

The Analysis of Wages and Social Security Not Provided to Workers in View of the Employment Law

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Abstract. *The provisions of Article 54 paragraph (1) of Law No. 13 of 2003 concerning Employment emphasize that those who have reached an agreement with employers have rights and obligations that must be carried out. Workers are obliged to carry out the tasks that must be completed so that they are entitled to receive wages from their work. At the same time, employers are obliged to pay wages to obtain the right to work from workers, meaning that employers must not pay wages arbitrarily or late. The purpose of this research is to determine and analyze the legal protection and company accountability for workers whose wages and social security are not provided in terms of the Employment and Accountability Law. This research uses a normative juridical research type, with data collection methods using library methods. The legal material analysis method used in this research uses a qualitative analysis method. The results of his research concluded that wages are an important and fundamental part of employment-management relations, so that the "Employment Law" and government regulation 78/2015 provide protection for wages and social security. The heaviest sanction for a company is in the form of revocation of its business license, because the company cannot be held responsible at all.*

Keywords: *Employment; Labor; Social Security; Wages.*

1. Introduction

Labor is one step in economic development, which has a significant role in all national activities, especially the national economy in terms of increasing productivity and welfare. Abundant labor is the driver of economic life and is an

abundant resource.¹

The presence of companies certainly provides employment opportunities for the community, so there is a need for more comprehensive regulations that discuss employment. This of course aims to provide legal certainty for both workers and entrepreneurs. Apart from that, there are also rights and obligations that must be fulfilled by both parties, in this case employers and workers, so that it is hoped that a mutually beneficial relationship will be established for both.

From an economics point of view, a country is formed to achieve prosperity for all its inhabitants, just as an economic organization is formed to achieve mutual benefit. In achieving the goal of establishing a State in Indonesia according to the Central Statistics Agency (BPS), the sectors that play an important role are the minimum wage level and productivity in the economic activity sector.

In their development, many companies use heavy equipment and machines. The decision to use heavy equipment and machinery that affects the safety and health of the workforce is very important to maintain workforce performance. The problems will increase if the company uses heavy machinery, the factory must also be able to guarantee the use of the machines to improve performance and must also be able to guarantee the safety and health of the workforce operating the machines. Work accidents are related to work relations in the company, work relations in this case are work accidents that occur due to the worker or errors in the equipment used by the worker when carrying out work.

At the same time, working for someone else means relying on someone else who places and transmits orders for work. Because he must be obedient and obedient to other people who provide work. The state also tries to regulate relationships between individuals or legal entities. The aim of this arrangement is to create justice and prosperity for society. The justice and prosperity that is meant is that everyone has the right to obtain justice from themselves and from the government and enjoy wealth. Life To achieve social welfare, namely by providing broad and adequate employment opportunities, so that every community can live a prosperous life, in the world of work of course there is a legal relationship between workers/laborers and entrepreneurs, therefore the law ensures that there is no arbitrariness, so that The government has formulated regulations to regulate interpersonal relationships in the world of work. Employment law is a written or unwritten regulation that regulates a person starting before, during and after the period of employment in an

¹Lalu Husni, (2014), Introduction to Employment Law, Revised Edition, Jakarta: Raja Grafindo Persada.

employment relationship within the scope of the employment sector.²

A trade union/labor union is an organization formed of, by, and for workers/laborers, both from the company and outside the company, which is free, open, independent, democratic, and responsible in order to fight for, defend, and protect the rights of workers' interests. or workers and improve the welfare of workers/laborers and their families. The meaning of work from a social perspective is doing work to produce goods or services to satisfy the needs of society. Apart from that, it also means a relationship between fellow human beings, which is also related to maintaining the survival of their lives, if without wages/salary. , then this is something impossible. Humans work to get wages/salaries. According to the legal dictionary, wages are money and so on that are paid as compensation for services or as payment for energy that has been expended to do something.

