

THE IMPACT OF THE LABOR CLUSTER JOB CREATION LAW ON THE WELFARE OF INDONESIAN WORKERS

Ahmad Assegaf Ega Pratama

University of Muhammadiyah Malang, Indonesia

E-mail: asy.asegaf29@gmail.com

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ABSTRACT

The welfare of the working or labor community is a right for every individual worker. The workers or laborers have the same rights and wonders. The welfare of workers is basically the responsibility of the government and employers, in this case the responsibility of the government is divided into two, namely the central government and local government, the level of welfare of workers and workers varies in each region this is due to the minimum wage and cost of living in an area. The government brings a solution by passing Law number 11 of 2020 concerning Job Creation to reduce the gap in the gap between UMR wages and welfare at different levels in each region and alleviate economic problems in Indonesia. This study aims to discuss the impact of the job creation law on the welfare of workers in Indonesia. The research method used is descriptive-qualitative, yes ng where efforts to understand the literature process and analyze the existing laws and conclusions of the problems of job creation laws, especially the employment kluster which is partly in the public spotlight because of controversial articles. The conclusion from the results of this study is that the impact of the Job Creation Law on the Employment Cluster itself is still reaping pros and cons from the community and the government. This happened because of the ratification of the Job Creation Law (UU) in the labor kluster there are several articles that harm workers or workers in Indonesia, the article is about the distribution of wages, leave for workers, contract system, and severance pay received by workers. On the other hand, it is even feared to be a boomerang that can harm the community or labor.

Keywords: Job Creation law; Torch; Welfare; Employment



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INTRODUCTION

The beginning of 2020 was a very unlucky year for all countries, including Indonesia. The outbreak of the coronavirus pandemic has shocked the world which has caused social restrictions so that people reduce interaction between other communities both in terms of employment, education, and tourism. With these social restrictions, one of them has an impact on the world, one of which is the business world where there is a reduction in the workforce. The reduction of labor or termination of employment causes conflicts between the company and the workforce. So that the role of the government is needed to deal with these conflicts where the role of the law is very important in this regard.

When facing the corona pandemic outbreak and resolving the conflict, the government finally brought *soslusi* by passing the job creation law with the Omnibus Law method. According to the Government, by passing the Omnibus Law law, it can be an instrument to resolve the conflict and save the country's economy from falling due to the Corona virus pandemic. The Job Creation Law itself is a proposal from the President of the Republic of Indonesia which he has introduced to the Indonesian people during his state of the nation speech before the MPR on October 20, 2019 .

The Job Creation Law has 11 clusters, one of which regulates employment. . This cluster includes three (3) laws that are put together, namely Law No. 13 of 2003 concerning Manpower, Law No. 40 of 2004 concerning the Social Security System, and Law No. 24 of 2011 concerning the Social Security Organizing Agency.

However, with the passage of the Job Creation Law, many people reject and disagree with this Job Creation Law. The reason why the public cannot accept this Law is because the first is Article 88; The district/city sectoral minimum wage (UMSK) was abolished. Both articles 77 and 78 ; Overtime has increased to a maximum of 4 hours the day before, which is 3 hours maximum in a day, the third regarding the work award *uangm* contained in article 165 paragraph 3 is deleted in the job creation law, then the fourth in article 59 concerning (PKWT) or Certain Time Work Agreement where the maximum for contract workers for 2 years in the job creation law this article is deleted. This is one of the problems being faced by the Government, members of the House of Representatives and the public in the passage of this Job Creation Law (Prabowo et al., 2020).

On the other hand, in the end, this law was still passed as a Job Creation Law that was in force and binding since its enactment. The preparation of the Job Creation Law is the Government's effort to create employment opportunities by facilitating and providing protection for workers. The purpose of writing this article is to analyze the impact of the Job Creation Law on labor welfare. Here the author wants to know whether *undang-law* number 11 of 2020 concerning job creation has a significant impact on workers or workers in Indonesia, as well as what are the differences in leave periods, contracts and regarding the distribution of wages, and severance pay. The author hopes that this article can be an information for readers and be able to innovate to advance the Indonesian nation to be more advanced.

