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guarantee of indonesian government's legal protection of workers' rights and obligations implementation

Susan Lawotjo[1], Deasy Soeikromo[2], Meylan Maasye Maramis[3], Anna S. Wahongan[4] , Sarah Deborah Lingkanwene Roeroe[5], Prisilia Frely Worung[6], Kathleen Catherina Pontoh[7], Djoly Alfrits Sualang[8]

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Abstract

The current research aims to determine workers' rights and obligations according to labor law; as well as to find government guarantees and protection for implementing the rights and obligations of workers in a company. The research results show that the rights and obligations of workers according to the Labor Law are: Every worker or laborer has the right to receive equal treatment without discrimination from employers. This means employers must provide workers with rights and obligations regardless of ethnicity, race, religion, gender, skin color, ancestry, and political beliefs. While the obligations of workers, namely: workers or laborers obliged to do work, where doing work is the main task of a worker who must be carried out alone, even though with the employer's permission, it can be represented. The worker or laborer must comply with the rules and instructions of the employer or entrepreneur, and in carrying out work, the laborer or worker must comply with the instructions given by the employer and the obligation to pay compensation and fines if his actions are the cause of the incident loss to the company. Government guarantees and protection for the implementation of the rights and obligations of workers in a company are intended to guarantee the fulfillment of the basic rights of workers or laborers by company

[1] *Sam Ratulangi University, Manado, Indonesia. Correspondent Email: susanlawotjo@unsrat.ac.id*
[2] *Sam Ratulangi University, Manado, Indonesia.*
[3] *Sam Ratulangi University, Manado, Indonesia.*
[4] *Sam Ratulangi University, Manado, Indonesia.*
[5] *Sam Ratulangi University, Manado, Indonesia.*
[6] *Sam Ratulangi University, Manado, Indonesia.*
[7] *Sam Ratulangi University, Manado, Indonesia.*
[8] *Sam Ratulangi University, Manado, Indonesia.*

management and guarantee equality of opportunity and treatment without discrimination on any basis to realize the welfare of workers or laborers and their families while taking into account the development of the progress of the business world or company.

1. Introduction

The goal of national development in Indonesia is the realization of a peaceful, democratic, just, competitive, advanced, and prosperous Indonesian society within the Unitary State of the Republic of Indonesia; supported by people who are healthy, independent, have faith, have piety, have a noble character, love the motherland, are aware of the law and the environment; Mastering science and technology, having a high work ethic and being disciplined (Gunawan et al., 2020). The achievement of these national development goals is a mandate that must be fought for by all elements or people of the Indonesian nation.

Manpower's role is very strategic for the progress of the Indonesian nation (Cf. Friedman, 2011). Through the existence of a skilled workforce, capable and highly dedicated to implementing their work, the company's and national development goals can be realized. On the other hand, it is not uncommon for us to see that our employment conditions are unfavorable. Employment in Indonesia is very concerning because some people who become laborers, servants, and many other kinds are often physically and mentally oppressed (Cuevas et al., 2009).

The problems in the field of employment currently faced by the Indonesian nation include the relatively high unemployment rate at the end of production, the relatively low quality of human resources and labor productivity, and the inadequate protection of workers, including Indonesian workers who are abroad, besides still the large number of people living in poverty. This burden is increasingly not light when this nation is faced with the era of globalization, which on the one hand, is an opportunity, but on the other hand, can be a threat if one is not prepared, especially in the field of employment in Indonesia.

In the current era of globalization, in which economic liberalization or free trade applies, especially in the field of labor services, workers in Indonesia are required to be able to compete with workers from other countries (Cf. Kotwal et al., 2011). Competition for workers abroad, if the quality is not improved, the job opportunities in the country will also be filled by better and more competent foreign workers. In the current flow of free trade, there will be increasingly fierce competition between countries, and each country is required to compete and win the competition to generate foreign exchange for the country.

For the production of goods and services to increase and be competitive, efficiency in the production process has now become the main requirement that must be met. And the key word for efficiency is using appropriate technology controlled by competent human resources in their field. Therefore, in free trade, the development of human resources is very important, especially human resources as agents of development or labor.

