

Implementation of Government Policies in Fulfilling Workers' Rights to Employment Social Security Based on Labor Law Number 13 of 2003

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ABSTRACT

The development of employment in Indonesia is based on the provisions of Law Number 13 of 2003 concerning employment. Law Number 13 of 2003 is a replacement for Law Number 14 of 1969 concerning the main provisions regarding employment. The issuance of Law Number 13 of 2003 is expected to be able to answer various challenges and problems of worker protection and Indonesian Migrant Workers. Law becomes an instrument in the sustainability of national development today, national development is carried out to overcome various problems faced in government intervention efforts in the field of employment into two, namely private and public and in a scope that is regulated to be broader. The purpose of employment development itself as stated in Article 4 of Law Number 13 of 2003 is: to empower and utilize the workforce optimally and humanely. realizing equal employment opportunities and providing workers in accordance with national and regional development needs, providing protection to workers in realizing welfare, increasing the welfare of workers and their families. The objectives of writing this scientific work in the form of a thesis are: (1) to find out the form of the relationship between employers and workers, (2) to find out the legal consequences for employers who do not register themselves and workers who wish to register themselves, (3) to find out the government's efforts regarding workers' rights in obtaining social security for workers.

Keywords: Labor, Workers' Rights, Social Security

ABSTRAK

Pembangunan ketenagakerjaan di Indonesia berlandaskan pada ketentuan Undang-Undang Nomor 13 Tahun 2003 tentang ketenagakerjaan. Undang-Undang Nomor 13 Tahun 2003 merupakan pengganti Undang-Undang Nomor 14 Tahun 1969 tentang ketentuan-ketentuan pokok mengenai ketenagakerjaan. Terbitnya Undang-Undang Nomor 13 Tahun 2003 diharapkan mampu menjawab berbagai tantangan dan permasalahan perlindungan tenaga kerja dan Pekerja Migran Indonesia. Hukum menjadi instrumen dalam keberlangsungan pembangunan nasional dewasa ini, pembangunan nasional dilaksanakan untuk mengatasi berbagai permasalahan yang dihadapi dalam upaya intervensi pemerintah di bidang ketenagakerjaan menjadi dua yaitu swasta dan publik dan dalam ruang lingkup yang diatur menjadi lebih luas. Tujuan pembangunan ketenagakerjaan sendiri sebagaimana tercantum dalam Pasal 4 Undang-Undang Nomor 13 Tahun 2003 adalah: memberdayakan dan mendayagunakan tenaga kerja secara optimal dan manusiawi. mewujudkan pemerataan kesempatan kerja dan menyediakan tenaga kerja sesuai dengan kebutuhan pembangunan nasional dan daerah, memberikan perlindungan kepada tenaga kerja dalam mewujudkan kesejahteraan, meningkatkan kesejahteraan tenaga kerja dan keluarganya. Tujuan penulisan karya ilmiah berbentuk tesis ini adalah: (1) untuk mengetahui bentuk hubungan antara pengusaha dan pekerja, (2) untuk mengetahui akibat hukum bagi pengusaha yang tidak mendaftarkan diri dan pekerja yang ingin mendaftarkan diri, (3) untuk mengetahui upaya pemerintah mengenai hak pekerja dalam memperoleh jaminan sosial bagi pekerja

Kata Kunci: Tenaga Kerja, Hak Pekerja, Jaminan Sosial

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1. INTRODUCTION

Employment social security is a fundamental right for every worker as a form of protection against social risks that may occur during work activities. In Indonesia, the social security system for workers has become a major focus in efforts to improve workers' welfare. However, the implementation of employment social security programs still faces various challenges, such as low awareness among workers about their rights, lack of compliance from companies in registering their employees in social security programs, and the exclusion of informal workers from adequate social protection schemes (BPS, 2022). Furthermore, although the government has established regulations mandating companies to provide social security for their workers, not all businesses comply with these policies, leaving many workers without adequate protection (Kemenaker, 2021).

The Indonesian government has regulated the employment social security system through Law No. 13 of 2003 on Manpower, which stipulates that every worker has the right to social protection to ensure their well-being while working. Additionally, this policy is reinforced by Law No. 24 of 2011 on the Social Security Administering Agency (BPJS), which aims to ensure that all workers, both formal and informal, receive adequate social protection (Santoso, 2021). However, studies indicate that the participation rate of workers in the BPJS Employment program remains low, particularly in the informal sector, due to limited government outreach, weak supervision, and low awareness among both employers and employees (Sari, 2022).

