



Legal View of Employment on Omnibus Law Policy in 2020

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Abstract

Indonesia is a country that really cares and upholds the dignity of its people, for that the government through its laws explicitly and sovereignly regulates the sector of the national labor system. This study uses a descriptive method with a qualitative approach and data triangulation analysis, the results of the study explain that, in general, the rights and obligations of workers are a responsibility that is directly protected by law and Pancasila, because juridically the birth of labor law in Indonesia is the result of thinking to strive for an empowerment for workers in demanding all rights and social justice, in addition to the purpose of holding protection for workers as well, as a tangible manifestation of the government in the face of an increasingly global work system in various sectors, for this reason the guarantee and safety of workers is very important. attempted by various groups, apart from laws, legal policies for workers are also contained in a government regulation of the republic of Indonesia number 31 of 2006 and the national job training system, the decree of the minister of manpower of the republic of Indonesia in 2004, and the 2007 regulation of the minister of manpower and transmigration on the procedures for setting Indonesian national work competency standards.

Keywords: Employment Law, Civil Law, Omnibus law

1. Introduction

The Indonesian state highly upholds the value of human dignity, this happens as stated in the second precept in Pancasila, which regulates just and civilized humanity, besides that Indonesia is also a country that is very obedient and obedient to every applicable law. the main purpose of the rule of law is to maintain an order, where the order is generally based on the law found in its people, in the preamble to the 1945 Constitution of the Republic of Indonesia it is stated that the State guarantees the safety, welfare and prosperity of all Indonesian people (Noval& Mohammad, 2017). Based on the sound of Article 27 paragraph (2) of the 1945 Constitution of the Republic of Indonesia.

As we know the state law has a vision and mission as well as a very noble goal, namely to prosper its people, then on that mission it is also explained that the state

attaches great importance to every prosperity justice, and strives for the intelligence of its nation, the elaboration of the vision and mission is a reflection and also part of a series of people's aspirations in demanding every right and obligation that has been guaranteed by a democratic country, meanwhile, the goal of national development according to Uwiyono (1997) & Shalihah (2017) is to realize a just, prosperous and equitable society, both in terms of material and spiritual fulfillment in a democratic country based on Pancasila and the 1945 Constitution.

Indonesia, which adheres to the Pancasila ideology and the 1945 Constitution, emphasizes that the state protects all its people and all of Indonesia's bloodshed, which is based on unity and unity, requires every right and obligation, and creates social justice for all Indonesian people, on the other hand the system Industrial relations Indonesia adheres to a democratic economic welfare system that focuses on social inequality, this is in accordance with the formulation of the State Law as stated in Article 27 paragraph (2) Article 28D paragraph (2) which explains that every citizen has the right to a job and a decent living for humanity, and everyone is also entitled to a fair and proper reward and treatment in relation to a job, then based on the second article, that the Indonesian state will not only create a job as wide as possible, will but the state also participates in me ensure the security and protection of work relations that involve all parties, especially in which there is the right of a qualified worker/laborer to receive fair treatment and be responsible for all applicable legal consequences, because Article 27 of the Law is a description of legal ideals Indonesian manpower, which is in line with the national development goals that adhere to the Pancasila ideology system to create prosperity for all its people (Salasa, 2014; Azis et al, 2019; Ramli, 2020).

Manpower is the most important aspect in the national development sector, besides that labor law is also a law that has the highest position in Indonesia, because employment law is a positive law that applies in Indonesian society, the law is adhered to based on international law (treaty)(Ismail & Zainuddin, 2018) which is divided into two types, namely law making treaty and treaty contract, where the two laws of course have a very basic difference in practice, first, law making treaty, is an international agreement that is universal so that all countries are included in the treaty. a world community that is bound and required to comply with every existing regulation, while treaty contract law is an international agreement that is bilateral in nature, involving two countries concerned, so that the nature of treaty law itself is only binding on countries that enter into a treaty agreement. That being said, international law relating to labor law is included in the law making treaty and published by the world labor body called the ILO (international labor organization) (Zulkarnaen, 2016; Kahfi, 2016; Annisaayudya, 2021).

