

IMPACT ON EMPLOYEES DURING PANDEMIC BASE ON LABOR SYSTEM PERSPECTIVE

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Abstract: *The fourth paragraph at the opening of the Constitution of the Republic of Indonesia states that the Government of the Republic of Indonesia is obliged to protect the entire Indonesian nation, promote the general welfare, and educate the nation's life which is a manifestation of the responsibility of the state which is obliged to create welfare for its people fairly and equitably equally. This constitutional mandate is spelled out in the form of regulations aimed at preventing injustice from the stronger party against the weaker party so that a just and peaceful society can be created. The method used to analyze this problem is through normative and empirical mix and match. The approach used in this study is a statute approach, conceptual approach, and case approach. Legal protection for workers is an obligation for the fulfillment of basic rights inherent and protected by the constitution as regulated in Article 27 paragraph (2) of the 1945 Constitution of the Republic of Indonesia. The logical consequence of this mandate is the birth of the State's obligation to accommodate facilities and the widest possible opportunity for the community so that they can get a job as well as make it something worthy of humanity. Thus, the violation of basic rights guaranteed by the constitution is a violation of human rights. Protection of workers is regulated in Articles 67 to 101 of the Manpower Law, including those concerning wages and welfare. However, when faced with the COVID-19 pandemic situation, the company immediately provided a force majeure reason to avoid paying severance pay for workers/laborers affected by layoffs. The problem that occurs, in this case, is the termination of employment carried out by companies using force majeure reasons by companies in Indonesia unilaterally.*

Keywords: *Impact, Employees, Pandemic*

The Introduction

Since the first cluster of cases of coronavirus disease 2019 (COVID-19) infection was reported in Wuhan, China at the end of December 2019, reporting of cases has spread widely over the past 3 months to become a pandemic of crisis proportions and a rapidly increasing number of deaths, affecting virtually every country across the world. As of 30 March 2020, 724000 cases have been reported globally, with almost 35000 deaths (Sim, 2020)

The government has taken steps through its decision to designate the coronavirus pandemic as a non-natural national disaster which is stated in the Presidential Decree of the Republic of Indonesia Number 12 of 2020. In

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this decision, it is stated that the Non-natural Disaster Spreading Corona Virus Disease 2019 (COVID-19) is a Disaster Nationally, where people are encouraged to implement physical distancing and study/work from home.(Randi, 2020)The policy issued has changed various socio-economic activities of the community, including limited modes of transportation and shopping centers and the closure of places of recreation and entertainment. This situation ultimately has a broad impact on the community's economy, especially the sustainability of work and a decrease in the income of workers.(Muslim, 2020)This policy has made several companies take decisions such as stopping or reducing their business activities to minimize losses as a result of the impact of COVID-19. (Nasution et al., 2020)Some companies in Indonesia who are financially constrained then force employers to issue policies that harm workers.(Syafri et al., 2020)

Examples of this kind of policy are unpaid leave, laid-off workers, and arbitrary layoffs. This indicates that the worker/laborer will experience a shortage or even lose a source of income for his family. On the other hand, the impact of the COVID-19 Pandemic for the Government is the increase in the unemployment rate which can trigger social unrest in the community.(Juaningsih, 2020). Termination of employment often creates problems that cannot simply be resolved, both regarding the termination of the relationship itself and the legal consequences of terminating the employment relationship.(Anwar, 2021) The relationship between workers and employers will be disrupted if one of the parties imposes a will related to the relationship with the other party so that the fulfillment of the needs or interests of one party is harmed. (Semaya, 2018).

