



Analysis of Legal Protection of Labor in the Implementation of Layoff

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Abstract

Employment relationships can lead to various consequences, one of which is layoffs. The impact is very complex. Therefore Who must regulate the mechanisms and procedures in such a way. The goal is that workers/laborers still get proper protection and obtain their normative rights by applicable legal provisions. Because the workforce has a significant role and position as actors in the national development goals, namely creating a prosperous, just, prosperous society that is evenly distributed both materially and spiritually based on Pancasila and the 1945 Constitution of the Republic of Indonesia. Legal protection for workers is based on the provisions of Article 27 (1), paragraph (2), Article 28 D paragraph (1), paragraph (2), the 1945 Constitution. If a layoff occurs, the workers/laborers who have been laid off must receive compensation in the form of severance pay, service fees, and Replacement of rights following the provisions of Law no. 13 of 2003 and Law No. 2 of 2004 In resolving layoffs, judges must be able to provide legal certainty and protection for workers. The judge's consideration is the soul and essence of the decision.

Keywords: Legal Protection, Workers, Implementation of Layoff

A Introduction

We know that since before and after Indonesia's independence, there have been many laws and regulations governing the workforce, but the laws and regulations concerning the crew that has been in force so far, including some of which are colonial products, place workers in a disadvantaged position in the employment service. And the industrial relations system, which emphasizes differences in functions and interests so that it is deemed no longer appropriate to current and future needs, is declared revoked and replaced by Law NO. 13 of 2003. By looking at the reality of the workforce so far, labor laws should be established, ratified, and universally enforced in all countries, including Indonesia as a member of the United Nations, which should implement the issue of protection and guarantees for workers strictly.

This is because Labor (employment), in English terms known as Labor, is a group of citizens/communities who in life are in a weak position both in terms of legal guarantees and protection as well as the right to life in search of work to be able to live correctly. Socio-economically, the position of workers/workers is not free. As a person who has no other provision for life than that, he is forced to work for other people.

And it is the employer who determines the conditions of work.² Given the position of the worker/worker who is lower than the employer, it is necessary for the government to intervene to provide legal protection. Legal protection for workers/workers is intended to protect their rights. The security of workers' rights is based on Article 27 paragraph (2), Article 28 D paragraph (1), Article 28 D paragraph (2) of the 1945 Constitution. These provisions indicate that the right to work has acquired an important place in Indonesia and is protected by the 1945 Constitution.

Labor (workforce) is closely related to the right to work, which is one of the human rights that must receive legal guarantees from the government/state so that all workers/workers/employees will get normative rights from employers or entrepreneurs, as well as get legal certainty and normative justice.

Government intervention in labor/employment through these laws and regulations has brought about a fundamental change, making the nature of labor/employment law double, namely private and public. Philips M Hadjon said that labor law is a functional discipline because it has a mixed character, public law, and personal law.

The character of private law is that the basis of the legal relationship between the employer and the worker/worker is an employment relationship. The existence of an employment relationship based on an employment agreement. An employment agreement is one type of agreement subject to the provisions of contract law. Contract law is part of private law. Meanwhile, it has a public legal character because the legal relationship between the employer and the worker/worker must be regulated and supervised or facilitated by the government to provide legal protection guarantees for the worker/worker.

Another opinion says about the dual nature where the private heart is attached to the basic principle of the existence of an employment relationship which is marked by the presence of a work agreement between the worker/worker and the entrepreneur/employer, while the public nature can be seen from:

1. The existence of criminal sanctions, administrative sanctions for violators of provisions in the field of labor/workforce.
2. Participate in government intervention in setting the standard wage (minimum wage).

Also, remember that national development is carried out in the context of developing Indonesian people as a whole and the development of Indonesian society as a whole in the context of realizing a prosperous, just, prosperous society, both materially and spiritually, based on Pancasila and the 1945 Constitution of the Republic of Indonesia.

So that in the context of implementing national development, workers have a significant role and position as actors and story goals. It is essential to protect the rights of workers.

Because humans as workers are creatures created by God Almighty who carry out the task of managing and maintaining the universe with full piety and full responsibility for the welfare of humanity, by His Creator, humans have been granted human rights to ensure the existence of their dignity and dignity as well as environmental harmony. Human Rights are fundamental rights inherent in humans, are universal and direct, therefore must be protected, respected, maintained, and should not be ignored, reduced, or taken away by anyone.

