

## **Analysis of the Application of Labor Law on Economic Growth in Indonesia**

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### **Abstract**

The government's efforts to overcome the global economic crisis with its citizens, especially business people, are one of the main reasons to stabilize the economy, maintain financial balance, and avoid bankruptcy for most businesses. Causes termination of employment and termination of employment. The problem of this research is to clarify whether labor law can be projected as a normative based law, namely a philosophical based law based on legal certainty and justice as well as benefits for producers (goods or services). In compiling this journal, the author uses the method of writing prescriptive law. This method aims to use legal norms and conduct normative legal research from an internal perspective. Labor law helps maintain order in the employment relationship between workers and employers. To maintain order, we need a code of conduct in the form of legal ideals, normative law (legal certainty) based on justice and expediency. These three values underlie compliance with labor law and as a rule of law Indonesia upholds caste equality before the law. (Equality before the Law).

**Keywords:** Law, Employment, Economy



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### **INTRODUCTION**

National development, especially in the field of manpower, is directed as much as possible for the prosperity and welfare of the workers. Therefore labor law must be able to guarantee legal certainty, the value of justice, the principle of expediency, the principle of order, protection and enforcement. Along with the development of the human resources sector, it is clear that economic players have improved to wake up from the nightmare after the economic crisis and the currency was hit by a wave of the global economic crisis that hit the Southeast Asian region. Indonesia can not be separated from the waves. The government's efforts to overcome the global economic crisis together with the public, especially business people, have become one of the main reasons for stabilizing the economy, maintaining financial balance and avoiding the bankruptcy of most businesses, affecting the fate of most companies. Leading to the termination of factory workers and employment relations.

An effective means for ensuring continuity between economic actors and workers in industrial relations is the existence of labor laws which regulate various rights, obligations and responsibilities of the parties. Apart from these bodies, collective labor agreements (PKB), bilateral and trilateral bodies, trade unions, employers' associations, and state arbitrations are forms of existence of labor law. The government as supervisor and law enforcer upholds the rule of law and recognizes that the position of employers and workers is a potential benefit not only for the state but also for national development actors who are equal before the law. Complying with the rule of law as a code of ethics is the full responsibility of the parties. Compliance is a culture of following the law, not coercion.

Labor law basically has the nature of protecting and creating security, peace and prosperity by realizing social justice for all people. Protection measures under labor law must be based on two aspects: First, from an ideal point of view, law is fixated on legal regulations (heterotom) and autonomous law. This field of law must adhere to the ideals of justice, truth

and certainty and be able to reflect legitimate value products for the benefit of the parties in the production process. Labor law does not only prioritize economic actors, but also respects and protects workers, who are in a very vulnerable social position compared to established employers.”

The law promotes the principle of social differentiation and economic standards for disadvantaged workers, including welfare levels, wage levels and working conditions. Some of them are determined by laws and regulations and are consistent with the meaning of justice according to the provisions of Article 27 paragraph 2 of the 1945 Constitution, that: "Every citizen has the right to work and a living that is worthy of humanity". Likewise the provisions of Article 28 D paragraph (2) of the 1945 Constitution, that: "Everyone has the right to work and to receive just and proper compensation and treatment in a work relationship"; Second, legal prescriptive at the implementation level contributes in the form of oversight by law enforcement officials to take action against law violations.

The Basic Law gives everyone equal status. This also applies to workers who work for their employers, both in the private sector (pure), state-owned enterprises, civil servants and other sectors. This is stated in the provisions of Article 28I of the 1945 Constitution, namely: "Every person has the right to be free from discriminatory treatment on any basis...", even Article 28I provides protection for them, covering workers for discriminatory treatment. The declaration emphasizes the obligation of employers to treat their workers fairly and proportionally according to the principle of balance of interests. In this position, employees as business partners do not threaten the survival of the company. Law as a guide to action must reflect aspects that balance the interests of individuals, society and the nation. In addition to encouraging the creation of order, legal certainty and legal equality and justice.

