

Jurnal Notariil

Jurnal Notariil, Vol. 9, No. 1, 2024; 47-52

Available Online at <https://ejournal.warmadewa.ac.id/index.php/notariil>

P ISSN 2540 - 797X

E ISSN 2615 - 1545

LEGAL PROTECTION OF LABOR BASED ON POSITIVE LAW IN INDONESIA

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How To Cite:

Sarbini. (2024). Legal Protection Of Labor Based On Positive Law In Indonesia. *Jurnal Notariil*, 9(1), 47-52, Doi: <https://doi.org/10.22225/jn.9.1.2024.47-52>

Abstract

In an effort to increase legal protection for workers in Indonesia several significant laws and government regulations have been issued, such as Law no. 13 of 2003 concerning employment, the job creation law and government regulation no 51 of 2003 concerning wages. Legal protection in a country very necessary. Legal protection of labor is regulated in several laws in Indonesia, namely law no.13 of 2003 concerning employment, the job creation law, and government regulation no.51 of 2003 concerning wages. For employee eligibility, wage issues are also regulated using government regulation no 51 of 2021, wages are workers' rights that are received as a form of compensation from employees which are paid according to an agreement or agreement between two parties, workers and entrepreneurs must also understand and carry out balanced right and obligations so that there is an efficient and dynamic work relationship.

Keywords: Law; Wages; Legal Protection

1. INTRODUCTION

Based on the provisions of Article 1 point 2 of Law of the Republic of Indonesia Number 13 of 2003 concerning Manpower, labor is everyone who is able to do work to produce goods and / services, both to meet their own needs and for the community (Husni, 2011).

Article 5 of Law of the Republic of Indonesia Number 13 of 2003 concerning Manpower provides protection to every worker by having the same opportunity to get a job and a decent life without distinguishing anything according to the interests and abilities of these workers (UTAMA et al., 2022).

Legal protection of labor is an important aspect of a country's labor system. In Indonesia, a series of laws and government regulations serve as the basis for safeguarding workers' rights and ensuring their welfare. In this context, some of the relevant laws are Law of the Republic of Indonesia Number 13 of 2003 concerning Manpower, Law of the Republic of Indonesia Number 6 of 2023 concerning the Stipulation of Government Regulations

in Lieu of Law Number 2 of 2022 concerning Job Creation into Law (Apriliani et al., 2024), and Government Regulation of the Republic of Indonesia Number 51 of 2023 concerning Amendments to Government Regulation Number 36 of 2021 concerning Wages (Kasanda & Adjie, 2022a).

Regulations on Manpower are specifically regulated in the Law of the Republic of Indonesia Number 13 of 2003 concerning Manpower articles 77 to 85 (Dwi Arini et al., 2023a). Where, Article 77 paragraph 1, Law of the Republic of Indonesia Number 13 of 2003 concerning Manpower requires every employer to implement the provisions of working hours. If it exceeds these working hours, then ordinary working time is considered as overtime work time so that workers or laborers are entitled to overtime pay.

However, the regulation certainly does not apply to some sectors and some types of jobs. And in its application, of course, the work that is carried out continuously is carried out by dividing work time into shifts. Work that is carried out

continuously, without following the provisions of working hours as stated in the Law of the Republic of Indonesia Number 13 of 2003 concerning Manpower (Saputra & Dhianty, 2022; Widyani, 2022). Work that does not follow working hours in accordance with Law of the Republic of Indonesia Number 13 of 2003 concerning Manpower, however, any excess working hours carried out by workers or workers in carrying out the above work, must be counted as overtime that must be paid because it is a labor right or worker protected by law (Gaffar et al., 2021; Syirfan & Kamalludin, 2022a).

Law of the Republic of Indonesia Number 6 of 2023 concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation into Law is currently in a vulnerable position when faced with the problem of exploitation and discrimination in the work environment, especially for women workers. Special rights are stated in the Law of the Republic of Indonesia Number 13 of 2003 concerning Manpower (Dwi Arini et al., 2023b). Women's rights in employment, for example, feel safe during pregnancy and working hour wages that will only be applied when working women are carrying out production activities. Therefore, workers, especially women, lose access to maternity leave rights or the opportunity to breastfeed at work because they are considered unproductive for the company.

In connection with the implementation of Law of the Republic of Indonesia Number 6 of 2023 concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation into Law, it can be seen that there is a considerable cut in workers' rights, namely in the amendment of article 93 paragraph (1) which discusses the issue of wages for workers if they do not come to work. These changes ultimately have an impact on labor protection, especially for women who during menstruation have freedom in worship.

The benefits of law itself in its development are aimed at creating security and order and ensuring the welfare of the state community. The law itself not only regulates society against threats that endanger itself, but also regulates relations between people / humans (Sarhini, 2022a).

