

Theoretical Study of Employment Issues

Ardiansyah Hamid¹, Kadek Wiwik Indrayanti², and Diah Aju Wisnuwardhani³.

¹ Master of Law, Postgraduate Program, University of Merdeka Malang, Indonesia.

^{2,3} Faculty of Law, University of Merdeka Malang, Indonesia.

Article history:

Received 2023-01-21

Revised form 2023-02-14

Accepted 2023-04-01

Keywords:

Employment; Protection;
Comparison.

DOI:

doi.org/10.26905/idjch.v14i1.9873

Corresponding Author:

Ardiansyah Hamid
ahamid@gmail.com

Abstract: The problem raised in this research is regulating workers' rights and their protection in the Law. This study uses normative legal research methods with several approaches, namely the statutory and conceptual approaches. The results of this study state that the rights of workers/laborers are essential to implement because if workers and laborers are not given rights that are by human rights, then the work carried out by workers will not be able to run correctly. Whereas the contents of the manpower articles in the Law still have several normative problems, namely not yet providing guarantees of legal certainty for guarantees for the protection of workers' rights, such as determining proper wages and eligibility for severance pay. Likewise, with the provisions regarding layoffs, the Law only accommodates the interests of employers so that it can have implications for unilateral termination of employment relations with workers. The philosophical concept of Law is still co-opted with the liberal economic spirit, which is the fundamental basis for the birth of the Law, resulting in most people's rejection of the Law.

1. Introduction

A country that adheres to a democratic system inevitably has to pay attention to the people's voice, which means that the country's administration must be based on the people's will. There is an expression, namely *Vox Populi Vox Dei*, which implies that the voice of the people is the voice of God; this context is by the principle of *Salus Populi Suprema Lex*, namely the voice of the people is the highest law, this philosophy shows how high the people are in the context of a country, especially countries that adhere to a democratic system. Even though this expression is intended to compare God's sacred power with secular political power, it still means that without the presence of the people without their involvement, a democratic state will never exist.¹

Law is a form of regulation; it is made and used for the benefit of the people and guarantees their welfare. As legislators the DPR and the President do not think about the life goals of the political elite or specific groups of people, but the goals of the nation's life, namely the interests of the people. In this case, the legislature and the executive must have integrity in carrying out the mandate the people give because the mandate is given to selected humans, who are entitled

¹ Mirza Satria Buana, "HUBUNGAN TARIK-MENARIK ANTARA ASAS KEPASTIAN HUKUM (LEGAL CERTAINTY) DENGAN ASAS KEADILAN (SUBSTANTIAL JUSTICE) DALAM PUTUSAN-PUTUSAN MAHKAMAH KONSTITUSI," (April 16, 2010), <https://dspace.uui.ac.id/handle/123456789/8648>.

to receive to maintain and fulfill the nation's life. Integrity in maintaining the people's trust is manifested in one way or another in the drafting of laws and regulations (*retelling*). Based on Law Number 15 of 2019 concerning the Formation of Legislation, laws are formed through several strategic stages. This is because the Law is considered a legal product that regulates the state's life and guarantees society's welfare. Therefore, laws made hurriedly will only cause polemic, even though some parties benefit. Jimly Asshidiqie stated that the Law that had been stipulated and promulgated had undoubtedly gone through a very long process until it was finally ratified as open public property, binding on the public.²

The Job Creation Law exists to raise a significant issue in the Indonesian economy, which is getting worse and economic growth is currently experiencing a slowdown. One of the essential policies carried out by the Government is to create new policies that encourage investment. In this context, economic growth is considered the basis for increasing employment status and can increase income. One of the Government's strategies to encourage economic growth through increased investment is to reform regulations in the field of business licensing. Reform must be carried out to resolve investment barriers, namely the long bureaucratic chain, as well as the many regulations that could be more harmonious, especially in central and regional regulations and overlapping regulations. This is because there is a tendency between state institutions to make regulations, both central and regional (hyper legislation).

