

Application of Government Authority to the Application of Corporate Sanctions That Pay Less Attention to Labor Welfare In Indonesian

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Abstract

Indonesia is a country that has a population density of 275 773.8 million people, of the total population density, the working population of Indonesia amounts to 8 746.01 people in various fields, and their purpose of working is to fulfill a prosperous life, besides that Indonesia is a country of laws based on the Constitutions or Basic Law and Laws, so that the Law and the Basic Law (Constitutions) regulate the welfare of the people, The implementation of community welfare can be carried out by the government which has the authority to prosper the community through the provision of jobs through the establishment of companies in regions throughout Indonesia, the establishment of legal companies throughout Indonesia in recruiting employees, it is necessary to think about the welfare of both material and non-material, then the government needs to make legal products, namely the Manpower Law that can meet all the welfare of the community employee status, however, the existence of the employment law is often ignored by the company to provide welfare for employees, and in this case there is a need for sanctions from the government to provide a deterrent effect for companies that violate labor laws. In the idea of this research is normative juridical research, with an approach to legal theories, so that it can help the completion of this research idea.

Keywords: Company, Government Authority, Labor

Introduction

Indonesia and the state of law are an inseparable whole, a state of state law that runs a constitutional system based on the laws made by the country concerned, Indonesia is a unitary state that has a constitution or the 1945 Constitution of the Unitary State of the Republic of Indonesia which is used as the basic law regulating the constitutional system, regulating the constitutional system in which there is power to run the state, so that the form of running the state and its power is covered by an authority in this case it is the authority of the government. Government in administrative law science is used the meaning of general government / or state government. Government is listed in two

understandings, the function of government (governing activity), on the other hand in the sense of a governmental organization / or a collection of government units. The function of the government in terms of governing activities in this case the government of the unity of government, both central government and local government, is a "Horizontal Government", meaning that the central government does not only regulate and manage at the center, but is assisted by local governments, so that the authority also lies in relation to, for example, the central government in this case the executive field, then the president as the head of government, carrying out the central executive field has state officials in this case are Ministers, listed in the Constitution of the Unitary State of the Republic of Indonesia of 1945, Article 4 paragraph 1 " The President of the Republic of Indonesia holds government power according to the Basic Law, Article 17 paragraph 1 " The President is assisted by state ministers, while in Article 18 paragraph 1 " the Unitary State of the Republic of Indonesia is divided into provinces divided into regencies and cities, each province, district, and city has a local government, which is regulated by law" , Article 18 paragraph 2 " The local governments of provinces, districts, and cities regulate and manage their own government affairs according to the principle of autonomy and auxiliary duties. Assistance Duties are the implementation of government duties, to local governments, to carry out certain tasks with the obligation to report and account for their implementation to the assignor, so that the assignments here are interpreted from provinces, regencies/cities to villages.

The authority and basis of ¹government authority which has to do with the terms authority and authority, the understanding of authority and authority in this case, authority (authority, gezag) with authority (competence, bevoegheid), authority is equated with formal power, power derived from laws, while authority is only about certain parts of authority. The relationship of authority and authority has a unity of authority (rechtsbevoegdheden). Authority is a public legal act, the scope of governmental authority, not only includes the authority to make government decisions (bestuur), but includes authority in the context of carrying out duties, and gives authority to distribute its main authority in laws and regulations. Juridically, the definition of authority is the ability granted by laws and regulations to cause legal consequences.

The definition ²of authority according to HD Stout " Bevoegheid wet kan worden omscreven als het geheel van bestuurechtelijke bevoegdheden door publiekrechtelijke rechtssubjecten in het bestuurechtelijke rechtsverkeer" (in this case authority is explained as a whole of rules relating to the acquisition and use of governmental authority by the subject of public law in public law), while according to Prajudi Atmosudirjo argues that authority is what which is meant by formal power, power derived from legislative power or granted by statute, or from executive power.

¹ Philipus M Hadjon, *Pengantar Hukum Administrasi Negara* (Gadjah Mada University Press 1994). (7)

² Riawan Tjandra, *Hukum Administrasi Negara* (Sinar Grafika 2018). (96).

As for state administrative law, the authority possessed by government institutions (organs) in carrying out real acts (rill) to make arrangements or issue decisions is always based on the authority obtained from the constitution in attribution, delegation, or mandate. Attribution is fixed on the original authority on a constituent basis (1945 Constitution), delegates are directed and affirmed on a delegation to another organ of government, while mandate, in granting mandates, mandated officials appoint other officials to act on behalf of the foreman.

