

***REGULATORY DYNAMICS AND WORKER RIGHTS PROTECTION: AN
EVALUATION OF LABOR LAW AND JOB CREATION IN INDONESIA***

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Citation Structure Recommendation :

Negara, Dharma Setiawan, Agung Satriyo Wibowo, Didit Darmawan, Budi Santoso dan Nanang Saputro Agung Widodo. *Regulatory Dynamics And Worker Rights Protection: An Evaluation Of Labor Law And Job Creation In Indonesia*. Rewang Rencang : Jurnal Hukum Lex Generalis. Vol.5. No.10 (2024).

ABSTRACT

The reform of labor law in Indonesia, particularly through the Job Creation Law, aims to adapt labor policies to the demands of the global market and strengthen the national economy. This study evaluates the effectiveness of Law Number 13 of 2003 on Manpower and the changes brought by the Job Creation Law, focusing on the protection of workers' rights and its effect on social justice. The analysis shows that while the new law offers greater flexibility in employment contracts and working period arrangements, there is a significant risk of a reduction in worker protection standards. The study underscores the urgent need for more effective oversight mechanisms and policy advice to ensure that the legal changes contribute positively to workers' lives without compromising their rights.

Keywords: Labor Law, Workers' Rights, Job Creation Law, Worker Protection, Legal Supervision, Legal Reform

A. INTRODUCTIONS

Labor law plays a crucial role in ensuring protection for workers, often in a weak position in bargaining with employers. Unprotected and unfair employment often leads to the exploitation of workers, which affects social justice and the economic stability of a country. In response to these issues, Indonesia has enacted Law Number 13 of 2003 on Manpower which is expected to provide an adequate legal framework to protect workers' rights.

However, with the passage of time, the need arose to revise and modernize these regulations given the ever-changing dynamics of the job market. This led to the passage of the Job Creation Law which incorporated substantial changes in the labor regulations. In 2020, Indonesia introduced the Job Creation Law as part of significant legal reform efforts to increase investment attractiveness and strengthen the national economy. These changes are intended to make the law more flexible and adaptive to the needs of modern industries and workers, but raise questions about the extent to which the new law can maintain or even strengthen protections for workers¹.

This law is designed with the main objective of improving the investment climate, promoting ease of doing business, and creating more jobs. Through these reforms, the government hopes to create inclusive and sustainable economic growth across Indonesia. The Job Creation Law is considered a strategic step to strengthen Indonesia's position in global economic competition and attract more foreign and domestic investment.

Since its enactment, the Job Creation Law has been the center of attention of various parties, including the government, employers, trade unions, and the general public. One of the most prominent issues in the discussion of this law is its impact on the protection of workers' rights. Some of the changes introduced by this law, such as flexibility in employment contracts, regulation of working periods, and changes to social security, have raised concerns among trade unions and civil society organizations. They argue that such flexibility could reduce

¹ Wahyu Riski Mulia dan Ridho Sa'dillah Ahmad, *Meninjau Kembali Undang-undang Cipta Kerja Nomor 11 Tahun 2020 terhadap Pihak yang Terdampak Dilihat dari Sudut Pandang Sosiologis*, JUNAGARA: Jurnal Ilmiah Hukum dan Kenegaraan, Vol.1, No.1 (September 2024), p.21-33.

workers' welfare standards, including potential reductions in minimum wages and adequate social security².

The government explained that the flexibility stipulated in the Job Creation Law aims to improve Indonesia's competitiveness in the global market by creating a workforce that is more adaptive to industry needs. However, emerging criticisms underline the risk of worker exploitation and decreased labor rights protection. Therefore, it is crucial for the government to closely monitor the implementation of this law and ensure that the changes introduced remain in line with the principles of social justice and the protection of workers' rights. The government needs to create an effective oversight mechanism to prevent negative impacts and ensure that these reforms provide benefits to all Indonesians³.

The Job Creation Law introduces greater flexibility in employment relations, including arrangements regarding employment contracts, outsourcing systems, and termination mechanisms. The aim of this policy is to improve the competitiveness of the Indonesian workforce in the global market by creating a work environment that is more adaptive to the needs of the business world. The government views this flexibility as a strategic move to attract more investment and boost economic growth.

However, these changes have also raised concerns about the potential reduction of protections for workers. Some are concerned that the new arrangements could reduce social security and minimum wage standards for workers, especially those involved in short-term contracts or outsourcing systems. This fear relates to the possibility of workers losing access to social protection to which they are entitled under the provisions of the law.

