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The Principle of Justice Towards Employment in the Era of Globalization in the Perspective of Labor Law in Indonesia

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Abstract

This research aims to find out the legal substance of the principle of justice that is appropriate for workers in the era of globalization and to find government policies regarding the importance of workforce flexibility in dealing with unemployment. The research results show that the legal substance of the principle of justice is appropriate for workers in the era of globalization, with the principle that every citizen has equal rights and everyone is equal before the law. Likewise, Mochtar Kusumaatmadja's legal theory of development is the basis for government intervention in implementing the principle of social justice. Social justice does not mean ignoring the rights of others. Social justice does not justify compulsion to ignore the rights of others, nor is it to protect against mistakes or illegal actions that harm someone's property rights that have been protected by law. Government policies regarding the importance of labor flexibility in overcoming unemployment, where the policy pursued is to create formal employment and increase worker productivity carried out by creating labor market flexibility by improving the rules of the workforce related to recruitment, outsourcing, wages, layoffs, and improving the rules which resulted in excessive protection for both workers and employers.

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1. Introduction

The workforce is very important for a company. The ability, experience, and integrity of a workforce are very important for a company's success. This is due to the increasing competition between similar and non-similar companies. On the other hand, in applying the rules in the company, equality between the rights and obligations of each employee must receive the main attention of the company's board of directors. Equality in the rights and obligations of employees is the main thing in the 21st century, mainly due to the increased awareness of employees, who demand equality of rights and obligations from employees while carrying out their duties in the company.

Globalization. created by increasingly sophisticated humans and the desire to obtain a better life effectively (Li, 2020) and efficiently, has been realized with today's developing science and technology. With sophisticated technology like this, people can carry out their activities and achieve their life goals more easily and efficiently. However, globalization also has some impact on society. Of course, today's developments have advantages and disadvantages —especially the influence on the unity and integrity of the Indonesian nation. Even if globalization has a very bad impact on the unity and integrity of the nation, this can result in a major disaster for our country because there will be disputes and divorce due to the fading sense of nationalism.

In the workforce, workforce development, as an integral part of national development based on Pancasila and the 1945 Constitution, is carried out for and within the framework of the development of the Indonesian people as a whole and the development of Indonesian society as a whole. In the economic field, Indonesia is currently in the era of globalization, marked by the era of free trade. In this era, products from one country can freely enter and be traded in other countries. It has created a challenge for all countries to be able to compete in improving the quality of their industrial products, as well as companies in Indonesia are inseparable from this challenge.

Competition is carried out by the Indonesian nation, especially to improve the national economy. The Indonesian nation is also challenged to strive to place its position so that it is equal to other nations. In this regard, as good citizens, we must have a sense of pride and be willing to use domestic products. We must be aware and proud that domestic production is not inferior to foreign production. Likewise, the positive impact of economic globalization can be seen from the aspect of creativity and competitiveness. With the opening of markets for export products, it is hoped that creativity will grow and improve production quality due to the urge to continue to exist amid global competition.

On the business capital side, the positive impact of economic globalization is the availability of access to funds, where it will be easier for companies to obtain investment from foreign investors. Direct investment, such as factory construction, will also open job vacancies. This positive impact will turn around 180 degrees when the government cannot manage the flow of foreign funds. Instead, there will be an accumulation of foreign funds that are more profitable for the owners of capital and prone to causing an economic crisis due to the collapse in the value of the Rupiah. Just imagine if a large investment involving a large local workforce is suddenly withdrawn because it lacks prospects; of course, this can affect economic stability.

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 noble character, love the motherland, are aware of law and the environment; master science and technology, have a high work ethic and be disciplined (Aryateja et al., 2021). From these objectives, it is reflected that the central point of development is the empowerment of Human Resources (HR), including labor, both as targets (objects) of development as well as actors (subjects) and connoisseurs of development.

The description above shows that human resources development is one of the supporting aspects of the success of national development. 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. 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.

In this era of globalization, better known as economic liberalization or free trade, especially in the field of labor services, Indonesian workers are required to compete with workers from other countries. Competition

for overseas workers: If the quality is not improved, then the existing job opportunities in the country will also be filled by better and more capable foreign workers. In the flow of free trade, there will be increasingly fierce competition between countries, and each country is required to be able to compete. For the production of goods and services to increase and to be competitive, in addition to efficiency in the production process, the accuracy of delivering products to customers is the main requirement that must be met to win the competition.

The keyword for efficiency is using appropriate technology controlled by professional human resources. Therefore, in free trade, the development of human resources is very important, especially human resources as agents of development or labor. For this reason, in facing globalization in the field of workforce services, how to increase the competitiveness of Indonesian workers to support the success of national development is the main issue that needs to be formulated in policies, strategies, and efforts. Besides, the legal substance of the principle of justice that is appropriate for workers in the era of globalization and government policies regarding the importance of workforce flexibility in dealing with unemployment are important issues that need to be studied.

