

Legal Protection for Workers Affected by Layoffs in Indonesian Laws and Regulations

Mustika Prabaningrum Kusumawati and Ahmad Khairun Hamrany

Faculty of Law, Universitas Islam Indonesia

Email: mustika.praba@gmail.com

Abstract: This article explores the legal framework in Indonesia that offers protection to workers affected by Termination of Employment (*Pemutusan Hubungan Kerja*/PHK). It draws upon a range of data sources, including official state documents, laws and regulations, research studies, and relevant literature. Employing a normative-juridical approach, this study concludes that Indonesian laws and regulations provide comprehensive legal protection to workers during and after their employment period. Therefore, Indonesian laws and regulations prohibit layoffs except for justifiable reasons. Additionally, in cases where layoffs are inevitable, employers must offer severance pay and compensation to affected workers. Second, if there is a discrepancy between employers and workers regarding terminating the employment relationship (PHK), the law provides a resolution mechanism through Industrial Relations Dispute Settlement. This can be achieved through bipartite, tripartite negotiations and the industrial relations courts. All of these legal provisions aim to safeguard workers' rights adversely impacted by layoffs.

Keywords: *industrial relations; workers affected by layoffs; legal protection.*

Abstrak: Artikel ini mengkaji persoalan perlindungan hukum bagi pekerja yang terdampak Pemutusan Hubungan Kerja (PHK) dalam peraturan perundang-undangan di Indonesia. Sumber data dalam artikel ini berupa dokumen-dokumen resmi negara, peraturan perundang-undangan, dan karya-karya ilmiah yang terkait dengan topik kajian ini. Menggunakan pendekatan normatif-yuridis, artikel ini menyimpulkan bahwa, peraturan perundang-undangan Indonesia secara jelas memberikan perlindungan hukum kepada pekerja, baik ketika masih berada dalam masa kerja maupun setelah berakhirnya hubungan kerja. Oleh karena itu, peraturan perundang-undangan Indonesia pada prinsipnya melarang dilakukannya PHK, kecuali ada alasan yang bisa dibenarkan. Selain itu, artikel ini juga menyimpulkan bahwa para pengusaha atau perusahaan yang melakukan PHK dikenai kewajiban oleh undang-undang untuk memberikan uang pesangon dan juga uang penghargaan kepada para pekerja yang di-PHK. Bukan hanya itu, ketika terjadi ketidaksesuaian antara

pengusaha dan pekerja mengenai pengakhiran hubungan kerja (PHK), undang-undang juga memberikan mekanisme penyelesaiannya melalui Penyelesaian Perselisihan Hubungan Industrial, baik melalui perundingan bipartit, tripartit maupun pengadilan hubungan industrial. Kesemuanya itu merupakan bagian dari upaya untuk memberikan perlindungan hukum terhadap pekerja yang terkena PHK.

Kata Kunci: *hubungan industrial; pekerja terdampak PHK; perlindungan hukum*

Introduction

The employment relationship between an employer and an employee establishes a binding legal relationship governed by labour law in Indonesia. While labour law predominantly falls within the public law's ambit, specific work relations provisions remain private.¹ The relationship between employers and workers is established primarily through a formal employment contract, which stipulates the respective obligations of each party. However, in practice, there may be instances where either party fails to uphold their contractual obligations, resulting in legal irregularities.² Such irregularities are commonly observed when employees display negligence in their work or when employers terminate employment unilaterally.

Termination of an employment contract, resulting from an action taken by the employer or the employee, is commonly referred to as a layoff.³ In Indonesia, this issue has been the subject of ongoing debate and is often driven by factors such as a company's inability to sustain its operations or meet its payroll obligations.⁴ The situation is further compounded when employers fail to provide laid-off workers with their legally mandated severance pay and award money. Many legal disputes brought before the courts have arisen due to employers' failure

¹Susilo Dharma, "Kedudukan Hubungan Kerja: Berdasarkan Sudut Pandang Ilmu Kaidah Hukum Ketenagakerjaan Dan Sifat Hukum Publik Dan Privat," *Jurnal MIMBAR HUKUM* 29, no. 2 (2017), pp. 221–234.

