

Legal Assistance for Workers in Reporting Violations of Religious Holiday Allowance (THR) as an Effort to Protect Normative Labor Rights in Surabaya

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Abstract

Violations in the payment of Religious Holiday Allowance (Tunjangan Hari Raya/THR) remain a recurring issue in labor practices in Indonesia, including in Surabaya. This community service program aims to enhance workers' access to justice through legal awareness and assistance in reporting THR violations. The methods employed include participatory legal education, complaint clinics, and case-based assistance. The results indicate an increase in workers' understanding of their normative rights and a growing willingness to report violations. Empirical data show that in 2024, there were 26 complaints involving 1,203 affected workers, while in 2025 the number increased to 56 complaints involving 1,811 workers. These findings suggest that THR violations remain systemic and require sustained legal intervention through community-based assistance mechanisms.

Keywords: THR, normative rights, workers, complaints, access to justice

INTRODUCTION

The Religious Holiday Allowance (THR) constitutes a normative labor right that must be fulfilled by employers under Indonesian labor law. Regulations require employers to pay THR no later than seven days prior to the relevant religious holiday, with administrative sanctions imposed for non-compliance.

However, in practice, violations of THR obligations remain widespread. Empirical data indicates that in 2024, the THR complaint post in Surabaya received 26 complaints from 15 companies, affecting a total of 1,203 workers. The forms of violations include: Underpayment of THR (60%), Non-payment (6%), Late payment (5%), and installment-based payment (29%) (LBH Surabaya, 2025).

Furthermore, in 2025, the number of complaints increased significantly to 56 cases involving 1,811 workers, reflecting a worrying upward trend in violations.

This phenomenon demonstrates that THR violations are not merely individual breaches but reflect structural weaknesses in labor law enforcement and limited access to complaint mechanisms for workers (LBH, 2025).

However, several literature reveals that barriers to reporting employment violations are deeply structural and extend beyond specific local contexts such as Surabaya. Labour law systems often suffer from weak enforcement mechanisms, where employers perceive compliance as costly and therefore seek to evade legal obligations, resulting in persistent violations (Syed, 2023; Davidov, 2021).

Workers face multiple interconnected barriers to reporting workplace violations, including fear of retaliation, language barriers, lack of knowledge about procedures, and limited access to legal services—though the sources provide limited evidence on how legal assistance effectively addresses these barriers.

The barriers are well-documented across multiple studies. (S. Premji et al., 2022) identified systemic obstacles including fear linked to job precarity, claim suppression by employers, lack of information, and language barriers amplifying each difficulty. (S. Gleeson, 2015) found that low-wage workers face employer retaliation and challenges navigating enforcement bureaucracy. (Arjun Aryal et al., 2024) documented workers' limited knowledge about legal service procedures and perceived high

costs as barriers. (C. Caxaj et al., 2022) reported migrant workers' unanimous lack of knowledge about filing legal claims.

A study by Prado offered solutions, (J. Prado et al., 2017) that legal assistance and outreach could help address those barriers, while (B. Hastie, 2018) emphasized that legal mechanisms are needed to help workers assert rights. However, the sources provide limited concrete evidence on legal assistance effectiveness in overcoming these barriers.

Based on the proposed solutions and legal assistance, the Surabaya City Manpower Office addresses industrial relations cases through mediation, gathering information, facilitating meetings between the two parties, providing suggestions and recommendations, and providing education to workers and entrepreneurs regarding their rights and obligations (Nazhif Ali Murtadho, 2025). However, effectiveness still needs to be improved through increasing the competence of Manpower Office officers and strengthening coordination between the Manpower Office and various related parties (Nazhif Ali Murtadho, 2025).



Figure 1. FGD with workers at LBH Surabaya

METHOD

This community service program adopts a community-based participatory approach, consisting of the following stages:

- a. Legal Education: Delivery of legal information regarding THR rights, types of violations, and complaint procedures.
- b. Complaint Clinic: Provision of legal consultation services for workers experiencing violations.
- c. Case Assistance: Support for workers in filing complaints through administrative and non-litigation mechanisms.
- d. Monitoring and Evaluation: Assessment of program effectiveness based on participant feedback and complaint outcomes.

