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Legal protection for workers ' rights in the Indonesian labor system

Lieke Ayu Amelia
Fakultas Hukum, Universitas Indonesia, Depok, Indonesia

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ABSTRACT

In every company, always strives to create a cooperative and comfortable work environment for every employee. However, it is not uncommon for disputes or conflicts to occur in a company due to differences of opinion or matters that are not in accordance with the regulations in force in Indonesia. When a dispute occurs, sometimes employees need representatives to convey their aspirations or act on behalf of employees. With the existence of a workers' in a company, it is intended for all aspirations will be better conveyed and create a harmonious relationship between the Company and employees. Many companies currently have labor s to improve the welfare of workers, including when there is a dispute over work relations whether it ends in termination of employment or not. The Research Methods used are normative research techniques, this paper is intended to discuss the role of trade, especially those that have an impact on termination of employment.The results of the research obtained are Labor law was born from the idea of providing protection for parties, especially workers as weak parties and social justice in labor relations between parties who have considerable similarities and differences. The goal of social justice in the field of labor can be realized one way is by protecting workers against unlimited power on the part of employers, through existing legal means.

Corresponding Author:

Lieke Ayu Amelia
Fakultas Hukum,
Universitas Indonesia,
Pondok Cina, Kecamatan Beji, Kota Depok, Jawa Barat 16424
Email: liekeayu@gmail.com

1. INTRODUCTION

In the era of reform in Indonesia, information and globalization as it is today, there have been many kinds of companies engaged in various fields, types of businesses and industries. So that competition between companies becomes very tight. Entrepreneurs in responding to this, they do several things that can support in producing better and quality production goods, so that the goals of the company are achieved. One of the things that is applied to achieve this goal is that employers further optimize their workers / workers in increasing work productivity.

Workers / Workers certainly have a very important meaning for Indonesia both for the Government, Companies and the community Realizing the importance of workers / workers for companies, government and society, it is necessary to provide legal protection for workers. Legal protection can be realized in the form of material (welfare of workers / labor) but also in the form of prevention of accidents, because it is very important so that workers can maintain their health and safety in carrying out work. (Aditya Tri Wijaya and Rahayu Subekti 2021)

These ideas are worker protection programs, which in turn can not only benefit workers / workers but also ultimately benefit companies because sustainability in production and productivity

can be guaranteed. Seeing the importance of workers / workers and the need to provide protection to workers / workers, in this paper take the problem: How is the legal protection for workers / workers given by Law number 13 of 2003 concerning labor.

One of the backgrounds for 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, place workers in a disadvantageous position in labor placement services and industrial relations systems that highlight differences in position and interests so that they are considered no longer in accordance with current needs and future demands come. The birth of Law Number 13 of 2003 concerning Manpower is expected to: Enforce the issue of labor protection and guarantee; Implement ratified international instruments on labour rights; As a member of the United Nations (UN) uphold and implement the Universal Declaration of Human Rights (HAM). (Kahfi 2016)

Some workers' rights 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 be treated equally, the right to privacy rights, the right to freedom of conscience. The rights of employers, among others: Making regulations and work agreements, the right to layoffs, closing companies, the right to form and become members of company organizations, have the right to hand over part of the work to other companies. To realize the protection of workers' rights can also be done through coaching, supervision and law enforcement in the field of labor. To optimize the rights of these workers, certain efforts are needed, including: To realize fair labor relations for the parties, government intervention is needed by making more adequate regulations, supervision and law enforcement more improved (Parinduri 2019).

2. RESEARCH METHOD

In this study, normative research was used as the technique of inquiry. Research in the field of law that relies on secondary sources, such as published works, is known as normative legal research. The doctrinal norms that govern conduct are the starting point for the doctrinal-nomological methodology of normative legal study. (Effendi 1983) On the basis of this view, the goal of legal research is to determine whether or not a person's actions are consistent with legal norms or principles, and whether or not the rule of law is consistent with legal norms that contain obligations and sanctions. In this case, the legal research conducted will make use of primary legal materials like statutes and regulations, secondary legal materials like law books and journals, and tertiary legal materials like dictionaries and the Big Indonesian Dictionary (KBBI), among other resources. Law (Julianti 2015)

3. RESULTS AND DISCUSSIONS

Workforce is defined broadly in Article 1 point 2 of Law no. 13 of 2003 regulating Manpower, as everybody able to labor to generate commodities and/or services to fulfill their personal needs and the requirements of the community. The nature of the job connection is unclear from this definition. In particular, Ridwan Halim defined workers/employees as: Work for or on behalf of an employer/business. (Budiono 2009; Ishaq 2017) The corporation or employer provides the perks. Join the firm or employer publicly and openly in a position of employment, whether for a set amount of time or indefinitely.

