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### Reconstructing The Paradigm Of Legal Protection Of Workers: Conceptual Renewal Of Termination In The Welfare Perspective

<sup>1</sup>Husaeri, <sup>2</sup>Nur Mohamad Kasim, <sup>3</sup>Weny Almoravid Dungga

<sup>1,2,3</sup>Postgraduate Master Of Law, Gorontalo State University, Indonesia

Email: [1husaerish@gmail.com](mailto:1husaerish@gmail.com), [2nurkasim@ung.ac.id](mailto:2nurkasim@ung.ac.id), [3wenyad@ung.ac.id](mailto:3wenyad@ung.ac.id)

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#### Abstract

*The reform of the termination of employment (PHK) regulation in Indonesia through Law Number 6 of 2023 concerning Job Creation has had a significant impact on the legal protection and welfare of workers. This study aims to evaluate changes in layoff regulations, the implications of compensation reductions, and the implementation of Pancasila principles and Human Rights (HAM) in the protection of workers who experience layoffs. The normative-juridical method is used by reviewing legislation, Court decisions, and the latest legal literature. The results show that although the job creation law provides flexibility for employers, the looser provisions in layoffs have the potential to harm workers, especially in the aspects of compensation and legal certainty. The implementation of Pancasila and human rights principles is an important foundation in ensuring the protection of workers so that the right to work, social justice, and humanity are maintained. Social security policies and fair dispute resolution mechanisms are strengthened through the latest Ministry of labor regulations, but the effectiveness of their implementation needs to be constantly monitored. The study recommends comprehensive reforms that promote a balance of interests between workers and employers, as well as strengthening constitutional protections for the sustainable welfare of workers.*

**Keywords:** Legal Protection; Termination Of Employment; Worker Welfare.

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## A. INTRODUCTION

A rule of law state is a state in which the exercise of governmental power is based on law. A state that is based on law in carrying out any action must be based on the law and be legally accountable. Indonesia as a state of law has a constitution in the form of the 1945 Constitution as the basis for legislation to regulate public behavior<sup>1</sup>. Furthermore, Indonesia is a unitary state that makes Pancasila as the only state ideology, this has the consequence that all the order of life in the Unitary State of the Republic of Indonesia must be based on the values contained in Pancasila, including the order in industrial relations. Pancasila industrial relations is a system of industrial relations which in its implementation is based on the values of Pancasila, namely the value of divinity, humanity, unity, consultative representation and especially the value of social justice<sup>2</sup>.

Legal protection and human rights of workers is a basic right protected by the Constitution as stipulated in Article 27 paragraph (2) of the Constitution of the Republic of Indonesia year 1945 which reads "Every citizen has the right to work and a decent livelihood for humanity". Article 33 Paragraph (1) also states that "the economy is structured as a joint effort over kinship", thus a violation of basic rights protected by the Constitution is a violation of human rights<sup>3</sup>. Protection of workers is intended to ensure the basic rights of workers and ensure equal opportunities and treatment without discrimination of any kind to realize the welfare of workers and their families while taking into account the development of the progress of the business world and the interests of employers. The rules related to the protection of workers are Law No. 13 of 2003 on manpower and Law No. 6 of 2023 on the determination of government regulations in lieu of Law No. 2 of 2022 on job creation into law<sup>4</sup>.

Employment is a very basic zone of human life in order to meet the needs of life in the field of social and economic dimensions both for themselves and for others, and or both.<sup>5</sup> An important goal in economic development is the provision of sufficient employment to pursue the growth of the labor force, whose growth is faster than the

<sup>1</sup> Bagir Manan, *Dasar-Dasar Hukum Tata Negara Indonesia* (Jakarta: Raja Grafindo Persada, 2003).

<sup>2</sup> Madaskolay Viktoris Dahoklory dan Lita Tyesta Addy Listya Wardhani, "Rekonstruksi Nilai-Nilai Pancasila dalam Undang-Undang," *Sasi* 26, no. 3 (2020): 297-309.

<sup>3</sup> Philipus Hadjon, *Perlindungan Hukum Bagi Rakyat Indonesia*, Cetakan Ke-12 (Surabaya: PT Bina Ilmu, 2017).

<sup>4</sup> Rizky Dian Bareta, Joko Santoso, dan Faisal Amin, "Peran Badan Layanan Umum dalam Politik Hukum Omnibus Law Cipta Kerja," *Jurnal Manajemen Perbendaharaan* 1, no. 1 (Desember 2020): 1-20, <https://doi.org/10.33105/jmp.v1i1.346>.

<sup>5</sup> H.R Abdussalam dan Adri Desafuryanto, *Hukum Ketenagakerjaan (Hukum Perburuhan)* (Jakarta: PTIK, 2015).

growth of employment opportunities. Employers and workers establish a legal relationship through an employment agreement regulated by Law No. 13 of 2003 concerning employment. According to Article 1 Paragraph (14) of the law, an employment agreement is "an agreement between workers/laborers and employers or employers that contains the terms of work, rights, and obligations of the parties". Although the labor agreement has derivative variations, each form of agreement must have a legal principle, subject, object, as well as legal conditions provided for in articles 1338 and 1320 of the Civil<sup>6</sup> Code.

In a labor agreement, each party must fulfill the rights and obligations enshrined in the principle of freedom of contract. This principle includes how far the parties can enter into an agreement, what relationship occurs between them in the agreement, and how far the law regulates the relationship of both parties<sup>7</sup>. Article 52 paragraph (1) of the labor law also regulates the elements that must be present in an employment agreement, namely the existence of work, elements under orders, certain wages, and certain times. Since 1926, a new regulation has been introduced in the burgerlijk Wetboek which is lengthy and in accordance with the progress of the Times. In the new regulation there are many articles aimed at protecting the workers against their employers.

