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Application of Burden of Proof to Child Labour as Protection of Children's Rights

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Abstract

Child labour should be given legal protection, one form of protection for child labour is to impose a Burden of Proof (Burden of Proof) for child labour in accordance with the provisions of the ILO Convention (International Labor Organization) No. 138 of 1973 on the minimum age to be allowed to work and the ILO (International Labour Organization) Convention No. 183 then 1999 on the abolition of the worst forms of work for. This research aims to examine the philosophical foundation of the burden of proof in the Indonesian legal system and to examine the burden of proof implementation for child labour in Indonesia. This research is legal research using a normative juridical approach, the data used are primary data and secondary data analyzed using quantitative analysis. The results of the study are the first philosophical application of the principle of reverse burden of proof that has been regulated in various legal rules in Indonesia, including Law No. 8 of 1999 on Consumer Protection, Law No. 40 of 2007 concerning limited Company legal No. 32 of 2009 on the protection and management of the environment and the provisions of the crime of corruption relating to the freezing, expropriation and confiscation of the perpetrators of the crime of corruption in accordance. Both countries have ratified ILO Convention No. 138 of 1973 on the Minimum age to be allowed to work and ILO Convention No. 182 of 1999 on the Prohibition and immediate action on the elimination of the worst forms of Child Labour which affirms the existence of a reverse proof for child labour.

Keywords: burden of proof; child labor; legal protection

I. INTRODUCTION

The phenomenon of child labour is a phenomenon that commonly occurs in big cities whose numbers tend to show a number that continues to increase each year, what is meant by child labour is a job that involves children, both girls and boys in their work activities by involving exploitative treatment from certain parties for profit only. This means that the benefits of exploiting child labour are not only for the benefit of the child but also for the benefit of those who benefit from such exploitative activities. They can be parents, immediate family, brokers, pimps, government officials and others. The condition of the increasing number of workers can be seen in big cities such as Jakarta, Bandung, Surabaya, Solo, Medan and others cities (Murray, 1961:27).

The number of child labour between the ages of 14 years to 18 years is estimated to reach 30% of the total workers in Indonesia, the percentage shows 1.7 million people in the total number of children in Indonesia, and 70,000 people are children involved in child labour exploitation activities (Kementerian Pemberdayaan Perempuan). The rise of the phenomenon of child labour due to the increasingly widespread industry in various parts of the world including in Indonesia, this is driven by the rapid development of industry in all fields (Atmasasmita, 2021:72). As a result, the development of the industry is increasingly

open to exploiting child labour to become non-formal workers with low pay.

This condition makes many children forced into child labour (UNICEF), which in turn will cause many children to become victims of child trafficking and be politicised by work. The increasing number of requests for child labour is due to the high demand factor and also cheap child labour wages. The plunge of children as child labour initially due to forced, deceived, persuaded, economic pressure, limited education and skills and limited employment opportunities in the region, this condition eventually makes children have to quit school and be forced to work to help their families as child labour (Irawanto, Farid, & Anwar, 1999:30).

The existence of children who work as child labourers are classified as children who need special attention (specific), namely those child workers who work in the informal sector and children who are on the streets. In the convention Vol. III No. April 3, 1999, provides a definition of various types of child labour where the definition states that child labour is one of the groups that need special protection, which protection is guaranteed in the provisions of “Children in Need of Special Protection”. This is because child labour is a type of work that is based on their work situation which is considered vulnerable and dangerous for children. Child labour is those who should receive special attention because child labour includes work for children that contain high occupational risk. Legal protection against child labour which in principle makes children easy to exploit economically and sexually, such exploitation in the long term will cause negative impacts on children. Where children who experience exploitation are very prone to violence, both physical and psychological violence (Subono, 2002:101).

The rise of child labour is a form of economic exploitation of children, exploitation occurs due to the treatment of certain parties to benefit from the practice of child labour. This condition will place child labourers in an exposed condition, where the exposed condition for child labour has the characteristics of (UNICEF, 2002:19):

- Full-time employment at their immature age.
- A lot of time is used for work, thus eliminating their time to study and play.
- Children's work that causes inappropriate physical, social or psychological stress occurs, this arises due to inappropriate and harmful working conditions for children.
- Insufficient wages, because child labour is still considered domestic work and not formal employment.
- Too much responsibility.
- Work hinders children's access to education.
- Work that diminishes dignity and self-esteem.
- Child labour such as slavery/contract work, forced labour and sexual exploitation.
- Jobs that severely damage social and psychological development.

