

**LEGAL REVIEW OF ARTICLE 156 PARAGRAPH 2 OF LAW NO. 13 OF 2003
CONCERNING EMPLOYMENT WITH GOVERNMENT SUPERVISION OF THE
FULFILLMENT OF SEVERANCE PAY RIGHTS FOR WORKERS EXPERIENCING
TERMINATION OF EMPLOYMENT**

Asih Susilowati.,S.H.,M.H.,M.Kn
Pamulang University
dosen01144@unpam.ac.id

ABSTRACT

Justice for workers and employers is the goal of development in the field of labor in Indonesia. Such justice is highly dependent on the quality of labor law that regulates the employment relationship between workers and employers. If labor laws and other regulations are of poor quality, they will lead to disputes that eventually lead to termination of employment. Based on the fact that the injustice that occurs in termination of employment is caused by problematic legal system factors, the legal culture of the community, and the existence of mutual conflicts between Company Regulations, Collective Labor Agreements, and Work Agreements with applicable laws and regulations. The research method used is normative juridical, research that discusses doctrines or principles in legal science. Using primary legal materials, namely binding legal materials. While the primary legal material of this research is Law Number 13 of 2003 concerning Manpower, Secondary Legal Materials consist of books and legal doctrines. The results show that labor law as represented in Labor Law Number 13 of 2003 concerning Manpower, is felt to be imperfect so that it cannot provide solutions to injustice in the process of terminating employment. Therefore, the provisions in labor law as referred to in Labor Law Number 13 of 2003 concerning Manpower need to be continuously improved, especially the provisions in the Articles that cause injustice to workers and employers related to Termination of Employment.

Keywords: *Termination of Employment, Messageon Rights, Labor.*

INTRODUCTION

In the implementation of development in Indonesia today, which emphasizes development in the fields of economics and law, it has a very important function in supporting economic progress in Indonesia. The implementation of development with a more prominent emphasis on the aspect of equality. Development is an effort to create prosperity and welfare for the people. Therefore The results of development must be enjoyed by all people as an increase in physical and spiritual welfare in a fair and equitable manner.

On the contrary, the success of development depends on the participation of all people, which means that development must be carried out evenly by all levels of society. Everyone always needs money to meet their needs. To get money, someone needs to work. Work can be done independently or working for others.

Working for others can be done by working for the state which is called an employee or employee or working with other people is called a worker or laborer. Someone who works for others contains elements of orders, wages and time, there is an employment relationship. This employment relationship occurs between workers or laborers and employers and is individual in nature.

In the process of carrying out this work, both parties each have rights and obligations that must be fulfilled as a result of the employment relationship, Law Number 13 of 2003 concerning Manpower is an important regulation in regulating employment relations between the government, companies, and workers in Indonesia. This law aims to protect workers' rights, improve the welfare of workers, and regulate supervision of companies to comply with applicable employment provisions.

Basically, the purpose of labor supervision is to ensure the implementation of labor laws and regulations properly so that the community feels safe and comfortable in working and the creation of a conducive situation and condition in government agencies. With these conditions, it greatly supports the creation of jobs and is the main capital for the continuity and development of public institutions. In a broader sense, labor supervision is carried out to realize social justice through the implementation and enforcement of labor laws and regulations.

Labor inspectors are functional officials who act as technical implementers to carry out labor supervision. Labor inspectors are positioned in government agencies, namely in agencies that handle and are responsible for labor matters in the center, provinces and city and district areas. Supervision in the form of labor inspections, both in the era of centralization and the era of decentralization, does not change the principles of supervision or inspections stipulated in labor laws and regulations.

Although there are laws regulating employment, many companies still violate these provisions. This condition indicates a weakness in the government's supervision system for companies.

Therefore, further research is needed to analyze the factors that influence government supervision of companies in implementing Law No. 13 of 2003 concerning Manpower. Some factors that may contribute to these oversight problems include: Resource Constraints: Governments may face human, financial, and technological resource constraints in overseeing many companies.