Globalization and market liberalism are campaigned by their bearers to achieve a higher standard of living, but for those who oppose globalization, globalization is only a cover for capitalists, which will further widen the inequality of income distribution between rich and developing countries and poor countries (Curran, 2007). Greater mastery of capital by creating global markets, especially in the third world where it is believed that they will not be able to meet high standards of global products, will open opportunities for the accumulation of wealth and business monopoly, and political power in a handful of people who have the ability, both capital, experience, and technology.

At present, awareness of the rights and obligations of workers in companies is increasing, along with advances in technology, information, and communication which have opened up space and changed the way workers think to become more advanced, more critical, and require transparency both in the management of work, as well as the distribution of wages, bonuses, and others. On the other hand, workers also feel that there are unfair practices by company management against workers. This has given rise to various demands from workers' groups, which, in the end, form a joint union and seek to increase the sense of justice in the treatment of workers by companies or employers.

The principle of forming a workers' union is protected by Law No. 20 of 2000 concerning Worker Unions or Labor Unions (Ingleson, 2014). However, efforts to build ethical business relations between workers and employers and other parties include settling Pancasila industrial relations disputes based on the values of the entire Pancasila precepts and the 1945 Constitution, which grew and developed based on national personality and national culture until now still have to be fought for both by the workers, as well as by the government. This is faced by the fact that until now, the demands of workers or trade unions demanding that companies pay attention to workers' rights, after or while they have completed their work, are still prevalent today.

The government and the People's Representative Council (DPR RI) recently approved the Job Creation Bill (RUU) to be ratified as a Law, widely known as the Job Creation Law. The Job Creation Law regulates, among other things, the employment cluster, which aims to increase employment opportunities and can provide protection for workers' rights. The Employment Cluster Job Creation Law, among others, regulates;

1) Specific Time Work Agreement (PKWT), which regulates:
    a) Provision of PKWT compensation money following the working period of the worker or laborer.
    b) PKWT can only be made for certain jobs and cannot be made for permanent jobs.
2) Outsourcing
    a) Workers or laborers in outsourcing companies still receive protection for their rights.
    b) In the event of a change of outsourced company, workers or laborers are still guaranteed the continuity of their work and their rights.
3) Minimum Wage (UM)
    a) Mandatory minimum wages are set at the provincial level (UMP). In contrast, district or city UM can be set under certain conditions (economic growth and inflation as well as above the UMP).
    b) The increase in the Minimum Wage considers regional economic growth or regional inflation.
    c) The Minimum Wage set before the CK Law cannot be lowered.

The rules that have been set still contain elements of pros and cons to the articles set, both from the workers and the government, which is between the two sides, namely the business world, and workers. The controversy over the rules against the rights and obligations of workers according to the labor law is interesting for further research.

2. Materials and Methods

This paper uses the scientific method both to obtain and process the data that has been obtained. To obtain these data, the author uses library research methods. Furthermore, the data that has been collected is processed using data processing methods consisting of:

1. Induction Method
2. Deduction Method; and
3. Comparison Method

These methods are used following the needs of their use to obtain results that can be accounted for scientifically and scientifically.

3. Results and Discussions

Rights and Obligations of Workers According to the Manpower Act

Labor has a strategic role in the acceleration of national development. Skilled, educated, and highly disciplined personnel will support the achievement of company goals in a superior manner. Development national implementation is carried out in the framework of the development of the Indonesian people as a whole and the development of Indonesian society as a whole to realize a prosperous, just, prosperous, equitable society, both materially and spiritually, based on Pancasila and the 1945 Constitution of the Republic of Indonesia (Law13 of 2003). Likewise, in the context of manpower development, the government establishes policies and prepares manpower planning, which includes macro and micro manpower planning. Through manpower planning, various signals of employment conditions can be generated, both regarding the supply of manpower and manpower needs, and at the same time, various efforts that must be implemented in the form of policies, strategies, and employment programs in the framework of productive and remunerative utilization of manpower.

