

STUDY OF LABOR PROTECTION LAW IN THE MICRO, SMALL AND MEDIUM ENTERPRISES SECTOR IN CIREBON DISTRICT

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Abstract: Employment Development is a basic reference in developing resources for workers, so that workers need legal protection against the possibility of arbitrary actions by employers. The existence of Micro, Small and Medium Enterprises in the business world plays an increasingly important role in expanding employment opportunities. Workers' rights in the micro, small and medium enterprise sectors are guaranteed in Law Number 13 of 2003 concerning Employment, Law Number 6 of 2023 concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation becomes law, and Law Number 20 of 2008 concerning Micro, Small and Medium Enterprises. The aim of this research is to examine and understand the forms of employment protection in the Micro, Small and Medium Enterprises sector and to examine and understand the policies of the Cirebon district regional government in an effort to protect workers' rights in the Micro, Small and Medium Enterprises sector in Cirebon district. The approach in this research uses Normative Jurisdiction. In its findings, it is identified that workers' rights in the Micro, Small and Medium Enterprises sector do not yet fully contain the values of employment protection because there is neglect of the values of wage protection, participation in BPJS Health and BPJS Employment and work agreements do not yet regulate working hours, rest hours, leave rights, overtime pay, work safety guarantees. Ignoring these values has proven that the legal rules for workers' rights in the Micro, Small and Medium Enterprises sector do not fully contain employment protection values. The Cirebon district government's policy in efforts to protect workers' rights in the Micro, Small and Medium Enterprises sector is not yet optimal because it still focuses on normative provisions and there are no specific regulations governing the protection of workers' rights in the Micro, Small and Medium Enterprises sector, resulting in social inequality. This often occurs regarding the fulfillment of workers' rights in the Micro, Small and Medium Enterprises sector.

Keywords: legal protection, workers' rights, micro, small and medium enterprises

I. INTRODUCTION

Employment development is the basic reference in developing labor resources. In principle, employment development aims to protect the workforce. Employment issues are an important topic and deserve attention from both the government and the general public, because employment is very closely linked to people's lives. In an employment relationship, conditions are often found that are not suitable, especially for workers, in fulfilling their rights by their employers.

Legal protection is always related to the role and function of law as a regulator and protector of community interests. This is related to the role of law as a tool to provide protection and the function of law to regulate relationships and resolve problems that arise in society. In order to protect workers and employers, government intervention in the employment sector is needed to maintain balance for the parties through statutory regulations.

Employment Protection aims to achieve social justice in the field of Employment and protect workers against unlimited power from Employers. The law in the Employment Law not only protects workers but also protects entrepreneurs. The existence of the Employment Law juridically aims to maintain a balance in work relations between workers and entrepreneurs so that they have a good relationship in carrying out business activities so that they can increase the welfare of workers.

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In Article 3 of Law Number 13 of 2003 concerning Employment, it is stated that employment development is carried out on the principle of integration through functional coordination across central and regional sectors. The principle of employment development is basically in accordance with the principles of national development, especially the principles of democracy, the principles of justice and equality. This is done because employment development is multidimensional and related to various parties, namely the government, entrepreneurs, and workers or laborers. Therefore, employment development is carried out in an integrated manner in the form of mutually supportive cooperation. So the principle of employment law is the principle of integration through functional coordination across central and regional sectors.

The workforce has a very important role in improving and advancing the Company in terms of Company performance and productivity so that it also indirectly contributes to national development. Regarding the contributions made by these workers, it is necessary to provide protection for workers, especially in the form of Labor Law regulations.

The existence of labor protection to guarantee basic rights and guarantee the trend of opportunity and treatment without subordination or discrimination on any basis in order to realize welfare for workers and their families while still paying attention to global progress in employment development which is based on article 27 paragraph (2) of the Law. 1945 Constitution: "Every citizen has the right to work and a living worthy of humanity." The legal relationship between workers and employers gives rise to rights and obligations for each party. Labor law regulates the protection of workers' rights. So in this case, workers need legal protection against possible arbitrary actions from employers. Legal protection for female workers is very necessary considering their weak position.