To guarantee the protection of the fundamental rights of workers/ laborers and ensure equal opportunity, as well as treatment without discrimination on any basis in realizing the welfare of workers/ laborers and their families while taking into account the development of the progress of the business world. So that to regulate this employment relationship, it is necessary to form a law on the workforce. Who must direct the development of industrial relations as part of workforce development to continue to realize harmonious, dynamic, and just industrial relations.

To that end, the recognition and respect for human rights as outlined in TAP MPR No. XVII/MPR/1998 must be realized. In employment, this MPR decree is a significant milestone in upholding democracy in the workplace. The enforcement of democracy in the workplace is expected to encourage optimal participation of all Indonesian workers and workers to build the aspired Indonesian State, namely in the context of creating Indonesian people as a whole and realizing a prosperous, just, and prosperous society, which is evenly distributed both materially and economically. As well as spiritually based on Pancasila and the 1945 Constitution.

As the noblest creatures from among God's other animals, humans are social creatures, constantly interacting with one another and needing each other. In interaction, there will usually be good and bad consequences. As ordinary human beings, we are not free from shortcomings or mistakes, both intentional and unintentional. Mistakes can lead to disputes.

This is very common, mainly because of the increasingly complex problems humans face today, especially facing the global crisis, which has resulted in most of the economy experiencing a downturn and making it increasingly difficult to deal with daily living costs. This causes people to be compassionate and easily offended. If a dispute arises, what must be considered is preventing or at least minimizing the disagreement. And if this dispute occurs, then efforts must be made so that Who can resolve it correctly.

Likewise, in the field of Labor, disputes can arise between entrepreneurs and workers/workers. Usually, the trigger starts from dissatisfaction due to different points of view. Employers provide policies that, according to him, are good and can be accepted by the workers. However, the workers/workers concerned have different opinions and considerations, so the policies given by the entrepreneur are not the same. Workers/workers who are satisfied will work better, while for some workers/workers who are dissatisfied, their morale will decrease, resulting in disputes. The main issue of dissatisfaction generally revolves around the following problems:

- 1) Remuneration.
- 2) Social Security.
- 3) Assignment behavior that is sometimes felt is not by the personality.
- 4) Work power and perceived workability are not by the work that Who must carry out.
- 5) There is a personal problem.

All parties involved in the world of Labor have never wanted such a dispute to occur because if this dispute arises, it will result in various consequences, one of which is most likely to result in layoffs. If layoffs occur, the workers/workers who are weak in position usually suffer more because they have to lose their jobs and income. This also automatically impacts the economic life of their families, especially for workers/workers who only work from the family to support their family's life.

If a layoff occurs, the worker's rights must be protected, and to protect the rights of the worker; clear regulations are needed to regulate it.

Also, if layoffs occur frequently, disputes arise, where if this industrial relations dispute does not respect the rights and obligations, the argument can lead to human rights violations. Therefore, the Indonesian government is also trying to issue laws and

regulations and implement regulations that regulate the workforce and the settlement of Industrial Relations Disputes.

B Method

This research uses descriptive analysis research using qualitative methods. Analysis of Legal Protection of Labor in The Implementation of Layoff, qualitative research is aimed at a very detailed and detailed study where the results of the research are studied in depth and then interpreted clearly. There are two sources of data used in this study, where the data includes primary data and also secondary data, then the facts of the findings are described in a very easy form of discussion so that researchers can find a complex and structured understanding in a directed manner (Achmad, 2021).

The problems in this paper that the author raises are:

1. How Protection Implementation Law Against workers who experienced layoffs in Indonesia?
2. What is the role of the IRC Judge in providing legal certainty and legal protection for the settlement of Termination of Employment?

C Result and Discussion

With the birth of Law no. 13 of 2003 concerning employment and remembering that the Indonesian nation as a member of the United Nations must carry out moral and legal responsibilities to uphold and implement the Universal Declaration of Human Rights. Including implementing. The State of Indonesia has ratified various other international instruments regarding labor rights. Because human rights are fundamental rights naturally inherent in humans, they are universal and direct. Therefore they must be protected, respected, maintained, and should not be ignored, reduced, or taken away by anyone. The critical relationship between human beings and society as a whole in community, nation, and State life.