2. Materials and Methods

This study uses a qualitative descriptive method by simplifying primary, secondary, and tertiary legal materials and existing data related to this research into several parts needed to become a qualitative descriptive method (Lester et al., 2020). The researchers summarized these simplifications that came from legal materials or legal data. Data analysis, according to Mishra et al. (2019), is an effort made by working with data organizing data, sorting it into units that can be managed to synthesize it, looking for and finding patterns, discovering what is important and what is learned, and deciding what to share with others. The Data Analysis used to obtain or answer problems also identifies problems in thesis research.

3. Results and Discussions

A. Legal Substance of the Principle of Justice that is Appropriate to Labor in the Era of Globalization

The 21st century is the century of globalization marked by openness and freedom in various areas of life. The term, which was first introduced by Theodore Levitee in 1985, describes a changing era that impacts changes in all aspects of human life, namely religious, socio-cultural, economic, political, and so on. In the view of Muhammad Abid al-Jabiri, globalization means making something at the world level or a change from a position that is limited and controlled to unlimited and uncontrolled. In another explanation, globalization is the spread of values, concepts, and laws from various corners of the world to various corners of the world.

The term globalization is a sociological concept that describes various variants of significant changes that have occurred in the life of the world community. Globalization discourse emerged from Immanuel Kant's essay on eternal peace *(perpetual peace)* through creating an integrated system for all nations. This view stems from the experience of endless wars between nations in Europe during the period 1618-1648, which ended in the Treaty of Westphalia with the affirmation of territorialism. The call for a single community ethic is the main reference for moving towards world cosmopolitan liberalism. The basic idea of globalization in Kantian analysis has an altruistic dimension, considering its goal to establish harmonious relations between nations in the world with the pioneering of ocean exploration.

The strength of economic globalization forces a country not to reject economic activities in other countries because there are almost no countries whose economic activities are sterile from global influences (Lucas, 2022). This situation forces a country to be more sensitive to all changes, especially those related to policies or regulations used by other countries. Durrenberger (2003) stated that the essence of an economic system is how work is organized. Economic problems relate to how work in society is organized among its members: who has to deploy labor, who does not have to work, who gets it, and how big is their share of the distribution of the work, and through institutional means, the work of the working class is devoted, and the results of their work are divided among the existing social classes. According to Paul (2021), the real manifestation of economic globalization occurs in the forms of globalization of production, globalization of financing, globalization of labor, globalization of information networks, and globalization of trade. Furthermore, it is stated that globalization of production occurs when companies can produce in various countries to lower production costs. It is done because of low labor wages, cheap import duty rates, adequate infrastructure, and a conducive business and political climate. In this case, the world becomes a global manufacturing location.

The globalization of financing is seen in the ease with which global companies can obtain loans or invest in all countries. Globalization of labor is evident in the use of workforce from all over the world according to their class by global companies. The presence of foreign workers is a symptom of labor globalization. The globalization of information networks is increasingly real when the people of a country easily and quickly get information from countries worldwide because of technological advances. As a result, the tastes of the world community, both those who live in cities and villages, are towards global tastes. The globalization of trade is manifested in the form of tariff reduction and uniformity, as well as the elimination of various non-tariff barriers. Thus, trading activities and competition will become faster, tighter, and fairer.

Another explanation was given by Nash (2019), explaining the importance of a legal in dealing with global changes, which can ensure its continuity goes well in the future. Nash (2019) stated that five changes need to be the main concern, namely first, the globalization of information and communication as a result of advances in technology and information facilities/infrastructure with an increasingly global reach, high speed, and greater capacity to transmit various information; second: globalization of the economy and free trade, globalization of finance and economic globalization and free trade, globalization of finance and capital ownership, market globalization, and the movement of transnational corporations in various countries; third: globalization of lifestyles and communication patterns, globalization of culture, globalization of perceptions, and awareness where these products are marketed throughout the world, fourth: globalization of mass media and print media as well as electronic media; fifth: political globalization and insight."

As the official state ideology of Indonesia, Pancasila is a practical reference for the life of the nation and state. Pancasila has an important position in the nation's life, namely as the basis of the state, ideology, and basis of legal order. The principle of equality cannot be interpreted that all people must receive the same treatment under any circumstances. However, it should be interpreted that everyone must be treated equally under similar conditions. Equality is not interpreted singly by applying uniform provisions to all parties. The description explains that in implementing justice, efforts are needed to determine the conditions of the parties so that the policy can place the parties in an equal situation. Social justice is not defined as the distribution of power of a property or equality in economic status.

The Principle of Social Justice mandates that citizens have equal rights and everyone is equal before the law. Strengthening this view, Mochtar Kusumaatmadja's legal theory of development became the basis for government intervention in implementing the principle of social justice. Social justice does not mean ignoring the rights of others. Social justice does not justify coercive reasons to

ignore the rights of others nor to protect mistakes or illegal actions that harm someone's property rights that institutions have protected. Social justice cannot be the basis of protection for the unrighteous. The form of attention given by the state to people experiencing poverty does not mean tolerating the form of taking over power belonging to the public or private. People can only demand justice if they do not have bad motivations.