²Erich Goode, "Deviant Behavior", Second Edition (New Jersey: Prentice Hall, 1984) and Suyato, "Perilaku Menyimpang Dalam Perspektif Sosiologis," *Jurnal Civics* 2, no. 2 (2005), pp. 1–7.

³F.X Djumaldji, *Perjanjian Kerja* (Jakarta: Sinar Grafika, 2005), p. 45.

⁴Rizqa Maulinda and M Nur Rasyid, "Perlindungan Hukum Bagi Pekerja Kontrak Waktu Tertentu Dalam Perjanjian Kerja Pada PT. Indotruck Utama," 18, no. 3 (2016), pp. 337–351.

to fulfil their obligations towards affected workers. One such instance is case register number 478/Pdt.Sus-PHI/2021/PN Jkt.Pst, which the Industrial Relations Court heard at the Central Jakarta District Court. The plaintiff, in this case, sought long service awards, compensation money, severance pay, and underpayment of wages from the company they were previously employed with.⁵ Layoff cases have further increased during the Covid-19 pandemic, with findings indicating a significant jump in worker layoffs in Indonesia by 15.6% until mid-2020, with 13.8% of those workers not receiving their legally mandated severance pay.⁶

Various factors contribute to layoffs, as stipulated in the Manpower Law. These include employee misconduct, company losses for various reasons, mergers, changes in status, confusion or corporate acquisitions, and bankruptcy.⁷ Additionally, worker personality, company work culture, and job satisfaction are contributing factors.⁸ Nonetheless, the issue at hand is not only the occurrence of layoffs but also the disregard for the rights of affected workers, which is often evident among employers.⁹ Therefore, providing legal protection to these workers is of utmost importance.¹⁰ In this regard, the government plays a crucial role in enhancing legal protection for workers. To this end, various employment policies have been formulated in accordance with Labor Law Number 13 of 2003 and Law Number 11 of 2020.

Numerous studies have been conducted on worker protection, including research conducted by Wibowo and Ratna, as well as research carried out by Rudi Febrianto and Ratna Herawati, which focuses on

⁵Sistem Informasi Penelusuran Perkara Pengadilan Negeri Jakarta Pusat, in http://Sipp.Pn-Jakartapusat.Go.Id/Index.Php/Detail_perkara,” 2021.

⁶Ngadi, et.al., “Dampak Pandemi Covid-19 Terhadap PHK Dan Pendapatan Pekerja Di Indonesia,” *Jurnal Kependudukan Indonesia*, 2902 (2020), p. 43.

⁷I.G. Amilia, N. K. S. I. & Yusa, “Penyebab Terjadinya PHK Oleh Pengusaha Terhadap Pekerja Ditinjau Berdasarkan Hukum Ketenagakerjaan,” *Jurnal Hukum Bisnis FH Universitas Udayana* (2018), pp. 1–5.

⁸Ferdy Roring, Sri Murni, and Mawey Alfa, “Faktor-Faktor Yang Mempengaruhi PHK Karyawan Pada Pt. Pln (Persero) Rayon Manado Utara,” *Jurnal Riset Ekonomi, Manajemen, Bisnis dan Akuntansi* 4, no. 1 (2016), pp. 261–272.

⁹Sugiarti & Wijayanti, “Keabsahan PHK Karena Force Majeur Di Masa Pandemi Covid-19,” *Justitia Jurnal Hukum* 4, no. 2 (2020), pp. 221–373.

¹⁰Abdul Khakim, *Pengantar Hukum Ketenagakerjaan Indonesia* (Bandung: PT. Citra Aditya Bakti, 2003), p. 9.

legal protection for unilaterally laid workers off.¹¹ In addition, Annisa Fitria's study explores legal protection for workers who have been laid off due to efficiency.¹² Furthermore, Karina, Saartje, and Merlien researched legal protection for workers during the Covid-19 pandemic.¹³ They discovered that the high number of layoffs was attributable to companies' inability to sustain their operations and provide remuneration to their employees.¹⁴

This article presents a novel perspective by focusing on the analysis of legal protection for workers affected by layoffs, which distinguishes it from existing literature. It aims to supplement the current body of knowledge on legal protection for workers affected by layoffs in the Indonesian legal system. This research adopts a normative legal approach, with analysis conducted through a juridical lens. Primary, secondary, and tertiary legal materials were used as data sources. Primary legal materials include legislation, particularly Law Number 13 of 2003 and Law Number 11 of 2020, which serve as the primary legal framework for protecting workers/labourers. Secondary legal materials encompass prior studies and research on the topic, while tertiary legal materials include legal dictionaries, encyclopedias, and other relevant legal reference materials in Indonesia.

