

NOTES

HOW CAN COVID-19 AFFECTED TO LABOR SECTORS? A CRITICAL NOTE

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Circular of the Minister of Manpower Number M / 3 / HK.04 / III / 2020 concerning Protection of Workers / Laborers and Business Continuity in the Prevention and Countermeasure of COVID-19, especially Part II Point 4 which reads: "For companies that restrict business activities due to government policies in each region for the prevention and control of COVID-19, so that some or all workers / laborers do not come to work, taking into account business continuity, changes in the amount and method of payment of workers / laborers' wages are carried out in accordance with the agreement between employers and workers / laborers. " This is not in accordance with the Manpower Act No. 13 of 2003 because with the issuance of the Minister's Circular the workers' rights can be arbitrarily violated because the Letter can negotiate workers' rights which is contrary to the Manpower Law and the Letter is not binding on the company which means companies may not implement the Minister of Manpower Circular.

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I. LABOR SECTOR AND COVID-19

At the beginning of 2020 the world was shocked by the discovery of a virus in one of the Chinese cities, namely Wuhan, this virus was called

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the corona virus or COVID-19. In addition to being deadly, this virus is relatively fast in terms of spread, it has been proven that to date it has reached more than 1.5 million with the death toll reaching 100,000.

However, this virus began to enter Indonesia in early March 2020, the latest data states that today the number of positive corona cases has reached 4241 people with the death toll reaching 399 and 359 people have successfully recovered. Due to the corona virus pandemic, all activities are limited, including economic activities.

Quoted on the *kompas.com* page, in the last 1 month there were at least 1.5 million workers who were affected by the corona virus (covid-19). Of this amount, as many as 10 percent or about 150,000 people became victims of termination of employment (PHK), while 90 percent were laid off.¹

Through the Circular Letter of the Minister of Manpower Number M/3/HK.04/III/2020 concerning Protection of Workers/Labourers and Business Continuity in the Context of Prevention and Control of COVID-19, especially Part II Point 4 which reads: "For companies that restrict their business activities, as a result of government policies in their respective regions for the prevention and control of COVID-19, causing some or all of the workers/laborers to be absent from work, taking into account business continuity, changes in the amount and method of payment of workers/laborers' wages are carried out in accordance with the agreement between the entrepreneur and the worker. /laborer."

This is not in accordance with the Manpower Law No. 13 of 2003 because with the issuance of the Ministerial Circular Letter, the rights of workers can be arbitrarily violated because the Circular Letter can negotiate workers' rights which is contrary to the Manpower Law and the Circular Letter is not binding on companies which means the company may not implement the SE Minister of Manpower.

Therefore, to anticipate the occurrence of violations of rights to workers and/or laborers, employers can rearrange the agreements that have been made previously with workers/laborers, especially in terms of wages and the company's obligation to provide health equipment for its employees to prevent transmission of the virus.

In terms of wages, if the company is unable to pay it, the company can apply for a suspension of payment by proving its financial statements and submit it for approval by the Governor with the consideration of the Wage Council. So that if the company suffers a loss during the Corona virus pandemic, the company can apply for a payment suspension, but by

¹ For further reading, please see Syahrial Syahrial, "Dampak COVID-19 terhadap Tenaga Kerja di Indonesia." *Jurnal Ners* Vol. 4 No. 2, 2020, pp. 21-29; Kanyaka Prajnaparamitha, and Mahendra Ridwanul Ghoni. "Perlindungan Status Kerja Dan Pengupahan Tenaga Kerja Dalam Situasi Pandemi COVID-19 Berdasarkan Perspektif Pembaharuan Hukum." *Administrative Law and Governance Journal* Vol. 3 No.2, 2020, pp. 314-328.

doing this, the minimum wage by the employer to the worker/laborer does not immediately eliminate the employer's obligation to pay the difference in the minimum wage during the suspension period.