RESEARCH METHODS

This study chooses the use of descriptive research by describing, reviewing, and promulgating laws and regulations related to the purpose of this study. The normative juridical legal research technique chosen to conduct this research will be carried out in a way where the research is carried out through the placement of norms as research objects, both in the form of legal norms in laws and regulations, legal norms that are directly sourced from a law. Also known as conventional legal research, it means legal research that uses marginal data

In collecting data, this study designed with the *Library research* method, which is a method that is used to confront data by reading, writing and then comparing it with various references to books, notes, tabloids, and magazines to get answers about the topic of discussion that is sought for truth.

Primary and skunder legal materials are the main legal materials for normative types of legal research. Secondary data in the field of law viewed from the point of binding force can be divided into:

1. Primary Legal Material derived from principles and legal instructions. Here discusses *Omnibus Law* and Number 13 of 2003 concerning Manpower;
2. Secondary Legal Material consists of books (*text books*), legal journals, legal papers or views of several legal experts, especially those contained in mass media, *legal dictionaries* and encyclopedias, the internet by mentioning the name of the site

Related to the issue that is the focus of this study, namely a descriptive description of the impact of the job creation law on labor welfare, here the researcher uses a qualitative approach by describing the data obtained by researchers as a result of a study. With the use of this method, researchers are expected to get data as a whole and can be clearly integrated so that the results of this research are really in accordance with existing field conditions

RESULTS AND DISCUSSION

Sectoral Minimum Wage

Wages are the result of hard work or rewards of someone who has carried out work activities that are bound by a work contract, regardless of the type of work and its denomination. Wages are income received by workers that are rewards for work done. According to the provisions of Article 88 paragraph (1) of Law Number 13 of 2003 concerning Manpower (Manpower Law), every worker/laborer has the right to earn an income that meets a decent living for humanity.

In the wage system is a hereditary problem in the business actors, in this case who experience problems regarding wages not only for business actors but also for workers, in this case it is not immediately handled properly and is not regulated for sure in existing regulations so that this problem will continue to be rooted and hereditary

Wages in Indonesia have been regulated in Perpu or government regulations where wages themselves are stated that wages are a policy that is required for every company for workers in order to achieve a decent life in accordance with the prevailing wage provisions in Indonesia. Self-deserving wages are income or gains from the results of what he does in the company and gets rewards that have been regulated in employment agreements and other regulations (Khakim, 2009)

Workers in the company do not only get wages through many types of wages among others, namely benefits for the workers themselves in benefits there are fixed benefits and irregular benefits, next is the basic wage itself, in determining wages wage payments can be determined by the company whether it is daily, weekly or bulanan, not a few companies that pay in a month 2 times the wages or salaries that can be received by the worker or laborer

In the world of work, wage provision is very prone to disputes between companies and workers in this case disputes can cause business relations. In the wage system or wage provision in the company there are not a few that cause disputes between workers and companies, wages occur unfairly and professionally which is done by the company this can cause instability in the company which over time will cause industrial relations disputes, but if in a company system or policy in determining wages is done professionally and fairly eat the company And workers have no disputes and there will be positive implications in the company environment, of course, worker productivity will increase and both will get positive results

One of the government's payroll policies whose determination often causes conflicts is the determination of the minimum wage, national minimum wage (UMP), district/city minimum wage (UMK), provincial sector minimum wage (UMSP). . and the field of administration. Sectoral Minimum Wage (UMSK). The minimum wage policy is a government tool to improve workers' welfare, not always in line with the main goal of creating national welfare, considering that in practice the minimum wage is often an obstacle for the business world to maintain all available labor. in the labor market.

In the wage system that existed previously regulated in Law number 13 of 2003 concerning Manpower, the law regulates the sectoral minimum wage where the provincial sectoral minimum wage is a wage for workers who cannot be below the sectoral minimum wage. This regulation in Law no. 13 of 2003 is contained in article 89 which reads: (1) The minimum wage as referred to in Article 88 paragraph (3) point a may consist of: a. minimum wage based on provincial or district / city area; b. Minimum Wage based on sector in the province or district/city area. (2) The minimum wage as referred to in paragraph (1) shall be directed to the achievement of decent living needs. (3) The minimum wage as referred to in paragraph (1) shall be determined by the Governor by taking into account the recommendations of the Provincial Wage Council and/or the Regent/Mayor. (4) The components and implementation of the stages of achieving decent living needs as referred to in paragraph (2) shall be regulated by Ministerial Decree. However, in Law number 11 of 2020 concerning job creation is inversely proportional to the sectoral minimum wage, in the law the regulation regarding the sectoral minimum wage has been abolished

