

PROTECTING WORKERS' RIGHTS: A FAIR AND SUSTAINABLE LABOUR PROTECTION POLICY

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Abstract

The right to work, the right to fair wages, the right to associate and assemble, the right to security and health protection, the right to legal proceedings, the right to equal treatment, the right to personal secrets, and the right to freedom of conscience are just a few of the rights of workers that generally need to be upheld. Among the rights of entrepreneurs are the following: creating work rules and agreements; terminating employees; closing the business; forming and joining a corporate organization; and assigning a portion of the work to another business. In the area of employment, legal enforcement, guidance, and supervision can all be used to achieve the protection of workers' rights. According to justice, laborers have an equal and free status. In actuality, though, employers' and employees' positions are frequently uneven. There are still a number of troubling barriers present, such as: regulatory issues; cultural issues affecting employees, employers/entrepreneurs, and law enforcement; The employer and the employee are not equal in practice, despite their equality in theory; this includes the employer's ability to uphold workers' rights. This study does an exploratory review of the literature using a qualitative descriptive methodology. This research discusses labor protection theory, workers' rights and obligations, labor protection policies, shortcomings and obstacles in policy implementation.

Keywords: Workers' rights, policies, labor protection

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INTRODUCTION

Development requires a number of auxiliary elements, including labor, capital, and environment. These three elements are crucial components that are inextricably linked. The labor component is the most significant of these three factors, contributing just as much as the other two. A sizable population, which is a crucial resource, supports this. Since the labor plays a crucial role in the development process, efforts must be made to nurture, manage, and safeguard the personnel in order to foster prosperity in the industries they serve. In essence, the goal of worker protection is to guarantee that employees grow in humanity. Employees can fulfill a variety of societal responsibilities and tasks, as well as reach their full potential, which will enhance their quality of life and enable them to lead respectable lives. Planning and execution must be thorough, integrated, and sustainable in order to successfully protect workers (To, H., Ghinita, G., & Shahabi, 2014).

Every citizen has the right to decent work in the sense that citizens must not only obtain work but also have rights in relation to employee obligations as stipulated in the employment contract that leads to the employment relationship. This also cannot be separated from the humanitarian side of ensuring the rights of citizens (Chan, A. 2016).

Scholz, T. (2017) believes that humans fulfill life's needs for survival in the world. For this reason, humans need to work to earn income. where every human being has rights that the state and society must guarantee every right that humans or citizens have and do not differentiate between one another. Every legal relationship created by law always has two aspects, namely rights on the one hand, and obligations on the other hand. There are no rights without obligations, conversely there are no obligations without rights. Rights are interests protected by law.

Individuals can enjoy and exercise their rights with freedom. Positive legal standards known as obligations set consequences for deviant behavior, so organizing individual behavior. Sanctions and legal responsibilities are fundamentally connected concepts. An individual who may be subject to sanctions as a result of their action is the subject of a legal obligation (Mosley, L. (2017). Law only has a passive meaning if it cannot be applied to concrete events. Concretization of law These rights and obligations occur through legal events. For rights and obligations to occur, an event is required which is linked by law as a result.

Events that have legal consequences are legal events. As a legal event that gives rise to legal consequences, it is important to pay attention to the

regulation of the rights and obligations of workers and employers during a labor strike. It is important to pay attention to the balance of the rights and obligations of employers and workers in a labor strike because the relationship between workers and employers is important. In the midst of workers' minimal access to resources, strikes are the ultimate weapon when they have to face forces outside the workers themselves. The unequal position between workers and entrepreneurs requires a tool to balance this position. Workers use strikes as a tactic to offset their weaker negotiating position in comparison to employers. Therefore, it is important to avoid drafting the rights and obligations of employers and employees in a way that makes it harder for employees to use their right to strike, which serves as a counterbalance to their bargaining position (De Stefano, V., & Aloisi, A. 2019).

The right to work, the right to fair wages, the right to associate and assemble, the right to security and health protection, the right to legal proceedings, the right to equal treatment, the right to personal secrets, and the right to freedom of conscience are just a few of the rights of workers that generally need to be upheld. Among the rights of entrepreneurs are the following: creating work rules and agreements; terminating employees; closing the business; forming and joining a corporate organization; and assigning a portion of the work to another business. In order to effectively safeguard employees' rights, guidance, oversight, and law enforcement in the workplace are also possible (Compa, L. 2008).