Employment Agreement in Indonesian Labor Law

The term "labour law" is a relatively recent concept. Initially, the term used was "arbeidsrecht"¹⁵ which regulated the working relationship between workers/labourers and¹⁶ employers or

¹¹Lihat Wibowo & Ratna, "Perlindungan Bagi Pekerja Atas Tindakan PHK Secara Sepihak", *Diakom: Jurnal Media dan Komunikasi*, 3, no.1 (2021), pp. 273-284 and Rudi Febrianto & Ratna Herawati, "Perlindungan Bagi Pekerja Atas Tindakan PHK Secara Sepihak", *Jurnal Pembangunan Hukum Indonesia*, 3, no. 1 (2021), pp. 109-120.

¹²Annisa Fitria, "Perlindungan Hukum Terhadap Pekerja atau Buruh yang Terkena PHK Akibat Efisiensi", *Lex Jurnalica*, 15, no. 3 (2018), pp. 323-331.

¹³Karlina Hatane, Saartje, Merlien, "Perlindungan Hukum Terhadap Pekerja di Masa Pandemi Covid-19", *Tatohi: Jurnal Ilmu Hukum*, 1, no. 3 (2021), pp. 265-275.

¹⁴Karlina Hatane, Saartje, Merlien, pp. 265-275.

¹⁵Abdul Khakim, *Pengantar Hukum Ketenagakerjaan Indonesia* (Bandung: PT.Citra Aditya Bakti, 2003), p. 4.

¹⁶Philosophically, the term "worker" emerged as a replacement for the term "laborer" which was better known as a rough worker, such as a foreman, laborer, stonemason, and others. The term was known during the Dutch colonial period, which was also referred to as the term "blue collar." In addition to the term blue collar, "white collar" is also known. This term is used for administrative employees

companies.¹⁷ The nature of work relations was considered initially private but eventually became public due to government intervention. This was based on the realization that work relations actually regulate private relations between employers and workers, hence their private nature. However, during its development, the state or government interfered in this sector and transformed it into a public matter. This intervention was not unfounded, as the employment relationship between employers and workers is inherently unequal, with the employer always holding a superior position over the worker, contrary to the intended balance.

The employment relationship between workers and employers is established through a contractual arrangement known as a work agreement. Hence, the work agreement serves as a precursor or primary basis for the formation of the employment relationship between both parties.¹⁸ Essentially, an employment agreement denotes an agreement where the first party (i.e., worker or labourer) obligates themselves to the second party (i.e., employer or company) through a work and wage agreement that stipulates their respective abilities to carry out the work.¹⁹ The work agreement may be documented in writing or agreed

and is usually a noble class who works in offices. They are generally Dutch people who were in Indonesia. The use of the term "worker" juxtaposed with the term "laborer" (worker/laborer) initially appeared in Law Number 21 of 2020 concerning Labor Unions. The main reason the government juxtaposed the term "laborer" with "worker" is because the term "laborer" carries a rough connotation and is always at odds with the employer. See Zaeni Asyhadie, *Hukum Ketenagakerjaan Bidang Hubungan Kerja* (Jakarta: Raja Grafindo Persada, 2007), p. 148.

¹⁷The term entrepreneur also appeared recently. Previously, the term used for the employer was "employer". However, this term is no longer appropriate for modern contexts because it has a negative connotation. The employer always has a higher position than the party given the job when in fact, both the employer and the employee have the same position. Therefore, the term employer was changed to entrepreneur. See Lalu Husni, *Pengantar Hukum Ketenagakerjaan Indonesia* (Jakarta: PT Raja Grafindo Persada, 2007), p. 12. In Article 1 point (5) of Law Number 13 of 2003 concerning Manpower it is stated that entrepreneurs themselves can be grouped into three categories, namely: (1) individuals, partnerships or legal entities that stand alone run companies that do not belong to them; (2) individuals, partnerships or legal entities located in Indonesia representing companies domiciled outside the territory of Indonesia; (3) individuals, partnerships or legal entities that run a company owned by themselves.