Wages play an important role in employment relations (employment contracts), because the main purpose of a

worker / laborer working in a company is to obtain wages (Sarhini & Nugroho, 2022a). Wages are human rights of workers that must be fulfilled and paid on time by employers as obligations that can be used by workers to meet the needs of themselves and their families. Therefore, wage agreements need to consider all aspects of the rights and obligations of both workers and companies, and ensure that they do not burden either party (Sarhini & Nugroho, 2022b).

The latest government regulation has several wage systems in Indonesia The government issued a regulation on wages, namely Government Regulation of the Republic of Indonesia Number 51 of 2023 concerning Amendments to Government Regulation Number 36 of 2021 concerning Wages. Government regulations regarding wages have been established to regulate wages such as the calculation of the minimum wage and its enforcement (Kasanda & Adjie, 2022b; Septyanun et al., 2023).

In Government Regulation of the Republic of Indonesia Number 51 of 2023 concerning Amendments to Government Regulation Number 36 of 2021 concerning Wages, it no longer uses upper and lower limits in determining the minimum wage. However, the government sets new variables for the calculation of the minimum wage are economic growth, inflation, and certain indices (Rasjid et al., 2023; Syirfan & Kamalludin, 2022b).

The purpose of this journal is to analyze and understand the legal protection of labor in Indonesia based on a series of relevant laws and government regulations (Sarhini, 2022b), namely Law of the Republic of Indonesia Number 13 of 2003 concerning Manpower, Law of the Republic of Indonesia Number 6 of 2023 concerning the Establishment of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation into Law, and Government Regulation of the Republic of Indonesia Number 51 of 2023 concerning Amendments to Government Regulation Number 36 of 2021 concerning Pay. Through this research, it is hoped that it will be revealed how these laws and regulations affect labor rights, legal protection of them, as well as their impact on the overall welfare of the workforce.

2. METHOD

This research is based on a literature study involving a review of Law of the Republic of Indonesia Number 13 of 2003

concerning Manpower, Law of the Republic of Indonesia Number 6 of 2023 concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation into Law, Government Regulation of the Republic of Indonesia Number 51 of 2023 concerning Amendments to Government Regulation Number 36 of 2021 concerning Wages , as well as other related literature such as books, scientific journals, and related articles. In addition, a comprehensive analysis will be conducted to analyze the implementation of these laws and regulations, as well as their impact on legal protection and labor welfare in Indonesia.

With a deep understanding of legal protection for workers based on Law of the Republic of Indonesia Number 13 of 2003 concerning Manpower, Law of the Republic of Indonesia Number 6 of 2023 concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation into Law, and Government Regulation of the Republic of Indonesia Number 51 of 2023 concerning Amendments to Government Regulation Number 36 of 2021 concerning Wages, It is hoped that the results of this study can contribute to strengthening legal protection for workers in Indonesia and increasing understanding of the importance of fair and equitable labor policies.

3. DISCUSSION

Labor Rights And Obligations

The rights and obligations of workers have been regulated in Law of the Republic of Indonesia Number 13 of 2003 concerning Manpower and Law of the Republic of Indonesia Number 21 of 2000 concerning Trade Unions / Trade Unions and workers for work or services that have been done. Rights and obligations must be balanced (Rokhim, 2018). Rights are something that must be accepted by a person without any conditions because getting these rights can improve the standard of life of a person himself and even his family. One of the rights of workers is the wages of a company of workers and services.

Law of the Republic of Indonesia Number 13 of 2003 concerning Manpower, then the Law was amended into Law Number 11 of 2020 concerning Job Creation. Some of its linkages include:

Workers' Rights:

Suitable salary

Obtaining Protection for Occupational Safety and Health

Obtain Leave and Social Security in accordance with Company Regulations and Applicable Laws and Regulations

Acquire Training and Skill Development Necessary for the Job

Obtain Fair and Non-Discriminatory Treatment

Obligations of Workers:

Carry out job duties and responsibilities properly and responsibly

Respect Applicable Company Rules and Policies

Make Necessary Work and Administration Reports Correctly and Timely

Maintaining Workplace Security, Order and Cleanliness

Maintaining the Confidentiality of Company Information and Data

By understanding each other and knowing the rights and obligations can create a safe, comfortable and dynamic work environment.

Advantages And Disadvantages Of Law Of The Republic Of Indonesia Number 6 Of 2023 Concerning The Stipulation Of Government Regulations In Lieu Of Law Number 2 Of 2022 Concerning Job Creation Into Law Compared To Law Of The Republic Of Indonesia Number 13 Of 2003 Concerning Manpower

Omnibus law is a law that contains more than one material, issue, and constitutional theme whose substance is to repeal and / or revise other regulations so that they become a new holistic regulation, with the aim of overcoming regulatory problems in a country, especially the problem of high quantity of regulations (hyper regulated) and overlapping regulations (overlapping), so that there is actually nothing wrong with the concept of omnibus law scientifically Law insofar as the purpose of applying this concept in the legislative process is to solve regulatory problems.