As an external factor in the production process, the worker/laborer is often considered as a subject that depends on the will of the employer as the owner of the enterprise. Therefore, any activity within the company tends to give rise to arbitrary behavior towards the workforce. The employment relationship between the employer/employer and the worker/laborer will eventually end, either due to the initiative of the employer or the conscious desire of the worker/laborer himself. This condition requires balancing the position and protection of labor rights so that fair labor relations can be created<sup>8</sup>.

Work relationships have the potential to break. The termination of the employment relationship between an employer and a worker in labor law is called a layoff. There are several things that can cause layoffs, such as layoffs by law when

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<sup>6</sup> Rachmatika Lestari dkk., "Pendampingan Bipatrit Dalam Kasus Ketenagakerjaan," *Jurnal Pengabdian Hukum Indonesia (Indonesian Journal of Legal Community Engagement)* 5, no. 1 (2022): 59–76, <https://journal.unnes.ac.id/sju/index.php/JPHI/index>.

<sup>7</sup> Duwi Aprianti, "Perlindungan Hukum Terhadap Pekerja Dalam Perjanjian Kerja Tertentu (PKWT)," *Jurnal Hukum Saraswati* 3, no. 1 (2021), <https://e-journal.unmas.ac.id/index.php/JHS/article/view/1853>.

<sup>8</sup> Faizal Aditya Dermawan dan Bagus Sarnawa, "Peran Dinas Tenaga Kerja dalam Proses Mediasi Penyelesaian Permasalahan Hubungan Industrial," *Media of Law and Sharia* 2, no. 3 (Juli 2021): 272–87, <https://doi.org/10.18196/mls.v2i3.12076>.

workers retire or die, layoffs from the workers 'side when workers resign, and layoffs from the employers' side when employers terminate employment relationships for certain reasons. Layoffs are specifically regulated in Chapter XII of the labor law as part of the implementation of the Indonesian state as an adherent of the welfare state system, where the government intervenes in various fields to protect weaker parties<sup>9</sup>. In this case, the law was created to protect the worker as the party with the weaker position, since talking about workers ' rights is the same as talking about human rights.

The effort to cut jobs has resulted in higher unemployment rates and no one knows for sure when this problem will be resolved. In addition, layoffs have led to rising poverty, crime rates and worsening family finances. Layoffs are one of the difficult problems for workers, as a result of which companies need to lay off more intelligently because this can increase the number of unemployed and have an impact on people's welfare. Termination of employment is also very feared by employees because many companies have to go out of business due to unfavorable economic conditions<sup>10</sup>. The government provides legal protection guarantees for workers who experience layoffs through articles 150-172 of Law Number 13 of 2003 and Law Number 6 of 2023 concerning job creation. These two laws not only regulate the establishment of industrial relations, but also regulate the end of industrial relations between workers and employers<sup>11</sup>.

In Law No. 6 of 2023, the protection of workers against layoffs is reduced. In the event that layoffs cannot be avoided, the employer must inform the employee of the purpose and reasons for the layoffs. If workers refuse layoffs, settlement must be through bipartite negotiations between employers and workers, and if there is no agreement, layoffs must be made through an industrial relations dispute resolution mechanism. Law Number 6 of 2023 on Job Creation also says that employers or companies can lay off for various reasons that are not objective, which makes it easier for them to terminate their employment relationship<sup>12</sup>. According to Sudikno Mertokusumo, the law serves as a protection of human interests so that human

<sup>9</sup> Nur Mohamad Kasim, Dolot Alhasni Bakung, dan Intra Saleh, "Analisis Hukum Terhadap Pemutusan Hubungan Kerja (PHK) di Hotel Maqna Gorontalo," *Jurnal Begawan Hukum* 2, no. 1 (2024): 162–83.

<sup>10</sup> Yusmedi Yusuf dan Muhammad Rizqi Fadhlillah, "Upaya Perlindungan Hukum Pemutusan Hubungan Kerja (PHK) Terhadap Pekerja Dengan Perjanjian Kerja Waktu Tertentu (PKWT) Berdasarkan Hukum Ketenagakerjaan," *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 3, no. 3 (2025): 2628–36.

<sup>11</sup> Anjar Kususiyah, "Hubungan Industrial Pancasila Dalam Undang-Undang Cipta Kerja," *Invest Journal of Sharia & Economic Law* 1, no. 2 (Desember 2021): 42–59, <https://doi.org/10.21154/invest.v1i2.3478>.

<sup>12</sup> Rakhmat Nopliardy dan Ibelashri Justiceka, "Kajian terhadap perlindungan hukum bagi pekerja kontrak waktu tertentu (PKWT) dalam Undang-Undang Cipta Kerja," *Jurnal Terapung: Ilmu-Ilmu Sosial* 4, no. 2 (2022): 10–21.

interests are protected. Legal protection is the protection of human rights owned by the subject of law from arbitrary action or as a law that can protect one thing from another<sup>13</sup>.

Termination of employment is associated with Article 154A of Law Number 6 of 2023 concerning Job Creation which regulates various reasons for layoffs ranging from company mergers, efficiency, continuous losses, forced circumstances, bankruptcy, worker applications, resignation, defaulters, violations of regulations, detention, prolonged illness, retirement, to death. However, some companies actually terminate the employment relationship with their workers for reasons that do not meet the factors specified in this article<sup>14</sup>. This is what causes the legal gap between Das sollen or what should happen with das sein or reality in the field, namely some workers are terminated for unclear reasons and the company seems to close its eyes to the problems experienced by its workers.