For this purpose, the Government finally decided to discuss and ratify Law No. 11 of 2020 concerning Job Creation. From the description above, this is a legal product made to strengthen the nation's economy, which is later considered to be able to help open up new and sufficient job opportunities for the Indonesian people. This should be the mainstream in academic texts on Job Creation Law. This is as stated by Adrian Sutedi: "Since this country was founded, the Indonesian people have realized that work is a human right of citizens as contained in Article 27 paragraph (2) of the 1945 Constitution of the Republic of Indonesia (which will from now on be referred to as the 1945 Constitution), which states that every citizen has the right to work and a decent living for humanity."³

Indonesia should also be very concerned about the fate of the workers. The second precept is just and civilized humanity. Therefore, exploiting humans over other humans is strictly prohibited because it is inappropriate. On the other hand, Indonesia also cooperates with many countries and international organizations to uphold universal rights and obligations. As a comparison against the background of the paper, one of the things regulated in the Job Creation Law is employment issues. In the past, when Law Number 13 of 2003 concerning Manpower was issued, it was an answer to the Government's political will in the field of labor law, which had the lofty goal of legal protection for workers.⁴ In this case, first, empowering and utilizing the workforce optimally and humanely and second, realizing equal distribution of employment opportunities and provision of

² Cholidin Nasir, "JUDICIAL REVIEW DI AMERIKA SERIKAT, JERMAN, DAN INDONESIA," *Jurnal Hukum Progresif* 8, no. 1 (April 30, 2020): 67-80, <https://doi.org/10.14710/hp.8.1.67-80>.

³ Dede Agus, "Ruang Lingkup Pengaturan Perlindungan Buruh/Pekerja Pasca Berlakunya Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja," *Ius Civile: Re leksi Penegakan Hukum Dan Keadilan* 6, no. 1 (April 30, 2022): 182, <https://doi.org/10.35308/jic.v6i1.5146>.

⁴ Nur Alfiyani, "Perbandingan Regulasi Ketenagakerjaan Dalam Undang-Undang Ketengakerjaan Dan Undang-Undang Cipta Kerja," *AN-NIZAM Jurnal Hukum Dan Kemasyarakatan*, (December 28, 2020), <https://doi.org/10.44633/an-nizam.v14i2.318>.

manpower by the needs of national and regional development. Third, protect workers in realizing prosperity. Fourth, improve the welfare of workers and their families.

When viewed from its function, the law that is formed must be inspirational, meaning that it contains materials generally by the aspirations and wishes of the people served. So that the implementation can run smoothly even though there is opposition among workers because they are considered not to meet the needs of workers' rights. In this case, the State must create a mechanism whereby the rule of law can realize the principle of equal rights between workers and employers.⁵ Various laws and regulations in the field of manpower that have been in effect so far place workers in a disadvantageous position in the service of manpower placement and industrial relations systems that highlight position and interests so that they are seen not as objects or as factors of production, but as subjects, as actors in the production process as well as individual human beings with all their dignity.

So far, labor issues have been primarily determined by the world economic system, thus influencing the direction of labor law policies which gave birth to types of labor law as stated by Tamara Lothion, who stated one type of labor law, namely; the corporatist type, in which the field of labor law is carried out through the practice of legislative policy in the form of the formation of statutory regulations as a government effort to foster national law.⁶ In Law Number 11 of 2020 concerning Job Creation, are 11 clusters contained or regulated in the Law. The 11 clusters that are contained and regulated are a simplification of land permits, investment requirements, employment, convenience and protection of Micro, Small, and Medium Enterprises (MSMEs), ease of doing business, research and innovation support, government administration, imposition of sanctions, land control, ease of government projects and special economic zones.

