
LEGAL PROTECTION OF WORKERS' RIGHTS IN INDONESIA

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Abstract

One of the backgrounds for the birth of Law Number 13 of 2003 concerning Manpower is that several laws and regulations that have been in force so far have placed workers in a disadvantageous position in the service of manpower placement and the industrial relations system that emphasizes differences in position and interests, so that it is seen as not in accordance with the needs of the present and the demands of the future. The enactment of Law Number 13 of 2003 concerning Manpower is expected to: Enforce the problem of protection and guarantees for workers; Implement various international instruments on labor rights that have been ratified; As a member of the United Nations (UN) uphold and implement the Universal Declaration of Human Rights (HAM). Legal protection has been regulated in: the Preamble to the 1945 Constitution, which is based on Pancasila; the 1945 Constitution, namely: Article 27 paragraph 2, Article 28 D paragraph 1, paragraph 2, Article 33; Law Number 13 of 2003 concerning Manpower, and other regulations. Legally, the position of workers is free and balanced, but in practice it often creates an unbalanced situation, causing problems. To overcome this, a solution is needed so that it can be well received by all parties, is felt to be useful, has legal certainty and provides protection for all parties. The discussions in this study are: 1. How is the implementation of legal protection for workers' rights in labor relations in Indonesia. 2. Obstacles and efforts that must be made in providing legal protection for workers' rights in labor relations in Indonesia. The method used is normative juridical. Legal protection is provided in accordance with Pancasila and the 1945 Constitution.

Keywords: Legal Protection, Workers' Rights

PRELIMINARY

In carrying out development, several supporting factors are needed such as capital, nature, and labor factors. These three factors cannot be separated from each other. Of the three factors, labor is the most important factor. This is supported by the population in Indonesia. Considering the labor factor in this development process, it must be considered, therefore efforts are needed to foster, direct and protect workers to create welfare related to what they do. Basically, protection for workers is intended to keep workers more attentive. Workers get the opportunity to carry out various tasks and social obligations, can develop their potential, so that in turn can improve the quality of life and therefore can live a decent life as a human being. To succeed in protecting the

workforce, it requires some comprehensive, integrated, and sustainable planning and implementation.

One of the backgrounds for the birth of Law Number 13 of 2003 concerning Manpower is that several laws and regulations that have been in force so far, including some which are colonial products, place workers in a disadvantaged position in the service of manpower placement and the industrial relations system that emphasizes differences in positions and interests, so that they are considered no longer in accordance with current needs and future demands.¹ The enactment of Law Number 13 of 2003 concerning Manpower is expected to: Enforce the problem of protection and guarantees for workers; Implement various international instruments on labor rights that have been ratified;

In general, there are several worker rights that must be protected, including: the right to work, the right to a fair wage, the right to associate and assemble, the right to security and health protection, the right to be legally processed, the right to be treated equally, the right to privacy, the right to freedom of conscience. Employers' rights, among others: Make work regulations and agreements, the right to lay off workers, close the company, the right to form and become a member of a company organization, the right to hand over part of the work to other companies. To realize the protection of workers' rights, it can also be done through guidance, supervision and law enforcement in the field of manpower.

To overcome the problems above, various efforts are needed, including: To create a fair working relationship for the parties, government intervention is needed by making more adequate regulations, more monitoring and enforcement of the law; If a problem arises in the employment relationship, it must be resolved fairly; The parties involved in the employment relationship must understand and properly implement their rights and obligations.

DISCUSSION

A. Key Matters in Employment.

1. Definition, purpose and nature of employment law

Employment law is a set of regulations that regulate the legal relationship between workers or workers' organizations and employers or employers' organizations and the government, including the processes and decisions issued to make this relationship a reality. that labor law is a set of regulations that regulate legal relations between workers, employers or employers, workers' organizations, employers' organizations, and the government. Meanwhile, the definition of worker/labor is any person who works by receiving wages or other forms of remuneration. From the above formulation, it can be concluded that labor law has the following elements;

2. Employment agreement

In the Civil Code, the definition of a work agreement can be seen in Article 1601 letter a of the Civil Code which reads: "a labor agreement is an agreement in which one party, the worker, binds himself to under the orders of another party, the employer for a certain period of time, to do the work. by receiving wages. In this article, the relationship that occurs is the working relationship

between the worker and the employer, this happens because of the employment agreement. Workers carry out work under the direction or direction of the employer. In the article there are 3 main things, namely: The existence of work carried out by workers, wages are given directly by the employer, the position of the laborer is in an unbalanced position (under the orders of the employer).

A work agreement according to Subekti is: An agreement between a "labor" and an "employer", which agreement is marked by the characteristics of the existence of a certain wage or salary that was agreed upon and the existence of a relationship above which in Dutch is called dienstverhouding, which is something based on which one party (employer) has the right to give orders that must be obeyed by the other party. While the contract of work is: an agreement between a person (the party who buys out the work) and another person (the party who buys the work), where the first party wants a result of work which is agreed by the opposing party, for the payment of a certain amount as the contract price.¹⁴ Article 1 Paragraph (14) of Law Number 13 of 2003 concerning Manpower, Work Agreements are:

Type of employment agreement

The work agreement is divided into 2 types, namely:

a. A certain time work agreement (PKWT) is a work agreement between a worker/labourer and an entrepreneur to establish a working relationship for a certain period of time and for certain jobs.

b. An indefinite time work agreement (PKWTT), namely: A work agreement between a worker/laborer and an entrepreneur to establish a permanent employment relationship.