There are many conflicts between employees and employers over matters of labor law, which can lead to tension in the workplace. Workers and employers enter into an employment relationship once an employment contract has been signed. The work relationship might cease for a variety of reasons, including:(Suwandi and Wardana 2022) Legally separate; The business owner makes that call; Voted on by employees; Because of the ruling of the court.

Until now, there has been no unity of opinion regarding the meaning of labor law. However, in general, it can be formulated, that labor law is a set of regulations that regulate the legal relationship between workers or worker organizations and employers and the existence of rewards in the form of wages. Manpower development is based on Pancasila and the 1945 Constitution of the Republic of Indonesia. Manpower development is carried out on the principle of integration through central and regional cross-sectoral functional coordination. (Prihatin 2007)

The purpose of labor law is to achieve or implement social justice in the field of labor and to protect workers against the unlimited power of employers, for example those who make or create regulations that are coercive in nature so that employers do not act arbitrarily against workers as weak parties. While the role of labor law is to equalize the socio-economic justice of labor and the direction that must be taken in regulating the economic needs of workers in accordance with the ideals and aspirations of the Indonesian nation with the direction of mutual cooperation as a characteristic of the nation's personality and the main element of Pancasila. (Bareta and Ispriyarso 2018a)

Manpower is regulated in Law Number 13 of 2003 concerning Manpower, which was promulgated in the State Gazette of 2003 Number 39 on March 25, 2003, and entered into force on the date of promulgation. According to Law Number 13 of 2003 which is meant by, "Manpower" is everyone who is able to do work to produce goods and or services both to meet their own needs and the community. Furthermore, the definition of Worker or Worker is that everyone works by receiving wages or rewards in any form. This definition is rather general, but its meaning is broader because it can include all people who work for anyone, whether individuals, partnerships, legal entities, or other entities by receiving wages or rewards in any form. The affirmation of rewards in any form is necessary because wages have been identified with money, even though there are also workers / workers who receive rewards in kind. (Bareta and Ispriyarso 2018b)

Labor Law regulates the employment relationship between workers / workers and employers, which means regulating the interests of individuals. The governing labor relationship between workers and employers basically contains the rights and obligations of the parties. The understanding of rights and obligations is always reciprocal between one another. Workers' or laborers' rights are the obligations of employers. And vice versa. The employment relationship is inseparable from the employment agreement made by the parties. In Indonesian law, some translate by agreement and some translate by agreement. (Nurcahyo 2021)

Labor law was born from the idea of providing protection for parties, especially workers / workers as weak parties and social justice in labor relations between parties who have considerable similarities and differences. The similarity is that human beings are both God's creations who have human dignity while the difference is in terms of position or socio-economic status, where workers have income by working for employers. The purpose of social justice in the field of labor can be realized one way is by protecting workers / workers against unlimited power on the part of employers / employers, through existing legal means. (‘DPR Dan Pemerintah Tegaskan UU Cipta Kerja Justru Menyerap Tenaga Kerja Indonesia | Mahkamah Konstitusi Republik Indonesia’ [n.d.]; Tantimin and Sinukaban 2021a)

