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Legal Analysis Of The Balance Between Workes Rights And Obligations Based On Law No. 13 Of 2003

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ABSTRACT

The legal relationship between workers and employers in Indonesia still faces normative imbalances due to the dominance of legal-formal approaches in regulating labor rights and obligations. Although Law No. 13 of 2003 guarantees the right to strike as a fundamental labor right, its implementation is obstructed by stringent administrative procedures and restrictive legal interpretations that limit workers' room for advocacy. This study aims to analyze the normative and positive legal constructions of the balance between workers' rights and obligations, using a qualitative approach and normative juridical method by examining legislation, legal doctrines, and court rulings. The findings indicate that employers are granted broader discretion in executing lockouts compared to the procedural burden placed on workers to conduct lawful strikes, thereby creating structural inequality legitimized by positive law. The implications of this research highlight the urgency of reformulating labor law to ensure a more just, balanced, and structurally aware framework, allowing the law to serve as an instrument of social emancipation rather than a mechanism of procedural repression.

Keywords: *Labor Law, Right to Strike, Lockout, Normative Justice, Social Equity*

ABSTRAK

Hubungan hukum antara pekerja dan pengusaha di Indonesia masih menghadapi ketimpangan normatif akibat dominasi pendekatan legal formal dalam pengaturan hak dan kewajiban ketenagakerjaan. Meskipun Undang-Undang Nomor 13 Tahun 2003 menjamin hak mogok sebagai hak dasar pekerja, pelaksanaannya terhambat oleh prosedur administratif yang ketat dan penafsiran hukum yang cenderung membatasi ruang gerak pekerja. Penelitian ini bertujuan untuk menganalisis konstruksi hukum normatif dan positif terhadap keseimbangan hak dan kewajiban pekerja, dengan menggunakan metode kualitatif pendekatan yuridis normatif yang menelaah peraturan perundang-undangan, doktrin hukum, dan putusan pengadilan. Hasil penelitian menunjukkan bahwa pengusaha memiliki keleluasaan lebih dalam melakukan lockout dibandingkan pekerja dalam menjalankan mogok kerja, sehingga menciptakan ketimpangan struktural yang dilegitimasi hukum positif. Implikasi dari temuan ini mendorong pentingnya reformulasi hukum ketenagakerjaan yang lebih adil, seimbang, dan sensitif terhadap ketimpangan struktural, agar hukum dapat berfungsi sebagai alat emansipasi sosial, bukan sebagai mekanisme represi prosedural.

Kata Kunci: *Ketenagakerjaan, Hak Mogok, Lockout, Hukum Normatif, Keadilan Sosial*

INTRODUCTION

The legal relationship between workers and employers is a form of socio-economic relationship that is normatively framed by positive law. This relationship is not merely a matter of employment agreements but also creates a binding structure of authority between the two parties through corresponding rights and obligations. As Hans Kelsen has pointed out, law always regulates behavior through norms that contain commands and prohibitions, and determines sanctions for violations (Rizhan, 2020). In this case, every right established by law is always accompanied by an obligation that reinforces it.

Workers as legal subjects in employment relationships obtain normative rights based on statutory provisions, such as the right to fair wages, protection of occupational safety, social security, and freedom of association (Bactiar et al., 2024). However, these rights are not absolute. The obligation to comply with employment agreements, work discipline, and maintain professional ethics is inherent as a consequence of the rights they receive. This principle of mutual obligation is a manifestation of a legal structure oriented toward balance. However, this balance becomes problematic when these rights are restricted by rigid and technocratic procedural rules.

Industrial relations in Indonesia still reflect power imbalances from a sociological perspective (Fauzi, 2023). High economic dependence on employers puts workers in a weak bargaining position. The national employment structure, particularly in the manufacturing and service sectors, shows significant capital dominance over the employment structure (Khuzi et al., 2025). Data from the Central Statistics Agency shows that more than 58% of workers in the formal sector are classified as laborers or permanent employees, with most not affiliated with a labor union (Kurniawan, 2024). This situation exacerbates the problem of workers' aspirations not being effectively organized and not receiving adequate legal protection.

In this employment reality, strikes are the only legal instrument that workers have to balance power relations. A strike is not merely a protest action, but a fundamental right recognized by law and also by international labor standards such as ILO Conventions No. 87 and 98 (Farjanto, 2014). However, the exercise of the right to strike in Indonesia cannot be freely realized. Law No. 13 of 2003 sets out a number of administrative procedures that workers must fulfill before a strike can be considered legal, ranging from the obligation to give written notice, failed negotiations, to a ban on strikes in strategic sectors.