One of them regulates the employment cluster. This cluster covers three laws merged into one, namely Law Number 13 of 2003 concerning Manpower, Law No. 40 of 2004 concerning the Social Security System, and Law No. 24 of 2011 concerning Social Security Administering Bodies. In the employment cluster, the Government seeks to harmonize the 3 (three) laws so that they are in line. They can provide a space for investors to see regulations that have been refined without worrying about overlapping regulations and causing losses to the investors themselves. Article 80 of the Job Creation Law states that to strengthen worker protection and increase labor in supporting the investment ecosystem, this Law changes, deletes, or establishes new arrangements. Several provisions are regulated in four laws, namely Law No. 13 of 2003 concerning Manpower, Law No. 40 of 2004 concerning the National Social Security System (SJSN), the BPJS Law, and Law No. 18 of 2017 concerning the Protection of Indonesian Migrant Workers (PPMI).

The Job Creation Law changed 31 (thirty-one) Articles, deleted 29 (twenty-nine) Articles, and inserted 13 (thirteen) new Articles in the Manpower Law. In the process of drafting this Law, there were lots of public opinions that disagreed. This public opinion was because the work was only 100 days deadline by President Jokowi and did not involve many parties in its making. However, there is one thing that is very important and becomes the main problem in the preparation of this Law.

⁵ Muhammad Amin Effendy et al., "IMPLEMENTASI DAN PERMASALAHAN MENGENAI PERJANJIAN KERJA WAKTU TERTENTU (PKWT) PASCA BERLAKUNYA UNDANG-UNDANG CIPTAKERJA," *Jurnal Ilmiah Galuh Justisi* 11, no. 1 (March 10, 2023): 135, <https://doi.org/10.25157/justisi.v11i1.10038>.

⁶ S Ujang Charda, "KARAKTERISTIK UNDANG-UNDANG KETENAGAKERJAAN DALAM PERLINDUNGAN HUKUM TERHADAP TENAGA KERJA," *Jurnal Wawasan Yuridika* 32, no. 1 (May 26, 2016): 1, <https://doi.org/10.25072/jwy.v32i1.86>.

One of these problems is the deduction of severance pay for workers terminated by the company, loss of maternity leave, and so on. That many workers and the public reject this Job Creation Bill. This shows that there are dynamics in the formation of the Job Creation Law, both formally and materially.⁷

Based on the description above, it is urgent and exciting to conduct a study entitled a theoretical study of employment issues, considering that the study is similar to the study entitled "employment in law number 11 of 2020 concerning work copyright from a human rights perspective and siyasah syar 'iyyah".⁸ Employment in Law Number 11 of 2020 Concerning Job Creation from a Human Rights Perspective and Siyasah Syar'iyyah (Doctoral Dissertation, Uin Sunan Kalijaga Yogyakarta), is related research that has not explicitly examined and analyzed workers' rights in law number 13 of 2003 concerning employment and law number 11 of 2020 concerning work copyright. as well as the protection of workers' rights in law number 11 of 2020 concerning work copyright so that understanding and input are obtained to provide guarantees of legal certainty for the protection of workers' rights guarantees.

2. Method

The method is optional for original research articles. This method is descriptive and should provide a statement regarding the research methodology. This method as much as possible to give an idea to the reader through the methods used. This method is optional, only for original research articles.

3. Comparison of Workers' Rights in Law

The Labor Law is known as an employment agreement made between workers/laborers and the employer or the employer which contains the terms of employment, namely the rights and obligations of the parties, both the workers/laborers and the employers, therefore it is essential for workers/laborers to be able to understand their rights and obligations as workers/laborers.⁹ The rights of workers/labor as workers in the Manpower Act are as follows; First, the right to equal opportunity and treatment. Article 5 of the Manpower Act stipulates that every worker/laborer has the same opportunity without discrimination in terms of obtaining a job, and Article 6 of the Manpower Law states that every worker/laborer has the right to be able to obtain equal treatment without discrimination from the businessman.