Labor law (Law No. 13 of 2003) was established as a legal umbrella in the field of industrial relations and is designed to maintain order and control of the community, especially as the basis for the rights of the parties to production (goods and services), as well as a legal umbrella because labor law should be a tool for creating partnerships. This is regulated in the provisions of Article 102 (2) and (3) of the Law No. 13 of 2003). This provision is considered as a rule of law that must be obeyed by the parties (no need to explain further what a partnership is). A glance at the provisions of Article 102 (3) of Law no. 13 of 2003, states that: "...entrepreneurs have the function of creating partnerships..." This has not provided concrete clarity for the industrial community, which is often not used to understanding legal provisions. Ironically, law is only considered abstract.

The same applies to article 102 paragraph 2 of the law of numbers. 13 of 2003 that "workers in carrying out work relations have an obligation to carry out work in the interests of maintaining production, progress of the company, and otherwise receive the right to be respected in the performance of their duties, in addition to carrying out other tasks, through the union seek the welfare of members and their families with constant maintaining order and continuing to produce goods and/or services as well as trying to develop skills and promote business." Implicitly, this is a form of labor participation in maintaining order, promoting business, and maintaining welfare. However, this editorial is poorly understood by all parties, and its meaning is not even understood. interests that have led to protests and strikes. If this meaning is interpreted as a partnership, it will be independent of different personal interests.

Conversely, if the industrial community understands that it is a statutory provision that must be obeyed without receiving a reprimand from the government based on article 102(1) of Law no. 13 of 2003, and understand it as a basis for building partnerships, only non-compliance in building partnerships with no legal sanctions binding the parties. This is a barrier to creating partnerships. Based on the background above, the purpose of the problem

of this research is to find out whether labor law can be projected as a law that has a normative basis, namely legal certainty and a philosophical basis based on justice and benefits for actors of production (goods or services).

## **RESEARCH METHODS**

In compiling this journal, the author uses the Normative Legal Writing method. This method is to conduct research on law in a normative manner by looking at law from an internal perspective where the object of research is to use legal norms (Soekanto: 1985). In addition to reviewing the applicable laws and regulations, the writing method is also carried out by reviewing library materials such as books and law journals. By using the legal drafting method, the aim is to be able to review the provisions regarding workers' rights and legal protection based on a literature review where labor laws provide legal protection for workers resulting from the impact of digitalization.

## **RESEARCH RESULTS AND DISCUSSION**

One example is that the production of goods and/or services is essentially carried out by Producing actors, namely employers and workers. 13 of 2003 concerning Manpower and all the regulations that serve as guidelines for its implementation. These rules exist in both public and private spaces. This can be determined from its protective nature, coercive power, and the imposition of (miserable) sanctions, while its private nature is known as contractual legal relations which include the involvement of the parties in the process of carrying out production activities, mutual respect for each other's rights, obligations and responsibilities for basis of balance of interests. As is well known, Indonesia is a rule of law country, and one of the characteristics of a rule of law is the recognition of human rights. As jurisprudence based on Pancasila, it must reflect the existence and soul of the nation, and become the basis for existing legal provisions to achieve prosperity and public order. government officials, where all actions must be based on law (Fadjar: 2004).

According to Scheltermma himself "rechtsstaat elements, namely: First, legal certainty (covering the principle of legality, laws governing law enforcement actions, laws are not retroactive, human rights are guaranteed by law, control is free from the influence of other powers) . Second, equality (authorized actions regulated by law in a material sense, as well as separation of powers); Third, democracy (the right to vote and be elected, the regulations of the authorized body are determined by the parliament, and the parliament oversees the actions of the government); Fourth, government for the people (human rights guaranteed by the Constitution, and government effectively and efficiently) (Azhary: 1992)."