Based on this background, this study aims to analyze the implementation of government policies in fulfilling workers' rights to employment social security based on Law No. 13 of 2003 on Manpower. This research will examine the effectiveness of the policies implemented, the obstacles faced in their execution, and strategies that can be employed to enhance workers' access to employment social security. Thus, the findings of this study are expected to contribute to policy recommendations for the government and relevant stakeholders in formulating more effective strategies to enhance workers' social protection in Indonesia.

Preliminary findings suggest that the implementation of government policies regarding workers' rights to employment social security still faces various obstacles that require serious attention. One of the primary factors hindering the effectiveness of this policy is the low level of employer compliance in registering workers for social security programs, as well as weak law enforcement and sanctions against non-compliant companies (Rahman, 2020). Therefore, a more integrated approach involving the government, businesses, and workers is needed to optimize the implementation of employment social security policies and improve the overall welfare of workers in Indonesia.

2. RESEARCH METHOD

The research methodology employed in this study consists of two primary approaches: library research (literature review) and field research (empirical study), where library research involves the collection, analysis, and interpretation of legal sources, including statutory regulations, the Indonesian Penal Code (KUHP), books, academic journals, online sources, and expert opinions, serving as the foundation for understanding the legal framework governing the distribution and regulation of alcoholic beverages (Creswell, 2014), while field research is conducted through direct observations and interviews at the North Siantar Police Sector (Polsek Siantar Utara) in Pematang Siantar, along with other relevant institutions involved in alcohol control enforcement, enabling the study to assess real-world law enforcement practices, identify challenges in police interventions, and evaluate the practical implications of existing legal measures (Neuman, 2014), with collected data being analyzed using a qualitative approach to derive patterns, themes, and legal implications for improving law enforcement effectiveness in curbing alcohol distribution (Patton, 2015).

3. RESULT AND DISCUSSION

A. Form of Employer to Labor Relationship

In the context of industrial relations, Law Number 13 of 2003 on Manpower regulates the working mechanisms between employers and workers to create fair, democratic, and sustainable working conditions (Stone, 2013; Cooke et al., 2019). Chapter XI of the Manpower Law, specifically Articles 102 to 135, outlines the strategic role of the government in industrial relations, which includes policy formulation, service provision, supervision, and law enforcement against labor law violations (Collins, 2010; Kearney & Mareschal, 2017).

Effective industrial relations require participation from various stakeholders, as stated in Article 103 of the Manpower Law, which mandates that industrial relations must be implemented through several instruments, including labor unions, employer organizations, bipartite and tripartite cooperation institutions, company regulations, collective labor agreements, labor laws and regulations, and industrial relations dispute resolution institutions (Kamil, 2018; Mandala, 2021).

One of the main challenges in industrial relations is workplace disputes, often arising from conflicts of interest between workers and employers. To address this, the government has established industrial relations dispute resolution mechanisms, as stipulated in Law Number 2 of 2004, which includes bipartite negotiations, mediation, conciliation, arbitration, and industrial relations courts (Ibrahim, 2019; Sudiawan et al., 2024).

In the context of employment agreements, Article 108 of the Manpower Law requires every company employing at least 10 workers to establish company regulations approved by the government (Carinci, 2015; Bronstein, 2017). This regulation aims to ensure legal certainty for both workers and employers regarding their respective rights and obligations. If a labor union exists within the company, a collective labor agreement can replace company regulations, provided that its provisions do not contradict existing labor laws (Hafiz, 2020; Weiss et al., 2023).

Moreover, in terms of labor supervision, the government is responsible for enforcing labor regulations, particularly regarding social security for workers. The employment social security program, regulated under Law Number 24 of 2011 on BPJS Employment, aims to provide protection against work-related risks, death, old-age benefits, and pensions (Ningsih, 2019; Indraswari et al., 2024). However, implementing this program still faces challenges, particularly in ensuring participation among informal workers and employer compliance in registering employees.