In addition, the impact of termination on workers also causes consequences for companies to pay obligations to workers in the form of the right to compensation for termination of employment, as stipulated in Article 156 of Law No. 6 of 2023 concerning Job Creation which includes severance pay, work period award money, and replacement rights money. Carefully, if you pay attention to Article 156 paragraph (4) of Law Number 6 of 2023 concerning job creation, there is no longer a right replacement money whose amount is 15% (fifteen percent) of the total severance pay and Work award money as stipulated in the previous Labor Law. This is one of the factors that reduce workers' rights for the welfare of workers who experience termination of employment<sup>15</sup>.

Based on data from the Ministry of Manpower after the publication of Law Number 6 of 2023 on job creation, there has been a surge in cases of termination of employment in Indonesia. The number of laid-off workers in Indonesia in 2022 is 25,114 people. In the January-December 2023 period, there were 64,855 laid-off workers with the most laid-off workers in West Java province, which is around 29.63 percent of the total number. In the period January-December 2024, there were 77,965

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<sup>13</sup> Haikal Arsalan dan Dinda Silviana Putri, "Reformasi Hukum dan Hak Asasi Manusia dalam Penyelesaian Perselisihan Hubungan Industrial," *Jurnal HAM* 11, no. 1 (April 2020): 39, <https://doi.org/10.30641/ham.2020.11.39-50>.

<sup>14</sup> Weny Almoravid Dungga, Husain Hilala, dan Julius T. Mandjo, "Bentuk Tanggung Jawab Perusahaan Serta Perlindungan Hukum Bagi Pekerja Dalam Kasus Perselisihan Pemutusan Hubungan Kerja PT. Tri Jaya Tangguh Kec. Boliyohuto," *Jurnal Relasi Publik* 2, no. 2 (2024): 48–56, <https://doi.org/10.59581/jrp.widyakarya.v2i2.3094>.

<sup>15</sup> Ishar Pulungan, "Kepastian Hukum Bagi Karyawan Dengan Perjanjian Kerja Waktu Tertentu Ditinjau dari Perpu Cipta Kerja," *Supremasi Jurnal Hukum* 5, no. 02 (2022), <http://jurnal.usahid.ac.id/hukum/article/view/1496>.

workers who were laid off with the most laid-off workers in DKI Jakarta province, which is around 21.91 percent of the reported number of laid-off workers. If taken in total from January to September 2025, the number of workers who were laid off reached 45,426 people with the highest number of layoffs occurring in February 2025 which reached 17,796 people. Termination of employment that occurs in the province of Gorontalo many are not appropriate and contrary to labor laws. This can be seen in the case that occurred in the Industrial Relations Court at the Gorontalo District Court which is the institution authorized to examine, prosecute and decide cases of industrial relations disputes that occur in Gorontalo province with decision Number 8/Pdt.Sus-PHI/2024/PN Gto, Putusan Nomor 9/Pdt.Sus-PHI/2024/PN Gto, Putusan Nomor 10/Pdt.Sus-PHI/2024/PN Gto dan Putusan Nomor 11/Pdt.Sus-PHI/2024/PN Gto. This case happened to several workers who were union administrators at one of the companies in Gorontalo who were laid off unilaterally by the company on the grounds that the company suffered losses, then the right to compensation for the layoffs was far below the provisions as stipulated in Article 156 of Law Number 6 of 2023 concerning job creation. This phenomenon shows the urgency of reformulating the legal protection of workers in termination of employment in order to realize a more just and equitable welfare of workers in accordance with the principles of the welfare state

## B. RESEARCH METHODS

The research method used in this study is normative legal research method with normative juridical approach. This method focuses on the study of the rule of law, analysis of legislation, jurisprudence, and legal literature relevant to the issue of termination of employment and legal protection of workers<sup>16</sup>. The data sources used are primary data in the form of labor-related laws, implementing regulations, and secondary data such as journals, books, scientific articles, and court decisions related to legal issues in industrial relations. Data collection techniques are carried out *through library research* and documentation to obtain in-depth and accurate legal materials. Data analysis uses a qualitative approach with a deductive method, that is, draw conclusions based on the norms of applicable law and the actual conditions found in the field. This approach is suitable for understanding the legal dimension and developing the concept

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<sup>16</sup> Irwansyah, *Penelitian Hukum : Pilihan Metode dan praktik penulisan Artikel* (Yogyakarta: Mirra Buana Media, 2020).

of reformulating the legal protection of workers in the context of termination of employment for the welfare of workers in a comprehensive and systematic<sup>17</sup>manner.

### C. RESULTS AND DISCUSSIONS

Regulatory reform of layoffs in the perspective of legal protection of workers

Indonesia's labor law reform has undergone significant changes in line with the enactment of Law Number 6 of 2023 concerning the determination of government regulations in lieu of Law Number 2 of 2022 concerning job creation into law. This change has a substantial impact on the mechanism of termination of employment (PHK) and legal protection for workers in Indonesia. As a country that adheres to the principles of welfare state and upholds the values of Pancasila, Indonesia has a constitutional obligation to protect the rights of workers as mandated in Article 27 paragraph (2) and Article 33 paragraph (1) of the 1945 Constitution. Nevertheless, the implementation of the job creation law raises academic and practical debates about the extent to which legal protection of workers is actually realized, especially in the context of increasingly flexible layoffs for employers<sup>18</sup>.

Fundamental changes in the regulation of layoffs can be seen from the comparison between Law No. 13 of 2003 on employment with the current job creation law. In the previous Labor Law, the legal protection of workers who suffered layoffs was more comprehensive and provided greater guarantees of compensation. One of the most controversial changes is the reduction of layoff compensation, specifically related to the elimination of the right replacement money of 15% of the total severance pay and Work award money previously stipulated in Article 156 paragraph (4) of the labor law. The elimination of this component directly reduces the economic rights of workers who experience layoffs and impacts their well-being post-termination.