This can hinder the effectiveness of supervision and lead to violations of employment provisions. Regulatory Complexity: Law No. 13 of 2003 concerning Manpower may have provisions affecting supervision, it is possible to identify obstacles and challenges faced by the government in carrying out its supervisory function.

PROBLEM

Although laws governing employment already exist, many companies still violate these provisions. This situation indicates a weakness in the government's supervision system of companies. Therefore, further research is needed to analyze the factors that influence the effectiveness of government supervision of companies in implementing Law No. 13 of 2003 concerning Employment. Several factors that may contribute to this supervision problem include limited resources, where the government may experience deficiencies in human resources, finances, and technology in carrying out supervision of many companies. Based on the Background of the Problem that has been described above, the author identifies the following problem formulations: 1). How is the implementation of Article 156 paragraph 2 of Law No. 13 of 2003 in government supervision ? 2). Do the sanctions applied to companies that do not comply with the provisions of Article 156 paragraph 2 of Law 13 of 2003 concerning the calculation of severance pay guarantee legal certainty ?

RESEARCH METHODOLOGY

The research used by the author in this study is the normative legal research method, research that discusses doctrines or principles in legal science.¹ The normative research method is called doctrinal legal research because this research is conducted or submitted only on written regulations or other legal materials.² In this research, the author uses a statute approach *and* a historical approach. The research specifications that the author uses are *descriptive analytical*, which attempts to provide a comprehensive, systematic and in-depth description of a condition or symptom being studied.³ Primary legal materials, namely binding legal materials. While the primary legal materials of this study are Law Number 13 of 2003 concerning Manpower, Secondary Legal Materials consist of books and legal doctrines.

1. Primary Legal Materials
 - a. The 1945 Constitution.
 - b. Law Number 21 of 2000 concerning Workers' Unions/Labor Unions.
 - c. Law Number 13 of 2003 concerning Manpower.
 - d. Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes.
2. Secondary Legal Materials

DISCUSSION

Implementation of Article 156 paragraph 2 of Law Number 13 of 2003

Indonesia is a developing country based on law. Indonesia has laws and regulations as a guideline in life for behavior for every human being as a citizen of the law. In living in a country, there must be a goal, one of which is the goal of law. To achieve good legal goals, Indonesia is guided by the 1945 Constitution of the Republic of Indonesia, which in Article 28 letter G explains that in Paragraph (1) everyone has the right to protection of themselves, their families, honor, dignity, and property under their control, and has the right to a sense of security and protection from the threat of fear to do or not do something that is a basic human right. Employment in Indonesia is regulated by Law Number 13 of 2003 concerning Employment, which in Chapter 1 Article 1 number 1 states that employment is everything related to the workforce at the time before, during and after the work period.¹

Based on this, in accordance with Article 1 number 2 concerning Manpower, what is meant by Manpower is every person who is able to do work to produce goods and/or services either to meet their own needs or for the community. What is meant by workers/laborers is contained in Law Number 13 of 2003 concerning Manpower in Article 1 number 3 that workers are every person who works by receiving wages or other forms of compensation.

In addition, the definition of an employer is contained in Article 1 number 4 of the law, namely an individual, entrepreneur, legal entity, or other bodies that employ workers by paying wages or other forms of compensation. Law Number 13 of 2003 concerning Manpower also regulates the provisions of the relationship between rights and obligations between workers and employers.

The existence of regulations on employment is expected to guarantee the basic rights of workers and guarantee equal opportunities for workers and treatment without discrimination for any reason in realizing the welfare of workers. In accordance with this, of course, the guarantee of basic rights of workers is considered based on the development of the progress of the business world. One of the rights of workers is to receive severance pay.

