



Legal Protection Of Health Workers In Indonesia And Indonesian Workers (Tki) Abroad According To Positive Law

3185

Sri Hartini^{1*}, Rudi Hartono²

Abstract

That the whole world has experienced Covid 19, as well as Indonesia, the occurrence of the virus outbreak in Indonesia so that it experiences social restrictions that result in a reduction in various activities, especially those experienced by workers / workers. And at the time of the Inauguration of the President, precisely on October 20, 2019, in his speech stipulated *the omnibus law*, which among other things stipulated the Undang-Unadang Job Creation, the law changed the articles contained in Law N0.13 of 2003, resulting in workers / workers feeling that there was no legal protection. The law should be made for the benefit of workers/workers and employers as well as the government, research methods used with qualitative methods, research approaches, namely normative juridical, As for the problem of how to legally protect Indonesian workers working abroad according to positive law, and how to protect the law against workers/workers after the enactment of the Job Creation Law.

Number: 10.14704/nq.2022.20.7.NQ33399

Neuro Quantology 2022; 20(7):3185-3193

INTRODUCTION

That before the enactment of Law N0.21 of 2021 concerning Job Creation, Indonesian workers/workers still used Law Number.13 of 2003 concerning Manpower, and for Indonesian Workers (TKI) who worked abroad used Law Number 39 of 2004 concerning the Placement and Protection of Indonesian Workers Abroad. In reality, the problem of workers / laborers often occurs incessantly, as well as for Indonesian Workers who work abroad, especially in Malaysia, there has been a legal uncertainty, because it should be protected, in fact it happens that the opposite does not get protection for hukum.one of the record cases that afflict Indonesian Workers in Malaysia, among others, violates the counter-employment, because Indonesian Workers experience treatment that not in accordance With the employment contract. Survey conducted by Solidaritas Perempuan (2010), frequent violations are coercion to do work for a long time, even not given rest, the condition is aggravated by the payment of wages not in time by service users, and often experiencing

physical violence / persecution, this background Indonesia made a moratorium in January 2009 is to protect Indonesian Workers working in Malaysia. Because of the frequent physical violence / persecution, this background Indonesia made a moratorium in January 2009 is to protect Indonesian Workers working in Malaysia. Because of the frequent physical violence / persecution, this background Indonesia made a moratorium in January 2009 is to protect Indonesian Workers working in Malaysia. Because the government Stop sending migrant workers to Malaysia, this was also a protest of the House of Representatives of the Republic of Indonesia. (Khoirul Umuludin; 2009) Received an urging from within the country to the lack of employment has caused interest Most Indonesian people to migrate and work abroad asmigrant mothers sending Indonesian workers to almost all placement countries dominated by women they work in the informal sector such as domestic servants, babby sisters and elderly human nurses, especially women, contributing greatly to the

*Corresponding Author: - Sri Hartini

Address: *1, 2Universitas Ibn Khaldun Bogor, Indonesia, E-mail: Srihartinishmh.@gmail.com¹

Relevant conflicts of interest/financial disclosures: The authors declare that the research was conducted in the absence of any commercial or financial relationships that could be construed as a potential conflict of interest.

Received:

Accepted:



problem. Dap the country's economic path. That they as migrant workers in Malaysia are ranked first. Currently some foreign workers in the country where they work, these workers are enforced in a discriminatory manner. (Deny TRI Wahyudi; 2015)

In accordance with Article 81 paragraph (1) of Law N0.39 of 2004 concerning the Regulation and Protection of Indonesian Workers Abroad, it says: "with considerations to protect prospective migrant workers, equalization of employment opportunities and/or for the benefit of labor availability in accordance with national needs. The government may stop and/or prohibit the placement of migrant workers abroad for certain countries or the placement of migrant workers in certain positions abroad."