From this definition, it is clear that child labour is a form of exploitation for children, while exploitation occurs due to economic exploitation for children. Therefore, such exploitation must be stopped, because the children of nature basically do not have the ability to work.

Like his case against child labour that occurred and became a legal record relating to the case of exploitation of child labour to sell cobek that occurred in the District Court (Pengadilan Negeri) Tangerang, in the trial of the defendant Tajudin charged with 3 years in prison and a fine of 150 million rupiah subsidiary confinement 1 month on the grounds of the criminal act of trafficking in persons (Tindak Pidana Perdagangan Orang). In his verdict, the panel of judges acquitted the defendant Tajudin because he was not proven to have committed the criminal act of trafficking, the legal polemic finally the prosecutor appealed and Tajudin conducted a Judicial Review to the Constitutional Court regarding the material test.

That the conflict of law should not occur if the case against child labour uses the principle of Burden of Proof in the process of proof, the main mistake that causes the

conflict of law is not the application of the principle of burden of proof as stipulated in the ILO (International Labor Organization) Convention No. 138 of 1973 on the minimum age to be allowed to work and also the ILO (International Labor Organization) Convention No. 183 of 1999 on the elimination of the worst forms of child labour mandates the application of a reverse Burden of Proof for child labour cases, but still imposes a conventional burden of proof as provided for in Article 184 of the Criminal Procedure Code.

That then in principle is the development of the law of evidence that has been applied by the International Labor Organization (ILO) and other countries, among others in Singapore. However, in Indonesia, the reverse proof for child labour has not been applied but can only be applied to Limited Liability Company Law, namely to members of the board of directors and commissioners who make mistakes or omissions, in Environmental Law, namely to those responsible for business and/or activities that damage the environment, in the National Consumer Air Transport law, namely to producers who harm consumers and in the case of corruption.

Tahamata (2018) in her study that examined legal protection against child labour, showed a result study that the state should be responsible for child labour under the Convention on the Rights of the Child 1989, but the binding force of the rule has not been implemented by the state in accordance with the existing material and conditions. The evidence can be seen from various cases of child rights violations that still occur, such as children who are still employed. In addition, Khairatunnisa & Kadir (2019) in their study aim to find the protection of educational rights for child labour in Indonesia generally according to International Human Rights Instruments; and the protection of child labour especially in the case of Child Labour at Horse Stable in Takengon, Central Aceh showed a result study that the protection of educational rights have been stated in several International Human Rights Instruments; and it is the duty of government along with family toward the protection of educational rights for child labour.

Based on the background and the previous studies above, it needs to examine more about the burden of proof implementation for child labour in Indonesia. Therefore, this study aims to examine the philosophical foundation of the burden of proof in the Indonesian legal system and to examine the burden of proof implementation for child labour in Indonesia.

II. METHODS

The research method used in this study is normative juridical methods. Meanwhile, the data of this study are library data sourced from primary, secondary, and tertiary data. The collected data were systematically analyzed, for further analysis was carried out using descriptive analysis methods obtained from the process of secondary data related to the problems in this study which is compiled, explained, and interpreted to answer so that conclusions can be drawn with regard to conflicts of norms and *legis ratios* of the application of the burden of proof for child labour within the framework of providing protection of children's rights.

III. DISCUSSION

The Philosophical Foundation of Burden of Proof in the Indonesian Legal System

In history, the thought and practice of reverse proof were first practised in Europe in 2005. The practice of reverse burden of proof was initiated by an institution called the European Group on Tort Law (EGTL), the principle of reverse burden of proof is used to harmonize and unify the principles of tort law in Europe. This institution has issued the Principles of European Tort Law (PETL) which is regulated in Part 2 Chapter 4 Principles of European Tort Law (PETL), namely regarding the existence of extensive damage from a business activity (ultra hazardous activity) and the existence of product defects where the above is applied which in the process of proof using the method of reverse burden of proof as stipulated in Article 4:201: Reversal of the burden of proving fault in general. (1) the burden of proving fault may be reversed in the light of the gravity of the danger presented by the activity. (2) the gravity of the danger is determined according to the seriousness of possible damage in such cases as well as the likelihood that such damage might actually

occur. Article 4:202(1) a person pursuing a lasting enterprise for economic or professional purposes who uses auxiliaries or technical equipment is liable for any harm caused by a defect of such enterprise or of its output unless he proves that he has conformed to the required standard of conduct. (2)" Defects "are any deviation from standards that are reasonable to be expected from the enterprise or from its products or services. Article 2: 105 proof of damage must be proved according to normal procedure standards. The court may estimate the extent of the damage where proof of the exact amount would be too difficult or too costly (Principles of European Tort Law , 2005).