Article 156 of Law Number 13 of 2003 concerning Manpower explicitly states that severance pay is a right obtained by workers when Termination of Employment occurs, so that the sentence contained in the article can be interpreted as mandatory, however the implementation of Article 156 may not be realized if it is associated with Article 167 Paragraph (1) of Law Number 13 of 2003 concerning Manpower which reads: "Employers may terminate the Employment of workers/laborers because they have reached retirement age and if the employer has included the worker/laborer in a pension program whose

¹Jonaedi Efendi and Johnny Ibrahim, *Normative and Empirical Legal Research Methods*, Prenada Media, Depok, 2018, p. 123

²Bambang Waluyo, *Legal Research in Practice*, Sinar Grafika, Jakarta, 1991, p. 8-9

³Soerjono Soekanto, *"Introduction to Legal Research"*, (Jakarta: UI Press, 1984), p. 10.

contributions are paid in full by the employer, then the worker/laborer is not entitled to severance pay in accordance with the provisions of Article 156 paragraph (2), service award in accordance with the provisions of Article 156 paragraph (3), but is still entitled to replacement money in accordance with the provisions of Article 156 paragraph (4)."

Termination of Employment as regulated in Article 150 of Law Number 13 of 2003 concerning Manpower implies provisions regarding Termination of Employment that occurs in business entities that are legal entities or not, owned by individuals, owned by partnerships or owned by legal entities, whether privately owned or state-owned, as well as social enterprises and other enterprises that have managers and employ other people by paying wages or other forms of compensation.

The law functions as a protection of human interests, so that human interests are protected, the law must be implemented in accordance with applicable laws and regulations. In this case, the law that has been violated must be enforced, through law enforcement so that the provisions in the laws and regulations can be used as guidelines in deciding the conflicts that occur. In enforcing the law, the elements that must always start from the workers and the requirements for worker resignation must be considered, namely

1. *Rechtssicherheit* (Legal Certainty)

Rechtssicherheit is a principle of legal certainty that emphasizes that applicable laws must be clear, firm, and consistent, and applied without deviation. Legal certainty means that every individual has protection against arbitrary actions and can predict the legal consequences of their actions. With legal certainty, society can understand and comply with applicable rules, so that order and justice are created in the legal system.

2. *Benefit* (Benefit)

Zweckmäßigkeit is a principle that emphasizes the importance of benefits in the implementation or enforcement of law. This principle requires that the law is not only applied formally but must also provide positive and beneficial results for society. Laws must be designed and implemented with the aim of achieving the common good, such as social welfare, protection of individual rights, and resolution of conflicts in an effective and efficient manner.

3. Justice

Gerechtigkeit is a principle of justice that emphasizes that the law must be enforced fairly, without discrimination, and with due regard for the rights of each individual. Society has a great interest that in the implementation or enforcement of the law, justice must be the main priority. Justice means giving what should be a person's rights, treating everyone equally in the eyes of the law, and ensuring that the law does not favor certain interests. This principle ensures that the law becomes an instrument that maintains balance and harmony in society.

It is a justiciable protection against arbitrary actions which means that a person will be able to obtain something expected in certain circumstances. On the other hand, society expects benefits in the implementation or enforcement of the law, so the implementation of the law or law enforcement must provide benefits or uses for society. The third element is justice. Society is very interested that in the implementation or enforcement of the law justice is considered.

Law is not identical to justice, law is general and binding on everyone, but in the implementation of law enforcement it must be fair. If in law enforcement only legal certainty is considered, then other elements are sacrificed. Likewise, if only benefit is considered, then legal certainty and justice will be sacrificed, and vice versa.

The purpose of creating employment laws and regulations is to protect the weaker parties. Therefore, the government acts so that every company implements the rules in accordance with applicable laws and regulations by carrying out the following supervision.

1. Establishing Policy and Providing Services ; In implementing industrial relations, the government has the function of establishing policy, providing services, implementing supervision, and taking action against violations of labor laws and regulations. In implementing industrial relations, workers/laborers and their labor unions/labor unions have the function of carrying out work in accordance with their obligations, maintaining order for the sake of production continuity, channeling aspirations democratically, developing skills and expertise, and participating in advancing the company and fighting for the welfare of members and their families. In implementing industrial relations, employers and their employers' organizations have the function of creating partnerships, developing businesses, expanding employment opportunities, and providing welfare for workers/laborers in an open, democratic, and just manner .
2. Industrial relations are relations between various parties in the work process including workers, employers, and government. These relations are implemented within the framework of existing laws and regulations with the aim of creating fair, safe, and prosperous working conditions for workers and profitable for employers. The following is an explanation of the means used to facilitate the resolution of industrial relations:

- a. Trade Union/Labor Union

A labor union or labor union is an organization formed by workers in a particular company or industrial sector. The main objective of this union is to protect and fight for the rights and interests of its members in industrial relations. Labor unions play a role in negotiating wages, working conditions, and resolving disputes between workers and employers. This union also represents workers in various forums, including in collective labor agreement (CLA) negotiations.

b. Entrepreneurs Organization

An employer organization is a body that represents the interests of employers in an industry sector or at the national level. This organization aims to protect the interests of its members, both in terms of government policy, regulations, and in negotiations with trade unions. An example of an employer organization in Indonesia is the Indonesian Employers Association (APINDO). They also play a role in formulating policies related to industrial relations and employment conditions.

c. Bipartite Cooperation Institution

A bipartite cooperation institution is a communication and consultation forum formed at the company level involving representatives of employers and workers. This institution functions to discuss various issues related to industrial relations, such as working conditions, workers' welfare, and problems that arise in the work environment. Its main purpose is to prevent disputes from arising and to resolve problems peacefully before they develop into larger conflicts.

d. Tripartite Cooperation Institution

The tripartite cooperation institution is a social dialogue forum involving three main parties: government, employers, and workers (trade unions). This institution functions to formulate fair and balanced employment and industrial relations policies. Through the tripartite, the three parties can provide views and input which are then used as a basis for decision-making related to employment regulations and worker welfare.

e. Company regulations

Company regulations are written rules set by employers that contain the terms of employment and company rules. These regulations must be made by companies that do not have a collective labor agreement with a labor union. Company regulations aim to create orderly and harmonious working conditions and as a guideline for workers in carrying out their duties.

f. Collective Labor Agreement (PKB)

A collective labor agreement (CLA) is the result of negotiations between a labor union and an employer that contains an agreement on the terms of employment, rights, and obligations of both parties. This CLA applies to all workers who are members of the labor union involved in the negotiations. The CLA has binding legal force and must be respected by both parties during its validity period.

g. Employment Legislation

Employment legislation is a set of laws and regulations issued by the government to regulate the employment relationship between workers and employers. These regulations cover various aspects, such as minimum wages, working hours, work safety, social protection, and others. The main purpose of these regulations is to protect workers' rights and ensure fairness in industrial relations.

h. Industrial Relations Dispute Settlement Institution

The industrial relations dispute resolution institution is a body established to handle and resolve disputes between workers and employers. In Indonesia, this institution is known as the Industrial Relations Court (PHI). PHI has the authority to resolve various types of disputes, such as rights disputes, interest disputes, employment termination disputes, and disputes between labor unions in one company. The goal is to provide justice for both parties in accordance with applicable legal provisions.

Through the above means, it is hoped that industrial relations can be established well, conflicts can be minimized, and welfare for workers and business continuity for employers can be achieved.

The Tripartite Cooperation Institution provides considerations, suggestions, and opinions to the government and related parties in formulating policies and solving employment problems. The Tripartite Cooperation Institution as referred to, consists of: National, Provincial, and Regency/City Tripartite Cooperation Institutions; and National, Provincial, and Regency/City Sectoral Tripartite Cooperation Institutions. The membership of the Tripartite Cooperation Institution consists of elements of the government, employer organizations, and workers/labor unions. The working procedures and organizational structure of the Tripartite Cooperation Institution as referred to are regulated by Government Regulation.

According to Article 151 of the Manpower Law, the potential for employers' arbitrariness in carrying out layoffs is limited by the provision that layoffs must be preceded by negotiations and can only be carried out after a determination from the Industrial Relations Dispute Resolution Institution. Meanwhile, in Article 81 number 37 of Law Number 11 of 2020 concerning Job Creation (hereinafter referred to as the Job Creation Law) which amends Article 151 of the Manpower Law.

