

Artikel 1

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The Potential of Stability of Domestic Social Political Stability in the Industrial Relations Court (Taken From the Case of Unilateral Wage Increase Dispute & Violation of the Employment Agreement)

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Abstract

Creating a harmony in life is the main goal of all human beings to be achieved, but it is very difficult to be fulfilled and felt by the whole community both before and after the implementation Undang Undang Nomor 11 Tahun 2020 About Cipta Kerja which was marked by the spread of the outbreak in 2019 Novel Coronavirus known as Covid 19. Seen in the political arena, if the government is unable to control the curve of increasing positive cases of Covid-19, then public anxiety about the threat of Covid-19 will still be high which will trigger the overall productivity of the community to decrease and unemployment to increase, so that people's incomes are aggregated. will decrease and poverty will certainly increase accompanied by a political crisis so that national political stability will be increasingly problematic. Based on the research background above, the identification in this study is as follows: 1). What are the Factors Affecting the Shaking of Socio-Political Stability Associated with a Unilateral Wage Increase by an Employer or an Entrepreneur? 2). What are the next steps in responding to the Shaking of Domestic Socio-Political Stability following the issuance of Law Number 11 of 2020 about Cipta Kerja In the era of President Joko Widodo ? In accordance with the background and identification of the problem, the objectives of this study are: 1). To find and analyze the factors that influence the shaking of socio-political stability associated with unilateral termination of employment by an employer or an entrepreneur. 2) To find and analyze future steps in responding to the Shaking of Domestic Socio-Political Stability over the enactment of Law Number 11 of 2020 about Cipta Kerja In the era of President Joko Widodo. This research is a doctrinal legal research, the doctrinal law research in question is research that places the law in a construction of a norm system in accordance with legal norms that apply to positive legal provisions, namely the *Ius Constitutum* principle by using a normative juridical approach, namely inventorying, reviewing and analyzing and understanding the law as a set of rules or positive norms in the legal system that regulates human life which is colored by various symptoms and facts contained in social life in depth. Based on the results of the study in accordance with the identification of the problem in the

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study, it can produce a conclusion that is not far from the identification of the problem, namely as follows: Government Regulations, Company Capability, Position and Responsibilities, Term of Service, and Productivity & Job Appraisal. The next step in responding to the Shaking of Domestic Socio-Political Stability with the issuance of Law Number 11 of 2020 about Cipta Kerja In the era of President Joko Widodo, which until now, there are still many regions that do not have/have a Bipartite Institution in accordance with the regulations Pasal 106 UU Number 13 tahun 2003 about Ketenagakerjaan.

Keyword : Social Stability, Labor Wages, Employment Agreements

A. Introduction

Creating a harmony in life is the main goal of all mankind to be achieved, but it is very difficult to fulfill and be felt by the whole community both before and after the enactment of Law Number 11 of 2020 about Cipta Kerja which was marked by the spread of the outbreak in 2019 Novel Coronavirus known as Covid 19. To create harmony in life, a legal norm is needed to limit the actions of the entire community so that it becomes a necessity in accordance with the principle of adage as stated by Marcus Tullius Cicero with lafat "Ubi Societas Ibi Ius"³ Another opinion from an expert in legal politics, namely Rolando Quadri in the theory of social authority known as "The Theory Of Social Authority" explained that forming a legal norm must have authority based on the whole community who is considered to have a better understanding of the situation and conditions so that harmony in life can be realized,⁴ then of course it can be understood in real terms that legal norms are the embodiment of the will of the whole community in accordance with the enactment of these legal norms. Therefore, the substance of the applicable legal norms has values that live in society that can be contained in a legal norm regarding the regulation of rights and obligations that are bound or attached to every community environment throughout the country, as for the legal aspects related to the regulation of rights. and obligations can be seen in the aspect of labor law.