The status of laborers is equal and free under the law. Nonetheless, in actuality, bosses and laborers frequently hold uneven positions. There are still a number of troubling barriers present, including: cultural aspects affecting employees, employers/entrepreneurs, and law enforcement; regulatory factors; The employer and the employee are not equal in practice, despite their equality in theory; this includes the employer's ability to uphold workers' rights. Several initiatives are required to address the aforementioned issues, including: Government intervention is necessary to establish a fair working relationship for the parties through the creation of more appropriate regulations, enhanced supervision, and law enforcement; Fair resolution of any issues arising in the employment relationship is required; and The parties involved in the employment relationship must be aware of and appropriately fulfill their rights and obligations (Appelbaum, R. P., & Lichtenstein, 2016).

With the background described above, the author wants to know and discuss in more depth about: How to protect workers' rights: fair and sustainable labor protection policies consisting of labor protection theory,

workers' rights and obligations, labor protection policies, shortcomings and obstacles in policy implementation.

RESEARCH METHOD

This study conducted an exploratory evaluation of the literature using a qualitative descriptive approach. Techniques for library research are used in the data collection process. The process of gathering information from multiple sources or books required for research is known as literature study.

The author looks for reliable sources such as scientific journals, reference books, and websites related to protecting workers' rights: fair and sustainable labor protection policies. The sources selected are sources that have authority on labor protection theory, workers' rights and obligations, labor protection policies, deficiencies and obstacles in policy implementation. After collecting relevant sources, data and information from these sources are analyzed systematically.

RESULT AND DISCUSSION

Labor Protection Theory

The goal of social justice in labor law can be achieved by using the legal tools currently in place to safeguard employees against employers' unrestricted power (Righard, E., & Boccagni, 2015). For this reason, there are principles and protections for labor that should be realized in order to achieve the goals of social justice.

Labor protection provisions receive special attention in labor law. Currently, the legal basis for labor protection is regulated in the Employment Law and Job Creation Law, including:

1. Protecting employees from harm as they pursue prosperity is one of the objectives of employment development.
2. Every employee has an equal chance to find employment without facing prejudice.
3. Every laborer/worker has the right to be treated equally by their employer, free from discrimination.
4. Through job training, everyone develops work competences in accordance with their talents and interests.
5. All laborers/workers have an equal chance to participate in job training based on their line of work.

6. All workers are entitled to the same freedoms and opportunities to select, accept, or reject occupations and to make a living wage both domestically and overseas.
7. Every laborer has the right to be treated with respect for human dignity and religious beliefs, as well as protection for their morality and decency and occupational safety and health.
8. Every laborer or worker is entitled to a life that is worthy of humanity
9. The right to labor social security is granted to each and every worker/laborer and their family.
10. The right to organize and join a worker or labor union belongs to every worker or laborer.

Imam Soepomo states that there are three different kinds of worker protection, which include:

1. Economic protection, which is protection pertaining to efforts to earn enough money to meet the worker's and his family's daily necessities, even in the event that he is rendered incapable of working for reasons outside of his control.
2. Social protection, or safeguarding so that employees can engage in civic duties. His ability to grow as a person in general and as a member of the family and society in particular is the aim of this protection.
3. Technical protection, or shielding employees from the risks of mishaps brought on by company-supplied equipment or supplies.

In the meantime, Abdullah Sulaiman lists five different kinds of worker protection, which are as follows:

1. Economic protection, which is defined as the defense of labor or work circumstances governed by laws pertaining to employment relations or work agreements.
2. Protecting employees against potential hazards brought on by the tools or materials they are working with is known as work safety protection.
3. Protection of occupational health. This guarantee is in place because employers occasionally treat industrial and non-industrial technology workers arbitrarily and cruelly.
4. Protection of employment relations, or the safeguarding of labor performed by employees for employers under terms of employment through payment of salaries.

