



Legal Review of the Existence of Komura Workers in the Omnibuslaw Law in Samarinda City

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Abstract

The government has failed to absorb aspirations and involve the public in determining regulations governing employment, resulting in a lot of arbitrary treatment by companies or other business entities to their workers. The research aims to determine the influence of the OMNIBUSLAW Law on KOMURA workers in Samarinda City and the existence of KOMURA workers in Samarinda City before the OMNIBUSLAW Law was enacted. This study used quantitative descriptive methods with primary, secondary, and tertiary legal sources. The results showed that the Job Creation Law or OMNIBUSLAW had no effect on the Samudra Sejahtera Cooperative (KOMURA) because Komura was very concerned about occupational safety and health issues for every Komura worker was required to attend Occupational Health Safety (K3) training and in terms of Welfare Komura was also very concerned in paying attention to each of its workers starting from work wages, health benefits, Holiday Allowance, Scholarship for children of Komura workers and Old Age Insurance Program.

Keywords: *Omnibuslaw Law; Labour; Komura*

Introduction

The government's commitment to present itself as a state that encourages the welfare of workers is nonsense. Before the existence of this Job Creation Bill, workers had experienced injustice in the workplace. In addition, the right to get safety, health, welfare, and old age security has been minimally stated in Law Number 13 of 2003 concerning Manpower such as the right to feel safe at work, safety guarantee, health, welfare, and old age security.

Hourly wage workers are the most affected group. Hourly wages are only applied when workers are workers who are carrying out production activities. Therefore, they will lose access to leave entitlements, sick leave, and other permits at work because they are considered unproductive.

Workers have been plunged into inhumane work situations due to targets and long working hours, wages that are often far from a decent standard of living, unclear labor contracts, or even not being recognized as workers. This inequality of relations makes workers more vulnerable to inequality which has an impact on social pathology.

The Job Creation Law requires unlimited exploitation, while workers' rights demand that they remain properly paid, health and old age insurance, get the same benefits as the head of the family, responsibilities for individuals or their families, such as the leave system for victims to take care of cases and guarantees not to be laid off, and the elimination of the category of *unskilled* work which causes many workers not to be recognized for their working status and not paid properly. Therefore, with the Cilaka Law, workers are not liberated and are further away from access to empowerment.

The cut in workers' rights is quite prominent in the amendment of Article 93 paragraph (1) which regulates the right to wages for workers if they do not enter or do not do work. The change could even affect workers' protection, freedom of religion and belief for workers, or freedom of association. In essence, changes to such articles have the potential to eliminate the rights of workers/workers, namely those who are sick so they cannot do work.

The research aims to determine the influence of the OMNIBUSLAW Law on KOMURA workers in Samarinda City and the existence of KOMURA workers in Samarinda City before the OMBIBUSLAW Law was enacted.

Theoretical Framework

A. Theory of the State of Law

The rule of law is a concept that originated from the term nomocracy that developed from Western thought [1]. The term nomocracy comes from the words *nomos* which means norm, and *cratos* which means power. The rule of law is a concept of state government based on law.

The State of Law is a state that stands on the law that guarantees justice to its citizens. Justice is a condition for attainment The happiness of life is for its citizens, and as the basis of justice, it is necessary to teach morality to every human being so that he becomes a good citizen [2].

B. Theory of Justice

Justice comes from the word fair, according to the Dictionary Indonesian fair is not arbitrary, impartial, not partial. Fair primarily implies that decisions and actions are based on objective norms. Justice is a relative concept, "everyone is not equal, fair according to one is not necessarily fair to the other, when a person affirms that he is doing justice, it must certainly be relevant to the public order in which a scale of justice is recognized. The scale of justice varies greatly from one place to another, each scale is defined and fully determined by the community by the public order of the community" . In Indonesia, justice is described in Pancasila as the basis of the state, namely social justice for all Indonesian people. "The five precepts contain values that are the purpose of living together. Justice is based on and animated by the essence of human justice, namely justice in the relationship of man with himself, man with other humans, man with society, nation, and state, and man's relationship with his God" [3].

C. Law and Justice

Law is very closely related to justice, there is even an opinion that law must be combined with justice so that it matters as law because indeed the purpose of law is to achieve a sense of justice in society. "A legal and judicial system cannot simply be formed without regard to justice, because justice includes the essential understanding of a legal and judicial system, therefore it must be guided by certain general principles. These principles are those that concern the interests of a nation and state, which is a belief that lives in society about a just life because the goal of the state and law is to achieve the greatest happiness for everyone" [4].