Regulation of aspects of labor law enforcement in Indonesia According to Zulkarnain Ibrahim⁵ it has been implemented through informal customary labor law norms through an agreement between the two parties between the employer and the job recipient, but it is unfortunate that the customary labor law norms only apply if both parties between the employer and the employer have the same principles, and are of the same class. If it is explored further related to the employer agreement by involving both parties who come from different principles and groups, then the parties responsible for a work agreement consisting of the workers, the workforce, and the employer must refer to the provisions applicable law, namely the Terms Pasal 1601 buku IIIA Bab 7A Kitab Undang-Undang Hukum Perdata (KUHPer).⁶

³ Pratama, Kristianus Jimy, "Meninjau Politik Hukum Ketenagakerjaan Indonesia Dalam Keadaan Pandemi", Fakultas Hukum, Universitas Gadjah Mada, Jurnal *Rechts Vinding* : Media Pembinaan Hukum Nasional, Volum 10 Nomor 01, April 2021, ISSN : 2089-9009 Hal. 152

⁴ Lihat Rolando Quadri, *Diritto Internazionale Pubblico* (Napoli : Liguori, 1968), hlm. 27-31 dalam Pratama, Kristianus Jimy, "Meninjau Politik Hukum Ketenagakerjaan Indonesia Dalam Keadaan Pandemi", *Ibid.*, Hal. 152

⁵ Lihat Zulkarnain Ibrahim, *Hukum Pengupahan Indonesia Berkeadilan Substantif* (Palembang: Unsri Press, 2019), hlm. 125.

⁶ Lihat ketentuan Pasal 1601 Kitab Undang-Undang Hukum Perdata.



However, the regulation of labor law which then experienced a very significant growth through the activities of the National Action Plan on Human Rights (HAM) precisely in 1998-2003 which led to the birth of Law Number 13 of 2003 concerning Manpower, hereinafter referred to as Undang-Undang Ketenagakerjaan (UUK) as the main legal umbrella for employment. Gradually, judging from the situation and its development, the regulations regarding employment law are re-colored spontaneously through provisions Pasal 80, end Pasal 81 Undang-Undang Nomor 11 years 2020 about Cipta Kerja which then went viral with the term omnibus law in the midst of the long-term Covid-19 pandemic. Seen in the political arena, if the government cannot control the curve of increasing positive cases of Covid-19, then public anxiety about the threat of Covid-19 will still be high which will trigger the overall productivity of the community to decrease and unemployment to increase, so that people's incomes in aggregate will decrease and poverty will certainly increase accompanied by a political crisis so that national political stability will be increasingly problematic.

Undang-Undang number 11 Tahun 2020 concerning Job Creation has been assessed by many parties to be detrimental to workers, fishermen, and other community groups considering the birth of UU Ketenagakerjaan years 2020 workforce is considered to be more concerned with and serving the interests of a corporation, thus giving birth to pseudo hyper-regulations, which are mostly made that are not in accordance with the mechanism for establishing laws and regulations. If you look more closely, it turns out that there is an inherent relationship between the emergence of the 2019 Corona Virus Disease Pandemic (Covid 19) accompanied by the dynamics of implementation Ius Constitutum In employment law, an action is actually taken by business actors efficiently, namely Termination of Employment (PHK) unilaterally in order to determine the sustainability of an employer or an entrepreneur.

B. Research Method

This research is a doctrinal legal research, doctrinal legal research in question is research that places the law in a construction of a norm system in accordance with the legal norms that apply to positive legal provisions, namely the principle of Ius Constitutum by using a normative juridical approach, namely taking inventory, studying and analyzing and understanding the law as a set of rules or positive norms in the legal system that regulates human life which is colored by various symptoms and facts contained in social life in depth.

C. Results and Discussion

1. Legal Protection of Workers' Rights in Indonesia and Its Implementation

Manpower or Labor is regulated in Law Number 13 of 2003 concerning Manpower which was promulgated in the State Gazette of 2003 Number 39 on March 25, 2003, and comes into force on the date of promulgation. According to Law Number 13 of 2003, what is meant by "labor" is anyone who is able to do work to produce goods and or services both to meet the needs of themselves and the community.

