

Law Enforcement

TANGERANG FORCED LABOR CASES: INDONESIA NEEDS MORE LABOR INSPECTOR

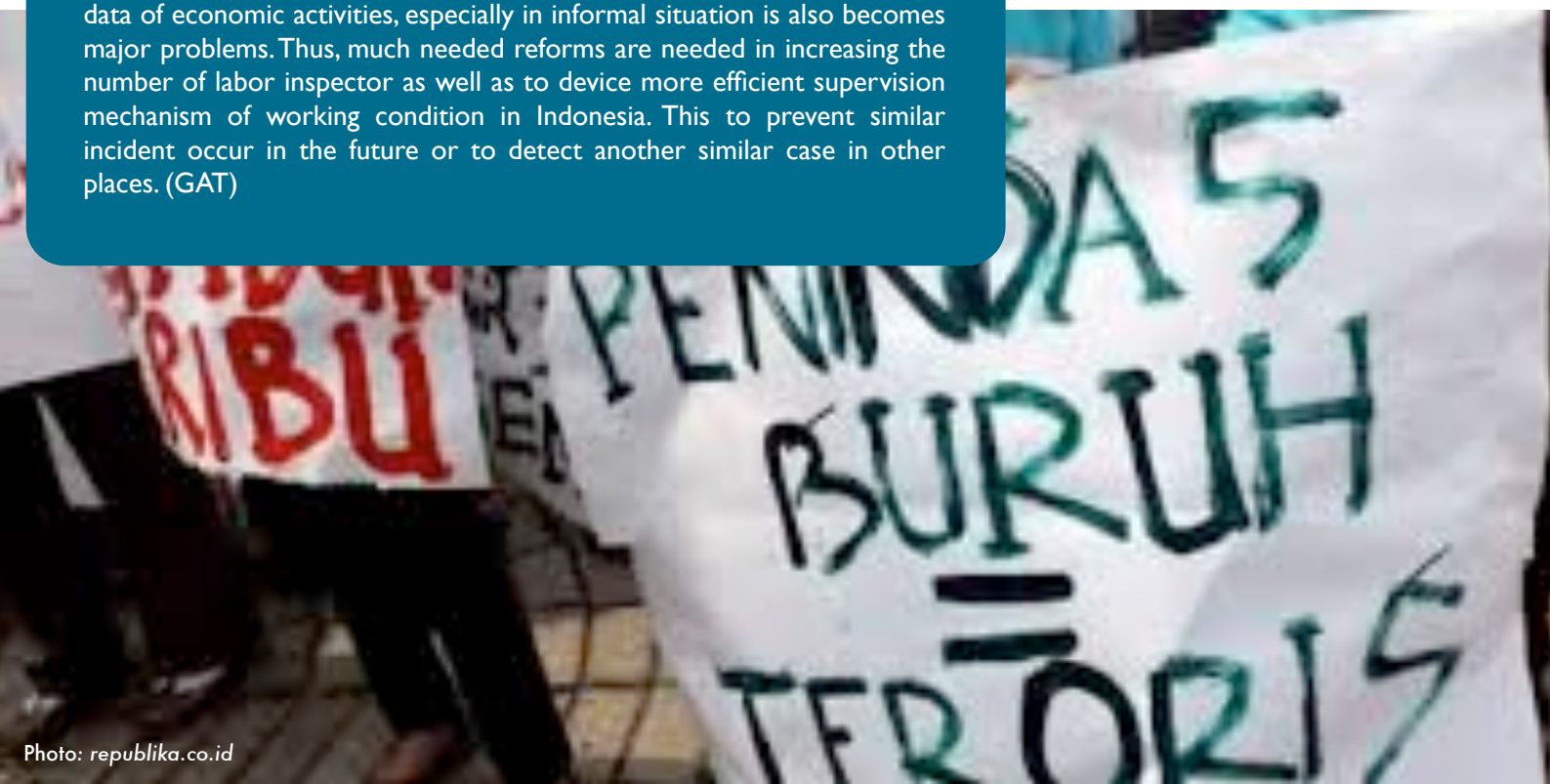
The finding of forced labor in one of Tangerang informal industry has shocked the nation. The “slavery” practice, it supposedly has been abandoned since times immemorial. In recent years, Indonesia has strong position to abolish human exploitation for economy benefit or any other benefit through the enactment of Human Trafficking Law (Law Number 21 Year 2007). Likewise, the Manpower Law (Law Number 13 Year 2003) has sufficiently created norms and procedure in protecting workers rights. However, the forced labor Tangerang case reflects the critical situation of Manpower Law enforcement infrastructure.