The job creation law divides the reasons for layoffs into broader and flexible categories, including layoffs due to efficiency that do not have to be followed by the closure of the company. Article 154A paragraph (1) letter (b) of the job creation law confirms that "the company performs efficiency followed by the closure of the company or not followed by the closure of the company due to the company experiencing losses"<sup>19</sup>. This provision provides a wide interpretation space for employers to make

<sup>17</sup> Zainudin Ali, *Metode Penelitian Hukum* (Jakarta: Sinar Grafika, 2021).

<sup>18</sup> Nabiyla Risfa Izzati, "Kepastian Hukum vs Ketidakpastian Kerja: Substansi Ketenagakerjaan Dalam Undang-Undang Nomor 6 Tahun 2023 Tentang Cipta Kerja," *Jurnal Hukum Ius Quia Iustum* 31, no. 2 (2024): 384-407.

<sup>19</sup> Tri Widya Kurniasari, "Kepastian hukum terhadap perlindungan pekerja outsourcing pasca undang-undang nomor 11 tahun 2020 tentang cipta kerja," *Jurnal Geuthèè: Penelitian Multidisiplin* 5, no. 2 (2022): 123-36.

layoffs for reasons of efficiency, even when the company does not close its business. This flexibility, while intended to encourage a conducive investment climate, in practice creates legal uncertainty for workers whose position is weaker in industrial relations.

Empirical Data shows a significant correlation between the enactment of the job creation law with an increase in the number of layoffs in Indonesia. Based on data from the Ministry of manpower, the number of workers who were laid off experienced a drastic surge from 25,114 people in 2022 to 64,855 people in 2023, then increased again to 77,965 people in 2024. Even until September 2025, the number of workers who experienced layoffs had reached 45,426 people with the highest peak occurring in February 2025 which reached 17,796 people. This increase in numbers indicates that the regulation of layoffs in the job creation law tends to be more permissive for employers to terminate employment, which in turn weakens the bargaining position and legal protection for workers.

Changes in the dispute resolution mechanism of layoffs also underwent significant modifications. The decision of the Constitutional Court number 168/PUU-XXI / 2023 brings an important change by stating that in the event that bipartisan negotiations do not produce an agreement, layoffs can only be carried out after obtaining a determination from the industrial relations dispute settlement institution whose decision has permanent legal force. This ruling actually strengthens procedural protections for workers by ensuring that layoffs cannot be carried out unilaterally without going through proper legal mechanisms. Nevertheless, the implementation of this ruling in practice still faces various obstacles, including the accessibility of workers to dispute resolution institutions and the duration of the process, which often takes a long time.

From the perspective of substantive legal protection, changes in the amount of layoff compensation in the job creation law indicate a reduction in workers' economic rights. Article 156 of the job creation law regulates the amount of severance pay and Work award with a different formula from the previous Labor Law. For layoffs for reasons of efficiency because the company suffered losses, workers are only entitled to severance pay of 0.5 times the provision and the award of working time of 1 times the provision. While for efficiency aimed at preventing losses, the compensation given is even lower. This reduction in the amount of compensation has a direct impact on the

economic ability of workers to survive post-layoffs, especially given the difficulty of finding new jobs in competitive labor market conditions<sup>20</sup>.

The legal gap between *das sollen* (what should be) and *das sein* (the reality that is happening) is increasingly evident in the implementation of layoff regulations. Many cases show that employers make layoffs for reasons that are not in accordance with the provisions of Article 154A of the job creation law, but enforcement is still weak. Studies conducted by the West Java provincial Manpower office show that the role of the government in the protection of workers who experience layoffs is limited to facilitators and supervision, without sufficient authority to provide strict sanctions to employers who violate. This condition aggravates the imbalance of bargaining position between workers and employers in industrial relations.

In terms of social protection, the impact of layoffs is not only economic but also social and psychological. Workers who experience layoffs face the risk of poverty, family instability, and decreased quality of life. The job creation law actually anticipates this by integrating the job loss Guarantee program managed by BPJS Ketenagakerjaan<sup>21</sup>. However, reliance on the JKP program actually shows that the layoff compensation provided by employers is no longer sufficient to ensure the welfare of workers in the long term. The JKP Program, although it provides temporary assistance in the form of cash and job training, cannot replace the loss of regular income and job stability experienced by workers.

The concept of *welfare state* adopted by Indonesia should place the state as the main protector of the welfare of the people, including workers. However, the implementation of the job creation law shows a paradigm shift from worker protection to labor market flexibility that is more oriented to investment interests<sup>22</sup>. Research shows that job creation laws benefit employers more than workers by giving employers greater freedom to lay off. This is contrary to the principle of social justice as mandated in the fifth precept of Pancasila and Article 33 of the 1945 Constitution which emphasizes the principle of kinship in the national economy.

<sup>20</sup> Paksi Rafi dan Rasji Rasji, "Perlindungan Hukum terhadap Pekerja PKWT dalam Kasus PHK Sepihak oleh PT Far East Seating: Studi Putusan Nomor 2/Pdt. Sus-PHI/2024/PN Smg," *MORALITY: Jurnal Ilmu Hukum* 11, no. 1 (2025): 31–43.

<sup>21</sup> Saleh Saepuloh dan Akbar Sayudi, "Analisis Yuridis Perlindungan Hukum Terhadap Pekerja dengan Perjanjian Kerja Waktu Tertentu (PKWT) Menurut Undang-Undang Nomor 06 Tahun 2023 tentang Penetapan Peraturan Pengganti Undang-Undang Nomor 02 Tahun 2022 tentang Cipta Kerja Menjadi Undang-Undang.," *As-Syar'i: Jurnal Bimbingan & Konseling Keluarga* 6, no. 2 (2024): 2145–64.

