The application of the rights and obligations of workers during the Covid-19 outbreak in Indonesia: Labor Law Perspective

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ABSTRACT

This article aims to examine and analyze the rights and obligations of workers /laborers during the Covid-19 outbreak from the perspective of labor law in Indonesia. The complexity of the issue regarding the rights and obligations of workers has increased again when the Government and the House of Representatives of the Republic of Indonesia passed the Law on Job Creation or Undang-Undang tentang Cipta Kerja Nomor 11 tahun 2020 (UUCK No.11/2020). The research method used is a normative juridical approach. Normative juridical research is usually known as the study of documents, using qualitative methods in analyzing data and using secondary data as sources. The results of this study found that the labor and industrial relations sector, especially related to the rights and obligations of workers and employers, was initially strongly influenced by the development of globalization and information communication technology. Then, with the enactment of UUCK No.11/2020 as the latest labor law in Indonesia, and the outbreak of Covid-19, problems related to industrial relations have become increasingly complex. When viewed from the latest labor law in Indonesia, employers tend to have a stronger position when compared to the position of workers both in terms of interpretation and implementation. This is a challenge in national legislation so that legal efforts are needed to guarantee and provide legal certainty to business actors by applying sanctions in the form of criminal sanctions as ius poenale and ius puniendi.

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Introduction

Today, the phenomenon of the problem of violations of rights and obligations by employers towards workers in Indonesia does not show signs of decreasing but tends to increase. According to Arieza (2019) that various problems related to violations of rights and obligations by employers towards workers occurred, among others, the company did not pay employee wages, the company violated the minimum wage, the company did not register its workers as participants in the Social Security Administering Body (*Badan Penyelenggara Jaminan Sosial* or BPJS) for Employment, and this was exacerbated with a labor inspection system that has not been able to carry out tasks as mandated by Law Number 23 of 2014 concerning Regional Government. the rights and obligations of workers/ laborers related to employment relations in the perspective of labor law have become a very strategic agenda. According to ILO in R 198 - Employment Relationship Recommendation, No.198 (2006), this shows that the existence of an employment relationship is a condition that determines the enactment of the provisions of the labor law and social security for workers.

The rights and obligations of workers labors are the main reference point for determining the nature and extent of the rights and obligations of employers to their workers (ILO,2019). Rights can be in *personam* or in *rem*. *Personam* rights are rights that impose obligations on certain people, and in *rem*, rights are rights that impose obligations on people in general (Back,1968). While obligations have a broad and varied meaning according to the context of their use, including any obligations imposed by law, promises, contracts, public relations, courtesy, kindness, and others (Back,1968).

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From the labor law perspective can be interpreted as the rights that impose obligations on workers/ laborers with regard to the employment relationship as outlined in the employment contract. In general, an employment contract is an employment agreement related to the existence of a legitimate business relationship and contains rights and responsibilities between the employer and employee during the working period. For example, a set of functions to be performed by an employee, working time, salary and other benefits agreed by both parties.

Furthermore, employment relations problems tend to increase in the era of globalization, marked by the movement of capital and investment flows, and advances in information and communication technology. This has an impact on economic and industrial growth as well as job creation in the era of globalization, the connection between the nation-states of the world at an incredible speed (Bhorat & Lundall, 2004). It is influenced by the characteristic of the era of globalization is the occurrence of competition from companies around the world which dramatically changes the way of doing business and competitive competitiveness (ILO, 2006).

The impact of the outbreak of Covid-19 also greatly affects the business world and industry as well as the employment sector. However, the problem faced by workers during the Covid -19 outbreak is the dilemma between being "infected or starving". The effect of the Covid -19 outbreak is a slowdown and decline in economic growth and has an impact on workers, who even before the pandemic period had often experienced discriminatory practices in the workplace (ILO, 2006).

The classic problem in the field of employment in Indonesia which has become a black hole and a vulnerable point is empirically the weak condition of the position of workers/ labors compared to entrepreneurs in labor law, and the issue of protecting workers' rights continues to cause problems today (Hamid, 2019). This condition has been going on in Indonesia for a long time before the Covid-19 outbreak. For example, problems in the field of employment-related to industrial relations in Indonesia are the high number of lawsuits filed by workers as plaintiffs to fight for justice in industrial relations court (*Pengadilan Hubungan Industrial* or PHI) cases, namely 2,645 of 2,993 decisions (Isnur et.al., 2014).

