

Legal Protection of Workers' Rights to Holidays from The Perspective of Labor Law in Indonesia

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ABSTRACT: This research explores the protection of workers' rights to rest and holidays within the framework of Indonesian labor law. Rest and holiday entitlements are globally acknowledged as fundamental human rights and, in Indonesia, are governed by Law No. 13 of 2003 on Manpower along with its implementing provisions. Employing a normative juridical approach combined with descriptive-analytical analysis, the study reviews applicable legislation and relevant literature, subsequently comparing these with real-world application. Findings reveal that, despite clear legal provisions safeguarding these rights, violations remain prevalent, especially within informal sectors and labor intensive industries. Key challenges include employers' limited awareness of their legal responsibilities, insufficient oversight, and unequal bargaining power between employers and employees. To guarantee the realization of rest and holiday rights as an integral aspect of labor protection, there is a need for consistent law enforcement, enhanced governmental involvement, and the cultivation of cooperative industrial relations.

KEYWORDS: legal protection, holidays, workers, employment law, industrial relations

I. INTRODUCTION

The 1945 Constitution of the Republic of Indonesia, as the country's fundamental law, affirms in Article 1 paragraph (3) that Indonesia is a state founded upon the rule of law. This provision signifies that every dimension of national and state life must operate within a legal framework. Furthermore, the Preamble's fourth paragraph outlines the purposes behind the establishment of the Indonesian state and government, which include safeguarding the entire population and all territories of Indonesia, promoting the general welfare, fostering the intellectual life of the nation, and contributing to the creation of a world order grounded in independence, lasting peace, and social justice. The concept of "protecting all Indonesian people" as articulated in the Preamble can be understood in a broad sense, encompassing efforts to realize other state goals, such as enhancing public welfare and improving national education.¹

As a nation founded on the rule of law, Indonesia upholds the principle that all citizens are equal before the law and the government. This aligns with the second principle of Pancasila, "just and civilized humanity," as well as the fifth principle, "social justice for all Indonesian people," which affirm and respect the rights of every citizen to obtain justice.² Discussions on human rights and the rule of law hold a vital role in shaping a legal system grounded in justice. Such a system encompasses the acknowledgment and safeguarding of human rights, ensuring equality across political, social, cultural, and educational spheres. It also demands an independent and impartial judiciary, free from interference by any external authority, as well as the consistent application of legality in all aspects of law. Among the rights universally recognized is the entitlement to rest and leave, as affirmed in various international legal frameworks, including the Universal Declaration of Human Rights (UDHR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR). In the Indonesian context, this entitlement is upheld through Law Number 13 of 2003 on Manpower, complemented by several implementing regulations.

Holidays form an integral aspect of employees' right to rest, serving to give them the chance to restore energy, connect with family, and participate in various social activities. These periods of leave ultimately support higher productivity and enhance overall well-being. Despite this, the implementation of holiday entitlements in Indonesia still encounters significant challenges. There are instances where companies hesitate to grant holidays as mandated, or even require employees to work during official holidays without offering proper compensation. For this reason, a comprehensive understanding of the provisions in Indonesian labor legislation concerning holidays, along with the legal consequences for employers who disregard these rules, is essential.

¹ Garda Yustisia Pambudi, and Fatma Ulfatun Najicha. (2022). "Legal Review of Leave Rights for Workers Following the Enactment of Law Number 11 of 2020 Concerning Job Creation". *Jurnal Gema Keadilan* Volume 9, Issue 1, ISSN: 0852-0011.