Another challenge in implementing healthy industrial relations includes workers' lack of awareness regarding their rights, weak government oversight, and the ineffectiveness of industrial dispute resolution institutions (Bamber & Lansbury, 2024). Therefore, collaboration between the government, employers, and workers must be strengthened to ensure compliance with regulations and the protection of workers' rights. Based on the analysis above, it can be concluded that the implementation of government policies in industrial relations still requires strengthening in several aspects, especially in terms of law enforcement, the effectiveness of industrial relations institutions, and legal awareness among workers and employers. Moving forward, improvements can be made through enhanced legal education on labor laws, optimization of labor supervision, and improvements in industrial dispute resolution mechanisms to ensure justice and welfare for workers in Indonesia.

B. Rule of Law and the Role of Government in Social Protection

Indonesia as a country of law emphasizes that all government actions must be based on clear and written legal rules (Fauzia et al, 2021). The concept of *Rechtstaat* applied in Indonesia emphasizes the principles of legality, division of power, protection of basic rights, and judicial supervision (Juanda, 2023). In the context of development, law functions as a means of social renewal, ensuring social order, and directing

citizens in achieving planned development goals (Mensah, 2019). Law has several main functions in social life, including the distribution of justice, dispute resolution, social control, and as a means of social engineering. However, the effectiveness of the law in achieving its goals is greatly influenced by several factors, such as the suitability of legal rules, the performance of law enforcement, support facilities, and public awareness in obeying the law.

As a country based on law, Indonesia is responsible for advancing public welfare, as mandated in the Preamble to the 1945 Constitution, paragraph IV. One of the real steps in realizing social welfare is the implementation of national social security, as regulated in Article 28H paragraph (3) and Article 34 paragraph (2) of the 1945 Constitution. This system is also in line with the 1948 Universal Declaration of Human Rights and ILO Convention Number 102 of 1952, which mandates every country to provide minimum protection for workers (ILO, 1952). In the national context, the MPR RI through MPR Decree Number X/MPR/2001 assigned the President to establish a National Social Security System (SJSN) to provide comprehensive and integrated social protection. This was then realized through Law Number 40 of 2004 concerning the National Social Security System, which emphasizes that social security is a form of social protection for all people to meet the basic needs of a decent life.

Since 1992 to 2013, social security for workers was organized by PT. Jamsostek (Persero) based on the Workers' Social Security Law. However, since January 1, 2014, PT. Jamsostek has officially transformed into BPJS Ketenagakerjaan as regulated in Article 62 paragraph (1) of the BPJS Law (BPJS Law, 2011). In Article 13 paragraph (1) of the SJSN Law and Article 15 paragraph (1) of the BPJS Law, it is emphasized that every employer is required to register themselves and their workers as BPJS Ketenagakerjaan participants. However, the reality in the field shows that there are still many employers who do not comply with this obligation, which has the potential to harm workers and violate applicable laws (Anshari et al., 2022). To overcome this non-compliance, Article 17 of the BPJS Law regulates administrative sanctions for employers who do not register their workers in the social security program. These sanctions include written warnings, fines, and prohibitions on obtaining certain public services (BPJS Law, 2011). However, the main challenges in implementing these sanctions are the lack of legal awareness among employers, weak supervision by relevant agencies, and minimal strict law enforcement.

From an administrative law perspective, sanctions are a tool of public power used by the government to enforce compliance with the law (Hadjon, 2020). The basic principles of sanctions include elements of public legal power, reactions to non-compliance with the law, and the use of coercive legal mechanisms. The application of sanctions in the social security system aims to prevent violations and ensure employer compliance in protecting workers' rights (Friedman, 2019). However, the effectiveness of sanctions is highly dependent on the clarity of legal regulations, strict monitoring mechanisms, and public legal awareness. Therefore, efforts are needed to increase legal education, optimize labor supervision, and consistent and firm law enforcement to ensure the sustainability of social security for workers in Indonesia (Suharto, 2022).

Based on the analysis above, it can be concluded that the implementation of government policies in fulfilling workers' rights to social security for workers still faces various challenges. Although regulations and sanction systems have been clearly regulated, the lack of employer awareness, weak supervision, and minimal law enforcement are the main obstacles in the implementation of this policy. Therefore, synergy between the government, companies, and workers is needed to ensure the effectiveness of fair and sustainable social security.

C. Government Efforts Regarding Workers' Rights in Obtaining Social Security for Workers

The government has a crucial role in organizing social security for workers to ensure that every worker gets proper protection. The Social Security Administering Agency (BPJS) for Employment is the main instrument in providing social security for workers, including compensation and compensation costs in the event of a work accident (Indayatun & Riswan, 2022). The Social, Manpower, and Population Mobility Service of Pematang Siantar City acts as an extension of the government in supervising and resolving employment problems and is responsible for mobilizing and coaching workers (Village & Sur, 2023).

However, public policies implemented by the government in the employment sector are considered to be less than optimal in providing legal protection for workers as a whole. This can be seen from the condition of workers who are still vulnerable politically, economically, socially, and legally (Geovani et al, 2021). From a political perspective, workers still experience limitations in the decision-making process related to industrial relations, including in fulfilling basic rights such as the right to strike, the right to associate, and the right to negotiate collectively. From an economic perspective, workers still receive low wages, long working hours, and social and health security that is not optimal.

Legal protection for workers is needed to ensure that their rights are not violated by employers. Given the weaker position of workers in industrial relations, government intervention is very important through regulations that govern the rights and obligations of each party (Strinati, 2024). The Manpower Law regulates a series of legal protections for workers, both before, during, and after work. In addition, in its implementation, these legal provisions are supported by criminal and administrative sanctions for parties who violate labor laws and regulations (Manpower Law No. 13 of 2003).

In the implementation of labor protection, the Social and Manpower Service has the authority to intervene in industrial relations to minimize conflicts between workers and employers (Siahaan, 2022). In addition, supervision of the implementation of work norms and Occupational Safety and Health (K3) is also an important part of ensuring that employers comply with the provisions of laws and regulations (Manpower Law Article 65 paragraphs 2, 3, 4, 6, and 7). Labor supervision is a preventive and repressive step in enforcing the law to reduce the level of violations in the labor sector.

Labor inspectors have the main task of supervising the implementation of labor regulations, providing education to employers and workers, and taking legal action against violations found (Pires, 2021). The strategies carried out in this supervision include:

1. Socialization of Labor Norms: Increasing the understanding of the industrial community regarding labor provisions so that collective awareness grows in their implementation.
2. Guidance Efforts: Providing counseling and disseminating information related to labor regulations so that they are understood and implemented properly.
3. Non-Judicial Repressive Actions: Issuing written warnings to employers who violate the provisions, as a corrective effort without the need for legal proceedings.
4. Judicial Repressive Actions: Investigation and legal action against violations that cannot be resolved through a persuasive approach.

The implementation of social security for workers requires strict supervision from the government so that this program can run effectively and fairly for all workers. Strategic steps such as direct inspections of companies and evaluation of the implementation of social security in the workplace are important methods in ensuring company compliance with existing regulations (Supriyadi, 2022). In addition, the synergy between the government and labor inspectors must be strengthened so that employer compliance with labor protection can increase (Nasution, 2023).

Labor supervision must be carried out with a balanced principle between a persuasive approach and repressive actions of a judicial nature. This aims to ensure welfare and justice in the field of employment without ignoring the aspects of education and legal awareness for employers and workers (Basri, 2021). Thus, the effectiveness of the labor social security system can continue to be improved in order to create a safer, healthier, and more prosperous working environment.

4. CONCLUSION

The conclusion of this study shows that the relationship between employers and workers has a primary function in ensuring the continuity of production, maintaining order, channeling aspirations democratically, and developing the skills and welfare of workers and their families, while employers and their organizations play a role in creating partnerships, expanding employment opportunities, and improving the welfare of workers openly, democratically, and fairly; on the other hand, the legal consequences for employers who do not register themselves and their workers as participants in the social security program at BPJS Ketenagakerjaan are the imposition of administrative sanctions in the form of written warnings, fines, or not receiving certain public services, where sanctions in the form of warnings and fines are carried out by BPJS Ketenagakerjaan, while sanctions in the form of limiting access to public services are applied by the Central Government or Regional Government at the request of BPJS Ketenagakerjaan; the government's efforts to ensure the fulfillment of workers' rights to obtain participation in the social security program in Pematang Siantar City are carried out through socialization of workers' rights, increasing labor supervision, law enforcement in the field of employment, and the application of sanctions for companies that do not register their workers in the labor social security program.

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