¹⁸Article 1, Number 14, Law Number 13 of 2003 concerning Manpower.

¹⁹Wiwoho Soedjono, *Hukum Perjanjian Kerja* (Jakarta: Bina Aksara, 2003), p. 9.

upon orally. Nonetheless, it should embody the obligations and entitlements of both parties.²⁰

Once an employment agreement is established, a working relationship is formed,²¹ which delineates the positions of both parties and establishes their corresponding rights and responsibilities. Specifically, the employee is obligated to perform the job duties²² and abide by fines and compensations as well as workplace regulations.²³ In contrast, the employer is responsible for providing wages, managing the work and work environment, issuing certificates, and arranging care and support.²⁴ Essentially, what constitutes the worker's obligations constitutes the rights of the employer or company. Conversely, what constitutes the obligations of the employer or company fundamentally constitutes the worker's rights.

Article 1 point 15 of Law Number 13 of 2003 expounds on the relationship between workers/laborers and employers based on work agreements. The constituents of the employment relationship encompass, firstly, the presence of work, which is commensurate with duties and obligations.²⁵ While Law Number 13 of 2003 does not offer comprehensive details regarding the definition of this element, the definition of work is based on logical aspects of legal reasoning and must be permissible and mutually agreed upon by both parties to serve as the object of work. Secondly, there is wage, which denotes the compensation given by employers to workers/laborers based on mutually agreed work agreements. Thirdly, an order is not delineated in detail in Law No. 13 of 2003. This element is the right of employers to workers; however, the worker reserves the right to decline to carry out the employer's order if the order is outside the corridor of the

²⁰Saiful Anwar, "Sendi-Sendi Hubungan Pekerja Dengan Pengusaha, Kelompok Studi Hukum Dan Masyarakat, FH USU, Medan," (2007), pp. 46-47.

²¹Article 1, Number 14, Law Number 13 of 2003 concerning Manpower.

²²Imam Soepomo, *Pengantar Hukum Perburuhan* (Jakarta: Djambatan, 1997), p. 55.

²³Djumadi, *Hukum Perburuhan Perjanjian Kerja* (Jakarta Rajawali Pers, 2002), p. 36.

²⁴Djumadi, p. 37.

²⁵Kementerian Pendidikan dan Kebudayaan Republik Indonesia, *Kamus Besar Bahasa Indonesia* (Jakarta: Departemen Pendidikan Dan Kebudayaan Dan Balai Pustaka, 1990), p. 428.

mutually agreed agreement or contravenes the applicable laws and regulations.²⁶

Termination of Employment in Indonesian Laws and Regulations

However, in practice, sometimes this working relationship is forced to end for one reason or another, such as the expiration of the agreed work agreement, the existence of a certain time agreement, disputes between employers and workers, death of workers or workers, or other causes. A working relationship that runs harmoniously between workers/laborers and employers is the dream of all parties, both employers and workers/laborers. Nevertheless, in practice, this working relationship may come to a close for various reasons, such as the end of the agreed work agreement, the existence of a specified time agreement, disagreements between employers and workers, the death of workers, or other causes.²⁷ The discontinuation of employment by employers or companies is commonly referred to as Termination of Employment (PHK). In essence, layoffs entail the cessation of the rights and obligations between employers and workers/laborers in a working relationship brought about by certain conditions.²⁸

The termination of employment is an unfortunate event that is unforeseen by all parties involved, particularly for workers and laborers who rely on their employment for their livelihood. Therefore, it is imperative for all entities involved in industrial relations, including workers, employers, and the government as a regulatory body, to take necessary measures to prevent layoffs from occurring.²⁹

The research conducted by Flanagan, David, and O'Shaughnessy suggests that layoffs can be likened to a double-edged sword. On the one hand, they can be a sharp blade for workers and laborers who lose their jobs, causing significant hardship and financial distress. On the other hand, they can be an unsharpened blade for

²⁶Joko Ismono, "Hubungan Kerja dalam Perspektif HAM, Ekonomi, dan Pembangunan," *Halu Oleo Law Review* 2, no. 1, (2018), p. 354 & 365. See too Abdul Khakim, *Pengantar Hukum Ketenagakerjaan Indonesia*, p. 6.