Due to covid 19, as a world outbreak, especially In Indonesia, there have been social restrictions that have resulted in reduced activities, including for workers / workers. (Otti Ilham Khair; 2021) That on October 20, 2019, the inauguration of President Joko Widodo, in his speech, planned to convey the omnibus law of the House of Representatives of the Republic of Indonesia, the president proposed the proposal of two laws, including the Job Creation Law. (Kompas.com). Law N0. 11 Of 2020 concerning Job Creation has amended the articles contained in Law N0.13 of 2003 concerning Manpower, as well as in the Job Creation Law has limited the determination of minimum wages for regencies/cities. (Kompas.Com), and there are debates and issues that are sensitive by stakeholders, with this issue giving rise to rallies by workers/workers. So that there is a social change or community engineering facilities. (Munir Fuadi; 2013)

Based on the aforementioned problems, there are several problems that can be disclosed: 1. how is the legal protection of Indonesian Workers working abroad according to positive law; 2. How is the legal protection of workers / workers after the implementation of the Job Creation Law.

THEORETICAL STUDIES

1. Theory of Legal Protection

According to Pound the interests that must be protected by law, namely:

- a. The public interest includes the state as a legal entity, and the interests of the canyon as the guardian of the interests of the community;
- b. Community interests (social interest) include: interests and order; prevention of moral deterioration; and social welfare;
- c. Private Interests (private interest) include: individual interests; family interests; and property interests. (Darji Darmodiharjo; 1995)

3186

In Indonesia, legal protection is widely socialized in order to promote respect and protection of human rights as an important characteristic of a democratic legal state against the recognition of human rights. (R Subekti, R. Tjitrossudibio; 2004)

The principles that are considered an important feature of the state of law according to "The International Commission of jurists" it is: the state must be subject to the law; the government must respect the rights of the individual. (Muhammad Tahir Azhari; 2003)

The protection of workers can be carried out, either by means of making demands, or by means of improving the adoption of human rights, physical and technical protections as well as social and economic. Thus, the protection of these workers will include:

- a. Occupational safety norms, which include occupational safety, which relate to machinery, aircraft, work tools materials and work processes, the state of the workplace and the environment and the ways of doing the work.
- b. Norms of occupational health and heigiene Healthatan Company which includes: maintenance and heightening the health of workers, is carried out by regulating the provision of medicines, the care of sick workers. Regulate the availability of places, ways and conditions of work that meet the hygiene of the company's health and the health of workers to prevent perpetrators, either as workers or public hookers and

establish Health requirements for worker housing.

- c. Work norms which include: protection of labor related to working time and system wages, rest, leave, work Women, children, decency, worship according to their respective faith religions recognized by the government, social obligations of social society and so on, use to maintain excitement and morale that guarantees a high work day and and maintain treatment in accordance with human dignity and morals.
- d. To workers who have an accident and/or suffer from germ disease due to work are entitled to compensation for treatment and rehabilitation due to injury and/or occupational disease, the heirs are entitled to compensation.

Based on the foregoing, Imam Soepomo, divided the protection of these workers into three:

- a. Economic protection, which is a type of protection related to businesses to provide the worker with an income that is sufficient to meet the daily needs of him and his family, including in the event that the worker is unable to work because of something outside his will; this protection is called *jaminan sosial*.
- b. Social protection, that is, a protection relating to civic undertakings, whose purpose is to enable the work to take and develop its life as a human being in general, and as a member of society and a member of the family; or what can be called; *Occupational health*.
- c. Technical protection, which is a type of protection that is associated with efforts to protect workers from the danger of accidents that can be caused by aircraft or other mechanical devices atau materials that are processed or worked on by the company. In the next conversation, this protection is called *occupational safety*. (Susi Aisyah; 2020)

2. Workers' Rights

The Indonesian nation has realized that workers are a human rights need of citizens as mandated in Article 27 paragraph 2 of the 1945 Constitution which states "Every citizen has the

right to work and a decent livelihood for humanity."

Those who will carry out legal relations in a job, in carrying out the employment relationship, are based on an employment agreement, where the employment agreement is sourced from a labor agreement, as long as it does not comply with laws and regulations and moral norms. In other words give as widely as possible to citizens and businessmen. (Djumadi; 1995).

3. Theoyry of Indonesian Manpower

The placement program for Indonesian workers abroad is one of the efforts to overcome the problem of unemployment. The role of the government in this program is focused on the aspects of coaching, as well as protection and providing various conveniences to related parties, especially migrant workers and placement service companies concerned (PJTKI). In addition to being useful for reducing unemployment pressure, the migrant worker placement program also provides other benefits. That is to improve the welfare of his family through the salary received or remittances. In addition, it also improves the skills of migrant workers because they have work experience abroad. For the country, the benefits received are in the form of an increase in foreign exchange receipts, because the migrant workers who work certainly get rewards in the form of foreign exchange.

