

LEGAL PROTECTION FOR WORKERS WHO EXPERIENCE UNILATERAL TERMINATION OF EMPLOYMENT BY THE COMPANY

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Abstract

Termination of Employment (PHK) is a legal event that has a significant impact on the livelihood of workers because it is directly related to the loss of livelihood. In industrial relations practices, it is still common to find unilateral layoffs carried out by companies without following applicable legal procedures and provisions, resulting in injustice for workers. This study aims to analyze the legal provisions regarding layoffs according to Indonesian labor laws and regulations, examine the forms of legal protection for workers who experience unilateral layoffs, and describe the legal remedies that workers can take as a result of such actions. This study uses a normative juridical method with a statutory, conceptual, and case approach, and utilizes secondary data obtained through literature studies. The results of the study indicate that the regulation of layoffs in Indonesian labor law has been designed comprehensively by emphasizing the principle that layoffs must be avoided and can only be carried out for legitimate reasons and through strict procedures. In addition, the law provides protection to workers through guarantees of normative rights, mechanisms for resolving industrial relations disputes, and access to legal remedies up to the Industrial Relations Court. Thus, the Indonesian labor law system has basically provided adequate protection instruments for workers, although in practice, increased supervision and legal understanding are still needed so that this protection can run effectively.

Keywords : Legal Protection, workers, Termination of Employment.

Introduction

Indonesia is a country that adheres to the rule of law, where all government affairs must be based on law. "To protect the entire Indonesian nation and its entire homeland, and to advance the general welfare, to advance the intellectual life of the nation, and to participate in implementing a world order based on independence, eternal peace, and social justice" is the state's goal as stated in the Preamble to the 1945 Constitution of the Republic of Indonesia, paragraph 4. This means that everything within Indonesia is regulated by law. Law can regulate various aspects of life, including culture, social life, politics, economics, and religion. However, from a social perspective, the existence of law in Indonesia is increasingly insecure and is being ignored. This can certainly disrupt comfort and lead to injustice in society.

In fact, specific laws are created to create justice in Indonesia and safeguard the interests of everyone. However, despite the laws being regulated in various regulations, the legal situation in Indonesia is increasingly unstable and tends to be ignored by some. One clear example of legal insecurity is the employment relationship between business owners and employees, which often becomes a social problem in society. Many employees feel they don't receive adequate protection when they are laid off.

The employment relationship between employees and employers is essentially built on an employment agreement that creates reciprocal rights and obligations. In practice, this relationship isn't always harmonious, especially when Termination of employment (PHK) occurs. Layoffs are a legal event that has a significant impact on workers because they involve the loss of livelihood, social security, and the continued well-being of workers and their families. Therefore, layoffs are not merely an administrative issue in industrial relations, but rather a legal issue that touches on aspects of human rights protection, social justice, and legal certainty.

In the context of employment in Indonesia, the state has attempted to provide protection through various regulations, including Law Number 13 of 2003 concerning Manpower, which was amended by Law Number 11 of 2020 concerning Job Creation and its implementing regulations, and Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes. These regulations emphasize that layoffs should, in principle, be avoided, and if unavoidable, must be carried out in accordance with applicable legal procedures while still considering workers' rights. However, in practice, unilateral layoffs are still frequently encountered by companies without following legal mechanisms, without clear justification, and without fulfilling workers' normative rights.

Unilateral layoffs by companies often create injustice and unequal bargaining power between workers and employers. Workers are often in a weak position, both in terms of legal knowledge, economic capacity, and access to dispute resolution mechanisms. This situation leads workers to tend to accept layoff decisions without legal challenge, even though legally, such actions violate statutory regulations. This demonstrates that despite the existence of legal norms, the implementation of legal protections for workers still faces various obstacles in practice.

Furthermore, companies often cite business dynamics, company efficiency, restructuring, and even employee disciplinary reasons as justifications for unilateral layoffs. In some cases, these reasons do not always comply with applicable legal provisions. In fact, layoffs are often carried out without bipartite negotiations, without a decision from an industrial relations dispute resolution body, and without providing adequate compensation as stipulated in laws and regulations. This situation raises serious issues regarding the effectiveness of legal protection for workers.