In Government Administration Law Number 30 of 2014, Article 1 point twenty-two (22), twenty-three (23) and twenty-four (24), Attribution is the granting of Authority to Government Agencies/or Officials by the Constitution of the Unitary State of the Republic of Indonesia of 1945 or Law, Delegation is the delegation of Authority from higher government agencies and/or officials to lower government agencies and/or officials with responsibility and the responsibility passes entirely to the delegate recipient, while the mandate is the delegation of authority from a higher body/or Government Official to the Agency and the responsibility remains with the mandate giver.

When reviewing the Constitution of the Unitary State of the Republic of Indonesia of 1945, in CHAPTER XA on Human Rights, Article 28 D paragraph 1 " Everyone has the right to recognition, guarantees, protection and fair legal certainty and equal treatment before the law, while paragraph 2 " everyone has the right to work and get fair and decent remuneration and treatment in employment relations. In an event, especially with regard to guarantees of human rights in a job, companies often neglect or violate the provisions of laws and regulations in this case labor law. Definition of³ according to Soepomo, employment law states that labor law is the existence of a regulation, whether written or unwritten, with respect to legal events/or instances in which a person works for another person by receiving wages. A person working with others can be interpreted as working for a company that has a legal entity or often called a Limited Liability Company,⁴The nature of labor law is a trait that certain parties have to protect someone who is weak and put them in a position worthy of humanity .

Companies have a culture, meaning that companies often equate their work culture when they are in their home country and brought to Indonesia with less attention to the welfare of the workforce, in this case their employees. In some regions in Indonesia, in East Java, there are companies that pay employees with a salary installment system, meaning that in a month employees get three times the salary. In the law on job creation,

³ Ariffudin Muda Harapan, *Pengantar Hukum Ketenagakerjaan* (Literasi Nusantara 2020). (16).

⁴ Endah Pujiastuti, *Pengantar Hukum Ketenagakerjaan* (Semarang University Press 2008). (6).

article 88 paragraph 1 "Every worker/laborer has the right to a decent livelihood for humanity" often a decent livelihood for humanity in their company brings their culture or customs in their home country to Indonesia, even Indonesian workers or Indonesian workers often get unfair treatment in the companies they work for. When reviewing article 47 paragraph 1 "The employer shall pay compensation for every foreign worker it employs". In an event for workers who work in the company, it is often found that the behavior is unfair or less prosperous among fellow workers, meaning that worker A has very brilliant achievements, but the wages / or salaries received are not in accordance with the work achievements that have been obtained while the worker works at the company, and there are even workers A working in the company, They work for one month, even the salary received in installments with 3 times the salary that workers receive for one month. A legal theory known as responsive theory, justice theory, and effectiveness theory.⁵ Responsive theory in this case responsive law has become a constantly practiced activity of modern legal theory, meaning that the main purpose of legal realism is to make the law more responsive to social needs. ⁶The theory of justice, given that classical Utilitarianism has its roots in the second half of the 19th century and the first half of the 20th century. The school was introduced by Jeremy Betham, James Mill, John Stuart Mill, Henry Sidwick and G.E Moore, explaining also to justice subject to expediency, the basic idea of Utilitarianism is that which is right to do is the one that produces the greatest goodness, meaning in short that the principle of utilitarianism, the greatest expediency or principle of happiness states that a certain Action is right if it tends to magnify happiness ; erroneous if it tends to produce a reduction in happiness, pain. ⁷The theory of effectiveness, the effectiveness of the law, must initially be able to be measured to what extent the rule of law is obeyed or not obeyed, if the rule of law is obeyed by Most of the targets who are subjected to its observance, it can be interpreted that the rule of law in question is effective, as for the factors that affect its observance of the law in general :

- a. The relevance of the rule of law in general, to the legal needs of the people who are the targets of the rule of law in general, if the rule of law in question is in the form of a law, then lawmakers are required to be able to understand the legal needs of the target of enactment of the law.
- b. Clarity of the formulation of the substance of the rule of law, so that it is easily understood by the target of the enactment of the rule of law. The formulation of the substance of the rule of law it must be well designed, if the rules are written, it must be clearly written and capable of being understood with certainty.