Firman Freaddy Busroh revealed several weaknesses of Law of the Republic of Indonesia Number 6 of 2023 concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation into Law, namely:

Opening opportunities will be rejected at the time of plenary or judicial review;

The legislature feels castrated because the process of forming laws and regulations does not involve the legislature (assuming the omnibus is issued by the President in the form of a Perppu);

Will affect the stability of the national legal system due to the government's policy orientation that changes according to the will of the governing regime.

Law of the Republic of Indonesia Number 6 of 2023 concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation into Law is very detrimental to workers/laborers because there are many articles that eliminate each other.

Longer working time and overtime.

Holiday time reduced by.

Minimum wage missing.

Wage calculation changes.

Wages for Menstrual and Maternity Leave will be lost.

Long leave lost.

Unilateral termination of employment made easy.

The amount of severance pay is reduced.

Some of the problematic and controversial articles of Law of the Republic of Indonesia Number 6 of 2023 concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation into Law in terms of employment include the following:

Unlimited contracts (Article 59) of Law of the Republic of Indonesia Number 6 of 2023 concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation into Law Remove rules regarding the term of a fixed-time employment agreement or contract worker.

Holidays are trimmed (Article 79).

The rules on wages were changed (Article 88).

The penalty for non-payment of wages is removed (Article 91).

The right to apply for unilateral termination of employment is easily abolished (Article 169).

There are several advantages of applying the Omnibus Law concept in resolving regulatory disputes in Indonesia,

including:

Resolve conflicts of laws and regulations quickly, effectively, and efficiently;

Homogenizing government policies, both at the central and regional levels, to support the investment climate;

More integrated, efficient, and effective licensing management;

Increased coordination relations between relevant agencies, because it has been regulated in an integrated omnibus regulation policy;

Guarantee of legal certainty and legal protection for policy makers.

The Omnibus Law will be a driving force that strengthens capabilities and also implements the legislative function of the House of Representatives in Indonesia as a state of law.

4. CONCLUSION

Based on the problem statement and analysis here is the conclusion:

Weaknesses of Law of the Republic of Indonesia Number 6 of 2023 concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation into Law, namely: Opening opportunities will be rejected at plenary; The legislature feels neutered because the process of forming laws and regulations does not involve the legislature; Will affect the stability of the national legal system. The advantages of applying the Omnibus Law concept in resolving regulatory disputes in Indonesia include: Resolve conflicts of laws and regulations quickly, effectively, and efficiently; Homogenize government policies; More integrated, efficient, and effective licensing management; Improved coordination relations between relevant agencies; Guarantee of legal certainty and legal protection for policy makers.

Law of the Republic of Indonesia Number 6 of 2023 concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation into Law is very detrimental to workers/laborers because there are many articles that eliminate each other. Longer working time and overtime; Holiday time reduced by; Minimum wage missing; Wage calculation changes; Wages for Menstrual and Maternity Leave will be lost; Long leave lost; Unilateral termination of employment is made easier, unilaterally made easier; The amount of severance

pay is reduced.

Problematic and controversial articles of Law of the Republic of Indonesia Number 6 of 2023 concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation into Law in terms of employment: Unlimited contracts (Article 59); Holidays are trimmed (Article 79); The rules on wages were changed (Article 88); The penalty for non-payment of wages is removed (Article 91); The right to apply for unilateral termination of employment is easily abolished (Article 169).

