

LEGAL PROTECTION OF EMPLOYEES DUE TO UNILATERAL TERMINATION OF EMPLOYMENT DUE TO FORCE MAJEURE COVID-19 PANDEMIC

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Abstract - The Covid-19 pandemic has brought a significant impact on various sectors, including the economy. Many companies suffered setbacks losses which led to layoffs for reasons of the Covid-19 pandemic which was categorized as a force majeure. However, the decision was actually detrimental to workers as it was not in accordance with the provisions of Law No.13 / 2003. Therefore, this study tries to examine the legal protection and legal consequences of termination of employment under the reasons of the Covid-19 pandemic force majeure. The aim of this study is to analyze and trace the legal protection of workers who have been unilaterally laid off during the Covid-19 pandemic and the legal consequences that arise from layoffs based on Law No. 13 of 2003 concerning Manpower. This study uses empirical normative legal research methods and uses secondary data consisting of primary, secondary and tertiary legal materials. This study is classified as a qualitative research, with the type of methodology used is an approach to legal systematics and an approach to legal cases. The data used in this analysis are secondary data obtained through literature study techniques and supported by primary data obtained by interview techniques. In view of Presidential Decree No. 12 of 2020, the results of the analysis show that the Covid-19 pandemic is regarded as a force majeure. Subject to the provisions of Law No. 13 of 2003, the legal protection for workers who are laid off due to force majeure is regulated in Article 164 paragraph (1) with the provisions in Article 156. It is necessary to note that when a layoff occurs due to law, employers are obliged to provide severance pay to workers. In this regard, in maintaining business continuity in the current situation, the government's efforts regarding the fulfillment of severance pay are contained in SE M / 3HK.04 / III / 2020, which fundamentally employers and workers can make a mutual agreement.

Keywords : *Work Termination, Force Majeure, Covid-19.*

I. INTRODUCTION

Starting at the beginning of 2020, countries in various parts of the world are struggling to face a very critical problem, with the presence of Covid-19 (*Corona Virus Disease 2019*) which has spread to various countries including Indonesia. Starting from Wuhan City, Hube Province, China on December 31, 2019 the *World Health Organization China Country Office* informed a case of pneumonia.

Over time, this virus has spread to various regions, which based on data has been recorded that up to July 2020 globally there were 216 countries with 15,538,736 people confirmed and 634,325 people died due to Covid-19. As of February 16, 2020, there were 51,857 confirmed cases reported globally in 25 countries with 1,669 deaths.

It is undeniable that the *Covid-19* pandemic had a major impact on the economy in Indonesia. For example, in the tourism industry, which is the largest contributor to foreign exchange for the country, the number of tourists has decreased due to travel restrictions between countries which have caused many consumers to cancel airlines to reduce the spread of virus. As a result, it has an impact on hotels, restaurants, or tourist attractions that are usually crowded with visitors, they must temporarily close because they do not reach the expected revenue target. According to the Minister of Finance, economic growth in Indonesia could be depressed to a level of 2.5% or even 0%, this can happen if the right prevention strategy is not implemented, one of the factors is traders who cannot sell because the market is closed to reduce the spread of virus, in the tourism sector. such as hotels, restaurants, or retailers, it has decreased by up to 40%. In fact, economic activity is one of the efforts of humans to fulfill their daily needs in order to sustain life, thus social welfare.

At the beginning of March 2020 a Task Force was formed to accelerate the completion of *Covid-19* as stipulated in Presidential Decree No.7 of 2020 (**Keppres No.7 of 2020**), one of which aims to strive to increase the country's ability to adapt in the health sector with conditions that are happening. Furthermore, seeing the development of increasing number of positive cases, the Government has set a Large-Scale Social Restriction (PSBB) based on Government Regulation No. 21 of 2020 (**PP No. 21 of 2020**). One of the rules is to put limits in terms of activities outside the home, work from home, worship activities, and all teaching and teaching activities are also housed hoping to cut off transmission in order to reduce the number of cases. In addition, another condition that occurs with the implementation of work from home is that many companies are experiencing financial difficulties. This occurs due to the result of unstable production, a declining economy in Indonesia, experiencing difficulties in business groups, and declining buyer interest. As a result, the company creates individual policies that influence its employees as an effort to maintain the company's financial stability by reducing the number of employees or Termination of Employment, hereinafter referred to as layoffs.

