

# Legal Protection of Workers in Cases of Unilateral Termination of Employment in Indonesia

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## Keywords:

Employment Termination

Unilateral Dismissal

Legal Protection for Workers

Labor Law Implementation

Industrial Dispute Resolution

## Abstract

*This research aims to answer the problem of unilateral termination of employment without clear reasons. Termination of employment is the termination of employment caused by workers, employers or both for a certain reason and results in the end of rights and obligations between workers and employers. Problem formulation: 1. How is the implementation of labor law in Indonesia in resolving the problem of termination of employment. 2. How is the legal protection for workers/laborers who experience unilateral termination of employment. The research method in this study uses an empirical juridical approach. The types and sources of data used in this research are primary data and secondary data, and the analysis process uses descriptive qualitative. the analysis process uses descriptive qualitative. Unilateral termination of employment (PHK) is not allowed and is very clear, except in certain circumstances that force the PHK to be carried out, as stipulated in Law Number 2 of 2004 concerning Industrial Relations Dispute Resolution and Law of the Republic of Indonesia Number 13 of 2003 concerning Manpower.*

## INTRODUCTION

Layoffs are a complex issue that not only affects the individuals affected by layoffs, but also the company, the economy, and society at large. Layoffs can trigger various social problems such as increased unemployment, poverty, and social instability (Wisetsri et al., 2021). This research aims to analyze the impact of layoffs comprehensively, ranging from legal, economic, to psychological aspects (Amini et al., 2022).

Layoff means a situation in which the worker stops working from his employer. The nature of layoffs for workers is the beginning of suffering, meaning for workers the beginning of the end, the beginning of the end of having a job, the beginning of the end of their ability to work. the end of having a job, the beginning of the end of his ability to to finance the daily necessities of life for him and his family (R et al., 2021).

Employment relationship is a relationship that arises as a result of a work agreement made or agreed upon by or mutually agreed upon by employers and workers/laborers (Haya et al., 2024). Based on Law No. 13/2003, it is regulated in such a way that dismissal of workers who are absent or violate company regulations is regulated under quite strict conditions are quite strict (Bogg & Brodie, 2023) (Vol et al., 2021). However, in contrast to Law Number 11 of 2020 concerning employment copyright, where employers or companies can terminate employment for various non-objective reasons (Anglin et al., 2021).

Factors that result in termination of employment are indeed diverse, such as globalization, transformation to the knowledge economy, adjusting to changing conditions, and national and international crises have all encouraged organizations/companies to seek structures that are more flexible, simpler, more dynamic, and mobile, in fact, the Job Creation Law has regulated the reasons for understanding termination of employment carried out by employers or companies (Eweade et al., 2024) (Riwanto et al., 2022). Article 153 of Law (UU) Number 11 of 2020 regulates the prohibition of terminating employment (PHK) for certain reasons. The reasons that are prohibited as the basis for layoffs according to Article 153 of the Job Creation Law are: "A. Sick according to a doctor's certificate, B. Carrying out obligations to the state, C. Carrying out worship, D. Married, E. Pregnant, giving birth, abortion, or breastfeeding, F. Having blood ties or marital ties with other workers in the same company, G. Complaining to the authorities about the employer, H. Differences in understanding, religion, political sect, ethnicity, skin color, class, gender, physical condition, or marital status, J. In a state of permanent disability, illness due to work accidents, or illness due to work relations which according to a doctor's certificate whose recovery period cannot be ascertained" (Yuanitasari, 2020).

In the process of layoffs which are being employers are still obliged to fulfill all their obligations unless there is one case where the employer suspends the worker, and the worker who is in the process of layoff must still receive wages and other rights that he usually receives (Turisno, 2025).

Severance pay is not only a financial safety net for workers who lose their jobs but also serves as a form of compensation for the abrupt disruption in their employment relationship (Aidonojie et al., 2024). Under Indonesian labor law, severance pay is a legal entitlement and is governed by specific provisions laid out in the Employment

Law (Prio et al., 2021). However, despite these regulations, in practice, many workers face difficulties in obtaining severance pay in full, or in some cases, not receiving it at all (Hukum et al., 2024). Employers may violate the procedures for PHK, either intentionally or due to negligence, which prevents workers from claiming their rightful compensation. In other cases, the enforcement mechanisms to ensure workers' rights are upheld may be weak, and government oversight may not be as robust as it should be.