⁵ Phillipe Nonet, (et.,al.), *Hukum Responsif Pilihan di Masa Transisi* (HuMa 2003). (59).

⁶ Karen Lebacqz, *Teori-Teori Keadilan* (Nusamedia 2015). (13).

⁷ Achmad Ali, *Menguak Teori Hukum dan Teori Peradilan* (Kencana 2009). (375).



- c. Optimal socialization to all targets of the rule of law. As a human being or a citizen in this case the ruler must not believe in the law that determines that all residents who are within the territory of a country, are considered to know the entire rule of law in force in his country. It is impossible for residents or citizens or even the general public, to be able to know the existence of a rule of law and its substance, if the rule of law is not optimally socialized.
- d. law in question is a statutory regulation, so it should be prohibitive, and not require, because the law that is prohibitor is easier to implement than the law that requires it.

The effectiveness of laws and regulations, it can be said that the effectiveness of a piece of legislation, depends a lot on several factors, namely:

- a. The substance of the regulation will be knowledge of the content of the legislation
- b. Ways to acquire such knowledge
- c. Institutions related to the scope of legislation in society
- d. The process of the birth of a statutory regulation, which is not allowed to be formed hastily for instant interest or mere political interest, which Gunnar Myrdall argues as sweep legislation, or even in the opinion of the author, as a regulation for political interest, which has poor quality and does not suit the needs of its people.

In Law Number 11 of 2020 concerning job creation, the law in the application of providing wages to workers is less than the word welfare, there are even certain interests where the ruler or government attaches more importance to the interests of employers than the interests of the community, so it is necessary to apply Government Authority to the application of company sanctions that do not pay attention to the welfare of workers in Indonesia, Therefore, the author in this study directs an idea related to sanctions against companies that do not pay attention to the welfare of workers or labor, goals for welfare and regularity of work structures within the company, in addition to alleviating life for the community, as for the formulation of the problem, namely: a. How is the Government's Authority to Sanction companies that do not pay attention to the welfare of workers or labor in Indonesia, b. How are the obstacles to the government's authority to impose sanctions on companies that do not pay attention to the welfare of workers or workers in Indonesi



Government authority to impose sanctions on companies that do not pay attention to the welfare of workers or workers in Indonesia

Authority is a legal identity for the government to give instructions to vertical agencies under it in accordance with laws and regulations, meaning that the authority is within the laws and regulations, the government-president in carrying out the executive field which is assisted by ministers and carrying out duties in their respective fields, but in the executive field the President, Ministers / or ministries who have work units in the regions, up to the Regional Head of the province, regency/or city, each instrument of state completeness carries out the duties assigned by the law or implementing regulations, the instrument of completeness of the country, carries out its duties on behalf of the state and meets all the needs of the community, the community is one of the complementary drivers of the country's economy, the community has the right to work, a decent livelihood, get a decent wage / or salary Within the company, a place company that has the status of a legal entity engaged in a certain field and follows applicable laws and regulations.

Companies have an attachment to their workers, cooperate with each other in advancing the company, so that they have an employment agreement that is followed together, in the company also recognizes employers or individuals, employers, or other entities that employ labor by paying wages or other forms of remuneration. Manpower Law recognizes the existence of the Principle of Employment Development, meaning that the principle is for human development or Indonesian society as a whole to create a just, prosperous and equitable society.

Law Number 13 of 2003 concerning Manpower Article 2, namely labor development must be based on Pancasila and the 1945 Constitution of the Republic of Indonesia. Employment development is organized on the principle of integration through functional coordination across central and regional sectors. Article 3, employment development aims at Article 4:

- a. Empowering and utilizing the workforce optimally and humanely.
- b. Realizing equal employment opportunities and providing labor in accordance with national and regional development needs

- c. Providing protection to workers in realizing welfare
- d. Improving the welfare of the workforce and their families.