In its implementation, it is important for the government to ensure that these reforms are not detrimental to workers' welfare. Protection of workers' rights must remain a top priority in labor policy. Strict supervision of the implementation of the Job Creation Law is needed to prevent abuses that could harm workers. The government also needs to create an effective evaluation and monitoring

² Rahayu Mardikaningsih, *Reviewing Wage Policies to Ensure Employee Welfare*, *Legalis et Socialis Studiis* (L355), Vol.1, No.3 (Desember 2023), p.18-25.

³ Johan Pardamean Simanjuntak dkk., *Urgensi Efektivitas Undang-Undang Cipta Kerja terhadap Ruang Lingkung UMKM dalam Kesenjangan Ekonomi*, *JAKSA: Jurnal Kajian Ilmu Hukum dan Politik*, Vol.2, No.1 (November 2023), p.212-220.

mechanism to ensure that the flexibility provided remains balanced with social protection and the welfare of workers in Indonesia.

The purpose of this study is to assess the effectiveness of labor law to protect workers from exploitation and promote social justice among workers and employers. The study aims to explore how Law Number 13 of 2003 on Manpower and the resulting changes to the Job Creation Law can ensure fair and balanced employment relations. In addition, the review aims to assess the impact of regulatory changes on workers' welfare and provide recommendations to strengthen workers' protection and improve the stability of industrial relations.

B. PEMBAHASAN

Labor law has a fundamental role to play in providing protection to workers or laborers who are vulnerable to exploitation by employers. This policy aims to create social justice by addressing inequality in the bargaining position between workers and employers. Such inequality is the main reason for the birth of labor law as a means to ensure a fair and balanced working relationship. Basically, labor law regulates the rights and obligations between workers and employers, and encourages the creation of equitable employment relationships.

Law Number 13 of 2003 on Manpower (Labor Law) was drafted with the aim of protecting every worker in Indonesia. This law regulates the entire process of the employment relationship, starting from before work begins, during work, until after the employment relationship ends. As part of civil law, labor law focuses on the relationship between individuals, namely workers and employers. However, in certain cases involving the public interest, aspects of administrative law and criminal law are also applied to ensure more comprehensive protection.

One important aspect of the Labor Law is the regulation of crimes and violations in the field of labor. Crimes include acts that endanger workers' rights, such as employing children in high-risk jobs, unilaterally terminating employment, not providing severance pay, not paying overtime wages, or employing foreign workers without a permit. Employers who commit these violations may be subject to criminal sanctions in the form of imprisonment of at least one year and/or a fine of between IDR 100 million and IDR 500 million.

This criminal sanction is the last step applied if civil and administrative sanctions are not complied with. Through this approach, labor law serves as a strict instrument to safeguard workers' rights while encouraging employers to fulfill their obligations responsibly.

The changes to the criminal provisions in the Job Creation Law reflect efforts to adapt labor regulations to more modern legal needs. In the Job Creation Law, a number of articles related to labor crimes underwent revisions that include the deletion of seven articles, changes to six articles, and the addition of three new articles. Although there are substantial changes in the structure and arrangement of these articles, the characteristics of the punishment applied have not significantly shifted compared to the previous Labor Law. Thus, the pattern of punishment used is still consistent with the provisions in the previous regulation.

Criminal offenses in labor criminal provisions are divided into two main categories, namely crimes and violations. In the enforcement of labor law, only three main types of punishment from the Criminal Code (KUHP) are applied, namely imprisonment, confinement, and fines. These types of punishment are designed to provide a deterrent effect while effectively protecting workers' rights. The determination of the type of punishment in each offense depends on the seriousness of the offense committed, taking into account the impact on workers and the public interest.

The pattern of punishment in labor criminal provisions is regulated through single and alternative-cumulative approaches. The single pattern stipulates one type of punishment that must be carried out by the offender, while the alternative-cumulative pattern provides flexibility for judges to choose one or more types of punishment based on relevant conditions and legal facts. In addition, this provision also regulates special minimum punishment, which sets a minimum limit of punishment for certain offenses to ensure a stronger preventive effect. The changes in the Job Creation Law demonstrate efforts to harmonize labor criminal regulations with the needs of worker protection and the development of the national legal system.