On the other hand, employers also face significant challenges when it comes to fulfilling severance obligations (Tangerang, 2021). During times of economic downturn or crisis, companies may struggle financially, making it difficult to allocate the necessary funds for severance pay. The financial strain on businesses can lead to delays or, in some cases, an outright refusal to meet severance obligations. Additionally, some employers may argue that they cannot afford the financial burden of paying severance to workers they can no longer employ due to declining business performance. Administrative hurdles also contribute to the issue, as companies must navigate a complex set of regulations and legal requirements in the process of conducting a PHK. This administrative complexity can be overwhelming, particularly for small and medium-sized enterprises (SMEs), which may not have dedicated human resources or legal departments to manage such matters. These financial and administrative challenges have further complicated the relationship between employers and employees in the context of PHK (Jurisprudence et al., 2024).

Contract workers are often the most vulnerable party affected by layoffs (Ilmu & Vol, 2024). This research will analyze the difference in treatment between permanent workers and contract workers in facing layoffs, particularly in the context of the implementation of the Job Creation Law. The research will focus on efforts to provide fairer protection for contract workers and reduce discriminatory layoff practices.

This journal uses references to research conducted by several researchers who discuss the protection of unilateral termination of employment for workers/laborers (Surabaya et al., 2022). Unilateral termination of employment for workers/laborers. The results of this reference discuss the efforts made by permanent workers for unilateral dismissal.

## **METHODS**

This study employs a qualitative research approach using both normative juridical and empirical methods. The normative juridical approach is utilized to analyze legal provisions governing employment termination (PHK), specifically comparing Law No. 13 of 2003 on Manpower and Law No. 11 of 2020 on Job Creation. The empirical approach examines the socio-economic and psychological impact of layoffs on workers, companies, and society through field data collection.

## **RESULTS AND DISCUSSION**

### **Results**

Termination of Employment (PHK) Based on Article 1 of Law No. 13 of 2003, Termination of employment is the end of an employment relationship due to certain reasons that result in the cessation of rights and obligations between the worker/employee and the employer. In principle, termination of employment must be approved by the employer, except in certain cases as stipulated in Article 154 of Law No. 13 of 2003, namely:

- a. The worker is still in the probationary period, provided that it was agreed upon in writing beforehand;
- b. The worker submits a resignation in writing on their own will, without any indication of pressure or intimidation from the employer;
- c. The worker reaches retirement age;
- d. The worker passes away.

Article 153 of Law (UU) Number 11 of 2020 regulates the prohibition of terminating employment (PHK) for certain reasons. The reasons that are prohibited as the basis for layoffs according to Article 153 of the Job Creation Law are: "A. Sick according to a doctor's certificate, B. Carrying out obligations to the state, C. Carrying out worship, D. Married, E. Pregnant, giving birth, abortion, or breastfeeding, F. Having blood ties or marital ties with other workers in the same company, G. Complaining to the authorities about the employer, H. Differences in understanding, religion, political sect, ethnicity, skin color, class, gender, physical condition, or marital status, J. In a state of permanent disability, illness due to work accidents, or illness due to work relations which according to a doctor's certificate whose recovery period cannot be ascertained .

Settlement of Termination of Employment Problems According to Law Number 13 of 2003 concerning Manpower. An analysis of Termination of Employment Based on Law No. 13/2003 Concerning Manpower Law Number 13 Year 2003 Concerning Manpower has regulated the provisions of employers in conducting layoffs, which states that the company can conduct layoffs in the following conditions:

1. In the event that the court decides on a criminal case before the 6 (six) month period ends and the worker is found guilty, the employer may terminate the employment. period ends and the worker is found guilty, the employer may terminate the employment of the worker concerned employment to the worker concerned.
2. In the event that a worker violates the provisions stipulated in a work agreement, company regulation or collective labor agreement, the employer may terminate the worker's employment after a letter of termination has been given to the worker concerned. termination of employment, after the worker concerned has been given the first, second and third consecutive warning letters.



3. Workers who are absent for 5 (five) or more consecutive working days without a written explanation accompanied by valid evidence and have been summoned by the employer 2 (two) times properly and in writing may have their employment terminated because they are qualified to resign.

Article 171 of Law Number 13 Year 2003 concerning Manpower. Efforts made by workers are to report the dismissal to the local Manpower and Transmigration Office and file a lawsuit to the Industrial Relations Court because the worker feels that the dismissal is not based on fault. Industrial Relations Court because workers feel that they were terminated not on the basis of gross misconduct gross misconduct.

Providing legal protection for workers/laborers is the mandate and purpose of labor law, as said by Senjun H. Manulang, that the purpose of labor law is to achieve or labor law is to achieve or implement social justice in the field of employment and to protect labor against the unlimited power of employers.

Legal protection efforts against outsourced workers/laborers must be implemented maximally and more specifically, considering that in the practice of outsourcing there is a triangular working relationship involving a company that gives work (principal) the company receiving the work (vendor) and workers/laborers. In the condition of workers/laborers outsourced workers/laborers are very vulnerable to exploitation and inhumane actions, both because of their status as workers/laborers who are not (contract) as well as because of the treatment employers who tend to act as capitalists who seek profit from the fruits of their labor.