In carrying out work at the company, understanding the rights and obligations of workers is the key to achieving company goals, including understanding labor regulations such as the Labor Law. Labor Rightsegulated in Article 6 of Law No. 13 of 2003, which reads, "Every worker or laborer has the right to equal treatment without discrimination from employers." Employers must provide workers with rights and obligations regardless of ethnicity, race, religion, gender, skin color, ancestry, and political beliefs (Widjaya, 2022; Singh et al., 2022). Labor rights in companies guaranteed by Law No. 13 of 2003 concerning employment are described as follows (Compa, L., & Vogt, 2000; Caraway, 2009; Allen, 2015; Basoeki, O. D. H., & Mingchang, 2022):

1) The right to equal treatment without discrimination.
   This right is regulated in Article 6 of Law No. 13 of 2003, which reads*, "Every worker or laborer has the right to obtain equal treatment without discrimination from employers*." This means employers must provide workers with rights and obligations regardless of ethnicity, race, religion, gender, skin color, ancestry, and political beliefs.
2) The right to get job training.
   This right is regulated in Article 11 of Law No. 13 of 2003, which reads, "*Every workforce has the right to obtain and or improve and or develop work competencies according to their talents, interests, and abilities through job training*." As well as Article 12 paragraph (1) of Law no. 13 of 2003, which reads, "*Employers are responsible for increasing and or developing the competence of their workers through job training*"

While working for a company, every worker has the right to get job training. The job training in question is job training that includes hard skills and soft skills. Job training may be carried out by employers internally or through government-owned or privately owned job training institutions that have obtained permits. However, what should be underlined is that the company must bear all costs related to the training.

3) The right to recognition of competence and work qualifications.

This right is regulated in Article 18 paragraph (1) of Law no. 13 of 2003, which reads, "*Workers have the right to obtain recognition of work competence after attending job training organized by government job training institutions, private job training institutions, or on-the-job training*." As well as in Article 23 of Law No. 13 of 2003 reads, "*Workers who have attended apprenticeship programs are entitled to recognition of work competency qualifications from companies or certification bodies*."

After workers have attended job training as evidenced by a work competency certificate, the company or entrepreneur is obliged to recognize this competency. So, with recognition, it can be the basis for workers to get rights that follow their competence.

4) The Right to Choose a Job Placement.

This right is regulated in Article 31 of Law No. 13 of 2003, which reads, "*Every worker has the same rights and opportunities to choose, get or change jobs and earn a decent income inside or outside the country*". This means that every worker has the right to choose the desired workplace. There should be no coercion or threats from the employer if the worker's choice is not following the employer's wishes.

5) The rights of women workers in Law No. 13 of 2003:

a) Article 76 paragraph (1). Female workers or laborers under the age of 18 (eighteen) years are prohibited from being employed between 23:00 and 07:00.
b) Article 76 paragraph (2). Entrepreneurs are prohibited from employing pregnant women workers or laborers who, according to the doctor's statement, are dangerous to the health and safety of their wombs if they work between 11:00 p.m. to 7:00 a.m.
c) Article 76 paragraph (3). Women who work between 11:00 p.m. to 7:00 a.m. are entitled to nutritious food and drinks as well as guarantees of maintaining decency and safety while working.
d) Article 76 paragraph (4). Women who work between 23:00 to 05:00 have the right to get shuttle transportation.
e) Article 81. A woman who is menstruating and feels sick and then informs the entrepreneur is not obliged to work on the first and second day of menstruation.
f) Article 82 paragraph (1). According to the obstetrician or midwife's calculations, women have the right to get a break of 1.5 months before giving birth and 1.5 months after giving birth.
g) Article 82 paragraph (2). Women who experience a miscarriage are entitled to a 1.5-month break or, according to the information from their obstetrician or midwife.
h) Article 83. Women have the right to have the opportunity to breastfeed their children if it has to be done during working time.

6) The right to the length of time working in Article 77 of Law No. 13 of 2003:
   a) 7 hours a day is equivalent to 40 hours a week for a 6-day work week, or
   b) Eight hours a day and 40 hours a week for a 5-day work week.
7) The right to work overtime in Article 78 of Law No. 13 of 2003:
   a) Overtime can only be done for a maximum of 3 hours a day.
   b) Overtime can only be done for a maximum of 14 hours a week.
   c) Entitled to Overtime Pay.
8) The right to rest and work left in Article 79 paragraph (2) of Law no. 13 of 2003:
   a) rest between working hours, at least half an hour after working for 4 hours continuously, and the break does not include working hours;
   b) Weekly rest a day for six working days a week or two days for five working days a week;
   c) Annual leave, at least 12 working days after the worker or labor concerned has worked continuously for 12 months.
   d) Long break, at least two months and carried out in the seventh and eighth years, one month each for workers or laborers who have worked continuously for six years at the same company with the provision that the worker or laborer is no longer entitled to his annual rest in the two running years and then applies to every multiple of 6 years of service.

