



Original Article

Legal Remedies for Workers Who Experience Termination of Employment Due to Force Majeure Reasons

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Abstract:

Industrial relations in Indonesia are based on the principles of Pancasila Industrial Relations, which is a form of relationship between actors in the production process of goods and services, namely workers, employers, and the government. In this study, the researcher focuses on whether the provisions regarding force majeure in Indonesian labor law are in accordance with the principles of fair and sustainable labor protection, by analyzing the extent to which labor law in Indonesia supports worker protection in force majeure situations, and whether existing legal provisions are still relevant to the principle of social justice for workers. In relation to layoffs caused by force majeure reasons, workers have the right to seek legal remedies to obtain protection. According to Law No. 13 of 2003, termination of employment in force majeure situations can be carried out, but must still comply with existing provisions, such as the provision of severance pay and other rights in accordance with applicable provisions. Legal remedies in labor disputes are a crucial aspect in ensuring justice and protection for workers in Indonesia. In the context of industrial relations, disputes between workers and employers often involve issues of basic worker rights, such as wages, working conditions, termination of employment (PHK), or unpaid benefits. Without a clear legal mechanism, workers may not be able to obtain equal justice with employers who have greater access to legal resources. Therefore, legal remedies are an important channel to ensure that workers' rights are maximally protected.



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Introduction

Industrial relations in Indonesia are based on the principle of Pancasila Industrial Relations, which is a form of relationship between actors in the production process of goods and services, namely workers, employers, and the government. This

relationship must be implemented by upholding the values contained in Pancasila and the 1945 Constitution, and prioritizing harmony that grows from the personality of the nation and national culture of Indonesia. As part of efforts to realize fair and balanced industrial relations, the government plays an important role in creating adequate regulations. One of the important regulations drafted for this purpose is Law No. 13 of 2003 concerning Manpower (hereinafter referred to as Law No. 13 of 2003), which aims to empower the workforce optimally and humanely, create equal employment opportunities, and provide a workforce that is in accordance with national and regional development needs. This law also aims to provide protection for workers' rights and improve the welfare of workers and their families. With the existence of the Manpower Law, legally, the normative rights of workers have received stronger protection. However, even though workers' rights are legally protected, in practice, various problems in industrial relations still arise, one of which is termination of employment (PHK) which is often in the spotlight. One of the causes of layoffs is force majeure, or extraordinary circumstances that cannot be predicted or avoided, such as natural disasters, pandemics, or economic crises that force companies to reduce their workforce for the sake of their operational continuity. In conditions like this, workers affected by layoffs often feel disadvantaged and have difficulty obtaining justice ([Nindry SW, 2023](#)).

Regarding layoffs caused by force majeure, workers have the right to seek legal remedies to obtain protection. According to Law No. 13 of 2003, termination of employment in a force majeure situation can be carried out, but must still comply with existing provisions, such as providing severance pay and other rights in accordance with applicable provisions. If workers feel that the layoffs carried out are not in accordance with procedures or are detrimental, they can file a lawsuit with the industrial relations court or through mediation facilitated by the local Manpower Office. In this case, workers can also seek assistance from trade unions or other organizations that can provide legal assistance ([Kesia TM et al, 2021](#)).

Legal remedies in labor disputes are a crucial aspect in ensuring justice and protection for workers in Indonesia. In the context of industrial relations, disputes between workers and employers often involve issues of basic workers' rights, such as wages, working conditions, termination of employment (PHK), or unpaid benefits. Without a clear legal remedy mechanism, workers may not be able to obtain equal justice with employers who have greater access to legal resources. Therefore, legal remedies are an important channel to ensure that workers' rights are maximally protected. In Indonesia, the process of resolving labor disputes is regulated through several stages, including mediation, conciliation, arbitration, and finally, the courts.

At the court stage, workers have the opportunity to file a lawsuit and fight for their rights, with further legal remedies such as appeals, cassation, and judicial review (PK) which provide an opportunity to improve or strengthen the decision that has been taken by the court ([Rizki et al, 2023](#)).

Decision Number 93 K/Pdt.Sus-PHI/2024 is one of the important decisions issued by the Supreme Court regarding employment disputes. This case involves workers suing employers regarding problems that arise in employment relationships, such as disputes regarding termination of employment and other workers' rights. This decision provides an overview of how the labor law system in Indonesia handles cases involving injustice in the workplace. The relevance of this decision lies in its impact on the development of labor law and the protection of workers' rights. Through this decision, it can be seen how the Supreme Court interprets termination of employment by force majeure against applicable labor laws, as well as how judges balance workers' rights with the interests of employers. Therefore, an analysis of this decision is very important to understand the extent to which Indonesian labor law is able to provide maximum protection for workers, as well as how legal practices in Indonesia are applied in resolving labor disputes.