There are several articles that protect and describe the position and rights of workers in Indonesia, while according to article 1 paragraph 2 of Law No. 13 of 2003, regarding the basic provisions of labor, where labor is defined as a person or individual who is able to do every job. work both inside and outside the employment relationship, in order to obtain or produce goods or services, in meeting their daily needs. The position of labor law in Indonesia itself is regulated within the scope of state administrative law, civil law, and criminal law, the legal position is of course based on the provisions and policies of workers in obtaining each of their rights and

obligations, because employment is an important part in national development efforts and has been regulated in law and has a very high legal basis, the provisions are in accordance with Law no. 13 of 2003 concerning Manpower, Article 1 number 14 provides an understanding that is, an employment agreement is an agreement between a worker/labourer and an entrepreneur or employer that contains the terms of work, the rights and obligations of both parties (Suyanto& Nugroho, 2017).

National labor regulations regulate the protection of workers, where this principle is something that must be fulfilled and get an accountability from the relevant institutions so that the dignity of workers is still fulfilled and gets appropriate protection, besides that workers are also required to get rights and benefits. obligations, in which all these norms and ethics are regulated in an Indonesian labor regulation, which regulates every employee's rights while taking into account the development of national business progress. the obligation between employers and employees/laborers to establish a working relationship, where employees bind themselves to the employer for a period of time that has been previously agreed upon, the provision also contains wages and working hours that have been determined by both parties (Suwantri&Astariyani, 2018).

Employment law in Indonesia began during the Dutch and Japanese colonial times, which was said to be a very cruel and gloomy period of slavery, after the Indonesian state became independent the government legally and sovereignly issued a work law no. 12 of 1948, which was later reformed into labor law through a Law No. 13 of 2003, concerning the system and mechanism of workers in Indonesia, this is of course an effort by the government to protect every right and obligation of employees or employees. If a worker gets an injustice in the work relationship, in essence the relationship between employees and employers is a private relationship, but on the other hand there is a state law that limits it, so that the relationship can be minimized in accordance with the applicable provisions, Manpower development must be regulated in such a way that its rights and obligations are fulfilled, basic protection for workers can create conditions conducive to the development of the national business world (Hartono, 2021).

2. Approach Method

This study uses descriptive analysis using qualitative methods. Researchers also want to examine a phenomenon that discusses Labor Law According to the Indonesian Civil Law View, qualitative research is aimed at a very detailed and detailed study where the results of the research are studied in depth and then interpreted clearly. There are two sources of data used in this study, where the data includes primary data and also secondary data, then the facts of the findings are described in a very easy form of discussion so that researchers can find a complex and structured understanding in a directed manner.

3. Result and Discussion

3.1 Position of Employment Law in Indonesia

The scope of the employment system in Indonesia has indeed been regulated and contained in a sovereign legal provision, but in reality, all these legal mechanisms are considered very complex, therefore the employment relationship agreement

should not only be limited to regulating the position regulations between employees and employers only, more than that it covers all aspects involved in the mechanism of the employment relationship, according to Kurniawan & Dewanto (2020) the right source of labor law and will provide a lot of benefits to employees and national growth is based on several aspects in it, first the existence of an applicable statutory regulation, then having a custom and habit that educates employees and employers, there is a decision of a sovereign official or government agency, the next point has an organized work regulation, and the last is a work agreement or agreement work together.

The Indonesian state itself has been very appropriate in issuing a policy regarding the regulation of the national work system, where this step was taken as an effort to improve the quality of workers and assist the government in pursuing long-term national development, this provision is further elaborated into an article 5 and article 6 Law Number 13 of 2003 Article 5, namely every worker has the same opportunity without discrimination to get a job then Article 6 reads, every worker/labor has the right to get equal treatment without discrimination from employers (Jatmika, 2020).

