



Frame Work Occupational Accident-Based Labor Law Enforcement in the Protection of Labor Rights

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Abstract. Sustainable legal development is one of the goals of the rechtsstaat concept, in line with this the Republic of Indonesia strives to always protect all its citizens, this is the goal of the state and is stated in the preamble of the 1945 Constitution. Legal development is oriented on how to implement and the effectiveness of law enforcement in the community and how legal regulations can protect the rights of citizens. The occurrence of a work accident can cause the loss of a citizen's constitutional rights. The problem that occurs is when workers who experience work accidents do not get the fulfillment of their rights, so there is a need for an in-depth study related to employment law enforcement based on work accidents. Based on the background, the research focuses on how legal regulations regulate the protection of labor rights in Indonesia, what the principles underlying the enforcement of labor law in the protection of labor rights in Indonesia, and how the implementation of labor law enforcement in Indonesia. The research method used is the normative juridical method, this method is carried out based on legal materials as the main source by examining theories, concepts, legal principles, and laws and regulations that are used as an analytical tool for law enforcement in the field of employment based on justice and legal certainty.

Keywords: law enforcement · Employment Law · Work Accidents

1 Introduction

Indonesia is a legal state based on Pancasila and not based on power. The character of rechtsstaat only can be shown if the structure acts in accordance with the prevailing rules. The consequence of applying the rechtsstaat concept is that the upholding of recognition, equality, and individual freedom, as well as human rights, is the most important thing the state upholds. The protection and guarantee of the rights of Indonesian citizens are contained in paragraph 4 of the Preamble to the 1945 Constitution, "... Subsequent thereto, to form a Government of the State of Indonesia which shall protect the whole Indonesian nation and the entire native land of Indonesia and to advance the public welfare, to educate the life of the nation, and to participate in the execution of world order which is by virtue of freedom, perpetual peace, and social justice....".

The development of law in Indonesia must comply with the concept of the goal of a rule of law state, and be directed towards the realization of a legal system that serves national interests and the people, through the preparation of legal materials based on Pancasila as the source of its philosophy and the 1945 Constitution as the basis of its constitution, as well as the aspirations of the people. as a material source. To achieve goals in living in society, nation, and state, the Indonesian nation carries out national development, this is a practical manifestation of enhancing the dignity of the Indonesian nation [1]. Sudikno Mertokusumo, argues that law is not a goal but a means or tool to achieve goals that are non-judicial in nature and develop based on stimuli from outside the law, so that the law itself becomes dynamic [2].

Law is a means of development and renewal of society, therefore the law must always be renewed so that it is always actual and in accordance with the conditions and needs of the people it protects, but in this continuous renewal of the law, Pancasila must remain as a framework for thinking, a source of norms and a source of values. In line with that, Mochtar Kusumaatmadja stated that law is a means of community renewal [3]. Law as a means of development and renewal of society, therefore the law must always be updated so that it is always actual and in accordance with the conditions and needs of the people it protects, but in this continuous renewal of laws, these changes must still be under the auspices of Pancasila as a frame of mind, sources of norms and sources of values. In this regard, the theory of development law is used as a guideline for the construction of labor regulations in building a nation, especially through reforms in the process of establishing labor law in Indonesia, bearing in mind Indonesia's existence as a developing country [4].

Infrastructure development is one important component that will determine the success of a nation's development. The physical development carried out in Indonesia is inseparable from the participation of corporations that are involved in the area of infrastructure development [5]. National development aims to create a just and prosperous society, which in practice requires the role of the workforce as an important part of national development.

The rapid development of the economy and the business world, coupled with advances in science and technology has accelerated the movement of economic development, but behind the swift currents of economic development there have also been legal irregularities that have occurred in economic activity [6]. In practice, physical development directly involves workers. These workers carry out their duties in accordance with their respective responsibilities and constitutionally have the right to receive legal protection. In fact, the work they do has a fairly high risk, work accidents can happen at any time. Occupational accidents are the result of dangerous actions and dangerous conditions at work. In addition, work accidents occur as a result of a combination of several factors, mainly from technical equipment, work environment, and the workers themselves. Equipment, installations, and processes used in the field often have the potential to be dangerous, not always a process takes place under normal circumstances, and sometimes abnormal conditions occur. This abnormal condition can occur if standard operating procedures are not implemented and if it is not handled properly, it can cause work accidents that cause injuries and even death. Occupational safety and health cannot be separated from the smooth implementation of production in the company.

Article 86 Law no. 13 of 2003 concerning Manpower, states that every worker/laborer has the right to obtain protection for occupational safety and health because without this protection it can lead to work accidents for workers.