²⁷Zaeni Asyhadie, *Dasar-Dasar Hukum Perburuhan* (Jakarta: PT. Raja Grafindo Persada, 2010), p. 173.

²⁸Article 1, Number 25, Law Number 13 of 2003 Concerning Manpower.

²⁹Lalu Husni, *Penyelesaian Perselisihan Hubungan Industrial Melalui Pengadilan Dan Di Luar Pengadilan* (Jakarta: PT Raja Grafindo Persada, 2004), p. 195.

employers, who use them to cut operational costs and restructure their businesses.³⁰

The Termination of Employment (PHK) can be categorized into several types, namely: (1) termination of employment by the employer, which occurs due to the wishes of the employer based on specific reasons, requirements, and procedures; (2) termination by workers/laborers, which occurs because of the workers/laborers' wishes based on specific reasons and procedures; (3) termination by law, which occurs automatically without any action taken; and (4) termination by the court (PPHI), which occurs based on a court decision due to certain urgent and important reasons.³¹

According to the provisions of Article 81 number 37 of Law No. 11 of 2020, which amended Article 151 of Law No. 13 of 2003, all parties involved in industrial relations, including employers, workers/labourers, trade unions/labor unions, and the government, have an obligation to prevent layoffs from occurring. In cases where layoffs are unavoidable, the employer must provide a clear purpose and reason for the termination to the worker/laborer. However, this amendment may not necessarily be in the best interest of workers/laborers, as it potentially grants employers the power to unilaterally carry out termination of employment (PHK) at any time. It is also unclear whether workers/laborers have the right to refuse notifications of termination of employment sent by employers.

Employers are, in principle, prohibited from carrying out layoffs of workers or laborers. This prohibition is further reinforced by the provisions of Article 81 number 40 of Law No. 11/2020, which amended Article 153 of Law No.13/2003 stipulates specific reasons for which employers are prohibited from laying off workers. These reasons include cases where the worker is unable to work due to illness not exceeding 12 months, fulfilling obligations to the state, carrying out religious worship, getting married, being pregnant, giving birth, having an abortion, or breastfeeding a baby, having blood ties and/or marital ties with other workers in the same company, being a member of a workers' union or a workers' union official, and complaining to the authorities about the company's actions that commit criminal acts. In

³⁰Flanagan & O'Shaughnessy, "The Effect of Layoffs on Firm Reputation," *Journal of Management* 31, no. 3 (2005), pp. 445–463.

³¹Adrian Sutedi, *Hukum Perburuhan* (Jakarta: PT. Sinar Grafika, 2009), p. 66.

addition, differences in beliefs, religion, political beliefs, ethnicity, skin color, class, gender, physical condition, or marital status are unacceptable reasons for layoffs. Finally, workers who are permanently disabled, sick due to a work accident, or sick due to a work relationship, as confirmed by a doctor's statement, and whose recovery period is uncertain are also protected from being laid off.

Significant revisions have been made regarding the grounds for prohibiting employers or companies from terminating the employment of their workers. Specifically, there has been a modification in the prohibition against the termination of workers who have blood or marital relations with other laborers within the same organization. The previous regulations provided exceptions to this provision, which were permissible if stipulated in employment agreements, company policies, or collective bargaining agreements. Hence, the new legislation is advantageous for laborers because there are no longer any exceptions.

Legal Protection for Workers Affected by Layoffs

Legal protection is fundamental to protecting human rights and the rights and obligations that are intrinsically attached to legal subjects due to legal relationships. Legal relationships arise from legal events, and the guarantee of the rights and obligations granted by law engenders the emergence of new forms of legal protection. The provision of legal protection is crucial in enabling parties to enjoy their rights in full, as granted by law.³²

In essence, the dignity of workers is multifaceted and can be viewed through both juridical and economic lenses. From a juridical standpoint, workers and laborers are legally recognized and protected entities. On the other hand, from an economic perspective, workers and laborers require employment opportunities to generate economic value for themselves and their families. The state's role in protecting workers from the arbitrary actions of employers or companies is crucial in this regard.³³ Therefore, establishing a harmonious working relationship between employers or companies and workers/laborers,

³² Satjipto Raharjo, *Ilmu Hukum* (Jakarta Citra Aditya Bakti, 2000), p. 53.