The Job Creation Law is one of the major steps in regulatory reform in Indonesia, especially in the labor sector, with the main objectives of creating jobs,

supporting economic growth, and improving people's welfare⁴. However, the implementation of the Job Creation Law does not necessarily erase the existence and legal force of the Labor Law (Law Number 13 of 2003). The two laws must be read together, with the provision that the rules in the Labor Law remain in effect as long as they are not amended, deleted, or supplemented by the provisions in the Job Creation Law. Thus, comparing the two laws is essential to understand the prevailing labor regulations.

In its development, the government introduced Government Regulation in Lieu of Law Number 2 of 2022 (Perppu 2/2022) in response to the Constitutional Court's ruling that declared Law Number 11 of 2020 on Job Creation conditionally unconstitutional. This Perppu was later enacted into Law Number 6 of 2023, which strengthened the application of the omnibus law method to revise more than eighty laws and more than one thousand two hundred articles. The government argues that this Perppu is necessary to maintain economic stability, create jobs, and strengthen protections for workers as well as support the growth of cooperatives and MSMEs.

However, the implementation of Law Number 6 of 2023 poses new challenges, particularly regarding job insecurity in the labor market. Two significant changes in this law are highlighted. First, the removal of term limits for Fixed-Term Employment Agreements (PKWT), which are left entirely to the implementing regulations. This provision could lead to an increase in short-term employment contracts that are detrimental to workers in terms of job security. Secondly, the change of phrase in Article 151 paragraph (2) from "shall be negotiated" to "notified" in the process of Termination of Employment (PHK), which has the potential to increase cases of unilateral layoffs without a fair process. This raises concerns about the negative impact on workers' welfare and the stability of industrial relations in Indonesia⁵.

⁴ Cecillia Ayu Triwulandari Suhartono dkk., *Perlindungan Hukum Terhadap Pekerja untuk Mendapatkan Upah Minimum Menurut Perppu*, Jurnal Konstruksi Hukum, Vol.5, No.1 (Januari 2024), p.8-15.

⁵ Muhamad Padilah dkk., *Perlindungan Hukum Terhadap Hak Pekerja yang Tidak Dibayarkan dalam Pemutusan Hubungan Kerja: Dalam Perspektif Hukum Ketenagakerjaan*, HUKMY: Jurnal Hukum, Vol.4, No.2 (Oktober 2024), p.734-749.

Law Number 6 of 2023 is an important regulation that regulates various aspects of labor in Indonesia, with the aim of increasing the protection of workers' rights and creating a better working environment. This law introduces a number of new provisions aimed at strengthening workers' bargaining position, including arrangements regarding minimum wages, working hours, and leave⁶. This law also regulates the protection of women and child workers, and provides better social security, which is expected to reduce injustice in the world of work⁷.

Law Number 6 of 2023 also emphasizes the importance of dialogue between employers and workers in resolving labor disputes⁸. The law encourages the establishment of strong trade unions that serve as a platform for workers to voice their aspirations. With a better dialog mechanism, it is expected that harmonious industrial relations can be created, which in turn will improve productivity and workers' welfare⁹.

The implementation of Law Number 6 of 2023 requires support from various parties, including the government, employers, and the community¹⁰. Training and education for employers and workers is essential to understand and implement the new provisions in this law¹¹. The success of this law also depends on the existence of an effective monitoring mechanism, so that any violations of workers' rights can be followed up firmly¹². Thus, Law Number 6 of 2023 is expected to be a strong foundation for creating a fair and sustainable work environment in Indonesia.

The rights and obligations of workers in employment relationships are clearly regulated in legislation as the basis for fair industrial relations. Workers'

⁶ Cecillia Ayu Triwulandari Suhartono dkk., *Op.Cit*, p.8-15.

⁷ Ratna Dewi dkk., *Perlindungan Hukum bagi Pekerja atas Kontrak Kerja yang Bertentangan dengan Peraturan Perundang-Undangan*, Jurnal Intelek Insan Cendekia, Vol.1, No.4 (Juni 2024), p.1039-1048.

⁸ Nikmah Dalimunthe dan Muhammad Al Amin Bintang, *Hak dan Kewajiban Tenaga Kerja Berdasarkan UU Omnibus Law Cipta Kerja dan dalam Perspektif Hukum Ekonomi Syariah*, Jurnal De Facto, Vol.10, No.2 (Januari 2024), p.130-149.