Sanctions applied to companies that do not comply with provisions of Article 156 paragraph 2 of Law 13 of 2003 concerning severance pay calculation

Sociologically, disputes are a common problem in human life. In every interaction in society, not everyone necessarily feels the same satisfaction, because each party has a different reaction power. The existence of laws and regulations is an effort to suppress, control and bring together different reactions, so that disputes due to conflicting reactions can be minimized and can reach a point of equality, which can then realize integration that is interwoven with harmony, direction and agreement.

In a company which is a working community environment, labor relations are also not free from the above problems. Employers provide policies which in their opinion are good and will be accepted by workers/laborers, but the workers/laborers concerned have different considerations and views, as a result the policies provided by the employer are not the same.

Satisfied workers/laborers will continue to work with more enthusiasm, while dissatisfied workers/laborers will show a decreasing work spirit until disputes occur. If this dissatisfaction is exposed and developed, there will be turmoil in the company. In general, the root of dissatisfaction revolves around problems: wages, social security, assignment behavior that is felt to be less in accordance with personality, work power and work ability that are less in accordance with the work that must be carried out, and personal problems.

In countries that adhere to liberalism, disputes between employers and workers often cause congestion not only for the company, but also congestion in the country's economy. The role of government as a protector of all parties in realizing labor relations is getting bigger. All laws and regulations issued and enforced are aimed at realizing harmonious labor relations based on Pancasila.

Thus, the main objective of labor law is to protect the interests of workers/laborers. This objective is based on the basic philosophy that workers/laborers are always subordinate to employers. Therefore, labor law is formed to neutralize this inequality. Thus, there is protection for workers so that they do not lose their jobs.

One of the many areas of labor law that is very important when associated with the protection of Workers/Laborers is the area of termination of employment, especially termination of employment by the employer. The issue of termination of employment becomes prominent if the employer wants to terminate (end) the employment relationship, whereas the Worker/Laborer wants to continue working, which is usually very strong in the face of the Worker/Laborer's desire which is usually very weak.

The issue at the forefront lies in the employer's wishes. Changes to the layoff procedure have raised concerns about layoffs. unilaterally because layoffs are sufficient to be carried out by notification from the other party entrepreneurs without having to go through prior negotiations. Not a few entrepreneurs who laid off workers on the grounds of efficiency aims to reduce the burden on the company so that the company remains operate.

In the current economic crisis conditions which have not yet fully recovered entrepreneurs tend to reduce the number of workers, entrepreneurs do not need to worried about carrying out layoffs on the grounds of efficiency because there are reasons the law regulated in Article 81 Number 42 of the Job Creation Law which changes Article 154 Paragraph (1) letter b of the Employment Law states that "Companies carrying out efficiency followed by company closure or not followed by with the closure of the company due to the company experiencing loss".

However, employers are obliged to fulfill the rights of workers experiencing layoffs as regulated in Article 81 number 44 of the Job Creation Law which changes Article 156 Paragraph (1) of the Employment Law, explaining that If a layoff occurs, the employer is obliged to pay severance pay, severance pay long service awards and compensation for rights.

Severance pay for workers who are laid off based on Article 156 Paragraph (1) of the Employment Law which has been replaced with the wording "In the event of termination of employment, the employer is obliged to pay severance pay and/or length of service bonus", then in Article 156 Paragraph (3) The changes made to letters g and h were replaced with the provisions of letter g which read "work period of 21 (twenty one) years or more, 8 (eight) months wages"

The calculation of severance pay stipulated in Article 156 Paragraph (2) of the Manpower Law in conjunction with the Job Creation Law, Employment Cluster and Article 40 Paragraph (2) of its implementing regulations, namely Article 36 of Government Regulation No. 35 of 2021 concerning Fixed-Term Employment Agreements, Outsourcing, Working Hours and Rest Hours, and Termination of Employment is (hereinafter referred to as PP 35/2021):

1. Working period of less than 1 year = 1 month's wages
2. Work period of 1 year or more but less than 2 years = 2 months' wages.
3. Work period of 2 years or more but less than 3 years = 3 months' wages
4. Work period of 3 years or more but less than 4 years = 4 months wages
5. Work period of 4 years or more but less than 5 years = 5 months' wages
6. Work period of 5 years or more but less than 6 years = 6 months wages