In Pancasila, the word adil is found in the second precept and the fifth precept. "Just human values and social justice contain a meaning that human nature as a cultured and natural being must be fair, namely fair about oneself, fair to other humans, fair to the people of the nation and state, fair to the environment, and fair to God Almighty. The consequences of the values of justice that must be realized include":

1. Distributive justice, which is a relationship of justice between the state and its citizens, in the sense that it is the state that is obliged to fulfill justice in the form of justice sharing, in the form of welfare, assistance, subsidies and opportunities in living together based on rights and obligations;
2. Legal justice, which is a relationship of justice between citizens and the state, and in this case, it is the citizens who are obliged to fulfill justice in the form of obeying the laws and regulations in force in the state; and
3. Commutative justice, which is a relationship of justice between citizens with each other reciprocally.

D. Theory of Legal Certainty

Normative legal certainty is when a regulation is made and promulgated with certainty because it regulates clearly and logically. Legal certainty refers to the clear, fixed, consistent, and consequent enactment of laws whose implementation cannot be influenced by subjective circumstances. "Certainty and justice are not merely moral demands, but factually characterize the law. A law that is uncertain and unwilling to be fair is not just a bad law" [5].

E. Overview of Existence

Existence can be interpreted as something that considers human existence not static, meaning that humans are always moving from possibility to reality [6]. This process changes, if it now becomes something possible, then tomorrow it will turn into reality because man has the freedom to move. Being existent means daring to make decisive decisions for his life. Consequently, if we cannot make decisions and dare not act, then we do not exist in the true sense.

F. Understanding Labor

According to Law Number 13 of 2003 Article 1, workers/laborers are everyone who works by receiving wages or other forms of compensation. Labor is everyone who can do work to produce goods and services either to meet their own needs or society. "While an employer is an individual, employer, legal entity or other entity that employs workers by paying wages or other forms of compensation" (Law No.13, 2003) "Labor or labor that is in the interest of employers is something that is so attached to the person of the worker/laborer that the worker or laborer always follows his energy to the place where he is employed, and employers sometimes arbitrarily terminate the employment relationship of

workers/laborers Because the manpower is no longer needed. Therefore, the government by issuing laws and regulations, participates in protecting the weak (workers/workers) from the power of employers, to place in a decent position by human dignity and dignity" [7].

Research Methods

The legal research method is a systematic way of conducting research. According to "Legal research is to find the truth of the truth of chores, namely whether there are legal rules according to legal norms and whether there are norms in the form of orders or prohibitions by legal norms, and whether one's actions are by legal norms (not only according to legal rules) or legal principles" [8].

1. Types of Research

According to Soejono explained that "legal research is a scientific activity, which is based on certain methods, systematics, and thinking, which aims to study one or several certain legal phenomena, by analyzing them" [9]. "Data obtained through thinking is empirical (observable) data that has certain criteria, namely valid. Valid shows the degree of accuracy between the data that occurs in the object and the data that can be collected by the author. To obtain the data needed in this study, the author uses empirical juridical research methods, "here explained the types and how data collection techniques for population numbers, sample size, data management methods, and analysis methods used" [10].

2. Approach the Problem

a. Observation

This method is done by direct observation of the object to be studied [11]. This data collection is carried out based on secondary data from the research report.

b. Interview

This method is done to capture a lot of data and information needed in research by conducting direct interviews with respondents, by conducting these interviews, the author gets primary data directly from those directly concerned with the data that the author needs in this study so that the data obtained is accurate and can be accounted for its truth [11].

3. Source of Legal Material

- a. Primary legal materials, namely binding materials in the form of laws, namely the 1945 Constitution, Law Number 13 of 2003 concerning Manpower, Law Number 11 of 2020 concerning Job Creation (OMNIBUSLAW) [12]
- b. Secondary legal materials, namely legal materials provide explanations of primary legal materials obtained from literature studies in the form of literature related to research.
- c. Tertiary legal materials, namely legal materials that provide guidance and explanation of primary and secondary legal materials related to this research if needed later are newspapers, the internet, Legal dictionaries, and Big Dictionaries Indonesian.

4. Legal Material Collection and Processing Techniques

The data obtained by the author will be analyzed in such a way as to become a descriptive-analytical description to answer the formulation of the problem in the writing used by the author[10].