These administrative requirements are not only technically complex but also substantially restrictive. In practice, very few strikes can be categorized as legally valid due to the high threshold of formalities set (Kadroni, 2022). A The consequences of an illegal strike are severe: workers not only lose their right to wages, but may also be considered absent and resigned as stipulated in the Decree of the Minister of Manpower and Transmigration No. Kep.232/Men/2003 (Lawendatu, 2021). These sanctions create a deterrent effect and reduce the effectiveness of strikes as a mechanism for advocacy.

When the right to strike is restricted in this way, while the employer's right to lock out or close down the company is relatively more flexible, a serious normative imbalance occurs (Agung, 2024). The provisions in Articles 146 to 149 of the Labor Law provide employers with broad discretion to refuse to maintain employment relationships, even without prior notice if a strike is deemed unlawful. This reflects a legal system that prioritizes the protection of capital over the protection of labor, an irony in a labor system that should uphold social justice.

The imbalance is further exacerbated by the lack of regulation governing forms of sympathetic or solidarity strikes, i.e., strikes conducted to support demands outside of direct employment relationships (Caecar & Markoni. 2022). Yet, the phenomenon of solidarity strikes is inevitable in an increasingly integrated industrial society. The absence of norms regulating such actions creates a rechtsvacuum that can be exploited by employers to weaken the labor movement (Nugraha et al., 2020). Even ambiguous phrases such as "not violating the law" in Article 138 open up the possibility of criminalizing forms of strikes that are actually expressions of freedom of association and assembly.

Legal treatment of the right to strike that places too much emphasis on formal legality reflects a narrow view of positive law. In Satjipto Rahardjo's view, the law should not stop at procedural aspects, but should move towards the substance of justice (Nugroho, 2019). When strikes are not evaluated based on the essence or moral legitimacy of their demands, but merely on compliance with administrative procedures, the law has failed to play its role as a means of social emancipation. As a result, workers fighting for more decent working conditions are at risk of losing their rights simply due to technical errors in the procedures (Ginting, 2022).

The state's tendency to regulate the right to strike through a technocratic and legal-formal approach has resulted in workers lacking the courage to express their aspirations. The existence of structurally weak labor unions with minimal organizational capacity has also contributed to collective aspirations not being articulated effectively (Mantili, 2021). In this situation, restrictions on the right to strike are not only a legal issue but also raise a crisis of legitimacy for the labor law system itself. When the law, which should be an instrument of justice, becomes a mechanism of repression, industrial relations shift from partnership to one-sided domination.

Reformulating the meaning of balance between workers' rights and obligations in labor law has become urgent. Balance cannot be interpreted merely as a formalistic division of responsibilities, but must be viewed from the actual ability of the parties to express and exercise their rights equally. In this context, the right to strike as a fundamental worker's right must be placed on equal footing with the employer's right to lockout, not merely on paper but also within a fair and proportional normative framework (Sudiarawan et al., 2024). Without substantial reformulation, imbalances in labor relations will continue to be reproduced through legal instruments that are insensitive to structural inequalities.

A reinterpretation of the provisions of Law No. 13 of 2003 is necessary, not merely as a form of legal interpretation, but as a fundamental effort to correct the imbalanced normative design. The reaffirmation of the principle of protecting the weaker party, as the spirit of labor law, must be realized through the courage to criticize legal formalism that restricts workers' mobility. This is where the conceptual renewal of the balance between workers' rights and obligations gains momentum, while also opening up space for the reconstruction of more just and civilized industrial relations.

METHODS

This research employed a qualitative approach with a normative juridical method, focusing on the examination of written legal norms governing labor relations between workers and employers in Indonesia. The study concentrated on Law No. 13 of 2003 concerning Manpower as the primary legal instrument, complemented by derivative regulations and court decisions. The analysis involved both primary legal materials (statutes and jurisprudence) and secondary sources (doctrinal literature, legal journals, and scholarly opinions) to provide a comprehensive understanding of the legal constructs surrounding the balance of rights and obligations in industrial relations. To enhance the analytical depth, the study applied methods of legal interpretation—systematic, historical, and teleological—enabling the researcher to explore not only the textual legality but also the broader implications for justice and utility. This methodological framework was designed to uncover how formal legal structures may either support or hinder substantive justice for workers in the labor law system.

RESULTS AND DISCUSSION

Normative Construction of Workers' Rights and Obligations in Law No. 13 of 2003

The normative construction of workers' rights and obligations in the Indonesian labor law system as regulated in Law No. 13 of 2003 concerning Manpower is a manifestation of the reciprocal legal relationship between workers and employers. According to Hans Kelsen in Pure Theory of Law, rights and obligations are two sides of a legal norm that are interrelated and inseparable, because every right granted to a person creates a legal obligation on the other party to respect or fulfill that right (Kelsen, 2019). In industrial relations, employers have an obligation to fulfill workers' rights, while workers have an obligation to perform their duties in accordance with the agreed employment contract (Hanipah et al., 2023).