9) The right to worship God according to workers' belief system

Workers, in accordance with Article 80 of Law no. 13 of 2003, have the right to get the opportunity to carry out the worship required by their religion. In this case, workers who are Muslim have the right to have the time and opportunity to perform prayers during working hours and can take time off to carry out the Hajj. As for workers of religions other than Islam, they can also carry out religious services according to the provisions of their respective religions.

10) Right-to-work protection

In terms of job protection, every worker or laborer in Article 86 of Law No. 13 of 2003 is entitled to protection consisting of the following:
   a) Occupational Health and Safety.
   b) Morals and Decency.
   c) Treatment in accordance with human dignity and values and religious values.

11) The right to wages
   a) Every worker or laborer has the right to earn income that fulfills a decent living for humanity adjusted to the provincial minimum wage, city minimum wage, or sectoral minimum wage.
   b) Every worker or laborer who uses the right to rest in accordance with Article 79 paragraph (2), Article 80, and Article 82 has the right to receive full wages.
   c) Every worker or laborer who is sick and unable to do work has the right to receive wages under the provisions of Article 93 paragraph (2) of Law no. 13 of 2003

12) Welfare Rights

According to Article 99 of Law no. 13 of 2003, every worker or laborer and their family are entitled to social security workers. Social security for workers at this time can be in the form of BPJS for health and BPJS for employment.

13) The right to join a trade union.

Every worker or laborer has the right to form and become a member of a trade union or labor union in accordance with what is stated in Article 104 of Law No. 13 of 2003.

14) Right to Strike

Every worker or laborer has the right to strike, which is the basic right of workers or laborers, and trade unions or labor unions in accordance with what is stated in Article 138 of Law No. 13 of 2003. However, a strike must be carried out in accordance with the applicable provisions.

15) Right to severance pay

Every worker or laborer affected by Termination of Employment (PHK) has the right to receive severance pay and or long service pay and compensation for rights, with the provisions in Article 156 of Law no. 13 of 2013.

Obligations of Labor

In the Civil Code, the provisions regarding labor or labor obligations are regulated in Articles 1603, 1603a, 1630b, and 1603c, the Civil Code which in essence, as follows.

a) Laborers or workers are obliged to do work; doing work is the main task of a worker who must do it himself, even though, with the permission of the employer, he can be represented.
b) Laborers or workers must obey the employer's or entrepreneur's rules and instructions. In carrying out work, laborers or workers must obey the instructions given by the employer.
c) Obligation to pay compensation and fines. If a worker or worker commits an act that is detrimental to the company either intentionally or negligently, then in accordance with legal principles, the worker is obliged to pay compensation and fines.

Government Guarantees and Protection for the Implementation of the Rights and Obligations of Workers in a Company

Workers in the company are needed to achieve company goals (Susanto et al., 2022). Even though the role of company workers is very important, there are still many complaints from workers because their rights are not fulfilled or paid attention to by company management. This happens because, in Indonesia, the labor supply is very large while the number of jobs available is few. In general, the current employment problems include relatively high unemployment, the relatively low quality of human resources and labor productivity, the inadequate protection of workers, including Indonesian workers abroad, and the large number of people living in poverty.

Problems in the field of employment are now increasingly difficult because the Indonesian nation is facing the era of globalization, where on the one hand, it is an opportunity. However, on the other hand, it can be a threat if one is not prepared. In the era of globalization, known as economic liberalization or free trade, Indonesian workers are required to compete with workers from other countries, especially in labor services. Competition for foreign workers, if the quality is not improved,

then the current job opportunities in the country will also be filled by better and more competent foreign workers.

Law Number 13 of 2003, concerning manpower, specifically regulates Manpower Planning, Employment Information, and job training. Manpower planning is prepared on the basis of manpower information, which includes, among others: Population and workforce, employment opportunities, job training including work competence, labor productivity, industrial relations, working environment conditions, workforce empowerment, and welfare and social security for workers.