In its development then in 2003, the United Nations (UN) ratified the Convention on Anti-Corruption 2003 (United Nations Convention Against Corruption (UNCAL) for the scope of criminal acts where it is stated that the application of the reverse burden of proof is aimed at freezing, confiscation and confiscation of perpetrators of corruption which is expressly stipulated in the provisions of Article 31 paragraph (8) and Article 53 letter (b) of the 2003 Anti-Corruption Convention as stipulated in Article 31:8 "The United States may consider the possibility of an offence demonstrating the lawful origin of the alleged Proceedings of the crime or other property liable to confiscation, to the extent that such a requirement is consistent with fundamental principles of their domestic law and with the nature of judicial and other proceedings. "Article 53: b " Each State Party shall, in accordance with its domestic law: In accordance with this convention to pay compensation or damages to another State Party that has been harmed by such offences". Furthermore, in the field of labour law, where internationally applicable legal rules are regulated by the International Labor Organization (ILO), the principles of the International Labor Standard ILO (ILS ILO) have been issued in the form of conventions and governing recommendations relating to the application of the reverse burden of proof in certain cases, among others:

The burden of proof in the case of termination of employment ILO Convention 158, on termination of employment, has been set out in Article 9:2 which states Article 9:2 ILO Convention 158, on termination of employment which states: "in order for the worker not to have to bear alone the burden of proving that the termination was not justified, the methods of implementation referred: (a) the burden of proving the existence of a valid reason for termination as defined in Article 4 of this Convention shall rest on the employer; (b) the burden of proving the existence of a valid reason for termination as defined in Article 4 of this Convention shall rest on the employer; (b) the burden of proving the existence of a valid reason.

On matters of freedom of association in relation to ILO Convention No. 87 and No. 98 has been issued ILO Recommendation No. 143 of 1971 on childbirth in Article 6 paragraph (2) letter e and the general Survey of the ILO Expert Committee in paragraphs 217 and 218.

Equality in employment and office in relation to ILO Convention No. 111 the ILO has conducted general research on equality in employment and occupation (*Bahan ajar dari ILO*, 2010).

The development of the application of the reverse burden of proof at the regional level has been included in the Evidence Act 1997 and Employment Act 2009 in Singapore, in the Evidence Act 1997 the reverse proof is based on Part III, while in the Employment Act 2009 which regulates the use of the reverse burden of proof in resolving legal disputes between employers and workers as stipulated in Part XVI. 131 of the Employment Act of 2009 (Employment Act (Chapter 31), 2009).

The development of thinking related to the burden of proof reverse is the result of the development of legal theory that has left the concept of error and turned to the concept of risk (Hardjasoemantri, 1999), this concept is then known as a strict liability system that has specificity compared to the system of liability based on fault, with a strict liability system of proof will be simpler and relatively shorter (Kantaatmadja, 1981:74-75). In the context of Environmental Law, a strict liability system is applied to activities that have the potential to cause extensive environmental damage (extra hazardous activities) (Kantaatmadja, 1981).

In the history of Indonesian national law, regarding strict liability as the basis for its

application in labour cases has been regulated in material law, namely in the issue of marine work accidents regulated in *Schepelingen Ongevallen* Regulation 1940 (Sailor accident regulation 1940) jo. Law No. 17 of 2008 concerning shipping and the law on work accidents stipulated in the work Accident Law No. 33 in 1947 jo. Law No. 2 of 1951 which was repealed by law No. 3 of 1992 on Labor Social Security (*Jamsostek*).

Both of these laws and regulations in principle waive the elements and compensation for the accident is then based on the employer's responsibility for losses incurred in his company, compensation is seen as a risk of running the company (*risque professionnel*) and illness arising as a result of running a job in the company equated to an accident, meaning that a worker suffering from the occupational disease (occupational disease) is entitled to compensation according to the accident law.

