



Analysis of legal protection of workers' rights in labor relations in Indonesia

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Abstract

This study aims to analyze the civil law protection provided to workers' rights in labor relations in Indonesia. In this country, labor law serves as a foundation in protecting workers' rights while ensuring a balance in the relationship between workers and employers. The study focuses on various legal instruments, such as Law No. 13 of 2003 on Manpower and other related regulations, in order to identify the extent to which workers' rights are empowered and guaranteed. This study focuses on understanding the legal instruments that govern labor in Indonesia, such as Law No. 13 of 2003 concerning Manpower, as well as other related regulations. Through an in-depth analysis of these regulations, the research identifies the extent to which workers' rights are recognized, empowered, and guaranteed by law. This research also seeks to find loopholes in the implementation of laws that may still need improvement, and how stakeholders are working to support and advance workers' rights. Thus, it is hoped that the results of this study can contribute to efforts to improve the welfare of workers in Indonesia and support the creation of better industrial relations. Through a literature review and a normative juridical approach, this study highlights the importance of legal protection in the field of employment, including the right to fair wages, a safe work environment, and freedom of association. Further analysis also discusses the challenges faced in the implementation of the law, including inadequate legal infrastructure and lack of legal awareness among workers. The results of the study show that although regulations have accommodated the basic needs of workers, there is still a gap between laws and regulations and practices in the field. Therefore, legal reform and increased supervision are needed so that the protection of workers' rights can be realized effectively. The conclusion of this study offers recommendations to improve Indonesia's labor law framework, namely by strengthening law enforcement and increasing the capacity of related institutions.

Keywords: Legal Protection, labor relations, workers' rights, laws and regulations

Introduction

Civil law protection in Indonesia is a key pillar in ensuring that workers' rights are respected and protected. In the context of employment, civil law provides a framework that regulates the employment relationship between workers and employers. The goal is to maintain a fair balance between the rights and obligations of both parties, as well as to ensure that no party is harmed in the implementation of the employment relationship. This protection also includes policies and regulations created to ensure the welfare of workers in Indonesia.

Workers' rights protected by civil law include a variety of important aspects, including the right to fair wages, humane working hours, and safe and healthy working conditions. In addition, workers are also protected from discriminatory actions that may arise in the work environment. Employment laws in Indonesia, such as Law No. 13 of 2003 on Manpower, provide a legal basis for the protection of these rights. This law regulates in detail the basic rights of workers and provides a mechanism for resolving disputes in the event of a dispute.

One of the important steps in protecting workers' rights is to ensure that there is a clear employment agreement between workers and employers. Through the employment agreement, both parties agree on various aspects of work, such as salary, working hours, and leave rights. The existence of a written employment agreement provides legal certainty and minimizes the potential for future disputes. In this case, the role of civil law is crucial to provide instruments that can be used in the preparation and enforcement of fair and balanced employment agreements.

In labor relations, dispute resolution is an aspect that is often in the spotlight. Effective dispute resolution is necessary to maintain harmony between workers and employers. Indonesia has various institutions and mechanisms for resolving labor disputes, such as mediation, conciliation, and arbitration facilitated by the Manpower Office. Civil protection plays a role in providing a fair solution for workers who feel their rights have been violated, as well as helping to reduce labor conflicts that can disrupt company operations.

The challenges in civil law protection of workers' rights are inseparable from the dynamics of rapid social and economic development in Indonesia. With the increasing complexity of the world of work due to globalization and digitalization, new challenges have emerged in ensuring that the protection of workers' rights remains relevant and effective. Adapting policies and regulations that accommodate these changes is essential so that legal protections can still be effectively applied to all types of employment relationships, including informal and freelance workers.

Civil law protection of workers' rights in Indonesia requires close cooperation between the government, employers, workers, and other relevant organizations. This collective effort is key to creating a fair and sustainable work environment, where the rights of all parties are respected and protected. Education and awareness raising about labor rights are also very important so that workers can be more independent and active in fighting for their rights. In the future, effective implementation and supervision of civil law in labor relations will continue to be a key focus in creating social justice in Indonesia.

One of the backgrounds of the birth of Law Number 13 of 2003 concerning Manpower is because several laws and regulations that have been in force so far, including some that are colonial products, put workers in a disadvantageous position in labor placement services and the industrial relations system which highlights differences in positions and interests so that they are no longer in accordance with the needs of the present and the demands of the future come [1].