The World Bank is projecting Indonesia's economic growth this year will be depressed at 2.1 percent. This is due to the continued widespread distribution of Covid-19 both domestically and abroad. Bank Indonesia (BI) has also revised the projected economic growth of the RI to under 5 percent or only about 2.5 percent. Pandemic Covid-19 will have a bad implication for the world's economy and Indonesia this year, as it occurs along with declining commodity prices and financial market volatility. The relationship between inflation and economic growth is one of the debatable issue and the most important macroeconomic discussions among macro economists, policy-makers and monetary authorities in all countries (Wollie, 2018). Inflation that occurred in this year in the projection will be increased to 3 percent, because of the tight supply of food and depreciation of currencies that are expected to be offset partly by the decline in the price of non-subsidized fuels, as well as additional subsidies for electricity and food. However, in the year 2021 inflation is believed to return to normal levels, which is 2.8 percent. Which is usually able to grow to 5.02 percent. Meanwhile, in terms of inflation, tourism and commodity export revenues, there is an estimated decline that resulted in the current transaction deficit reaching 2.9 percent of the gross domestic product (GDP) in 2020 when an economy is going through a persistent inflation, Gross Domestic Product (GDP) increases, this does not actually reflect the true growth in an economy. Hence, the rate of inflation must be subtracted from the GDP to get the real growth percentage, called the real GDP.(Sim, 2020)

Indonesia's economy has been rocked by several economic crises. In less than 30 years before the COVID-19 pandemic occurred, Indonesia had at

least been affected by two economic crises. The first crisis, referred to as the Asian Financial Crisis (AFC), occurred in 1997/1998, while the last crisis, referred to as the Global Financial Crisis (GFC), occurred in 2008/2009. Both are equally influenced by the dynamics of the global economy and cause a decline in economic growth in Indonesia. However, the most significant impacts occurred in 1997/1998, where Indonesia's economic growth rate had reached -13 %. Meanwhile, Indonesia was still able to maintain its rate of economic growth above zero during the 2008/2009 crisis despite the decline. Learning from the experiences of the two previous crises, the sector most affected in general is the formal sector, which is characterized by a wave of massive layoffs and then also followed by a wave of job informalization. The informal economy in the 1997/1998 and 2008/2009 crisis conditions proved to be relatively more resilient than the formal sector. The economic crisis is estimated to occur again in Indonesia as a logical consequence of the obstruction of production, distribution, and consumption due to COVID-19. The Indonesian Ministry of Finance predicts the worst scenario of the impacts of this pandemic is the decline in Indonesia's economic growth from 5.3% to - 0.4%, the number of poor people rising 4.86 million people, and the number of unemployed increased by 5.23 million. (Sarkodie & Owusu, 2021) The pandemic in this crisis did not directly attack the country's financial system or the national and global stock investment system, but instead attacked the grassroots economic system which then spread to macroeconomic conditions. The World Bank states that the baseline forecast envisions a 5.2 % contraction in global GDP due to this pandemic (Pitoyo et al., 2020)

During COVID-19 pandemic, governments generally require two policy instruments, namely mitigating policy, and post-COVID-19 recovery and rejuvenation policy. The former will involve containment measures, provision of PPEs and incentives for healthcare workers, and enhancement of testing and isolation facilities. Post-COVID-19 recovery and rejuvenation policy will ensure lockdowns and physical distancing in the society, since previous systematic review and meta-analysis concluded that physical distancing of 1 m or more during COVID-19 pandemic led to lower transmission of virus with moderate certainty compared to distance less than 1 m (pooled adjusted odds ratio 0.18, 95% confidence interval 0.09 to 0.38) (Setiati & Azwar, 2020).

In addition to healthcare workers, there are many other types of workers who are at increased risk of COVID-19 infection through their work, usually from being in close proximity to members of the public. As one of the main early sources of COVID-19 infection were passengers on cruise ships or international flights, this means air and ship crews are at high risk, as shown in an investigation of 20 cases of COVID-19 among the crew of the Diamond Princess cruise ship. Other potentially important at-risk public-facing workers include emergency services personnel (eg, police and fire), workers employed in aged care, childcare or education, cleaners, those in the hospitality industry, and public transport and taxi drivers, to name but a few. Apart from the direct health effects on workers from COVID-19 infection, there will be many flow-on effects which will have an impact on workers' health. These include the strict home isolation orders and major restrictions on gatherings in most countries in response to the pandemic, resulting in declining business