In the provisions of Article 88 of Law No. 32 of 2009 on Environmental Protection and management, formulated the application of a more advanced reverse burden of the proof system by expressly adhering to the principle of strict liability in full (Hardjasoemantri, 2002:384-387) as stipulated in law no. 32 of 2009 article 88 reads Any person whose actions, business, and/or activities use B3, produce and/or manage waste B3, and/or that pose a serious threat to the environment shall be solely responsible for losses incurred without the need to prove the element of fault. The explanation of Article 88 is as follows: what is meant by “absolute responsibility” or strict liability is that the element of guilt does not need to be proven by the plaintiff as the basis for payment of damages. The provisions of this paragraph constitute *lex specialis* in lawsuits concerning unlawful acts in general. The amount of compensation that may be imposed on polluters or environmental destroyers under this article may be determined to a certain extent. What is meant by “up to a certain time limit” is if according to the stipulation of laws and regulations, it is determined that insurance is mandatory for the business and/or activity concerned or that environmental funds are available.

Then also in law No. 40 of 2007 concerning limited liability companies in articles 97, 104, 114, and Article 115 also regulate the prosecution of members of the board of directors and board of Commissioners for their mistakes causing losses to the company. In the formulation of these articles, the responsibilities of the members of the board of directors and board of commissioners are still formulated with the principle of presumption of liability (Samsul, 2004:145-146).

The Burden of Proof Implementation for Child Labor in Indonesia

The reverse burden of proof theory is part of the rebuttable presumption of liability principle. The theory of the reverse burden of proof in both civil and common law systems is born from legislation as well as from court decisions. Initially, the reverse burden of proof was used in Indonesian law in work accident cases starting from January 1927 which was regulated in Article 1602w BW. If workers have an accident at work, the employer must prove that the accident occurred through no fault of the employer. At the end of the 19th century, Western European industrialized countries were looking for ways to compensate workers affected by work accidents. At that time, in civil law, it was stipulated that employers who due to negligence caused accidents were required to compensate workers who were affected by the accident, as referred to in Article 1602c BW (old). In other words, the labourer must prove the negligence of the employer to be able to obtain damages, the court will decide the amount of those damages if any. In fact, the proof is difficult for workers, because it is difficult to get testimony from colleagues, for fear of being fired, in addition to court costs that are not small (Suryandono, 2005:5).

In judicial practice, the burden of proof is born from the burden of proof based on the theory of propriety (worthiness), that is, the burden of proof must first be handed over/ charged by the judge to the least harmed or most likely if burdened with proof and then charged to the law to prove (Projodikoro, 1992:107).

The theory of the inverse burden of proof in the country of common law was born from the doctrine of *Ipsa Loquitur*, Black's Law Dictionary formulates *res ispa loquitor* with the phrase the thing speaks for is self, while John Cooke States *res ipsa laqoitun* as follows: “the phrase *res ispa loquitur* means the thing speaks for itself (Gaener, 2009:1311).

The court will be prepared to accept that the defendant was negligent without hearing detailed evidence from the plaintiff as to what the defendant did or did not do"(Cooke, 1992:68). By applying this doctrine, the court will conclude that the defendant has committed a negligent (error) without the need to prove in detail what the defendant did or what the defendant did not do.

This doctrine was born in Scot V. London and St Katherine's Dock (1856) 3 H&C 596. The plaintiff was standing near the door of the defendant's barn when several sacks of sugar fell on him. The court of First Instance ruled that the defendant did not commit negligence. On the contrary, the court of appeal decided that although there must be reasonable evidence, this case shows that the fact of the fall of the sugar sack is in the management and supervision of the defendant or his service. It is the facts that themselves prove the guilt of the defendant: such facts are called prima facie evidence. However, if in the Scot Vs London and St Katherine's Dock case, the defendant can prove the opposite, that is, the defendant has managed the warehouse carefully when the accident occurred, the burden of proof shifts from the defendant to the plaintiff. The defendant must prove that the defendant has made a mistake so that if the plaintiff is successful in proving the plaintiff's claim is defeated and vice versa if the plaintiff cannot prove the plaintiff's claim is rejected. Thus, the doctrine of res *ipsa liquitur* which gave birth to the theory of the reverse burden of proof is applied in concrete events in court (Cooke, 1992:93-95).

In connection with the theory of propriety and the doctrine of *RES ispa loquitor* has given birth to the theory of reverse burden of proof in certain labour/labour cases, the International Labor Organization (ILO) has issued regulations regarding the reverse burden of proof both contained in the ILO Convention, ILO recommendations and the general survey of the ILO Expert Committee and the general survey of the ILO Freedom of Association Committee. Meanwhile, in the decisions of the labour courts of other countries, among others, the United States, Argentina, Brazil and Spain and in the decision of the Supreme Court of Indonesia in the case of evidence that is absolutely the responsibility of employers, layoffs, and anti-union, all have applied the burden of proof reversed.