5. Preservation of legal clarity, specifically by the application of legal safeguards outlined in statutory regulations. It includes directives and restrictions, together with clear, severe, and forceful penalties for infractions

Thus, several articles in the Employment Law and Job Creation Law regulate labor protection principles, such as non-discrimination, social security, protection of occupational safety and health, and others. Then, according to experts, the forms of labor protection are economic, social, occupational health, legal certainty and others.

Worker Rights

Gonzalez, J. A. S. (2022) asserts that many workers' rights are essential and should be upheld, but their realization is highly reliant on sociocultural and economic developments as well as the community or nation in which the business works. These developments include:

1. Straight to work. Human rights include the freedom to work. Because it is expressly stated and totally guaranteed in Indonesia. Article 27, paragraph 2, UUD 45 states that "Every citizen has the right to work and a living worthy of humanity." This is where the right to labor is found.
2. The pay equity right. The true wage is an indication of or payment for the output of his labor. Everyone who works is entitled to fair compensation, which is defined as compensation commensurate with the amount of effort put out in the job.
3. The right to associate and assemble. In order for workers to be able to fight for their interests, especially for fair wages, they must recognize and guarantee their rights to unionize and assemble. They must be guaranteed the right to form a trade union whose aim is to unite and fight for the rights and interests of all its members. Through mergers and unions, their position is strengthened and their natural rights can be given greater attention, which in turn means that their rights can be better guaranteed.
4. The entitlement to safety and well-being. Every person, regardless of nationality, has the fundamental right to life, which serves as the foundation for the protection of workplace security, safety, and health. This assurance is a fundamental component of a business's policies and procedures, and it must be provided without reservation. It is essential to identify risks early on in order to avoid disagreements down the road in the event that

something unfavorable occurs. For instance, an accident or act of carelessness happens at work.

5. The entitlement to court proceedings. This right is particularly applicable when an employee is suspected of a crime and/or misbehavior and is confronted with legal repercussions. He needs to be given the chance to demonstrate whether or not he committed the mistake that was claimed.
6. The entitlement to equitable treatment. It follows that the corporation cannot discriminate against anybody on the basis of skin color, gender, race, religion, or any other basis. This includes in terms of attitude and treatment, pay, opportunities for positions, training, or additional education, and other factors.
7. The privacy of one's own secrets. Employees have the right to maintain the confidentiality of their personal information, even though the company is entitled to see each employee's curriculum vitae and certain personal information. Businesses even have to acknowledge that there are some things employees choose to keep private and that the firm shouldn't know.

As stated in Law no. 13 of 2003 concerning Employment, workers' obligations, namely

1. Article 102 paragraph (2) states that in the context of industrial relations, workers and trade unions have the following responsibilities: they must fulfill their work obligations, uphold order to ensure the uninterrupted flow of production, democratically channel aspirations, enhance their knowledge and skills, contribute to the company's advancement, and defend the welfare of the company's members and their families.
2. Article 126 paragraph (1): The collective work agreement's requirements must be carried out by employers, unions, and employees.
3. Article 126, paragraph (2): Notifying all employees of the provisions of the collective work agreement or any modifications thereto is the duty of employers and labor organizations.
4. Article 136 paragraph (1): Employers, employees, or trade unions shall negotiate and come to a consensus in order to settle industrial relations conflicts.
5. Article 140 paragraph (1): Workers and trade unions are required to give written notice to employers and local employment agencies at least seven working days prior to the start of the strike.

Labor Protection Policy

Government policy in protecting workers is regulated in the Employment Law (UU). Employment policies in Indonesia set by the government function in regulating the relationship between employers and workers (Simintzi et al., 2015).

Employment policy is a series of regulations issued by the government to emphasize the rights and obligations of workers. The aim of employment policy is to provide protection for workers in Indonesia. The workers protected by the state are all workers who work in Indonesia. This means that the policy applies to Indonesian citizens as well as foreign workers (TKA) and immigrants working in Indonesia. Examples of employment policies in Indonesia include wage policies, work agreement policies, and so on. There are also laws and regulations that regulate labor protection, such as protection for disabled workers and protection for foreign workers (De Stefano, 2015).