<sup>22</sup> Adi Subowo, Nobella Indradjaja, dan Chamdani Chamdani, "Perlindungan Hukum Menurut Perspektif Undang-Undang Cipta Kerja Dalam Pemberian Kompensasi Pekerja Pkwt Di Pt Buana Megah Papermills Pasuruan," *Wijaya Putra Law Review* 4, no. 1 (2025): 45–60.

Comparison with previous regulations shows a significant reduction in the legal protection of workers. Article 164 paragraph (3) of the previous labor law provides better protection by requiring employers to provide greater compensation for layoffs due to efficiency. In addition, the layoff procedure in the labor law is more stringent by requiring maximum efforts to avoid layoffs through various alternatives such as reduced wages, reduced working hours, and delays or restrictions on certain activities. Job creation laws tend to ease the process of layoffs without a strong enough obligation for employers to explore other alternatives.

The decision of the Constitutional Court related to the job creation law has actually changed 21 Labor cluster norms, with 5 points that have a direct impact on the layoff mechanism. This ruling recognizes the unfairness of layoff regulations and seeks to restore the balance of legal protections for workers. However, the Constitutional Court's declarative decision still requires legislative follow-up in the form of revisions to the job creation law or more detailed implementing regulations. Without consistent implementation, the court's decision will only be a legal document with no real impact on the protection of workers in the field.

Responsive regulatory reform of layoffs must be able to restore the balance of interests between workers and employers. This can be done through several approaches: first, increase the amount of layoff compensation by refunding the replacement of rights by 15% that have been removed. Second, tighten the layoff procedure by requiring employers to objectively prove the reasons for layoffs through independent audits, especially for layoffs on the grounds of the company's efficiency or losses. Third, strengthen the government's supervision mechanism by giving greater authority to the Manpower office to conduct unannounced inspections and provide administrative and criminal sanctions to employers who commit arbitrary layoffs.

In addition, the reform should also include more comprehensive aspects of social protection. The JKP Program needs to be strengthened by increasing the amount of benefits, extending the duration of protection, and expanding the scope of job training in accordance with market needs. The government also needs to develop alternative protection schemes such as early retirement funds for workers who experience layoffs with long service lives, as well as debt restructuring programs to help workers who have lost income. This holistic approach is important to ensure that layoffs do not result in structural poverty and social marginalization for workers and their families.

In the context of *welfare state* Indonesia, the reform of layoff regulations must also be in line with Pancasila values, especially the second precept of fair and civilized

humanity and the fifth precept of social justice for all Indonesian people. This means that Labour policies must not only be oriented towards economic efficiency, but must also take into account humanitarian and social justice dimensions. Entrepreneurs as owners of capital have a social responsibility not to treat workers solely as factors of production that can be cut off at any time, but as partners in building a Just Economy<sup>23</sup>.

The implementation of the principle of social justice in the regulation of layoffs also requires the active participation of trade unions as a representation of the interests of workers. Unions should be empowered to engage in decision-making processes related to layoffs, including in bipartite and tripartite negotiations. Protection of union officials from arbitrary layoffs must also be strengthened, given the many cases in which union officials are targeted for layoffs because they actively fight for workers' rights<sup>24</sup>. Cases in the Gorontalo Industrial Relations Court show that union officials are vulnerable to unilateral layoffs with compensation that is not in accordance with the provisions.

Legal certainty is a fundamental element in a fair labor law system. The reform of the layoff regulation must be able to provide legal certainty for both parties, both workers and employers, by establishing clear, objective and predictable standards and procedures. This is important to prevent arbitration and abuse of authority by either party<sup>25</sup>. The Industrial Relations Court as a dispute resolution institution also needs to be strengthened in its capacity by increasing the number of specialized labor judges, improving the efficiency of the judicial process, and ensuring decisions that are consistent with the principles of worker protection<sup>26</sup>.

Regulatory reform of layoffs in the perspective of legal protection of workers is an urgent need to restore balance and fairness in Indonesia's industrial relations. The current job creation law has reduced legal protection for workers, both from substantive aspects in the form of reduced compensation and procedural aspects in the form of ease for employers to lay off. Empirical Data show a significant increase in the number of workers laid off after the enactment of the job creation law, which indicates structural

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<sup>23</sup> Reza Mahardika, "Perlindungan Hak Pekerja PKWT Dalam Pemutusan Hubungan Kerja Berdasarkan Dari Ketentuan Hukum Ketenagakerjaan," *Ethics and Law Journal: Business and Notary* 1, no. 2 (2023): 104–12.

<sup>24</sup> Aditya T Wijaya dan Rahayu Subekti, "Penyelesaian Perselisihan Pemutusan Hubungan Kerja ( Phk ) Pada Masa Pandemi Covid-19 Melalui Mediator," *Jurnal Pendidikan Kewarganegaraan Undiksha* 9, no. 2 (2021).

<sup>25</sup> Andika Dwi Yuliardi dan Imam Budi Santoso, "Upaya Arbitrase dalam Penyelesaian Perselisihan Hubungan Industrial Didasarkan Adanya Kesepakatan Para Pihak," *Perspektif Hukum*, 13 Mei 2022, 139–65, <https://doi.org/10.30649/ph.v22i1.92>.