confidence and a sharp downturn in the global economy. The economic effects of the COVID-19 pandemic are likely to be much worse than the global financial crisis of 2007–2008. Contributing to these economic effects are the temporary closing of many factories and businesses, and the reduction in the workforce at other businesses (eg, dine-in restaurants shifting to take-away/delivery only), resulting in many workers losing their jobs, at least temporarily. These economic impacts are affecting the most vulnerable workers in society; those in less skilled, low paid and precarious jobs, those in the informal sector and who have little or no financial savings or reserves. Lack of employment, even when temporary, can lead to mental health decline, and these effects are very likely to be exacerbated by the sudden, unexpected and widespread onset of the COVID-19 pandemic and associated job losses. Even among those fortunate workers who are still employed, prolonged teleworking may lead to mental health problems due to longterm social isolation and lack of workplace interaction. Amid this gloom, there may be some beneficial longer-term impacts on workplaces. The measures being introduced in workplaces to protect workers from contracting COVID-19 may lead to better preparedness in the future for other infections by increases in historically low vaccination rates, better personal hygiene at work and work organisation involving greater physical distancing. Viral infections (eg, seasonal influenza) have been shown to have a negative impact on worker health and business productivity, through such outcomes as higher sickness absence rates. Furthermore, some of the workplace changes introduced due to the COVID-19 crisis, such as the replacement of face-to-face meetings and conferences with online and virtual assemblies are likely to be maintained. This can lead to positive environmental effects through less traffic congestion and lower carbon emissions from reduced motor vehicle and aircraft travel. More research is needed on the risks to health from COVID-19 among healthcare and other workers at high risk of infection. The revised WHO minimum data set for surveillance of COVID-19 cases contains a question about whether the case is a healthcare worker, defined as any job in a healthcare setting. Unfortunately, there are no variables being collected to identify other high-risk occupations and work activities.

The issue of employment has become very complex and diverse. This is reflected in the fact that the working relationship between employers/employees and workers/laborers does not always run harmoniously. Problems regarding employment contain economic, social welfare, and socio-political dimensions. One of the labor problems that often occur to date is the termination of employment (hereinafter referred to as layoffs). According to Law no. 13 of 2003 concerning Manpower Article 1 number 25, it is emphasized that "Termination of Employment (PHK) is the termination of employment due to a certain matter which results in the termination of rights and obligations between workers/laborers and employers" (Odhy et al., 2021).

Research methods

The method applied in this research is analytical methods which aim to solve research problems. This research takes an empirical juridical method which is supported by data which are library materials. This study focuses more on primary data which is supported by a single approach, case

approach, and conceptual approach. The statute approach indicates that this research examines legal products. This approach is carried out to examine the laws and regulations related to the research that will be examined. The case approach on the other hand is an approach that is carried out by examining cases related to legal issues, while the conceptual approach departs from the views and doctrines that develop in legal science. This approach is important because understanding the views/doctrines that develop in legal science can be a basis for building legal arguments when resolving legal issues that are currently happening. The views/doctrine will clarify ideas by providing legal understandings, legal concepts, and legal principles that are relevant to the problem.

Discussion and Results

The Covid-19 pandemic that is endemic throughout the world, including in Indonesia, has significantly affected the economy, especially business actors, which include companies, entrepreneurs, and workers. (Sugiarti & Wijayanti, 2020) The impact of the pandemic has been increasingly felt since the issuance of a large-scale social restriction policy in the context of accelerating the handling of the Coronavirus Disease. This situation has an impact on business actors, including a drastic decline in people's purchasing power compared to the situation before the pandemic. In the end, this incident will result in a decrease in market demand, thus disrupting the company's production. Disruption of the company's production will reduce the income of business actors, causing losses to the company. On 27 May 2020, the Ministry of Manpower reported that 1,792,108 workers in Indonesia were affected by the Covid-19 pandemic. This number is divided into 1,058,284 formal workers who have been laid off, 380,221 workers who have been laid off, and 318,959 affected informal sector workers. In addition, as many as 34,179 prospective Indonesian migrant workers failed to dispatch and 465 interns were repatriated. (Putri, 2020)

