

## Employers' Civil Liability for Violation of Workers' Rights

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**ABSTRACT:** This research discusses the civil liability of employers for violations of workers' rights in labour relations. In labour practices, it is not uncommon to find violations of workers' normative rights, such as substandard wages, lack of social security, and unilateral termination of employment without compensation. This research aims to analyse the forms of civil liability that can be imposed on employers as well as dispute resolution mechanisms based on Indonesian civil law, particularly in the context of default and tort. The research method used is normative juridical with statutory approach and case study. The results show that employers who violate workers' rights can be held civilly liable, either through a lawsuit for compensation due to default on the employment agreement, or through the mechanism of tort claims. The enforcement of civil liability is expected to provide more effective legal protection for workers and encourage employers to comply with labour provisions.

**Keywords:** civil liability, employers, workers' rights, default, unlawful acts

**ABSTRAK:** Penelitian ini membahas mengenai tanggung jawab perdata pengusaha atas pelanggaran hak-hak pekerja dalam hubungan kerja. Dalam praktik ketenagakerjaan, tidak jarang ditemui pelanggaran terhadap hak normatif pekerja, seperti upah di bawah standar, tidak adanya jaminan sosial, hingga pemutusan hubungan kerja sepihak tanpa kompensasi. Penelitian ini bertujuan untuk menganalisis bentuk tanggung jawab perdata yang dapat dikenakan kepada pengusaha serta mekanisme penyelesaian sengketa berdasarkan hukum perdata Indonesia, khususnya dalam konteks wanprestasi dan perbuatan melawan hukum. Metode penelitian yang digunakan adalah yuridis normatif dengan pendekatan perundang-undangan dan studi kasus. Hasil penelitian menunjukkan bahwa pengusaha yang melanggar hak-hak pekerja dapat dimintai pertanggungjawaban secara perdata, baik melalui gugatan ganti rugi akibat wanprestasi terhadap perjanjian kerja, maupun melalui mekanisme gugatan perbuatan melawan hukum. Penegakan tanggung jawab perdata ini diharapkan dapat memberikan perlindungan hukum yang lebih efektif bagi pekerja dan mendorong pengusaha untuk patuh terhadap ketentuan ketenagakerjaan.

**Kata kunci:** tanggung jawab perdata, pengusaha, hak pekerja, wanprestasi, perbuatan melawan hukum

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## I. INTRODUCTION

Labour issues are a never-ending problem, especially in relation to the fulfilment of workers' normative rights such as wages, social security, and severance pay. This situation becomes even more complex when companies experience financial crises or bankruptcy, where workers are often the biggest losers (Muklis Al'anam dan Radian Salman, 2024). The imbalance in industrial relations between employers and workers often triggers rights violations, including in cases of termination of employment (PHK) without proper compensation. In fact, labour law in Indonesia has provided a strong normative foundation to guarantee the protection of workers' rights (Deby Fatria Ntobuo, 2025).

Legal certainty and protection for every citizen As a welfare state, the government has a responsibility in handling various aspects of citizens' lives, this is stipulated in the 1945 Constitution of the Republic of Indonesia, hereinafter referred to as the 1945 Constitution of the Republic of Indonesia, Article 27 Paragraph (1): "*All citizens shall be equal before the law and government and shall uphold the law and government with no exception*". Therefore, the state must be present in providing legal protection to workers, so that they can carry out their role optimally, by providing equal employment opportunities, protection of their rights in carrying out work, providing guarantees of welfare, health, safety, and all other aspects of employment. So that it is hoped that every citizen can get a decent livelihood (Bambang Sukendro, 2024).

The purpose of labour law is to achieve or implement social justice in the field of employment and to protect workers against the unlimited power of employers, for example, who make or create regulations that are coercive in nature so that employers do not act arbitrarily against workers as weak parties. Protection of workers, respectively: Economic protection, which is the protection of labour in the form of sufficient income, including when labour is unable to work against its will; Social protection, which is the protection of labour in the form of occupational health insurance, and freedom of association and protection of the right to organise and Technical protection, which is the protection of labour in the form of occupational security and safety (Iman Soepomo, 1983).

When viewed from the aspect of industrial relations or employment in civil law, it is related to the judicial control of the provisions in the employment contract. Where a work contract regulates labour protection, provisions that oblige work, settlement of problems and so on. Thus, a special feature of the employment relationship is the terms of employment that develop and change over time through custom and practice. Naturally, there are often problems regarding employment contracts made without negotiation between the employer and the worker and even without the respect of the worker and without the desire of the worker (Fentiman, 1982).

Protection in the aspect of labour agreements, of course, cannot be separated. Therefore, the cause of a labour dispute is a difference of opinion that results in a conflict between an employer/group of employers and workers/labourers or trade unions/labourers in one company, which includes:

1. Rights disputes, which are disputes arising from the non-fulfilment of rights due to differences in the implementation or interpretation of the provisions of laws and regulations, work agreements, company regulations, or collective bargaining agreements;
2. Interest disputes, which are disputes arising in labour relations due to disagreements regarding the making of, or changes to working conditions applied in work

3. agreements or company regulations or collective bargaining agreements;
4. Dispute between trade unions/labour unions only in one company, which is about the absence of adjustment of understanding regarding membership, implementation of rights, and obligations of trade unions;
5. Dispute over termination of employment (PHK), which is a dispute arising from the absence of agreement regarding the termination of employment by one of the parties (Sukma, 2023);

The above disputes must be resolved through deliberation first, which is commonly referred to as bipartite, if an agreement is reached then both parties bind a memorandum of agreement which is registered with the court. Although, a collective agreement that has been agreed and registered and has legal force, one of the parties can still file a lawsuit in court (Gaffar, 2021).

## II. RESEARCH METHODS

This legal research uses normative research, which aims to find the truth of coherence. By using 2 (two) approaches, namely: The conceptual approach is that this research does not rely on existing rules, but is based on the doctrines of scholars related to the legal issues under study. Data collection methods sourced from literature relevant to the research topic. The data used are primary and secondary legal materials. Which is reviewed based on library research or literature study, with a grammatical analysis method (P. M. Marzuki, 2005).

## III. RESULTS AND DISCUSSION

### Forms of violation of workers' rights that can lead to civil liability for employers

In the development of the world of employment in Indonesia, the relationship between businesses and labour is the main foundation that supports the creation of social balance and encourages national economic growth. The development of this sector is carried out with reference to the basic principles of national development such as democracy, equality, and justice (Suhartoyo, 2019). considering that manpower development is multidimensional and involves various stakeholders, namely the government, companies, and workers. The rights and obligations stipulated in the agreement must be implemented as well as possible. Do not let either party commit a violation. In Law no. 13 of 2003 concerning Manpower, it is regulated regarding this employment relationship, where the employment relationship formed between Workers/Labourers and Employers/Companies must be manifested in the form of: Work Agreement, Non-certain Time Work Agreement (PKWT), Fixed Time Work Agreement (PKWTT), Company Regulation, Collective Work Agreement, and Contracting Agreement (Suhartoyo, 2019).

Labour law adheres to the concept of employment agreements in civil law known as the principle of freedom of contract stipulated in Article 1338 paragraph (1) of the Civil Code which states: 'All agreements made legally apply as laws that make them' Based on Article 52 of Law Number 13 Year 2003 concerning Manpower, it is explained that employment agreements are made based on:

1. Agreement of both parties;
2. Ability or capacity to perform legal acts, meaning that the ability of the parties to make an agreement and for child workers who will sign a work agreement is their parents or guardians;
3. The existence of the agreed work; and
4. The work agreed upon is not contrary to public order, decency, and laws and regulations (Abrianto, 2024).

Article 1601 a of the Civil Code states: 'A work agreement is an agreement whereby one party, as a labourer, binds himself to be under the orders of the other party, namely the employer, for a certain period of time, to do work for wages'. A written agreement in the field of employment is the basis for workers or employers as a legal basis for a lawsuit if the parties do not perform the agreed agreement. Because basically, the agreement is a form of legal protection, therefore the purpose of administrative law is a means of preventing arbitrary actions and protecting individual rights in the relationship between workers/labourers and the government (Hanavia Rahma Sunaryo, 2023).

Forms of labour rights violations that may give rise to civil liability for employers:

a. Payment of Wages Below Minimum Standards:

Employers who pay wages below the Provincial Minimum Wage (UMP) or Regency/City Minimum Wage (UMK) violate workers' normative rights. This violation can be categorised as a default against the employment agreement and gives rise to liability for damages.

b. Unilateral Termination of Employment (PHK) and Without a Legitimate Reason:

PHK without going through legal procedures, without providing severance pay, or without a legitimate reason (for example, discriminatory reasons or revenge), is a violation of the law that can lead to a civil lawsuit from workers.

c. Not Registering Workers in Social Security Programmes (BPJS):

Employers' obligation to register workers in social security programmes is part of legal protection. Failure to do so may result in a civil claim for financial or health losses to workers.

d. Neglect of Occupational Safety and Health (K3):

If an employer does not provide adequate OHS protection and causes an accident or occupational disease, this can form the basis of a claim for civil compensation due to negligence (tort).

e. Violation of Working Time and Overtime:

Employing workers beyond the regulated working time limit without overtime compensation is also a form of violation that can cause harm to workers and lead to civil liability.

f. Work Contracts that are Not in Accordance with Legal Provisions:

Drafting a work agreement that does not contain the basic rights of workers or inserting standard clauses that are detrimental can lead to default and allow for a lawsuit to cancel the contract and claim compensation.

These violations show that the employment relationship is not merely administrative in nature, but also contains civil law consequences for which the employer can be held directly liable. When workers' rights that have been stipulated in the law, work agreement, or collective labour agreement are violated, the employer may be deemed to have committed default or unlawful acts. As a result, workers have the right to demand the fulfilment of their rights, compensation, or damages through the mechanism of a civil lawsuit in court. Therefore, compliance with labour provisions is not only a moral and administrative obligation, but also a legal responsibility that can have serious consequences for violating employers (Lanny Ramli, 2012).

## Mechanism of Employers' Civil Liability for Violation of Workers' Rights under Indonesian Civil

## Law

Juridically in Article 5 of Law Number 13 of 2003, which provides protection that every worker has the right and has the same opportunity to obtain work and a decent livelihood without discriminating against gender, ethnicity, race, religion, and political sect in accordance with the interests and abilities of the workers concerned, including equal treatment of persons with disabilities. Meanwhile, in Article 6 of Law Number 13 of 2003, requires employers to provide the rights and obligations of workers or labourers without discriminating against gender, ethnicity, race, religion and political sect (Suhartoyo, 2019).

The mechanism for employers' civil liability for violations of workers' rights under Indonesian civil law is through a lawsuit to the court on the basis of default or tort. If the violation is related to the non-fulfilment of the contents of the employment agreement, such as unpaid wages or ignored leave rights, then the worker can sue on the basis of default according to Articles 1239 and 1243 of the Civil Code. Meanwhile, if the employer commits unlawful acts that harm workers without being directly related to the agreement, such as harassment, discrimination, or negligence in work safety, then a lawsuit can be filed under Article 1365 of the Civil Code on unlawful acts. In this process, workers have the right to demand the restoration of their rights and compensation for the losses incurred, both material and immaterial, as a form of civil responsibility from the employer (Sabrena Sukma, 2025).

Industrial relations is a form of legal relationship between employers and workers/labourers. Cases of industrial disputes are not always tied to disputes that do not fulfil the employment agreement, but there are many cases of industrial disputes that no longer require an agreed employment agreement. For example, the worker's side wants to make changes to the agreement on the grounds that it no longer guarantees the standard of living of the worker's family (H. M. L. Marzuki, 1996). The Industrial Relations Court is a special court within the general judiciary with special characteristics and is different from civil cases in general, with the duties and authority to:

1. Examine and decide at the first instance regarding rights disputes and termination of employment;
2. Examine and decide at the first and last instance regarding interest disputes and between trade unions/labour unions within one company only (Muklis Al'anam & Sabrena Sukma, 2024).

To enforce this civil liability, workers can pursue a dispute resolution process through the industrial relations judicial mechanism under the jurisdiction of the District Court. This process begins with bipartite efforts between workers and employers, then proceeds to mediation or conciliation at the Manpower Office if no agreement is reached. If no solution is found, workers can file a lawsuit to the Industrial Relations Court. In the trial, the worker must prove the violation of his/her rights as well as the losses incurred as a result of the employer's actions. The court's decision can be in the form of fulfilment of rights, payment of compensation, or even restoration of employment. This mechanism provides legal protection to workers while encouraging employers to act in accordance with the principles of justice and compliance with applicable civil and labour laws. Regarding the legal standing of the parties in industrial relations disputes, they include:

- a. Entrepreneurs or a combination of entrepreneurs, namely individuals, partnerships, or legal entities that run a self-owned company located in the jurisdiction of Indonesia and stand alone running a company that is not theirs if it is domiciled outside the territory of Indonesia;
- b. Individual worker, i.e. any worker who receives wages or other forms of

compensation;

- c. Workers' union/labour union, which is an organisation in the company or outside the company formed from, by, and for workers with independent, free, open, democratic, and responsible nature in order to advance, defend and protect the interests of workers and improve the welfare of workers/labourers and their families;
- d. Social enterprises or other enterprises that are not formed as companies, but have management and employ other people by providing wages.

Apart from the litigation route, workers can also pursue non-litigation settlements such as arbitration or other alternative dispute resolution (ADR), provided both parties agree. However, in practice, this route is still rarely used due to limited access and understanding from workers, as well as the tendency of employers to avoid responsibility. Therefore, the role of the state through labour inspection is crucial to ensure that violations of workers' rights are not left without consequences. The government, through relevant agencies, needs to strengthen its supervisory and law enforcement functions, including providing legal education to workers so that they know their rights and are able to fight for them legally. Thus, the civil liability mechanism is not only an instrument of justice enforcement, but also a preventive tool so that employers conduct their business ethically and in accordance with the law.

#### IV. CONCLUSIONS

Employers' civil liability for violations of workers' rights is an important aspect in the enforcement of labour law in Indonesia. Violations of workers' normative rights, such as payment of substandard wages, unilateral dismissal, neglect of work safety, and failure to provide social security, can have legal consequences in the form of tort claims in accordance with the provisions of the Civil Code. Dispute resolution mechanisms can be pursued through litigation at the Industrial Relations Court, or through alternative non-litigation settlements with the agreement of both parties. In practice, the protection of workers requires strict supervision and legal awareness from all parties. Therefore, the existence of this civil liability mechanism is not only aimed at providing justice for aggrieved workers, but also a preventive means to encourage employers to carry out their responsibilities professionally, fairly, and in accordance with applicable legal provisions.

#### V. DAFTAR PUSTAKA

Abrianto, B. O. (2024). *Hukum Ketenagakerjaan Pasca Undang-Undang Cipta Kerja*. Jakarta: Kencana.

Bambang Sukendro, et-al. (2024). Perlindungan Hukum Terhadap Hak-Hak Pekerja Dengan Status Pkwt Ke Pkwtt Pada Pekerjaan Outsourcing / Alih Daya. *Jurnal Sosial Humaniora Sigli (JSH)*, 7(1), 424.

Deby Fatria Ntobuo. (2025). Tanggungjawab Perusahaan PT. Sritex terhadap Pemenuhan Hak Pesangon Karyawan yang di PHK. *Jurnal Pustaka Cendekia Hukum Dan Ilmu Sosial*, 3(1), 22.

Fentiman, R. G. (1982). Agreement and Estoppel in Employment Law. *The Cambridge Law Journal*, 41(1), 55–57. Retrieved from <https://jstor.org/stable/4506413>

Gaffar, S. (2021). The Concept of Procedural Law Regarding the Implementation in Indonesia. *Heliyon*, 7(4). <https://doi.org/https://doi.org/10.1016/j.heliyon.2021.e06690>

Hanavia Rahma Sunaryo. (2023). Tanggung Jawab Pengusaha dan Bentuk Perlindungan Hukum Terhadap Pekerja yang Dipekerjakan Melebihi Jam Kerja Lembur. *CAPITAN Constitutional Law & Administrative Law Review*, 1(2), 115.

Iman Soepomo. (1983). *Hukum Perburuhan Bidang Hubungan Kerja*. Jakarta: Djambatan.

Lanny Ramlji. (2012). Peran Negara Dalam Penyelesaian Perselisihan Hubungan Industrial. *Law Review*, 12(1), 78.

Marzuki, H. M. L. (1996). *Mengenal Karakteristik Kasus-Kasus Perburuhan*. IKAHI, Jakarta.

Marzuki, P. M. (2005). *Penelitian Hukum*. Kencana Prenada Media Group, Jakarta.

Muklis Al'anam & Sabrena Sukma. (2024). Titik Singgung Hukum Administrasi dan Perdata Pada Kompetensi Pengadilan Hubungan Industrial: Sebuah Kajian Komprehensif. *Jurnal Hukum Non Diskriminatif*, 3(1), 3.

Muklis Al'anam dan Radian Salman. (2024). The Relevance Of Jürgen Habermas's Theory Of Communicative Action As The Philosophical Foundation Of Human Rights Enforcement In Indonesia. *Mimbar Hukum*, 36(1), 61–82. <https://doi.org/https://doi.org/10.22146/mh.v36i1.11513>

Sabrena Sukma. (2025). Legalitas Tanda Tangan Digital Dalam Konteks Perjanjian. *Nomos: Jurnal Penelitian Ilmu Hukum*, 5(2).

Suhartoyo. (2019). Perlindungan Hukum Bagi Buruh Dalam Sistem Hukum Ketenagakerjaan Nasional. *Administrative Law & Governance Journal*, 2(2), 327–328.

Sukma, M. A. & S. (2023). *99 Tanya Jawab Hukum*. Ruang Karya, Banjar.