

## Legal Protection for Female Workers Who Are Unilaterally Laid Off by the Company

Masitah Pohan<sup>1</sup>, Rahmayanti<sup>2</sup>

[masitahpohan@umsu.ac.id](mailto:masitahpohan@umsu.ac.id), [rahmayanti@dosen.pancabudi.ac.id](mailto:rahmayanti@dosen.pancabudi.ac.id)

<sup>1</sup>Faculty of Law, Universitas Muhammadiyah Sumatera Utara, Medan

<sup>2</sup>Faculty of Social Science, Universitas Pembangunan Panca Budi, Medan

### Article Info

Received: 2024-10-12

Revised: 2024-11-21

Accepted: 2024-12-2

### Keywords:

Termination of Employment  
(PHK), Women, Companies.

### Abstract

*The implementation of carbon tax has been postponed twice by the government based on the mandate of Articles 13 and 17 of Law No. 7/2021 on Harmonization of Tax Regulations. However, it is unclear how long these delays will last, raising questions about compliance with existing regulations. The postponement of carbon tax implementation based on existing regulations in the Harmonization of Tax Regulations raises concerns regarding compliance with the mandate of the law. The reason for the delay given by the government also needs to be further evaluated to ensure policy consistency and transparency in decision-making. This research aims to analyze the postponement of carbon tax implementation based on the regulations listed in the Taxation Regulations Harmonization Act, as well as identify the reasons for the postponement given by the government. This research method uses normative juridical, qualitative methods by reviewing literature, related rules, and regulations. Reasons for the delay given by the government include caution against a fragile economic recovery and a spike in energy prices. However, these reasons were also used to postpone the increase in the value-added tax (PPN) rate, potentially raising questions about compliance with regulations.*

## I. Introduction

At this time, not a few women play an active role in family welfare by working is a common thing because women have potential that is not inferior to men, both in terms of intellectual, ability, and skills. Moreover, with the increasing development in the industrial and technological world, women are in an equal position with men. However, female workers or laborers are also humans who have social needs, so they need basic needs, health, housing, peace, and so on for workers/laborers and their families. Considering that workers/laborers are the weaker party from employers

who have a stronger position. So workers/laborers need to get protection for their rights.

The workforce as a human resource in a company, has an important role and position in the national development process. It is said to have an important role because the workforce is a role of actors or subjects of development who also have a role as an object of national development ideals which are in fact the determinants of the survival of the nation and state. With the development of employment, it aims to improve the sustainability of the lives of the Indonesian people who are in fact a developing country. The development of the employment sector is aimed at providing more jobs for each employment sector, so that the ideals of decreasing unemployment rates and a decent life are achieved. This development refers to Article 27 paragraph (2) of the 1945 Constitution as one of the articles that characterizes the people's economic system. Article 27 paragraph (1) and Article 27 paragraph (2) of the 1945 Constitution are used as the basis for protecting female workers with the essence of equality and equality of Indonesian citizens to get jobs. The legal perspective in Indonesia does not inspire any differences or discrimination in legal treatment. Therefore, both female workers and male workers as Indonesian citizens have the same opportunities and things in the employment sector and also have the same rights in aspects such as politics, economics, social, culture and other sciences. Laws and regulations in Indonesia such as Law No. 13 of 2003 concerning Employment have provided tolerance for female workers not to work in certain fields, places, times and conditions.

Legal issues regarding employment still occur very often in Indonesia, one of which is regarding termination of employment (PHK). When a layoff occurs, the rights that should be obtained by workers are not given by the company where they work.<sup>1</sup> Based on Law Number 13 of 2003 concerning Manpower, termination of employment for workers/laborers is regulated with quite strict conditions. However, this is different from Law Number 11 of 2020 concerning Job Creation where employers or companies can carry out layoffs for various reasons that are not objective so that it makes it easier for employers to carry out PHK (Termination of Employment).<sup>2</sup>

According to the Manpower Law, protection of workers is intended to guarantee the basic rights of workers/laborers and guarantee equal opportunities and treatment without discrimination on any basis to realize

<sup>1</sup> Rohendra Fathammubina dan Rani Apriani, "Perlindungan Hukum Terhadap Pemutusan Hubungan Kerja Sepihak Bagi Pekerja", Jurnal Ilmiah Hukum De'Jure: Kajian Ilmiah Hukum, Fakultas Hukum Universitas Singaperbangsa Karawang, Volume 3 Nomor 1 Mei 2018, p.111