⁹ Wahyu Riski Mulia dan Ridho Sa'dillah Ahmad, *Op.Cit.*, p.8-15.

¹⁰ Muhamad Padilah dkk., *Op.Cit*, p.734-749,

¹¹ Ijan Sopian dkk., *Perlindungan Hukum Hak Pekerja Kontrak dalam Perjanjian Kerja Implementasi Undang-undang Cipta Kerja pada PT. Komitmen Sekawan Indotrade*, VERITAS, Vol.10, No.2 (Desember 2024), p.53-63.

¹² Choirul Arifin dkk., *Kedudukan Hukum Tenaga Kerja Outsourcing Sebelum dan Sesudah Berlakunya UU Nomor 6 Tahun 2023 tentang Cipta Kerja*, Court Review: Jurnal Penelitian Hukum, Vol.4, No.1 (Januari 2024), p.34-49.

rights cover several fundamental aspects that support their welfare and productivity. First, workers are entitled to rest and leave time in accordance with applicable laws and regulations, to ensure a balance between work and personal needs. Second, workers are entitled to receive wages in return for the labor and services they provide. These wages must be in accordance with the employment agreement and applicable minimum wage standards. Third, workers are also entitled to social security, including health protection, work accident insurance, and other benefits that have been regulated by law.

Workers' obligations are also an important element that ensures the continuity of the employment relationship. Workers are obliged to carry out the work tasks for which they are responsible. The performance of these duties is personal in nature as it involves special expertise and skills from the worker. Therefore, the employment relationship ends automatically (termination by operation of law) if the worker dies, given the personal nature of the work that cannot be continued by another person without the consent of the employer. Furthermore, workers are also obliged to comply with the rules and instructions given by the employer. To ensure clarity, these rules should be outlined in a company regulation that can serve as a reference for workers.

In addition, workers have an obligation to pay compensation and fines if they commit acts that harm the company. This obligation applies if the loss was caused by the worker's intent or negligence. This legal principle underscores the importance of workers' responsibility to safeguard the interests of the company. The rights and obligations of workers that have been outlined are a reflection of the reciprocal rights and obligations between workers and employers. Therefore, a healthy and productive working relationship can be realized through the compliance of both parties to their respective rights and obligations that have been legally regulated¹³.

Law Number 6 of 2023, which enacted Government Regulation in Lieu of Law (Perppu) Number 2 of 2022 on Job Creation, has had a significant impact on the regulation of labor rights in employment relations, including the right to rest and leave time, wage receipt, and social security. These changes affect

¹³ M Nabil Alifah dkk., *Hukum Ketenagakerjaan di Era Modern: Antara Hak dan Kewajiban*, Jurnal Cendekia ISNU SU, Vol.1, No.2 (September 2024), p.153-157.

fundamental aspects of industrial relations, aiming to create labor market flexibility but also raising concerns about worker protection.

1. Right to Rest and Leave

The right to rest and leave is a fundamental element in the protection of workers' rights. According to Law Number 6 of 2023, granting employers greater flexibility to organize these work schemes reflects the global trend of adjusting labor regulations to be more adaptive to modern business needs. However, it is crucial to understand the impact of this flexibility on the protection of workers' rights, especially regarding Fixed-Term Employment Agreements (PKWT). Law Number 6 of 2023 does not remove workers' rights to rest periods and leave. This flexibility may have an impact on rest and leave arrangements, especially for workers who are bound by a Fixed-Term Employment Agreement (PKWT). The provisions on annual leave remain in place, but adjustments in the implementing regulations may affect the duration or implementation mechanism¹⁴. Therefore, it is important for the government to ensure that these flexibilities do not reduce workers' right to rest and maintain work-life balance, and prioritize the principle of social justice in labor regulations.

2. Right to Wages

The right of workers to receive wages remains a fundamental aspect regulated in the law. However, Law Number 6 of 2023 provides more room for employers to implement more flexible wage schemes, including productivity-based wages or individual work agreements. While aimed at improving labor competitiveness, these schemes may impact minimum wage guarantees, especially if not properly supervised. Therefore, strict supervision is needed to ensure that wage flexibility does not lead to violations of workers' rights.

3. Right to Social Security

Law Number 6 of 2023 still recognizes the importance of social security for workers, including health protection, work accident insurance, and other benefits. However, it also provides leeway in the application of social security, especially for contract or outsourced workers. Without clear arrangements in the implementing regulations, workers with short-term contract status risk losing

¹⁴ Choirul Arifin dkk., *Op.Cit*, p.34-49.

access to adequate social security¹⁵. Therefore, harmonization between the law and its implementing regulations is essential to ensure that workers continue to receive proper protection.