The government's policy in providing worker protection is contained in the Employment Law Number 13 of 2003. Apart from that, policies regarding immigrant workers are also contained in the Job Creation Law Number 11 of 2023.

The goal of job protection is to maintain the system of work relations without allowing powerful parties to exert undue influence over vulnerable ones. According to the law, every worker has the right and equal opportunity to obtain employment and a decent living, regardless of their gender, ethnicity, race, religion, or political beliefs, as long as they meet the requirements of the workforce and treat others with disabilities equally. This protection is found in Article 5 of Law Number 13 of 2003. In the meantime, employers are required by Law Number 13 of 2003, Article 6, to grant workers or laborers the rights and obligations without making any distinctions based on factors such as gender, ethnicity, race, religion, or political opinions.

1. Social security and wage protection. Pay is a crucial component of a work relationship and plays a significant role in it. It's even been suggested that a worker's primary motivation for working for a different person or organization is pay. For this reason, the government is utilizing a variety of approaches delineated in legislative rules to address the wage issue. Every worker is entitled to a living wage for the benefit of humanity. The government gives workers wages as protection so they can earn a living salary. The government establishes a minimum wage that is based on reasonable needs in order to provide a good income. The basis for wage arrangements is a contract between employers and employees. Law

Number 13 of 2003's Article 88, paragraph (1) makes it clear that every worker or laborer has the right to be paid enough to support a fair standard of living for all people. The rights of workers or laborers that are received and expressed in the form of money as compensation from business owners or employers to workers or laborers that are determined and paid in accordance with work agreements are defined as wages under Article 1 Number 30 of Law Number 13 of 2003 agreements or legal requirements, such as benefits for laborers, employees, and their families in exchange for services or work completed or to be completed. The following is covered by the Minister of Manpower and Transmigration Decree KEP-226/MEN/2000, which covers the area where the minimum wage is applicable, based on Minister of Manpower Regulation Number PER01/MEN/1999 jo. The district or city minimum wage (UMK) is applicable in one (1) district or city area; the provincial minimum wage (UMP) is applicable in all districts or cities within one (1) province region. Workers and their families can receive protection from a variety of risks by way of labor social security. With around 100 million workers, Indonesia has a sizable labor force that is expected to expand by more than 2 percent annually.

2. Law Number: 40 of 2004 concerning the National Social Security System and Law -Law Number: 24 of 2011 concerning BPJS, which comprises of BPJS Health and BPJS Employment, represent the current form of Social Security Protection for Workers. Thus, the Social Security Administering Body (BPJS) currently handles this type of protection, upkeep, and welfare enhancement.

2. The ability of workers to organize and join labor unions is protected by law. Labor unions are associations established by, for, and by employees of the company as well as independent contractors. They are democratic, autonomous, open, and accountable organizations that strive to uphold the rights and interests of employees and their families. Article 104 of Law No. 13 of 2003 provides legal protection for workers' and laborers' rights to organize and join trade or labor unions. Paragraph 1 of Article 104 declares: "Any laborer or worker has the right to organize and join a trade or labor union." Members of trade or labor unions are entitled to oversee and bear responsibility for the organization's finances, including strike money. Article 104 of Law No. 13 of 2003 has provisions that are consistent with Law Number. 21 of 2000 governing Labor Unions and Trade Unions, particularly paragraph 1 of Article 5, which is identical to paragraph 104 of Law No. 13 of 2003. Even Law No. 21 of 2000's legal protection for laborers/workers is

accomplished in the simplicity of worker formation, where a minimum of 10 (ten) workers/laborers have the right to form a worker/labor union