With the ratification of UUN0.39 of 2004 concerning the Protection and placement of Indonesian Workers Abroad, this is as clear and evident as the authority of the central and local governments in regulating the regulation of migrant workers. One of the articles in the law states that the central government has the authority to regulate, foster, implement, supervise the placement, and protect migrant workers. (Adrian Sutedi; 2009)

The central government is the president of the Republic of Indonesia who holds the leadership of the Republic of Indonesia which is assisted by the deputy presidemty en ri and the Minister as referred to in the 1945 Constitution of the Republic of Indonesia. In accordance with Article 1 number 13 of PP Number.59 of

2021 concerning the Implementation of Protection of Indonesian Migrant Workers.

The Minister is the Minister who organizes government affairs in the field of manpower, as regulated in Article 1 number 14 of PP Number.59 of 2021 concerning the implementation of the Protection of Indonesian Migrant Workers.

The placement of Indonesian migrant workers is the activeness of services provided to prospective Indonesian migrant workers and / or migrant workers starting from before work, during work and before work as regulated in Article 1 number 1 PP Number.59 of 2021 concerning The Settlement of Protection Indonesian Migrant Workers.

The protection of Indonesian migrant workers is any effort to protect the interests of prospective Indonesian migrant workers and / or the work of Indonesian migrants and their families in realizing the guaranteed fulfillment of their rights in the activities before work, during work, and after work and legal, economic and social aspects. Regulated in Article 2 number 2 pp.59 of 2021 concerning the implementation of protection of Indonesian migrant workers.

The Indonesian migrant worker placement agreement, hereinafter referred to as the placement agreement, is a written agreement between the implementation of the placement of Indonesian migrant workers which contains the rights and obligations of each party, in the context of the placement of Indonesian migrant work in the destination country in accordance with the provisions of the regulation, regulated in Article 1 number 7 pp Number.59 of 2021.

The legality of placing migrant workers abroad has its own specificity, where all existing agreements must be in written form, based on Law N0.39 of 2004 the legality of migrant workers abroad consists of three types of agreements, namely:

- a. The Placement Cooperation Agreement (PKSP) is a written agreement between the Settlement of Private Migrant Workers Placement and business partners or users, which contains the ha and obligations of

each party in the context of placement and protection of migrant workers in the destination country;

- b. The TKI Placement Agreement is a written agreement between the Implementation of private migrant worker placement and prospective migrant workers which contains the rights and obligations of each party in the context of placing migrant workers in the destination country in accordance with laws and regulations;
- c. A work agreement is a written agreement between migrant workers and users that contains the terms of work, rights and obligations of each party.

Employers as partners of Indonesian workers and workers, are an employment relationship, after there is an employment agreement antara workers / laborers and migrant workers with employers.

According to Soepomo, an employment relationship is: "a relationship between a laborer and an employer, where the employment relationship is after an employment agreement between the two parties. They are bound in an erjanjian, on the one hand the worker/laborer is willing to work by receiving wages and the employer employs the worker/laborer by giving wages." (Abdul Hakim; 2007)

Employment relations are "relationships between employers and workers/laborers based on work agreements, which have elements of work, wages and orders", as regulated in Article 1 number 15 of Law Number.13 of 2003 concerning Manpower.

Principles of Law-Forming

The principle of forming a law according to Law Number.11 tahun 2012 concerning the Establishment of Laws and Regulations, in Article 5 states:

1. Clarity of purpose

The point is that every framer of legislation must have a clear goal to be achieved;

2. Proper institutional or shaping

This means that every type of legislation that must be made by the institution / official who forms the authorized laws and regulations. These laws and regulations can be canceled or

null and void if they are made by unauthorized officials/institutions;

3. Compatibility between type and charge material

This means that in the formation of legislation, it must really pay attention to the right content material with the type of legislation;

4. Enforceable.

RESEARCH METHODS

The method carried out in this study is a qualitative method, the research approach used in writing it is normative juridical which discusses doctrines and principles in legal science. (Zainudin; 2013) This type of research has the nature of an analytical desk ripti, which describes every statutory regulation related to legal theory or studies various kinds of current problems as existing facts. (Otti Ilham Khair; 2021)

RESULTS AND DISCUSS

A. Regulation of the rights and obligations of Indonesian workers/labor and labor with employers.

That in the context of regulating the rights and obligations of workers / laborers and migrant workers with employers, a written agreement will be made is an employment agreement sourced from the law. After that the occurrence of labor relations. The purpose of employment isto achieve justice in the field of labor and to protect workers / laborers and Indonesian workers.