RESULTS AND DISCUSSION

THR as a Component of Fundamental Labour Rights: From ILO Standards to National Obligations

The findings of this community service program must first be situated within the broader framework of fundamental labour rights as recognized in international law. The International Labour Organization, through the ILO Declaration on Fundamental Principles and Rights at Work, establishes that all member states have an obligation to respect, promote, and realize a set of core labour rights, irrespective of ratification status. These include freedom of association, elimination of forced labour, abolition of child labour, elimination of discrimination, and—following the 2022 amendment—the right to a safe and healthy working environment.

Scholarly literature reinforces this interpretation. Philip Alston argues that core labour standards function as a minimum global baseline of human rights protections, transforming labour rights into enforceable components of global governance. Similarly, contemporary scholarship highlights that labour rights are not merely contractual entitlements but institutional guarantees aimed at correcting structural inequalities in labour markets.

Translating International Norms into Indonesian Labour Law

Indonesian labor fundamental rights are constitutionally guaranteed and encompass a comprehensive set of protections, including the right to decent work, fair and equal remuneration, freedom of association, occupational safety and health, and access to legal protection (Rommy Hardyansah et al., 2024). These rights are firmly anchored in Articles 27(2) and 28D(1) and (2) of the

1945 Constitution, which collectively establish the state's obligation to ensure not only employment opportunities but also fair and just working conditions for all citizens (Rommy Hardyansah et al., 2024).

Constitutional interpretation by the Constitutional Court further elaborates that labor protection extends across four interrelated dimensions—economic rights, political rights, health-related rights, and social rights—reflecting a holistic understanding of workers as rights-bearing individuals rather than mere factors of production (Wilma Silalahi, 2019).

At the operational level, these constitutional guarantees translate into a wide range of specific entitlements demanded by workers, including the right to a living wage, social security coverage, protection for women and children, regulated working hours and leave, employment benefits, safeguards against unfair termination, overtime compensation, gender equality, as well as access to training and professional certification (Z. Ramadhani et al., 2023). Collectively, these entitlements form the backbone of what Indonesian labor law conceptualizes as *hak normatif*—non-negotiable rights that must be fulfilled by employers.

Empirical Patterns of THR Violations

However, despite this robust normative and constitutional framework, a growing body of empirical research highlights a persistent gap between legal guarantees and actual implementation. Multiple studies (Rommy Hardyansah et al., 2024; Ratu Alam Sekar Arum & Fifiana Wisnaeni, 2025; Ilham Firmansyah et al., 2026) demonstrate that enforcement remains uneven and often ineffective, particularly within the informal sector.

This gap is driven by several structural factors, including weak labor inspection systems, limited employer compliance and awareness, and significant asymmetries in bargaining power between workers and employers. As a result, constitutional labor rights—while formally entrenched—frequently fail to translate into substantive protection in practice, underscoring the need for complementary mechanisms such as legal assistance, collective organization, and institutional reform to bridge the divide between law and reality.

While the ILO Declaration does not explicitly regulate wage-related entitlements such as Religious Holiday Allowance (THR), it provides a normative foundation for understanding labour rights as part of a broader commitment to dignity, fairness, and social justice in employment relations. In this sense, THR can be conceptualized as a derivative normative right, embedded within the broader framework of workers' economic and social rights (ILO, 2022).

Indonesia, as a member of the International Labour Organization, has incorporated these normative commitments into its national legal system. The protection of workers' normative rights, including THR, is primarily regulated through: Law No. 13 of 2003 on Manpower (as amended by the Job Creation Law); Minister of Manpower Regulation No. 6 of 2016 on Religious Holiday Allowance.

Under these regulations, THR is explicitly defined as a mandatory employer obligation, not a discretionary benefit. Employers are required to provide THR to workers who have completed at least one month of service, with payment due no later than seven days before the relevant religious holiday.

From a doctrinal perspective, THR falls within the category of "*hak normatif*" (normative rights)—rights that are: Guaranteed by law, Non-negotiable, and Enforceable through administrative and legal mechanisms.

Structural Barriers and Access to Justice

Evidence across multiple studies (Hardyansah et al., 2024; Syed, 2023; Ford et al., 2024) indicates significant implementation gaps, particularly in informal sectors, due to weak law enforcement, limited employer awareness, and unequal bargaining power between workers and employers.

The data collected through this community service program, complemented by reports from labour advocacy institutions, demonstrate that THR violations remain widespread and structurally embedded.