In this case, there is a significant difference between sectoral minimum wage regulations in labor law and job creation law, where sectoral minimum wages in job creation law have been abolished, this is very detrimental for workers, especially for workers who are in areas that are not industrial centers where the minimum wage is low, The blade of the regulation is still being implemented will be very detrimental to workers, the regulation opens a very large gap and libang for the world of work because there will be many employers who will pay or pay their own wages or the will of the employers themselves, this is a setback for existing regulations where the new regulation should be better for the Indonesian people but this on the contrary is troublesome for the Indonesian people alone

Overtime Work Period And Calculation Of Overtime Pay

The life desired by all humans in this world is welfare because everyone who lives and lives even if it is temporary or settled whether living in the city or in the village, welfare is an order of social, material, and spiritual life followed by a sense of security, decency, and peace of mind of a person. Every citizen can strive to meet the best physical, mental, and social needs for himself, his family, and society. defense of human rights. According to Statistics Finland (2007), welfare is a state in which all physical and mental needs of the household can be met according to living standards

Talking about the welfare of workers cannot be separated from the wages given by companies or employers to workers, the wage bar is given in a decent manner, so the level of labor welfare increases. This is in line with government programs where the government encourages every worker or laborer to improve their welfare. Speaking of wages, change workers or laborers are determined in each area, each region has its own wage proportions and varies depending on the way of life and the needs of each region.

The wages of each region must vary, to determine the wages of the region, which is to calculate the cost of living 1 person or single and not yet married. It all makes the basis for local governments to determine the UMR or labor wages in each region. The highest wage in 2022 is in the city of Bekasi with a total of IDR 4,816,921.17 the wage is ranked the highest UMR in Indonesia, the Bekasi UMR wage even multiplies the minimum wage of the capital city of Jakarta by IDR 4,641,854

Looking at the minimum wage in each region, overtime pay in each region will be different and adjust to the UMR in the area. Before there was a job creation law, overtime pay was calculated based on the decision of the Minister of Manpower and Transportation. In the decree, the Minister calculates wages for overtime workers

Decree of the Minister of Manpower and Migration of the Republic of Indonesia No. Kep-102/MEN/VI/2004 dated 25/06/2004 concerning overtime and overtime compensation Employers who employ workers outside working hours (overtime) are required to provide overtime compensation, provide adequate rest periods and Provide food and beverages of at least 1,400 calories when working overtime 3 hours or more, unless money replaces food and beverages. The salary components used to calculate overtime pay are as follows

1. Basic wage.
2. Position allowance.
3. Expensive allowances.
4. The value of providing supplies (wages in the form of goods for living needs) for the workers / laborers themselves.

Article 8 of the Decree of the Minister of Manpower and Transmigration of the Republic of Indonesia no. Kep. 102/MEN/VI/2004 concerning overtime and overtime pay stipulates that:

The calculation of overtime pay is based on monthly wages.

The method of calculating hourly wages is 1/173 times a month's wage.

Based on the information above, we can see that the calculation of melting wages in that year is very limited. If we look at it possible for some people to feel that the calculation of wages is very irrelevant and not suitable for melting workers.

However, the wages of melting work and the calculation of wages for melting work have been far different and have been deemed feasible when the job creation law was passed and invited. According to some people, the law that calculates overtime pay is very suitable and relevant for new workers, but there are also not many who oppose the birth of the job creation law on calculation and on the provision of melting wages

In determining wages, both overtime pay and worker wages, employers must pay attention and see from the worker posts in the company, of course, the provision of wages for workers depends on the position and the last education of workers, in this case if it is seen that it is indeed unfair in the world of work it is common and becomes the company's culture so that the wheels of the company's son can run well and properly

The design of the structure and amount of overtime pay is intended as a guideline to determine overtime pay so that each worker can earn overtime pay and work to reduce the difference between the lowest and highest wages of the company concerned. The purpose of salary review is to adjust prices to the needs of life, work efficiency, development and company opportunities The Job Creation Law itself does not specifically regulate the determination of overtime pay for workers, but in this regulation some workers and trade unions consider that overtime pay is very reasonable and value workers' labor. However, the amount of overtime compensation depends on the minimum wage in each area

In the arrangement of social wages there are several types depending on the type of wages paid to workers, for daily wages for workers the amount of additional wages is calculated by multiplying the daily wage by 25 (twenty-five) for workers who have worked 6 (six) days in 1 (one) working week or multiplied by 21 by (twenty-one) employees who work 5 (five) working days in 1 (one) week. The monthly wage for workers' wages paid based on units of production is 12 (twelve) average wages, not the last. If 1 worker works less than 12 (twelve) months, then the monthly salary is calculated based on the average salary, provided that it cannot be lower than the local minimum salary.