The application of the reverse burden of proof in labour is motivated by the thought of protecting workers against discrimination by employers and also by the difficulties faced by workers in proving in court. Workers who are naturally in a weak position must be protected from all actions of employers that harm workers and one form of protection are to apply the burden of proof in reverse because in the mastery of evidence the entrepreneur has the upper hand, especially because employers have more control over the sources of information.

In terms of the use of the reverse burden of proof principle for child labour, Indonesia has ratified ILO Convention No. 138 of 1973 on the Minimum age to be allowed to work and ILO Convention No. 182 of 1999 on the Prohibition and immediate action on the elimination of the worst forms of child labour. The essence of the two ILO Conventions above has been adopted in articles 68 to 75 of Law No. 13 of 2003. The articles contain about the age limit of children can be changed, and child employment requirements in the prohibition to work children in bad jobs. Related to the reverse proof contained in Article 73 reads: children are considered to work when they are in the workplace unless it can be proven otherwise.

With the above provisions, when there is a dispute over industrial relations between child labour and employers, child labour is not given the burden of proof of the employment relationship, child labour is only enough to prove that the child is in the workplace. Whether or not there is an employment relationship is at the employer's expense to prove it. Until now, there have been no cases of industrial relations disputes between child labourers and employers in Indonesian courts, but this provision strengthens the acceptance of the principles of reverse burden of proof in the settlement of industrial relations cases in Indonesia.

That the rule concerning the principle of burden of proof is reversed in the case of child labour as provided for in ILO Convention No. 138 of 1973 on the Minimum age to be allowed to work and ILO Convention No. 182 of 1999 concerning the Prohibition and immediate action on the elimination of the worst forms of child labour as stipulated and

adopted in the provisions of articles 68 to 75 of law no. 13 of 2003 on employment could be a legal paying in applying the reverse burden of proof with regard to child labour cases in Indonesia. So that in the future, if there is a child labour case, it can use the principle of Burden of Proof and no longer impose the conventional burden of proof as stipulated in Article 184 of the Criminal Procedure Code.

IV. CONCLUSION

The application of the burden of proof principle for child labour is a form of legal protection for child labour, legal protection here is to provide protection through legal rules derived from National Law and international law. This is based philosophically because the ability of children who are physically and mentally is not a person who has to plunge into the world of work, legal protection with the rule of law can avoid child labour from economic exploitation and become a legal umbrella in the process of proof in court for child labour cases using the principle of burden of proof and not with the burden of conventional proof as stipulated in the provisions of Article 184 of the Criminal Procedure Code.

REFERENCES

Atmasasmita, R. (2021). International Cooperation On Combating Human Trafficking Especially Women And Children: A View from Indonesia. *Indonesian Journal of International Law*, *1*(4), 673–692. doi:10.17304/ijil.vol1.4.562

Cooke, J. (1992). *Law of Tort*. London: Pitman Publishing.

Gaener, B. A. (2009). *Law Dictionary*. New York: West.

Hardjasoemantri, K. (1999). *Strict Liability (Tanggung Jawab Mutlak), Penyidik & Negarawan, Kumpulan Karya Tulis Menghormati 70 Tahun Mochtar Kusumaatmadja*. Bandung: Alumni.

Hardjasoemantri, K. (2002). *Hukum Tata Lingkungan* (Ketujuh). Yogyakarta: Gadjah Mada University Press.

Irawanto, Farid, M., & Anwar, J. (1999). *Anak Yang Butuh Perlindungan Khusus di Indonesia, Kerja sama PKPM Unika Atma Jaya Jakarta*. Jakarta: Departemen Sosial dan UNICEF.

Kantaatmadja, K. (1981). *Ganti Rugi Internasional Pencemaran Minyak di Laut*. Bandung: Alumni.

Khairatunnisa, & Kadir, M. Y. A. (2019). The Protection of Educational Rights for Child Labour (A Case Study of Child Labour at Horse Stable in Central Aceh, Indonesia). *Jurnal Ilmiah Mahasiswa Bidang Hukum Kenegaraan*, *3*(2), 272–278. Retrieved from https://jim.usk.ac.id/kenegaraan/article/view/16132

Murray, A. J. (1961). *Pedagang dan Pelacur Di Jakarta Sebagai Kajian Antropologis*. Jakarta: Pustaka LP3ES.

Projodikoro, W. (1992). *Hukum Acara Perdata Indonesia*. Bandung: Sumur.