In addition to wages, companies must also provide health equipment in accordance with Government recommendations to help fight the corona virus in accordance with Law no. 1 of 1970 concerning Occupational Safety and Regulation of the Minister of Manpower and Transmigration No. Per.02/Men/1980 concerning Labor Health Examination in the Implementation of Occupational Safety.

In addition to companies helping workers, the government must also take part in resolving layoffs and tackling the corona outbreak. In the Company, not all employees who work are permanent employees but there are also some employees who are still on probation, this is certainly a good target for employers to terminate employment if it has been required in writing beforehand, for that the Government steps in helping people who are positive for corona and those affected by the termination of employment by increasing the budget to provide basic necessities and direct cash assistance.²

Seeing conditions that are getting worse day by day, it is not impossible if the government does a lockdown or regional quarantine, but in his statement the president will issue a civil emergency policy, this is contrary to most other countries which prefer to use lockdown or regional quarantine policies. With the state declaring a civil emergency, the basic needs of citizens are no longer the responsibility of the central government because this Perpu is used if the country is in a state of danger or war, which would be wiser if the Government implemented the Health Quarantine Law that was made in 2018.

However, if in this case the spread of the virus remains massive and the wave of layoffs cannot be avoided, then the rights of workers in this case should not be neglected, the company must provide severance pay to workers in accordance with Article 156 paragraph (1) and paragraph (2) of Law No. 13 2003. In addition to the severance pay provided in the amount of 2 months wages, workers are also entitled to compensation for entitlements, which include:

1. Untaken annual leave or fall
2. The cost or cost of going home and your family to the place where you are accepted to work
3. Housing replacement as well as treatment and care are set at 15% of the severance pay

² Daniel Marshal Sajou, Kerenhapukh Milka Tarmadi Putri, and Niken Febriana Dwi. "Peran Negara Atas Perlindungan Hukum Tenaga Kerja Indonesia Pada Masa Pandemi Covid-19." *Jurnal Syntax Transformation* Vol. 1 No.8, 2020, pp. 445-452; Rais Agil Bahtiar, and Juli Panglima Saragih. "Dampak Covid-19 terhadap perlambatan ekonomi sektor umkm." *Jurnal Bidang Ekonomi Dan Kebijakan Publik* Vol. 7 No.6, 2020, pp. 19-24.

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4. Matters stipulated in the work agreement, company regulations or collective labor agreement

In terms of the implementation of Large-Scale Social Restrictions, the Government does not only apply it but also needs to pay attention to the fulfillment of the basic needs of the population. The basic needs of the population in question are health services, food needs, and the needs of daily life. Because the implementation of PSBB will have an impact on some people.

I took the example in Pekalongan City. In order to reduce the spread of the corona virus, as of April 1, a night curfew was applied, i.e. you were not allowed to leave the house from 21.00-04.00, and all stalls were closed except pharmacies. This has a very big impact for some people, especially parents who make a living at night.

For this reason, if the government wants to implement this rule, it is better for the basic needs sector to continue running but with a note that it must be wrapped or taken home, besides that the government must prepare basic needs as stated in the Health Quarantine Law.

If in terms of preparing everything, the government can issue a policy which forces every community with a wealth of 20 billion to donate 5% of their wealth to the government, this can later be used to cross-subsidize workers or workers who have been laid off. , affected MSMEs, buying medical equipment, etc.³

In addition to this policy, the government can expand the policy of delaying payments to leasing or banks for each worker as well as the affected community and MSMEs, not only positive people. This aims to save the budget during the pandemic, which is not yet known.

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³ Rais Agil Bahtiar, and Juli Panglima Saragih. "Dampak Covid-19 terhadap perlambatan ekonomi sektor umkm." *Jurnal Bidang Ekonomi Dan Kebijakan Publik* Vol. 7 No.6, 2020, pp. 19-24; Thaha, Abdurrahman Firdaus. "Dampak covid-19 terhadap UMKM di Indonesia." *BRAND Jurnal Ilmiah Manajemen Pemasaran* Vol. 2 No. 1, 2020, pp. 147-153.

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