The existence of Micro, Small and Medium Enterprises in the business world has an increasingly important role in expanding employment opportunities for Micro, Small and Medium Enterprises because of their significant contribution to labor absorption and local

economic growth. The crucial problems faced in Cirebon Regency are the problems of poverty, unemployment and income equality. One of the difficult problems that governments in various regions often face is providing employment opportunities for their residents.

Normatively, Micro, Small and Medium Enterprises as a forum for business actors, the path towards becoming strong and independent business actors is increasingly open to them. What needs to be followed up is how to implement these normative rules in a concrete manner. Based on Article 5 of Law Number 20 of 2008 concerning Micro, Small and Medium Enterprises, the Empowerment of Micro, Small and Medium Enterprises is:

- (1) Realizing a national economic structure that is balanced, developed and just.
- (2) Grow and develop the capabilities of Micro, Small and Medium Enterprises to become resilient and independent businesses.
- (3) Increasing the role of Micro, Small and Medium Enterprises in regional development, job creation, income distribution, economic growth and poverty alleviation.

Micro, Small and Medium Enterprises tend to have human resource limitations, including in terms of compliance with Labor Regulations. Workers in the Micro, Small and Medium Enterprises sector have more limited access to employment law protection compared to workers in companies.

Micro, Small and Medium Enterprises have an important role to play in helping the economy of the people of Cirebon Regency and indirectly overcome the poverty that occurs in Cirebon Regency because they can absorb labor from a wide range of job opportunities. To develop Micro, Small and Medium Enterprises, this can be done by improving the quality of product services, analyzing product developments, building good relationships and expanding relationships and following trends. So in this case workers need employment protection.

In relation to legal protection for workers or workers, according to L. Husni, worker protection is divided into 3 (three) types, namely as follows:

- a) Economic protection is a type of protection related to efforts to provide workers with an income sufficient to meet the daily needs of them and their families, including in the event that the worker is unable to work due to something against his will. This includes economic protection, including wage protection and Social Security;
- b) Social protection, namely protection related to community efforts, the aim of which is to enable workers to experience and develop a life like humans in general and as members of society and family members. This social protection includes protection for child laborers, female workers, employers are obliged to provide rest periods and leave;
- c) Technical protection, namely protection related to efforts to protect workers from the dangers of accidents that can be caused by aircraft or other work tools or materials processed or processed by the company. This technical protection is related to K3 (Occupational Safety and Health), namely labor protection which aims to ensure that workers can avoid all risks of danger that may arise in the workplace, whether caused by tools or materials used in a work relationship.

In his findings, there are several workers' rights in the micro, small and medium enterprise sector, identified that the fulfillment of workers' rights in the micro, small and medium enterprise sector does not fully contain employment protection values, there is neglect of the values of wage protection, participation in BPJS Health and BPJS employment and the rights of workers in the Micro, Small and Medium Enterprises sector have not been stated in the work agreement.

So in this case a policy is needed from the Cirebon Regency Regional Government, the Cirebon Regency Employment Service, the Cirebon Region III Supervision Service and the Cirebon Regency Cooperatives and Micro, Small and Medium Enterprises Service to create a fair working relationship for the parties, intervention from the Government is needed by

making special regulations to protect workers' rights in the Micro, Small and Medium Enterprises sector more adequately.

II. METHOD

This approach uses the problem approach that will be used in writing this thesis using a normative juridical approach. The normative juridical approach is legal research carried out by examining library materials or secondary data as basic material for research by conducting searches on regulations and literature related to the problem being studied.

This research was carried out by examining the problems in existing research, then linking them to the legal issues that are being handled and studied or analyzed based on applicable laws and regulations.