Samsul, I. (2004). *Perlindungan Konsumen: Kemungkinan Penerapan Tanggung Jawab Mutlak*. Jakarta: UI Press.

Subono, N. I. (2002). *Laki-laki: Pelaku atau Korban Kekersan, Dalam* (Edisi 26). Jakarta: Jurnal Perempuan Indonesia.

Suryandono, W. (2005). *Jaminan Sosial*. Jakarta: Fakultas Hukum Universitas Indonesia.

Tahamata, L. C. O. (2018). Perlindungan Hukum Terhadap Pekerja Anak, Kajian Ketentuan United Nations Convention On The Right Of The Child. *SASI*, *24*(1), 40. doi:10.47268/sasi.v24i1.117

UNICEF. (2002). *Laporan Situasi Anak di Dunia Tahun 1997*. Jakarta: Swadaya.

Article 31:8: United Nations Convention Against Corruption.

Article 9:2 Konvensi ILO 158, tentang Pemutusan Hubungan Kerja.

Employment Act (Chapter 31), Revised Edition Singapore, 2009

International Labor of Office Geneva, Freedom of Association and Collective Bargaining, Report of the Comittee of Expert Under application of Convention and Recommendation (Article 19, 22, and 35 of the Constitution)

Bahan ajar dari ILO pada pelatihan hakim hubungan indutrial di Megamendung Bogor 24-25 November 2010. Penelitian ILO ini kemudian dimuat dalam Paragrap 230, 231, dan 232 yang pada pokoknya menegaskan bahwa beban pembuktian atas alasan diskriminasi ada pada pengusaha.

Kementerian Pemberdayaan Perempuan, Dalam Kata Pengantar Rencana Aksi Nasional Penghapusan Eksploitasi Seksual Anak (RAN PESKA).

Putusan Mahkamah Agung Amerika Serikat No. 411 US 792 Tahun 1973, Mc Donnel Douglas Vs

Green (diskriminasi warna Kulit), Putusan Pengadilan Banding, Kamar Kelima, Argentina No. 144/05 s.d 68536 tanggal 14 Juni 2006, dalam Parra Verra Maxim Vs san Timoteo SA Conc (PHK berkaitan diskriminasi anti serikat), putusan pengadilan tinggi perburuhan, Sub Bag 1 Spesialis Perselisihan Individual dalam Sao Transporte S.A Vs Gilman Ramos Da Silva, 5 Maret 2003 (PHK berkaitan diskriminasi HIV/AIDS). Dan Putusan Mahkamah Konstitusi Spanyol, Kamar Kedua, 23 November 1981, kasus 38/1981 9PHK Berkaitan dengan diskriminasi anti serikat kerja).

Putusan MA-RI No. 423k/Pdt.Sus/2012 tanggal 18 Juli 2011 dalam Yarlim Gulo Cs. Vs CV. Sinar Mulia (bukti kepersonaliaan), Putusan MA-RI No. 211 K/Pdt.Sus/2012 tanggal 19 April 2012 dalam PT. Supra Boga Lestari Vs. Ade Siswanto (PHK), Putusan MA-RI No. 408 K/ Pdt.Sus/2011 tanggal 13 Juli 2011 dalam Perkara Tomy Tempati Vs. PT. Garuda Indonesia (Kebebasan Berserikat)

Principles of European Tort Law, European Group on Tort Law, (penyunting), 2005, di www.egtl.org/ principles/pdf/PETL.pdf

Ringkasan Eksekutif Dari UNICEF, Penelitian Partisipatori Terhadap Anak Yang Dilacurkan Di Surakarta Dan Indramayu, Coperazione Italiana, Tanpa Tahun

Rumusan Beban pembuktian terbalik dalam perkara PHK dimuat dalam Konvensi ILO No. 158 tentang PHK dan Survei Umum Komite Ahli, Paragraf 203, diskriminasi: Konvensi ILO 183 Tahun 2003 tentang Persalinan Pasal 8 dan Survei Umum Komite Ahli Paragraf 203. Kebebasan Berserikat: Rekomendasi No. 143 Tahun 1971 Pasal 6 Ayat (2) huruf e, Survei Umum Komite Ahli Paragraf 217, 218 dan 219 dan Survei Umum Komite Kebebasan Berserikat Paragraf 817

Survei Umum Komite Ahli ILO Penerapan Konvensi 158 dan Rekomendasi 166 Laporan III bagian 4B Sesi Konfensi: 82 Butir 40, 45 dan 47