Second, the right to get job training. Article 11 of the Manpower Act stipulates that every worker/laborer has the right to obtain, improve, or develop work competencies according to their talents, interests, and abilities in job training. Third, the right to work placement. Article 31 of the Manpower Act states that every worker/laborer has the same rights and opportunities in choos-

⁷ Osgar Sahim Matompo, "KONSEP OMNIBUS LAW DAN PERMASALAHAN RUU CIPTA KERJA," Sahim Matompo RECHTSTAAT NIEUW, (October 20, 2020), <http://www.unsa.ac.id/ejournal/index.php/rechtstaat-nieuw/article/view/506>.

⁸ Wamyanii, "KETENAGAKERJAAN DALAM UNDANG-UNDANG NOMOR 11 TAHUN 2020 TENTANG CIPTA KERJA PERSPEKTIF HAK ASASI MANUSIA DAN SIYASAH SYAR'IYYAH - Institutional Repository UIN Sunan Kalijaga Yogyakarta," n.d. <https://digilib.uin-suka.ac.id/id/eprint/53888/>.

⁹ Abdul Azis, Aan Handriani, and Herlina Basri, "PERLINDUNGAN HUKUM HAK PEKERJA PADA PERJANJIAN KERJA WAKTU TERTENTU DALAM KETENAGAKERJAAN," Surya Kencana Satu 10, no. 1 (September 2, 2019): 59, <https://doi.org/10.32493/jdmhkdmmhk.v10i1.3175>.

ing, getting, or changing jobs and earning a decent income both within and outside the country.¹⁰ Fourth, the right to carry out work according to the specified time. Every employer or entrepreneur must implement working time provisions, while the working time arrangement is as follows: 7 (seven) hours 1 (one) day, and 40 (forty) hours 1 (one) week for 6 (six) working days within 1 (one) week; or 8 (eight) hours 1 (one) day and 40 (forty) hours 1 (one) week for 5 (five) working days in 1 (one) week.

The regulation regarding working time above does not apply to specific business sectors or jobs. The more detailed provisions regarding working time arrangement are regulated in Government Regulation Number 35 of 2021 concerning Work Agreements for Specific Time, Outsourcing, Working Time and Rest Time, and Termination of Employment. Some rights regulated include First, the right to rest and leave. The employer must be able to provide the worker/laborer with rest and leave with the following mechanism; rest during working hours, at least half an hour after working for 4 (four) hours continuously, and rest time is not included in working hours and weekly rest 1 (one) day for 6 (six) working days in 1 (one) Sunday.

Leave is regulated in several ways, including; annual leave, at least 12 (twelve) working days after the worker/ laborer concerned has worked continuously for 12 (twelve) months. Sick leave can be given if the worker/laborer is sick and cannot do work. Menstruation leave. Female workers/laborers who feel sick during their menstrual period and notify the employer are not obliged to work on the first and second day of menstruation. Maternity leave, female workers/laborers are entitled to rest for 1.5 (one and a half) months before giving birth to a child and 1.5 (one and a half) months after giving birth, according to the obstetrician or midwife's calculations.

Next is miscarriage leave. Female workers/laborers who experience a miscarriage are entitled to a 1.5 (one-and-a-half) month break or, according to a certificate from an obstetrician or midwife. Leave for essential reasons, workers/laborers who are absent from work for the following reasons: (a) workers/laborers are married; (b) Marrying their children; (c) Circumcising their children; (d) Baptize their children; (e) The wife gave birth or had a miscarriage; (f) Husband/wife, parent/in-law or child or in-law dies; and (g) Family members in one house die. Provisions regarding rest periods in specific business sectors or jobs are further regulated in Government Regulation Number 35 of 2021 concerning Work Agreements for Specific Time, Outsourcing, Working Time and Rest Time, and Termination of Employment.¹¹ The following arrangement of rights is the right to perform worship. The entrepreneur is obligated to give the worker/laborer enough time to be able to perform the worship required by their religion/belief. Health is one of the priorities at work and is regulated by the right to occupational health and safety. Each worker/laborer has the right to obtain protection for occupational safety and health, morals and decency, and treatment by human dignity and values and religious values.