On June 18, 2020, the Industrial Chamber of Commerce released data that more than 6.4 million workers affected by the Covid-19 pandemic were grouped as follows: (Hadiwardoyo, 2020)

- a. The hotel sector has laid off/terminated, 430,000 workers;
- b. The restaurant sector has laid off/terminated 1 million workers;
- c. The textile sector has laid off/terminated 2.1 million workers;
- d. The shoe industry sector has laid off/terminated off 500,000 workers;
- e. The retail sector has laid off/terminated, 400,000 workers;
- f. The pharmaceutical sector has laid off/terminated, 200,000 workers;
- g. The land transportation sector has laid off/terminated, 1,400,000 workers.

Based on the results of a survey by the Ministry of Manpower with the Indonesian Institute of Sciences (LIPI) as of July 1, 2020, it was found that 13.9% of companies had reduced the number of workers by terminating their employment, 49.6% of companies adopted a policy to lay off some workers without any termination of employment and 36.5% of the companies did not add workers or reduce workers. (Randi, 2020)

During the Covid-19 pandemic, declining income has certainly occurred in many companies and is unavoidable. This situation is exacerbated by the existence of a policy that must be implemented, namely large-scale

social restrictions (PSBB). This policy has an impact on several industries which ultimately cannot operate at all, such as airlines, hotels, tourism, shopping centers, and so on. The Minister of Finance, Sri Mulyani, said that in the next few quarters, Indonesia's economic projections will be in a truly unfavorable condition which will have a major impact on the country's economy and society in general, especially for companies, entrepreneurs and workers. There are so many companies that take policies to lay off, cut wages or even lay off their workers. (Suci Flambonita, Abdul Rachmad Budiono, Iwan Permadi, 2019), (Burdett & Mortensen, 1998) Laid-off workers have become a trend during the Covid-19 pandemic. In other words, employers who carry out a policy of laying off their workers mean that these workers are not temporarily employed, but they are entitled to full wages. However, if the employer does not comply with this requirement, the wages paid to workers must be based on an agreement between the two parties, namely the company and the worker. The net data recapitulation of workers who were laid off due to the Covid-19 pandemic from April 1, 2020, to August 30, 2020, in all provinces in Indonesia based on data from the Ministry of Manpower is 1,155,630 workers. (Muslim, 2020).

Despite income group (low, middle and higher income), the COVID-19 pandemic has exposed several lapses and limitation of the current socio-economic, health and environment-related sectors across countries. Will the Covid-19 pandemic result in an increased occupational status of some occupations and negatively affect the occupational status of other occupations? This is a complex question because macro and micro forces may be in play when changes in the status of occupations occur. For example, positive changes in the long term demand for some occupations (e.g., health care) are likely to increase their status and the rewards they offer. At the same time, the institutional social recognition and individuals' perception of these occupations may also be more positive, changing the status of these occupations, resulting in greater attraction (supply) of individuals to these occupations (Kramer & Kramer, 2020)

In labor law, employers and workers have equal legal standing because this relationship is essentially born of an agreement between the two parties. However, at certain times and conditions, the position of the worker may be in a weaker position than the employer/employer. This is what underlies the need for legal protection of their rights for workers/ laborers. (Randi, 2020) A company has the obligation and responsibility to guarantee the right to wages, health, safety, and fair treatment of all its workers. This is because employees are one of the most important assets that can affect the success and success of the company. This is a logical consequence that a company is obliged to protect and guarantee the rights of its workers following the constitutional mandate as stipulated in Article 27 paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which states that "every citizen has the right to work and a decent living" with due regard to the Human Rights which are echoed in the Universal Declaration of Human Rights. (Telaumbanua, 2020)