7. Work period of 6 years or more but less than 7 years = 7 months wages
8. Work period of 7 years or more but less than 8 years = 8 months' wages
9. Work period of 8 years or more = 9 months' wages

In Article 43 of PP 35/2021 Paragraph (1) "Employers may carry out layoffs towards workers because the company is implementing efficiency measures because the company is experiencing losses, workers are entitled to money severance pay of 0.5 times the provisions of Article 40 Paragraph (2)". Then if the termination of employment because the company is implementing efficiency to prevent losses then the worker is entitled to severance pay amounting to one times the provisions of Article 40 Verse (2). Based on Article 40 Paragraph (2) "If the company closes due to experiencing continuous losses for two years or experiencing losses are not continuous for two consecutive years then Workers are entitled to severance pay of 0.5 times". Based on Article Article 40 (21) "Meanwhile, if the closure is not due to the company experiencing... losses, then the worker is entitled to severance pay of one time". Based on Article 44 Paragraph (2) "Employers may terminate employment" Employment Relations with Workers/Laborers due to Company closure caused by force majeure, workers are entitled to: a. severance pay of 0.5 times the provisions of Article 40 paragraph (2)".

Even though the laws and regulations are in effect, in reality workers are still in the weakest position and the fulfillment of rights that should be received if this occurs PHK does not provide guarantees of justice and welfare for workers, changes contained in the Copyright Law Work especially about Employment is only biased interests of the entrepreneur and provide concessions For employers in carrying out layoffs, there are obstacles in providing legal protection to workers both from the applicable laws and regulations the role of government in supervision and law enforcement .

The issue of termination of employment (PHK) is always interesting to study and studied in more depth. Labor is always the weak party when faced with an employer who is the party who owns it strength. As a party that is always considered weak, it is not uncommon for the forces work always experiences injustice when dealing with interests company.

In practice, termination of employment occurs due to expiry of the time specified in the employment agreement, no cause problems for both parties (Workers/Labourers and entrepreneurs), because the parties concerned have both realized or know when the employment relationship will end, so that each party has made efforts to prepare themselves to face the reality That is different from termination that occurs due to a dispute, This situation will have an impact on both parties, especially Workers/Labourers from an economic perspective have a different position weak when compared to the business side.

PHK is the beginning of the end of a worker/laborer's employment. have a job or the beginning of the end of the ability to achieve pay for daily living needs for yourself and your family. If everyone has the right to work, that person after getting a job must also have the right to continue working, meaning that his employment relationship is not terminated the next day after he got a job.

Therefore, there should be no complete dismissal of workers/laborers. However, reality shows that layoffs cannot be prevented entirely , the consequences of disputes over layoffs are always related to the fulfillment of rights, compensation or severance pay for workers and the employer's obligation to fulfill the obligation. Fulfillment of severance pay and related matters with workers' rights if they are laid off being a crucial matter for workers.

Matter This is because layoffs cause the workers' economy to become unstable. determined. Therefore, if seen from the work period and the benefits that have been obtained from the company through someone's hard work, then it is very appropriate if the worker receive severance pay. Therefore it is very reasonable if the government then intervening, not only protecting workers' rights, but also paying attention to the company's financial capabilities by providing standard-based regulations, both national and international.

This symptom of layoffs needs to be a concern for the government because it can increase unemployment rates and reduce people's purchasing power. The increasing pressure on the cost of living for workers/laborers also raises demands for an increase in the minimum wage. However, the process of determining it so far still has many weaknesses. Furthermore, the increasing wages of formal workers due to the increase in the minimum wage are not balanced by the increasing wages of informal workers. This increase in wages for formal workers and the enlargement of informal employment have caused a gap in wage differences which is widening between formal and informal workforce.

In addition, the tendency to increase formal labor wages in large industries without considering productivity will result in a decrease in competitiveness and protection of workers. In general, the continuity of the joint work relationship between the company and the workforce is established if both parties still need each other and comply with the agreement that was agreed upon when they began working together. With the existence of a joint relationship between the workforce, it means that each party has rights and obligations. Likewise, if there is a layoff, the manager is required to fulfill the rights and obligations towards the workforce in accordance with the conditions at the time the contract is made.