Next is the right to a decent wage. Every worker/laborer has the right to a decent living for humanity and has the right to receive equal wages for work of equal value. Therefore, employers must pay wages to workers/laborers by an agreement based on Government Regulation 36 of 2021 concerning Wages. The right to welfare governs the promotion and protection of welfare. To Ar-

¹⁰ Alzikri Fakhurraji, "Implementasi Perundang-Undangan Ketenagakerjaan Terhadap Buruh Pasar Ditinjau Dari Perspektif Keadilan," *RESAM Jurnal Hukum* 4, no. 1 (May 1, 2018): 31–44, <https://doi.org/10.32661/resam.v4i1.7>.

¹¹ Sali Susiana, "Pelindungan Hak Pekerja Perempuan Dalam Perspektif Feminisme," *Aspirasi: Jurnal Masalah-masalah Sosial*, (April 10, 2019), <https://jurnal.dpr.go.id/index.php/aspirasi/article/view/1266>.

title 99, every worker/laborer and their family has the right to obtain social security for workers. Therefore, referring to Law Number 24 of 2011 concerning Social Security Administering Bodies in Article 15, it is written that Employers are required to gradually register themselves and their Workers as Participants with the BPJS in the Social Security program they participate in. Apart from that, to increase the welfare of workers/laborers and their families, employers must provide welfare facilities and form worker/labor cooperatives and productive businesses.

Next is the right to freedom of association. By Article 104, every worker/laborer has the right to form and become a trade/labor union member. The state also guarantees the strike with the following arrangements; the right to strike. The fundamental right of workers/laborers and trade unions/labor unions is to carry out a legal, orderly, and peaceful strike due to failed negotiations. At least within 7 (seven) working days before the strike is carried out, workers/laborers and trade unions/labor unions are required to notify in writing to the employer and the agency responsible for local manpower affairs.

The right to severance pay if terminated. In the event of termination of employment, the entrepreneur is obliged to pay severance or long service pay and compensation pay that should have been received. Apart from the rights owned by the workers/laborers described above, there are additional rights for women workers/laborers which are considered special rights for women workers, while rights are as follows: first, workers/laborers a woman who is menstruating feels sick and informs her employer, she is not obliged to work on the first and second day of her menstruation. (Article 81 of the Labor Law). Second, female workers/laborers are entitled to rest for 1.5 (one and a half) months before giving birth to a child and 1.5 (one and a half) months after giving birth, according to the calculation of the obstetrician or midwife. (Article 82 of the Labor Law).

Furthermore, female workers/laborers who experience a miscarriage have the right to get 1.5 (one and a half) months of rest or, according to a certificate from the obstetrician or midwife, and female workers/laborers whose children are still breastfeeding must be given proper opportunities to breastfeed their children if this must be done during working time (Article 83 of the Labor Law).

4. Protection of Workers' Rights According to Human Rights

The Job Creation Law is a legal product from the crystallization of various laws into one package. In this writing, the author only discusses the employment articles and whether they have legally protected workers' rights in Indonesia.¹² In the Job Creation Law, matters regarding changes or arrangements related to employment are regulated in Chapter IV concerning Manpower as regulated in Article 81, which states that several provisions in Law Number 13 of 2003 concerning Manpower are amended. This provision is a dogmatic argument that the existence of Law Number 13 of 2003 concerning Manpower, in substance, several articles will be changed, and several articles will be deleted by Law Number 11 of 2020 concerning Job Creation. The total number of Articles amended is 68 Articles and replaced by Law Number 11 of 2020 concerning Job Creation.¹³

¹² Adhi Setyo Prabowo, Andhika Nugraha Triputra, and Yoyok Junaidi, "Politik Hukum Omnibus Law Di Indonesia," *Jurnal Pamator* 13, no. 1 (April 4, 2020): 1-6, <https://doi.org/10.21107/pamator.v13i1.6923>.