With the existence of Law Number 11 of 2020 concerning job creation, Law Number 13 of 2003 concerning Manpower, as well as Government Regulation Number 36 of 2021 concerning Wages, as well as in article 88 paragraph 1, paragraph 3 related to the wage policy, which consists of: a. minimum wage, b. wage structure and scale, c. overtime work pay Law Number 11 of 2020 concerning Job Creation, Law Number 13 of 2003 concerning Manpower, Article 1 point 3 A worker or laborer is any person who works by receiving wages or other forms of remuneration, point 4 an employer or individual or legal entity that employs labor by paying wages or other forms, Article 91 paragraph 1 Wage arrangements established by agreement between the employer and the worker / labor or trade union / trade union must not be lower than wage provisions stipulated by applicable laws and regulations, as well as Government Regulation Number 36 of 2021 concerning Wages, Article 5 paragraphs 1 and 2, the wage policy for workers / or workers is regulated in an effort to realize a decent livelihood for humanity "paragraph 1", and "paragraph 2", the wage policy as referred to in paragraph 1, consists of: a. minimum wage, b. wage structure and scale, c. overtime pay, etc., Article 12 paragraph 1 The Company may provide work facilities, for: a. Workers/Laborers in certain positions or jobs or b. All Workers/ Workers.

In the law mentioned above, it is necessary to have a government responsiveness in sanctioning companies that do not provide welfare for workers, the welfare in question is:

- a. for workers as functional positions, who have worked in the company for at least a year, and can occupy positions in the company.
- b. Payment of wages/or salaries according to the period of service for one month's salary.
- c. Payment of overtime pay to workers who work overtime.

If the company does not meet the welfare, the government can provide sanctions in the form of writings or reprimands where workers are required to report inappropriate actions to the Manpower Office or as well as conduct investigations by Civil Service Investigators, by attaching concrete evidence, then if sanctions in the form of writings still remain unnoticed or ignored, then the government in this case the central and regional governments can providing sanctions in the form of freezing production activities for companies that do not carry out sanctions in the

form of writing, the existence of a company that does not carry out labor laws and regulations, then it is one of the,⁸ The criminal nature of labor, meaning that the sanctions given are a form of shock therapy for employers to appreciate the labor of workers as part of driving the progress of the company

Obstacles to Government Authority to Sanction Companies that do not pay attention to the Welfare of Workers or Workers in Indonesia

Justice in bringing benefits is often a problem where the government finds it difficult to identify companies that do not provide welfare for workers or workers in Indonesia, while justice is divided into:

- a. Justice in bringing benefits is often a problem where the government finds it difficult to identify companies that do not provide welfare for workers or workers in Indonesia, while justice is divided into
- b. Distributive Justice is an Action to the subject / or person related to and in accordance with his services that have been made, that is, each subject gets a capacity with their own potential.

These two justices are often ignored by companies, so that workers / or workers get unfair behavior from the company, but the government in this case always carries out the mandates of the 1945 Constitution of the Unitary State of the Republic of Indonesia, so that this justice can be realized for welfare. In reality on the ground welfare is only limited to salaries, overtime pay, the authority of the government in providing sanctions does not touch companies that violate the provisions of laws and regulations, as for the obstacles, as follows:

- a. The regulatory policy of labor law lacks coordination with or between agencies, meaning that if there is a violation in the company, workers are less able to provide reports to the intended agency/ or these workers are very confused if their rights are not fulfilled by the company.
- b. The regulatory policy of labor law lacks coordination with or between agencies, meaning that if there is a violation in the company, workers are less able to provide reports to the intended agency/ or these workers are very confused if their rights are not fulfilled by the company.
- c. The government's authority lacks the courage to enter the company's internals, meaning that the government lacks the courage to access the company's internal regulations.
- d. The lack of control from local governments, meaning that the companies that operate, the reality on the ground are in the regions.
- e. There has not been the creation of a legal product of cooperation, either between the ministry of home affairs or the ministry of manpower.
- f. The creation of local government legal products in sanctioning companies that do not provide welfare for workers / or laborers

⁸ Oktantiani Dyah Pramudya, 'Efektifitas Penegakkan Hukum Pidana Ketenagakerjaan',(2022) 8 JURNAL IDEA HUKUM. (131)

Conclusion.

The Government's authority in sanctioning companies that do not pay attention to welfare for workers / or workers / or even workers, often becomes an event that is very viral in the lives of the community, even the provision of sanctions to companies can be interpreted so far the government is not brave enough to know the regulations that apply in the company, even the government only considers the absence of reports from the public, So all is well, this view is very wrong, there needs to be a legal response from the government, both central and regional, in the implementation of control to companies periodically without the knowledge of the company. In addition, the government is often afraid of negative behavior from the government itself, because before they became local governments, they received funding from companies so that those who ran for office could succeed in elections, even regulations that were made only as laws in books.

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