<sup>2</sup> Rudi Febrianto Wibowo dan Ratna Herawati, "Perlindungan Bagi Pekerja Atas Tindakan Pemutusan Hubungan Kerja (PHK) Secara Sepihak", Jurnal Pembangunan Hukum Indonesia, Fakultas Hukum Universitas Diponegoro, Volume 3 Nomor 1 Tahun 2021, p.110

the welfare of workers/laborers and their families while still paying attention to developments in the progress of the business world. Meanwhile, according to Ratih Wulandari, protection is an obligation of the government and regional government to protect its people, the elements that must be fulfilled in legal protection are the guarantee of protection/protection from the government to its citizens, the guarantee of legal certainty, related to the rights of citizens that must be fulfilled, and the existence of sanctions for parties who commit violations,<sup>3</sup> therefore in the event of a layoff, employers are required to pay severance pay (UP) and/or long-term work reward money (UPMK) and replacement money for rights (UPH) that should be received.<sup>4</sup>

One of the legal protections for workers/laborers is protection of the right to terminate employment, workers/laborers have the right to receive compensation from employers if a layoff occurs, compensation consists of severance pay, long-term work reward money, and replacement money for rights. The provisions regarding compensation in Law Number 13 of 2003 concerning Manpower have been amended through Law Number 11 of 2020 concerning Job Creation, then further regulated in Government Regulation Number 35 of 2021 concerning Fixed-Term Employment Agreements, Outsourcing, Working Hours and Rest Hours, and Termination of Employment, in these regulations the amount of compensation in the Manpower Law is greater, while in the Job Creation Law.

## 2. Research Method

The normative method is a research method that examines/studies documents that can be in the form of laws and regulations, decisions, contracts, legal theories, and expert opinions. In this case, normative legal research seeks to find answers about the conformity of legal rules with legal norms and their application. In this study, the approach used is the statutory approach. The statutory approach is an approach taken by studying laws and regulations and legal regulations. Which is related to the legal protection of female workers who are unilaterally laid off by the Company.

## 3. Results and Discussion

### *Rights of Female Workers in the Job Creation Law*

Rights and obligations in carrying out employment relationships in a Company must pay attention to the position of each in carrying out duties and

<sup>3</sup> Ratih Wulandari, *Perlindungan Hukum Pegawai Pemerintah Dengan Perjanjian Kerja di Rumah Sakit Umum Daerah*, (Surabaya: Penerbit Scopindo Media Pustaka, 2020), hal. 15.

<sup>4</sup> Indonesia, Undang-Undang Republik Indonesia Nomor 13 Tahun 2003 tentang Ketenagakerjaan (Lembaran Negara Republik Indonesia Tahun 2003 Nomor 39, Tambahan Lembaran Negara Republik Indonesia 4279), Pasal 156.

responsibilities. Especially regarding the use of female workers' services during night hours in companies that operate 24 hours.<sup>5</sup> Although the existence of gender equality currently places women in the same position and status as men, by nature women still need more protection, including in terms of work.<sup>6</sup> The risk position of female workers has greater potential and cannot be equated with male workers.<sup>7</sup> Moreover, women's rights must also be protected in accordance with the mandate of Law Number 39 of 1999 concerning Human Rights.<sup>8</sup>

The following are some of the rights of female workers based on the Job Creation Law, namely Provisions on Menstrual and Maternity Leave. It should be noted that the article regulating menstrual leave for pregnant female workers is not included in the Job Creation Perppu. The reason is that it is skipped to the next article without any word of deletion. Even so, menstrual and maternity leave still follow the old rules. "Menstrual leave and maternity leave have not disappeared and are still in Law 13/2003. Because there are no changes, menstrual leave and maternity leave are not stated in Perppu 2/222, so the reference used is Law 13/2003 Article 81 (menstrual leave) and Article 82 (maternity leave)," This means that mothers who are pregnant and work the night shift are prohibited from continuing the work between the specified times, namely 23.00 and 07.00. This provision applies to all types of work, except for emergency work. Meanwhile, mothers are advised to work for 12 hours a day or 48 hours a week. The working hours must be arranged in such a way that the mother can rest sufficiently and not be too tired.

Article 79 paragraph (2) letter a of Law No. 13 of 2003 also explains that after workers/laborers have worked continuously for 4 hours, they are given a break between working hours of at least 30 minutes. This applies to pregnant women. Rest time can also be given in the form of a 15-minute break every 4 hours of work or a 1-hour break every 8 hours of work

#### *Legal Protection for Female Workers Who Are Unilaterally Laid Off by the Company*

The role of legal protection is very important, considering that the position of Workers is not equal to that of Employers, although the law has played a role in equalizing the position of both parties, in reality there are still many Workers

<sup>5</sup> Apriyanti, Putu Lia, I Nyoman Mudana, dan I Made Pujawan, "Pelaksanaan Kewajiban Pengusaha Terhadap Pekerja Perempuan yang Bekerja pada Malam Hari di Hotel Maya Ubud", *Kertha Semaya : Journal Ilmu Hukum*, Volume 3, No. 2 (2015) : 3-4.

