

JUSTICE, EQUALITY AND INDONESIAN LABOR LAW: NAVIGATING HUMANITARIAN CHALLENGES IN THE WORKPLACE

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Abstract: *This article aims to explore the challenges increasing number of workers leads to a decrease in workers' bargaining power, which in turn raises the potential for abuse by employers. The government, as the policymaker, is expected to protect workers and guarantee Human Rights as stipulated in the 1945 Constitution. This research adopts a non-doctrinal approach with a normative perspective, utilizing documentation and literature studies as data sources. The research findings indicate that the issues of equality and justice in Indonesian labor law have not yet been fully realized. Changes in norms in various aspects of labor law, from Law Number 13 of 2013 concerning Manpower to Law Number 6 of 2023 concerning the Determination of Government Regulations replacing Law Number 2 of 2022 concerning Copyright, further highlight the disparities faced by workers, who are often subject to oppression in their relationships with employers. Several forms of injustice that still frequently occur include discrimination in recruitment processes and treatment in the workplace, harassment, intimidation, labor exploitation, violations of Health and Safety (K3) norms, injustice in the wage system, and the fulfillment of workers' rights in termination of employment.*

Artikel ini bertujuan mengkaji tantangan peningkatan jumlah tenaga kerja menyebabkan posisi tawar pekerja menjadi lebih lemah, yang pada akhirnya meningkatkan kemungkinan terjadinya penyalahgunaan oleh pengusaha. Pemerintah diharapkan dapat melindungi hak pekerja dan memastikan pemenuhan Hak Asasi Manusia sesuai dengan UUD 1945. Penelitian ini memakai pendekatan normatif non-doktrinal dengan memanfaatkan studi dokumentasi dan literatur sebagai sumber data. Hasil penelitian mengindikasikan bahwa prinsip kesetaraan dan keadilan dalam Hukum Ketenagakerjaan di Indonesia masih belum sepenuhnya terlaksana. Perubahan norma dalam aspek ketenagakerjaan dari Undang-Undang Nomor 13 Tahun 2013 ke Undang-Undang Nomor 6 Tahun 2023 menunjukkan adanya ketimpangan yang menyebabkan pekerja sering menjadi korban penindasan dalam hubungan kerja dengan pengusaha. Beberapa bentuk ketidakadilan yang masih sering

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terjadi meliputi diskriminasi dalam proses rekrutmen dan perlakuan di tempat kerja, pelecehan, intimidasi, eksploitasi tenaga kerja, pelanggaran norma Kesehatan dan Keselamatan Kerja (K3), ketidakadilan dalam sistem pengupahan, serta pelanggaran hak pekerja yang mengalami PHK.

Keywords: Human Right; Labor Law; justice.

INTRODUCTION

In its function as the workforce, humans possess the potential of human resources, playing a crucial role in the economic development of the country. This is because the workforce serves as the subject of development, aiming to be the object of national development that determines the survival of the Indonesian nation (Cholilalah, Rois Arifin 2021). In accordance with Law Number 13 of 2003 concerning Manpower (hereinafter referred to as the Labor Law), the term "workforce" denotes every individual capable of performing tasks to produce goods and/or services, either to meet personal needs or those of the community.

The employment relationship is a formal connection established between at least two legal entities concerning a specific task (Wijayanti 2009). According to Article 1, clause 14 of the Labor Law, this relationship between employers and employees is grounded in a work contract that encompasses aspects such as tasks, remuneration, and directives. In this context, various issues may arise as a result of this relationship not aligning with applicable regulations or the work agreement. These issues often emerge due to an imbalanced subordination relationship between employers and workers. Labor issues can vary from low wages, long working hours, job instability, to safety and health concerns. These issues are often related to the protection of workers' rights, their welfare, and fairness in the workplace.

Given the role and status of the workforce, it is essential to create employment opportunities to elevate the quality of workers and their involvement in development. Additionally, it is important to strengthen job protection in a manner that respects human dignity and value (Kuahaty 2021). Thus, labor development is not only about creating jobs or increasing economic productivity but also about ensuring that the workforce is empowered, protected, and valued as an asset for national development. Therefore, the participation and contribution of the workforce in development must be recognized and strengthened through supportive policies and the implementation of sustainable and inclusive programs.