Legal protection for workers experiencing unilateral layoffs is crucial to examine, given that labor law essentially aims to protect the socially and economically weaker party, namely workers. This principle of protection aligns with the constitutional mandate of Article 27 paragraph (2) and Article 28D paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which guarantees the right of every citizen to employment and fair treatment in employment. Therefore, any layoff that does not comply with legal procedures is a violation of workers' constitutional rights.

In the event of unilateral layoffs, the law provides legal remedies that workers can pursue, ranging from bipartite negotiations, mediation, conciliation, arbitration, and even filing a lawsuit with the Industrial Relations Court. However, the effectiveness of these legal remedies is greatly influenced by workers' understanding of their rights and access to the dispute resolution process. Therefore, examining the forms of legal protection and remedies

available to workers is crucial to providing a comprehensive picture of how the law works to provide justice for workers harmed by unilateral layoffs.

Based on the above description, it can be understood that the issue of unilateral layoffs is not merely a matter of ordinary employment relations, but also a matter of legal protection concerning legal certainty, justice, and the protection of workers' rights. Therefore, an in-depth study is needed regarding the legal provisions for layoffs according to Indonesian labor laws, the forms of legal protection for workers who experience unilateral layoffs, and the legal remedies workers can take to assert their rights. This study is expected to contribute to strengthening the understanding of legal protection for workers and serve as a reference in law enforcement efforts in the labor sector.

Methods Research

This research uses a normative juridical research method, namely legal research that relies on the study of legal norms contained in laws and regulations, doctrines, and court decisions relevant to the problem being studied. This method was chosen because the focus of the research is to analyze legal regulations regarding termination of employment (PHK), forms of legal protection for workers who experience unilateral layoffs, and legal remedies that workers can take based on provisions of labor law in Indonesia. This research uses several approaches. First, the statute approach, namely by examining various legal provisions governing employment, especially those related to layoffs, such as the 1945 Constitution of the Republic of Indonesia, Law Number 13 of 2003 concerning Manpower which has been amended by Law Number 11 of 2020 concerning Job Creation and its implementing regulations, Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes, and Government Regulation Number 35 of 2021. Second, the conceptual approach is carried out by examining legal concepts regarding legal protection, employment relations, and workers' rights based on the views of legal experts. Third, the case approach through analysis of Industrial Relations Court decisions relating to unilateral layoffs illustrate the application of legal norms in practice.

The data sources in this study are secondary data obtained through literature review. This data includes primary legal materials in the form of laws and court decisions, secondary legal materials in the form of literature, scientific journals, and expert opinions, and tertiary legal materials such as legal dictionaries and encyclopedias to support understanding of legal terms. Data collection techniques were carried out by inventorying and reviewing legal materials relevant to the research topic. The obtained data were then analyzed qualitatively, namely by interpreting and connecting existing legal provisions with the research problem. The results of this analysis are compiled descriptively and analytically to provide a systematic overview of legal protection for workers experiencing unilateral layoffs and the legal remedies that can be taken to achieve justice and legal certainty.

Results and Discussion

Legal Regulations Regarding Termination of Employment (PHK) According to Employment Laws and Regulations in Indonesia

Termination of Employment (PHK) is a legal step that can be taken by a company to end the employment relationship with an employee, provided that it meets the provisions of applicable laws and regulations. In practice, the reasons used by the company to carry out layoffs must be objective and can be legally proven. An employment relationship is essentially a relationship that exists between an employee or worker and an employer after an agreement or work contract is made. This work contract is an agreement in which the first party, namely the worker, agrees to work for wages from the other party, namely the employer, who has stated its ability to employ workers and pay wages.

Termination of Employment (PHK) is one of the most crucial aspects of employment law because it involves the end of an employment relationship, which directly impacts workers' livelihoods. Therefore, regulations regarding layoffs in the Indonesian labor law system are strictly designed with the primary goal of providing protection to workers, who are socially and economically disadvantaged compared to employers. These regulations are oriented not only toward legal certainty but also toward social justice, as mandated by the 1945 Constitution of the Republic of Indonesia.