In general, there are several rights of workers that must be protected, including: the right to work, the right to fair wages, the right to association and assembly, the right to security and health protection, the right to legal proceedings, the right to equal treatment, the right to private secrets, the right to freedom of conscience. The rights of employers, among others: Making regulations and employment agreements, the right to carry out layoffs, closing the company, the right to form and become a member of the company's organization, the right to hand over part of the work to another company. To realize the protection of workers' rights can also be carried out through coaching, supervision and law enforcement in the field of labor.

Juridically, the position of workers/laborers is free and balanced. However, in practice, the position of the employer and the worker/laborer is often in an unbalanced state. Several obstacles are still found, including: Regulatory factors; Cultural factors of both workers, employers/employers and law enforcement; although theoretically employers and recipients are balanced, in practice they are different; the ability of the company to fulfill workers' rights.

Realizing the importance of workers to companies, the government and society, it is necessary to think so that workers can maintain their safety in carrying out their work. Likewise, it is necessary to strive for the calm and health of workers so that what they face at work can be considered as much as possible, so that vigilance in carrying out the work is still guaranteed. These thoughts are worker protection programs, which in daily practice are useful to be able to maintain the productivity and stability of the company.

Worker protection can be carried out, either by providing guidance, or by increasing the recognition of human rights, physical and technical protection as well as social and economic through the norms that apply in the work environment. Every human being always needs money to meet his or her life needs. To earn living expenses one needs to work. Work can be done independently or work for others. Working for others can be done by working for the state which is hereinafter referred to as an employee or working for another person (private) who is referred to as a laborer or worker.

Every worker has the right and has the same opportunity to obtain decent work and livelihood regardless of gender, ethnicity, race, religion, and political affiliation in accordance with the interests and abilities of the worker concerned, including equal treatment of persons with disabilities so that juridically it is necessary to be given protection and every employer is obliged to provide rights and obligations to workers regardless of gender, ethnicity, race, religion, color and political stream. Therefore, in article 4 letter c of Law Number 13 of 2003 concerning Manpower, it is expressly stated that one of the goals of employment development is to provide protection to workers in realizing welfare [2].

Based on the above presentation, the researcher is interested in discussing how to analyze labor protection according to labor law based on Law Number 13 of 2003? How does the law take part and regulate labor relations?, What are the challenges faced in enforcing legal protection for workers' rights in Indonesia?

Methods

The research methods used in this study include normative and empirical juridical approaches. The following are details of the research methods that can be used: 1. Normative Juridical Approach This approach involves analyzing relevant laws and regulations, legal literature, and other official documents. Legal Literature Studies: Analyze legal literature related to Article 167 of the Criminal Code, criminal law theory, and the concept of justice. Analysis of Laws and Regulations: Law Number 13 of 2003 concerning Manpower and other relevant regulations to understand the legal basis and its application. Court Decision Review: Analyze court decisions related to cases of violation of Article 167 of the Criminal Code to see how criminal sanctions are applied and how disparities between Law Number 13 of 2003 concerning Manpower, sanctions and losses are identified in practice.

Result and discussion

Analysis of labor protection according to labor law based on Law Number 13 of 2003 concerning Manpower

The essence of labor law is the protection of labor, which is intended to guarantee the basic rights of workers/laborers and equal opportunities and treatment without discrimination on any basis to realize the welfare of workers/laborers and their families while still paying attention to the development of progress in the business world. The ideal foundation for employment development is based on Pancasila and its constitutional foundation is the 1945 State Law of the Republic of Indonesia. Employment development is carried out in the context of the development of Indonesian people as a whole. Therefore, employment development is carried out to realize a prosperous, fair, prosperous and equitable Indonesian people and society, both material and spiritual.

The principle of employment development is held based on integration with functional coordination across the central and regional sectors, meaning that the principle of employment development is basically in accordance with the principles of national development, especially the principle of Pancasila democracy and the principle of fairness and equity. Employment development has many dimensions and relationships with various parties, namely between the government, employers and workers/laborers. Therefore, employment development is carried out in an integrated manner in the form of mutually supportive cooperation. Juridically, the purpose of labor law is:

- a. Empowering and utilizing the workforce optimally and humanely. This means that the empowerment and utilization of the workforce is an integrated activity to be able to provide the widest possible employment opportunities for Indonesian workers. Through this empowerment and utilization, it is hoped that Indonesian workers can participate optimally in National Development, but while still upholding their human values.