Conditions for a valid work agreement: 1. Both side agreement; 2. Ability or ability to perform legal actions; 3. The existence of the agreed work; 4. The agreed work does not conflict with public order; The work agreement made by the parties is not in conflict with the laws, morality and public order. The four conditions for a valid work agreement are cumulative, that is, all of them must be fulfilled in order for the work agreement to be valid. The first and second conditions are called subjective conditions, concerning the subject or actor of the agreement. While the third and fourth conditions are referred to as objective conditions because they involve the object of the agreement. If the subjective conditions are not met, the agreement can be canceled to the judge.

Termination of employment agreement

The termination of the employment agreement is regulated in Article 61 of Law Number 13 of 2003 concerning Manpower, namely:

1) The work agreement ends when: the worker dies; expiration of the term of the work agreement; there is a court decision and/or decision or stipulation of an industrial relations dispute settlement institution that already has permanent legal force; or the existence of certain circumstances or events that are stated in the employment agreement, company regulations, or collective labor agreement that may cause the end of the employment relationship.

2) The work agreement does not end due to the death of the entrepreneur or the transfer of rights to the company due to sale, inheritance, or grant.

3) In the event of a transfer of the company, the rights of the worker/ laborer become the responsibility of the new entrepreneur, unless otherwise stipulated in the transfer agreement which does not reduce the rights of the worker/ laborer.

4) In the event that the entrepreneur, an individual, dies, the heirs of the entrepreneur may terminate the work agreement after negotiating with the worker/labor.

5) In the event that a worker/laborer dies, the heirs of the worker/laborer are entitled to their rights in accordance with the prevailing laws and regulations or the rights that have been regulated in the work agreement, company regulations, or collective work agreement.

B. Legal Protection of Workers' Rights in Indonesia and Its Implementation.

1. Reasons and basis for legal protection for workers' rights

Employment law was born from the idea of providing protection for parties, especially workers/ laborers as weak parties and social justice in working relationships between parties who have considerable similarities and differences. The goal of social justice in the field of manpower can be realized, one of the ways is by protecting workers/labor against unlimited power from the employer/employer, through existing legal means. To ensure the fulfillment of the basic rights of workers, ensure equal opportunity and treatment without discrimination. Protection of workers can be done either by providing guidance, compensation, or by increasing the recognition of human rights.

In the Civil Code the provisions regarding the obligations of workers/workers are regulated in Article 1603 letter (a), (b), and letter (c) of the Civil Code which essentially states that:

a. The worker is obliged to do his own work, he may not, except with the permission of the employer, be replaced by a third person in carrying out his work.

b. In carrying out work, workers must obey the rules and instructions given by the employer.

c. Obligation to pay compensation and fines. If a worker commits an act that is detrimental to the company either by intention or negligence, then in accordance with legal principles, the worker is obliged to pay the compensation or the fine.

CLOSING

Conclusion

1. Employment law was born from the idea of providing protection for parties, especially workers as weak parties and social justice in working relationships between parties who have considerable similarities and differences. The goal of social justice in the field of employment can be realized one way is by protecting workers against unlimited power from the employer/employer, through existing legal means. Protection of workers/laborers can be seen in the fourth paragraph of the preamble to the 1945 Constitution (UUD 45), Article 27 paragraph 2, Article 28 D paragraph 1, paragraph 2 and other regulations. Protection of workers can be carried out either by providing guidance, compensation, or by increasing the recognition of human rights. physical and socio-economic protection through applicable norms. In general, there are several worker rights that must be protected, including: the right to work, the right to a fair wage, the right to associate and assemble, the right to security and health protection, the right to be legally processed, the right to be treated equally, the right to privacy, the right to freedom of conscience. Employers' rights, among others: Make work regulations and agreements, the right to lay off workers, close the company, the right to form and become a member of a company organization, the right to hand over part of the work to other

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2. Several obstacles to the problem are still found, including: Regulatory factors; Cultural factors both workers, employers/entrepreneurs and law enforcers; Although theoretically the employer and the recipient of work are equal in position, in practice they are different; The ability of the company to fulfill workers' rights. To overcome problem- the above problems: Government intervention is needed by making more adequate regulations, improving guidance, supervision and law enforcement; If a problem arises in the employment relationship, it must be resolved fairly; The parties involved in the employment relationship must understand and implement their rights and obligations properly and correctly.

SUGGESTION

1. The parties must establish a harmonious relationship in labor relations because they need each other.
2. The parties must understand and carry out their obligations in accordance with applicable regulations.
3. The government should provide more adequate regulations, improve guidance, supervision and law enforcement in the field of manpower.

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