² Bambang Sunggono and Aries Harianto. (1994). *Legal Aid and Human Rights*. Bandung: CV Mandar Maju, p. 4

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From a legal standpoint, employees or laborers have the autonomy to decide the course of their own lives. They possess the freedom to select occupations in which they are skilled, enabling them to develop their abilities and secure decent work opportunities. Consequently, the prevailing principle in Indonesia upholds that no individual may be subjected to slavery, exploitation, or any form of servitude.³ The status of labor in the legal framework has evolved in line with the rapid advancement of sophisticated technology, which in the production sector has created pressures compelling the government to remain actively involved in labor and employment matters. This involvement is intended to safeguard the public interest, particularly in protecting workers who often occupy a less advantageous position. Employment regulations exist to provide legal certainty, as labor laws function as an embodiment of justice for workers. In practice, these laws are designed to ensure adequate protection, preventing employers from engaging in actions that could cause harm to employees.⁴ In the context of employment, workers must receive protection in various aspects where the employer holds authority. The entitlements of employees should be upheld, and when a worker is deprived of what is rightfully theirs, it becomes essential to ensure that their rights particularly the right to take leave are respected and fulfilled.

Under the stipulations of Law Number 13 of 2003 on Manpower, the safeguarding of workers' rights encompasses entitlement to fair remuneration, access to welfare programs and social security, protection related to occupational safety and health, provisions for rest and leave, the right concerning termination of employment (PHK), and the right to engage in lawful strikes.⁵ Safeguarding the well-being of employees is explicitly mandated under Indonesian labor regulations. The provision of health protection aims to help workers recover the stamina expended during their regular working hours. One way this is ensured is by granting adequate rest periods, such as holidays, which are considered a non-negotiable entitlement. In this regard, legal safeguards for workers are designed not only to eradicate remnants of exploitative labor practices but also to guarantee that employees receive their rights and are treated with dignity.⁶ Improving the welfare of workers allows them to live decently as humans should. The process of providing equal and fair welfare for workers requires several comprehensive, integrated, and continuous planning and implementation.

Legal protection for workers serves as a form of guaranteeing several basic rights granted to workers. This guarantees equality of opportunity without unfair differences or discrimination by anyone. Legally, workers and employers have the same and equal status. However, based on sociology, there are certain conditions where the position between workers and employers is not the same or equal in their status.⁷ Accordingly, the labor force is categorized into two groups: permanent employees and non-permanent employees. Under labor law, this classification is closely linked to provisions governing employment relationships, whether on an individual or collective basis.

According to Indonesia's labor law framework, the entitlement to rest is safeguarded through various statutory provisions, including Law Number 13 of 2003 on Manpower later amended by Law Number 11 of 2020 on Job Creation along with their implementing regulations. These legal instruments guarantee that all employees are entitled to weekly days off, annual leave, and public holidays as determined by the government. Nonetheless, breaches of these rights remain evident in several industries, particularly within the informal sector and labor-intensive fields.

Therefore, the issue of legal protection for workers regarding the granting of their right to rest is important to examine further, given the gap between legal norms and their implementation in the field. This paper addresses the issue of how the provisions regarding workers' days off are regulated under Indonesia's labor law. It also examines the extent to which the right to leave is guaranteed for employees in accordance with Indonesian labor regulations. Therefore, this paper aims to determine the extent of legal protection provided by the state for workers' rest rights and to evaluate the effectiveness of its enforcement. Therefore, it is hoped that this paper will contribute to efforts to improve labor protection in Indonesia.

II. METHODOLOGY

The research method applied in this study is normative legal research, which focuses on examining the law as a set of norms or rules that operate within society and function as a guide for individual conduct.⁸ This approach was selected because the study primarily relies on statutory provisions and literature reviews as the core subjects of analysis. These legal sources are then assessed and compared with their practical implementation in the real world. The main legal instruments referenced in this

³ Dina Susiani. (2020). *Development of Employment Law in Indonesia*. Jember: CV. Pustaka Abadi, p. 14.

⁴ Imam Soepomo. (2003). *Introduction to Labor Law*, 13th ed. Jakarta: Djambatan, p. 9.

⁵ Law Number 13 of 2003 concerning Manpower.

⁶ Dani Amran Hakim. (2016). "The Urgency of Implementing Corporate Social Responsibility as an Effort to Guarantee Workers' Rights." *Fiat Justisia Hukum Journal*, Volume 10 Number 4, ISSN 197805186.