¹³ Antoni Putra, "PENERAPAN OMNIBUS LAW DALAM UPAYA REFORMASI REGULASI," *Jurnal Legislasi Indonesia* 17, no. 1 (March 31, 2020): 1, <https://doi.org/10.54629/jli.v17i1.602>.

Suppose one examines the changes in several provisions in the Manpower Law, which are regulated in the Job Creation Law, according to the author. In that case, there are still several normative problems that, when analyzed more deeply, are insufficient to guarantee protection for the existing workers' rights. In Indonesia. Among them is the first, concerning Employee Guarantees for Wages and Severance Benefits. The determination of wages for workers or workers in Law Number 11 of 2020 concerning Job Creation is left to the agreement between the employer and the worker and the applicable law. This is stated in the Employment Chapter Article 81 Point 25 Addition to Article 88A, as follows: 4) The wage setting determined by agreement between the entrepreneur and the worker/laborer or trade union/labor union may not be lower than the wage provision stipulated in the laws and regulations invitation and 5) If the agreement referred to in paragraph (4) is lower or contrary to the laws and regulations, the agreement is null and void by law and the wage arrangement is carried out by the provisions of the laws and regulations.

The provisions of this article serve as a reference that the determination of labor wages is based on an agreement between the entrepreneur and the worker/laborer as well as statutory provisions. This regulation, normatively, opens opportunities for wage determination to be determined unilaterally by employers. The provisions of this article will open up space for a prolonged debate between workers and employers regarding the determination of wages, even though the law will become a corridor boundary that stops the debate between workers and employers regarding wage determination. The problem, according to the author, is the content of the article, which is very likely to cause a conflict of norms between what is determined by the law and what has become an agreement between workers and employers. Even though it should be, so as not to cause conflicts of norms, the law should, especially in Law Number 11 of 2020 concerning Job Creation, provide more affirmation of accountability regarding the standard of wages for workers/workers, which better guarantees the standard of living of workers/employers.

Furthermore, regarding the determination of the minimum wage, in Law Number 11 of 2020 concerning Job Creation, it is regulated in Article 81 for the addition of Article 88C concerning Manpower point 25, stating that: Governors are required to set provincial minimum wages, Governors can set district minimum wages/city with certain conditions, the minimum wage as referred to in paragraph (1) and paragraph (2) is determined based on economic and employment conditions and specific conditions as referred to in paragraph (2) include regional economic growth and inflation in the district/city concerned.

The provisions of this article are a change to the previous article of the previous Labor Law Number 23 of 2013 regarding the determination of the minimum wage. The most crucial thing is that the determination of the minimum wage is left to the Governor's authority concerning regional economic growth and inflation conditions in each region. Furthermore, according to the author's argument, the most crucial is the reason for determining the minimum wage based on regional economic growth and inflation. In the context of guaranteed wages for laborers or workers, setting these standards could be more apparent because the determination of minimum wages for workers should also be linked to the professionalism or workflow of the worker based on the benefits received from the employer or company. It should be based on something other than regional economic growth, which often fluctuates.

Determination of the minimum wage for workers is also submitted based on the authority of each Governor. This means that if arrangements regarding minimum wages are only regulated at the provincial level, the chance for a conspiracy between the Governor and employers who pro-

vide political fee services during the gubernatorial election campaign will widen, especially in determining the provincial minimum wage. The taste for determining the provincial minimum wage is likely to follow the tastes of the interests of businessmen who have a strong influence within the Governor's circle of powers.

Another problem regarding severance pay, as stipulated in Article 81 point 44 of amendments to Article 156 concerning Employment, stipulates that: in the event of termination of Employment, the entrepreneur is obliged to pay severance pay or gratuity pay and compensation pay that should have been received. Furthermore, as referred to in paragraph (1), severance pay is given at most according to the provisions. The provisions of the article contain the phrase "... given at most according to the provisions...". Meanwhile, the previous regulation, namely the Manpower Law Number 13 of 2003 Article 156, mentioned this with the phrase 'at least'. That is, if the phrase 'most' is used, then it is a form of alignment with entrepreneurs. Workers will be disadvantaged because employers are reluctant to pay severance pay. This has implications for reducing workers' rights to severance pay.