- b. Realizing equal distribution of employment opportunities and the provision of labor in accordance with the needs of national and regional development. This means that equal distribution of employment opportunities must be pursued in all areas of the Unitary State of the Republic of Indonesia as a single job market by providing equal opportunities to obtain jobs for all Indonesian workers according to their talents, interests, and abilities. Similarly, equal distribution of labor needs to be pursued in order to meet the needs of all sectors and regions.
- c. Providing protection to the workforce in realizing well-being; And
- d. Improving the welfare of workers and their families ^[3].

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1. Occupational Safety and Health. In Article 86 paragraph 1 of Law Number 13 of 2003, it is stated that every worker/laborer has the right to obtain protection for:
 - a. occupational safety and health
 - b. morals and decency and
 - c. Treatment in accordance with human dignity and religious values.

To protect the safety of workers/laborers in order to realize optimal work productivity, occupational safety and health efforts are held. The protection is implemented in accordance with the applicable laws and regulations. To realize occupational safety protection, the government has made efforts to develop norms in the field of employment. In the sense of norm development, this includes the meaning of forming, implementing and supervising the norm itself. Occupational safety and health must be implemented and implemented in every workplace. A workplace is any place in which there are 3 (three) elements, namely:

- a. The existence of a business, both economic and social enterprises.
- b. Presence of sources of danger.
- c. There is a workforce that works in it, either continuously or only at any time.

Occupational safety and health is a specialty in itself, because in its implementation, in addition to being based on laws and regulations, it is also based on certain sciences, especially engineering and medical sciences. Similarly, occupational safety and health is an issue that contains many aspects, for example: legal, economic and social. The implementation of occupational safety and health in the workplace is carried out jointly by the company's leaders or administrators and all employees.

In its implementation, the leader or management can be assisted by occupational safety and health officers from the workplace/company concerned. What is meant by an occupational safety and health officer is an employee who has knowledge or expertise in the field of occupational safety and health, and is appointed by the leader or management of the workplace/company to assist in the implementation of his business.

2. Labor Social Security Program The definition of Labor Social Security (Jamsostek) according to the provisions of Article 1 paragraph 1 of Law Number 3 of 1992 is a protection for workers in the form of compensation in the form of money as a substitute for part of lost or reduced income and services as a result of events or circumstances experienced by workers in the form of work accidents, sickness, childbirth, old age and death.

Based on the description above, it is clear that the Labor Social Security program is a form of economic protection and social protection. This is said to be the case because this program provides protection in the form of compensation in the form of money for reduced income and protection in the form of treatment/treatment services when a worker is hit by certain risks. The Social Security program is a continuation of the Labor Social Insurance (ASTEK) program which was established according to Government Regulation Number 33 of 1977. Juridically, the implementation of the Social Security program is intended as the implementation of Articles 10 and 15 of Law Number 14 of 1969 concerning the Main Provisions concerning Labor which has now been revoked and replaced by Law Number 13 of 2003 concerning Manpower.

From the description above, it is clear that wages are given in the form of money, but normatively there is still a relaxation that wages can be given in other forms based on agreements or laws and regulations, with the limit that the value must not exceed 25% of the value of wages that should be received (Article 12 of Government Regulation Number 8 of 1981). Minimum Wage Based on the provisions of Article 1 paragraph 1 of the Regulation of the Minister of Manpower Number Per01/Men/1999 concerning Minimum Wage, the definition of minimum wage is the lowest monthly wage consisting of basic wages including fixed allowances. Based on the Regulation of the Minister of Manpower No. Per-01/Men/1999 jo Decree of the Minister of Manpower and Transmigration No. Kep-226/Men/2000, the coverage of the minimum wage area includes: 1) The Provincial Minimum Wage (UMP) applies to all districts/cities in one provincial area; 2) Regency/City Minimum Wage (UMK) applies in one regency/city area.

The role of law in contributing and regulating employment relations

Based on Article 1 number 15 of Law Number 13 of 2003, it is stated that the employment relationship is a relationship between the employer and the worker/labor based on the employment agreement, which has elements of work, wages and orders. From this understanding, it is known that in the labor relationship the worker/laborer and the employer are involved. A worker is one of the parties to the employment agreement which is generally an individual who contributes his energy and thoughts to the company where he works. This definition is general but has a fairly broad meaning because it can include all people who work for anyone, whether individuals, partnerships, legal entities, or other bodies by receiving rewards or wages ^[4].