5. Legal Material Analysis

This research will be analyzed using quantitative descriptive methods, meaning that the data obtained will be described in such a way with the benchmarks of applicable laws and regulations and related to the title and compared with applicable theories and facts obtained.

Results and Discussion

A. The Effect of the OMNIBUSLAW Law on Komura Workers in Samarinda City

East Kalimantan is one of the provinces in eastern Indonesia that has great natural resource potential such as oil and gas and coal from mining products, wood and rattan from forest products, and oil palm from plantation products. In general, the condition of the muddy coastline of the mainland working environment of Samarinda Port is 50 meters from the riverside to the Yos Sudarso road boundary, while the boundary of the Port area of interest is 180 meters from the river bank and the boundary extends from the Karang Mumus River to the West Commerce road.

TKBM Samudra Sejahtera Cooperative (KOMURA) Samarinda Port is a cooperative that handles TKBM (Loading and Unloading Manpower), with a vision of "Making a reliable and skilled workforce to carry out loading and unloading activities at the port, to increase the smoothness and productivity of loading and unloading". As well as realizing the quality of professional TKBM in the face of the development of sea transportation technology and the flow of globalization.

Implementation of health and safety protection implemented by TKBM Komura, namely:

1. Personal Protective Equipment

Protection of labor through engineering efforts in the form of securing premises, equipment, and work environments needs to be prioritized. Work protection tools are tools that can protect against accident hazards. The state of danger still cannot be fully controlled so it is necessary to use personal protection equipment that meets the following requirements: comfortable to wear, does not interfere while working, and provides effective protection against the types of hazards that exist in the workplace [13]. Protection of labor needs to be considered as early as possible because labor is the driving force of something that has become a must for every employer so that every workforce is always in a safe and healthy condition [14]. The various means of self-protection (protection) are as follows:

- a. Gloves should be given to workers in consideration of the hazards and requirements, including the condition of free movement of fingers and hands. The type depends on the type of accident to be prevented, namely punctures, incisions, exposure to hot objects, exposure to chemicals, exposure to electricity, and radiation exposure.
- b. Safety shoes that protect workers against accidents caused by heavy loads that can fall on the feet such as nails or other sharp objects.
- c. Safety caps are worn by workers to protect the head to be protected from falling objects, the hats used must be sturdy and hard enough but light.

The implementation of work safety starting from work protection equipment has been going well where the procurement of personal protection equipment for workers is provided free of charge by the cooperative in addition to occupational safety and health training conducted by the cooperative to increase awareness of the importance of personal protection equipment, but there are still opinions that say that there are still mistakes that occur as a result of negligence that Carried out by the workforce itself

such as ignoring the importance of wearing personal protective equipment, making personal protective equipment not functioning, and failing the workforce to follow the procedures set by the cooperative[15].

2. Health Care

Health maintenance is intended to increase labor productivity, so that it can carry out as well as possible and is a health effort in the field of development [16]. For this reason, the Samudra Sejahtera Cooperative held labor health maintenance in 2020. This health maintenance includes preventive measures, treatment, and rehabilitation measures.

The legal basis used in health care is Law No.13/2003 concerning manpower article 35: "The provision of work must protect welfare, safety, and health of workers"[17].

Health maintenance insurance has the following characteristics:

- a. Diversity of diseases with their healing process. The types and various causes of a person attacked by disease give rise to a diversity of healing facilities such as doctors' practices, and hospital services including various types of equipment and medicines. The scope of the healing process of a disease is diverse and requires expertise.
- b. Administrative, health reimbursement is retail and occurs daily. The detailed details of the information contained in the healing reimbursement process require high administrative discipline.
- c. The cost of providing health facilities increases every year. The reality shows that the cost of each type of health care each year increases higher than the general inflation rate.
- d. The risk faced by illness does not know who, when, and where. Disease attacks can occur against any employee at any time. From the company's point of view, the uncertainty of the occurrence of disease, the type, and process of healing raises the risk of providing costs of unpredictable magnitude.

Labor Social Security for members of the Loading and Unloading Workforce managed directly by Komura is intended so that when workers experience accidents at the work site they can immediately get help at the hospital without having to follow convoluted procedures that make the workforce worse, in addition to providing polyclinics for workers to provide comfort to workers to check their health conditions.