Regarding Unilateral Termination of Employment. In the previous labor law concerning termination of employment (PHK), the principle was that all efforts must be made to ensure no massive termination of employment. The provisions regarding layoffs in the new Job Creation Law emphasize that layoffs rely on the following provisions: Notifications, as referred to in Article 151 paragraph (2), do not need to be made by Employers if: the worker/laborer resigns of his own volition, the worker/ The worker and the entrepreneur end their employment relationship according to a work agreement for a specific time, the worker/laborer reaches retirement age according to the work agreement, company regulations or collective bargaining agreement or the worker/laborer dies.

Based on these provisions, the nomenclature of layoffs is returned to the realm of authority of the employer, as in the sentence which states that "...there is no need to be carried out by the employer in terms of..." According to the author, this sentence can shock workers who have been laid off suddenly without getting a written notification... has been laid off by the company. In the author's opinion, the riskiest, which has the potential to become a rubber article for laying off workers or unilateral workers, is the provision of Article 81 Point 42 concerning the Insertion of Article 154A.

The provisions contained in this article further add to the ambiguity of the provisions regarding layoffs for workers/workers because they are contrary to the "principle of avoiding layoffs wherever possible", as reflected in Point 37 of Article 81 of the Job Creation Law that "... Entrepreneurs, workers/laborers, trade unions/labor unions, and the Government, must make every effort so that there is no termination of employment...". There is a contradiction in regulations regarding layoffs; namely, point 37 implicitly prohibits the unilateral action of employers carrying out layoffs. In contrast, another point, namely point 42 of Article 81, provides a vast enough opportunity for companies to carry out layoffs unilaterally. The contradiction between point 37 and point 42 of Article 81 concerning Manpower in the Job Creation Law, of course, creates legal uncertainty within the framework of protecting the rights of workers/workers from layoffs that are carried out unilaterally.¹⁴

¹⁴ Wamyani, Wamyani "REKONSTRUKSI REGULASI PERLINDUNGAN HUKUM TENAGA KERJA ALIH DAYA YANG BERBASIS NILAI KEADILAN - Unissula Repository," n.d., <http://repository.unissula.ac.id/26642/>.

5. Conclusion

The rights of workers/laborers are essential to implement because if workers/laborers are not given rights that are by human rights, then the work carried out by workers will not be able to run correctly. The rights regulated in the Labor Law and the Job Creation Law include the right to equal opportunity, the right to receive job training, health insurance, a living wage, and so on. And there are additional or special rights for women workers, including the right to leave during menstruation, the right to leave during childbirth, and the right to be allowed to breastfeed during working time. Whereas the contents of the articles concerning Manpower in Law Number 11 of 2020 concerning Job Creation still harbor several normative problems, namely that they have not provided guarantees of legal certainty for the protection of workers' rights guarantees, such as the determination of proper wages and eligibility for severance pay. Likewise, the provisions regarding layoffs, the Law only accommodates the interests of employers so that it can have implications for layoffs for workers unilaterally. The philosophical concept of the Job Creation Law is still co-opted by the liberalistic economic spirit, which is the fundamental basis for the birth of the Law, so this is what reaps the rejection of most people towards Law No. 11 of 2020 concerning Job Creation.