In general, there are several workers' rights that are considered fundamental and must be guaranteed, although their application can be largely determined by economic and socio-cultural development and the society or country in which a company operates, including: The right to employment. The right to work is a human right. Because of the importance of Indonesia clearly specifying, and guaranteed, the right to work can be seen in Article 27, paragraph 2, of the 45th Constitution: "Every citizen has the right to work and a decent living for humanity."; The right to fair wages. Real wages are the embodiment or compensation of the results of their labor. Everyone has the right to a fair wage, that is, a wage proportional to the labor he has contributed. (Tantimin and Sinukaban 2021b; Iswaningsih and others 2021); The right to association and assembly. To be able to fight for their interests, especially the right to fair wages, workers must be recognized and guaranteed the right to association and assembly. They must be guaranteed the right to form trade s with the aim of uniting to fight for the rights and interests of all their members. By associating and assembling, their position becomes stronger and therefore their reasonable demands can be given more attention, which in turn means their rights can be more guaranteed; The right to safety and health protection. The basis and right to the protection of occupational security, safety and health is the right to life. This guarantee is absolutely necessary from the beginning as an integral part of the wisdom and operation of an enterprise. Risks must be known from the beginning, this is necessary to prevent disputes in the future if something undesirable happens; The right to legal proceedings. This right is especially true when a worker is accused and threatened with certain penalties for allegedly committing certain violations or misconduct. He must be given the opportunity to prove

whether he committed the wrong as alleged or not; The right to be treated equally. That is, there should be no discrimination in the company whether based on skin color, gender, ethnicity, religion, and the like, whether in attitude and treatment, salary, or opportunities for position, training or further education; Right to privacy rights. Although the company has a certain right to know the curriculum vitae and certain personal data of each employee, employees have the right to keep their personal data confidential. Even companies have to accept that there are certain things that companies should not know and want to keep confidential by employees; The right to freedom of conscience. Workers should not be forced to commit certain actions that they consider unkind: committing corruption, embezzling company money, lowering certain product standards or ingredients in order to increase profits, covering up fraud committed by the company or superiors. (Khikmatul Fitriyah 2021)

The scope of protection for workers / laborers according to Law Number 13 of 2003, among others, broadly includes: 1. Protection of wages, welfare, social security of labor; 2. Protection of occupational safety and health; 3. Legal protection to form and become a member of a ; Workers/trade s; 4. . Protection of the basic rights of workers / laborers to bargain; with entrepreneurs; Every workforce has the right to earn a decent income for humanity. To realize a decent income, the government establishes protection with wages for workers. The realization of decent income is carried out by the government through the determination of minimum wages on the basis of decent needs. Wage arrangements are established on the basis of an agreement between employers and workers. (Ah Sanwani 2018)

Wages are one of the most important aspects of worker protection. This is expressly explained in Article 88 paragraph (1) of Law Number 13 of 2003 that every worker or laborer has the right to earn an income that meets a decent living for humanity. According to Article 1 number 30 of Law Number 13 of 2003, what is meant by wages is the rights of workers or laborers received and expressed in the form of money in return from employers or employers to workers or laborers determined and paid according to work agreements, agreements, or laws and regulations, including benefits for workers or laborers and their families for a job and or service that has been or will be performed. (Much Zamhari 2020; Hazar Kusmayanti 2020).

Labor social security is a form of protection provided to workers and their families against various risks experienced by workers. The number of labor force in Indonesia is very large, which is around 100 million people will continue to grow more than 2 (two) percent per year. Law No. 13 of 2003 on Manpower in article 107 also regulates other negotiating rights in a Tripartite Cooperation institution which functions almost the same as a Bipartite institution. This tipartite institution functions to provide considerations, suggestions and opinions to the government and related parties including workers / laborers and employers, in formulating policies and solving labor problems. The membership of the Tripartite Cooperation Institute consists of elements of the government, employers' organizations and trades / trades representing workers / workers. This Tripartite Cooperation Institute consists of the National Tripartite Cooperation Institute, Provinces and Districts / Municipalities, as well as the National Sectoral Tripartite Cooperation Institutions, Provinces and Districts / Cities. (Rai Mantili 2021).

Protection of workers' rights has not been fully realized. Some obstacles to problems are still found, including: 1. Regulatory factors. Although there have been many regulations governing labor relations, there are still many loopholes for violations in their application. 2. Cultural factors both workers, employers / employers and law enforcement. Employers / employers do not fully understand how meaningful the role of workers is to the company. Where his interests must be truly protected. Workers also often do not understand how important employers are in employment relations. The level of awareness of workers in carrying out their obligations is still relatively low. Law enforcement is also still unable to carry out its obligations optimally. Many supervisors and law enforcers still carry out obligations not in accordance with existing rules. When problems arise, solutions often do not reflect fairness, especially for workers. 3. Although theoretically the employer and recipient are balanced in position, in practice they are different. It is still often found that the position of the employer with workers is in an unbalanced position, the employer is in a strong position, while workers / laborers who need work are in a weak position so they tend to obey the conditions proposed by the employer. This often causes problems of employment and even leads

to court. 4. The ability of the company in fulfilling workers' rights. For example: Financial ability, not including workers in the Labor Social Security (Jamsostek) or BPJS programs.(Fahmi Maulana Yusuf and Dodi R. Setiawan 2021).