Mukthie Fadjar stated that "the absolute requirements and characteristics of a rule of law state, namely the principle of recognition and protection of human rights, the principle of legality. From the various views above it can be understood that Indonesia's existence as a rule of law state is identified in the Constitution<sup>45</sup>, which is explicitly listed and spread across. in various articles, namely: Article 1 paragraph (2) and paragraph (3), Article 24 paragraph (1), Article 27 paragraph (1) and paragraph (2), Article 28, Article 28 A, Article 28B, Article 28 D paragraph (1) and paragraph (2), Article 28 F, Article 28 G, Article 28 H paragraph (1), (2), (3) and Article 28 I paragraph (1), (2), (5) and Article 28 J of the 1945 Constitution. These articles, in general, are a manifestation of a rule of law characteristic, while specifically they serve as the basis for employment law, especially in the provisions of Article 27 paragraph (2), Article 28D paragraph (1) and paragraph (2), Article 28H paragraph (3), and Article 28I (2) of the 1945 Constitution.

Thus it can be stated that labor law is a normative legal norm, and is the legal basis for industrial (work) relations, as stipulated in the provisions of the Constitution. 1945, which was subsequently issued Law No. 13 of 2003 concerning Manpower, based on the provisions of Article 5 (1), jo. Article 20 paragraph (2), jo. Article 27 paragraph (2), jo. Article 28 jo. Article 33 paragraph (1) of the 1945 Constitution, which is characterized by legal certainty and justice as a characteristic of a rule of law state. The principle of legal certainty as a rule of law is also regulated in the criminal law Article 1 (1) KHUP, which reads: "No act can be punished, except for the strength of the criminal rules in the legislation that existed before the act was committed." The principle of law (legality) in a narrow sense is known as the adage: "Nullum Delictum, Nulla Poena, Sine Praevia Lege Poenale", while in a broad sense (covering criminal procedural law), "The prosecutor is obliged to prosecute everyone who is deemed to have sufficient reasons that he has breaking the law. As is the case with other laws, labor law has the function and objective of maintaining public order, particularly the relationship between employers and workers in the process of producing goods and services, which contains and reflects the value of legal certainty, the value of uses (benefits), and the value of justice.

Here these three values serve as the pillars that underlie the upholding of labor law, and at the same time as the objectives of labor law. As it is known that one of the elements of a rule of law is the existence of human rights as basic rights, which are naturally inherent in humans since birth and cannot be revoked in such a way, if these rights are revoked then their presence in the social sphere will lose their existence as humans. This is in accordance with Wolhoff's statement, that a number of rights seem to be rooted in the character of every individual human being precisely because of their humanity which cannot be revoked by anyone because if it is revoked that humanity will also be lost.

The inclusion of the formulation of human rights in the 1945 Constitution, as a guarantee of respect and protection of human dignity and status, besides that as one of the conditions for fulfilling the elements of a rule of law state. Likewise, law as a means to achieve order, prosperity and justice in regulating the rights of citizens must be able to show guarantees for the protection of the right to decent work, freedom to choose a job, the right to employment conditions, the right to fair wages and the terms of the agreement. proportional work.

Another right, to form a trade union and not to hinder workers as members. In supporting the principle of human rights, John Rawls, through his work *A Theory of Justice*, states that: First, the general principles of justice underlie various moral decisions; Second, the ideal of justice lies in the social structure (society), such as: social institutions, politics, law, economy. The structure of society, including the constitution, private ownership of production facilities/infrastructure, competitive markets that require the cooperation of all parties; Third, the principle of equal freedom for everyone (freedom in fighting for legal rights and/or interests), which contains aspects of difference and equality, namely the principle of social and economic differences must be regulated so as to provide the greatest benefit to those who are most disadvantaged. such as welfare, income and authority, while the principle of equality, namely fair opportunity. This means that everyone has the same rights and opportunities to obtain freedom in accordance with the principles of human rights).