References

- Agus, Dede. "Ruang Lingkup Pengaturan Perlindungan Buruh/ Pekerja Pasca Berlakunya Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja." *Ius Civile: Refleksi Penegakan Hukum Dan Keadilan* 6, no. 1 (April 30, 2022): 182. <https://doi.org/10.35308/jic.v6i1.5146>.
- Alfiyani, Nur. "Perbandingan Regulasi Ketenagakerjaan Dalam Undang-Undang Ketenagakerjaan Dan Undang-Undang Cipta Kerja." *AN-NIZAM Jurnal Hukum Dan Kemasyarakatan*, (December 28, 2020). <https://doi.org/10.44633/an-nizam.v14i2.318>.
- Azis, Abdul, Aan Handriani, and Herlina Basri. "PERLINDUNGAN HUKUM HAK PEKERJA PADA PERJANJIAN KERJA WAKTU TERTENTU DALAM KETENAGAKERJAAN." *Surya Kencana Satu* 10, no. 1 (September 2, 2019): 59. <https://doi.org/10.32493/jd mhkdmhk.v10i1.3175>.
- Buana, Mirza Satria. "HUBUNGAN TARIK-MENARIK ANTARA ASAS KEPASTIAN HUKUM (LEGAL CERTAINTY) DENGAN ASAS KEADILAN (SUBSTANTIAL JUSTICE) DALAM PUTUSAN-PUTUSAN MAHKAMAH KONSTITUSI," (April 16, 2010). <https://dspace.uui.ac.id/handle/123456789/8648>.
- Charada, S Ujang. "KARAKTERISTIK UNDANG-UNDANG KETENAGAKERJAAN DALAM PERLINDUNGAN HUKUM TERHADAP TENAGA KERJA." *Jurnal Wawasan Yuridika* 32, no. 1 (May 26, 2016): 1. <https://doi.org/10.25072/jwy.v32i1.86>.
- Effendy, Muhammad Amin, Hendi Budiawan, Meisha Poetri Perdana, and Wildan Sany Prasetya. "IMPLEMENTASI DAN PERMASALAHAN MENGENAI PERJANJIAN KERJA WAKTU TERTENTU (PKWT) PASCA BERLAKUNYA UNDANG-UNDANG CIPTAKERJA." *Jurnal Ilmiah Galuh Justisi* 11, no. 1 (March 10, 2023): 135. <https://doi.org/10.25157/justisi.v11i1.10038>.
- Fakhrurraji, Alzikri. "Implementasi Perundang-Undangan Ketenagakerjaan Terhadap Buruh Pasar Ditinjau Dari Perspektif Keadilan." *RESAM Jurnal Hukum* 4, no. 1 (May 1, 2018): 31-44. <https://doi.org/10.32661/resam.v4i1.7>.
- Matompo, Osgar Sahim. "KONSEP OMNIBUS LAW DAN PERMASALAHAN RUU CIPTA KERJA." *RECHTSTAAT NIEUW*, (October 20, 2020). <http://www.unsa.ac.id/ejournal/index.php/rechtstaat-nieuw/article/view/506>.

- Nasir, Cholidin. "JUDICIAL REVIEW DI AMERIKA SERIKAT, JERMAN, DAN INDONESIA." *Jurnal Hukum Progresif* 8, no. 1 (April 30, 2020): 67-80. <https://doi.org/10.14710/hp.8.1.67-80>.
- Prabowo, Adhi Setyo, Andhika Nugraha Triputra, and Yoyok Junaidi. "Politik Hukum Omnibus Law Di Indonesia." *Jurnal Pamator* 13, no. 1 (April 4, 2020): 1-6. <https://doi.org/10.21107/pamator.v13i1.6923>.
- Putra, Antoni. "PENERAPAN OMNIBUS LAW DALAM UPAYA REFORMASI REGULASI." *Jurnal Legislasi Indonesia* 17, no. 1 (March 31, 2020): 1. <https://doi.org/10.54629/jli.v17i1.602>.
- Susiana, Sali. "Pelindungan Hak Pekerja Perempuan Dalam Perspektif Feminisme." *Aspirasi: Jurnal Masalah-masalah Sosial*, (April 10, 2019). <https://jurnal.dpr.go.id/index.php/aspirasi/article/view/1266>.
- Wamyani, Wamyani "REKONSTRUKSI REGULASI PERLINDUNGAN HUKUM TENAGA KERJA ALIH DAYA YANG BERBASIS NILAI KEADILAN - Unissula Repository," n.d. <http://repository.unissula.ac.id/26642/>.
-