⁷ Fenny Natalia K. (2013). "The Rights of Workers Who Have Worked But Have Not Signed an Employment Agreement Regarding Wages Reviewed Based on Law Number 13 of 2003 Concerning Manpower". *Student Scientific Journal of the University of Surabaya* Vol.2 Number 1, p.3.

⁸ Ishaq, *Legal Research Methods: Writing Theses, Dissertations, and Dissertations* (Bandung: Alfabeta, 2020).

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research are the 1945 Constitution of the Republic of Indonesia and Law Number 13 of 2003 concerning Manpower. In terms of its specification, the study adopts a descriptive analytical framework, aiming not only to describe the legal norms but also to analyze their application. The research process was conducted through extensive library-based activities, involving the examination of a variety of sources, including books, scholarly articles, and other literature relevant to the protection of workers particularly in relation to regulations governing the granting of leave.

III. ANALYSIS AND DISCUSSIONS

A. Provisions Regarding Holidays for Workers Reviewed Based on Employment Law in Indonesia

Base on Article 1 Paragraph (1) of Law No. 13 of 2003 on Manpower, the term “manpower” refers to matters concerning workers that regulate the period before, during, and after employment.⁹ In this context, labor law can be viewed as an instrument designed to ensure legal protection and certainty in the execution of employment relations, whether the employment agreement is established in written or verbal form.

In Indonesia, matters related to employment have become a serious concern.¹⁰ In reality, industrial relations continue to face disharmony, limited social security coverage, and inadequate worker protection, which is evident from the frequent strikes and dismissals. This situation shows that the connection between employees and employers where employees contribute their labor and fulfill their duties as outlined in the work agreement remains far from ideally balanced. For this reason, nurturing a constructive and harmonious relationship between both parties is essential. If such harmony fails to materialize, disputes may emerge that cannot be resolved amicably, ultimately worsening the instability already present within the company. A lawful employment contract must meet certain conditions as outlined in the regulations, which classify them into two types: substantive requirements and formal requirements. These provisions are regulated in Article 52 of the Manpower Law, as detailed below.¹¹

1) The foundation of an employment contract includes:

- a) Mutual consent between both parties;
 - b) The legal capacity of each party to undertake binding actions;
 - c) The presence of work that has been agreed upon; and
 - d) The nature of the work must not contravene public order, morality, or any prevailing laws and regulations.
- 2) If an employment contract is created by both parties in breach of the provisions mentioned in points a and b of Paragraph (1), it may be subject to cancellation.
- 3) If the contract violates the provisions in points c and d of Paragraph (1), it will be deemed null and void. The Manpower Law underscores the importance of safeguarding workers and all parties engaged in employment relations from exploitation or unjust treatment during the hiring process. Concerning workers’ rights particularly the entitlement to leave rest periods and leave entitlements are stipulated in the collective agreement and further regulated under Article 79 Paragraphs (3), (4), and (2) of Law No. 13 of 2003 on Manpower. Nevertheless, in certain circumstances, employers may require employees to work on official holidays due to the nature and urgency of specific tasks that must be completed. If such work is carried out continuously or arises from a mutual agreement between the employer and the employee, the holiday work must be compensated according to the provisions governing overtime pay.¹²

Imam Soepomo defines labor or the workforce as a relationship governed by certain rules whether formal or informal that concern the situation in which an individual performs work for another party in exchange for wages.¹³ In practice, labor relations are grounded in the principles of Pancasila and the 1945 Constitution of the Republic of Indonesia, with the aim of realizing social justice within the sphere of employment. Employees are entitled to certain rights determined by their status and role in the workplace, alongside several fundamental rights inherent to every individual.¹⁴ In general, these entitlements cover the right to fair and proper employment, the right to earn an income, the right to workplace health and safety, the right to form or join organizations, as well as other related rights.

Referring to the provisions of the Manpower Law, holidays constitute a fundamental right of every worker, which must be granted equitably and without any form of discrimination, including:

- 1) Weekly Holidays.

⁹ Law Number 13 of 2003 concerning Manpower.