Also still in the explanation of Law No. 13 of 2003, it is stated that: Manpower development as an integral part of national development based on Pancasila and the 1945 Constitution of the Republic of Indonesia, is carried out in the context of developing Indonesian people as a whole and the development of the Indonesian people as a whole to improve human dignity. The pride and self-esteem of the workforce, creating a prosperous, just, and prosperous society, and being evenly distributed both materially and spiritually (Achmad, 2021; Nurwati & Nandang, 2021).

To achieve the above, Who must regulate workforce development in such a way that the fundamental rights and protections for workers and workers/laborers are fulfilled and at the same time can create conditions conducive to the development of the business world.

Development Employment has many dimensions and interrelationships. This relationship is related to the interests of the workforce during, before, and after the work period and the interests of entrepreneurs, the government, and the community. For this reason, a comprehensive and comprehensive arrangement is needed, including the development of human resources, increasing the productivity and

competitiveness of Indonesian workers, efforts to expand job opportunities, employment placement services, and fostering industrial relations.

In international employment, respect for human rights in the workplace is known through 8 (eight) basic conventions of the International Labor Organization (ILO). This primary convention consists of 4 (four) groups, namely:

1. Freedom of association (ILO conventions NO. 87 and 98).
2. Discrimination (ILO conventions NO. 100 and no. 111);
3. Forced labor (ILO Conventions NO. 29, and No. 105); and
4. Child Protection (ILO Conventions No. 138 and No. 182).

The commitment of the Indonesian people to respect for human rights in the workplace is manifested, among other things, by ratifying the eight basic conventions. In line with the convention's ratification on these fundamental rights, the drafted labor law must also reflect adherence to and respect for these basic principles.

In addition, Law No. 13 of 2003 also contains essential and fundamental matters in the form of:

- a) The foundation, principles, and objectives of workforce development;
- b) Workforce planning and employment information;
- c) Providing equal opportunities and treatment for workers and workers/laborers;
- d) Job training aims to improve and develop the skills and expertise of the workforce to increase work productivity and company productivity.
- e) Workforce placement services in the context of optimal workforce utilization and placement of workers in jobs that are by human dignity as a form of government and community responsibility in efforts to expand job opportunities.
- f) The proper use of foreign workers by the required competencies.
- g) The development of industrial relations by the values of Pancasila is directed at fostering a harmonious, dynamic and just relationship between the actors of the production process.
- h) Development of industrial relations institutions and facilities, including collective labor agreements, bipartite cooperation institutions, tripartite cooperation institutions, industrial relations society, and industrial dispute resolution.
- i) Protection of workers/laborers includes protection of the fundamental rights of workers/laborers to negotiate with employers, protection of occupational safety and health.
- j) Special protection for workers/labor, women, children, persons with disabilities, and security.

When we talk about the protection of workers' rights, the most important thing is that workers/workers are guaranteed the same protection of ownership by the State in its implementation. Legal protection for workers/workers is based on the provisions of Article 27 (1) and paragraph (2), Article 28 D paragraph (1), and paragraph (2) of the 1945 Constitution. Article 27 (1) of the 1945 Constitution, namely All citizens are equal before the law and government and are obliged to uphold the law and government without exception. Article 27 paragraph (2) of the 1945 Constitution, which states that every citizen has the right to work and a decent living for humanity

In addition, the guarantee of protection for workers is also stated in the provisions of Article 28 D paragraph (1) of the 1945 Constitution, namely that everyone has the right to recognition, guarantees, protection, and fair legal certainty

and equal treatment before the law. Article 28 D paragraph (2) of the 1945 Constitution states that everyone has the right to work and receive fair and proper remuneration and treatment in an employment relationship. These provisions indicate that the right to work has acquired an important place in Indonesia and is protected by the 1945 Constitution. Legal protection for workers is based on Law no. 13 of 2003, Law no. 2 of 2004, and other implementing regulations.