Based on the results of research conducted by the author, it can be seen that health maintenance has been running well with the establishment of polyclinics and also labor social security such as work accident insurance, death insurance, health insurance, and old-age insurance for workers, by doing a health check-up can find out the health of workers who will carry out loading and unloading activities.

The cooperative also covers health insurance for workers' families, namely one legal wife and two children, so that workers do not have to bother to do treatment, by providing receipts or details of medical expenses to the cooperative, medical money can be disbursed for workers.

B. Inhibiting Factors in the Implementation of Occupational Health and Safety

Several factors become obstacles in the implementation of occupational safety and health such as failure to warn workers, failure to secure workers, and mistakes made by the workers themselves such as not wearing proper personal protective equipment that has been given by the Samudra Sejahtera Cooperative (KOMURA).

It is difficult to change the character of the workforce to be able to understand the importance of using personal protective equipment when carrying out loading and unloading activities in addition to the location of the port adjacent to the nightlife location which makes labor conditions not good [18].

The location of labor that is sometimes carried out at sea also makes it difficult for supervisors to supervise labor in the use of personal protective equipment, that if there is a work accident at sea, only modest assistance can be provided to workers so that the procurement of medical personnel on-site and also medicines are needed by the workforce to survive to land.

C. The Existence of KOMURA Workers in Samarinda City before the OMNIBUSLAW Law Was Enacted

A cooperative that is still engaged in stevedoring with 1,174 members of stevedoring workers (TKBM). With such a large number of members, many business fields can be done by cooperatives (KOMURA-red) at this time, and in terms of business capital KOMURA has enough funds. The field of loading and unloading is divided into several activities such as loading and unloading coal, dry bulk/cement and others, liquid bulk/asphalt and others, general cargo, containers, processed wood, and others. The employment system is in the form of wholesale, but benefits are still provided such as health benefits and accident benefits. For TKBM, health benefits of Rp 850.000 are given, wives Rp 650.000, and children Rp 500.0000 per month.

Similarly, accident allowances are given to TKBM when experiencing an accident until it recovers. "Komura's accident insurance is self-managed and does not cooperate with Social Security," Dwi added. All Komura members are members of TKBM and the monthly income can reach from Rp 3 million to Rp 4 million, excluding health benefits provided by Komura management.

UKA group or YUKA (Yayasan Usaha Karya) which was established in the 70s by the Director General of Transportation is still engaged in wood (during the flood hood). Which was the forerunner of the Komura cooperative (in the form of a cooperative) in 1989 with the field of stevedoring business and increased activities in the transportation business. Until now, Komura is still under the guidance of Adpel for port rule development, Samarinda Disperindagkop for cooperative development and management, and Samarinda Disnaker for employment matters. The hope is that in the future, continued the man born in Jombang, the government can provide a larger portion to cooperatives, because in terms of management and capital, Komura can compete for the development of various business fields.

Conclusion

1. This Job Creation Law, which we usually call the OMNIBUSLAW, has no effect on the Samudra Sejahtera Cooperative (KOMURA) because Komura is very concerned about occupational safety and health issues, every Komura worker is required to attend Occupational Health Safety (K3) training and in terms of Welfare, Komura is also very concerned in paying attention to each of its workers starting from work wages, health benefits, Holiday Allowance, Scholarship for children of Komura workers and Old Age Insurance Program. So it can be ascertained that the Omnibuslaw Law has no effect on Komura workers in Samarinda City.
2. Samudera Sejahtera Cooperative or what we often call Komura is a cooperative that is still engaged in loading and unloading with 1,174 members of stevedoring workers (TKBM). With that many members, many business fields can be carried out by cooperatives (KOMURA) at this time, and in terms of business capital Komura has enough funds, for the loading and unloading sector divided into several activities such as loading and unloading coal, dry bulk/cement and others,

liquid bulk/asphalt and others, general cargo, containers, processed wood, and others. The employment system is in the form of wholesale, but benefits are still provided such as health benefits and accident benefits. For TKBM, health benefits of 850.000 IDR are given, wives 650.000 IDR and children 500.000 IDR per month. Similarly, accident benefits are given to TKBM at the time of an accident until cured and Komura accident insurance is managed by all Komura members who are TKBM members, and per-member income each month can reach from 3 million IDR to 4 million IDR, excluding health benefits provided by Komura management. UKA Group or YUKA (Yayasan Usaha Karya) was established in 1989 in the field of stevedoring business and increased activities to the transportation business, markets, and multipurpose buildings.

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