³³ Asri Wijayanti, *Hukum Ketenagakerjaan Pasca Reformasi* (Jakarta Sinar Grafika, 2009), p. 8.

free from coercion or abuse, serves as the foundation and objective of workers' protection.³⁴

The protection of workers/laborers is a significant aspect of Indonesia's concept of the rule of law, as enshrined in Article 27 paragraph (2) of the 1945 Constitution. This provision guarantees every citizen the right to work and to live in dignity. It obliges the state to provide all Indonesian citizens with the opportunity to work to fulfill their basic needs and enjoy their fundamental rights protected by law. Moreover, legal protection for workers is further reinforced by the provisions of Article 28 D paragraph (3) of the 1945 Constitution, which stipulates that every citizen has the right to receive fair and just treatment in every employment relationship.

Legal protection in the realm of layoffs, is essentially related to the correctness of the status of the worker/laborer in the employment relationship, the truth of the reasons for the layoff, and the rights of the worker/laborer, which must still be given even though the working relationship has ended.

In order to provide legal protection for workers/laborers affected by layoffs, it is imperative to fulfill their rights from employers, including severance pay and long service pay, as prescribed by Article 81 point 44 of Law No. 11/2020 on Job Creation, which modifies the provisions of Article 156 paragraphs (2) and (3), as well as Article 156 paragraph (4) of Law No.13/2003 on Employment. Hence, it is strongly advised to avoid layoffs and instead take preventive measures to mitigate their occurrence.

Rights of Workers/Labourers Affected by Layoffs

Each reason for terminating an employment relationship has specific legal consequences on the rights of workers/laborers.³⁵ Labor law not only addresses situations before and during the employment period but also after the employment period ends. Therefore, employers cannot simply terminate an employment relationship without fulfilling their obligations to workers/laborers entitled to certain rights.

³⁴Abdul Khakim, *Dasar-Dasar Hukum Ketenagakerjaan Indonesia* (Bandung: PT Citra Aditya Bakti, 2014), p. 99.

³⁵Garry Henry Adam, "Analisa PHK Ditinjau Dari UU No 13 Tahun 2003 Tentang Ketenagakerjaan," *Lex Privatum* IV, no. 7, (2016), pp. 5–24.

Pursuant to Article 81, Number 44 of Law No. 11/2020 concerning Job Creation, which amends the provisions of Article 156 paragraph (2) and (3) and Article 156 paragraph (4) of Law No. 13/2003 concerning Employment, workers affected by layoffs have the right to receive severance pay and long service pay, which are calculated based on their wages and benefits. The basis for calculating severance pay and award money is as follows:

Table 1: Calculation of severance pay for laid-off workers.³⁶

Years of service	Earned severance pay
$X < 1$ year	1 month wages
$1 \text{ year} \leq X < 2$ year	2 month wages
$2 \text{ year} \leq X < 3$ year	3 month wages
$3 \text{ year} \leq X < 4$ year	4 month wages
$4 \text{ year} \leq X < 5$ year	5 month wages
$5 \text{ year} \leq X < 6$ year	6 month wages
$6 \text{ year} \leq X < 7$ year	7 month wages
$7 \text{ year} \leq X < 8$ year	8 month wages
$X \geq 8$ year	9 month wages

Table 2: Calculation of Award Money for Employees Affected by Layoffs Based on Years of Service:³⁷

Years of service	Earned severance pay
$3 \text{ year} \leq X < 6$ year	2 month wages
$6 \text{ year} \leq X < 9$ year	3 month wages
$9 \text{ year} \leq X < 12$ year	4 month wages
$12 \text{ year} \leq X < 15$ year	5 month wages
$15 \text{ year} \leq X < 18$ year	6 month wages

³⁶Article 81, Number 44, Law Number 20 of 2020 concerning Job Creation Amending the Provisions of Article 156 Paragraph (2) of Law Number 13 of 2003 concerning Manpower.

³⁷Article 81, Number 44, Law Number 20 of 2020 concerning Job Creation Amending the Provisions of Article 156 Paragraph (3) of Law Number 13 of 2003 concerning Manpower.