Occupations have different statuses associated with them. An occupational status, a key measure of socioeconomic status, is traditionally defined as the power privilege, and prestige that are associated with a specific occupation. A broader definition of occupational status also includes the level

institutional social recognition an occupation receives. (Kramer & Kramer, 2020) As such, occupational status can be affected by societal changes and more specifically, by changes in what is being perceived by society and individuals as “more important work” versus “less important work”. Occupational status is important because occupations with higher status tend to attract more employees, even when the monetary rewards they offer are not high. While in many cases occupations with higher status are those that require higher education, institutional social recognition entails that the status of an occupation is also associated with serving desired societal values. For example, status scale gives an identical occupational status score to police officers and archivists even though the educational demands for archivists are considerably higher (a bachelor's degree). In turn, an archivist's median salary in 2018 was \$48,400 while a police officer median salary was \$63,380 (BLS, 2020a, 2020b). While many other factors might affect the status of an occupation and the median compensation, for example, occupational gender composition and supply and demand of workers (Pitoyo et al., 2020)

The working relationship in Indonesia's labor dynamics does not always run harmoniously and optimally. Problems often occur, which can be caused by both the employee and the company, or even because of a situation that makes the company's situation unstable. The Covid-19 pandemic has recently become a big spotlight for the Indonesian people because of the many problems it causes. There are so many losses caused by the Covid-19 pandemic which then has an impact on the country's economy, especially for the world of business actors who are experiencing a slump, demanding companies to take policies to save their businesses from bankruptcy. One of the policies carried out by many employers is to lay off their workers. (Putri, 2020), (Muslim, 2020).

The term laid-off workers began to be known in Indonesia since the monetary crisis in 1998. At that time, the crisis initially occurred in the exchange rate which later developed into a banking crisis and even reached a social and political crisis that had a major impact on the Indonesian nation. The high rate of inflation at that time resulted in a decline in people's purchasing power, especially those with low incomes, thereby reducing market demand or even no demand at all which caused the company's production to be disrupted. As a result of these conditions, entrepreneurs must take action by issuing policies to save and maintain the sustainability of their companies. One of the policies carried out by the company is to lay off workers. This policy is forced to be carried out by entrepreneurs because if not, the situation is feared to result in bankruptcy for the company. This policy is also implemented to avoid Termination of Employment (PHK) for workers. (Odhy et al., 2021).

The monetary crisis in 1998 had a prolonged impact on entrepreneurs and the government where they were required to restore the country's economy to a stable state to again increase people's purchasing power and market demand. Since the incident, the policy of laying off workers has often been carried out by entrepreneurs who have experienced a decline in market demand which has an impact on the company's production. In this case, the company's production does not run properly due to various conditions, such as

bad company business, economic crisis, natural disasters, fires, disease outbreaks, and so on.(Prayitno et al., 2020)

In labor law, companies and workers have rights and obligations that must be granted and protected. A company has the responsibility and obligation to ensure the health, safety, wages, and fair treatment of workers. This is because workers are one of the most important assets that affect the success of a company. From this statement, it is indeed a logical consequence that a company must protect and guarantee the needs of workers/laborers following the constitutional mandate of Article 27 paragraph (2) of the 1945 Constitution of the Republic of Indonesia which states that "every citizen has the right to work and appropriate" with due regard to the Human Rights that are echoed by the Universal Declaration of Human Rights. (Juaningsih, 2020)