Based on data from the Ministry of Manpower as of May 27, 2020, 1,058,284 formal sector workers were dismissed and formal sector workers were laid off 380,221 workers while 318,959 workers in the informal sector were affected. Furthermore, as of July 31, 2020 there were 383,645 workers who were laid off due to the *Covid-19* pandemic. Many companies in fact often give reasons for layoffs because of force majeure, on the other hand these companies carry out production as usual by implementing health protocols according to the provisions set by the government. The *Covid-19* pandemic that occurred in early 2020 is considered a *force majeure* for companies, as stipulated in Presidential Decree No. 12 of 2020 concerning the Determination of Non-Natural Disasters for the Spread of Corona Virus Disease 2019 (*Covid-19*) states that this pandemic is a national disaster. However, this stipulation cannot automatically cancel the agreements that have been made as stipulated in Article 1338 of the Criminal Code regarding legal agreement rules that must be implemented on the basis of good faith. As for the provisions in the implementation of layoffs as regulated in Law no. 13 of 2003 concerning Manpower, so it is hoped that the company can reconsider making a termination of employment during the *Covid-19* pandemic. Based on the fact that this pandemic is an event of coercion, that does not mean that employers or companies can arbitrarily lay off their employees. For this reason, it is necessary to know what legal consequences will occur and need for a legal protection

for workers to protect the basic rights of workers in order to realize the welfare of labor in Indonesia to improve the quality of workforce during the *Covid-19* pandemic.

II. LITERATURE REVIEW

2.1 Labor Law Protection

The definition of legal protection according to Satjipto Rahardjo is to provide protection for human rights that are harmed by others and that protection is given to the community so that they can enjoy all the rights provided by law. Legal protection for every citizen can be found in the 1945 Constitution, one of which is to guarantee the right of every citizen to obtain a job and a decent living for humanity, as well as to receive fair and proper compensation and treatment in a working relationship. According to Imam Soepomo, worker protection is divided into three types, that namely:

1. Social protection, namely: protection of workers in the form of occupational health insurance, and freedom of association and protection of the right to organize. This protection is called occupational health
2. Technical protection, namely protection of workers in the form of work security and safety. This protection is called work safety.
3. Economic protection, namely protection of workers in the form of sufficient income, including if the worker is unable to work against his will. This protection is called social security.

According to Law no. 13 of 2003, an employment relationship is a relationship between an entrepreneur and a worker / laborer based on a work agreement that specifies the terms of employment, rights and obligations of the parties. The work relationship according to Lalu Husni is the relationship between workers and employers that occurs after the agreement is made. They are bound by an agreement, on the one hand the worker / laborer is willing to work for a wage and the entrepreneur employs the worker / laborer by paying wages.

The basis of a work relationship is the existence of a work agreement. The term agreement in Article 1313 of the Criminal Code is an act in which 1 (one) person or more binds himself to 1 (one) person or more. In accordance with the opinion of Prof. R. Subekti S.H in his book entitled "The Law of the Agreement" that an agreement is an event in which a person promises to another person or where two people promise each other to do something. Based on Article 1601a of the KUHP, it explains that a work agreement is an agreement in which the first party (the worker), binds himself to under the orders of other party, the employer for a certain period of time does work and receives wages. As for Article 1 number 14 Law no. 13 of 2003 the meaning of a work agreement is an agreement between a worker / laborer and an entrepreneur or an employer that contains the conditions of work, rights and obligations.

