Hukum*, 9(3), h. 334

Human trafficking involves violations of fundamental human rights, including the rights to liberty, dignity, physical integrity, and freedom from exploitation. Victims of these crimes often lose control over their lives and experience conditions that damage their physical and mental well-being.¹⁵ Human trafficking is not just a local or regional problem, but is also a global issue that affects many countries around the world. Due to its severity and impact on humanity, human trafficking has received widespread attention from the international community, including international organizations, governments, NGOs, and human rights activists.¹⁶

CONCLUSION

The application of sanctions for the criminal act of trafficking in persons as regulated in Article 2 paragraph (1) of the Law on the Eradication of the Crime of Trafficking in Persons, which imposes a minimum prison sentence of 3 years and a minimum fine of IDR 120,000,000.00 and the perpetrator can be punished with the same sanctions if his actions result in exploitation of victims. Perpetrators often use fraud in recruitment, where the victim is deceived and after the victim agrees, the perpetrator exploits the victim. Sanctions are also imposed on state administrators who abuse their power to commit criminal acts of trafficking in persons. In addition, criminal acts of trafficking in persons are also imposed on corporations and their management. Organized groups that commit criminal acts of trafficking in persons are also subject to the same sanctions, plus 1/3 of criminal threats, in accordance with Article 16 of the Law on the Eradication of Criminal Acts of Trafficking in Persons.

Legal uncertainty in the application of sanctions for criminal acts of human trafficking is a serious problem that can disrupt eradication and law enforcement. This primarily relates to legal provisions governing the crime of trafficking in persons, which is very important for effective law enforcement. This uncertainty is found in two main regulations: the Law on the Eradication of the Crime of Human Trafficking and the Law on the Protection of Indonesian Migrant Workers. This legal uncertainty is mainly related to actions subject to criminal sanctions in these two laws, which tend to be administrative in nature. This raises problems when actions that should be considered criminal acts of human trafficking are only considered administrative violations. Law enforcement becomes ineffective because there are difficulties in distinguishing between ordinary administrative acts and actual criminal acts of human trafficking.

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¹⁵ *ibid*, h. 109

¹⁶ Alfan Alfian, *Op, Cit*, h. 336

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