3. Protection of Workers' and Laborers' Fundamental Rights to Negotiate with Employers: Labor law governs the employment relationships between workers and employers, which include controlling individual interests. The rights and obligations of the parties are essentially contained in the employment relationship that governs interactions between laborers and businesses. Rights and obligations are always understood in relation to one another. Entrepreneurs have obligations about the rights of workers or laborers, while workers or laborers have obligations regarding the rights of entrepreneurs. In order to do this, Law No. 13 of 2003 regulating Manpower, namely Article 106, has regulated the establishment of a bipartite institution—a platform for negotiation and communication between workers and employers. This Bipartite Institution serves as a channel for discussion and advice on issues pertaining to employment inside a business. Members of the Bipartite Institution are workers/laborers who are democratically elected by their fellow workers/laborers to represent their interests within the relevant company, as well as aspects of entrepreneurs. Additionally, the Bipartite Institution was the first to mediate conflicts arising between laborers and business owners. Other bargaining rights in a Tripartite Cooperation institution, which operates very similarly to a Bipartite institution, are regulated by Law No. 13 of 2003 concerning Manpower in article 107. This tripartite organization serves to offer insights, recommendations, and viewpoints to the government and relevant stakeholders, such as laborers and employers, in the process of developing policies and resolving issues linked to employment. The government, employers' associations, and trade/labor unions that represent employees or laborers make up the membership of the Tripartite Cooperation Institution. National, Provincial, and Regency/City Sectoral Tripartite Cooperation Institutions as well as National, Provincial, and Regency/City Tripartite Cooperation Institutions make up this Tripartite Cooperation Institution.

Shortcomings and obstacles in policy implementation

Protection of workers' rights has not yet been fully realized. Several problem barriers are still found according to Fagnant, D. J., & Kockelman, K. (2015), including:

1. Regulatory factors. Even though there are many regulations governing employment relations, there are still many loopholes to commit violations in their implementation.
2. Cultural factors, both workers, employers/employers and law enforcement. Entrepreneurs/employers do not really understand how important the role of workers is for the company. Where interests must be truly protected. Workers also often do not understand how important the entrepreneur/employer is in the employment relationship. The level of awareness of workers in carrying out their obligations is still relatively low. Law enforcers are also still unable to carry out their obligations optimally. Many supervisors and law enforcers still carry out obligations that do not comply with existing regulations. When problems arise, solutions often do not reflect justice, especially for workers.
3. Despite having an equal position in theory, the employer and the employee have different roles in reality. Employers are in a strong position and workers/laborers who require work are in a weak one; as a result, they tend to agree with the employer's demands. This uneven stance between employers and workers is still frequently observed. This often causes employment problems and even ends up in court.
4. The company's ability to fulfill workers' rights. For example: Financial capabilities, not including workers in the Employment Social Security (Jamsostek) or BPJS program.

To overcome the problems above, various efforts are needed Merve, E. R. O. L. (2019), including:

1. To create a fair working relationship for the parties, government intervention is needed by making more adequate regulations, improving supervision and law enforcement. Legal protection is provided for workers/laborers to obtain their rights. The government should pay attention to the interests of all parties involved in employment in a balanced manner in order to provide fair protection, so that employment relations can be maintained and run well.
2. When issues with employment relations come up, the responsible judge considers the coherence of all contract law principles to ensure the parties' protection and justice, rather than basing their ruling only on an agreement based on freedom of contract and consensualism.
3. The parties involved in the employment relationship must understand and implement their rights and obligations correctly. Employers/employers

must really try to protect the interests of workers considering the important role of workers in the business world according to Ebert, R. J., & Griffin, R. W. (2020), for example: Providing counseling, coaching and supervision of workers regarding their work; The importance of occupational safety and health includes providing personal protective equipment in the form of nose and mouth coverings, ear coverings, personal protective equipment in the form of work clothes and; Providing occupational health protection includes providing menstrual leave, maternity leave, rest time, miscarriage, annual leave, in addition to providing wages according to existing regulations. Likewise, the worker must also truly understand what his obligations as a worker are. Because workers without entrepreneurs/employers are meaningless.

Entrepreneurs also need legal protection considering their role as providers of employment and as drivers of a country's economy. In order for employment interactions to be maintained and conducted effectively, workers and entrepreneurs must respect each other's rights and obligations to the same extent (Andrias, 2016).

CONCLUSION

The right to work, the right to fair wages, the right to associate and assemble, the right to security and health protection, the right to legal proceedings, the right to equal treatment, the right to personal secrets, and the right to freedom of conscience are just a few of the rights of workers that generally need to be upheld. Among the rights of entrepreneurs are the following: creating work rules and agreements; terminating employees; closing the business; forming and joining a corporate organization; and assigning a portion of the work to another business. In the area of employment, legal enforcement, guidance, and supervision can all be used to achieve the protection of workers' rights.