Data from the Labor Social Security Administrative Agency Indonesia (BPJS) show that work accident cases tend to increase from year to year, where throughout 2018 there were 157 work accident cases, 1.6 percent (4,678 cases) resulted in death and around 3 percent (2,439 cases) resulted in a disability. While the number of Work Accidents in 2020 Reaches 177,000 Cases.

Work accidents that occur in Indonesia are often only considered as fate and ordinary events that occur in the field and are resolved with compensation for the victims' families. In contrast to several rule of law countries where companies are considered to have more responsibility to their workers in terms of welfare including work safety. Poor labor conditions and a high number of accidents have encouraged various parties to seek to improve protection for workers, one of which is the protection of occupational safety and health [7]. The standard for each job has main rules so companies must follow these main rules and adapt them to become a standard operating procedure in every company. Based on this background, it is necessary to have a framework for the enforcement and supervision of Occupational Safety and Health practices in the workplace. Humans are not just a means of production but are valuable company assets that must be protected.

2 Methodology of Research

The method approach used in this study is a normative juridical approach. A juridical approach is an approach that refers to applicable laws and regulations [8], while the normative approach is an approach that is carried out by examining literature or secondary data on legal principles and case studies, in other words, it is often referred to as library law research [9].

Researchers are trying to search work accident data in Indonesia and find out whether they have received legal protection from the parties and if a problem occurs it is necessary to find and make concrete solutions in accordance with applicable laws and regulations.

3 Results of Research

Based on the results of the research that has been carried out, which relates to the enforcement of labor law based on work accidents, we need to know in advance what is meant by work accidents. Occupational accidents are the result of dangerous actions and dangerous conditions at work. In addition, work accidents occur as a result of a combination of several factors, especially technical equipment, work environment, and the workers themselves.

Equipment, installations, and processes used in the field often have the potential to be dangerous, not always a process takes place under normal circumstances, and sometimes abnormal conditions occur. This abnormal condition can occur if standard operating procedures are not carried out and if it is not handled properly it can lead to work accidents that cause injuries and even death.

Occupational accidents can be classified into two groups namely. firstly, accidents caused by unsafe conditions, whether due to technological, mechanical, or psychological reasons, such as broken parts, machines not fenced in, broken electrical wires, broken ropes, insufficient safety equipment, machines not designed with adequate safety equipment, inappropriate working environment temperatures such as too hot and humid, secondly, accidents caused by dangerous behavior, such as: due to daydreaming, negligence, and not caring.

Death and serious injuries resulting from acts against the law in all legal systems in the world are considered a crime because this is contrary to the value of justice in society. The legal system that exists in one country to another is different due to historical factors, state philosophical factors, and sociological factors from the country. Related to this, cases of death and serious injury due to work accidents in several countries are considered a form of violation of criminal law.

Legal protection of labor rights is an obligation that must be carried out by employers, this is regulated in various policies in the form of statutory regulations and other regulations. The following are various kinds of regulations governing the legal protection of workers' rights related to work accidents: Law No. 13 of 2003 concerning Manpower, Law No. 40 of 2004 concerning the National Social Security System, Law No. 39 of 2004 concerning Placement and Protection of Indonesian Migrant Workers Abroad and Law No. 1 of 1970 concerning Safety Work and some other regulations above. Legal protection policies for workers are urgently needed to be carried out because from the employment relationship comes legal protection for workers and employers. The reconstruction of work relations in the Labor Law is the implementation of distributive justice. Based on this, it is necessary to have arrangements for guidance and supervision carried out based on the applicable laws and regulations in the field of manpower that are adequate and in accordance with the increasingly rapid pace of development so as to anticipate demands for manpower planning, fostering industrial relations and increasing labor protection.

4 Discussion

4.1 Construction of Labor Law Enforcement in Work Accidents

The main objective of the rule of law is to uphold the rule of law. The implementation of law enforcement must be supported by a solid national legal system that reflects truth and justice and obtains strong legitimacy from the wider community. The legal system created by a country is trying to realize justice for every citizen. Gustav Radbruch in his theory *Rechtsidee* states that the ideal goals of law include 1. Justice (*Grechtmategheit*), 2. Benefit (*Doelmatigheit*) and 3. Certainty (*Rechtmategheit*) [10].

Law enforcement is carried out to achieve legal certainty for all citizens. Legal certainty will provide a sense of security, a sense of justice, and business certainty for the community. Law enforcement is a realization of legal policies made by the government, both policies that are public law and policies that are private law.

Law enforcement can be categorized as part of legal protection. Legal protection includes various actions and mechanisms used to maintain and protect individual and

community rights in a legal system. Law enforcement involves the process of implementing and implementing the law to uphold justice, prevent violations of the law, and provide sanctions for those who break the law.