The legal protection regulation for workers in Law no. 13 of 2003 is regulated in Articles 67-101. The philosophical basis is further explained regarding workforce development in the general explanation of Law no. 13 of 2003, namely as an integral part of national development based on Pancasila and the 1945 Constitution of the Republic of Indonesia, carried out in the context of developing Indonesian people as a whole and the development of Indonesian society as a whole to increase the dignity, dignity, and self-esteem of the workforce and create a community. Prosperous, just, prosperous, and equitable, both materially and spiritually. Who must regulate workforce development in such a way that fundamental rights and protections for workers and workers/laborers are fulfilled and at the same time can create conducive conditions for the development of the business world.

In the formation of Law no. 13 of 2003, Who can see that the legislators want a legal regulation that provides legal protection to workers. Considering the critical role and position as actors and development goals, legal protection is given.

National development is carried out in the context of developing Indonesian people as a whole and the development of Indonesian society to create a prosperous, just, prosperous, equitable society, both materially and spiritually based on Pancasila and the 1945 Constitution. This national development is by the state objectives contained in the fourth paragraph The preamble to the 1945 Constitution, namely establishing an Indonesian State Government that protects the entire Indonesian nation and the entire homeland of Indonesia and to promote public welfare, educate the nation's life, and participate in implementing world order based on independence, eternal peace, and social justice.

The soul of the Manpower Law is to place workers as partners for entrepreneurs in running a business. Entrepreneurs are expected to realize their social attitudes and treat workers/workers as comrades in arms. Because industrial relations are correctly implemented, both the entrepreneur and the worker/worker will benefit from each other.

In addition, workers/workers are protected by their rights as regulated in Law No. 3 of 1992 concerning labor social security, for example, it is stated that workers are entitled to protection and guarantees in the form of compensation, in the form of money as a replacement for some lost or reduced income and health services as a result of events or conditions experienced by workers, such as work, illness, pregnancy, childbirth, old age, and death. At the operational level, social security for workers is provided in the form of labor insurance.

Workers are part of the Indonesian people who need to be protected. The principle of legal protection for the Indonesian people is recognizing and protecting human dignity, rooted in Pancasila and the 1945 Constitution. XVII/ MPR/1998. In employment, this MPR decree is a significant milestone in upholding democracy in the workplace.

In the event of termination of employment, the protection of the rights of the workforce must be based on CHAPTER XII Article 150 to Article 172 of Law no. 13 THN 2003 is also based on Law no. 2 of 2004 concerning Settlement of Industrial Relations Disputes In the current Manpower Act, it is clear that there is a correlation of the constitutional vision in it, where workers are placed as actors and development goals so that their role and position are very vital. Therefore, the national product has the following objectives:

- a) Empowering and utilizing the workforce is optimal and humane.
- b) Realize equal employment opportunities and the provision of the workforce by the needs of national and regional development.
- c) Protect workers in realizing prosperity.
- d) Improve the welfare of workers and their families.

This is very different from the format of the previous labor law because, in it, there are several points of progress, including improving the quality of TK, increasing the protection of TK and their families by human dignity, restrictions and tightening for foreign workers, protection of wages and workers' welfare, mutually beneficial industrial relations, independence of trade unions and guarantees for the protection of workers' rights. In terms of protecting the rights of honest workers/laborers, what is needed now is comprehensive goodwill from all parties to provide legal protection for workers/laborers in the absence of another way apart from doing Termination of Employment at least by the standards of the applicable laws and regulations.

Because if the Termination of Employment occurs, it is usually the workers who are weak in position who suffer more because they have to lose their jobs and income. To protect the rights of these workers, the Indonesian government is also trying to issue laws and regulations and implement regulations that regulate the employment and the settlement of said Industrial Relations Disputes.

To maintain the partnership relationship between workers and employers, the handling of industrial relations disputes needs to consider implementing labor rights. For this reason, an effort is required to continue implementing the UN declaration that has been ratified and prioritizes aspects of humanity and the dignity of the nation, and strict sanctions are also needed for entrepreneurs who have violated the protection of the rights of their workers, especially in the implementation of Termination of Employment Relations.

Judges in deciding cases are also based on applicable law. Judges in deciding labor or employment cases should be able to provide legal protection and certainty for workers' rights. In every consideration, the judge should act fairly and honestly.