Manpower Law regulates the working relationship between workers/laborers and entrepreneurs, which means regulating the interests of individuals. The working

relationship that regulates between workers and employers basically contains the rights and obligations of the parties. The definition of rights and obligations is always reciprocal with one another. The rights of workers or laborers are the obligations of employers. Vice versa. The working relationship cannot be separated from the work agreement made by the parties. In Indonesian law, some translate by agreement and some translate by engagement.

The rights and obligations set out in the agreement must be carried out as well as possible. Do not let one party commit a violation. In Law no. 13 of 2003 concerning Manpower, stipulates this employment relationship, in which the working relationship formed between Workers/Labourers and Employers/Companies must be realized in the form of: Work Agreements; Unspecified time work agreement (PKWT); Certain Time Work Agreement (PKWTT); Company regulations; Collective labor agreement; Chartering Agreement. The following is a further explanation according to the identification of the problem in this study, namely as follows :

a. Reasons and Basis of Legal Protection for Workers' Rights

Work protection aims to ensure the continuity of the employment relationship system⁴ without being accompanied by pressure from the strong party to the weak party. and a decent life without distinction of gender, ethnicity, race, religion, and political sect in accordance with the interests and abilities of the workforce concerned, including equal treatment of persons with disabilities.

Meanwhile, Article 6 of Law Number 13 of 2003 obliges employers to provide rights and obligations to workers or laborers without distinguishing between gender, ethnicity, race, religion and political sect.

b. Implementation of Legal Protection for¹⁶ Workers' Rights in Indonesia

At the Pasal 86 paragraph (1) letter (a) of Law Number 13 of 2003 concerning occupational health is one of the rights of workers or laborers for which employers are obliged to implement it systematically and integrated with the company management system.

Occupational health efforts aim to protect workers or laborers in order to achieve optimal work productivity, by preventing accidents and occupational diseases, controlling hazards in the workplace, health promotion, treatment, and rehabilitation. Thus, the objective of occupational health is :

- 1) Protect workers from the risk of work accidents.
- 2) Improving the health status of workers/labor.
- 3) So that workers or laborers and the people around them are guaranteed their health.
- 4) Ensuring that production is maintained and used safely and efficiently.

With regard to occupational health, every entrepreneur is obliged to carry out the following provisions :

a) Working time

Working time as referred to in Article 77 Paragraph (1) of Law Number 13 Year 2003 which includes :

- 1) 7 (seven) hours 1 (one) day and 40 (forty) hours 1 (one) week for 6 (six) working days in 1 (one) week. or
- 2) 8 (eight) hours 1 (one) day and 40 (forty) hours 1 (one) week 5 (five) working days in 1 (one) week. For the rest of the working time, it is possible to work

overtime for a maximum of 3 hours in 1 day, therefore the entrepreneur is obliged to pay overtime wages in accordance with the provisions of the Minister of Manpower Number 102 of 2004.

b) Time off

Employers are also required to provide rest and leave time for workers or laborers:

- 1) Weekly rest 1 (one) day for 6 (six) working days in 1 (one) week or 2 (two) days 5 (five) working days in 1 (one) week.
- 2) Rest between working hours, at least half an hour after working for 4 (four) continuous hours and the rest time does not include working hours.
- 3) Annual leave, at least 12 (twelve) working days after the worker or laborer concerned has worked for 12 (twelve) months continuously.
- 4) A long break of at least 2 (two) months and carried out in the seventh and eighth year for 1 (one) month each for workers or laborers who have worked continuously for 6 (six) years at the company provided that the worker or laborer is no longer entitled to his annual rest in the current 2 (two) years and thereafter valid for every multiple of 6 (six) years of service.

Occupational health is a way for workers to do decent work for humanity and is not only aimed at entrepreneurs who want to exploit workers/laborers, but also at the workers/laborers themselves.

c) Work safety

Advances in industrialization, mechanisms, and modernization, in most rights there is also an increase in the intensity of operational work and the workplace of the workers, therefore this requires the intensive mobilization of labor from the workers.