<sup>26</sup> Audina Afriani, Muhamad Rizal, dan Sari Usih Natari, "Penyelesaian Perselisihan Hubungan Industrial yang Disebabkan oleh Hak Atas Upah Lembur di PT Tirta Investama Kabupaten Langkat Dihubungkan dengan UU No 2 Tahun 2004," *VISA: Journal of Vision and Ideas* 3, no. 3 (Agustus 2023): 536–44, <https://doi.org/10.47467/visa.v3i3.4129>.

problems in the regulation. The necessary reforms should be comprehensive, include increasing compensation, tightening layoff procedures, strengthening government supervision, and expanding social protection for workers who experience layoffs. All these reform efforts must be based on Pancasila values and welfare state principles that place welfare and social justice as the main goals of Indonesia's national development. Implementation Of Pancasila And Human Rights Principles In The Protection Of Layoff Workers

The implementation of the principles of Pancasila and Human Rights in the protection of workers who experience termination of employment (PHK) is a concrete manifestation of the character of Indonesia as a state of law based on Pancasila and the 1945 Constitution<sup>27</sup>. The normative-juridical approach to the reformulation of workers ' legal protection must place the values of Pancasila and human rights as a philosophical and constitutional foundation that cannot be separated from the national labor law system. Pancasila as the state ideology and outlook on life of the Indonesian nation contains noble values that reflect the personality of the nation, namely the value of divinity, humanity, unity, people, and social justice. The five precepts in Pancasila are closely related to the protection of workers ' rights, especially the second precept on fair and civilized humanity and the fifth precept on social justice for all Indonesian people<sup>28</sup>. Human values teach that every human being has the same dignity and dignity, so workers should not be treated as mere objects or means of production that can be discarded at any time through layoffs without adequate protection. While the value of social justice affirms that welfare must be enjoyed by all Indonesian people equally, including workers who experience layoffs must get fair compensation and protection so as not to fall into poverty.

In the context of labor law, the implementation of Pancasila is realized through the Pancasila industrial relations system that prioritizes the principles of deliberation, kinship, mutual assistance, and Justice. Pancasila industrial relations implies that the relationship between workers and employers is not merely a transactional contractual relationship, but a relationship based on human values and social justice<sup>29</sup>. Therefore, when layoffs occur, the process and mechanism must be carried out in a humane, fair way, and taking into account the welfare of workers and their families. Employers

<sup>27</sup> Arsalan dan Putri, "Reformasi Hukum dan Hak Asasi Manusia dalam Penyelesaian Perselisihan Hubungan Industrial."

<sup>28</sup> Otong Syuhada, "Karakteristik Negara Hukum Pancasila yang Membahagiakan Rakyatnya," *Journal Presumption of Law* 3, no. 1 (2021): 1–18.

<sup>29</sup> Lestari dkk., "Pendampingan Bipatrit Dalam Kasus Ketenagakerjaan."

cannot make layoffs unilaterally and arbitrarily without considering the social and economic impacts that will be experienced by workers. The state as a protector must affirm its role and responsibility in ensuring that the principles of Pancasila are truly implemented in the practice of industrial relations, including in the situation of layoffs.

Legal protection and human rights of workers is the fulfillment of basic rights inherent and protected by the Constitution as stipulated in Article 27 paragraph (2) of the Constitution of the Republic of Indonesia year 1945 which reads "Every citizen has the right to work and a decent livelihood for humanity". This article provides a constitutional guarantee that every Indonesian citizen has the right to work and earn a decent living, which implies that the state is obliged to create conditions that allow every citizen to work and earn enough to live a decent<sup>30</sup>life. In the context of layoffs, this provision means that the state must ensure that workers who experience layoffs continue to receive adequate legal protection, including appropriate compensation and access to new jobs through effective employment programs. In addition, Article 33 paragraph (1) of the 1945 Constitution states that "the economy is structured as a joint venture based on the principle of kinship" which implies that the relationship between workers and employers must be based on the spirit of kinship, not merely exploitative employer-labor relations. The family principle requires that when a company faces difficulties that require layoffs, employers must first make every effort to avoid layoffs, such as restructuring, reducing working hours, or temporarily reducing wages with the consent of workers<sup>31</sup>.

Human rights in the field of Labor are also regulated comprehensively in Law No. 39 of 1999 on Human Rights. Article 28 of the 1945 Constitution as a result of the Second Amendment affirms various human rights related to work, including in Article 28D paragraph (2) which states "Everyone has the right to work and receive remuneration and fair and decent treatment in labor relations"<sup>32</sup>. This provision reinforces the guarantee that workers are not only entitled to employment, but also entitled to fair

<sup>30</sup> Ida Hanifah, "Kebijakan Perlindungan Hukum Bagi Pekerja Rumah Tangga Melalui Kepastian Hukum," *Jurnal Legislasi Indonesia* 17, no. 2 (2020): 193–208.

<sup>31</sup> Deden Muhammad Surya, "Pemutusan Hubungan Kerja Pada Pekerja/Buruh Dengan Dasar Menolak Mutasi Ditinjau Dari Perspektif Asas Kepastian Hukum Dan Asas Keadilan," *Jurnal Wawasan Yuridika* 2, no. 2 (2018): 169–86.

<sup>32</sup> Mohamad Fajri Mekka Putra dkk., *Hak asasi manusia: Landasan, perkembangan dan tantangan* (PT. Green Pustaka Indonesia, 2024), [https://books.google.com/books?hl=id&lr=&id=zXr3EAAAQBAJ&oi=fnd&pg=PA79&dq=hak+atas+pangan+yang+aman+juga+ditegaskan+dalam+International+Covenant+on+Economic,+Social,+and+Cultural+Rights+\(IC+ESCR\),+yang+telah+diratifikasi+oleh+Indonesia+melalui+UU+Nomor+11+Tahun+2005&ots=ET4IxUUHyb&sig=UJnbYmSgzP89eCfPIYzpyqJ68Po](https://books.google.com/books?hl=id&lr=&id=zXr3EAAAQBAJ&oi=fnd&pg=PA79&dq=hak+atas+pangan+yang+aman+juga+ditegaskan+dalam+International+Covenant+on+Economic,+Social,+and+Cultural+Rights+(IC+ESCR),+yang+telah+diratifikasi+oleh+Indonesia+melalui+UU+Nomor+11+Tahun+2005&ots=ET4IxUUHyb&sig=UJnbYmSgzP89eCfPIYzpyqJ68Po).

treatment in all aspects of the employment relationship, including when facing layoffs. Fair treatment in the context of layoffs includes transparent layoff procedures, objective and demonstrable reasons for layoffs, opportunities for self-defense, as well as compensation in accordance with the length of Service and the contribution of workers to the company. Violation of these rights is not only a violation of labor legislation, but also a violation of human rights guaranteed by the Constitution.