III. RESULTS AND DISCUSSION

In his findings, there are several workers' rights in the Small, Micro and Medium Enterprises sector, identifying that the fulfillment of workers' rights in the Small, Micro and Medium Enterprises sector does not fully contain the values of employment protection because there is a neglect of the value of Wages, Membership in BPJS Health and BPJS Employment, Agreements work that regulates working hours, rest hours and leave.

Employment protection regarding workers' rights in the Small, Micro and Medium Enterprises sector has been guaranteed in Law Number 13 of 2003 concerning Employment, Law Number 6 of 2023 concerning the Determination of government regulations in lieu of Law Number 2 of 2022 concerning Job Creation into Law. Law, Government Regulation Number 35 of 2021 concerning Specific Time Work Agreements, Outsourcing, Working Time, Rest Time, and Termination of Employment Relations, Government Regulation Number 36 of 2021 concerning Wages.

In the Small, Micro and Medium Enterprises sector, it is regulated in Law Regulation Number 20 of 2008 concerning micro, small and medium enterprises, Regent's Regulation Number 57 of 2008 concerning details of tasks, functions, cooperative services and micro, small and medium enterprises, Regent's Regulation Number 44 of 2008 2022 Concerning Guidelines for implementing assistance for Micro businesses in Cirebon Regency.

Government Regulation Number 36 of 2021 concerning Juntto Wages Government Regulation Number 51 of 2023 concerning Amendments to Government Regulation Number 36 of 2021 concerning Wages states that Wages are the rights of workers/laborers which are received and expressed in the form of money as compensation from the Employer or employer to the worker / laborers determined and paid according to a work agreement, agreement or statutory regulations, including allowances for workers / laborers and their families for work and / or services that have been / will be performed.

Wages have become an absolute right for workers, so it is mandatory that every worker in the Small, Micro and Medium Enterprises sector who works gets paid for the results of their work. As a right, it is normal for workers to demand the right to wages for the work they have done. One of the wages that workers are entitled to is overtime pay.

In its findings, it was identified that small, micro and medium enterprises in Cirebon Regency were not optimal in providing adequate wages to workers. The wages given are very low and not in accordance with the district minimum wage in Cirebon Regency.

There are also sanctions for employers who give workers the right to wages below the minimum wage, contained in Article 88E of Law Number 6 of 2023 which states that employers are prohibited from providing wages below the minimum wage, the sanction is imprisonment for a maximum of 1 to 4 years, and /or a fine of 100 - 400 million (Article 185 of Law 6/2023). UMK provisions can be excluded with certain conditions.

Worker welfare is one form of small, micro and medium enterprise entrepreneurs who can increase worker participation in efforts to increase security for their workers. There are various employee welfare programs ranging from basic ones such as health insurance, life and work accident insurance, retirement planning, to larger ones such as child care facilities, extended paid leave, and fitness facilities.

As a form of implementing employee welfare, the government through Law Number 40 of 2004 concerning the Social Security System established the Employment Social Security Administering Agency as an institution that regulates all employment guarantees for all Indonesian people. The aim of issuing this law is to act as a legal umbrella for the implementation of social security in Indonesia and accelerate membership coverage and improve the quality of social security in accordance with the constitutional mandate.

BPJS Employment guarantees that participants receive health service benefits and cash compensation if a worker experiences a work accident or suffers from an occupational disease. Work accidents are accidents that occur in the course of employment, including accidents that occur on the way from home to work or vice versa, and illnesses caused by the work environment.

BPJS Employment Program, whether formal or informal, certainly cannot avoid risks. So BPJS Employment functions to organize four guarantee programs which can become one of the company's programs for the welfare of its employees.

BPJS Health is also mandatory for every company employee. However, the obligation to register participation is the responsibility of the employer or company. If companies do not register their employees, they are threatened with administrative sanctions in the form of warnings, fines and not receiving public services.

Employees who experience layoffs (PHK) remain BPJS Health participants and receive class III health insurance benefits for a maximum of 6 months without paying contributions. However, after returning to work, participants are required to continue paying BPJS contributions.