In general, a work agreement is only made by two parties, namely the entrepreneur or employer and the worker or laborer. The things that were agreed upon were entirely up to both parties. Based on Article 51 Paragraph (1) of Law No.13 / 2003, the form of work agreement is divided into two types, namely written and oral work agreements. The types of work agreements are based on the period and type of work, including:

1. Specified Time Work Agreement (STWA)

A specified term work agreement is an agreement with a predetermined period of time. If the predetermined time is up, then automatically layoffs occur and employees are not entitled to compensation for layoffs such as severance pay. The requirements for making STWA are in accordance with the provisions of Article 56-59 of Law no. 13 of 2003.

The STWA agreement is held for a maximum of two years and can only be extended once for a maximum period of one year, if the agreement is not in accordance with the conditions outlined earlier, then the workers become permanent employees since the start of agreement. Whereas if the STWA is terminated by one of the parties before termination of the STWA, then one of the parties must compensate for the worker's wages until the end of work agreement period.

2. Indefinite Work Agreement (IWA)

An indefinite work agreement is an agreement between a worker / laborer and an entrepreneur to establish a permanent relationship, this may require a probation period of three months. This agreement can be made in writing and made orally. In the case of an agreement that is made orally, the entrepreneur is obliged to make a letter of appointment for the worker concerned, in accordance with the regulations contained in Article 63 Paragraph (2) of Law No. 13 of 2003

The termination of a working relationship in a work agreement is known as Termination of Employment. The work agreement ends when the worker dies, the term of agreement expires, there is a court decision and / or decision, or the establishment of an industrial relations dispute settlement institution that has permanent legal force, certain circumstances or events are stated in the work agreement, company regulations, or collective working agreement which can lead to the termination of the employment relationship.

2.2 Work Termination

Article 1 number 25 Law no. 13 of 2003 is the termination of the employment relationship due to one particular matter which resulted in the termination of rights and obligations between workers / laborers. Termination means a condition in which the worker stops working from his employer. In the termination of a working relationship it cannot be carried out unilaterally, basically dismissal is an unexpected event, especially among the workers / workers concerned who will lose their livelihood. In this case, entrepreneurs, workers / laborers, labor unions and the government must make efforts not to terminate the employment relationship. The terms of layoffs have been regulated in chapter XII Articles 150-172 of Law no. 13 of 2003. In other words, a company cannot perform dismissal arbitrarily, but must be clear and considerate, so as not to cause harm to workers. In fact, in an agreement it is hoped that it can be terminated properly, , companies are prohibited from laying off employees on the grounds as referred to in Article 153 Paragraph (1) of the Manpower Act. If an entrepreneur makes layoffs for reasons prohibited, it is null and void and the entrepreneur is obliged to re-employ his workers. According to Lalu Husni in his book, there are various types of termination of employment, namely:

1. Layoffs by Employers / Entrepreneurs
 - a. Layoffs because Serious Violations / Errors;
 - b. Layoffs because Workers Are Criminalized;
 - c. Layoffs because Workers Detained by Authorized Officials;

- d. Layoffs because Absent ;
 - e. Layoffs because Workers Committing Disciplinary Violations
 - f. Layoffs because The company went bankrupt;
 - g. Layoffs because Change of Status, Merger of Consolidation or Change of Ownership and Workers Not Willing to Continue Working Relationships;
 - h. Layoffs because Companies close or reduce labor (efficiency) not because of loss or compelling reasons;
 - i. Layoffs because Workers are sick or disabled due to work accidents for more than 12 months;
 - j. Layoffs because The company closes, because of loss or because of *Force Majeure* reasons.
2. Layoffs by Workers
 - a. Layoffs because Employers make Mistakes to Workers;
 - b. Layoffs because Worker Resigns.
 3. Layoffs Are Not Made by Employers and Workers
 - a. Layoffs because Worker Dies ;
 - b. Layoffs because Workers Entering Retirement Period;
 - c. Layoffs because End of Contract.

Based on the provisions in Article 156 of Law no. 13/2003, that employers are required to pay severance pay and / or service pay and compensation money that should have been received. As stipulated in Article 156 of Law no. 13 of 2003 is described as follows:

- (1) In the event of termination of employment, the entrepreneur is obliged to pay severance pay and / or service pay and compensation for rights that should have been received
- (2) The calculation of severance pay as referred to in paragraph (1) shall be at least as follows :
 - a. work period of less than 1 (one) year, 1 (one) month of wages;
 - b. work period of 1 (one) year or more but less than 2 (two) years, 2 (two) months of wages;
 - c. work period of 2 (three) years or more but less than 3 (three) years, 3 (three) months of wages;
 - d. work period of 3 (three) years or more but less than 4 (four) years, 4 (four) months of wages;
 - e. work period of 4 (four) years or more but less than 5 (five) years, 5 (five) months of wages;
 - f. work period of 5 (five) years or more, but less than 6 (six) years, 6 (six) months of wages;
 - g. work period of 6 (six) or more but less than 7 (seven) years, 7 (seven) months of wages;
 - h. work period of 7 (seven) years or more but less than 8 (eight) years, 8 (eight) months of wages;
 - i. work period of 8 (eight) years or more, 9 (nine) months of wages.
- (3) The calculation of the work period award money as referred to in Paragraph (1) is determined as follows :
 - a. working period of 3 (three) years or more but less than 6 (six) years, 2 (two) months of wages;
 - b. work period of 6 (six) years or more but less than 9 (nine) years, 3 (three) months of wages;

- c. work period of 9 (nine) years or more but less than 12 (twelve) years, 4 (four) months of wages;
 - d. work period of 12 (twelve) years or more but less than 15 (fifteen) years, 5 (five) months of wages;
 - e. work period of 15 (fifteen) years or more but less than 18 (eighteen) years, 6 (six) months of wages;
 - f. work period of 18 (eighteen) years or more but less than 21 (twenty one) years, 7 (seven) months of wages;
 - g. work period of 21 (twenty one) years or more but less than 24 (twenty four) years, 8 (eight) months of wages;
 - h. work period of 24 (twenty four) years or more, 10 (ten) months of wages.
- (4) The compensation money that should be received as referred to in Paragraph (1) includes :
- a. annual leave that has not been taken and has not failed;
 - b. cost or return fee for the worker / laborer and their family to the place where the worker / laborer is accepted to work;
 - c. housing compensation as well as medication and care is set at 15% (fifteen percent) of the severance pay and / or service pay for those who meet the requirements;
 - d. other matters stipulated in work agreements, company regulations or collective working agreements..
- (5) Changes in the calculation of severance pay, calculation of reward for years of service, and compensation for rights as referred to in Paragraph (2), Paragraph (3) and Paragraph (4) are stipulated by a Government Regulation.

The provisions regarding severance pay for workers are regulated in Article 164 of Law No. 13 of 2003, as follows:

- (1) Entrepreneurs can terminate the employment relationship of workers / laborers because the company is closed because the company has suffered continuous losses for 2 (two) years, or a *force majeure*, provided that the worker / laborer is entitled to severance pay of 1 (one) times the provisions of Article 156 Paragraph (2) the work period award money is 1 (one) time the provisions of Article 156 Paragraph (3) and rights compensation money according to the provisions of Article 156 Paragraph (4).
- (2) The company's losses as referred to in Paragraph (1) must be proven by a financial report for the last 2 (two) years that has been audited by a public accountant.
- (3) Entrepreneurs can terminate the employment of workers / laborers because the company is closed, not because they have suffered a loss for 2 (two) consecutive years or not due to force majeure but the company carries out efficiency, provided that the worker / laborer is entitled to money. severance pay of 2 (two) times the provisions of Article 156 Paragraph (2), reward

money for service of 1 (one) time the provisions of Article 156 Paragraph (3) and compensation for rights in accordance with the provisions of Article 156 Paragraph (4).

It is necessary to know about the provisions of the article above that the company has provisions to carry out layoffs for efficiency reasons, as referred to in the Constitutional Court decision Number 19 / PUU-X / 2011 dated 20 June 2012 which states that Article 164 Paragraph (3) UU no. 13 of 2003 contradicts the 1945 Constitution insofar as the phrase "company closure" means the company closes permanently or the company does not close temporarily.

The term "forceful situation", which comes from the term *overmacht* or *force majeure*, in relation to an engagement or contract, the specific formula is not found in the Civil Code. The definition of force majeure is also contained in statutory regulations. Law No. 2 of 2017 concerning Construction Services (**Law No.2 of 2017**) in conjunction with Presidential Regulation No. 4 of 2015 force majeure is a condition that is beyond the will of the parties and cannot be thought about beforehand, so that the obligations stipulated in the contract cannot be fulfilled. Such a coercive situation includes an agreement on special risks, other kinds of circumstances, the rights and obligations of service users and service providers in compelling circumstances. For example, natural disasters, non-natural disasters, national disasters, strikes, fires, other industrial disturbances. As for the kinds of disasters referred to by nature, Law no. 24 of 2007, namely, natural disasters, non-natural disasters, social disasters.

In connection with several regulations related to the above coercive circumstances, especially in the Civil Code, conclusions can be drawn regarding: (1) the criteria or elements of *force majeure*, and (2) due to *force majeure*. The criteria or elements of *force majeure* include these things:

1. An unexpected event;
2. Cannot be accounted for to the debtor;
3. There is no bad faith from the debtor;
4. The debtor's accident;
5. This situation prevents the debtor from performing;
6. This situation prevents the debtor from performing

Furthermore, according to Prof. Subekti that the state of force consists of 2 (two) properties, namely:

1. A compelling condition that is absolute (absolute), in the case that it is no longer possible to carry out the agreement. For example, an item has been deleted due to a natural disaster.
2. A coercive condition that is not absolute (*relatief*), which is in the form of a condition in which the agreement can still be carried out, but with enormous sacrifices from the right of the debtor.

2.4 The *Covid-19* Pandemic

According to the KBBI (Big Indonesian Dictionary), the meaning of pandemic is an epidemic that occurs simultaneously everywhere, covering a wide geographical area. As for the definition of plague, namely an infectious disease that spreads rapidly, attacking a large number of people in a wide area (such as the smallpox epidemic, dysentery, cholera). Transmission due to this virus has occurred in various parts of the world and has caused millions of casualties, as can be seen Indonesia has become one of the countries affected by *Covid-19* which occurred for the first time in March 2020. Then, to address this, in April 13, 2020 with the consideration that the spread of this virus has resulted in an increase in the number of victims and has implications for broad socio-economic aspects in Indonesia need for certainty regarding the pandemic that occurred, then stipulated in Presidential Decree No. 12 of 2020 concerning the Determination of Non-Natural Disasters for the Spread of *Corona Virus Disease 2019 (Covid-19)*, in which decision stipulates that the presidential decision regarding the determination of non-natural disasters in the spread of *corona virus disease 2019 (covid-19)* as a national disaster

III. METHOD

This type of research used in this thesis is empirical normative legal research. This empirical normative legal research is basically a combination of the normative legal approach with the addition of an empirical element. Empirical normative legal research on the implementation of normative legal provisions (laws) in action in any particular legal event that occurs in a society. In this study using the *Live Case Study* approach, which is an approach to a legal event whose process is still ongoing or has not ended.

This study uses secondary data consisting of primary legal materials, secondary legal materials, and tertiary legal materials. In this type of Empirical Normative Legal Research, the data used are secondary data supported by primary data. Secondary data is obtained through data collection techniques (methods) in the form of "Literature Study", while primary data can be obtained by using "Interview Techniques". Interviewing is a method used to obtain verbal information to get a specific purpose, in an interview there are 2 (two) parties who have different positions, namely the interviewer and information provider / informant / respondent which can be done face to face or virtual.¹ The interview technique that will be used is to use a type of *random sampling* which is part of a *probability sampling* technique, meaning that each element of the entire population has the same opportunity to be selected. The type of approach used is the approach to legal systematics and the approach to legal cases and the nature of analysis in this study is qualitative in nature.

IV. RESEARCH RESULTS AND ANALYSIS

B.1 Legal Protection for Workers Affected by Dismissal Unilaterally for Reasons of *Force Majeure* during the *Covid-19* Pandemic

On March 9, 2020, WHO (*World Health Organization*) officially declared *Covid-19* a pandemic. On the other hand, to respond the spread of *Covid-19* in Indonesia, the government has formulated

¹ Agus Budianto, "Legal Research Methodology Reposition in Research on Social", International Journal of Criminology and Sociology, Vol. 9 2020, hal. 1344

several regulations to prevent the spread of *Covid-19*, one of which is stipulated in Presidential Decree No. 12 of 2020 concerning the establishment of non-natural disasters for the spread of *corona virus disease (Covid-19)* as a national disaster. The definition of a pandemic according to the KBBI is an outbreak that occurs simultaneously everywhere, covering a wide geographical area.

As according to Article 1 point 3 of Law no. 24 of 2007 the definition of a non-natural disaster is a disaster caused by an event or series of non-natural events, which include technological failure, modernization failure, epidemic, and disease outbreaks. This means that this is a non-natural event caused by the spread of disease outbreaks that have occurred throughout Indonesia and even in other countries so that this event is called the *Covid-19* pandemic. In addition, in accordance with the determination of non-natural disasters for the spread of *Covid-19* virus, this incident is a force majeure which is in accordance with the meaning of force in the Construction Services Law in conjunction with Presidential Regulation No. 4 of 2015 that has been described previously which explains including force majeure is an event that is beyond the will of the parties, one of which is a non-natural disaster.

Furthermore, it is seen in Article 1244 that the coercive situation is an unexpected situation in which the parties cannot be held accountable for it and there is no bad faith in him, furthermore in Article 1245 the parties are not obliged to compensate costs, losses and interest due to their existence. a coercive situation that makes the debtor unable to perform his performance. Based on this description, according to Rahmat S.S. Soemadipradja argued that the criteria or element of *force majeure*, namely unexpected events; cannot be accounted for to the debtor; there is no bad faith from the debtor; accidental circumstances by the debtor; this condition prevents outstanding debtors; If achievement is carried out, it will be prohibited.

Thus, referring to the description of terms and elements of *force majeure* that the author has previously described, if seen from the *Covid-19* situation it is an unexpected situation where the parties cannot be held accountable for conditions that occur, because it was not deliberate by employers or workers / laborers and prevent the parties from fulfilling their obligations due to government regulations regarding PSBB regulations. Even so, based on its nature, the *Covid-19* pandemic event is categorized as a compelling situation that is not absolute (*realistic*), which means that with various considerations, employers or workers cannot fulfill their achievements, but only temporarily until situation returns to normal by adjusting to Government rules with time.

Basically, legal protection for workers has been guaranteed in Article 27 Paragraph (2) of the 1945 Constitution that every citizen has the right to work and a decent living for humanity and Article 28 D Paragraph (2) that everyone has the right to work and receive compensation and fair and proper treatment in employment relations. In this connection, Article 1 number 15 Law no. 13/2003 states that a work relationship is a relationship between an entrepreneur and a worker / laborer based on a work agreement which has elements of work, wages and orders. When an agreement is made, there is an agreement that has been previously agreed between the worker and employer.

The existence of the *Covid-19* pandemic certainly has an impact on fulfilling obligations or rights in work relations, so this is unsettling for employers or workers in maintaining business continuity. In the current conditions, based on the results of interview with Mrs. Tirama, it would be nice for the company to be able to find solutions as the government's efforts can be made in the Minister of Manpower Circular Number M / 3 / HK.04 / III / 2020 concerning Protection of Workers / Laborers

and Business Continuity in the Context of *Covid-19* Prevention and Control (Hereinafter referred to as **SE No. M / 3 / HK.04 / III / 2020**).

Based on the description above, it is best if during a pandemic that occurs workers still receive protection at work and ensure that employment is not terminated. Even so, it cannot be denied that with various considerations the company decided to terminate work because the impact of the *Covid-19* pandemic which had an impact on company finances, because it made most entrepreneurs reduce or stop business activities, which meant that the lack of income was obtained. This incident was one of the factors for the company to terminate working relations with workers.

Basically Article 151 Paragraph (1) of Law no. 13 of 2003 has stated that employers, workers and the government must make efforts to prevent layoffs from occurring. Although employers and workers must strive to avoid layoffs, if it cannot be avoided then it is clear that any termination of employment must be carried out on the basis of certain reasons stipulated in Law No. 13 of 2003. Apart from that regarding the enforcement of layoffs it is also regulated in Article 164 of Law no. 13 of 2013 that entrepreneurs can lay off because the company has suffered losses continuously for 2 (two) years, or a *force majeure*, and the company closes. In addition, it is necessary to remember in the company closing clause it needs to be interpreted as the company closing permanently / not temporarily, this is as referred to in the decision of the Constitutional Court Number 19 / PUU-IX / 2011.

Considering Presidential Decree No. 12 of 2020, which stipulates that the spread of *Covid-19* is a non-natural disaster, so that this decision is made by most of the reasons companies cannot continue working relationships and if in the end employers are unable to retain some of their workers and must layoff then based on the provisions that have been explained previously that settlement was provided for in Article 164 Paragraph (1) reads:

“The entrepreneur can terminate the worker / laborer because the company closes due to continuous losses for 2 (two) years, or a force majeure..”

If this is the case for employers who dismiss workers for this reason, the provisions are obliged to provide the right in the form of severance pay at least once, the provisions of Article 156 (2), reward money for the service period of Article 156 (3) and compensation for rights in Article 156 (4) Even so, not a few entrepreneurs are unable to fulfill their obligation to provide severance pay due to an imbalance between income and expenditure resulting in a financial setback.

Furthermore, if the company cannot afford to provide severance pay during layoffs as a result of the *Covid-19* pandemic, to avoid disputes the company and workers / laborers must conduct bipartite negotiations to find an agreement between two parties if there is a suspension of payments. This provision refers to the government's efforts due to the *covid-19* pandemic as stipulated in SE No. M / 3 / HK / 04 / III / 2020.

B.2 Legal Consequences For Layoffs due to the *Covid-19* Pandemic Force Majeure

According to the results of the study, the *covid-19* pandemic caused employers to experience setbacks and as a result, to maintain the continuity of the company, they dismissed workers on the grounds of *force majeure*, but only unilaterally, which means that there are parties who are harmed, namely workers because the company does not provide rights according to the regulations.

This research is supported by the results of interviews with 3 respondents with the initials S (Respondent 1), NA (Respondent 2), and DA who were laid off due to the *covid-19* pandemic. Based on the results of the interview with Respondent 1, that he had worked for 9 months but in early October the company decided to terminate the work agreement. The reason for layoffs was that Respondent 1 was incompetent and the *covid-19* pandemic, but according to Respondent 1, his work relationship has been going well without any prior warning. The same thing happened to Respondent 2, he had worked for 8 (eight) years until early September there was unilateral dismissal. Based on the results of the interview, the company offered itself the option of resigning or laying off by the company. Finally, Respondent 2 chose to be laid off by the company so that in October there was a layoff but in fact it only caused one loss, which means that respondent did not get severance pay according to the provisions. On the other hand, a similar incident was experienced by Respondent 3 who was laid off due to the *Covid-19* pandemic, where based on his contract agreement ended in November 2020 but was instead laid off in June 2020 without any rights that should have been replaced by the company.

If it is related to a case that occurred in Respondent 1 who is a permanent employee, then according to Article 61 of Law Number 13 of 2003 the termination of relationship between Respondent 1 and the company must be based on the death of Respondent 1, the expiration of agreement period, the existence of a court decision or the establishment of a settlement institution, industrial relations disputes that have permanent legal force. Therefore, the reason for the dismissal of Respondent 1 was due to the *Covid-19* pandemic, thus the applicable provisions are Article 164 paragraph (1) of Law Number 13 of 2003 referring to the provisions of Article 156 of Law No. 13/2003. This means that Respondent 1 is entitled to severance pay for at least 1 month of wages, without appreciation for the period of service, replacement of housing, medical treatment and care of 15% x (1 x wages of salary), and the cost of returning workers. Meanwhile, the fact is that Respondent 1 only gets one of the stipulated wages in October, so that the rights due to layoffs for Respondents are still not fulfilled.

Based on Respondent 2's explanation, the reasons for termination of employment by the company have not been clearly defined or can be said to be confusing. Based on Respondent 2's problem, if we look at the current conditions, it is possible that the company will suffer a big loss so that it cannot fulfill its obligations in providing wages for workers. Therefore, to save the continuity of business, the company argues by persecuting workers regarding the termination of employment relationship by providing an alternative to voluntary resignation, which is seen in Article 162 paragraph (1) of Law No. 3/2003. It is different if an entrepreneur terminates a work relationship on the grounds of dismissal due to *force majeure*, then in accordance with the provisions of Article 164 paragraph (1) of Law no. 13 of 2003 Respondent 2 received severance pay, reward money and compensation for rights in accordance with Article 156 of Law no. 3/2003.

Based on the incident experienced by Respondent 3 on the basis of a work agreement which expires in November 2020, the company has terminated it first, which means it is not in accordance with the provisions of Article 61 of Law No. 13, 2003. Accordingly, the provisions that apply to a contract agreement for a specified period of time are regulated in Article 62, if one of the parties ends employment relationship before the end of period stipulated in the work agreement for a specified period of time, the party terminating employment relationship is required to pay compensation to the other party in the amount of worker's wages until the end of work agreement period. This means that the

company is required to pay remaining wages until working period ends to Respondent 3, entitled to compensation for wages x 5 months of working time and 50% of the remaining wages that have not been paid since May 2020.

Based on the description of 3 workers analysis results who were laid off during the *Covid-19* pandemic above, it turns out that implementation is not in accordance with statutory regulations because workers' rights are not fulfilled due to layoffs for *force majeure* reasons, so this is legally contrary. As stipulated in the provisions of layoffs, the legal consequences of layoffs by reason of *force majeure* in accordance with the provisions of Article 156 Paragraph (2) of Law No. 13, 2003. On the other hand, considering that the spread of *Covid-19* had a large enough impact, so that employers did not get maximum income, the government responded to efforts to meet wages. Based on the results of the interview in fulfillment effort, according to Mrs. Tirama, referring to SE No. M / 3 / HK.04 / III / 2020 which regulates changes in the amount and method of payment wages according to agreement between the entrepreneur and worker / laborer.

Thus, it is necessary to remember that the implementation of agreement must be carried out in good faith, which even in the termination of agreement without the party being injured Therefore, as long as they do not cause or commit serious mistakes, workers should receive the rights as regulated in Law no. 13 of 2003 which is the legal protection of labor in Indonesia.

V. CONCLUSIONS

UU no. 13 of 2003 does not explain the meaning of *force majeure* directly, but if viewed from the meaning contained in Articles 1244 & 1245 of the Criminal Code and Law No. 2 of 2017 concerning the state of force and considering the Presidential Decree No. 12 of 2020, which stipulates that the *Covid-19* pandemic is a non-natural national disaster, it can be said that this incident is a *force majeure*. Based on statutory regulations, companies have the authority to terminate workers / laborers by reason of *force majeure* as stipulated in Article 164 Paragraph (1) of Law No. 13 of 2003 with the provision that workers / laborers are entitled to severance pay of 1 (one) time the provisions of Article 156 Paragraph (2) work period reward money of 1 (one) time the provisions of Article 156 Paragraph (3) and compensation pay for rights according to the provisions of Article 156 Paragraph (4). This provision has provided legal protection for workers who have been unilaterally laid off by reason of the circumstances forcing the *Covid-19* pandemic. In connection with the fulfillment of severance pay, entrepreneurs are given relief in line with the government's efforts to maintain business continuity as stated in SE No. M / 3 / HK.04 / III / 2020 regarding the amount and method of payment can be made according to mutual agreement. However, if there is a dispute and there is no agreement, mediation can be carried out with the local Manpower Office so that it can produce a letter of recommendation which is expected to resolve the dispute over rights.

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