REFERENCES

- Apriliani, K., Nyoman Putu Budiarta, I., Ibrahim Kosasih, J., & Wayan Gde Wiryawan, I. (2024). Doctor of Law Study Program, Postgraduate Program, Universitas Warmadewa 1, Faculty of Law, Universitas Warmadewa 2, 3, Faculty of Law. *Journal Equity of Law and Governance*, 4(1). <https://www.ejournal.warmadewa.ac.id/index.php/elg>
- Dwi Arini, D. G., Sri Astiti, N. G. K., & Sriasih Wesna, P. A. (2023a). Concept of Local Labor Empowerment towards the Construction of Tourism Support Facilities in Gianyar Regency. *International Journal of Social Science and Human Research*, 6 (11). <https://doi.org/10.47191/ijsshr/v6-i11-40>
- Dwi Arini, D. G., Sri Astiti, N. G. K., & Sriasih Wesna, P. A. (2023b). Concept of Local Labor Empowerment towards the Construction of Tourism Support Facilities in Gianyar Regency. *International Journal of Social Science and Human Research*, 6 (11). <https://doi.org/10.47191/ijsshr/v6-i11-40>
- Gaffar, S., Karsona, A. M., Pujiwati, Y., & Perwira, I. (2021). The concept of procedural law regarding the implementation of collective agreements with legal certainty in termination of employment in Indonesia. *Heliyon*, 7(4), e06690. <https://doi.org/10.1016/j.heliyon.2021.e06690>
- Husni, L. (2011). Perlindungan hukum terhadap tenaga kerja Indonesia di luar negeri. *Mimbar Hukum-Fakultas Hukum Universitas Gadjah Mada*, 23(1), 150–167.
- Kasanda, H., & Adjie, H. (2022a). Legal Effects on PPAT That are Involved in the Making of Multiple Certificates. *Al-Risalah Jurnal Ilmu Syariah Dan Hukum*, 154–163. <https://doi.org/10.24252/al-risalah.vi.34312>
- Kasanda, H., & Adjie, H. (2022b). Legal Effects on PPAT That are Involved in the Making of Multiple Certificates. *Al-Risalah Jurnal Ilmu Syariah Dan Hukum*, 154–163. <https://doi.org/10.24252/al-risalah.vi.34312>
- Rasjid, R. M., Imran, S. Y., & Achir, N. (2023). Providing Restitution to Children Victims of Pornographic Video Distribution. In *Estudiante Law Journal* (Vol. 5, Issue 3). Oktober. <https://ejournal.ung.ac.id/index.php/eslaw/index>
- Rokhim, A. (2018). Aspek Hukum Hak Dan Kewajiban Pekerja Kontrak Dalam Perjanjian Kerja Menurut Undang-Undang Nomor 13 Tahun 2003. *Focus Upmi*, 7(1), 1–8.
- Saputra, R., & Dhianty, R. (2022). Investment License and Environmental Sustainability in Perspective of Law Number 11 The Year 2020 Concerning Job Creation. *Administrative and Environmental Law Review*, 3(1), 27–40. <https://doi.org/10.25041/aclr.v3i1.2472>
- Sarbini. (2022a). Analisis Hukum Bagi Pekerja Kontrak Yang Di Phk Sebelum Masa Kontrak Berakhir Menurut Undang-Undang Cipta Kerja. *Jurnal Ilmiah Hukum*, 8(2), 119–124.
- Sarbini. (2022b). Analisis Hukum Bagi Pekerja Kontrak Yang Di Phk Sebelum Masa Kontrak Berakhir Menurut Undang-Undang Cipta Kerja. *YUSTISIA MERDEKA: Jurnal Ilmiah Hukum*, 8(2), 119–124. <https://doi.org/10.33319/yume.v8i2.198>
- Sarbini, & Nugroho, S. S. (2022a). Universitas Pahlawan Tuanku Tambusai Implication Analysis Of Wage Arrangement Changes Law Number 11 Of 2020 Concerning The Creation Of Employment Cluster. *Jurnal Pendidikan Dan Konseling*, 4(6). <https://doi.org/10.31004/jpdk.v4i6.8434>
- Sarbini, S., & Nugroho, S. S. (2022b). Implication Analysis Of Wage Arrangement Changes Law Number 11 Of 2020 Concerning The Creation Of Employment Cluster. *Jurnal Pendidikan Dan Konseling (JPDK)*, 4(6), 1703–1713.
- Septyanun, N., Yogi Hadi Ismanto, Dwi Martini, & Yulias Erwin. (2023). Critical Study of the Characteristics of the Judicial Decision on the Judicial Review of Supreme Court Decision Number 72 P/HUM/2022 on the Minimum Wage. *Jurnal Jurisprudence*, 13 (1), 94–112. <https://doi.org/10.23917/jurisprudence.v13i1.1867>
- Syirfan, M. A., & Kamalludin, I. (2022a). Evaluation of The Minimum Wage Determination System Indonesian Workers Based on Comparison Policy. *Supremasi Hukum: Jurnal Kajian Ilmu Hukum*, 11(1), 67. <https://doi.org/10.14421/sh.v11i1.2563>
- Syirfan, M. A., & Kamalludin, I. (2022b). Evaluation of The Minimum Wage Determination System Indonesian Workers Based on Comparison Policy. *Supremasi Hukum: Jurnal Kajian Ilmu Hukum*, 11(1), 67. <https://doi.org/10.14421/sh.v11i1.2563>
- UTAMA, I. W. K. J., SUJANA, I. N., WESNA, P. A. S., & RIBEIRO, L. (2022). Implications Of Control Of Coastal Lands By Foreigners In The Tourism Business. *Protection: Journal Of Land And Environmental Law*,

1(2), 78–85. <https://doi.org/10.38142/pjlel.v1i2.472>
Widyani, I. D. A. (2022). Menstrual Leave Policy; Between Gender Sensitivity and Discrimination Against Female Workers. *Technium Business and Management*, 2 (2), 50–60. <https://doi.org/10.47577/business.v2i2.6754>