The terms of the validity of the employment agreement are regulated in Article 52 paragraph (1) of Law NO.13 of 2003 which says:

1. Agreement between the two parties;
2. Ability or ability to perform legal acts;
3. The existence of the promised work;
4. The work promised is not contrary to public order, decency and applicable laws and regulations.

In the employment agreement, workers / laborers and migrant workers have normative rights, as follows:

1. The right to a decent wage;

2. Protection rights to occupational safety and health, including the right to rest and leave;
3. The right to free speech and organization;
4. The right to layoffs;
5. The right to strike and so on.

B. The role of the Government to protect workers who work inl ndonesia and migrant workers who work abroad

That in this case, Indonesia has a lot of workers / laborers who work in private textile industry companies, in practice industrial relations there are many aspects that are fulfilled by both parties, both workers / laborers and entrepreneurs. Consequently employers are obliged to improve the welfare of workers / laborers. Likewise, workers have to improve products, so there is a balance. (Arif Nurrahman Sejati; 2015)

The relationship of the laborer with his superiors at the time of work, resulting from the existence of orders, and questioningn to the superior for clarity of his orders. So that the work of workers will always be protected by superiors or entrepreneurs. That Indonesia is based on Pancasila, therefore the expected relationship between workers /workers and entrepreneurs must be based on Pancasila industrial relations. The public industrial relations of Pancasila is a system of relationships formed between actors in the process of producing goods and services based on values that are the meaning of the entirety of the precepts in Pancasila, and the 1945 Constitution which grows above the personality of the nation and Indonesian national culture (Adrian Sutendi; 2009)

The purpose of Pancasila industrial relations and the 1945 Constitution is to realize a just and prosperous society and participate in carrying out world order, business tranquility, so the implementation of Pancasila industrial relations is based on two principles, namely: 1) the principle of kinship, mutual cooperation, 2) the principle of deliberation and consensus. (Moh Syaufi Syamsudi; 2006)

There is a difference between the government and the government, the Government is bestuurvoering or the performance of government duties. Meanwhile, the

government is an organ or tool or apparatus that runs the government. (Nata Saputra; 1988)

The term government comes from the word "order" which means to tell to do something so that it can be said that the government is the power to govern a state or the highest body that governs a country like the cabinet is a government, so government is defined as an act of governing. (Pipin Syaripin: 2005)

According to Bagir Manan et al, the government in a broad sense includes all the tools of state equipment, which in essence consist of the branches of executive power, legislative and judiciary, and the judiciary or fittings of other states acting for and on behalf of the state. And in the narrow sense government is executive power. (Bagir Manan et al; 1997)

So that the role of the government in workers working in Indonesia according to Law No.13 of 2003, and migrant workers working abroad is according to Law No.39 of 2004, the government is given a war to supervise. The purpose of labor protection is to ensure a harmonious system of labor relations without being accompanied by an emphasis from the strong against the weak, namely workers / workers, the role of the government must supervise it.

There are three parties who carry out their roles in Pancasila industrial relations, namely:

1. The government is to set policies, provide services, carry out supervision, and carry out enforcement against violations of labor laws and regulations;
2. Workers/laborers and trade unions/laborers are carrying out work according to their obligations, maintaining order for the continuity of production, channeling aspirations democratically, developing their skills and expertise. As well as participating in advancing the company and fighting for the welfare of members and their families.
3. Employers and entrepreneurial organizations are creating partnerships, developing businesses, expanding employment opportunities, and providing the welfare of workers / workers in an open,

democratic, and equitable manner. (Abdul Karim; 2007)

C. Efforts to achieve the National Interest of workers/workers and migrant workers

That workers/laborers and Indonesian workers who work abroad. For those who work in Indonesia, workers / laborers have produced production, from this production will produce income for entrepreneurs, but for the national interest it is tax income for the life of the Indonesian state, it has been regulated in the regulation of Law Number.13 of 2003 concerning Manpower, then the President and the House of Representatives of the Republic of Indonesia has enacted Law No. 2020 on Job Creation. Against the law, the Indonesian people who protested, especially workers / butruh throughout Indonesia, carried out a large-scale demonstration of the enactment of the Job Creation Law, on the basis of work protection for workers/workers working in Indonesia. This is in the interest of workers/workers in government action.