Based on Article 1 number 30 of Law No. 13 of 2003 concerning Employment: "Wages are the rights of workers/laborers which are received and expressed in the form of money as compensation from entrepreneurs or employers to workers/laborers which are determined and paid according to a work agreement, agreement, or statutory regulations, including allowances for workers/laborers and their families for work and/or services that have been or will be performed." The provisions of Article 54 (1) of the Manpower Law emphasize that those who have reached an agreement with employers have rights and obligations that must be carried out. Workers are obliged to carry out the tasks that must be completed so that they are entitled to receive wages from their work. At the same time, employers are obliged to pay wages to obtain the right to work from workers, meaning that employers must not pay wages arbitrarily or late. This includes violations of Article 95 of the Manpower Law, which regulates:

1. Violations committed by workers/laborers due to intent or negligence may be subject to fines.
2. Entrepreneurs who intentionally or negligently cause delays in payment of wages are subject to a fine according to a certain percentage of the worker's/labourer's wages.
3. The government regulates the imposition of fines on entrepreneurs and/or workers/laborers when paying wages.

²Ikomatussuniah, (2016), Employment within the framework of the Republic of Indonesia, Serang: Untirta Press.

The welfare of workers in companies is a complex problem, the problem is increasing with the normativeization of wages and social security. Increasing the welfare of life in a balanced way between material and spiritual needs raises various challenges and life needs that are faced. With these needs increasing, people's level of welfare is faced with increasing needs.

Based on the background described above, the following problems arise:

1. What is the legal protection for workers whose wages and social security are not provided in terms of the Employment Law?
2. What is the company's responsibility towards workers whose wages and social security are not provided in accordance with the Employment Law?

The objectives of this research are:

1. Know and analyze legal protection for workers whose wages and social security are not provided in accordance with the Employment Law.
2. Know and analyze the company's responsibility towards workers whose wages and social security are not provided in accordance with the Employment Law.

2. Research Methods

The type of research used in the research is normative juridical research, namely legal research carried out by examining the literature or secondary data. Normative legal research is also called doctrinal legal research because this research is carried out or only on written regulations or other legal materials.

The data collection method used in this research is the Library Research Method. The library research method is a research process by collecting and studying various types of reading materials such as literature books, documents, scientific works and other writings. related to the object of this research.³The legal material analysis method used in this research uses a qualitative analysis method, namely by summarizing, categorizing and interpreting legal data materials that have been processed and drawing conclusions from the existing materials.

³Arikunto Suharsimi. (2006). Research Procedures, A Practical Approach. Jakarta: PT. Rineka Cipta.

3. Results and Discussion

3.1. Legal protection for workers whose wages and social security are not provided is reviewed from the Employment Law

Legal protection is protection given to legal subjects in the form of instruments both preventive and repressive, both verbal and written. In other words, it can be said that legal protection is a separate description of the function itself, which has a legal concept of providing justice, certainty, benefit and peace.

Legal protection for workers is to guarantee the basic rights of workers/laborers and ensure equality of opportunity and treatment without discrimination on any basis to realize the welfare of workers/laborers and their families while still paying attention to developments in the business world.⁴

In implementing protection for workers, efforts must be made to provide adequate protection and care for all workers in carrying out their daily work, especially in the field of work safety and regarding labor protection norms. The aim of labor protection is to ensure that the labor relations system continues in harmony without being accompanied by pressure from strong parties on weak parties. Employers are obliged to implement labor protection provisions in accordance with applicable laws and regulations. Supervision of companies by the government in the Social Security program constitutes This is an important thing to ensure legal protection for workers under the auspices of the Company. The purpose of this supervision is to be able to monitor the implementation of Law No. 24 of 2011 concerning BPJS, so that the law operates more effectively.⁵

The obligation to register workers/laborers into BPJS Employment membership is nothing more than the aim of improving the welfare of workers/laborers, who in this case are weak parties under the power of the company. Article 15 of Law No. 24 of 2011 concerning BPJS determines that: "Employers are gradually obliged to register themselves and their workers as participants with BPJS in accordance with the Social Security program they are participating in."

All agreements made in accordance with the law constitute the law for the person who entered into the agreement. The agreement cannot be withdrawn unless agreed to by both parties or for reasons determined by law. The agreement must be

⁴Suratman, (2019), Introduction to Indonesian Employment Law, Depok: PT Raja Grafindo Persada.