<sup>6</sup> Novada, Ni Putu Rosita dan I Ketut Rai Setiabudi, "Perlindungan Hukum Terhadap Hak Menyusui Anak Selama Waktu Kerja di Tempat Kerja Bagi Pekerja Perempuan", *Kertha Semaya : Journal Ilmu Hukum*, Volume 6 No. 12 (2018) : 2.

<sup>7</sup> Wungsu, Gede Kurnia Utara dan I Ketut Wirawan, "Perlindungan Hukum Terhadap Pekerja Perempuan Yang Dipekerjakan Pada Malam Hari", *Kertha Semaya : Journal Ilmu Hukum*, Volume 5 No. 1 (2017) : 3-4.

<sup>8</sup> Nariswari, Anak Agung Istri Intan Argyanti, "Perlindungan Hak Asasi Manusia Bagi Tenaga Kerja Wanita di Indonesia Ditinjau Dari Undang-Undang Nomor 13 Tahun 2003", *Kertha Semaya : Journal Ilmu Hukum*, Volume 2, No. 4 (2014) : 3-4.

whose rights are exploited due to a lack of knowledge about the rights guaranteed by law. Especially Workers who are continuously sick due to or outside of work accidents and are considered less productive when compared to healthier Workers. Workers who resign themselves to their condition feel that they have no other choice but to accept the Company's decision to fire them by simply accepting policy money. Moreover, seeing the reality that this has often happened not only to sick workers, but also to healthy workers.

The rights of female workers have been guaranteed in the constitution, laws, and several implementing regulations. The guarantee of these rights is in line with various international conventions that regulate the rights of female workers. Article 151 Paragraph (3) of the Job Creation Law explains that unilateral termination of employment is not permitted. Article 151 Paragraph (4) of the Job Creation Law states, "In the event that bipartite negotiations as referred to in paragraph (3) do not reach an agreement, termination of employment is carried out through the next stage in accordance with the industrial relations dispute mechanism". So it is better for the Company to take actions in accordance with applicable laws. Not just calling and giving advice or reprimands just like that.<sup>9</sup>

Layoffs in the case of urgent violations committed by workers are basically carried out by employers. Most women have the potential to experience discrimination in the workplace, but pregnant female workers are the most vulnerable to discrimination by employers or companies. Pregnant female workers are vulnerable to layoffs because pregnancy is considered an obstacle to women's productivity in working. In fact, as fellow human beings, it is not wise to make a principle of women's reproductive function an obstacle to a job. The female reproductive system and its nature should not be a reference for eliminating women's rights as workers, the following is an explanation and legal protection for pregnant female workers.

Article 151 paragraph (1) of Law Number 13 of 2003 concerning Manpower provides a regulation that 'Employers, workers/laborers, trade unions/laborers, and the government, with all efforts must try to prevent layoffs'. This regulation can be interpreted that of course employers may not arbitrarily lay off their workers and must ensure that such layoffs do not occur.

Protection for female workers who are pregnant or on maternity leave, in addition to being stated in Law Number 13 of 2003, is also regulated in Law Number 11 of 2020 concerning Job Creation. In addition, there are also regulations regarding the procedures for employers or companies that employ women to treat female workers who are pregnant or on maternity leave without unilaterally terminating the employment relationship, namely in Law Number 2 of 2004.

---

<sup>9</sup> Fahrurrozi, M. (2018). Pemutusan Hubungan Kerja Sepihak Antara PT. Indah Kiat Dengan Tenaga Kerja Berdasarkan UU No. 13 Tahun 2003. *JOM Fakultas Hukum, Universitas Riau*, Vol.5, (No. 2), p.11

Workers who feel that their rights have been violated can try to resolve the problem in the industrial law environment. The initial step that can be taken is deliberation or mediation. The deliberation is held and attended by the employer or company representative, workers who are experiencing problems and a moderator. If the deliberation is successful in finding a middle ground, then there is no need to continue the case to the courts. However, if the deliberation cannot reach a consensus, then the step taken is to resolve the employment relationship problem in the industrial relations court.

#### 4. Conclusion

The rights of female employees that are also guaranteed by law are biologically inherent maternity rights because they carry out reproductive functions, such as pregnancy, childbirth, and breastfeeding. Therefore, employers are required to provide special treatment so as not to interfere with or endanger the health of the female employees concerned. Article 86 of the Manpower Law states that every worker has the right to receive protection for occupational safety and health, morals and morality, and treatment in accordance with dignity and religious values.