For Indonesian Workers working abroad, Indonesia has so far signed an Agreement of the Kerja Sama Indonesia (MoU) with three TKI recipient countries, namely Jordan in 1996, and Malaysia in 2004, in order to carry out labor management, especially helping migrant workers who are abroad. Currently, three kete nagakerjaan officers have been placed in three representatives of the Republic of Indonesia, namely the Indonesian Embassy in Kuala Lumpur, Riyadh and Saudi Arabia. (Adrian Sutendi; 2009)

The program of placing migrant workers abroad is one of the efforts to overcome the problem of unemployment. The role of government in this program is focused on the aspects of guidance, as well as protection and providing various conveniences to related parties, especially migrant workers and placement service entrepreneurs concerned (PJTKI). The program provides family welfare through wages received by migrant workers, and for the state the benefits received are receiving foreign exchange, because migrant workers get compensation in the form of foreign exchange with the enactment of Law No. 39 of 2004 concerning the Protection and Placement of Indonesian Workers abroad,

3190



making a landlady Kin is clear and evident the authority of the central and local governments in regulating the placement of migrant workers, fostering, supervising placements, and protecting migrant workers abroad. (Andrian Sutendi; 2009)

D. Efforts of workers/laborers and migrant workers working in the country

If it is clear that there is a relationship between the worker/laborer and the employer, while the purpose of labor law is the implementation of social justice and that implementation is carried out by protecting the worker against unlimited power and the employer. Then it must place the worker in a position that is protected against the power of the employer. This must be proven by supervision, namely with the following main duties:

1. Looking at the way of examining and investigating for yourself whether the provisions of the legislation are implemented and if not taking reasonable Measures to guarantee their implementation;
2. Assisting either the labourer or the head of the company or byway of memb as to whether he is asked for technical explanations and advice as they are needed so that they dive into what the regulations require and how to carry them out;
3. Investigate the state of labor and collect materials necessary to Draft labor legislation and government discretion. (Imam Soepomo; 2003)

The efforts of workers / workers due to the actions of the government that have established Law Number.11 of 2020 concerning Job Creation on the wisdom of the government, and demos are carried out by workers / workers throughout Indonesia. Finally, the efforts of workers/laborers in legal protection and the capacity of applicants in this regard from the general public and in particular workers/laborers. Workers/workers to file an application against Law N0.11 of 2020 due to constitutional losses, based on Article 51 of the Constitutional Court Law states:

1. Individual Indonesian citizens
2. Chairman of the customary law community, as long as it is alive and in accordance with

the development of society and the principles of the unitary state of the Republic of Indonesia which are regulated in the law;

3. Badab public and private law, or
4. State institutions.

3191

Workers/laborers under the article can apply for material testing against Law N0. 11 of 2020 concerning Job Creation to the Constitutional Court as an effort to protect workers/workers. According to the Constitutional Court, that the establishment of Law N0.11 of 2020 must be declared conditionally unconstitutional as stated in this ruling. In considering all procedures for the formation of Law N0.11 of 2020 is not based on certain, standard, and standard methods and methods, as well as the systematics of law formation; changes in the writing of some substances after the joint approval of the DPR and the President; and contrary to the principles of forming laws and regulations, the Court held that the process of forming Law N0.1 1 of 2020 is not in compliance with the provisions under the 1945 Constitution, so it must be declared formally defective. And considering further the juridical consequences of Law N0.11 of 2020, it is important for the Court to affirm these things as follows: that the Court can understand the issue of "Regulatory Obesity" and the overlapping between UU which is the reason for the government to use the "omnibus law" method with the aim of accelerating investment and expanding employment in Indonesia. However, for the sake ofn, it does not mean that in order to achieve this goal, it can then override the standard ordinances or guidelines that apply because between the goals and procedures in principle it cannot be separated in affirming the principle of a democratic and constitutional law state. That the court's choice to enact Law N0.11 of 2020 is conditionally stated unconstitutionally, in consideration of the law, therefore based on the basis of the law that has been established, Law N0.11 of 2020, specifically with regard to the principle of openness must include the participation of the public in this case maximal and more meaningful workers/workers, which is the embodiment of the constitutional order in Article 22A of the 1945 Constitution. Thus, in order to meet the needs of the n, the Court is of the view that it is necessary to give a time limit