The protection efforts carried out by the government for workers in the company are intended To guarantee the fulfillment of the basic rights of workers or laborers and guarantee equal opportunities and treatment without discrimination on any basis to realize the welfare of workers or laborers and their families while still paying attention to developments in the progress of the business world. Labor protection is divided into 3 (three) types, namely;

1. Economic protection, namely the protection of workers in the form of sufficient income, including when workers cannot work against their will.
2. Social protection, namely: protection of workers in the form of occupational health insurance, freedom of association, and protection of the right to organize.
3. Technical protection, namely: labor protection in the form of work security and safety.

Based on the object of labor protection Law no. 13 of 2003 concerning manpower regulates the special protection of women, children, and disabled workers or workers as follows;

1. Protection of workers or child labor
   a. Entrepreneurs are prohibited from employing children (Article 68), namely everyone under the age of 18 (eighteen) years (Article 1 number 26).
   b. These provisions may exclude children aged between 13 and 15 years from doing light work as long as it does not interfere with the development of physical, mental, and social health (Article 69 paragraph (1))
   c. Entrepreneurs who employ children in light work must meet the following requirements. Written permission from a parent or guardian. The employment agreement between parents and employer. Maximum working time is 3 (three) hours. Prepare off time during the day and does not interfere with school time. Prepare occupational Health and Safety. There is a clear working relationship. Receiving wages according to applicable regulations.
   d. If children are employed with adult workers or laborers, the child's workplace must be separated from the workplace of adult workers or laborers (Article 72).
   e. Children are considered to be working when they are at work unless it can be proven otherwise (Article 73).
   f. Anyone is prohibited from employing children in bad jobs, as stated in Article 74 paragraph (1). What is meant by the worst job as in Article 74 paragraph (2), namely; All work is in the form of slavery or the like; Any work that uses, provides, or involves children for the production and trade of liquor, narcotics, psychotropics, and other addictive substances; Any work that uses, provides, or offers children for prostitution, production of pornography, porn shows, or gambling; Any work that harms children's health, safety, or morals.

2. Protection of women workers or workers

Women who work at night is regulated in Article 76 of Law No. 13 of 2003 concerning employment, namely as follows:

a. It is prohibited to employ women aged less than 18 years between 23.00 and 07.00 in the morning.

b. Employers are prohibited from employing pregnant women workers who, according to the doctor's statement, are dangerous to the health and safety of her womb and herself if they work between 23.00 and 07.00 in the morning,
c. Employers who employ female workers between 23.00 and 07.00 in the morning are required to provide nutritious food and drink and to maintain decency and security while at work
d. Employers who employ women workers between 11:00 p.m. and 5:00 a.m. are required to provide a shuttle service.

3. Do not employ more than the provisions of Article 77 paragraph (2), namely 7 (seven) hours a day and 40 (forty) hours a week for 6 (six) working days a week or 8 (eight) hours a day and 40 (forty) hours a week for 5 (five) working days a week.
4. If the work requires a longer time, then there must be approval from the workforce, and it can only be done for a maximum of 3 (three) hours a day and 14 (fourteen) hours a week, and therefore the employer is obliged to pay overtime wages for excess working hours. This is a provision in Article 78, paragraph (1) and paragraph (2).
5. Workers are entitled to rest periods as regulated in Article 79 paragraph (2), which include rest periods for having rest between working hours, at least half an hour after work for 4 (four) hours continuously, and the break does not include working hours; Weekly rest 1 (one) day for 6 (six) working days a week or 2 (two) days for 5 (five) working days a week; Annual leave of at least 12 (twelve working days after the workforce has worked continuously for 12 (twelve) months; A long break of at least 2 (two) months if the worker has worked continuously for 6 (six) years at the same company with the provision that the worker is no longer entitled to take an annual break in the next 2 (two) years.
6. For female workers, several special rights are inherently feminine, namely: (a) Female workers who take menstrual leave are not required to work on the first and second day (Article 81 paragraph (1)); (b) Women workers have the right to rest for 1.5 months before giving birth and 1.5 months after giving birth according to the calculation of the obstetrician or midwife (Article 82 paragraph (1)); (c) Female workers who experience a miscarriage are entitled to a 1.5-month break according to the provisions of the obstetrician or midwife (Article 82 (2)); (d) Women workers whose children are still breastfeeding must be given proper opportunities to breastfeed their children if this has to be done during working time (Article 83); (e) Women workers who take maternity leave are entitled to full wages (Article 84).