In Indonesian labor law, the type of employment relationship agreement is distinguished by several factors, including, a working time agreement, where this agreement involves an employee as well as an entrepreneur, in determining the time of work in accordance with previously agreed terms and procedures. , then the work agreement is not certain, in this case it concerns aspects of work that are once completed or are only temporary, then seasonal work, this work can be completed in a not too long time, and the last is work related to new activities where the system The work includes additional products that are still in the company's trial period (Utomo, 2020).

The era of globalization also has an impact on the sector to improve the quality of workers, where people are required to prepare their skills and excellence needs in getting the best jobs and of course in accordance with what we expect, based on article 4 of the labor law in force in Indonesia, that national development aims to empower and utilize every workforce optimally and humanely, then to realize equal distribution of employment opportunities for all Indonesian people in order to form an equitable justice in accordance with national and regional needs and development, the third point provides protection to workers in fulfill every right and obligation for the sake of a prosperous working relationship, and finally improve the quality and quality of workers in advancing the economic growth of the Indonesian nation and state, the explanation is in accordance with government regulations regulated In Article 1320 of the Civil Code, this provision is also contained in Article 52 paragraph 1 of the 2003 Law concerning Manpower which states that a work agreement is made on the basis of an agreement between both parties, the ability or ability to carry out legal actions, then the work is promised and the last is the agreed work. must not conflict with public order, morality, and the provisions of the prevailing laws and regulations in Indonesia (Pancasila and the 1945 Constitution) (Utama, 2021).

If we examine further the term employment law consists of two words, first law and second employment, the law is actually two concepts that are related to each other. As for the definition of labor adopted by some Indonesians, including civil

servants, formal workers, and people who do not have a job (unemployed), long before the Indonesian state became independent, the labor law itself was often referred to as labor law, because the law occurred and was in practice during the Dutch and Japanese colonial times, according to Hernawati&Suroso (2020) labor law is a set of regulations, which are carried out under the leadership and made both written and unwritten. related, then carried out on the orders of others and finally the wages as payment for the execution of the work.

National development is carried out in the context of forming a just, prosperous and prosperous Indonesian society, all of which are rooted in the nation's ideology which is embedded through Pancasila and state laws, so the role of the workforce certainly has a very high position in efforts to achieve national development goals, based on the provisions of Article 2 UU no. 13 of 2003, namely manpower development based on Pancasila and the 1945 Constitution of the Republic of Indonesia. Based on the provisions of Article 3 of Law no. 13 of 2003 manpower development is carried out on the principle of integration through functional coordination across central and regional sectors.

Meanwhile, the Indonesian government issued a decision on manpower planning through Article 7 of Law no. 13 of 2003 concerning manpower planning and aspects of supporting employment relations, among which are, to meet the growth rate of national development, the government establishes a policy and prepares manpower planning, then the planning is divided into two stages, first macro planning and second planning On a micro basis, besides that, the government also develops a policy, related to the national employment system that runs continuously and contains several guidelines that must be carried out in accordance with the targets that have been previously planned 2003 concerning Manpower explicitly states that one of the goals of labor development is to provide protection to workers in realizing national welfare (Muqsith, 2020).

3.2 Aspects of Employment Law in Employment Relations in Indonesia

Basically, the position of workers can be seen from two different aspects, the first from a juridical perspective and the second from a socio-economic perspective, this explanation illustrates that workers need legal protection from the state for the possibility of inappropriate actions from the parties. entrepreneurs, as previously explained in the provisions of Article 27 of the 1945 Constitution, explains that every Indonesian citizen has the same opportunity to obtain legal and legal employment status from the government, in principle the position between workers and employers is free from but on the other hand, socially and economically the position of workers is not free or legally bound, therefore the role of the government is here as a mediator and provider of protection so that both of them provide each other with the same benefits and benefits, according to Zainal Asikin (2009) Legal protection from the power of the employer is carried out if the laws and regulations in the field of labor that require or force the employer to act as in the legislation are actually implemented by all parties because the validity of the law cannot be measured juridically, but is measured sociologically and philosophically.