The event supposedly can be prevented if the Manpower Law through labor inspector mechanism works effectively in over sighting working condition in Indonesia. However, the lack of labor infrastructure has created substantial pressure to the control mechanism of working condition. Currently, Indonesia is facing labor inspectors’ deficit of 3.700 labor inspectors. Indonesia only has 2.384 labor inspector to oversight more than 216.547 companies, it is not to mention informal economic activities. Nonetheless, the issue of labor inspectors’ deficit is not the only reason for Tangerang cases. The lack of mechanism in collecting manpower data of economic activities, especially in informal situation is also becomes major problems. Thus, much needed reforms are needed in increasing the number of labor inspector as well as to device more efficient supervision mechanism of working condition in Indonesia. This to prevent similar incident occur in the future or to detect another similar case in other places. (GAT)



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SUSNO DUADJI ASSETS CONFISCATION

South Jakarta's verdict on Susno Duadji was strengthened by the Jakarta High Court. Susno Duadji not only sentenced for three years and six months imprisonment and to return to the state the amount of Rp 4 billion and a fine of Rp 200 million. If Susno fail to pay the money he should replaced it with 6 months in prison. The question remain, is confiscating Susno Duadji assets permitted according the law.

Article 18 of Law Number 31 Year 1999 on Eradication of Criminal Act of Corruption stated that, the accused can be sentenced with additional sentences as part of obligation to pay compensation and assets confiscation. Assets confiscation should be done if Susno Duadji are not paying compensation plus fines (Rp 4, 2 million); maximum 1 month after the verdict are final and binding. The Supreme Court decision was made on February 11, 2013. It should be interpreted that the obligation for Susno Duadji to pay for his compensation and fine are due. If not, the prosecutor should be willing and able to confiscate Susno Duadji assets. Prosecutor office should not hesitate to exercise their authority to confiscate Susno Duadji assets as part of their daily job. (MSG)

“The Constitutional Court decided that Article 32 paragraph (2) is a contrary to the article 28, paragraph (4) of the 1945 Constitution. Article 28 stated that everyone has the right for citizenship status”

Transparency

ELECTION COMMISSION RULES TO ENCOURAGE CAMPAIGN FINANCE TRANSPARENCY

In order to achieve a free and fair election, a concerted effort in desperate need to be finish is to regulat campaign finance content. On the Election Law No 8 of 2012; campaign financing are regulated especially for political party and members who run for office. The law requires campaign funds should be reported to the Election Commission (Komisi Pemilihan Umum), or the KPU; along with some restrictions such as campaign donation limitation, to both candidate or political party.

After being filed to KPU, the campaign finance reports should be publish by the party, according to article 135 paragraph 5. In order to interpret the regulation intended in the previous article, KPU will prepare an internal regulation, - a Peraturan KPU (PKPU). Such

effort needs to be appreciated since it will clarify how the rules should be publicized and reported. It should be emphasized that the PKPU should imperatively guarantee any proceedings from candidates and political party campaign are being reported.

PKPU regulation concerning campaign finance reports and proceedings procedural/publication definetely not for formality purpose only They should partake a significant role to ensure transparency proceedings and reporting for political party and candidates. Reporting to KPU should meant that public interest has been served and will have an impact on their future political choice. (FN)

Constitutional Court DECISION OF CONSTITUTIONAL COURT: NO NEED COURT STIPULATION TO OBTAIN BIRTH CERTIFICATE

For children who do not have birth certificates more than one year from the time of their birth, according to the Constitutional Court's latest decision, there is no need for them to apply for a ruling from the District Court for processing the birth certificate. On April 30, 2013, the Constitutional Court has granted Mutholib's petition, a parking officer who came all the way from Surabaya. Mutholib had been having difficulties accessing the procedure and cost while obtaining the stipulation on birth certificate from the District Court. Felt that his constitutional rights were violated, Mutholib registered a judicial review on Article 32 paragraph (2) of Law No. 23/2006 on Population Administration. The article stated that the birth registration beyond 1 year has to be stipulated by the District Court.

The Constitutional Court decided that Article 32 paragraph (2) is contrary to Article 28, paragraph (4) of the 1945 Constitution. Article 28 stated that everyone has the right for citizenship status. By asking the citizen to file their rights for a birth certificate to court, the article also does not comply with Article 53 of Law No. 39 Year 1999 on Human Rights and Article 5 of Law No. 23 of 2002 on Child Protection. To respond to the Constitutional Court decision, the Supreme Court promptly responded to the decision by issuing Circular Regulation No. 1/2013 (Surat Edaran Mahkamah Agung/SEMA). Since May 1, 2013, the court no longer has authority to examine birth certificate requests. This SEMA is automatically revoked. The SEMA No. 6/2012 on Guidelines for Establishment Registration of Births more than One Year Collectively.

The Constitutional Court's decision will make it easier for people to obtain birth certificates. Therefore, the Government should follow up the Constitutional Court decision by making necessary arrangements in order to comply with the decision to prevent future violations. (SMR)