Institutions that promote methods for rapid, suitable, fair, and low-cost resolution of industrial In this era of industrialization and rapid advances in knowledge and information technology, interpersonal conflicts are more significant. Due to the aforementioned circumstances and necessities, the Law No. 22 of 1957 on Labor Completion and the Law No. 12 of 1964 on Employment Termination in Private Companies are no longer applicable. The majority of conflicts in the workplace result from employers and employees having opposing perspectives and competing interests.(Asyhadie 2007; Kahfi 2016).

The purpose of industrial relations is to ensure that all employees are invested in the long-term success of the company and experience a sense of belonging there. Similarly, industrial relations business proprietors are responsible for enhancing the professional standing and well-being of their employees. In practice, however, disagreements between employees and employers regarding the nature of their working relationship are frequent and frequently contentious.

Industrial relations can be defined as the practice of fostering open lines of communication, consultative discussions, and fruitful agreements between all of an organization's stakeholders. Labor legislation has established the fundamental concepts for furthering industrial relations. To foster productive, harmonious, dynamic, and just environments, it is necessary to design optimal systems and institutions.(Djoko Heroe Soewono 2019).

Communication within the workplace also plays a role in this form of industrial partnership. The presence of problems or turbulence will be detected. Due to the altered disposition at work, productivity and efficiency will decrease. The corporation's success or failure hinges on how well it manages labor relations.

Based on the definition of IRDs, Article 1 number 2 of Law Number 2 of 2004 on the Settlement of Industrial Relations Disputes classifies the various categories of IRDs as follows: (Iswaningsih and others 2021; Julianti 2015). Disputes over the implementation or interpretation of statutory provisions, work agreements, company regulations, or collective labor agreements arising from the non-fulfillment of rights (Article 1 point 2 of Law No. 2 of 2004 on the Settlement of Industrial Relations Disputes). As stated by Lalu Husni in his book, based on the foregoing, it is evident that rights disputes are legal disputes because they originate from violations of parties' agreements, including matters specified in company regulations and applicable laws; Disputes of Interest, or workplace disagreements caused by divergent interpretations of employment contracts, company policies, or collective bargaining agreements (Article 1 number 3 of Law No. 2 of 2004 Concerning the Settlement of Industrial Relations Disputes). In light of the preceding explanation of interest conflicts, Iman Soepomo asserts that there is a misunderstanding regarding proposed changes to working and/or labor conditions; Article 14 of Law No. 2 of 2004 Regarding the Settlement of Disputes in Industrial Relations addresses Disagreements that arise when one party terminates employment relations without the consent of the other party. Conflicts regarding layoffs are the most prevalent type of workplace conflict. When an employer determines that an employee no longer meets the company's requirements, the employer may issue a letter of dismissal. However, workers may also request a layoff if they perceive their employer is not meeting contractual obligations. has been agreed upon or who mistreats employees; Disputes between trade s or labor s within a single company, such as disagreements over the rights and responsibilities of members and how they should be implemented (Article 1 point 5 of Law No. 2 of 2004 concerning Industrial Relations Dispute Settlement; PPHI Law).

Employment termination disputes (PHK) are among the most delicate issues for employees. Disagreements might arise when layoffs are not carried out in compliance with the law. One example is when a business imposes layoffs on its employees without providing a rationale. Differences in viewpoint and interpretation of the 's regulations can lead to conflicts between different trade s or labor s within the same firm. For instance, if employees of a firm are members of both Trade A and Trade B, it might explain why tensions have arisen between the two. The consequence was a division between the members. This is the root cause of tension inside the Termination of employment, as defined by Manpower Law No. 13 of 2003, is the ending of the

rights and duties between the worker or laborer and the business owner. Work agreements may be terminated due to: a) the worker's death; or b) the expiration of the employment contract's duration, as specified in Article 61 of Law No. 13 of 2003 concerning manpower.(Muin 2015).