Religious Holiday Allowance (THR) violations in Indonesia manifest in several recurring forms, including underpayment, complete non-payment, delayed disbursement, and installment-based arrangements, with particularly high vulnerability among casual workers and those employed in the informal sector. Existing scholarship indicates that the empirical foundation of THR violations remains largely fragmented, relying predominantly on qualitative case studies rather than comprehensive large-scale quantitative datasets. Nevertheless, these studies consistently reveal patterned forms of non-compliance. I. P. Sukadana and Wiwik Afifah (2024), for instance, identify four dominant violation typologies—underpayment, non-payment, late payment, and installment-based payment—which reflect systematic deviations from statutory obligations rather than isolated incidents.

Importantly, these violations are compounded by regulatory design gaps, particularly concerning non-standard forms of employment. Sukadana and Afifah (2025) highlight that workers with fewer than 21 working days per month or less than three consecutive months of service are effectively excluded from THR entitlements, thereby creating a category of workers who fall outside formal protection. This exclusion disproportionately affects casual, temporary, and informal workers, reinforcing structural inequalities within the labour market. In this respect, THR violations are not only a matter of employer non-compliance but also a consequence of normative exclusion embedded within the regulatory framework itself.

Empirical case studies further illustrate how THR violations materialize in practice. Existing studies on labour law compliance show that employer behaviour often does not reflect outright refusal, but rather a spectrum of partial and selective compliance. In many cases, employers justify non-compliance by invoking lack of regulatory awareness or financial constraints, while still attempting to maintain a façade of legality. This pattern is consistent with findings in Indonesian labour law scholarship, which document underpayment and irregular THR implementation as recurring issues (Sukadana & Afifah, 2025). More broadly, labour law research suggests that non-compliance frequently operates along a continuum—from ignorance and misinterpretation of legal obligations to strategic circumvention—particularly in contexts where enforcement is weak (Syed, 2023; Gleeson, 2015).

Further reinforcing this pattern, observe that THR violations remain widespread, particularly in labour-intensive industries and informal sectors where regulatory oversight is weakest. It underscores the persistence of violations as a structural phenomenon rather than episodic misconduct. The absence of comprehensive national datasets itself reflects a broader governance issue, where weak monitoring and reporting systems limit the state's ability to accurately assess and respond to labour rights violations.

In Surabaya itself, in 2024, there were 26 reported complaints involving 1,203 workers, while in 2025 the number increased to 56 complaints affecting 1,811 workers. This increase does not necessarily indicate a rise in violations alone but also reflects improved reporting due to legal awareness and assistance interventions. The dominant forms of violations include: Underpayment of THR, Payment in installments, Delayed payment, and Complete non-payment (LBH Surabaya, 2025).

Notably, the prevalence of installment-based payments (up to 86% in 2025 cases) highlights a systemic attempt by employers to circumvent legal obligations while maintaining formal compliance. This practice illustrates what may be described as informalization of compliance, where legal norms are symbolically acknowledged but substantively undermined.

Taken together, these findings suggest that THR violations in Indonesia are shaped by a combination of regulatory gaps, weak enforcement mechanisms, and structural labour market inequalities. As a result, formal legal protections often fail to translate into effective guarantees in practice, particularly for workers in precarious employment arrangements. This underscores the need to reconceptualize THR enforcement not merely as a compliance issue, but as part of a broader challenge of ensuring inclusive labour protection in segmented and uneven labour markets.

The Role of Legal Assistance as a Bridging Mechanism

Legal assistance plays a critical role in bridging the gap between law and practice. This community service program demonstrate that legal aid is important to bridge the gap between formal legal entitlements and their practical realization, particularly in the context of THR violations.

While Indonesian labour law provides a relatively comprehensive framework of normative rights, including mandatory THR obligations, these rights often remain in paper which formally recognized but substantively inaccessible to workers. Legal assistance intervenes precisely at this juncture, transforming abstract legal norms into actionable claims.

From an access to justice perspective, legal assistance functions as a corrective mechanism against structural inequality in labour relations. Workers, especially those in precarious or informal employment, face multiple barriers, including limited legal literacy, fear of retaliation, and procedural complexity. Without external support, these barriers effectively prevent workers from exercising their rights. The intervention documented in this study—through legal education, complaint clinics, and case-based assistance—significantly reduced these barriers by equipping workers with both knowledge and procedural guidance.