The government's protection of workers or laborers includes making efforts to mediate industrial relations disputes, namely differences of opinion that result in conflict between employers or a combination of employers and workers or laborers or trade unions or labor unions because of disputes over rights, disputes over interests, and disputes over the termination of employment and disputes between trade unions or labor unions only within one company. The role of the government to protect workers or laborers in the company is very central in a way;

a. Empowering and optimally and humanely utilizing manpower;
b. Manifest equal distribution of employment opportunities and supply of manpower according to the needs of national and regional development;
c. Given protection for workers in realizing prosperity;
d. Increase the welfare of workers and their families.

Effort of government to increase its role can be seen from the efforts made to be able to protect workers or laborers in companies, which is urgently needed in these difficult times, especially after the national economy was depressed due to the influence of the Covid-19 virus attack, which weakened companies including the business climate and has also caused several companies to be unable to survive, go bankrupt or be liquidated.

As an effort to make adjustments to the rules, the government and the DPR have approved the Job Creation Bill (RUU) to be passed into law. This Job Creation Law regulates employment clusters whose purpose is to increase employment and provide protection for workers, with the following details: The Employment Cluster Job Creation Law regulates, among other things, the following:

1. Specific Time Work Agreement (PKWT)
   a. Provision of PKWT compensation money under the working period of the worker or laborer.
   b. PKWT can only be made for certain jobs and cannot be made for permanent jobs.
2. Outsourcing or Outsourcing
   a. Workers or laborers in outsourcing companies still receive protection for their rights.
   b. In the event of a change of outsourced company, workers or laborers are still guaranteed the continuity of their work and rights.
3. Minimum Wage (UM)
   a. UM must be set at the Provincial level (UMP), while UM Kab or Kota can be stipulated under certain conditions (economic growth and inflation as well as above the UMP).
   b. The increase in MW takes into account regional economic growth or regional inflation.
   c. The UM that was set before the CK Law cannot be reduced.
4. Foreign Workers (TKA)
   a. Foreign workers are only for certain positions at certain times and must have certain competencies.
   b. The convenience of RPTKA is only for Expert TKA.
5. severance pay
   a. Workers or laborers who experience layoffs still receive severance, gratuity, and compensation pay following statutory regulations.
   b. Workers or laborers who experience layoffs will receive layoff compensation of 25 times their wages, consisting of 19 times borne by the employer and six times borne by the government through the Job Loss Guarantee Program (JKP).
6. Job Loss Guarantee (JKP)
   a. Organized by BPJS Employment and the Government.
   b. Does not reduce the benefits of JKK, JKm, JHT, and JP.
   c. JKP funding comes from managing BPJS Employment funds and the APBN.
7. Working time
   a. Fixed working time provisions are in accordance with Law 13 or 2003, and additional working time arrangements are more flexible for certain jobs (e.g., part-time jobs, jobs in the digital economy, etc.).

4. Conclusion

The conclusions of the current research are stated as follows. First, according to the Labor Law, workers' rights and obligations are as follows. Every worker or laborer has the right to receive equal treatment without discrimination from employers. This means employers must provide workers with rights and obligations regardless of ethnicity, race, religion, gender, skin color, ancestry, and political beliefs. While the obligations of workers, namely: workers or laborers obliged to do work, where doing work is the main task of a worker who must be carried out alone, even though with the

employer's permission, it can be represented. The worker or laborer must comply with the rules and instructions of the employer or entrepreneur, and in carrying out work, the laborer or worker must comply with the instructions given by the employer and the obligation to pay compensation and fines if his actions are the cause of the incident loss to the company. Second, Government guarantees and protection for the implementation of the rights and obligations of workers in a company are intended to guarantee fulfillment of the basic rights of workers or laborers by company management and ensure equal opportunity and treatment without discrimination on any basis to realize the welfare of workers or laborers and their families while still paying attention to developments in the progress of the business world or company.

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