There are 3 forms or types of labor protection, including:

1. Economical protection
2. Social protection
3. Technical protection

Employment policy is a series of regulations issued by the government to emphasize the rights and obligations of workers. The aim of employment policy is to provide labor protection.

The rights of workers are still not fully protected. There are still a number of issues, including:

1. Regulatory elements
2. Cultural elements affecting employees, employers, and law enforcement
3. Despite having an equal position in theory, the employer and the employee have different roles in reality. employment even went to court
4. The company's ability to fulfill workers' rights

REFERENCES

- Abdullah Sulaiman dan Andi Wali. *Hukum Ketenagakerjaan/Perburuhan*. Jakarta: Yayasan Pendidikan dan Pengembangan Sumber Daya Manusia, 2019, hal. 91
- Abdullah Sulaiman dan Andi Wali. *Hukum Ketenagakerjaan/Perburuhan*. Jakarta: Yayasan Pendidikan dan Pengembangan Sumber Daya Manusia, 2019, hal. 90-91.
- Andrias, K. (2016). The new labor law. *Yale LJ*, 126, 2.
- Appelbaum, R. P., & Lichtenstein, N. (Eds.). (2016). *Achieving workers' rights in the global economy*. Cornell University, Ithaca: ILR Press.
- Chan, A. (2016). *China's workers under assault: Exploitation and abuse in a globalizing economy*. Routledge.
- Compa, L. (2008). Corporate social responsibility and workers' rights. *Comp. Lab. L. & Pol'y J.*, 30, 1.
- De Stefano, V. (2015). The rise of the just-in-time workforce: On-demand work, crowdwork, and labor protection in the gig-economy. *Comp. Lab. L. & Pol'y J.*, 37, 471.
- De Stefano, V., & Aloisi, A. (2019). Fundamental labour rights, platform work and human rights protection of non-standard workers. In *Research handbook on labour, business and human rights law* (pp. 359-379). Edward Elgar Publishing.
- Ebert, R. J., & Griffin, R. W. (2020). *Business essentials*. Pearson.
- Fagnant, D. J., & Kockelman, K. (2015). Preparing a nation for autonomous vehicles: opportunities, barriers and policy recommendations. *Transportation Research Part A: Policy and Practice*, 77, 167-181.
- Gonzalez, J. A. S. (2022). Conflict of Norms regarding Liability Exception regarding Shareholder's Labor Obligations in Simplified Stock Companies: Violation of the Intangibility of Labor Rights?. *USFQ L. Rev.*, 9, 93.

- Indonesia. 2023. Peraturan Presiden Republik Indonesia Nomor 21 Tahun 2023 tentang Hari Kerja dan Jam Kerja Instansi Pemerintah dan Pegawai Aparatur Sipil Negara. Lembaran Negara Republik Indonesia Tahun 2023 Nomor 50. Jakarta: Kementerian Sekretariat Negara Republik Indonesia.
- Merve, E. R. O. L. (2019). Occupational health and work safety systems in compliance with industry 4.0: Research directions. *International Journal of eBusiness and eGovernment Studies*, 11(2), 119-133.
- Mosley, L. (2017). Workers' rights in global value chains: possibilities for protection and for peril. *New Political Economy*, 22(2), 153-168.
- Righard, E., & Boccagni, P. (2015). Mapping the theoretical foundations of the social work-migration nexus. *Journal of Immigrant & Refugee Studies*, 13(3), 229-244.
- Scholz, T. (2017). *Overworked and underpaid: How workers are disrupting the digital economy*. John Wiley & Sons.
- Simintzi, E., Vig, V., & Volpin, P. (2015). Labor protection and leverage. *The Review of Financial Studies*, 28(2), 561-591.
- To, H., Ghinita, G., & Shahabi, C. (2014). A framework for protecting worker location privacy in spatial crowdsourcing. *Proceedings of the VLDB Endowment*, 7(10), 919-930.
- Undang-undang Republik Indonesia Nomor 13 Tahun 2003 Tentang Ketenagakerjaan.
- Undang-undang Nomor 11 Tahun 2020 Tentang Cipta Kerja.