A primary goal of labor protection is to secure the fundamental rights of workers and to ensure equal opportunities and treatment, free from subordination or discrimination of any kind. As stated in Pancasila and the 1945 Constitution of the Republic of Indonesia every citizen is equal before the law and the government, and must adhere to them without exception, as outlined in Article 27, paragraph (1). This underscores the equal legal status of all citizens, regardless of age or gender. Consequently, from a legal standpoint, Indonesia does not tolerate any form of discrimination (Djakaria 2018).

Article 27, paragraph (2) of the 1945 Constitution of the Republic of Indonesia also states that the purpose of labor development is to create job opportunities for all workers, enabling them to secure employment and achieve a decent standard of living. Based on the Government's policy in designing regulations regarding labor protection and development programs, it is natural for individuals to desire to meet their family's needs, advance in social life, and improve their standard of living (Nurhayati 2021). This corresponds with Article 23, paragraph 1 of the Universal Declaration of Human Rights, which underscores the right of every individual to work, to freely choose their employment, to fair and favorable working conditions, and to protection against unemployment (Steele 2023): "Everyone is entitled to the opportunity to work, to choose their employment freely, to have fair and favorable working conditions, and to receive protection from unemployment."

The principle of justice is connected to the universal morality of humanity, positioning social justice as one of the paramount ideals of human civilization. Justice in the workplace involves fair and equal treatment of workers, regardless of their background, identity, or status. This includes the distribution of resources, career opportunities, compensation, as well as handling conflicts or violations that may occur (Mustari and Bakhtiar 2020).

The matter of justice in labor law has become increasingly intricate due to fundamental changes in the framework of labor and employment relationships. Between 2020 and 2023, the dynamics of Indonesian labor law have highlighted conflicts of interest between the state, employers, and workers. The introduction of the Omnibus Law, or Law Number 11 of 2020 concerning Job Creation, provoked significant opposition from workers and other stakeholders, including academics. Nevertheless, this opposition did not result in the repeal of the Omnibus Law. The enactment of Law Number 6 of 2023, which endorses the Government Regulation replacing Law Number 2 of 2022 concerning Copyright, further demonstrates the reduced bargaining power of workers (Mukhtie and Sugiarto 2024).

Economic development propelled by technology and digitalization has transformed traditional job structures and significantly impacted workers' rights (Graham 2023). Additionally, increasing unemployment, poverty, and economic instability present challenges to the labor law system's capacity to provide equitable protection for all members of society. Tackling labor issues necessitates an understanding of the dynamics of hierarchical relationships and ensuring that employer-employee interactions are based on principles of justice, equality, and respect for human rights.

The Indonesian labor law landscape has undergone significant changes since the Reformasi of 1998, with a focus on promoting equity and social justice. While trade unions play a crucial role in advocating for workers' rights and fair redistribution of development benefits, challenges persist in implementing labor laws that balance certainty, usefulness, and justice. The pursuit of fairness and human rights protection within Indonesia's legal framework faces complex obstacles, necessitating a nuanced understanding of both advancements and hindrances. Recent legislation, such as the Job Creation Law, has sparked

debates regarding its alignment with the principle of social justice for all Indonesian workers. Critics argue that a comprehensive approach considering spiritual, material, and social dimensions of work is essential for truly just labor laws (Iristian 2023; Sarira 2021; Sunaryo 2023; Tjandra 2014). These studies collectively highlight the ongoing struggle to navigate humanitarian challenges in the workplace while striving for justice and equality in Indonesian labor law.

This article represents a form of non-doctrinal research employing a normative approach. Data collection is conducted through documentation and literature review, with analysis based on juridical and normative methods.