⁵Nurfatihah Mani, (2019), Legal Protection for Workers in Companies that Do Not Pay BPJS Employment Contributions, Media Iuris: Vol. 2 No. 3, October.

implemented in good faith. . Therefore, companies cannot unilaterally cut employees' salaries, because what is agreed upon is the law of the parties who have reached an agreement, meaning that when the company and employees reach a mutual agreement, both parties cannot without the other party realizing it change salaries that are not in accordance with agreement.

The meaning of this agreement is different when compared to the definition of a work agreement in article 1601a of the Civil Code, because in the provisions of that article it is clearly stated about two types of provisions, namely about one party binding themselves and only one party being under the orders of another person, the party this is the labor or worker party. On the other hand, the party who, according to these provisions, does not bind himself and also has the right to give orders to other people, is the employer or entrepreneur.

Based on the understanding of the agreement that has been explained, several elements can be drawn from the employment agreement, namely:

a. There is an element of work or employment

A work agreement must contain work that is agreed upon and carried out by the worker who makes the work agreement. Workers who carry out work on the basis of the agreement are essentially obliged to carry it out themselves by the worker who accepts the work and must not transfer it to another party.⁶However, in its implementation, if a person or worker, when they want to carry out their work as an implementation of the contents stated in the work, is unable to do so, it turns out that this provision can be overridden, that is, in its implementation it turns out that the work can be delegated or replaced, as long as it has been previously notified. and obtain prior approval from the employer. This provision can be found in article 1383 of the Civil Code in conjunction with 1603a of the Civil Code in conjunction with article 5 paragraph (1) PP Number 8 of 1981.

b. There is an element of service or service

That in carrying out the work carried out as a manifestation of the employment agreement, the worker must submit to the orders of another person, namely the employer and must submit to and be under the orders of another person, the employer. The existence of this provision shows that the worker in carrying out his work is under the authority of another person, namely the employer.

⁶Aloysius Uwiyono, (2014), Principles of Labor Law, Jakarta: PT Grafindo Persada.

c. There is an element of time or a certain time

That in carrying out work relations, it must be carried out in accordance with the time specified in the work agreement or statutory regulations. The work implementation must be in accordance with the contents of the agreement, you cannot work for an unspecified period of time and the work implementation does not conflict with statutory provisions and public order.

d. There is an element of pay or wages

Wages play an important role in employment relations, it can even be said that the main aim of a worker working for an entrepreneur is to earn wages. So if there is no wage element, then the relationship is not an employment relationship.

If workers are required to fulfill their achievements, namely carrying out work under the orders of another person, namely the entrepreneur, then the entrepreneur as the employer is also obliged to fulfill their achievements, in the form of payment of wages. In principle, payment of wages must be given in the form of money, however, in practice implementation in accordance with statutory regulations does not reduce the possibility of paying wages in the form of goods, but the amount must be limited.⁷

According to Imam Soepomo, the main objective of labor law is the implementation of social justice in the field of labor and its implementation is carried out by protecting workers against unlimited power from the employer. Meanwhile, according to Senjun H. Manulang, the objectives of labor law include: 1) To achieve or implement social justice in the field of employment, and 2). To protect workers against unlimited power from employers, for example by making agreements or creating coercive regulations so that employers do not act arbitrarily against workers as weak parties.

Meanwhile, Law No. 13 of 2003 concerning employment article states that employment development aims to:

- a. Empowering and utilizing the workforce optimally and humanely;
- b. Realizing equal employment opportunities and providing labor in accordance with national and regional development needs;

⁷Eko Wahyudi, (2016), Employment law, Jakarta : Sinar Graphics.

- c. Providing protection to workers in realizing prosperity; And
- d. Improving the welfare of workers and their families.