Conceptually, the core and meaning of law enforcement lies in the activity of harmonizing the relationship of values that are spelled out in solid and embodied principles with an attitude of action as a series of final stages of value translation, to create, maintain and maintain social peace [11].

The purpose of law enforcement is to ensure that the law is enforced fairly and consistently, so that individuals and communities can feel safe and protected. When laws are violated, law enforcement plays a role in upholding individual rights, taking action against violations, and maintaining social order. In the wider context of legal protection, law enforcement plays an important role in ensuring the existence of an effective and well-functioning legal system. Without adequate law enforcement, legal protection will be void, and society will experience legal uncertainty and vulnerability to unlawful acts. Law enforcement as a process, is essentially the exercise of discretion concerning decision-making which is not strictly regulated by the rule of law, but has personal judgment [12]. Thus, law enforcement can be considered as an important aspect in a series of efforts to provide legal protection to individuals and society as a whole.

Law enforcement in the field of labor law involves applying and implementing legal rules relating to the working relationship between workers and employers. The aim is to protect workers' rights, ensure fair working conditions, and promote fairness in the work environment. According to the author, there are several important aspects of law enforcement in the field of labor law, these aspects include: 1. Aspects of creating employment contracts based on justice. Law enforcement in the field of manpower involves enforcing regulations regarding work contracts, including provisions regarding wages, working hours, holidays, leave, and other rights guaranteed by labor law so as to create justice; 2. Aspects of Occupational Safety and Health. Law enforcement in terms of occupational safety and health involves monitoring and enforcing safety standards in the workplace, including protection against occupational accidents, occupational hazards and occupational diseases; 3. Aspects of Labor Rights: Law enforcement in the field of labor law also focuses on protecting labor rights, such as the right to form trade unions, the right to strike, the right to collective bargaining, and other rights related to freedom of association and bargaining. 4. Dispute Resolution Aspect; Law enforcement in the field of manpower includes handling disputes between workers and employers through a dispute resolution process, such as mediation, arbitration, or through a judicial process; 5. Inspection aspects in labor: Law enforcement should also involve inspection activities by the labor authorities to ensure compliance of employers with labor laws, including application of appropriate work standards and protected workers' rights.

Law enforcement in the field of labor law is important to maintain balance and fairness in work relations. By implementing labor law effectively, workers' rights can be protected, work safety can be improved, and disputes can be resolved fairly and quickly. This contributes to the creation of a fair, productive and safe work environment for all involved. Based on this description, it can be said that disruption to law enforcement may occur if there is a mismatch between the "Trinity" values, rules and patterns of behavior. The disorder occurs when there is a mismatch between paired values, which

manifests itself in confusing rules and patterns of undirected behavior that interfere with social life [13].

Romli Atmasasmita [14], highlighted the problems that occurred, that the formation of laws and regulations was not effectively aligned due to several factors, namely:

1. The substance of the laws and regulations is incomplete and there are still loopholes, thus providing opportunities for abuse of authority by law enforcement officials;
2. The substance of laws and regulations overlap with each other, resulting in different interpretations between law enforcement officials, thereby providing opportunities to sterilize laws and regulations in cases where there is a conflict of interest;
3. There are laws and regulations that still place the government's interests too much above the interests of the general public;
4. There is still no certainty regarding the differences between executive, judicial and legislative functions;
5. The awareness and responsibility of the nation and state in producing legal products and enforcing the law is still weak.

The reality and expectations of law enforcement in the field of employment have not been optimally achieved, there are legal loopholes in its implementation. Legal loopholes in the enforcement of labor laws are situations where there is a void or ambiguity in the legal regulations governing the relationship between workers and employers. Legal loopholes can arise due to inaccuracies or deficiencies in existing labor regulations, or due to new developments in the world of employment that have not been specifically regulated.

The impact of legal loopholes in the enforcement of labor law can include: 1. Uncertainty: Legal loopholes create uncertainty regarding the rights and obligations of workers and employers. Ambiguity regarding legal protections can make it difficult for workers to assert their rights or to know what is expected of employers; 2. Misuse of law: Legal loopholes can allow abuse by irresponsible parties. Unscrupulous employers can take advantage of legal loopholes to violate workers' rights or avoid their responsibilities in terms of wages, working hours or other working conditions. 3. Conflicts and disputes: Unclearness in labor regulations can lead to conflicts and disputes between workers and employers. Without clear rules, different interpretations and perceptions regarding rights and obligations can arise, which can result in conflicts that are difficult to resolve.