If an employee breaks business policy, a collective bargaining agreement, or their employment contract, the corporation has the right to terminate their employment. Therefore, if one party to the contract ends the worker's employment before the end of the agreed upon term, that party must compensate the other by paying the worker's salary for the remainder of the term. Disputes in the workplace can be resolved in a number of ways, including through the specialized judicial system known as the "industrial relations court,"(Judge 2012) Agreement by Means of a Bilateral Process The term "bipartite negotiations" refers to talks between employees and their employers in an effort to settle a labor dispute, as defined by Article 1, paragraph 10 of Law No. 2 of 2004 on the Settlement of Industrial Relations Disputes. Articles 3–7 of Law No. 2 of 2004 Regarding Settlement of Industrial Relations Disputes govern bipartite negotiating efforts.(Kaufmann 2007).

A Consensual Trilateral Agreement Members of employer groups, trade/labor s, and the government sit down together to discuss and negotiate solutions to workforce challenges at the Settlement via Tripartite forum. The primary responsibility of the Tripartite settlement is to advise the government and related parties on labor policy matters.(Rahardjo 1983; Eko Wahyudi 2016) Third, a Mediation-Based Agreement Industrial Relations Mediation, hereinafter referred to as mediation, is defined as the process by which rights and interest disputes, employment termination disputes, and disputes between trade s/ s workers only in one company are resolved through discussions mediated by one or more neutral mediators, as stated in Article 1 number 11 of Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes. For disputes involving rights, interests, termination of employment, and trade s/labor s within a single company, mediation must be conducted by an employee of the government agency responsible for manpower affairs who meets the requirements as a mediator determined by the Minister and who must provide written recommendations to the disputing parties.(Mantouvalou 2012).

A Consensual Agreement, or Mediation. Conciliators are neutral third parties that arbitrate disputes between opposing parties in an effort to reach a mutually agreeable resolution, and whose jurisdiction includes the workplace of the worker or laborer in question. Interest disputes, layoff issues, and disagreements between trade s or labor s within a corporation are all examples of the kinds of disputes that can be settled by conciliation.

Article 56 of Law No. 2 of 2004 establishes the Industrial Relations Court's (PHI) exclusive jurisdiction to investigate and provide judgment on the following matters:(Costa 2004) When rights conflicts initially arise Regarding potential conflicts of interest, both at the top and bottom levels In the initial phase of an employment termination dispute Within a firm, at the first and last tiers of any dispute between trade s or labor s. The existence of trade s in the corporate environment, employers' organizations in the bipartite realm, with the government through tripartite forums, various positive legal regulations, collective labor agreements, and industrial relations dispute resolution institutions all contribute to the model of industrial relations facilities. The partnership is realized by employing all accessible means; nevertheless, this does not ensure a problem-free manufacturing process; however, by using a variety of these available methods, the rate of difficulty may be decreased.The Effectiveness.(Rachmat Trijono 2014).

4. CONCLUSION

Labor law was born from the idea of providing protection for parties, especially workers as weak parties and social justice in labor relations between parties who have considerable similarities and differences. The goal of social justice in the field of labor can be realized one way is by protecting workers against unlimited power on the part of employers, through existing legal means.

Some obstacles to problems are still found, including: Regulatory factors; Cultural factors both workers, employers / employers and law enforcement; Although theoretically the employer and the recipient are balanced in position, in practice they are different; The ability of the company in fulfilling workers' rights.

Suggestion, labor protection must be supported by adequate regulations as mandated by the Constitution of the Republic of Indonesia Year 1945 that the state has the responsibility to prosper its people so that of course labor rights must be accommodated with the provisions of laws and regulations that provide protection so that workers can live a prosperous life.Therefore, regulations that are expected to be adequate in Worker Protection are regulations that regulate specifically how the arrangement of the Work Contract and its duration, regarding the wage level starting when the worker enters and arrangements that require employers to provide certainty of career paths and wages that are set forth in writing between employers and workers along with consequences if violated by the Employer.

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