In practice, the implementation of Pancasila and human rights principles in the protection of layoff workers still faces various challenges. Many cases show that laid-off workers do not receive adequate protection, both in terms of procedures and compensation. Contract workers, for example, often do not get any severance pay at all despite having worked for many years. This shows that the government has not fully carried out its obligations as a protector of workers' rights. The government seems to let employers do arbitrary actions to their workers without being able to intervene effectively. For this reason, the government must make policies in favor of workers so that their rights are not ignored and their dignity as human beings is maintained.

The latest regulation of the Ministry of manpower in 2025 shows the direction of increasing social security and compensation for workers who experience layoffs as a concrete form of Humanist Legal Protection. Regulation of the Minister of manpower No. 2 of 2025, No. 3 of 2025, and No. 5 of 2025 regulate various aspects of worker protection, including increasing job loss insurance (JKP) benefits and extending the claim period for laid-off workers. The JKP program administered by BPJS Ketenagakerjaan provides protection in the form of cash for six months, access to job training, and job market information to help laid-off workers get new jobs. Government Regulation No. 6 of 2025 also strengthens aspects of Social Security for workers by increasing the scope and amount of benefits that can be received<sup>33</sup>. These policies demonstrate the government's seriousness in implementing the welfare state principle and protecting the welfare of workers who experience layoffs. However, the effectiveness of this policy still needs to be evaluated periodically to ensure that its implementation really provides optimal benefits for workers.

Optimal implementation still requires the improvement of litigation and non-litigation mechanisms to resolve industrial relations disputes fairly, transparently, and quickly. Non-litigation mechanisms include bipartite negotiations between workers and

<sup>33</sup> Humairoh Tazkiyatun Nisa, Guruh Novan Aldianto, dan Eka Saputra, "Optimalisasi Manfaat Jaminan Kehilangan Pekerjaan (JKP) Bagi Karyawan PKWT," *Journal of Management and Social Sciences* 2, no. 1 (2023): 252–62.

employers, mediation by the Employment Service, and conciliation through conciliators appointed by the parties. Bipartite negotiations are the first and main stage in resolving layoff disputes, where the parties are expected to reach an agreement that is a win-win solution without having to go through legal channels that take time and cost. In practice, however, bipartite negotiations are often unbalanced because of the weak bargaining position of workers versus employers<sup>34</sup>. Therefore, the role of a mediator from the Manpower office is very important to ensure that the negotiation process runs fairly and produces an agreement that does not harm workers. The Mediator must have sufficient competence in the field of labor law and be able to be neutral and objective in facilitating negotiations.

The litigation mechanism through the Industrial Relations Court (PHI) is the last resort if the non-litigation mechanism does not succeed in reaching an agreement. Constitutional Court decision number 168/PUU-XXI / 2023 has strengthened procedural protection for workers by stating that layoffs can only be carried out after obtaining a determination from the industrial relations dispute settlement institution whose decision has permanent legal force<sup>35</sup>. This ruling represents a significant advance in protecting workers from unilateral layoffs by employers. However, the accessibility of workers to PHI is still a problem because not all regions have PHI, so workers have to travel far and cost a lot to file a lawsuit. In addition, the trial process in PHI often takes a long time although the law provides that the verdict must be handed down within a maximum of 50 working days. This delay harms workers who desperately need legal certainty and layoff compensation to meet the needs of daily life.

Protection of workers is not only limited to regulations, but also real practices that ensure their well-being. Good regulation without effective implementation will not provide benefits to workers<sup>36</sup>. Therefore, synergy between the government, employers, and trade unions is needed to ensure that the principles of Pancasila and human rights are truly applied in every aspect of industrial relations, including in the event of layoffs. The government should strengthen the functions of supervision and law enforcement by increasing the number and competence of labor inspectors, conducting periodic

<sup>34</sup> Ahmad Hunaeni Zulkarnaen, "Sosialisasi Asas Tujuan Lembaga Kerjasama Bipartit Dan Pencegahan Perselisihan Hubungan Industrial," *JE (Journal of Empowerment)* 2, no. 2 (2021): 276–85.

<sup>35</sup> Agus M Karsona dan Hazar Kusmayanti, "Penyelesaian Perselisihan Hubungan Industrial Melalui Putusan Perdamaian di Pengadilan Hubungan Industrial Pengadilan Negeri Padang Kelas I (A)," *JURNAL HUKUM ACARA PERDATA ADHAPER* 6, no. 1 (2020).

<sup>36</sup> Alvin Pratama, Indra Afrita, dan Yeni Triana, "Perlindungan Hukum Pekerja Terhadap Pemutusan Hubungan Kerja Secara Sepihak oleh Perusahaan," *Innovative: Journal Of Social Science Research* 4, no. 6 (2024): 5298–307.

unannounced inspections, and providing strict sanctions to employers who violate the provisions of layoffs. Labor inspectors should be given broader powers to investigate and recommend administrative and criminal sanctions to employers who commit arbitrary layoffs.