Social justice or other forms exist for anyone who deserves it, both for the rich and the poor. Suppose there is a conflict in carrying it out. In that case, the court is advised to be able to align it so that a balance is created as a form of support for people experiencing poverty following the constitutional mandate. However, prioritizing the poor will never be justified because they are poor and rejecting the wealthy because of their abilities. Justice must serve all people without differentiating their economic abilities.

Theory of property, described by John Locke in his work The Second Treatise of Government, is part of his thinking to maintain individualism and limit the power possessed by monarchs. The theory of ownership put forward by John Locke primarily pays attention to the results of human work on nature and land, which gives rise to the concept of ownership to those who cultivate it. Ownership arises when humans add "work" (labor) to land or nature when humans mix according to what is theirs.

The results of human work, the results of human hands, belong to man himself. Because humans have sweated the results of hard work and mixed it with human work (something annexed), they are entitled to have these results. It is what is referred to as John Locke's labor theory, which underlies property rights over natural products. John Locke further explained that human work as a reward or fair reward for the results of human labor, which also contains suffering, is also a fair benchmark for limiting humans with their property rights.

The most important element in determining a working relationship is the power to exercise oversight, one of which is based on the GR Np. 124551, August 28, 1998 (us*e marketing vs. National Labor Relations Commission* and S. Antonio). It is emphasized that the absence of supervision ensures the absence of an employment relationship, which determines whether the relationship is a partnership or an employment relationship.

B. Government Policy Concerning the Importance of Labor Flexibility in Addressing Unemployment

As it is known, Indonesia has implemented a policy familiarly termed a *flexible labor market*. Chapter 23 of Presidential Regulation No. 7 of 2005 concerning the 2004-2009 National Medium Term Development Plan (RPJMN) concerning Improving the Employment Climate explains the importance of workforce flexibility in overcoming unemployment. In Part C, regarding the policy direction stated "Policies pursued to create formal employment opportunities and increase worker productivity are implemented by creating labor market flexibility by improving the labor game rules relating to recruitment, *outsourcing*, wages, layoffs, and improving the game rules that lead to overprotection."

Labor flexibility is an antithesis to the concept of security in employment relations, which places the role of the market as the dominant factor affecting employment relations. An economic system that places the state as an actor and controller of the economy is more successful than an economic system controlled by the market. In contrast, countries that have surrendered a large role to the market economy have experienced many difficulties. Furthermore, Amartya Kumar Sen disagreed

with the economic concept, which focuses on business and market mechanisms that benefit small groups of people, namely the upper middle class. According to him, it is difficult for this economic theory to maintain its continuity because it creates inequality and causes poverty and hunger among many people (Gil, 2020). It is stated that that traditionally, the concept of labor politics in Indonesia has yet to be able to change the perspective on the role and rights of workers beyond the concept of stability and security. It was further stated that security stability by using security tools turns out not only in the traditional sense, namely the use of violent means but also all policies that are repressive and eliminate people's access to fight for their destiny. This broad understanding is very important for Munir to see carefully the alienation of workers from recognizing their basic rights.

The term work security in Indonesia replaces the term work safety. The term contains rules aimed at maintaining the safety of workers against the danger of accidents in carrying out work in workplaces that use dangerous tools/machines and processing materials. The basic principle of job security in Indonesia is contained in Article 1602w of the Civil Code, which states that the employer (entrepreneur) is obliged to arrange and maintain the room, tools, and equipment where or with which he orders his workers to do work in such a way that the workers are protected from harm that threatens body, honor and his possessions. This article contains sanctions if the employer does not compensate workers or benefits to the families of workers who die due to work accidents. Formerly,

Job security referred to here is in line with the views following the meaning of the word *job security*, which contains the meaning of protection for certainty in work. One form of the government's efforts to provide security in work relations is the presence of social security, which is currently the government's flagship program.

Identity is the traits that a person claims define himself and, when shared by others, define the group. Each individual has multiple identities. A person can simultaneously be an Indonesian citizen, a Muslim, a worker, a male, and a party member. Individuals who have the same identity will give birth to a collective identity. It means they have some of the same interests and often have the same enemies.

The dominance of an identity has its advantages and goes hand-in-hand with the disadvantages it can cause. History records that when industrialization and urbanization in Europe drastically increased the number of working-class or proletarians, socialism, an ideology that emphasized class identity over national or religious identity, became increasingly important. In this case, a worker is the main identity, so socialist ideology specifically demands an end to private property and the exploitation of workers.

4. Conclusion

The conclusions that can be stated from the results of this study are as follows. First, the legal substance of the principle of justice, which is appropriate for workers in the era of globalization, is the principle that every citizen has the same rights and everyone is equal before the law, similar to Mochtar Kusumaatmadja's legal theory of development, which is the basis for government intervention in implementing the principle of social justice. Social justice does not mean ignoring the rights of others. Social justice does not justify coercive reasons to ignore the rights of others nor to protect mistakes or illegal actions that harm someone's property rights that have been protected by law.

Second, the government policies regarding the importance of labor flexibility in addressing unemployment, whereby the policy pursued is to create formal employment and increase worker productivity by creating labor market flexibility by improving the rules of the game regarding employment related to recruitment, outsourcing, wages, layoffs, as well as improving the rules of the game which result in excessive protection for both workers and employers.

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