RESULT AND DISCUSSION

The development of labor law regulations, technology, and economic development is inevitable, in line with the development of human thought based on human needs, both partially and comprehensively. The high demand for jobs along with the increasing workforce adds to the potential weakness of workers' bargaining positions, thus becoming one of the triggers for injustice and arbitrariness by employers. One of the injustices workers often face is unilateral termination of employment or lay-offs. According to data from the Indonesian Ministry of Manpower, during 2023—a year in which economic stability began to recover from the COVID-19 pandemic—a total of 64,855 workers in Indonesia experienced layoffs. The highest numbers of layoffs were reported in West Java, with 19,217 cases, and in Central Java, with 11,140 cases. These statistics are based exclusively on data reported by companies through the Labor Service Information and Application System or the Industrial Relations Court.

Issues in the workplace that violate the principles of justice, equality, and Human Rights

Subordinate relationships between employers and workers can lead to several issues in the workplace that may violate the principles of justice, equality, and human rights. Some of these include discrimination, harassment and intimidation, labor exploitation, violations of occupational health and safety, and unfairness of the salary system.

In the topic of discrimination, the perspective of human rights, which hold universal value and apply to the belief that humans are born equal and with the same dignity, they also possess freedom (free and equal), thus discrimination based on gender, race, ethnicity, skin color, religion, and other factors is not permitted (Ananta et al. 2024). The 1945 Constitution of the Republic of Indonesia enshrines equality for all citizens, irrespective of gender, under the law and in government affairs. Specifically, Article 27, paragraph (2) affirms that every citizen is entitled to employment and a decent standard of living for the sake of human dignity.

The forms of discrimination in the workplace include wage disparities for similar jobs, differences in opportunities for employment, skills training, and certain positions, as well as

disparities in terms and conditions of employment and union-busting practices (Adawiyah, Multazam, and Phahlevi 2017). Discrimination in the workplace occurs not only during the job application or recruitment process but also after obtaining a job. These discriminatory practices clearly violate applicable laws and regulations, as explained in Article 5 of the Labor Law which states that "Every worker has an equal opportunity without discrimination to obtain employment." Furthermore, it is also contrary to Article 6 of the Labor Law which states that "Every worker is entitled to equal treatment without discrimination by the employer."

The Discrimination impeded equality and the treatment that should be fought for in the workplace. Discrimination in the workplace violates dignity and productivity, obstructs efforts to meet material, social, and spiritual needs. Discrimination also hinders social and economic development. Discriminatory practices in human resources will make low-income individuals more difficult to move out of poverty, and an increase in poverty in the future will hinder economic progress, and most importantly, discrimination obstructs justice.

In the topic of harassment and intimidation, violence, intimidation, and sexual harassment can be interpreted in various ways. Additionally, sexual harassment is frequently categorized as a type of gender-based violence. In response, ILO Convention No. 190 adopts a practical approach by defining violence and harassment as "a series of behaviors and practices that are unacceptable," which "aim to, result in, or may result in physical, psychological, sexual, and economic harm." This definition can include physical assault, verbal abuse, threats, stalking, bullying, and sexual harassment. The main characteristics of sexual harassment in the workplace according to Papu (2002) are Not desired by the individual who is the target (1), promise or threat (2), responses to such unilateral actions, whether rejection or acceptance, are taken into account in determining one's career or employment (3), the impact of such unilateral actions causes various psychological symptoms in the targeted individual, such as shame, anger, resentment, hatred, loss of security and comfort in the workplace, and so on (4).

Based on the characteristics above, sexual harassment is a sexually oriented behavior that is unacceptable and makes someone feel humiliated, embarrassed, and/or intimidated. In the context of sexual harassment in the workplace, it can be categorized into five forms, those are physical harassment, which includes unwelcome touching that may lead to sexual acts such as kissing, patting, pinching, or lewd staring and gazing (1), verbal harassment, which includes unwanted remarks or comments about an individual's personal life, body parts, or appearance, as well as jokes and sexually suggestive comments (2), gesture harassment, which encompasses body language or movements with sexual implications, such as repeated glances, suggestive finger gestures, and lip-licking (3), written or graphic harassment, which involves displaying pornography, sexual images, screensavers, posters, or engaging in harassment through email and other electronic communication methods (4), and psychological or emotional harassment, which includes persistent and unwelcome requests or invitations, unsolicited date proposals, or sexual insults and ridicule (5).

Whatever form it takes, normalized violence and sexual harassment can create an unsafe and threatening work environment for the victims. This behavior can threaten anyone in the workplace. However, it is often based on abuse of power and gender discrimination. Gender stereotypes about how women and men should behave, or act also influence this.

In the topic labor exploitation, is a practice that involves using labor in conditions that are unfair or detrimental to the workers. This issue can manifest in several ways, including unfair wages, excessive working hours, unsafe or unhealthy working conditions, harassment or Discrimination, and forced labor or child labor. Labor exploitation often occurs when workers receive compensation that does not reflect the value of their work or meet the minimum wage standards established by law. The minimum wage calculation no longer incorporates the Decent Living Needs variable. According to Government Regulation Number 36 of 2021, as amended by Government Regulation Number 51 of 2023 concerning Wages, which implements Law Number 6 of 2023 on the Stipulation of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation, the variables used for calculating the minimum wage now include Inflation, Economic Growth, and specific indices that are ambiguous and open to various interpretations.

Employers sometimes force workers to work excessive hours without providing adequate compensation, such as overtime pay or sufficient break time. Provisions in the Job Creation Law increase the tolerance for contract workers from 3 years to 5 years. Additionally, the practice of outsourcing is expanded. This has the potential to lead to labor exploitation. Workers are often exploited when they are forced to work in unsafe or unhealthy conditions, such as without protection from physical, chemical, or hazardous workplace environments. The implementation, supervision, and enforcement of violations of occupational health and safety protection are not sufficient to accommodate the many cases that occur. Harassment or discrimination in the workplace is also a form of labor exploitation, where workers may be forced to accept inappropriate or unequal treatment based on gender, race, religion, or other personal characteristics. In extreme situations, labor exploitation can involve the use of forced labor or child labor, where workers are compelled to work without freedom or proper choice.

The protection of workers against exploitation is explained in Article 89 of the Labor Law. This article prohibits employers from assigning work to employees/workers outside of normal working hours, except based on a written agreement between the employer and the employee/worker. This is aimed at preventing labor exploitation in terms of excessive working hours or beyond reasonable limits. In addition to Article 89, there are several other articles in the Labor Law that directly or indirectly relate to the prevention of labor exploitation, such as Article 14 on the principle of labor protection, Article 89 A on limiting working hours, and Article 93 on overtime, which aim to protect the welfare and rights of workers from all forms of exploitation.

In the topic violations of occupational health and safety, in labor law, there is certainly protection for workers for safety, health, and occupational safety (K-3). These efforts are made to ensure that workers are protected to minimize the risk of work accidents. In Indonesia,

employers are required to provide protection for workers according to Article 86 paragraph (1) of the Labor Law, which that: "Every worker has the right to protection for: (a) safety and health at work (b) morality and ethics (c) treatment in accordance with human dignity and religious values."

Furthermore, Article 87 paragraph 1 of the Labor Law states that "Every company is obliged to implement an integrated occupational safety and health management system with the company's management system." This rule will be implemented if effective supervision systems are in place and there is awareness from the company in implementing it. Violations of health and safety in this case involve the failure to provide a safe and healthy working environment, which can endanger the physical and mental well-being of employees. This can include non-compliance with occupational health and safety regulations, as well as failure to provide adequate protection against risks such as exposure to hazardous substances or workplace accidents. High government oversight is needed to implement occupational safety and health programs, to ensure that supervision is carried out properly and there are no deviations. However, in its implementation in Indonesia, there are still legal loopholes that allow certain practices to continue, leading to many deviations in labor supervision. Especially from companies to workers, many labor rights to receive protection are still not fulfilled, thus endangering the safety and health of workers.

In the topic unfairness of the salary system, is also a problem in the world of work, especially for laborers experiencing this. They work very hard, but the wages they receive are minimal or below standard. According to Article 23, paragraph 3 of the Universal Declaration of Human Rights, every working individual is entitled to fair and favorable compensation that guarantees a dignified life for themselves and their family, and if needed, supported by additional social protection measures. Additionally, Article 89 of the Labor Law mandates that wages should be based on a decent standard of living. This principle is further detailed in the Minister of Manpower and Transmigration Regulation of the Republic of Indonesia Number: per-17/MEN/VIII/2005, which outlines the components and stages for achieving a decent living. Moreover, Government Regulation Number 8 of 1981, Article 3, concerning Wage Protection, stipulates that employers must not discriminate between male and female workers for work of equal value. This means that there should be no disparity in wages and other benefits, ensuring that male and female workers receive equal compensation and benefits for work of the same value (Explanation of Article 3 of Government Regulation 8/1981).

These issues violate the principles of justice, equality, and human rights, and often require serious action from management, government, or relevant institutions to address. It is important to promote an inclusive work culture, adopt fair policies, and provide training to workers and employers to address and prevent these issues in the workplace

The Navigation of Policy direction as a preventive step for human challenges

Labor law governs the employment relationship between workers and employers or companies, addressing both individual and collective interests. This relationship is founded on the rights and obligations of each party. Indonesian Employment Law regulates the employment relationship between workers and employers, which must be formalized through Employment Agreements or Non-Fixed Term Employment Agreements. Fixed-Term Employment Agreements, Company Regulations, Collective Labor Agreements, and Outsourcing Agreements. Article 5 of the Manpower Law stipulates that Indonesian law ensures protection for every worker, guaranteeing their right and equal opportunity to secure employment and a decent standard of living without discrimination based on gender, ethnicity, race, belief, or political affiliation, while also ensuring equal treatment for persons with disabilities. Meanwhile, Article 6 of the Manpower Law mandates that employers must uphold workers' rights and obligations without discrimination based on gender, ethnicity, race, religion, or political affiliation.

The preventive legal protection for workers is aimed at preventing violations of workers' rights and ensuring that their work environment is safe, fair, respects their rights, and complies with applicable regulations. Although there is no single article specifically regulating preventive legal protection for workers, these principles are reflected in various aspects of labor regulations, especially those related to safety, health, and welfare of workers. Several articles in the Manpower Law that are relevant to aspects of preventive legal protection for workers include:

- Article 90: States that employers must provide protection, safety, and health at work for every worker.
- Article 91: Regulates the obligation of employers to provide facilities and a work environment that are safe and healthy for workers.
- Article 92: States that employers must provide information and education to workers about occupational safety and health.
- Article 93: States that employers must provide regular health checks for workers whose work requires it.
- Article 94: Regulates working hours, rest periods, and overtime, which are part of efforts to prevent fatigue and work accidents.
- Article 95: States that employers are prohibited from employing workers on national religious holidays, which is also a preventive measure to ensure workers have sufficient rest time.

To prevent and address humanitarian challenges in the workplace in the future, policy directions can be aimed at several preventive measures that should reflect norms of justice, equality, and respect for workers' rights, include norms of safety and health for workers, social security norms for workers, and wage protection norms for workers.

The norms for worker safety and health are designed to safeguard their well-being and enhance work productivity. This protection is achieved by aligning the provisions of existing laws and regulations with the goals of occupational safety. The government has taken steps to

establish safety and health norms for workers, leading to the enactment of the Occupational Safety and Health Act No. 1 of 1970 (Soekanto & Mamudji, 2004). According to Article 86, paragraph 1 of the Manpower Law, every worker is entitled to protection in various aspects, including occupational safety and health, moral and ethical considerations, and treatment that respects human dignity and adheres to religious values

A specific social security program for workers, known as the Workers Social Security Program or commonly referred to as Social Security and Healthcare Security (Jamsostek), is established by legislation. According to Article 1, paragraph 1 of Law Number 3 of 1992, Workers Social Security is defined as a form of protection for workers, providing compensation or financial contributions to replace part of the lost or diminished income and services due to events or conditions such as work accidents, illness, childbirth, old age, and death. The Workers Social Security program is created and implemented as an effort to protect workers in a company, with significant impact and benefits not only for workers but also for the company. Therefore, to ensure the welfare of workers, it is expected that all companies enroll their employees in the Workers Social Security program managed by the Workers Social Security Agency. The Workers Social Security program is now integrated into Workers Social Security Agency and Social Security Agency on health, which encompass the following aspects providing basic protection to meet the essential living needs of workers and their families, acknowledging the contributions of workers who have devoted their energy and efforts to the company where they are employed, ensuring the continuity of family income by providing basic protection to replace some or all of the lost income, creating a comfortable working environment by protecting against work-related risks and preserving workforce energy, social security for workers will create a sense of peace in work, ultimately supporting independence and self-esteem in facing socio-economic risks.

According to Article 1, Number 30 of the Manpower Law, wages are defined as follows: "Wage is the right of workers received and expressed in the form of money as a reward from the employer to the workers, determined and paid according to an employment agreement, agreement, or legislation, including allowances for workers and their families for work and/or services that have been or will be performed." Protection regarding wages for workers is regulated in Article 88 of the Manpower Law, which includes the following provisions: every worker has the right to earn an income that ensures a decent living standard for humanity, to achieve an income that meets a decent living standard for humanity as referred to in paragraph (1), the government establishes wage policies that protect workers, the wage policies that protect workers/laborers as referred to in paragraph (2) include: minimum wage; overtime pay; pay for not working due to valid reasons; pay for not working due to performing other activities outside of their job; pay for exercising their right to rest periods; forms and methods of wage payment; fines and wage deductions; items that can be accounted for with wages; proportional wage structure and scale; wages for severance tax calculations. The government sets the minimum wage as referred to in paragraph (3) letter a based on the standard of a decent living and considering productivity and economic growth.

We are witnessing a growing awareness of social injustices and disparities faced by various societal groups, including workers. The concept of justice is no longer limited to a singular, objective viewpoint but now acknowledges the complexity and diversity of perspectives on fairness. This shift influences the design and implementation of labor laws, which now consider social, economic, and cultural contexts in establishing standards of justice for workers. The rapid impact of technology also demands attention. Technological advancements have altered employment patterns and the distribution of labor, necessitating critical thinking about protecting workers' rights in an increasingly flexible and interconnected era. Moreover, contemporary jurisprudence is increasingly recognizing non-traditional rights, such as those of female workers, minority groups, and migrant workers. To create a fair and inclusive labor system, it is essential to acknowledge and respect the diversity of worker identities and backgrounds (Kurniawan & Aruan, 2021).

The philosophy of justice in labor law is a field of study that examines how labor regulations should be crafted and enforced to achieve equality, fairness, and balance between the rights of workers and employers. The role of the state is essential not only for overseeing economic activities but also as a planner of economic development. In this context, the state's role becomes crucial as it aims to protect the interests of those in weaker or less powerful positions who are considered to lack equal bargaining power compared to stronger parties. The state's role as a regulator in labor matters provides a framework for thinking, acting, and establishing legal foundations based on the fundamental values of Pancasila, which are integral to the life of the Indonesian nation (Solapari, Amin, and Alamsyah 2023).

In understanding and addressing labor issues, it is important to consider the dynamics of subordinate relationships and ensure that the relationship between employers and workers is based on principles of justice, equality, and respect for human rights. This can be achieved through the implementation of fair policies, fostering collaborative working relationships, and providing adequate legal protection for workers.

CONCLUSION

The principle of social justice for all Indonesians is fundamental to achieving justice, equality, and human rights in the workplace. Ideally, the legal relationship between workers and employers should be based on equality, but this is not always the case. Discrimination, harassment, intimidation, labor exploitation, violations of health and safety regulations, wage injustice, and union busting are prevalent labor issues across many regions in Indonesia. The government, as the entity responsible for protecting workers from potential abuses that violate principles of equitable and fair relations, is required to establish balanced regulations. This can be done through both preventive and repressive protective measures [W]

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