Entrepreneurs as business actors must be aware of their social responsibility to not only pursue profits, but also pay attention to the welfare of workers. *Corporate Social Responsibility* (CSR) in the field of employment should include a commitment to protect the rights of workers, including when faced with situations that require layoffs. Employers should make layoffs as a last resort after all other alternatives have been maximally pursued. In carrying out layoffs, employers must follow the correct procedures, provide fair compensation, and help workers to find new jobs through outplacement programs or recommendations to other companies. This is in line with the values of Pancasila which emphasizes the principle of kinship and mutual assistance in running a business<sup>37</sup>.

Trade unions have a strategic role in fighting for workers' rights and ensuring that layoffs are carried out in accordance with applicable legal provisions. Unions should be empowered to actively engage in bipartisan and tripartite negotiations, provide legal assistance to workers facing layoffs, and advocate for policies to strengthen legal protections for workers. The protection of union officials from arbitrary layoffs must also be strengthened because they are often the target of layoffs due to active struggle for workers' rights<sup>38</sup>. Cases in the Gorontalo Industrial Relations Court show that union officials who are vocal in voicing the aspirations of vulnerable workers experience layoffs for unclear reasons. This is a violation of the right to association and assembly guaranteed by the ILO Constitution and conventions that have been ratified by Indonesia.

Education and increased legal awareness for workers is also an important part of the implementation of human rights protection. Many workers are unaware of their rights in the employment relationship, including their rights when experiencing layoffs. This ignorance is often exploited by employers to make layoffs with substandard compensation or without following the correct procedures. Therefore, the government, trade unions, and non-governmental organizations need to socialize and educate labor

<sup>37</sup> Mochammad Tegar Fadillah dan Fenny Fatriani, "Perlindungan Hak Bagi Pekerja yang di PHK Oleh Perusahaan," *Themis: Jurnal Ilmu Hukum* 3, no. 1 (2025): 1–10.

<sup>38</sup> Aries Harianto dan Charina Lucky Pratiwi, "Pencatatan Serikat Pekerja/Serikat Buruh Berdasarkan Asas Kebebasan Berserikat," *INTERDISCIPLINARY JOURNAL ON LAW, SOCIAL SCIENCES AND HUMANITIES* 2, no. 1 (Mei 2021): 1, <https://doi.org/10.19184/ijl.v1i2.21975>.

law in a massive and sustainable manner. Workers must be empowered with sufficient legal knowledge so that they can defend themselves and claim their rights in the event of injustice. The labor law literacy Program can be conducted through various media, including social media, seminars, workshops, and counseling in the workplace.

The implementation of Pancasila and human rights principles in the protection of layoff workers also requires a *strong political will* from the government to revise policies that harm workers. Job creation laws that tend to be more favorable to employers need to be revised to restore a balance of protections for workers<sup>39</sup>. Commission IX of the House of Representatives has proposed a revision of the labor law to be included in the National Legislation Program (Prolegnas) priority 2025 as a follow-up to the decision of the Constitutional Court. This revision should include an increase in the amount of layoff compensation, tightening layoff procedures, and strengthening social protection mechanisms for laid-off workers. The revision process must involve the active participation of trade unions, academia, and civil society to ensure that the resulting regulation truly reflects fairness and protects the interests of workers.

In conclusion, the implementation of Pancasila and human rights principles in the protection of laid-off workers is a constitutional obligation of the Indonesian state that cannot be negotiated. This protection must be comprehensive, including substantive aspects in the form of appropriate compensation, procedural aspects in the form of fair dispute resolution mechanisms, and social protection aspects in the form of adequate job loss guarantees. Effective implementation requires a synergy between pro-worker regulation, strict law enforcement, and awareness from all parties to respect the dignity of workers as human beings. Thus, the protection of workers who experience layoffs is not only limited to juridical rhetoric, but is actually realized in real practices that ensure their welfare in accordance with the noble values of Pancasila and universal human rights principles.

#### D. CONCLUSION

Based on the discussions that have been carried out, it can be concluded that the reform of the termination of employment (PHK) regulation in Indonesia as stated in Law Number 6 of 2023 concerning job creation brings fundamental changes that have

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<sup>39</sup> Ambrosia Christava Niwanoti Serrao dan Any Suryani Hamzah, “Kepastian Hukum Pekerja PKWT Setelah Berlakunya Undang-Undang Nomor 6 Tahun 2023 Tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2022 Tentang Cipta Kerja Menjadi Undang-Undang,” *Private Law* 5, no. 3 (2025): 651–62.

a significant impact on the legal protection of workers. Although this regulation provides flexibility to employers and is intended to encourage an investment climate, the reduction in compensation and reimbursement money entitlements and the expansion of the reasons for layoffs pose a risk of vulnerability and uncertainty for workers. Empirical Data shows an increase in the number of workers who have been laid off since the enactment of this law, which demands more responsive regulatory reforms to restore the balance of interests of workers and employers.

In addition, the protection of laid-off workers must be based on the principles of Pancasila and Human Rights, which emphasize human values, mutual cooperation, and social justice. The state has an important role to play in protecting the right to work and the welfare of workers, including through social security policies and fair and transparent dispute resolution mechanisms. The implementation of the latest labor regulations in 2025 shows efforts to increase Social Security and compensation for laid-off workers, although their effectiveness needs to be continuously evaluated.

Synergy between pro-worker regulation, strict law enforcement, active union participation, and workers legal awareness is the main key to realizing concrete legal protection. With a comprehensive approach involving all stakeholders, the reform of layoff legal protection can be aligned with Pancasila values and welfare state principles, thus creating industrial relations that are fair, humane, and support the welfare of workers in Indonesia.

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