4.2 Direction of Legal Political Policy Against Legal Protection in Work Accidents

The idealism of the National Law is basically in the context of helping to achieve social justice and community prosperity as stated in the preamble of the 1945 Constitution [15]. Related to this, then Sunaryati Hartono [16] argues that law "as a tool" so that practically law is also a tool or means and steps that can be used by the government to create a national legal system in order to achieve the ideals of the nation and state goals.

Legal politics is a legal policy regarding laws that will be enforced or not enforced to achieve state goals, the law here is positioned as a tool to achieve state goals [17]. The essence of Labor Law is to protect workers from arbitrary actions by the authorities, legally the position of employers and workers is the same, as stipulated in Article 27 of

the 1945 Constitution, but socially the position of workers is lower than that of employers [18]. Therefore, empowerment and partnership processes are needed in work that are protected by law.

The creation of legal politics for legal protection at work accidents has several important reasons. The following are several reasons why legal politics for legal protection at work accidents needs to be created: 1. Prevent Accidents and Injuries: Strong legal politics in terms of legal protection for work accidents can help prevent unnecessary accidents and injuries. With the existence of clear safety regulations and standards, employers will be encouraged to create a safe working environment and reduce the risk of accidents that can endanger the lives and health of workers; 2. Protecting Workers' Rights: Good legal politics in the legal protection of work accidents can provide proper protection for workers' rights. This includes the right to a safe and healthy work environment, the right to work accident insurance, the right to compensation for injury or loss suffered as a result of a work accident, as well as the right to a fair termination or dismissal from work if a work accident occurs; 3. Fairness and Equality: Legal politics that focus on legal protection on work accidents helps to create a fair and equal system for all workers. This ensures that every worker has the same right to a safe working environment, the same legal protection against work accidents, and equal access to compensation and remedies if an accident occurs. 4. Creating responsibility and accountability: Clear and firm legal politics in the legal protection of work accidents encourages responsibility and accountability for employers. With clear regulations, employers are expected to comply with occupational safety and health standards, and be held responsible if an accident occurs due to their negligence or violation of the law; 5. Productivity and Welfare: Good legal protection against work accidents can have a positive impact on workers' productivity and welfare. When workers feel safe and protected at work, they are more likely to work effectively and efficiently. In addition, the existence of adequate legal protection can assist in the physical and psychological recovery of workers who experience work accidents, enabling them to return to their optimal contribution to the work environment. Thus, the creation of legal politics for legal protection at work accidents is important to ensure a safe work environment and protect workers' rights.

Determining the direction of legal politics towards legal protection for work accidents involves a decision-making process by the government and policy makers. The following are several steps that can help determine the direction of legal politics towards legal protection in work accidents: 1. Needs and Risk Analysis: An in-depth analysis is carried out regarding the need for legal protection in the context of work accidents. This involves identifying the risks faced by workers, the rates of accidents and injuries that occur, and the social and economic implications of work accidents; 2. Evaluation of Existing Regulations: Evaluating existing labor laws and regulations to identify weaknesses or legal loopholes that may exist in legal protection related to work accidents. In this case, it involves an analysis of the effectiveness, clarity and consistency of existing regulations; 3. Consultation with Stakeholders: Involve consultations with various related parties, such as trade unions, employers, legal experts, non-profit organizations concerned with workers' rights, and occupational safety experts. Their opinions and input will provide important insights in determining the direction of legal politics relating to legal protection at work accidents; 4. Preparation of an Action Plan: Based on

the analysis and consultations carried out, preparation of an action plan that includes concrete steps to strengthen legal protection in work accidents. This could include revising or expanding existing regulations, creating new laws, improving oversight, better training for workers and employers, and improving dispute resolution mechanisms; 5. Implementation and Evaluation: Carry out the action plans that have been prepared and monitor and evaluate the implementation of new policies and regulations. Continuous evaluation is important to ensure the effectiveness of legal protection on work accidents, and if necessary, make the necessary changes or improvements.

In determining the direction of legal politics towards legal protection for work accidents, the principles of justice, safety and welfare of workers must be the main considerations. Adequate legal protection is expected to prevent work accidents, protect workers' rights, and provide justice for those affected by work accidents.

5 Conclusion

Based on the studies that have been discussed, it can be stated that law enforcement against work accidents in Indonesia still does not provide a sense of justice and legal certainty, so it is important for the government and related institutions to identify and fill legal gaps in the enforcement of labor law. This can be done through changes to laws, regulations or policies that are clearer and more comprehensive. In addition, the government also needs to improve supervision and law enforcement to prevent abuse and protect workers' rights. Careful legal interpretation and fair decisions can help fill legal gaps and provide legal certainty for all parties involved in labor relations.

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