This can cause Fatigue, lack of attention to these things, loss of balance and others are a result of it and the cause of accidents, it is necessary to understand the need for proper work safety knowledge, then with advanced regulations good safety and security will be achieved. realistic, which is a very important factor in providing a sense of peace, activity and enthusiasm for work to the workforce concerned, in this case, it can enhance the quality of work, increase production and work productivity.

Occupational safety is safety related to machines, work equipment, materials and processing processes in the workplace base and its environment, as well as ways of doing work. The object of work safety is all workplaces, whether on land, in the ground, on the surface of the water, in the water or in the air.

In Article 1 of Law Number 1 of 1970 concerning Occupational Safety, it is explained that there are 3 (three) elements: a place where work is carried out for a business; There are workers who work there; There is a work hazard in that place.

Meanwhile, Article 6 of Law Number 1 of 1970 explains that work accidents are accidents that occur related to work relations, as well as accidents that occur on the way from home to work, and return home by road or reasonable to pass.

2. Legal Barriers and Efforts to Protect Workers' Rights in Indonesia

Manpower Law regulates the working relationship between workers/labourers and entrepreneurs which means regulating the interests of individuals, the working relationship that regulates between workers/laborers and entrepreneurs basically contains the rights and obligations of the parties. The definition of rights and obligations is always reciprocal between one another, the rights of workers or laborers

are obligations for entrepreneurs, and vice versa the rights of entrepreneurs are also obligations of workers/labor.

Wages play a very important role and are the hallmark of an employment relationship, it is even said that wages are the main goal of a worker who does work for another person or legal entity, that's why the government participates in dealing with this wage issue through various policies as outlined in the Regulations. Legislation. Every worker has the right to earn a decent income for humanity, to realize a decent income, the government establishes protection with wages for workers. The realization of decent income is carried out by the government through setting minimum wages on the basis of decent needs. Wage arrangements are determined on the basis of an agreement between employers and workers.

Wages are one of the most important aspects in the protection of workers or laborers, this is explicitly stated in Article 88 paragraph (1) of Law Number 13 of 2003 that every worker or laborer has the right to earn an income that meets a decent living for humanity. According to Article 1 number 30 of Law Number 13 of 2003, what is meant by wages is the rights of workers or workers received and expressed in the form of money as compensation from the entrepreneur or employer to the worker or laborer determined and paid according to a work agreement, agreement, or laws and regulations, including allowances for workers or laborers and their families for a job and or service that has been or will be performed.

Based on the Regulation of the Minister of Manpower Number PER-01/MEN/1999 jo. Decree of the Minister of Manpower and Transmigration Number KEP-226/MEN/2000 the coverage area for which the minimum wage is applicable includes: Provincial minimum wage (UMP) applicable in all regencies or cities within 1 (one) province; The Regency/City minimum wage (UMK) applies in 1 (one) Regency/City area. Labor social security is a form of protection given to workers and their families against various risks experienced by workers. The number of the workforce in Indonesia is very large, which is around 100 million people and will continue to grow by more than 2 (two) percent every year.⁷

The form of Workers' Social Security Protection is now embodied in Law Number 40 of 2004 concerning the National Social Security System and Law Number: 24 of 2011 concerning BPJS which consists of BPJS Health and BPJS Employment, and BPJS currently includes BPJS Health and BPJS Employment which is a continuation of the Social Security for Workers which was previously implemented by PT. Jamsostek, while what is meant by Social Security for Workers is a protection for workers in the form of providing health insurance and also compensation in the form of money as a replacement for part of the lost or reduced income and services as a result of events or conditions experienced by workers in the form of work accidents, illness, pregnancy, childbirth, old age, and death.

To make this happen, in undang-undang Number 13 year 2003 concerning Manpower in article 106, it has been regulated regarding an institution which is a forum for communication and negotiation for workers/laborers with employers, namely the existence of a Bipartite institution. This Bipartite Institution functions as a

⁷ Lihat Suhartoyo, 2019, "Perlindungan Hukum Bagi Buruh Dalam Sistem Hukum Ketenagakerjaan Nasional", Fakultas Hukum, Universitas Diponegoro, Administrative Law & Governance Journal. Volume 2 Issue 2, ISSN. 2621 – 2781 Online. Hal. 326-336

forum for communication and consultation regarding employment matters in a company, while the membership⁹ of the Bipartite Institution consists of elements of entrepreneurs and elements of workers/ laborers who are democratically appointed by workers/ laborers to represent the interests of the workers/ laborers in the company concerned.