If a BPJS Health and BPJS Employment participant experiences termination of employment due to illness or permanent disability which makes him unable to work again, then the person concerned is registered as a BPJS Health Contribution Assistance (PBI) participant.

The reason why companies do not register their workers with BPJS Employment is due to cost factors, daily/casual workers, and small and medium businesses and apart from that, there are elements to benefit the company without thinking about worker safety. In fact, in the Law governing BPJS Employment, it is explained that a BPJS participant is every person, including foreigners who have worked for at least 6 (six) months in Indonesia, who have paid contributions.

As for sanctions, if employers (companies) other than state administrators do not carry out the obligation to register their workers as participants with BPJS Employment and BPJS Health, they will be subject to administrative sanctions. These administrative sanctions can be in the form of: a. written warning; b. fine; and/or c. do not receive certain public services. Based on the description above of the problem, the author is interested in conducting research until the cause of the problem is known.

Supervision of companies by the government in the Social Security program is important to ensure legal protection for workers under the auspices of the Company. The purpose of this supervision is to be able to monitor the implementation of Law Number 24 of 2011 concerning BPJS, so that the law operates more effectively.

In his findings, entrepreneurs in the micro, small and medium enterprise sector have not been optimal in terms of giving workers the right to register for BPJS Health and BPJS Employment in accordance with Article 15 of Law Number 24 of 2011 concerning the

implementation of social security, that employers are gradually obliged to register themselves and the workers are BPJS participants in accordance with the social security program they are participating in.

Protection of workers in the Micro, Small and Medium Enterprises sector is intended to guarantee workers' rights and guarantee equality of opportunity and treatment without any discrimination in order to realize the welfare of workers and their families while still paying attention to developments in the business world and the interests of employers. Legislation related to protection for workers, namely Law Number 13 of 2003 concerning Employment, Law Number 6 of 2023 concerning the Determination of government regulations in lieu of Law Number 2 of 2022 concerning Job Creation into laws and implementing regulations from legislation in the field of employment.

The presence of entrepreneurs in the Small, Micro and Medium Enterprises sector certainly provides employment opportunities for the community, so there is a need for more comprehensive regulations that discuss employment. This of course aims to provide legal certainty for both workers and entrepreneurs. Apart from that, there are also rights and obligations that must be fulfilled by both parties, in this case employers and workers, so that it is hoped that a mutually beneficial relationship will be established for both.

Labor is one step in economic development, which has a significant role in all national activities, especially the national economy in terms of increasing productivity and welfare. Abundant labor is the driver of economic life and is an abundant resource.

An employment relationship is a relationship between an entrepreneur and a worker/laborer based on a work agreement which has elements of work, wages and orders. Thus, it is clear that the employment relationship occurs because of a work agreement between the entrepreneur and the worker/laborer. It is clear that the employment relationship as a form of legal relationship is born or created after the existence of a work agreement between the worker and the entrepreneur. The substance of the work agreement made must not conflict with the existing Collective Work Agreement (PKB), as well as company regulations, the substance must not conflict with the PKB.

In Article 79 of Law Number 6 of 2023, employers are obliged to provide rest and leave time. The rest time given to workers is at least half an hour after working for 4 (four) hours continuously and the rest time does not include working hours. Weekly rest is 1 (one) day for 6 (six) working days in 1 (one) week and The implementation of annual leave must be regulated in the work agreement, company regulations or collective work agreement, the leave in question must be at least 12 (twelve) working days after the employee concerned has worked for 12 (twelve) months continuously.

There is neglect of the values of wage protection, social security participation and work agreements do not regulate rest hours and leave. Identifying that employers have not fully regulated the content of employment protection values because there is a neglect of workers' rights in the small and medium enterprise sector.