for the framers of the Act to make improvements to the procedure for the establishment of Law N0.11 of 2020 for two years from the time this judgment is pronounced. If within a period of two years Law N0. 11 of 2020 was not carried out improvements, so the Court stated that Law N0.11 of 2020 resulted in the law becoming permanently unconstitutional, and no improvement was made as long as this judgment was pronounced, then with legal certainty, especially to avoid legal vacuum in law or the articles or materials of the content of the Law that have been repealed or amended must be declared reinstated.

Based on this, workers working in Indonesia, have received legal protection.

That Indonesian Workers (TKI) work in Malaysia according to the results of a survey produced by Women's Solidarity in 2009, including the angst of labor contracts, due to the compulsion to work, not being given rest, being late to pay wages, employment and persecution, then as a result of these events, made Indonesia's background to impose a moratorium in June. 2009. As stipulated in Article 81 paragraph 1 of Law N0.39 of 2004 states: "With consideration to protect prospective migrant workers, equalization of employment opportunities and/or for the benefit of the availability of labor according to national needs, the government and pat stop and/or prohibit placement abroad for certain countries or the placement of migrant workers in certain positions abroad."

The aim is to protect migrant workers residing in Malaysia, as stipulated in Law N0.39 of 2004 concerning the Placement and Protection of Indonesian Workers Abroad. That Indonesia and Malaysia had made the Bilateral Agreement in 2009. This should already be able to provide legal protection for Indonesian Workers in Malaysia. In addition there are also regulations governing it, as stipulated in Article 77 of Law N0.39 of 2004

Subsection (1) says: "every prospective migrant worker has the right to obtain protection in accordance with the laws and regulations."

Subsection (2) says: "the protection in paragraph 1 shall be carried out from the pre-intersection to the aftermath of placement."

And Article 78 paragraph (1) of Law N0. 39 of 2009 said: "Representatives of the Republic of Indonesia provide protection for migrant workers abroad in accordance with laws and regulations and international laws and customs."

Paragraph (2) says: "In the context of the protection of migrant workers abroad, the government may assign the position of Manpower Attaché to a certain Representative of the Republic of Indonesia."

Ayat (3) said: "the assignment of the Manpower Attaché as referred to in paragraph 2 shall be carried out in accordance with the laws and regulations."

In this case, Indonesian Workers (TKI) abroad, especially in Malaysia, have received legal protection, as well as violations in the work assessment and persecution. So the Indonesian government set a Moratorium and returned migrant workers to Indonesia.

Legal protection can also be interpreted as an effort to protect everyone to get the consent of n and the protection that sam by law and the Act. Therefore for any violation of the law which is alleged to him so that the impact suffered by him is also entitled to legal protection in accordance with the principles of law. (Desty Anggie Mustika; 2020)

CONCLUSION

1. That the legal protection of Indonesian Workers (TKI) working abroad, especially in Malaysia, migrant workers have made employment agreements with users in the destination country, after which they carry out labor relations, both migrant workers and work users, but there is a violation of the employment agreement to persecution, this cannot be allowed, but the party from the Indonesian government on June 4, 2009 declared a Moratorium, as in Article 81 of Law N0.39 of 2004 concerning the Quartering and Protection of Indonesian Workers Working Abroad, and Article 77 paragraphs (1) and (2), and Article 78 paragraphs (1), (2) and (3), so that legal protection has been implemented based on positive law.