Constitutionally, the basis for worker protection can be found in Article 27 paragraph (2) of the 1945 Constitution, which affirms that every citizen has the right to work and a decent living, and Article 28D paragraph (2), which guarantees everyone's right to work and to receive fair and appropriate remuneration and treatment in employment. These constitutional provisions serve as the philosophical and legal foundation for the creation of various labor laws and regulations, including regulations regarding layoffs.

Technical regulations regarding layoffs were initially stipulated in Law Number 13 of 2003 concerning Manpower, which was subsequently amended through Law Number 11 of 2020 concerning Job Creation and its implementing regulations, particularly Government Regulation Number 35 of 2021. Furthermore, the dispute resolution mechanism resulting from layoffs is regulated in Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes (PPHI).

Under Indonesian labor law, layoffs must, in principle, be avoided. This principle is expressly stated in provisions requiring employers, workers, labor unions, and the government to strive to prevent layoffs. If layoffs cannot be avoided, they must be carried out in accordance with applicable legal procedures. This provision demonstrates that layoffs are not unilateral actions that employers can freely undertake, but rather legal actions constrained by specific norms and procedures.

Legislation divides the reasons for layoffs into several categories that are strictly regulated, including reasons for company efficiency, company closure, employee violations, The reasons for dismissal include employee resignation, death, expiration of the employment contract, and force majeure. With these restrictive regulations, the law seeks to prevent arbitrary actions by employers in terminating employment.

Furthermore, before conducting layoffs, employers are required to conduct bipartite negotiations with workers or labor unions. These negotiations aim to find the best solution to avoid layoffs, or at least reach a mutually agreed upon solution. If negotiations fail to reach an agreement, the dispute must proceed through the industrial relations dispute resolution mechanisms stipulated in the Industrial Relations Law (PPHI), namely mediation,

conciliation, arbitration, or a lawsuit before the Industrial Relations Court. Therefore, layoffs cannot be carried out without due legal process.

One important aspect of layoff regulations is the employer's obligation to provide workers with their normative rights in the form of severance pay, long-service bonuses, and compensation in accordance with statutory provisions. The amount of compensation is determined based on the reason for the layoff and the worker's length of service. This provision reflects that the law not only regulates layoff procedures but also provides economic security for workers who lose their jobs.

Regulatory changes through the Job Creation Law and Government Regulation No. 35 of 2021 introduced several adjustments to the layoff compensation scheme, while maintaining the basic principles of worker protection. The government also introduced the Job Loss Guarantee (JKP) program as part of the employment social security system, which provides additional benefits to laid-off workers in the form of cash, access to job market information, and job training. This demonstrates the evolving paradigm of legal protection that is based not only on compensation from employers but also on state support through the social security system.

In addition to substantive provisions, the law also strictly regulates the procedural aspects of layoffs. Employers cannot unilaterally terminate employees without a ruling from an industrial relations dispute resolution body if an agreement cannot be reached with the workers. In other words, the validity of a layoff is largely determined by adherence to established legal procedures. Layoffs carried out without these procedures can be declared null and void.

Thus, the legal regulations regarding layoffs in Indonesia demonstrate a systematic effort to balance the interests of employers and workers. On the one hand, employers are still given the freedom to lay off workers under certain circumstances to ensure business continuity. On the other hand, workers are provided with protection through limitations on grounds for layoffs, procedural obligations, compensation guarantees, and dispute resolution mechanisms.

Overall, it is understandable that the regulation of layoffs in Indonesian labor laws and regulations not only aims to regulate the termination of employment but also serves as a legal protection instrument for workers. Through this comprehensive regulation, the law is expected to achieve legal certainty, justice, and protection of workers' rights in the highly vulnerable situations caused by layoffs.