Law Number 13 of 2003 concerning Manpower expressly states in Article 1 number 2 that a worker/laborer is every person who works by receiving wages or other forms of remuneration. Meanwhile, according to the Civil Law i.c Title 7A Article 1601a of the Civil Code, only those who work for others by receiving wages and working under orders. While the definition of entrepreneur intended in Article 1 number 5 of Law Number 13 of 2003:

- a. Individuals, partnerships, or legal entities that run a self-owned company.
- b. An individual, an association, or a legal entity that runs its own company.
- c. Individuals, partnerships or legal entities located in Indonesia represent companies as mentioned in letters a and b above that are domiciled abroad.

In addition to providing the definition of employers as mentioned, Law Number 13 of 2003 also provides an understanding of employers, namely individuals, entrepreneurs, legal entities or other bodies that employ workers by paying wages or other forms of compensation. The purpose of holding this regulation on employers is intended to avoid people who work for other parties but cannot be categorized as employers, especially for workers in the informal sector. Both parties, namely workers and employers, are parties directly involved in the employment relationship and are the determinants of the occurrence of the employment relationship.

By employment relationship is intended as a relationship between employers and workers/laborers based on employment agreements that have elements of work, wages, and orders ^[5]. An employment agreement is the basis for the birth of an employment relationship. The pattern of labor relations between workers and employers is inseparable from the factors of the economic system embraced by a country ^[6]. In addition, the relationship pattern in question is also influenced by the values that live and develop in the local community. For example, it can be stated that a job has a very important meaning in a person's life, so everyone will always need a job. In addition, work can be interpreted as a source of income to meet the needs of life for himself and his family members ^[7].

Work can also be seen as a means to self-actualize. A person will feel that his life will become more valuable for himself, his family, and his environment if he has a stable job that can support his family ^[8]. Work is a human right inherent in everyone that must be upheld and respected by anyone. Constitutionally, the provisions of Article 27 paragraph (2) of the 1945 Constitution of the Republic of

Indonesia provide protection for every citizen to get a job for all his citizens. Therefore, the role of employers or employers is very significant in creating jobs for those who meet the requirements to fill the job vacancies.

The pattern of labor relations between workers/laborers and employers then shifts following the developing political and economic dynamics, and consciously or unconsciously has involved other parties in the labor relationship such as the Government and labor unions. For Indonesia, which has participated in the international economic and global markets, it has more or less submitted itself to the rules of industrial relations that apply in other countries. This has aroused the political awareness of workers/laborers about their rights ^[9].

To get an idea of the scope of protection related to Labor Law/Labor Law, it is necessary to know that the scope of protection is always evolving. This is in line with the demand for a more decent and better quality life as a result of the increasing level of intelligence and awareness of workers. The development itself was mandated by the Preamble to the 1945 Constitution in a clause that reads: "... protect the entire Indonesian nation and all Indonesian bloodshed and to promote the general welfare, educate the nation's life and participate in implementing a world order based on independence, lasting peace and social justice..."

So far, the protection has developed and will continue to develop according to time, place, material, and subject. According to the measure of time, protection that was originally focused on protection during the ongoing employment relationship has expanded to be given after retirement, i.e. after the employment relationship ends ^[10].

The development of labor protection over time is also the opposite, namely the provision of protection before there is an employment relationship. The development of protection according to the period of time is increasingly urgent to be developed to the opposite direction, namely protection before there is an employment relationship (pre-employment).

Legal protection, according to Philipus M Hazon, is always related to power. There are two powers that are always a concern, namely government power and economic power. In relation to government power, the problem of legal protection for the people (who are ruled), for the government (who rules). In relation to economic power, legal protection is protection for the weak (economy) against the strong (economy), for example, protection for workers against employers ^[11]. Juridically, workers/laborers have the same position as employers, but socioeconomically, workers/laborers are on the weaker side compared to employers. Legal protection for workers/laborers is very necessary considering their weak position. Mentioned by Zainal Asikin are ^[12]: Legal protection from the power of the employer is carried out if the laws and regulations in the field of labor that require or force the employer to act as in the legislation are really implemented by all parties because the enforceability of the law cannot be measured only juridically but is measured sociologically and philosophically.