¹⁰ Andry Sugiantari, Solechan, and Suhartoyo. (2016). "Resolving Industrial Relations Disputes Through Mediation at the Semarang City Manpower and Transmigration Office." *Diponegoro Law Review Journal* Volume 5, Number 2

¹¹ *Ibid.*

¹² Agus Rimawan, Yana Sukma P, dan Erwin Syahrudin. (2023). “Perlindungan Hukum Buruh Kontrak Dalam Perspektif Undang-Undang Tentang Ketenagakerjaan”. *Jurnal Pakuan Law Review* Volume 09, Nomor 01.

¹³ Lalu Husni. (2007). *Introduction to Indonesian Employment Law*. Jakarta: PT Raja Grafindo Persada, p. 24.

¹⁴ Yuliana Yuli, Murtanti F D, Salsabila R, Salma E A, Daffi A A, Dinda A, and Khairunnisa P Harsanti. (2024). “Legal Regulations on the Shifting of Holidays and Their Implications for Overtime Wages for Workers in Indonesia”. *Indonesian Legal Media Journal* Volume 2 Number 2.

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During holidays, each employee is entitled to a weekly rest ranging from one to six days within a week. Employers, therefore, have the authority to arrange for workers to take this weekly rest. In most cases, the rest period is set at one day per week, but its application depends on the terms agreed upon in the employment contract between the worker and the employer.

2) Nasional Holiday

In this context, the Government of Indonesia designates a number of national holidays annually. On these days, employees are entitled to refrain from working without any deduction in their wages. Consequently, if employees are required to work during national holidays, employers must provide overtime pay in accordance with the prevailing regulations.

The entitlements of employees are responsibilities that must be fulfilled by employers, while, conversely, the entitlements of employers constitute obligations for employees. In line with this principle, and to implement the provisions outlined in Article 106 of Law No. 13 of 2003 on Manpower, a formal body has been established to serve as a platform for communication and negotiation between employees and employers, known as the Bipartite institution. The protection of workers' rights is categorized into three main forms. First, economic protection, which ensures employees receive sufficient income. Second, social protection, covering workplace health insurance and the right to freely associate in order to safeguard organizational interests. Third, technical protection, which focuses on ensuring occupational safety and security for the workforce.¹⁵

B. Guarantee of the Right to Holidays for Workers Based on Employment Law in Indonesia

One of the factors behind the enactment of Law No. 13 of 2003 on Manpower was the presence of various laws and regulations, some of which were legacies from the colonial era. These provisions often disadvantaged workers, especially in areas such as employment placement services and industrial relations systems that emphasized distinctions in status and interests. As a result, these regulations were considered outdated and no longer aligned with present needs or future challenges. In Indonesia, workers' entitlement to leave is firmly protected through specific regulations, with the government playing a central role in overseeing labor matters as stipulated in the Manpower Law. This legislation outlines the government's responsibilities in managing employment, which include the following.¹⁶

- A. Manpower planning;
- B. Expansion of employment opportunities;
- C. Coaching;
- D. Supervision.

Employment law serves as a legal foundation in the realm of industrial relations, designed to preserve order and function as a means of social control, while also providing a framework for the rights of production stakeholders in goods and services. Beyond its role as a legal safeguard, it is also intended as an instrument for fostering partnerships. This is regulated in Article 102 Paragraphs (2) and (3) of Law No. 13 of 2003, which act as binding legal norms for all parties, although the concept of "partnership" itself is not further clarified. In brief, Article 102 Paragraph (3) of Law No. 13 of 2003 stipulates that: "... Businessman have fuction to create partnership...". Therefore, in relation to this issue, there remains a lack of clear explanation that could be directed toward the industrial community, which in general is not well-versed in interpreting legal provisions.