Since the Covid-19 pandemic has spread throughout the world, including in Indonesia, (Joka, 2020)(Nasution et al., 2020), there has been a health crisis that has caused all countries to take policies to deal with it in various ways. Indonesia as a country that is also affected by the Covid-19 pandemic has issued a policy in the form of Large-Scale Social Restrictions (PSBB). This is evidenced by the issuance of Government Regulation Number 21 of 2020 concerning Large-Scale Social Restrictions in the Context of Accelerating the Handling of Coronavirus Disease (Covid-19). The issuance of this policy had an impact on the pace of the country's economy which caused an economic crisis that was weaker than in previous years. In fact, according to the Minister of Finance, Mrs. Sri Mulyani, it was said that economic growth could be depressed at the level of 2.5% to 0%. This prediction may occur if a good and appropriate prevention strategy to overcome the problem is not immediately decided.(Semaya, 2018).The health crisis and the economic crisis caused by the Covid-19 pandemic have greatly affected business actors. This crisis resulted in weak purchasing power of the people, thereby reducing market demand or even vacancies in market demand. The decline in market demand, in this case, will cause losses for the company to make the company's finances unstable. Therefore, entrepreneurs take policies to save their companies, such as laying off workers, terminating employment, and cutting pay for their workers. (Hadiwardoyo, 2020).(Juaningsih, 2020)

Following efforts to prevent the spread of Covid-19 in the work environment and protect the wages of workers affected by Covid-19, the government then issued a Circular Letter of the Minister of Manpower of the Republic of Indonesia Number M/3/HK.04/III/2020 concerning Protection of Workers/Labourers and Business Continuity in The framework for the prevention and control of Covid-19, one of the points of which is to carry out wage protection for workers /laborers related to the Covid-19 pandemic for the following categories of workers (Silalahi, 2020)

1. For workers/laborers who are categorized as Persons Under Monitoring (ODP) related to Covid-19 based on a doctor's statement so that they cannot come to work for a maximum of 14 (fourteen) days or according to the standards of the Ministry of Health, their wages are paid in full.
2. For workers/laborers who are categorized as suspected cases of Covid-19 and are quarantined/isolated according to a doctor's statement, their wages are paid in full during the quarantine/isolation period.

3. For workers/laborers who do not come to work due to Covid-19 illness and are proven by a doctor's statement, their wages are paid according to the laws and regulations.
4. For companies that restrict business activities due to government policies in their respective regions for the prevention and control of Covid-19 so that some or all of their workers/laborers do not come to work, taking into account business continuity, changes in the amount and method of payment of workers/laborers' wages carried out following the agreement between the entrepreneur and the worker/laborer.

Conclusion

The economic crisis is estimated to occur again in Indonesia as a logical consequence of the obstruction of production, distribution, and consumption due to COVID-19. The Indonesian Ministry of Finance predicts the worst scenario of the impacts of this pandemic is the decline in Indonesia's economic growth from 5.3% to - 0.4%, the number of poor people rising 4.86 million people, and the number of unemployed increased by 5.23 million. Government policies related to handling the pandemic have an impact on the pace of the country's economy, resulting in an economic crisis that is expected to be weaker than in previous years. In this case, economic growth could be depressed to the level of 2.5% to 1%. This can happen when good and appropriate prevention strategies are not immediately taken to overcome the problems that exist due to the pandemic. The health crisis and the economic crisis caused by the Covid-19 pandemic have greatly affected business actors. The crisis resulted in weak purchasing power of the people to reduce market demand or even a vacancy in market demand which in the end may cause losses for the company which is indicated by the company's financial slump. Therefore, employers take a policy in the form of laying off workers on a large scale to save the company. In addition, the company is also known to carry out massive layoffs and cut wages for its workers. As an effort to prevent the spread of Covid-19 in the work environment and also to protect the wages of workers affected by Covid-19, the government issued a Circular Letter of the Minister of Manpower of the Republic of Indonesia Number M/3/HK.04/III/2020 concerning Protection of Workers/Labourers and Continuity Efforts in the Context of Prevention and Control of Covid-19 as well as several other policies as an effort to overcome or minimize the occurrence of layoffs carried out by companies. However, many companies act in the name of "force majeure" to avoid paying severance pay for employees affected by layoffs.

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