Despite facing resistance from some groups, Law Number 6 of 2023 remains in effect today. The passage of this law has varied implications for workers, encompassing both positive and negative aspects. Significantly, not all workers' rights have been reduced; a number of articles in the previous Labor Law that preserve workers' fundamental rights have been retained. These include the right to equal opportunity without discrimination, regulations regarding maternity and paternity leave for female workers, and protection of occupational health and safety. Furthermore, the explanation of the Regional Minimum Wage (UMR), which is set by local governments in accordance with Article 88C, explains the commitment to fair wage standards.

From a positive perspective, Law Number 6 of 2023 provides companies with greater flexibility in managing their workforce, which can boost investment and employment expansion. The simplification of business licensing procedures, stipulated in the law, aims for greater operational efficiency for employers and a more detailed explanation of wages based on the established minimum wage. However, on the negative side, the law also includes provisions that reduce some workers' rights through the deletion and restriction of certain articles, thus lowering the level of worker protection and creating new challenges that require greater struggle from the workforce for better conditions. Although the law is still in force, there is widespread expectation from the public for it to be revised to better prioritize and consider workers' rights¹⁶.

Although Law Number 6 of 2023 aims to improve labor market efficiency and attract investment, its implementation must be closely monitored so as not to harm workers' rights. Protection of the right to rest, decent wages, and social security must remain a top priority to realize fair and equitable employment relations.

¹⁵ Ijan Sopian dkk., *Op.Cit*, p.53-63.

¹⁶ Mutiara Hermawati dan Suwarsit S., *Problematika Pembentukan Undang-Undang Cipta Kerja Terkait Perlindungan Terhadap Hak-Hak Tenaga Kerja di Indonesia*, Media Hukum Indonesia (MHI), Vol.2, No.2 (April-Juni 2024), p.156-167.

A critical examination of government policies to oversee and evaluate the implementation of changes in labor law is an important aspect of determining the effectiveness of the law to protect workers' rights. Significant changes in Indonesia's Labor Law and Job Creation Law must be followed by a strong oversight mechanism to ensure that the regulations do not exist only on paper.

In terms of law enforcement, sanctions against labor violations are an important tool to ensure compliance. Effective and proportional sanctions are expected to provide a deterrent effect to employers who do not comply with the law. Often, however, the sanctions applied are not severe enough to stop violations, or slow court proceedings reduce the impact of such sanctions.

In addition, transparency in the supervision and enforcement process is also crucial. Civil society, including trade unions and human rights organizations, should be able to access information on how laws are enforced and the extent to which employers comply with regulations. This transparency helps increase public trust in the oversight system and improves the accountability of employers and the government.

Governments need to implement a more comprehensive approach to monitoring and evaluating the effectiveness of labor laws. This could involve the use of technology to track violations, increased cooperation between agencies for information exchange, and the development of policies that are more responsive to findings from the field.

Efforts to strengthen monitoring and evaluation should focus on increasing the quantity of inspections, but also on improving the quality of the process. This includes providing sufficient resources for law enforcement, implementing technologies that enable better monitoring, and developing policies that encourage a culture of compliance among employers. With a more integrated approach, the government can improve the effectiveness of oversight and ensure that labor law reforms deliver tangible benefits to Indonesian workers.

C. CONCLUSION

The changes in labor regulations introduced through the Job Creation Law are a response to global market dynamics and industry adaptation needs. While the main objective is to improve competitiveness and attract investment, there are significant concerns regarding their impact on the protection of workers' rights. This research shows that while new flexibilities in labor law can bring economic benefits, risks to workers' welfare and social justice also increase. Therefore, it is imperative for the government to implement effective and transparent oversight mechanisms, and periodically evaluate the impact of these laws to ensure that social justice and worker protection are not compromised.

From the results of the study, it is recommended that the government strengthen inspection and supervision systems, improve the capacity and training of work inspectors, and use technology to monitor the implementation of labor laws. The government should also encourage more intensive and constructive dialogue between employers, workers, and trade unions to ensure that all policies implemented reflect balanced interests. In addition, the application of stricter and more effective sanctions against labor violations should be implemented to maintain discipline and compliance with the law.

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