Aspects that must be considered in efforts to protect or prohibit need to There are 2 (two) aspects that must be considered:

1. The workforce itself.

2. Factors contained in the work system namely:

a) The employment relationship needs to be traced in the form of employment relationship

1. Permanent employment relationship

2. Non-permanent or uncertain employment relationship

3. Illegal employment relationships such as forced forced, bonded or sold labor and

4. Discriminatory employment relationships, namely employment relationships that need to be clarified so that it is clear, if it is not can't, it is necessary to seek to have the employment relationship terminated If this is not possible, the employment relationship should be terminated.

b) Wages Wage policies that protect workers or laborers as referred to in Article 88 paragraph (2) of Law Number 13 Year 2003, includes:

1. Minimum wage

2. Overtime work wages

3. Wages for absence from work due to absent

4. Form and method of payment of wages

The role of labor unions in the settlement of employment termination, According to Article 1 paragraph (1) of Law No. 21 of 2000, it is stated that trade unions/labor unions are :

“Organizations established by, of and for workers inside or outside companies, state-owned or private, which are non-binding, open, independent and democratic and accountable to fight for, defend and protect the rights and interests of workers, as well as to improve the livelihood of workers and their families”. family. The term worker/labor refers to any person who works for wages or other forms of income”.

Trade unions are one of the means of industrial relations, which is regulated in Law No. 21/2000 on Industrial Relations. Law No. 21/2000 on Trade Unions, which has the purpose of not only providing for the welfare of its members, but also aims to regulate industrial relations so as to create work and business peace or industrial peace, i.e. a condition of industrial peace, which is a dynamic condition in labor relations in the company where there are 3 (three) important elements:

1. Rights and obligations are guaranteed and implemented;

2. If disputes arise, they can be resolved internally;

3. M o g o k and company lockouts need not be used to impose one's will, because disputes have already been resolved properly.

## Discussion

In the event of dismissal, employers are required to pay severance pay, long service pay and compensation

pay.

compensation for rights that should have been received. Severance pay (Article 156 paragraph (2)) The amount of severance pay is regulated as follows:

1. working period < 1 year ..... 1 month wage
2. length of service 1 year ..... < 2 years ..... 2 months wage
3. 2 years of service ..... < 3 years ..... 3 months wage
4. 3 years of service ..... < 4 years ..... 4 months wage
5. 4 years of service ..... < 5 years ..... 5 months wage
6. 5 years of service ..... < 6 years ..... 6 months wage
7. length of service 6 th ..... < 7 th ..... 7 months wage
8. length of service 7 th ..... < 8 th ..... 8 months wage
9. length of service 8 th ..... < 9 th ..... 9 months wage.

LABOR AWARD (Article 156 paragraph (3)) The amount of long service pay is stipulated as follows:

1. 13 years of service ..... 16 th ..... 2 months' wages
2. 16 years of service ..... 19 th ..... 3 months of wages
3. 19 years of service ..... 22 th ..... 4 months wage
4. 22 years of service ..... 25 th ..... 5 months wage
5. 25 years of service ..... 28 th ..... 6 months of wages
6. 28 years of service ..... 31 th ..... 7 months of wages
7. length of service 31 years ..... 34 th ..... 8 months wage
8. length of service 34 years or more ..... 10 months of wages.

REPLACEMENT OF RIGHTS (Article 156 paragraph (4)) The compensation money that workers should receive includes:

1. Annual leave that has not been taken/not yet fallen.
2. Return costs/costs for workers and their families to the place where the worker was hired.
3. Replacement of housing, medical treatment and care is set at 15% of severance pay and/or long service pay for eligible workers. who are eligible.
4. Other matters stipulated in labor agreements, company regulations or collective labor agreements. company regulations or collective labor agreements.

## CONCLUSION

The termination of employment (PHK) is legally regulated under Article 151 of the Job Creation Law. This article outlines the procedures that must be followed when carrying out employment termination. Additionally, exceptions to termination are stipulated in Article 153. Various reasons for termination are also specified within the law, ensuring that termination is not carried out unilaterally or in a way that harms workers/laborers.

## ACKNOWLEDGMENT

I would like to express my deepest gratitude to all those who have supported and contributed to the completion of this work. My sincere appreciation goes to my mentors, colleagues, and peers who have provided valuable insights and guidance throughout this process.

I am also thankful for the encouragement and support from my family and friends, whose unwavering belief in me has been a source of motivation.

Lastly, I extend my appreciation to all individuals and institutions whose resources and knowledge have contributed to this work. Your support has been instrumental in its completion.

Thank you.

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Internasional Journal of Law and Sharia

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