There are efforts to provide protection for workers' rights carried out by UPTD Supervision Region III, as follows:

a) Preventive Educational

Labor Inspectors provide guidance and disseminate norms. Labor inspectors are not only responsible for taking legal action but also providing guidance by visiting employers and checking for non-compliance with applicable regulations. There are several checks on the entrepreneur. First, inspection of companies that have never been inspected by labor inspectors. Second, periodic inspections/routine inspections every year where company data has been stored in Wasnaker. Third, inspections based on complaints/reports/cases occurring

b) Non-Judicial Repressive

Legal action outside the court is called restorative justice.

c) Judicial repression

Legal action through the Industrial Relations Court Institution.

The importance of Cirebon Regency Regional Government policy in efforts to protect workers' rights in the Small, Micro and Medium Enterprises sector in Cirebon Regency. Apart from referring to applicable provisions, implementation must be optimized considering that the position of workers is very weak. Regulation of legal protection for workers' normative rights is very important and interesting to discuss because it is linked to workers' normative rights, where rights are something that workers should receive according to an agreement or agreement with their employer.

Cirebon district government policy in an effort to protect workers' rights in the Small, Micro and Medium Enterprises sector, the regulations are regulated in Law Regulation Number 20 of 2008 concerning micro, small and medium enterprises, Regent Regulation Number 57 of 2008 concerning details of tasks, functions, cooperative and business services micro, small and medium, Regent Regulation Number 44 of 2022 concerning Guidelines for implementing assistance for Micro businesses in Cirebon Regency.

IV. CONCLUSIONS

There is a disregard for the values of employment protection in the micro, small and medium enterprise sector in Cirebon district. The findings of ignoring these values indicate that employers in wages are not in accordance with Article 88C of Law Number 6 of 2023 concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation as Law, Waiver of BPJS Health and BPJS Employment is in accordance with the provisions of Article 15 paragraph (1) of Law Number 24 of 2011 concerning Social Security Administering Bodies and Article 99 of Law Number 13 of 2003 concerning Employment that every worker and his family has the right to obtain labor social security, then in The work agreement does not yet regulate working hours, rest hours, leave rights, overtime pay, work safety guarantees.

The Cirebon Regency Regional Government's policy on employment protection in the micro, small and medium enterprise sector is only normative. The regulations are regulated in Law Regulation Number 20 of 2008 concerning micro, small and medium enterprises, Regent Regulation Number 57 of 2008 concerning details of tasks, functions, cooperative services and micro, small and medium enterprises, Number 44 of 2022 concerning Guidelines for implementing assistance for businesses Micro in Cirebon Regency. Policies to protect the rights of female workers still refer to Law Number 6 of 2023 concerning Stipulation of Government Regulations in lieu of Law Number 2 of 2022 concerning job creation, Government Regulation No. 35 of 2021 and government regulation no. 36 of 2021. Not yet specifically regulated for the protection of workers in the micro, small and medium enterprise sector in Cirebon district.

The suggestion in this research is that it is hoped that the Cirebon Regency Manpower Service and the Cirebon Region III Labor Inspection UPTD can optimize their active role in providing guidance to MSME entrepreneurs or micro, small and medium enterprises in Cirebon Regency. It is very important to disseminate applicable norms and optimize them to ensure that MSME entrepreneurs or micro, small and medium enterprises in Cirebon Regency comply with applicable regulations, carry out their rights and obligations in accordance with work agreements and related regulations so as to create harmonious working relationships.

It is hoped that the Regional Government of Cirebon Regency can make policies in the form of regulations for employment protection in the micro, small and medium enterprise sector because the current regulations only refer to the provisions of Law Number 6 of 2023

concerning the Determination of Government Regulations in lieu of Law Number 2 of 2022 concerning job creation, Government regulation no. 35 of 2021 and government regulation no. 36 of 2021 and Law Number 20 of 2008 concerning micro, small and medium enterprises. They should create policies in the form of regulations that regulate the protection of workers' rights in the micro, small and medium enterprise sector so that workers in the micro, small and medium enterprise sector are truly guaranteed their rights by the Cirebon district government. And it is also hoped that there will be an agenda for socialization for the dissemination of norms in providing protection of workers' rights in the micro, small and medium enterprise sector.

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