Empirically, the increase in reported THR violations following the intervention suggests that legal assistance enhances not only individual capacity but also the visibility of otherwise hidden violations. In this sense, legal assistance does not merely respond to violations; it actively reconfigures the informational landscape of labour governance. Cases that would otherwise remain unreported due to fear or ignorance become formalized within institutional channels, thereby enabling accountability mechanisms to operate. This aligns with broader findings in access to justice literature, which

emphasize that increased reporting is often an indicator of improved legal empowerment rather than deteriorating compliance.

Beyond individual empowerment, legal assistance also contributes to rebalancing bargaining power within employment relationships. By providing workers with legal arguments, documentation strategies, and procedural support, legal assistance strengthens their negotiating position vis-à-vis employers. In several cases observed during this program, employers complied with THR obligations only after workers initiated formal complaints supported by legal assistance. This suggests that legal assistance operates as a form of “shadow enforcement”, where the credible threat of legal escalation incentivizes compliance even in the absence of direct state intervention.

Moreover, legal assistance serves an important institutional bridging function between workers and state enforcement bodies. Labour inspection systems in Indonesia often suffer from capacity constraints and limited outreach, particularly in informal sectors. Legal assistance actors—such as community-based organizations, legal clinics, and academic institutions—help translate workers’ grievances into administratively recognizable claims, thereby facilitating engagement with formal enforcement mechanisms. In this respect, legal assistance complements, rather than substitutes, state enforcement by enhancing its accessibility and effectiveness.

However, the findings also indicate that the effectiveness of legal assistance is contingent upon broader institutional conditions. Persistent challenges—including weak follow-up by labour authorities, lack of protection for complainants, and bureaucratic delays—can undermine the outcomes of even well-supported complaints. This highlights that legal assistance, while necessary, is not sufficient as a standalone solution. Its impact depends on the responsiveness of the broader enforcement ecosystem.

Taken together, this study suggests that legal assistance should be understood not merely as an auxiliary service, but as a core component of labour rights enforcement architecture. It transforms legal norms into lived realities, enhances accountability, and mitigates structural inequalities in access to justice. Consequently, institutionalizing legal assistance—through community-based complaint clinics, integration with labour inspection systems, and collaboration between academia, civil society, and government—represents a crucial step toward closing the persistent gap between law and practice in Indonesian labour governance.

CONCLUSION

This community service demonstrates that the right to Religious Holiday Allowance (THR) is firmly embedded within Indonesia’s framework of normative labour rights, grounded in constitutional guarantees and statutory regulations. As such, THR should not be viewed merely as a contractual benefit, but as an integral component of broader labour rights aimed at ensuring dignity, fairness, and social justice in employment relations. However, despite this strong normative foundation, its realization in practice remains significantly limited.

Empirical findings from Surabaya reveal a persistent and structural gap between legal recognition and actual enforcement. The increase in reported violations—from 26 cases involving 1,203 workers in 2024 to 56 cases involving 1,811 workers in 2025—indicates that non-compliance is not incidental but systemic. The dominant forms of violations, including underpayment, installment-based arrangements, delayed payment, and non-payment, reflect patterns of partial or strategic compliance. This suggests the presence of what may be described as an informalization of compliance, where employers formally acknowledge legal obligations while substantively undermining them in practice.

These violations are further reinforced by structural barriers that limit workers’ access to justice. Limited legal literacy, fear of retaliation, procedural complexity, and weak institutional enforcement collectively prevent workers from effectively asserting their rights. As a result, formally guaranteed labour rights often remain inaccessible, particularly for workers in informal or precarious employment arrangements.

Within this context, legal assistance emerges as a critical mechanism for bridging the gap between law and practice. The community-based intervention implemented in this community service through legal education, complaint facilitation, and case-based assistance demonstrates that legal aid can significantly enhance workers’ capacity to claim their rights.

Nevertheless, the effectiveness of legal assistance remains contingent upon the broader institutional environment. Weak labour inspection systems, lack of protection for complainants, and bureaucratic inefficiencies continue to limit the overall impact of such interventions. This underscores that legal assistance, while essential, cannot operate effectively in isolation.

In conclusion, the protection of normative labour rights in Indonesia requires a multi-layered approach that integrates legal assistance, stronger enforcement mechanisms, and institutional reform.

Efforts to institutionalize community-based legal assistance and strengthen collaboration between government, academia, and civil society are crucial for closing the gap between legal norms and their practical realization. Future research should focus on developing comprehensive empirical data on THR violations and evaluating the long-term effectiveness of legal assistance models across different labour sectors, particularly in informal economies.

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