This study aims to analyze the legal remedies that can be taken by workers against Decision Number 93 K/Pdt.Sus-PHI/2024, and to examine the suitability and relevance of the decision to the principles of labor law applicable in Indonesia. The main focus of this study is to explore the types of legal remedies that can be taken by workers, such as appeals, cassation, or judicial review (PK), after a binding court decision. In addition, this study also aims to analyze the factors that influence workers' decisions in filing legal remedies, as well as the obstacles that may be faced during the legal process. In a broader context, this study will also assess how the decision contributes to the protection of workers' rights, and provide recommendations for improving labor law policies in Indonesia to avoid inequality in industrial relations between workers and employers.

Methods

This research uses a normative legal research type with a statute approach, which means that the problems discussed will be analyzed through a literature review and referring to applicable laws and regulations ([Ediwarman, 2015](#)).

Results

In Indonesian labor law, provisions regarding force majeure or compelling circumstances have a significant impact on worker protection. Force majeure refers to unexpected and uncontrollable situations, such as natural disasters, pandemics, or

other extraordinary conditions that cause employers to be unable to carry out work obligations, including in the case of termination of employment (PHK). However, the question is whether the provisions in Indonesian labor law provide sufficient fair and sustainable protection for workers affected by these conditions ([Yuyun NM et al, 2024](#)).

Strictly speaking, in Law Number 13 of 2003 concerning Manpower (which is still in effect even though there has been a plan to revise it through the Omnibus Law), there is no specific and detailed regulation regarding force majeure in the context of termination of employment. Employment law in Indonesia does regulate workers' rights, such as wages, severance pay, and benefits when layoffs occur. However, in conditions of force majeure, employers can put forward reasons for not providing these rights, on the pretext that the situation is beyond their control. In this situation, even though the reason for force majeure can be legally justified, many workers feel that their normative rights are being neglected without adequate protection.

One of the problems that arises is the lack of clarity and limitations of existing provisions regarding how force majeure can reduce employers' obligations to workers, especially in terms of severance pay or other rights. The provisions in the Manpower Law focus more on regulating layoffs carried out without valid reasons or inappropriate procedures, while force majeure situations that are globally recognized as valid reasons for terminating employment relationships do not get enough space in existing regulations. This has the potential to create legal uncertainty for affected workers, because they may lose normative rights that they should receive under normal conditions, such as severance pay, holiday allowances (THR), or other payment rights that should be given in the layoff process ([Muhammad Irayadi, 2023](#)).

When viewed from the principle of fair and sustainable labor protection, Indonesian labor law still needs to accommodate more extraordinary conditions such as force majeure without harming workers. In other countries, such as in the European legal system and several other developing countries, provisions regarding force majeure in the employment context generally provide protection for workers, by requiring employers to continue to fulfill basic worker rights even if the employment relationship is terminated due to extraordinary circumstances. In Indonesia, although there have been several efforts through government regulations or special policies issued for certain conditions such as the COVID-19 pandemic, these regulations are not yet fully comprehensive or systematic in providing protection for workers affected by force majeure.

In addition, the provisions in Indonesian labor law, although adequate for

normal situations, are not fully relevant to the principle of social justice for workers in force majeure. For example, in a pandemic situation, many workers lose their jobs or experience unilateral termination of employment on the grounds of force majeure without any guarantee that they will continue to receive their normative rights. Therefore, there is a need for an update in labor regulations that are more inclusive of emergencies, provide fair solutions for both parties, and create more sustainable protection, both for employers who are affected and workers whose rights must continue to be protected. Therefore, Indonesian labor law needs to be more adaptive to changes and extraordinary conditions that occur in society, by strengthening protection for workers, especially in situations that lead to force majeure. Regulatory updates that are more transparent, measurable, and consider workers' rights in unusual situations will create a better balance and justice between workers and employers. Therefore, workers will continue to receive balanced and fair protection, even in conditions beyond their control, so that the principle of social justice in the world of employment can be realized more optimally.

Conclusion

Based on the results of the discussion above, it can be concluded that the provisions regarding force majeure in Indonesian labor law are still not fully in accordance with the principles of fair and sustainable labor protection. Although Indonesian labor law, especially Law No. 13 of 2003, provides regulations regarding workers' rights, such as severance pay and benefits, in the context of termination of employment (PHK), these regulations do not sufficiently accommodate force majeure situations, which often lead to layoffs due to extraordinary conditions such as natural disasters or pandemics.

Force majeure, which is globally recognized as a legitimate reason for layoffs, does not get enough space in Indonesian labor law. Employers can often use force majeure as a reason to not provide workers' rights, such as severance pay or other benefits, even though under normal conditions, these rights should still be provided. This ambiguity creates legal uncertainty for affected workers, because they may lose their normative rights even though they are not at fault in the event. In addition, although there have been several government policies to address the impact of force majeure, such as during the COVID-19 pandemic, these policies are not yet fully comprehensive in providing comprehensive protection for workers.

Therefore, Indonesian labor law needs to be updated to be more adaptive to the extraordinary conditions that occur, by providing more protection for workers affected by force majeure. This update should include clearer regulations on workers' rights in such situations, as well as fair solutions for workers and employers. With

more transparent, measurable, and inclusive regulations, it is hoped that the principle of social justice in employment can be realized more optimally, providing a better balance between the interests of workers and employers, and creating more sustainable protection in dealing with emergency situations.

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