18 year \leq X < 21 year	7 month wages
21 year \leq X < 24 year	8 month wages
X \geq 24 year	10 month wages

Concerning the compensation for the rights that should have been received, it encompasses several elements, including³⁸ (1) expenses or costs of returning home for workers/laborers and their families to the location where workers/laborers were originally recruited; (2) accrued and untaken annual leave; and (3) other matters specified in the work agreements, company regulations, or collective bargaining agreements. When Termination of Employment (PHK) takes place, the worker/laborer is expected to accept the reasons provided by the employer for the layoff decision. If the worker/laborer does not raise objections to the reasons stated by the company, the layoff issue is considered resolved. However, a dispute may arise if there is a discrepancy between the causes and effects of terminating the employment relationship, which the employer unilaterally decides. The settlement of such disputes between workers and employers or between workers and employers/employers is governed by Law Number 2 of 2004. The mechanisms that can be employed include (1) bipartite negotiations and tripartite negotiations; and (2) industrial relations court proceedings.³⁹

1. Bipartite Negotiations

Bipartite negotiations resolve industrial relations conflicts between workers/laborers/ workers' unions and employers. Bipartite negotiations must be completed in a maximum of 30 working days. If an agreement is reached, a collective agreement will be made, and registered at the Industrial Relations Court. However, if an agreement is not reached, the bipartite negotiations will be declared a failure.⁴⁰

2. Tripartite Negotiations

³⁸Article 81, Number 44, Law Number 20 of 2020 concerning Job Creation Amending the Provisions of Article 156 Paragraph (4) of Law Number 13 of 2003 concerning Manpower.

³⁹Law Number 2 of 2004 concerning Settlement of Industrial Relations.

⁴⁰Article 10 Law Number 2 of 2004 concerning Settlement of Industrial Relations.

Tripartite negotiations can be considered as a subsequent step to bipartite negotiations that have been previously deemed unsuccessful. These negotiations involve not only employers and workers/laborers but also third parties who act as intermediaries in resolving layoff disputes.⁴¹ There are two approaches to tripartite negotiations, namely mediation and conciliation:

a. Mediation

Mediation is conducted with the assistance of a mediator who is a government agency employee responsible for manpower affairs and fulfills the requirements for mediators as stipulated by the Minister of Manpower. Its purpose is to facilitate dispute resolution through deliberation. If the mediation process succeeds, a collective agreement is drafted and subsequently registered with the industrial relations court.⁴²

b. Conciliation

Conciliation is facilitated by a conciliator who meets the requirements prescribed by the Minister of Manpower, and is appointed to resolve disputes through deliberation. The conciliator is responsible for providing written recommendations to both parties to the dispute to achieve consensus.⁴³

3. Industrial Relations Court

The initiation of a legal suit by either party to the dispute in the Industrial Relations Court represents the ultimate recourse when both bipartite and tripartite negotiations have failed to achieve a resolution. This legal action may be considered a litigious measure involving the trial stage. The procedural aspects of the Industrial Relations Court are primarily governed by civil procedural law, accompanied by the requirement that the party initiating the suit attach minutes of settlement, either through mediation or

⁴¹Law Number 2 of 2004 concerning Settlement of Industrial Relations.

⁴²Article 11 Law Number 2 of 2004 concerning Settlement of Industrial Relations.

⁴³Article 13 Law Number 2 of 2004 concerning Settlement of Industrial Relations.

conciliation. Failure to produce these minutes will result in the Industrial Relations Court returning the claim to the plaintiff.⁴⁴

Conclusions

The field of employment encompasses all aspects related to labor before, during, and after the employment period. This article examines the issue of legal protection for workers under Indonesian laws and regulations, precisely Law Number 13 of 2003 concerning Manpower and Law Number 11 of 2000 concerning Job Creation. These laws and regulations, in principle, prohibit Termination of Employment (PHK) unless there are valid reasons. However, if layoffs become inevitable, Indonesian legislation provides legal protection for workers during and after their employment period, including severance pay and award money. The law also establishes a mechanism for resolving disputes between employers and workers concerning the Termination of Employment Relations (PHK) through the Industrial Relations Dispute Settlement, which can be achieved through bipartite, tripartite negotiations and industrial relations courts. These efforts reflect the Indonesian government's commitment to safeguarding the rights of workers affected by layoffs.

Conflicts of Interest

The authors have no conflict of interest with any party in writing this article.

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⁴⁴Article 17 Law Number 2 of 2004 concerning Settlement of Industrial Relations.

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