In this context, holidays are recognized as a fundamental right of workers, realized through the provision of weekly rest days and public holidays. For a six-day workweek, employees are entitled to one day off each week, while those on a five-day work schedule receive two days off, typically on Saturday and Sunday. The specific arrangement, however, may vary depending on the company's policy and the agreement between employer and employee. Under such agreements, workers are entitled to take the designated official holidays as rest days while still receiving their regular wages. The task of overseeing the execution of labor policies and promoting job creation is not solely borne by the government. The task of overseeing the execution of labor policies and promoting job creation is not solely borne by the government.¹⁷ Nevertheless, it is anticipated that the community will also gain advantages from this arrangement, as it is managed by a coordinating body closely connected to both governmental and societal elements. Considering the vulnerable position of workers and laborers, legal safeguards for them are essential. Protection from employer dominance can be ensured if labor regulations that oblige employers to comply with these legal standards are genuinely enforced by all parties.¹⁸ Therefore, the validity of the law can not on;y be measured from a juridical perspective , but also fro a sociological and philosophical perspective.

At present, there are still employers who appear to disable tools used to record working hours. In such cases, employees are compensated based solely on task completion, regardless of the duration, time, or location, creating pressure to follow every instruction from the employer. Consequently, workers no longer experience regular working hours as they would in a formal

¹⁵ Abdul Hakim. (2003). *Pengantar Hukum Ketenagakerjaan Indonesia*. Bandung : PT Citra Aditya Bakti.

¹⁶ Hardian Rusli. (2011). *Hukum Ketenagakerjaan Berdasarkan UU No. 13/2003 tentang Ketenagakerjaan dan Peraturan Terkait Lainnya*, Edisi Kedua. Bogor: Ghalia Indonesia, hlm 11.

¹⁷ Endah Suhartini, Ani Yumarni, Siti Maryam, and Mulyadi. (2020). *Employment Law and Wage Policy*. Depok: PT RajaGrafinfo Persada, p. 23

¹⁸ Zainal Asikin. (2003). *Fundamentals of Labor Law*. Jakarta: Raja Grafindo Persada.

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workplace setting. The constant anxiety over potential job loss overshadows their current duties, leading them to compromise their personal lives and, in some cases, neglect their own labor rights. This situation reflects what has long been recognized as the hidden downside of the flexible work system, characteristic of the neoliberal production model.¹⁹ The allocation of rights and obligations to workers is closely linked to events that hold legal relevance. This implies that the exercise of such rights and obligations is tied to circumstances that produce legal effects, classified as legal events. For workers or laborers, these events—such as strikes are regulated through provisions governing the respective rights and duties of both employees and employers. Such matters are considered part of private law, as labor law itself originates from the employment relationship established between workers and employers on the basis of a mutual agreement.²⁰

Base on the employment law sets out provisions that ensure protection for workers and all parties engaged in employment relations against potential abuses. Given that workers or laborers occupy a vulnerable position, it is essential to provide legal safeguards that place them on fair and equal footing. Regulations concerning working hours, crime prevention, and occupational health are all designed to demonstrate a commitment to protecting workers' rights, serving as a guarantee for maintaining healthy and balanced working conditions between employers and employees.

CONCLUSIONS AND RECOMMENDATION

From the preceding discussion, it can be concluded that the entitlement of workers to holidays is governed under the provisions of Law No. 13 of 2003 on Manpower. Nevertheless, the implementation of these regulations in the employment sector still shows gaps in delivering adequate consideration to the needs of workers or laborers. This is important given that their rights are inherently tied to their status and role as members of the workforce.

Labor law emerged from the concept of safeguarding the parties involved particularly workers as the more vulnerable group and promoting social justice within employment relationships between parties that share certain similarities yet also have notable differences. Today, it functions as a legal foundation for industrial relations, designed to uphold order and act as a means of social control, while primarily serving as a framework for the rights of those engaged in the production of goods and services. Beyond its role as a protective legal framework, labor law is also envisioned as an instrument for fostering cooperative partnerships.

In light of the above conclusions, the author recommends that, in this era of rapid technological progress and heightened public awareness, the government should place greater emphasis on safeguarding workers' rights and obligations. Given the present employment landscape in Indonesia, there is significant potential for fostering positive growth that drives advancement rather than decline. Achieving this requires the establishment of a balanced and enduring relationship between employers and employees, maintained in alignment with prevailing regulations.

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