From the description above, it can be explained that the inclusion of the formulation of human rights in the 1945 Constitution indicates the existence of legal guarantees, and democracy as an option in the government system and is a manifestation of the implementation of human rights. Thus the upholding of democracy must be in synergy with the rule of law. The upholding of the rule of law must be in accordance with the ideas/aspirations of law as the principle of a democratic rule of law. Likewise, in upholding and protecting human rights, the government is obliged to comply with legal provisions

(laws). Labor law which has a role in regulating the stability of working relations, in addition to regulating it through laws and regulations, is also issued through the form of company regulations or collective labor agreements, and work agreements” (Kosidin: 2017).

Basically these legal provisions are based on the principles of certainty, justice, convenience, balance of interests, deliberation and consensus, as well as equality before the law. These principles are the ideals of labor law in Indonesia to create a basis for the protection and enforcement of labor law. "Legal rights and protection for workers stem from Law No. 13 of 2003 concerning Manpower, including (legal aspects):

1. Rights and protection of occupational safety and health;
2. Welfare rights and protection (Jamsostek);
3. Rights and protection of freedom of association;
4. Rights and protection of covert or unilateral termination of employment;
5. Rights and protection of wages;
6. Rights and protection of working time (including: working overtime);
7. Rights and protection of the interests of worship, childbirth, menstruation, annual leave, rest between working hours, weekly rest;
8. and other normative protection.

Legal protection originating from company regulations/work agreements and collective bargaining agreements (work conditions that have not been regulated or quality improvement above the minimum standards of laws and regulations), among others:

1. Welfare facilities (cooperatives, clinics, housing, and family planning), canteens, recreation, sports, places of worship and child care);
2. Periodic salary and fixed allowance;
3. Year-end bonus and achievement based bonus;
4. and other protections stipulated based on collective work agreements or company regulations, work agreements.

The use of legal means that are autonomous tends to adopt more (although not in its entirety), or patchy adjustments to Law no. 13 of 2003. Legal protection for entrepreneurs comes from Law no. 13 of 2003, including (legal aspects) (El-Muhtaz: 2005):

1. Wages are not paid, if the worker does not work against the will of the employer or company (no pay, no work);
2. The right of transfer of workers for the benefit of the company;
3. The right to arrange and order to do work;
4. The right to sanctions for workers who are proven to have violated work agreements, company regulations or collective bargaining agreements;
5. Termination of employment for workers who violate the law;
6. Termination of employment during the probationary period;
7. and other normative protection.”

The legal provisions protecting employers are used by stakeholders for the benefit of their companies, while the legal provisions protecting workers are not respected by employers. This is because the bargaining position of 11 workers is not enough to balance the employer's "strength". In this case, the role of government oversight of the labor sector means carrying out the function of social control and monitoring/enforcing labor rights violations.

Thus, labor law has fully complied with the formal and material requirements as protection law, legal certainty (legality principle), and at the same time is one of the pillars of labor law. to protect workers' rights. Law Supremacy (Rule of Law). The existence of labor law

is based on the principle of a balance between justice and interests, in which the interests of workers are protected by the government's role in controlling and dealing with acts and actors who violate labor laws. From a civil perspective, you can use the facilities of the Industrial Relations Court, starting with using bilateral methods, conciliation, conciliation or arbitration, followed by an examination by the Industrial Relations Court in an effort to obtain certainty regarding legal aspects, justice and interests.

## **CONCLUSION**

The purpose of labor law is to maintain order in the working relationship between workers and employers. To maintain order, it is necessary to develop behavior in the form of normative law (legal certainty) and towards legal ideals, namely justice and timeliness. These three values reinforce respect for labor law, in addition to the fact that Indonesia as a constitutional state upholds equality before the law. Labor law in constitutional law (Indonesia) is an implementation of the basic philosophy, namely Pancasila and the basic theory (UUD. 1945). These fundamental values have aspects of legal certainty, justice and speed. This certainty also reflects the value of justice that benefits the survival of workers and employers in the business corridor.

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