2. That the legal protection of workers/laborers working in Indonesia is based on Law NO.13 of 2003 concerning Manpower, the legal basis is to make Workers/laborers and employers or employers carry out work arrangements. However, the President and the House of Representatives of the Republic of Indonesia enacted Law NO.11 of 2020 ten tang Job Creation, which then to the law many objections to being enacted, all communities and workers / workers throughout Indonesia carried out Demos. Finally, in an effort to protect the law against workers/workers in accordance with Article 51 of the Constitutional Court Law that the applicant is a party who considers his rights and/or constitutional to be harmed by the enactment of the Law, an application has been made to the Constitutional Court, registered Number. 91/PUU/XVIII/2020, in the consideration of judges, based on all legal considerations, because of Law NO. 11 of 2020 is not based on certain methods and methods, standards, and standards, as well as the systematics of the formation of the Law, so the Court held that there was some substance after the joint approval of the Dpr and the President, and opposed and with the principles of the formation of law regulations, the Court held that the process of forming Law NO.11 of 2020 did not meet the provisions of the 1945 Constitution, so it must be stated that it must be declared a formal defect. So the Constitutional Court gave a two-year time limit to improve the Law, after the judgment was pronounced, but if there is a change, then for legal certainty, especially for legal vacancies in the Law or the articles or material content of the Law has been repealed and the law is declared to be in force again.

So this is the legal protection that has been given to workers / laborers in Indonesia based on positive law

BIBLIOGRAPHY

Munir Fuadi Grand Theory in Law, Kencana, Jakarta, 2013
Zainudin, Legal Research Methods, Sinargrafika, Jakarta, 2013
Adrian Sutendi, Labor Law, Sinargrafika, 2009
Moh Syaafi Syamsuddin, Creating Islamic Working Relationships in the Workplace, the Voice of the Earth, 2003

Desty Anggy Mustika, Legal Protection of Consumers through Halal Certificates on Food Products and Cosmetics, UIKA PRESS, Bogor, 2020
Bagir Manan, Basics of Indonesian Legislation, In-Hiil-Co, Jakarta, 1997
Nata Saputra, State Administrative Law, Rajawali Press, Jakarta, 1988
Pipin Syaripin, Local Government Law, Pustaka Bani Quraisy, 2005
Imam Soepomo, Introduction to Labor Law, Sinargrafika, Jakarta, 2003
Abdul Khakim, Introduction to Indonesian Labor Law, Citra Aditya Bakti, Bandung, 2007
,(HIP), Rajagraafindo Persada, Jakarta, 1995
Susni Aisyah, Legal Protection of Informal Sector Workers, UIKA Press, Bogor, 2020
Muhamad Tahir Azhary, the State of Law Suatu Study about Its Principles Viewed In Terms of Islamic Law Its Implementation In The Period Of The Madaniah State And The Present, Kencana, Jakarta, 2003
R Subekti, R. Tjitrosudibio, The Civil Code with the Agrarian Pokkok Law and the Marriage Law, Prandnya Paranita, Jakarta, 2004
Darji Darmanto Darmodiharjo, What is the Philosophy of Law and how is the Philosophy of Indonesian Law, Gramedia Pustaka Utama, Jakarta, 1995
Regulation
1945 Constitution
Law Numbers. 12 of 2011 on the Establishment of Laws
Law Number.13 of 2003 concerning Employment
Law Number.11 of 2020 concerning Job Creation
Law Numbers. 39 of 2004 concerning the Placement and Protection of Indonesian Workers Abroad
Government Regulation Number3 of 2013 concerning The Protection of Indonesian Workers Abroad
Constitutional Court Decision No.91/PUU-XVIII/2020
Journal
Ottih Ilham Khoir, Analysis of Law NO.11 of 2020 on Job Creation, Sekolah Tinggi Ilmu Pemerintahan Abdi, vol.13 NO.2, 2021
Khoirul Umuludin, Malaysia's Stance on Indonesia's Labor Moratorium Policy, 2009
Arief Nurahman Sejati, The Role of Workers in Corporate Social Welfare PT Senang Karisma Textile, FISIP Sebelas Maret University, Solo, 2015
Deny Tri Wahyudi, Legal Protection of Indonesian Workers Abroad, Pulpit of Justice, 2015
Kompas.Com retrieved August 25, 2021
Kompas.Com retrieved August 26, 2021

Reproduced with permission of copyright owner. Further reproduction prohibited without permission.