Meanwhile, in regulating the nature of employment, the provision of protection to workers is strictly divided into five legal areas, including the field of placement of workers, then the field of employment relations, the field of occupational health, the

field of job security and the last is the field of social security, and specifically in the field of social security, the government has officially issued a Law Number 3 of 1992, concerning social security for workers or laborers, which is managed by PT Jamsostek Indonesia, related to procedures mandated by the government, Jamsostek has regulated and guaranteeing the maximum limit for the provision of social security is considered very sufficient, but for the sake of development and progress at the level of national workers, the government would need to conduct an evaluation related to the policies that have been made previously (Prabu et al, 2020).

The nature of labor law is basically private/civil in nature and can also be public, this is because labor law itself regulates individual relations, but on the other hand it can be public because, strictly speaking, the government takes part in the regulations and policies of the labor system.

3.3 Position of Employment Law in Administration

The position of labor law regulated in an administrative law, can actually be viewed from two different aspects, first, regarding the subject of its implementation, the legal subject itself in the process involves three important pillars in the formation of a national labor system, including officials, institutions, and the community. In general, in this case the function of an official is defined as someone who has a rank and is subject to applicable government provisions, his role can be measured from how he carries out his function as a maker and planner of labor law policies that apply in Indonesia, besides that there are other functions which regulates the position of an official in forming a national labor law policy, which includes how legal remedies are determined in administering a state of law, precisely in the field of manpower.

Overall, the position of Indonesian labor law covers three fields, namely, in the civil field, then in the administrative field and finally in the field of criminal law, in the course of the process the three legal aspects must be carried out together and of course mutually binding to each other. What happens between workers and employers is based on a work agreement relationship and regulates an applicable legal mechanism, but as long as the employment relationship process is still established, the government will strictly provide legal protection in accordance with predetermined procedures, legal requirements work agreement as regulated in a law article 52 paragraph (1), states that an employment relationship agreement is made based on legal conditions that have been made jointly with the applicable legal mechanism, meanwhile according to Suntoro et al (2021), the formation of a per a work agreement is not required through an absolute method, or by applicable law, so that the agreement can be verbally acknowledged and validated by both parties involved.

Labor protection was created to ensure a continuity of the employment relationship system involving workers and employers, in which a legal mechanism is regulated based on the state constitution and Pancasila as the legal basis of the Indonesian state, besides that the role of workers can also be said to be very important. crucial in the formation of national development, the purpose of labor protection is to ensure a harmonious system of working relations without being accompanied by pressure from the strong against the weak.² As stated in Article 28 D of the 1945 Constitution that everyone has the right to There are several legal

foundations that apply and regulate aspects of the labor system in Indonesia, including, Government Regulation of the Republic of Indonesia Number 31 of 2006 concerning the National Job Training System Decree of the Minister of Manpower of the Republic of Indonesia Number: KEP.100/MEN/VI/2004 concerning Acting Terms Under Specific Time Work Agreement Regulation of the Minister of Manpower and Transmigration of the Republic of Indonesia Number: PER.21/MEN/X/2007 concerning Procedures for Determining Indonesian National Work Competency Standards (Arham& Saleh, 2019; Achmad, 2021).

4. Conclusion

The labor factor is the most important aspect in the formation of the national development system, in which it is protected by a state law and Pancasila as the highest legal basis in Indonesia. For that we need a comprehensive effort and development of workers and national labor law, this is of course very important because there are many factors and also obstacles in advancing the labor sector in Indonesia, basically forming a labor law system that is in accordance with the scope of work. Indonesian society does require a very long process, for that the government legally and sovereignly regulates the national labor law mechanism in a Law Number 13 of 2003 concerning Manpower, where the purpose of the establishment of the Law is expected to be able to resolve various problems regarding protection and guarantees. the rights and obligations of workers in Indonesia in addition to the protection of labor law can also direct and foster workers and employers to create a welfare for a sovereign national work law system and can advance the economythe country as a whole.

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