Challenges faced in enforcing legal protections for workers' rights in Indonesia

In the context of workers, every worker has the right to fair and good working conditions. This includes fair wages and equal remuneration, decent livelihoods for workers and their

families, and safe and healthy working conditions. In addition, workers are also entitled to equal opportunities for promotion, adequate rest time and reasonable restrictions on working hours. The right to have regular holidays as well as remuneration for public holidays ^[13].

The problem arises when there is legal recognition of the rights for workers but there are still many workers who have not received a decent livelihood. For example, workers who are in vulnerable and poorly paid jobs. Still fresh in the memory of the Omnibus Law on Job Creation, even though it faces rejection from various parties, the Job Creation Law is still in effect, because it is considered aimed at improving the investment climate, creating jobs, and improving existing regulations. Careful and inclusive realization must be carried out, taking into account various perspectives and interested parties ^[14].

Regarding the passage of the Job Creation Law, Komnas HAM has conducted an assessment and research in 2021. The results of Komnas HAM's study and research revealed and concluded that the Job Creation Law and its implementing regulations have not included precariate in its regulatory materials. The result is that there is a violation of the legal umbrella to protect the human rights of precarious workers. The Job Creation Law deletes at least 5 articles regarding the provision of severance pay. As a result, workers are threatened with not receiving severance pay when they resign, experience Termination of Employment (PHK), or die ^[15].

Current labor law regulations have sought to overcome various challenges arising from changes in technological advances by adapting and updating the legal structure that regulates employment relations in the era of digital transformation in the world of work. The main goal of this regulation is to ensure adequate protection for workers, promote equality, and maintain a balance between the interests of the company and workers ^[16]. Here are some of the ways in which labor law regulations are facing these challenges:

1. **Protection of Workers from Technological Discrimination:** Labor law regulations, Law Number 13 of 2003 have integrated the protection of workers from discrimination that may arise due to the use of technology. This includes protection against discrimination based on age, sex, disability, or other characteristics that may affect employment (Chapter 3 Article 5 and Article 6).
2. **Working Hours and Work-Life Balance:** Labor laws can regulate working hours, rest time, and time off to ensure workers have a healthy work-life balance.
3. **Fair Compensation:** Arrangements regarding minimum wages and other compensation to protect workers from exploitation also ensure that workers receive fair pay, especially in the case of jobs that utilize technology.
4. **Education and Training:** Regulations regarding employment include initiatives that encourage companies to provide training and further education to their workers. Which can help workers in developing skills relevant to new technologies and reduce the risk of unemployment.

5. **Personal Data Protection:** As technology develops, many countries have introduced strict data privacy laws to protect the personal information of workers that may be collected by companies for the benefit of the company in sorting its workers through technology.
6. **Flexible Work:** Labor law regulations have adapted to the emerging trend of flexible work due to technology, including arranging freelance work contracts, remote work, and more adaptive ways of working.
7. **Worker Consultation and Participation:** Some countries have mandated worker participation in decision-making related to technology and Company policies, in this case, giving workers a voice in how technology is used in the workplace.
8. **Insurance and Social Protection:** Employment law also includes unemployment insurance and other social protection programs to provide a safety net for workers who may be affected by technological changes that result in them losing their jobs ^[17].

By adopting relevant and modern progressive labor law regulations, the government can provide protection to workers from the adverse effects of technological changes and ensure the sustainability of a fair workplace, and is a key step in maintaining a balance between technological advancement and workers' rights.

Conclusion

Law Number 13 of 2003 concerning Manpower in Indonesia regulates various aspects of labor protection, ranging from the provision of decent wages, occupational safety and health, to social protection for workers. This law emphasizes the importance of harmonious and fair industrial relations between workers and employers. With the enactment of this regulation, it is hoped that workers' rights can be protected and empowered, which ultimately supports workers' welfare and employment stability in Indonesia.

Law also plays a role in regulating labor relations through the establishment of legal protection and dispute resolution mechanisms involving various stakeholders including the government and trade unions. This encourages employers to comply with established labor standards, while workers are assured that their rights are respected. The law is present as a foundation that prioritizes dialogue and negotiation through collective bargaining, so that labor conflicts can be effectively minimized.

Challenges faced in enforcing legal protection for workers in Indonesia. Some of these challenges include inequities in labor practices, lack of effective law enforcement, and limited government resources in overseeing the implementation of the law. In addition, adaptation to changes in the modern work environment and the issue of labor flexibility also requires special attention so that the protection of workers' rights remains relevant and effective in the midst of the dynamics of the ever-evolving labor market.

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