The Bipartite Institution is also the first institution to resolve disputes between workers/labourers and employers. Undang-Undang number 13 years 2003 concerning Manpower in article 107 also regulates other rights to negotiate in a Tripartite Cooperation institution which functions almost the same as a Bipartite institution. This Tripartite Institution has the function of providing considerations, suggestions and opinions to the government and related parties including workers/laborers and entrepreneurs, in formulating policies and solving employment problems. The membership of the Tripartite Cooperation Institution consists of elements of the government, employers' organizations and trade unions/labor unions representing workers/labourers. These Tripartite Cooperation Institutions consist of National, Provincial and Regency/City Tripartite Cooperation Institutions, as well as National, Provincial and Regency/Municipal Tripartite Cooperation Institutions.

D. Conclusion

¹³ Based on the results of the study in accordance with the identification of the problem in the study, it can produce a conclusion that is not far from the identification of the problem, namely as follows :

1. Factors Affecting Shaking Socio-Political Stability Associated with a Unilateral Wage Increase by an Employer or an Entrepreneur are as follows :

a. Government Regulation

Every year, the government announces an increase in the minimum wage as a safety net for workers so that wages can provide a decent living, the minimum wage is the lowest wage amount for employees in the lowest position with less than one year of service. With the increase in the minimum wage, companies must adjust the structure and scale of the company's wages. The percentage increase in wages can follow the increase in the minimum wage or set differently, provided that the lowest wage cannot be less than the minimum wage.

b. Company Capability

The scale of the business and the company's financial condition affect the ability to pay employee salaries, such as during the pandemic, when many companies were affected by the COVID-19 outbreak, many industries laid off employees because they were unable to pay wages, let alone raise wages. So salary increases must be guided by the structure, scale of the company's wages and the company's financial capacity. Companies can analyze the impact of increasing employee salaries on company income, so adjust everything to the needs and capabilities of the company, lest to meet the needs of employees the company becomes a loss.

c. Position and Responsibilities

The wage or salary scale in the company describes the level of wages, with the higher the position group, the greater the compensation received. This is a

form of a fair pay system, when jobs with greater responsibility get greater rewards. If there is a change in role or additional duties and responsibilities, the company will usually offer a salary increase that is adjusted to the new responsibilities. Therefore, promotions are always followed by salary increases.

d. Years of service

Term of service describes the contribution and loyalty of employees to the company. The salary increase is given as a form of company appreciation for employees. Most companies consider the employee's tenure as a basis for providing an adjustment or increase in salary.

e. Productivity and Performance Appraisal

An increase in salary should be made in such a way that it is directly related to work productivity so that employees are more motivated in doing their work. Here are aspects that can be assessed :

- 1) Achievement of targets or KPIs (Key Performance Indicators)
- 2) Ketaatan pada peraturan, misalnya memperhitungkan aspek kedisiplinan, keterlambatan masuk kerja, dan seterusnya.
- 3) beberapa perusahaan yang menekankan aspek loyalitas juga memberikan poin pada lama kerja seorang pekerja pada perusahaan tersebut dalam hal kenaikan upah, sehingga pekerja tidak akan berpindah ke perusahaan lain.

2. The next step¹⁶ responding to the Shaking of Domestic Socio-Political Stability is the issuance of Law Number 11 of 2020 concerning Job Creation in the Era of President Joko Widodo, which until now there are still many regions that do not have/have a Bipartite Institution in accordance with Paragraph 106 UU Number 13 years 2003 about Employment.

This Bipartite Institution functions as a forum for communication and consultation regarding employment matters in a company, while the membership of the Bipartite Institution consists of elements of entrepreneurs and elements of workers/ laborers who are democratically appointed by workers/ laborers to represent the interests of the workers/ laborers in the company concerned.

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