So in essence labor law aims to provide protection for workers/employees in order to realize social justice, and which protection can be created by the existence of coercive regulations, even though the parties (laborers/employees and entrepreneurs) can make agreements freely but this is not enough. provide protection considering that the positions of the parties are not the same, especially workers/laborers who are socio-economically weak.⁸

A worker's employment relationship is any person who works for another person by receiving wages or other forms of compensation. The elements in the definition of workers are: 1). Work for someone else 2). Under someone else's orders 3). Get paid.⁹

Therefore, anyone who works for someone else with compensation will receive wages, is a worker or laborer. Article 1 paragraph (2) Government Regulation Number 78 of 2015 concerning wages states that work is every person who works by receiving wages or other forms of compensation. Law No. 13 of 2003 concerning Employment Article 1 paragraph (4) provides that a worker or laborer is every person who works to receive wages or other forms of compensation. This definition is more general but has a broader meaning because it can include all people who work for anyone, whether individuals, partnerships, legal entities, and receive wages or other forms of compensation. This emphasis on rewards in other forms is necessary because wages have so far been identified with money, even though there are also workers/laborers who receive rewards in the form of goods.¹⁰

The company is obliged to provide wages to its employees in accordance with the agreed agreement. However, in practice there are still many companies that do not provide wages at all to their employees. Steps that can be taken are methods or means of resolving disputes in accordance with the provisions of Law No. 16. On February 2 2004, it involves resolving labor disputes. The basis for rights disputes refers to rights disputes based on Article 1 paragraph (2) of the PPHI Law and the

⁸Ulfa Luthfiana, (2016), Legal Protection for Wage-Earning Workers/Labourers in a Company Who Are Not Included in BPJS Employment Membership in View from Law Number 24 of 2011 concerning BPJS, Law Journal, Vol. X/No.1/June.

⁹Nurfatihah Mani, Op. Cit.

¹⁰I Made Anggra, I PT GD Seputra, Luh Putu Suryani, (2020), Legal Protection of PT Employees. Arta Sedana Retailindo Affected by Termination of Employment Due to BPJS Employment Claims, Journal of Legal Construction, Vol. 1, No. 2, October.

sanctions that can be imposed on companies are administrative sanctions in the form of warnings, written warnings, prohibitions on business activities, business suspensions, cancellation of registration, freezing of part or all of production equipment and revocation. business permit.

3.2. The company's responsibility towards workers whose wages and social security are not provided is reviewed from the Employment Law

Talking about legal protection for employees/workers, this is very closely related to the responsibility of a company towards its employees, because a company must be fully responsible for each employee in terms of wages, safety and health insurance.

Companies that do not provide wages and social security may be subject to sanctions as regulated in Law no. 13 of 2003 for neglecting his obligations as a company. Law No. 13 of 2003 article 1 number 30 explains that employee rights must be given in accordance with the agreement that is in effect, however until now the company has not provided anything. While the law regulates that companies must guarantee health for employees and their families, the collective work agreement that has been made by the company also explains this health guarantee, more clearly in Article 48 of the Collective Work Agreement (PKB).

"In improving the welfare of workers/employees, the company provides inpatient protection to workers/employees and the workers' families based on job level, where hospital treatment is regulated in the company's human resources policy."

Government Regulation Number 78 of 2015 regulates delays in paying detailed wages in article 55, namely:

Article 55 Government Regulation on Wages:

1) Entrepreneurs as intended in Article 53 who are late in paying and/or do not pay wages as intended in Article 5 paragraph (4) will be subject to a fine, with the following provisions:

- a. Starting from the fourth day to the eighth day from the date the Wages should be paid, a fine of 5% (five percent) is imposed for each day of delay in the Wages that should be paid;
- b. After the eighth day, if Wages are still not paid, a late fine as referred to in letter a is imposed plus 1% (one percent) for each day of delay

provided that 1 (one) month must not exceed 50% (fifty percent) of the Wages due paid; And

c. After a month, if wages are still not paid, a late fine as referred to in letters a and b plus interest at the rate applicable to government banks will be imposed.

Looking at the substance above, if the company ignores the regulations set by the government and violates the collective work regulations that have been made by the company, then in this case the company has not provided any accountability to its employees/workforce. So in this case the company can be subject to sanctions, namely in the form of Administrative Sanctions, Civil Sanctions and Criminal Sanctions:

Any person who violates the provisions as intended in Article 35 paragraph (2) and paragraph (3), Article 93 paragraph (2), Article 137 and Article 138 paragraph (1), will be subject to imprisonment for a minimum of 1 (one) month and a maximum of 4 (four) years and/or a fine of at least IDR 10,000,000.00 (ten million rupiah) and a maximum of IDR 400,000,000.00 (four hundred million rupiah).