If overtime work is carried out every week on holidays and/or holidays within 6 (six) working days of 40 (forty) hours, then overtime work is paid for the first 7 (seven) hours. 2 (two) times hourly wages And the eighth hour is paid 3 (three)

times the hourly wage and the ninth hour is paid 4 (four) times the hourly wage. If the holiday falls on the shortest working day, then the first 5 (five) hours overtime compensation is paid with 2 (two) times the hourly wage, the sixth hour with 3 (three) times the hourly wage and the seventh and eighth hours. . Hours are 4 times the hourly wage.

The Relationship of a Certain Time Work Agreement to the Welfare of Workers

Labor is the main factor in a company because workers are the main factor or driving force of a company for that workers / need to be guaranteed welfare. Welfare is the fulfillment of decent living conditions and needs for the community (Puspensos, 2020). Of course, welfare here is the dream of all people who want every activity to experience proper welfare, it does not rule out the possibility in terms of work.

In labor law, work agreements are divided into two, namely PKWT (Certain Time Work Agreement) and PKWTT (Indefinite Time Work Agreement). Based on the Decree of the Minister of Manpower and Transmigration of the Republic of Indonesia Number 100 / MEN / VI / 2004 "A certain time work agreement hereinafter referred to as PKWT is a work agreement between workers / laborers and employers to hold employment relations for a certain time or for certain jobs". Meanwhile , in Law Number 3 of 1992 concerning Social Security, it is stated in Article 1 point (2) that, "Manpower is everyone who is able to do work both inside and outside the employment relationship to produce certain services or goods to meet the needs of the community".

Lately employers are increasingly using a Certain Time Work Agreement (PKWT) or what we usually call the contract work system. It is alleged that the use of this contract work system is more profitable for employers and overrides the rights of workers / workers. Which is related to the welfare of the workers or workers themselves

The relationship of a certain time agreement (PKWT) to the welfare of workers, is a very significant relationship, because this relationship is a relationship that can provide protection for workers in the absence of work that is carried out continuously or permanently.

Labor welfare in a certain time agreement (PKWT) is a relationship that provides certainty for someone who does work in a period of time that is constantly declining will not be limited by the time of his work agreement.

In this relationship, of course, it is not intended for the welfare of workers alone but this relationship can have a positive impact on employers, where employers can apply a Certain Time Agreement (PKWT) so that employers can also avoid the obligation to appoint workers or permanent laborers for limited work.

In article 59 paragraph (1) c of Law No. 13 of 2003 concerning manpower, it is stated that PKWT can only be made for certain types of work where the completion can be done within a maximum of 3 (three) years. Damun, in its own application, peursahaan often carries out contract work systems whose term exceeds the contract period, while in law number 11 of 2020 concerning job creation, article 59 is deleted. This raises concerns for workers because if the regulation is abolished, then the workers will not have a guarantee of permanent employment, even the regulation causes confusion because out there are many business actors or business

owners who play the gap, namely with workers can be hired with a contract system for life or in other words, every contract expires it will be offered with an extension, this is very detrimental to workers because if it is Entering retirement age or workers laid off workers do not get wages Work rewards for those who have retired or severance pay for laid-off workers, these regulations are not relevant to the world of work now because they are very detrimental to the workers themselves

Severance Wages

In order to develop policies, wages, in line with employment development, require strategic efforts in the macro and micro fields, especially in the distribution of work, employment opportunities, building productivity levels, and increasing employee life happiness There are still differences in skills, characteristics and types of work in each company, therefore to determine the minimum wage, the situation is different, each is not the same. Thus, the minimum wage depends on the region in the district/city or province/city. This decision is considered more advanced than other sectors based on sub-sector, sector, region and year of salary determination, among which are commonly seen in large-scale demonstrations in several cities in Indonesia. Salaries in accordance with the provisions of the Constitution and statutory provisions.