Law No. 13 of 2003 explicitly contains a number of normative rights of workers, including the right to fair wages, social security, occupational safety and health protection, and the right to form and join labor unions. In addition, Article 137 of the law also recognizes the right to strike as a fundamental right of workers and labor unions. However, this recognition is limited by a number of strict legal procedures, making it difficult to exercise the right to strike legally. This shows that although workers' rights are guaranteed by law, the realization of these rights in

practice remains subject to a number of administrative and procedural restrictions that have the potential to cause inequality.

In exercising the right to strike, workers are burdened with various formal obligations, such as the obligation to notify the employer and labor authorities in writing of their intention to strike at least seven days before the strike takes place, as explained in Article 140 paragraph (1), as well as the obligation to engage in negotiations beforehand. Sudikno Mertokusumo explains that legal obligations are commands accompanied by sanctions, so if workers fail to comply with these procedures, the strike may be declared invalid (Bnadi & Miharja, 2021). As a result, workers lose legal protection and may even be dismissed without compensation if deemed to have committed a serious offense.

The provisions regarding the lawful, orderly, and peaceful conduct of a strike imply that workers are not only bound by administrative formalities but also by certain behavioral standards during the strike. Articles 143 and 144 of the Labor Law state that employers are prohibited from taking retaliatory action against workers who strike legally, but this protection does not apply to strikes that are declared illegal. Thus, legal norms prioritize procedural legality over the substance of workers' demands. This has the potential to overlook the essence of justice in the protection of workers' rights.

This normative construction reflects an imbalance between workers' rights and obligations, especially when compared to the lockout rights enjoyed by employers (Kartini et al., 2022). Article 146 grants employers the right to implement a lockout in response to failed negotiations, with procedures that tend to be more lenient than those for strikes. In this case, employers are not required to provide notice if workers are deemed to have violated strike procedures, as stipulated in Article 149(6) (Damanik, 2021). This imbalance indicates that the normative construction in Law No. 13 of 2003 still favors the dominant position of employers.

From the perspective of normative legal theory, as articulated by Hans Kelsen, law is hierarchical and must be obeyed in accordance with its normative structure (Dananjaya et al., 2021). However, in the context of labor relations, compliance with normative procedures must not undermine the substance of justice. When legal procedures limit workers' access to tools for fighting for their rights, such as strikes, then these norms lose their ideal function as instruments of social justice. In other words, an excessive emphasis on the formal aspects of the law actually contradicts the principle of protecting vulnerable groups in industrial relations.

Within the framework of labor relations, rights and obligations must be understood as a manifestation of the balance of power between two parties that are unequal in economic and structural terms. A strike is the ultimate weapon for workers in the face of employer domination (Asrul et al., 2024). Therefore, the normative construction of the right to strike should not be formulated in such a way that it actually makes it difficult for workers to exercise that right. If legal norms place greater emphasis on workers' obligations without strengthening guarantees of their rights, this undermines the principle of balance in labor law.

Ultimately, the state, as the creator of legal norms, has a responsibility to ensure proportional protection for all parties in labor relations. The state's role is not only as a mediator but also as a protector of the structurally weaker party, namely workers (Susiana, 2019). In this regard, the normative framework of Law No. 13 of 2003 needs to be reviewed to ensure that the right to strike is truly accessible in a realistic and fair manner. Without revising the norms that overly restrict such rights, the balance between workers' rights and obligations will remain a formal doctrine without substantive implementation in practice.

Analysis of the Imbalance of Workers' Rights and Obligations from a Positive Law Perspective

From a positive law perspective, statutory provisions are the primary source for determining the legality of a legal action. Positive law is normative and imperative, as emphasized by Hans Kelsen, who stated that legal norms are hierarchical commands from basic norms to concrete norms, and their validity does not depend on morality but on formal ratification (Anshori, 2018). In industrial relations in Indonesia, Law No. 13 of 2003 on Manpower is the positive legal instrument that explicitly regulates the rights and obligations of the parties in employment relationships, including the right to strike and the right to lockout. However, this regulation has created a structural imbalance between workers and employers due to its skewed normative construction.

The provisions on strikes are rigidly regulated in Articles 137 to 145 of the Labor Law, which establish strikes as a fundamental right of workers. However, this right is restricted by a number of strict administrative procedures, such as the obligation to provide written notice, specify the time and place of the strike, and state the reasons underlying the strike. Conversely, employers are granted the right to lock out workers under Articles 146 to 149 with much looser procedures. If workers violate strike procedures, employers can lock them out without prior notification. This imbalance creates normative injustice that contradicts the principle of equality in labor law.