According to Imam Supomo, the laws and regulations regarding Labor in Indonesia recognize the existence of a labor principle, which states that workers have the right to keep their jobs unless there are specific reasons that can stop them. Thus, it is clear that every termination of employment must be carried out based on specific motivations that have been stipulated in the workforce law.

If the issue of layoffs reaches the court, the court may not refuse to examine, try and decide on the case filed because there is no law or there is no/less clear (by Article 16 of Law Number 4 of 2004). Judges are obliged to explore, follow and understand the legal values and sense of justice in society (affirmed in Article 28 of Law Number 4 of 2004).

This article emphasizes that judges play a role and act as formulators and explorers of legal values that live in the community.

The role of the judge is to carry out the purpose of the law itself, which later each judge's decisions are the concrete implementation of the legal objectives.

In this regard, the roles of judges, especially judges at the Industrial Relations Court, include:

1. There is a legal need to fill the void in regulation, a more practical demand emerges, namely the necessity of regulation, namely by providing legal certainty. The role of judges in providing legal certainty can be seen in applying the law. In the sense of the word, every act against the law is adjusted to the violation of the contents of the article. So to give a sense of legal certainty to workers or workers, the judge obliges the entrepreneur to fulfill the normative rights of the worker/laborer that have been missed, be it wages due to layoffs, wages for workers/laborers who have been cut while working as well as compensation. Other. This, of course, has been regulated in the articles of Law Number 13 of 2003, especially regarding the wages to be paid contained in Article 156.
2. In providing a sense of justice, according to the Indonesian nation, the concept of justice is contained in Pancasila, which is the nation's philosophy. In the existing literature, many opinions say that Pancasila is a philosophy.¹² The concept of justice in Pancasila is formulated in the 2nd and 5th precepts. The images of justice are based on the views of the Indonesian people, which in essence, is social justice. The first step in this direction in labor law is Article 27, Paragraph 2 of the 1945 Constitution. In every decision of the PHI judge, the protection of the rights of the worker/laborer determines the value of justice for the worker/laborer. In each of their decisions, the PHI judge tries to create a sense of justice for the worker/laborer by obliging the entrepreneur to pay what is the rights of the worker/laborer by the provisions of the applicable labor law regarding layoffs.

D Conclusion

From the description above, Who can conclude that legal protection for workers in Indonesia is based on the provisions of Article 27 (1) and paragraph (2), Article 28 D paragraph (1), and paragraph (2) of the 1945 Constitution. Article 27 (1) UUD'45: All citizens have the same position in law and government and are obliged to uphold the law and government without exception. Article 27 paragraph (2) of the 1945 Constitution states that every citizen has the right to work and a decent living for humanity.

In addition, the guarantee of protection for workers is also stated in the provisions of Article 28 D paragraph (1) of the 1945 Constitution, namely that everyone has the right to recognition, guarantees, protection, and fair legal certainty and equal treatment before the law. Article 28 D paragraph (2) of the 1945 Constitution states that everyone has the right to work and receive fair and proper remuneration and treatment in an employment relationship. In the workforce, legal protection for workers is based on Law no. 13 of 2003, regulated in Articles 67 – 101, Law no. 2 of 2004, and Law no. 21 of 2000, along with its implementing regulations.

If layoffs occur, Who will resolve them according to Law no. 13 of 2003. The amount of severance pay, service fees, and compensation is regulated in Article 156 paragraph (1) to paragraph (5). The role of the judge is to carry out the purpose of the law itself, which later every judge's decisions are the concrete implementation of the legal objectives. . The role of judges in providing legal certainty can be seen in the application of the law. So to give a sense of legal confidence to workers or workers, the judge obliges the entrepreneur to fulfill the normative rights of the worker/laborer that have been missed, whether it is wages due to layoffs, wages for workers/laborers have been cut while working or compensation.

In providing a sense of justice, where the concept of justice according to the Indonesian nation is contained in the Pancasila, which is the nation's philosophy, it is formulated in the 2nd and 5th precepts, the concept of justice is based on the view of the Indonesian nation which essentially is social justice. In every decision of the PHI judge, the protection of the rights of the worker/laborer determines the value of justice for the worker/laborer.

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