In the labor law, severance pay is regulated in article 165 that laid-off workers are entitled to severance in accordance with applicable provisions, workers who experience termination of employment or layoffs are entitled to severance pay while understanding

Termination of employment is termination of employment due to one particular thing that results in the end of rights and obligations between workers or laborers and employers. The working relationship between companies or employers and workers, juridically, recipients of work or workers have the principle of freedom because our country does not want the practice of slavery carried out by anyone. This understanding provides an illustration that workers cannot be employed arbitrarily by the company, so the company still provides benefits as a form of welfare to workers. However, Law 13 of 2003 on manpower only regulates how to calculate the provision of severance pay to laid-off workers, but in general, the purpose of giving severance pay is not explained in Law 13 of 2003 on employment.

In undang-undang number 11 concerning job creation in the employment cluster under article 165 which explains that wages for service period awards or severance pay are removed so that workers who are laid off or workers who have entered retirement do not get severance pay, it is clear that this provision is very controversial and it seems that there is a game behind the determination of the article, because this article will benefit the employer and is very, very detrimental to the workers or workers, Because they have contributed greatly to the company and workers are entitled to their rights stipulated in the law but with this regulation such as taking away rights for workers, workers who have worked or workers who are laid off by the company are entitled to severance pay and the amount has been determined by the law itself, it is clear that there is a very high social inequality if the regulation or PSAL in the DKAR agreement determines policy severance pay by the company, the article is very detrimental to workers and laborers in Indonesia

CONCLUSION

. The determination of wages for workers must be in accordance with the sectoral minimum wage, this regulation is contained in Law number 13 of 2003 article 88. In the article, it is explained that employers are required to provide wages in accordance with the sectoral minimum wage in the province, but it is reversed by Law No. 11 of 2020 concerning Job Creation which the article was deleted. This is a setback for existing workers because the regulation is very detrimental to workers and benefits employers because employers can be as reckless as in determining wages for workers, this indicates that the Job Creation Law number 11 of 2020 does not support the welfare of workers or it can be said that the existence of the law is that workers' welfare is threatened

Overtime work time in Law number 12 of 2004 concerning Manpower stipulates that a maximum of overtime for 3 hours per day and a maximum of 14 hours per week while in Law number 11 of 2020 concerning job creation overtime work a maximum of 4 hours per day and a maximum of 1 week 18 hours, from both differences in my menu bag are still within reasonable limits and there is a sis bainya and bad, For the bright side, workers who chase overtime longer and want to be able to get extra money from the basic salary, these workers will pursue their overtime, while on the negative side, workers do not have enough rest time to recover their bodies, what if the body feels tired and tired of the danger when doing work because it can cause work accidents and cannot gather with family, Meanwhile, regarding overtime pay, either in the Job Creation Law or employment, overtime pay has no change and is in accordance with the provisions of the applicable law

PKWT agreements or certain work agreements have been regulated in Law No. 13 of 2003 concerning Manpower which is the maximum for contract work for 2 years, while in Law No. 11 of 2020 regarding Job Creation, the regulation is abolished and the article is also removed, this can harm workers because it minimizes loopholes that workers will be employed with a contract system that can be extended even for life, This is very detrimental for workers because workers do not get their rights, namely benefits and severance pay if they have entered retirement age or are laid off from the company, this shows that the new law on job creation, especially the labor class, is very detrimental to Indonesian workers or workers and can reduce the welfare of Indonesian workers

Regarding severance pay in the Manpower Law that every person who has worked for 24 years and enters the retirement period or is terminated because of a pension uasia then the worker gets severance pay once he has a person who has been unilaterally laid off by the company then he will get severance pay in accordance with the applicable provisions while in the job creation law the provision is abolished either those who have worked for a long time and enter the age of retirement or people Those who off from the company, the worker does not get severance pay from the company, these rules and regulations are very inhumane where the worker has served in the company for decades and enters retirement age, then the right bag is right, namely this severance pay is a big violation and a retreat from existing regulations because if the paal continues to be carried out, there will

be many entrepreneurs and companies who are misbehaving will use the basic basis Regulations regarding severance pay from the company, even though the company is guided by workers but in the provisions of the Job Creation Law are still in effect, it will be futile to make demands made by these workers, as if the regulation should be deleted and repealed in Law omer 11 of 2020 concerning job creation in order to create a prosperous community and workers and avoid existing social gaps

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