Forms of Legal Protection for Workers Who Experience Unilateral Layoffs by Companies and Legal Actions That Workers Can Take Due to Unilateral Layoffs

Unilateral termination of employment (PHK) by a company is a potentially unlawful act if carried out without a valid reason and without following the procedures stipulated in labor laws and regulations. In this context, workers are vulnerable because they lose both their jobs and their livelihoods. Therefore, Indonesian labor law provides various forms of legal protection designed to ensure workers' rights are protected in the event of unilateral layoffs.

Legal protection for workers experiencing unilateral layoffs is fundamentally based on the principle that layoffs should be avoided and can only be carried out in accordance with

legal procedures. When a company lays off employees without going through a negotiation mechanism and without a determination from an industrial relations dispute resolution body, such action can be classified as an illegal layoff. Under these circumstances, Thus, the law provides protection to workers by recognizing that the legal employment relationship remains in existence until a legally binding decision is issued.

One of the most fundamental forms of legal protection is the protection of workers' normative rights. Even if a company declares a unilateral termination of employment, workers are still entitled to wages during the dispute process if the termination has not yet become legally binding. Furthermore, if the termination is ultimately declared valid by a court decision, workers are still entitled to severance pay, long-service bonuses, and compensation in accordance with statutory provisions. This demonstrates that the law does not allow workers to suddenly lose their economic rights due to unilateral company actions.

Another legal protection is reflected in the company's obligation to prove the reason for the termination. In a termination dispute, the burden of proof generally rests with the employer to demonstrate that the termination was based on a legally valid reason. If the company cannot prove this reason, the termination can be declared invalid, and the worker can be reinstated or receive greater compensation.

In addition to protecting normative rights, the law also provides protection in the form of access to dispute resolution mechanisms. Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes provides legal channels for workers to pursue their rights. This mechanism is designed in stages and systematically to ensure disputes are resolved fairly.

The first legal remedy is bipartite negotiations between workers and the company. At this stage, both parties are required to negotiate through deliberation to reach an agreement. Agreement. If no agreement is reached within the specified timeframe, the dispute can proceed to the next stage.

The next stage is resolution through mediation or conciliation facilitated by the Manpower Office. The mediator or conciliator will help the parties find a fair solution. If the recommendations given are not accepted by either party, the worker can proceed to litigation.

The final legal remedy is to file a lawsuit with the Industrial Relations Court (PHI). Through this court, workers can demand that the termination of employment be declared invalid, request reinstatement of employment, or demand payment of their due entitlements. The PHI decision can even be appealed to the Supreme Court if one party does not accept the decision.

In addition to dispute resolution channels, legal protection for workers is also strengthened by the Job Loss Guarantee (JKP) program, part of the employment social security system. This program provides benefits in the form of temporary cash payments, access to job market information, and job training for laid-off workers. Thus, legal protection is not only legal but also socio-economic.

From this description, it can be understood that legal protection for workers who experience unilateral layoffs encompasses not only regulations regarding workers' rights but also legal mechanisms that can be used to demand the fulfillment of those rights. The law provides a clear path for workers to obtain justice, from negotiations to the judicial process.

This demonstrates that the Indonesian labor law system provides adequate protection instruments, although in practice, there is still a need to improve workers' understanding and courage to utilize these mechanisms.

Thus, the legal remedies workers can take following unilateral layoffs are an integral part of legal protection itself. By utilizing available legal mechanisms, workers have the opportunity to fight for their rights and obtain legal certainty and justice for unilateral actions taken by the company.

Conclusion

The legal provisions regarding termination of employment (PHK) in Indonesian labor laws and regulations have been comprehensively designed, emphasizing the principle that layoffs must be avoided and may only be carried out for legitimate reasons and through strict procedures. Provisions in the Employment Law, the Job Creation Law and its implementing regulations, and the Industrial Relations Dispute Settlement Law indicate limitations on companies' authority to terminate employment and obligations to fulfill workers' normative rights. For workers who experience unilateral layoffs, the law provides clear forms of protection, including guaranteed economic rights (wages, severance pay, and other rights), procedural protection through industrial relations dispute resolution mechanisms, and access to legal remedies up to the Industrial Relations Court. Thus, workers have a legal instrument that can be used to demand justice and legal certainty regarding unilateral company actions.

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