Legal protection regarding Termination of Employment (PHK) for female workers who are unilaterally dismissed by the company has been regulated in Article 153 of the Job Creation Law, where in terminating employment, employers are prohibited from terminating employment (PHK). Unilateral Termination of Employment (PHK) is strictly prohibited, this right is indeed very clear, but if in certain circumstances that force PHK to be carried out, then there are also regulations regarding wages and severance pay contained in Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes

#### References

- Apriyanti, Putu Lia, I Nyoman Mudana, dan I Made Pujawan, "Pelaksanaan Kewajiban Pengusaha Terhadap Pekerja Perempuan yang Bekerja pada Malam Hari di Hotel Maya Ubud", *Kertha Semaya : Journal Ilmu Hukum*, Volume 3, No. 2 (2015).
- Fahrurrozi, M. (2018). Pemutusan Hubungan Kerja Sepihak Antara PT. Indah Kiat Dengan Tenga Kerja Berdasarkan UU No. 13 Tahun 2003. *JOM Fakultas Hukum, Universitas Riau*, Vol.5, (No. 2).
- Nariswari, Anak Agung Istri Intan Argyanti, "Perlindungan Hak Asasi Manusia Bagi Tenaga Kerja Wanita di Indonesia Ditinjau Dari Undang-Undang Nomor 13 Tahun 2003", *Kertha Semaya : Journal Ilmu Hukum*, Volume 2, No. 4 (2014)
- Novada, Ni Putu Rosita dan I Ketut Rai Setiabudi, "Perlindungan Hukum Terhadap Hak Menyusui

- Anak Selama Waktu Kerja di Tempat Kerja Bagi Pekerja Perempuan", *Kertha Semaya Journal Ilmu Hukum*, Volume 6 No. 12 (2018)
- Ratih Wulandari, *Perlindungan Hukum Pegawai Pemerintah Dengan Perjanjian Kerja di Rumah*
- Sakit Umum Daerah, (Surabaya: Penerbit Scopindo Media Pustaka, 2020)
- Rohendra Fathammubina dan Rani Apriani, "Perlindungan Hukum Terhadap Pemutusan Hubungan Kerja Sepihak Bagi Pekerja", *Jurnal Ilmiah Hukum De'Jure : Kajian Ilmiah Hukum*, Fakultas Hukum Universitas Singaperbangsa Karawang, Volume 3 Nomor 1 Mei 2018.
- Rudi Febrianto Wibowo dan Ratna Herawati, "Perlindungan Bagi Pekerja Atas Tindakan Pemutusan Hubungan Kerja (PHK) Secara Sepihak", *Jurnal Pembangunan Hukum Indonesia*, Fakultas Hukum Universitas Diponegoro, Volume 3 Nomor 1 Tahun 2021.
- Permadi, M. A. M., Syaban, W. K., Habibi, M. I., Purnama, F., & Ampera, S. (2026). The Dynamics Of Learning Difficulties Among Students At Islamic Boarding Schools In The Digital Age: Between Tradition And Technological Limitations. *Al-Ulum: Jurnal Pendidikan Islam*, 7(1), 202-218.
- Abdulghani, N. A., & Sya'ban, W. K. (2026). Inter-Islamic Law Simulation in Education as an Effort to Build a Community Legal Culture. *Amorti: Jurnal Studi Islam Interdisipliner*, 59-67.
- Permadi, M. A. M., & Sya'ban, W. K. (2025). T Transformasi Pendidikan Islam: Studi Komparatif Sistem Pengajaran di Pesantren Tradisional dan Pesantren Modern: Transformasi Pendidikan Islam: Studi Komparatif Sistem Pengajaran di Pesantren Tradisional dan Pesantren Modern. *Transformation of Islamic Management and Education*, 2(1), 18-24.
- Wungsu, Gede Kurnia Utara dan I Ketut Wirawan, "Perlindungan Hukum Terhadap Pekerja Perempuan Yang Dipekerjakan Pada Malam Hari", *Kertha Semaya : Journal Ilmu Hukum*, Volume 5 No. 1 (2017).
- Undang-Undang Republik Indonesia Nomor 13 Tahun 2003 tentang Ketenagakerjaan (Lembaran Negara Republik Indonesia Tahun 2003 Nomor 39, Tambahan Lembaran Negara Republik Indonesia 4279), Pasal 156.
- Undang-Undang Dasar Negara Republik Indonesia Tahun 1945
- Undang-Undang Nomor 13 Tahun 2003 tentang Ketenagakerjaan
- Undang-Undang Nomor 2 Tahun 2004 tentang Penyelesaian Perselisihan Hubungan Industrial
- Undang-Undang Nomor 11 Tahun 2020 tentang Cipta Kerja