

ABSTRAK

Anak Buah Kapal (ABK) merupakan kelompok yang rentan terhadap pelanggaran hak asasi manusia. Hukum internasional telah mengatur perlindungan hukum terhadap ABK dalam Maritime Labour Convention 2006. Namun, masih terjadi pelanggaran HAM berupa diskriminasi dalam memberikan upah dan waktu jam kerja terhadap ABK Indonesia. Salah satunya adalah kasus pelanggaran hak-hak anak buah kapal Indonesia di Kapal Marshall Sirena berbendera Panama pada tahun 2021.

Tujuan penelitian ini untuk mengetahui pengaturan perlindungan ABK di kapal asing menurut Maritime Labour Convention serta untuk menganalisis pelanggaran hukum terhadap ABK Indonesia di kapal Marshall Sirena berbendera Panama pada tahun 2021. Metode yang digunakan dalam penelitian ini adalah yuridis normatif, spesifikasi penelitian deskriptif, teknik pengumpulan data wawancara dan studi kepustakaan, dan data yang terkumpul kemudian disajikan dalam bentuk uraian secara sistematis dan analisis kualitatif.

Berdasarkan hasil penelitian diketahui bahwa pengaturan perlindungan Anak Buah Kapal (ABK) di kapal asing telah diatur dalam The 1982 United Nations Convention on the Law of the Sea (UNCLOS) yang merupakan perwujudan dari usaha masyarakat internasional untuk mengatur masalah kelautan, meskipun tidak mengatur secara rinci tentang keselamatan dan keamanan ABK. Hal tersebut dapat dikaitkan dengan tanggung jawab dari negara bendera, khususnya Pasal 94 UNCLOS 1982 tentang kewajiban dari negara bendera dalam pengawasan atas kapal yang mengibarkan benderanya. Selain itu perlindungan ABK diatur dalam Maritime Labour Convention (MLC) 2006 yang mencakup mengenai hak, prinsip, dan kewajiban-kewajiban dasar negara anggota International Labour Organization (ILO) yang telah meratifikasi MLC 2006. Kemudian aspek pelanggaran dilakukan oleh perusahaan kapal pesiar Marshall Sirena berbendera Panama melanggar ketentuan Pasal 4 pada MLC 2006 berupa diskriminasi dalam pembayaran upah ABK Indonesia jauh lebih kecil dibandingkan dengan upah yang diberikan kepada ABK dari negara Panama, dan diskriminasi waktu terhadap ABK Indonesia yaitu jam kerja tidak sesuai dengan perjanjian kerja hanya memperbolehkan waktu istirahat selama 5 jam.

Kata Kunci : Perlindungan Hukum, Anak Buah Kapal, Maritime Labour Convention 2006

ABSTRACT

Ship Crews (ABK) are a group that is vulnerable to human rights violations. International law has regulated legal protection for crew members in the 2006 Maritime Labor Convention. However, human rights violations still occur in the form of discrimination in providing wages and working hours for Indonesian crew members. One of them is the case of violation of the rights of Indonesian crew members on the Panama-flagged Marshall Sirena Ship in 2021.

The purpose of this study was to find out the arrangements for the protection of crew members on foreign ships according to the Maritime Labor Convention and to analyze law violations against Indonesian crew members on the Panama-flagged Marshall Sirena ship in 2021. The method used in this research is normative juridical, descriptive research specifications, data collection techniques interviews and literature studies, and the data collected is then presented in the form of a systematic description and qualitative analysis.

Based on the research results it is known that the arrangements for the protection of Ship Crews (ABK) on foreign ships have been regulated in The 1982 United Nations Convention on the Law of the Sea (UNCLOS) which is a manifestation of the international community's efforts to regulate maritime issues, although it does not regulate in detail about the safety and security of the crew. This can be related to the responsibility of the flag state, in particular Article 94 UNCLOS 1982 concerning the obligation of the flag state to supervise ships flying its flag. In addition, the protection of crew members is regulated in the 2006 Maritime Labor Convention (MLC) which covers the basic rights, principles and obligations of member countries of the International Labor Organization (ILO) which have ratified the 2006 MLC. Then aspects of the violation were committed by the Marshall Sirena cruise ship with the flag Panama violated the provisions of Article 4 of the 2006 MLC in the form of discrimination in the payment of wages for Indonesian crew members which was far less than the wages given to crew members from the country of Panama, and time discrimination against Indonesian crew members, namely working hours not in accordance with work agreements only allowing 5 hours of rest time.

Keywords : Legal Protection, Ship's Crew, Maritime Labor Convention 2006