(1) wages are not paid if the worker/laborer does not do the work.

(2) the provisions as intended in paragraph (1) do not apply, and employers are obliged to pay wages if:

- a. workers/laborers are sick so they cannot do their work
- b. female workers/laborers who are sick on the first and second day of their menstrual period so they are unable to do work;
- c. the worker/laborer is absent from work because the worker/laborer gets married, marries, impregnates, baptizes their child, the wife gives birth or has a miscarriage, the husband or wife or child or daughter-in-law or parent or in-laws or family member in the same household dies;
- d. workers/laborers cannot carry out their work because they are carrying out obligations to the state;
- e. workers/laborers cannot carry out their work because they are carrying out religious duties ordered by their religion;

- f. the worker/laborer is willing to do the work that has been promised but the employer does not employ him, either due to his own fault or an obstacle that the worker/laborer should have been able to avoid in exercising the right to rest;
- g. workers/laborers carry out trade/labor union duties with the approval of the employer; And
- h. workers/laborers carry out educational duties from the company.

Looking at the substance above, it can be seen that if a company does not provide rights to its employees, they can be punished according to the provisions set by the company, also known as civil sanctions in employment disputes, which can impose sanctions on employers and workers. The form of sanctions can be:

- a. If the work agreement is not due to the agreement of both parties and the expertise of both parties, then the work agreement is cancelled.
- b. If the agreed work violates law, ethics and public order, then the work agreement can be cancelled.
- c. If there is no provision regarding the type of dismissal by the Labor Relations Court, and the labor relations court needs to make a decision, the dismissal will be terminated.
- d. The employment relationship between the worker and the company receiving the contract work changes to an employment relationship between the worker and the employer if the work contracted does not meet the requirements (Article 65 Paragraph 8-9 of the Employment Law).
- e. The status of the employment relationship between the employee and the PPJP changes to an employment relationship between the employee and the employer if the PPJP is used by the employer to carry out basic/production tasks (Article 66 Paragraph 3-4 of the Employment Law).
- f. If a strike is carried out illegally, the workers who are striking are considered absent and even if they have been summoned properly and in writing, the workers will not come. So he is considered to have resigned. He is not entitled to severance pay or gratuity for long service.

g. A strike at a company that serves the public interest or is related to the safety of human life, resulting in casualties, is considered a serious mistake. These workers are not entitled to severance pay.

Administrative sanctions can be imposed if entrepreneurs commit the following violations:

1. Discriminating against workers in employment opportunities.
2. Providing job training that does not meet the requirements.
3. Carrying out apprenticeships for workers abroad without permission from the labor agency.
4. Employment placement companies that charge placement fees to workers.
5. Companies that do not form bipartite work institutions even though they already employ more than 50 workers.
6. Employers do not print or reproduce the text of the Collective Labor Agreement (PKB).
7. Employers who do not provide assistance no later than six months starting from the first day the worker is detained by the authorities to the worker's family who are their dependents.

The entrepreneur's obligations are set at the following percentages:

- 25% of wages for one dependent.
- 35% of wages for two dependents.
- 45% of wages for three dependents.
- 50% of wages for four dependents

The form of administrative sanctions can be in the form of:

1. Reprimand.
2. Written Warning.

3. Restrictions on Business Activities.
4. Business Suspension.
5. Registration Cancellation.
6. Temporary cessation of part or all of production equipment.
7. Revocation of business license.

Conclusions can be drawn from the entire analysis of the company's responsibility towards employees related to the provision of wages, in this case if the company is completely unable to provide accountability, it can be subject to all the sanctions that the author has outlined above, even the company can be subject to the heaviest sanctions, namely in the form of revocation of its business license. , because the company cannot be held responsible at all.

4. Conclusion

Wages are an important and fundamental part of employment-management relations, so the "Employment Law" and Government Regulation 78/2015 provide protection for wages and social security. The heaviest sanction for a company is in the form of revocation of its business license, because the company cannot be held responsible at all.

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