In Article 1 Number 25 of Law Number 13 of 2003 it is explained that termination of employment is the termination of employment due to a certain reason that results in the termination of rights and obligations between Workers/Laborers and employers. Provisions regarding termination of employment in this law include termination of employment that occurs in business entities that are legal entities or not, owned by individuals, owned by partnerships or owned by legal entities, both privately owned and state-

owned, as well as social enterprises and other enterprises that have managers and employ other people by paying wages or other forms of compensation.

Based on the provisions of Article 150 of Law Number 13 of 2003, for business entities that employ workers and pay wages or other forms of compensation, they must follow the provisions on termination of employment stipulated in the law. In other words, all business entities referred to in this article must use the labor law as a reference when dealing with layoffs. Law Number 13 of 2003 mandates that employers try not to terminate employment¹³. This provision is further emphasized in Article 6 of the Decree of the Minister of Manpower of the Republic of Indonesia Number Kep-150/Men/2000 concerning the Settlement of Termination of Employment and Determination of Severance Pay, Long Service Bonus and Compensation in Companies, "Employers must make every effort to prevent termination of employment by providing guidance to the workers concerned or by improving the condition of the company by taking efficiency measures to save the company. Based on these provisions, all parties involved in industrial relations must make every effort to prevent termination of employment. This means that not only employers are asked to avoid layoffs as much as possible, but also workers/laborers and the government are required to make efforts to do so. This is related to layoffs carried out by workers, namely those related to the fulfillment of achievements that have been promised through work agreements. Referring to the Minister of Manpower Decree Number 150 of 2000, workers have the right to receive coaching to improve their performance for the benefit of the company. Meanwhile, the government must make efforts to prevent layoffs, namely by issuing employment policies that prohibit employers or companies from carrying out efficiency.

CONCLUSION

The company's obligation to provide severance pay to workers or laborers who experience termination of employment (PHK) is regulated in Law Number 13 of 2003 concerning Manpower, where companies are required to provide compensation to workers which must be stated in a work contract or agreement. The amount of severance pay that must be given is based on Article 156 paragraph (2) which includes the amount of severance pay that is entitled to be received. In addition, Article 42 paragraph (2) and Article 43 of Government Regulation Number 35 of 2021 also regulate several conditions that can ease the company in terms of paying severance pay to workers or laborers. If the company does not fulfill this obligation, sanctions, either in the form of administrative or criminal sanctions, will be imposed. The imposition of criminal sanctions on companies that do not provide workers' rights (compensation) is regulated in Article 185 paragraph (1) of Law Number 13 of 2003 concerning Manpower, which states that if employers do not carry out these obligations, they can be subject to criminal sanctions with a minimum prison sentence of one year and a maximum of four years, or a fine of at least IDR 100,000,000 (one hundred million rupiah) and a maximum of IDR 400,000,000 (four hundred million rupiah). The actions of employers who do not pay workers severance pay are considered criminal acts with a penalty of up to four years in prison.

SUGGESTION

Companies or employers should comply with their obligations in accordance with Law Number 13 of 2003, especially in providing severance pay to workers or laborers who are laid off. The government is expected to create clearer and more specific regulations governing reporting procedures and criminal sanctions against companies that do not fulfill their obligations in providing severance pay to employees who are laid off.

BIBLIOGRAPHY

Book

Bambang Waluyo, 1991, *Legal Research in Practice*, Jakarta: Sinar Grafika.

Jonaedi Efendi and Johnny Ibrahim, 2018, *Normative and Empirical Legal Research Methods*, Depok: Prenada Media.

Soerjono Soekanto, 1984, *Introduction to Legal Research*, Jakarta: UI Press.

Legislation

- a. The 1945 Constitution.
- b. Law Number 21 of 2000 concerning Workers' Unions/Labor Unions.
- c. Law Number 13 of 2003 concerning Manpower.
- d. Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes.