

## **LEGAL PROTECTION OF LABOR IN CASES OF TERMINATION OF EMPLOYMENT**

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### **ABSTRACT**

This research discusses the legal protection of workers related to termination of employment (PHK) in Indonesia. With a focus on legal provisions, labor rights, and the impact of layoffs on their welfare, this research is conducted with a qualitative approach using case studies. The results show that the legal framework of layoffs in Indonesia has clearly mapped out the rights of workers, especially through Law Number 13 Year 2003 on Manpower. However, consistent implementation and good understanding of the provisions are still a challenge, giving rise to gaps in labor protection. Legal protection of labor in layoffs includes rights such as severance pay and long service awards, although there is room for further improvement. An in-depth analysis of the impact of layoffs highlights the importance of better understanding, consistent law enforcement, and policy changes where necessary. Research recommendations include increasing labor awareness, strengthening law enforcement, periodic evaluation of legal provisions, and involvement of third parties in PHK dispute resolution. This research is expected to contribute to a better understanding of the legal protection of labor in layoff situations in Indonesia. The proposed recommendations can be the basis for further improvements in the labor protection system in the country.

**Keywords:** legal protection, labor, employment, termination of employment (PHK), legal implementation, impact of PHK.

### **INTRODUCTION**

In the world of Indonesian employment, termination of employment (PHK) is a significant and complex phenomenon. The significant and complex phenomenon of layoffs in the world of Indonesian employment can be related to the practice of Human Resource Management (HRM), especially in the context of understanding and managing the turnover intention of the workforce (Mardikaningsih & Hariani, 2020; Arifin et al., 2022). Turnover intention refers to an employee's desire or intention to leave the job or organization where they work (Darmawan, 2015; Mardikaningsih & Arifin, 2022). Good HRM practices can help organizations manage the layoff phenomenon in a way that minimizes the negative impact on turnover intention. These include practices such as fair performance management, open communication, employee development, and effective conflict

handling (Bertola et al., 2020; Bangsu & Dahar, 2023). Legal provisions governing layoffs are a key foundation in maintaining balance and fairness between the rights of the company as an employer and the rights of the workforce (Munir et al., 2013; Retnowati et al., 2023). Therefore, an in-depth understanding of the legal provisions governing layoffs in Indonesia is crucial. However, despite the existence of legal provisions, the implementation of these rules often causes various problems. In practice, the extent to which the legal provisions are implemented consistently and fairly is a question that needs to be examined (Jimeno et al., 2018). Factors affecting the implementation of the legal provisions of layoffs in Indonesia may involve various aspects, including practical understanding, availability of resources, and company policies (Agung, 2021). Well-regulated employment contract policies and provisions create a clear legal basis related to labor rights and obligations (Weiler, 1990).

With regard to labor rights, the laws and regulations relating to termination of employment guarantee certain rights. However, the complexity of these regulations can lead to confusion among workers and companies, making a thorough understanding of these rights essential. PHK is a dynamic that affects the economic aspects of the company and has a very significant impact on the economic welfare and rights of the affected workforce (Mardikaningsih & Munir, 2021). Involving a process of separation between the workforce and the company, layoffs create the potential to present serious challenges and financial uncertainty for the individuals involved (Fitriyani et al., 2011). This makes it imperative to analyze the impact of layoffs on the economic well-being of the workforce, as well as the extent to which their rights are adequately protected in situations involving layoffs.

The impact of layoffs includes the economic dimension of the firm, where the firm may be faced with financial and operational restructuring and involves social and individual dimensions (Razzak et al., 2023). Individuals who experience layoffs are often faced with profound economic challenges, which include loss of income sources, uncertainty in finding new jobs, and risk of poverty. Therefore, there is a need for a deep understanding of the direct consequences on the economic well-being of the workforce, including the psychological and social impacts that can arise from this event (Acemoglu & Angrist, 2001).

In the face of the complexity of the impact of layoffs, it is necessary to explore the extent to which labor rights are protected in this scenario. Further analysis of the legal framework governing layoffs, such as Law No. 13/2003 on Manpower, is crucial to evaluate the extent to which legal protection has been provided for workers who experience layoffs. Key questions include whether severance pay and other entitlements are sufficient to provide adequate financial security, to what extent there is transparency in the regulations and their implementation, and whether there are safeguards necessary to maintain a balance between the interests of the company and the rights of the workforce.

Within the framework of the background of this issue, legal provisions relating to layoffs regulate the relationship between companies and workers and create the foundation for building a fair and equitable work environment. Therefore, further investigation into the legal provisions, their implementation, labor rights, and the impact of layoffs on economic welfare is essential to understanding the dynamics of industrial relations in Indonesia.

## **METHODS**

The research that has been described can be categorized as a type of literature research with a legal approach, which focuses on analyzing literature studies and legal perspectives based on the law. The research is descriptive-analytical in nature, where the researcher documents, analyzes, and interprets information contained in the literature, legal documents, as well as the views of legal experts to understand and explain legal phenomena related to layoffs.

The research involved a comprehensive literature review, including laws, law journals, reference books, and articles related to the topic of layoffs. This literature study formed the basis of an understanding of the legal framework and current legal context. This research adopts a legal perspective in analyzing and interpreting the information found. The researcher uses recognized legal frameworks, such as Law Number 13 Year 2003 on Manpower, to interpret the legal aspects related to layoffs.

This research is analytical in nature as it involves in-depth analysis of legal documents, interviews with legal experts, and other literature to gain a better understanding of the implementation of the law related to layoffs. While the general approach is a desk study, the research also has a focus on case studies. This may include analyzing legal documents and legal experts' views related to specific layoff cases to provide a broader picture.

This research aims to describe and analyze the phenomenon of layoffs from a legal perspective, by providing a comprehensive overview of the legal framework governing layoffs and its implementation. This type of research is very important to understand the complexity of legal regulations related to layoffs and their impact on labor welfare. By focusing on literature studies and legal perspectives, this research can make an important contribution to the development of understanding of legal issues related to employment.

## **RESULTS AND DISCUSSION**

### **Legal Provisions and Implementation of Termination of Employment in Indonesia**

Legal provisions governing Termination of Employment (PHK) in Indonesia can be found in Law Number 13 Year 2003 on Manpower. This law provides a legal basis that regulates various aspects of employment, including layoffs. In general, it stipulates that layoffs can

be carried out for several reasons, such as company closure, restructuring, or certain reasons recognized by the law.

Although Law No. 13/2003 on Manpower in detail regulates aspects related to layoffs, the implementation of these legal provisions in the field often encounters a number of obstacles that culminate in a high level of disputes and layoff disputes. This high level of disputes indicates that the implementation of legal provisions often does not meet expectations, opening up room for improvement in the understanding and implementation of labor law in Indonesia.

One factor that has a significant impact on the implementation of Law Number 13 Year 2003 is the different interpretations of the law. Varying understandings between employers, labor, and even legal practitioners create uncertainty in the application of the law of termination. For example, the lack of clarity in the definition of legitimate reasons for termination can leave room for different interpretations, leading to disputes.

Lack of practical understanding is also an obstacle in the implementation of Law No. 13 Year 2003. While the law provides a legal framework, its application in real-life situations requires a deep understanding of labor. For example, determining the amount of severance pay commensurate with length of service and wages should be a simple matter, but in practice, there is often confusion and disagreement.

The dominant interests of the company may sometimes be an obstacle to effective implementation. Some companies may be motivated to minimize the cost of layoffs, which can lead to interpreting legal provisions with a view towards company profits. This creates a situation where labor rights may be overlooked or not fully observed in favor of the company (Turner, 2000).

Another issue that often arises is the mismatch between company policies and applicable legal provisions. Some companies may not fully understand or comply with the procedures stipulated by Law No. 13/2003. For example, it may happen that a company does not provide compensation in accordance with the provisions of the law or does not follow the correct procedure in providing layoff notices to the workforce. This can create uncertainty and confusion in the implementation of layoffs and increase the risk of legal conflicts.

Thus, the implementation of Law Number 13 Year 2003 on Manpower related to layoffs in Indonesia shows challenges that require further attention. Efforts are needed to improve mutual understanding between the company and the workforce, facilitate uniform interpretation of the law, and ensure that company policies are in line with applicable legal provisions. Thus, the protection of labor rights in layoff situations can be more effective and in accordance with the spirit of labor law in Indonesia.

### **Labor Rights in the Termination of Employment Laws and Regulations**

The laws and regulations related to layoffs provide a number of protected rights for

workers. These rights include the right to severance pay, the right to long service awards, and other rights that aim to provide fair compensation to workers who experience layoffs (Ramadhan et al., 2013; Aleksynska & Eberlein, 2016). However, unclear or inadequate understanding of these rights is often a problem.

Severance pay, as one of the main rights guaranteed in Law No. 13/2003 on Manpower, should provide certainty to workers who experience layoffs. However, in reality, its implementation often raises various challenges that can lead to dissatisfaction and disputes between companies and workers (Darmawan, 2019).

First of all, the method of calculating severance pay, which should be transparent and clear based on length of service and wage level, often faces different interpretations or inaccurate calculations (Eger, 2003). For example, there is a lack of clarity in determining whether certain bonuses or benefits should be included in the severance pay calculation. Such disagreements can create uncertainty and confusion, especially when companies and workers have different interpretations of legal provisions.

For example, in cases where a worker has worked for a company for many years and has received various bonuses or additional benefits, the severance pay calculation should include the entire compensation package received. However, the company may have a different view and only calculate severance pay based on the base salary without including any additional components, causing a large difference in the amount of severance pay that the worker should receive.

In addition to technical calculation issues, another problem arises from the lack of adequate understanding of severance and other rights, both by the company and the workforce (Nardodkar et al., 2016). Workers are often not fully aware of their rights, and this can complicate the negotiation and dispute resolution process between the parties involved.

For example, if a worker does not fully understand his or her rights regarding severance and other benefits, he or she may be inclined to accept an offer that is less favorable or not in line with legal requirements. Conversely, companies that do not fully understand their obligations regarding severance pay may offer less compensation than they should, creating inequality and unfairness in the settlement of termination cases.

In addition to severance pay, there are a number of labor rights guaranteed by the laws and regulations related to layoffs in Indonesia, especially Law Number 13 Year 2003 on Manpower. Some of these rights include:

1. **Severance Pay:** The Labor Law stipulates that workers who are laid off are entitled to receive a period of service award in the form of money in the amount of one time salary for each year of service.
2. **Right to Reimbursement of Work Relations Settlement Costs:** Dismissed workers are also entitled to reimbursement of employment settlement costs, including transportation costs, housing, and other reasonable costs to help workers adjust to the

situation after layoffs.

3. **Health Benefits:** During the period of termination of employment, workers are still entitled to health benefits in accordance with company regulations or applicable labor agreements.
4. **Social Security and Welfare Rights:** In accordance with labor laws, companies are required to pay social security and welfare for laid-off workers, such as pension and health insurance.
5. **Notice Period Rights:** Workers are entitled to receive a certain notice before being terminated in accordance with the length of service. This notice period provides an opportunity for workers to prepare themselves and look for a new job.
6. **Right to a Service Certificate:** Laid-off workers have the right to a service certificate or reference letter from the company, which can help them in finding a new job.
7. **Right to Job Search Assistance:** Some company regulations or employment agreements may entitle workers to assistance in finding a new job, such as skills training or job placement programs.

All of these rights are intended to provide protection and fair compensation to workers who experience layoffs, as well as to ensure that the layoff process is carried out with due regard to the rights and welfare of workers (Befort, 2001). Therefore, to improve the effectiveness of the labor protection system related to layoffs, there needs to be a joint effort between the government, companies, and labor organizations to increase understanding and awareness of labor rights. Training and socialization of the provisions of the law relating to layoffs can help reduce uncertainty and increase transparency in the negotiation process between companies and workers, keeping the rights of workers well protected and in accordance with the spirit of applicable labor laws.

### **The Impact of Layoffs on Economic Welfare and Labor Rights**

Layoffs have an impact on the economic aspects of labor and affect various other aspects of their lives. These impacts emerge as significant consequences and require serious attention, especially in relation to Law Number 13 Year 2003 on Manpower in Indonesia.

#### **1. Financial Uncertainty and Loss of Income**

From an economic perspective, layoffs can create serious financial uncertainty for the affected workforce. A sudden loss of income can result in financial hardship immediately after layoffs occur. For example, a worker who has worked for many years in a company, suddenly faces a situation where his/her source of income is cut off, creating deep economic vulnerability.

While severance pay and other entitlements are supposed to provide a form of economic protection, the reality often shows that the value of compensation received is not always sufficient to cover the economic needs of the workforce during the period of searching for a new job. For example, if the level of severance pay received is not comparable to previous income levels or if severance pay is minimal, workers may experience greater financial hardship than anticipated.

#### **2. Loss of Other Rights and Long-term Impacts**

Layoffs can also result in the loss of other entitlements that may exacerbate a worker's

condition. Loss of health benefits or pension rights following a layoff can leave a worker without long-term health protection or financial security. For example, when a worker who relies on company health benefits suddenly loses them, they may face challenges accessing needed health services.

### 3. Psychological and Social Impact

In addition to the economic impact, layoffs also place a heavy psychological burden on the workforce (Darmawan et al., 2022). Stress, anxiety and uncertainty regarding their financial future can permeate their personal and professional lives. In some cases, this can lead to a decline in psychological well-being and even create mental health challenges.

The social impact in the work environment is also an important concern. Large-scale layoffs can create tension among the workforce, shatter team solidarity and create an unstable work environment. This can impact the psychological well-being and productivity of coworkers who are not affected by layoffs.

Law Number 13 Year 2003 needs to be further considered to ensure that labor rights are not only considered in terms of financial compensation but also involve the protection of psychological well-being and social rights. Strengthening regulations and more effective implementation can help reduce negative impacts and create a more equitable and sustainable work environment.

In terms of labor rights, layoffs that do not comply with legal provisions can significantly harm workers. Discrepancies between company policies and legal provisions, such as severance pay not being paid in full, can lead to labor rights violations and legal disputes.

Thus, the legal provisions governing layoffs in Indonesia have been regulated in law, but their implementation still faces a number of obstacles. Labor rights, although guaranteed by legislation, are often not well understood by both the company and the workforce, which can lead to uncertainty and disputes. The impact of layoffs on economic welfare and labor rights also suggests the need for an in-depth evaluation of the effectiveness of existing provisions. Therefore, further research and efforts to improve understanding, consistent implementation, and protection of labor rights related to layoffs are urgently needed.

## **CONCLUSION**

Based on the results of the research, it is concluded that the legal framework for termination of employment in Indonesia has defined labor rights quite clearly. However, consistent industry and business implementation and uniform understanding of these provisions remain weak points. Legal protection of labor is strengthened through increased understanding, consistent law enforcement, and policy changes where necessary.

Based on the research findings, several recommendations are proposed to improve the legal protection of labor in layoff cases in Indonesia:

1. The government and companies need to increase workers' awareness of their rights in layoff cases through education and socialization programs.
2. Law enforcement against violations of labor rights needs to be strengthened to ensure

that the sanctions given are in accordance with the violations that occur.

3. The government needs to periodically evaluate the legal provisions related to layoffs to adjust them to the social and economic developments that occur.
4. Encouraging the involvement of third parties, such as arbitration or mediation institutions, to resolve layoff disputes can be a faster and more efficient alternative.

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