One of the most obvious forms of imbalance is the procedural burden imposed on workers in conducting a strike. Workers are required to fulfill a series of detailed administrative requirements, including conducting prior negotiations with employers, appointing a strike leader, and submitting official notification to the labor agency (Mukhid & Hidayatullah, 2023). If these procedures are not fulfilled, the strike is considered illegal and may result in the loss of legal protection. According to Ministerial Decree No. Kep.232/Men/2003, an illegal strike is equated with absenteeism and may lead to unilateral termination of employment. This underscores that the positive legal framework does not provide proportional space for the implementation of the right to strike.

On the other hand, positive law provisions do not explicitly accommodate forms of strikes occurring in the context of solidarity or as a response to external policies outside direct employment relationships. Strikes caused by government policies, industrial policies, or support for strikes at other companies are not

explicitly regulated (Habibi, 2013). Article 138, which states that calls for strikes must be made "without violating the law," is open to interpretation and opens up the possibility of repressive interpretations that are detrimental to workers. The lack of legal certainty regarding these forms of strike creates a legal vacuum (*rechtsvacuum*) that weakens the labor movement in the context of industrial democracy.

Normative construction disparities are also reflected in the formalistic approach applied in testing the legality of a strike. The Labor Law emphasizes the legality of strikes based on compliance with formal procedures, without regard to the substance of workers' demands. Article 145, for example, only guarantees wage payments to workers who strike legally in order to demand normative rights that have been "seriously violated" by employers. Thus, if workers' demands are non-normative or mixed in nature, the right to receive wages may be forfeited. This shows that the substance of justice is often overridden by administrative procedures in the positive legal system.

Meanwhile, employers have the discretion to use lockout mechanisms as a response to strikes, even when the strike is conducted legally. Article 146 states that lockouts are a fundamental right of employers, but in practice, lockout procedures do not require transparency or proof of violations by workers. This provides employers with broad discretionary power to refuse workers entry to work, thereby creating disproportionate structural pressure on workers. This provision clearly demonstrates the tendency of positive law to be more protective of capital interests than those of workers.

The positive legal approach in the Labor Law shows the dominance of legal formalism that disregards substantive justice. As stated by Satjipto Rahardjo, law should not merely be a system of rules separate from social reality, but should be a tool for liberation and social justice (Marilang, 2017). In this context, the meaning of a strike should not only be viewed in terms of compliance with administrative procedures, but also in terms of the legitimacy of demands and the imbalance of power between workers and employers. Laws that are solely oriented towards formalism will lose their social sensitivity and instead strengthen the dominant position of business actors.

The imbalance in normative regulations also has serious implications for the sustainability of industrial democracy in Indonesia. The construction of positive law that limits access to strike mechanisms deprives labor unions of an important instrument for advocating collective interests. This weakens workers' bargaining power in collective bargaining and creates more exploitative working conditions. When the state fails to establish balanced legal norms, workers' rights become mere formal symbols that are not operational in practice.

Therefore, a review of the positive legal provisions governing strikes and lockouts in the Labor Law is necessary. Future legislation must consider the principles of balance and substantive justice in industrial relations. The state, as the creator of legal norms, should not be falsely neutral, but should side with the protection of the more vulnerable group, namely workers. Revisions to positive law

should be directed at removing provisions that restrict the right to strike and strengthening legal guarantees for the proportional, fair, and constitutional implementation of workers' basic rights.

CONCLUSION

The current landscape of employment in Indonesia exposes a significant normative discrepancy between the legal ideals that purport to safeguard workers' rights and the rigid, formalistic legal constructs that, in practice, restrict access to those rights. Although Law No. 13 of 2003 recognizes the right to strike as a fundamental labor right, its realization is obstructed by complex procedural requirements and restrictive legal interpretations, whereas employers are afforded broader discretion in implementing lockouts with minimal regulatory oversight. This asymmetry fosters a structure of domination legitimized by positive law, effectively undermining the principles of social justice and balanced power relations in industrial settings. To rectify this imbalance, substantial reform is required not only to simplify procedural barriers to lawful strikes but also to reinforce protections for morally and socially legitimate forms of collective labor action. Reforming the normative framework should aim to reorient labor law toward its emancipatory function, ensuring that rights are not diminished by excessive technicality and that obligations are enforced based on equitable and rational standards. Such reform is essential to restore confidence in the legal system as a means of justice and to cultivate industrial relations grounded in fairness and mutual respect.

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