Based on various background descriptions related to the problems in the study, the research was conducted with the aim of investigating and analyzing the implementation of the rights and obligations of workers/ laborers during the Covid -19 outbreak. This is the contemporary agenda from the perspective of labor law. The object of this research is legal issues, facts that occur in society and are not in harmony with the law so that they become legal problems. Legal protection is urgently needed to ensure fair competition and effective protection for both workers and employers. Legal protection is an employment relationship based on national law or practice and takes into account all relevant international labor standards within the scope of the employment relationship (ILO, 2019). According to ILO (2019) that through the employment relationship, mutual rights and obligations are created between the employee and the employer related to work in the field of labor law and social security.

This study aims to examine and analyze the implementation the rights and obligations of workers and employers during the Covid -19 outbreak. This is a contemporary agenda from the perspective of labor law in Indonesia. The results of this study are expected to produce an argument, theory, or legal concept as a prescription to solve problems related to the rights and obligations of workers and entrepreneurs during the Covid -19 outbreak from the perspective of labor law in Indonesia.

Therefore, this research becomes significant due to the existence of critical problems related to the anticipation of the emergence of potential cases of exploitation of workers that will be carried out by employers against workers. Therefore, the results of this legal research are expected to be used by the government as a guide to act appropriately in the event of industrial relations problems in the context of labor law in Indonesia. The problem in this study can be formulated as follows:

- i. How is the juridical review of the rights and obligations of workers and employers from the perspective of labor law in Indonesia?
- ii. How is the implementation of labor law in Indonesia?
- iii. What and how are the rights and obligations of workers and employers from the perspective of labor law in Indonesia?

Thus, this research is entitled as follows: "*The Application of the Rights and Obligations of Workers During the Covid-19 Outbreak in Indonesia: Labor Law Perspective*". This article continues with results and discussions related to the questions posed in the 3 (three) research problem formulations, and conclusions according to the title of this research.

Literature Review

Wageindicator-Data-Academy.org. (2021) states that labor or employment law is part of the law, which deals with the regulation of labor relations, both individual and collective. Traditionally, labor law focuses on those (workers/labors) who perform work in a subordinate employment relationship or with entrepreneurs / employers (Wageindicator-Data Academy.org, 2021). Employment protection refers to a dimension related to a complex set of factors that affect worker safety, enterprise adaptability, labor market policies and other institutions (OECD, 2019).

The term labor relations, also known as industrial relations, refers to the system in which employers, workers and their representatives and, directly or indirectly, the government interact to set the ground rules for the governance of work relationships (Trebilcock, n/d). According to Bray (2004) in Ogunola (2018), industrial relations is the interaction of people and organizations in the workplace

related to how individuals, groups, organizations and institutions make decisions that shape or regulate the relationship between employers and employees.

In the most comprehensive sense, labor law covers matters relating to employment, remuneration, working conditions, trade unions, and industrial relations, social security and disability insurance (Schregle,2021). Labor laws relating to employment are designed to empower and protect workers and ensure that the employer-employee relationship is monitored to hold both parties accountable for their actions (Ouchi,2004). Labor laws help harmonize employer-employee relations as industrial relations so that no employer can exploit their employees, and both parties can negotiate equally with each other on working conditions (The GPS Team in Business, Global Compliance,2021).

Labor law can be interpreted as a collection of legal principles and standards that have two functions as follows: first, protection of workers related to working hours, health and safety conditions, or industrial relations, as well as legal elements related to the substance of rights and obligations of individual workers such as duration of the appointment, position, level of responsibility, the scale of remuneration; and the second is to regulate the relationship between organized interest groups (industrial relations) related to various rights, and obligations of workers and entrepreneurs/employers (Schregle,2021).

According to ILO (2006), the employment relationship is a legal relationship between workers/laborers and employers when a person performs work or services under certain conditions in exchange for remuneration. Blackburn (2006) states that there are two objectives of the labor law as follows: first, to correct the imbalance of power between workers and employers, namely to protect workers' rights to organize in trade unions and to bargain collectively, and to implement protections that prevent employers from firing workers without good reason.

Labor laws regulate and maintain a process by which workers are empowered to negotiate from an "equal" position; and second, to promote socially acceptable working conditions, i.e. place restrictions on contract partners' freedom to conclude contracts on terms they wish, and set minimum standards on issues such as working time, health and safety, and pay, the law limits the extent to which the stronger party can exploit the weaker party (Blackburn,2006).

Furthermore, the scope of labor law has been expanded to include the handicraft industry, rural and agricultural industries, small businesses, office workers, and in some countries with regard to civil servants it has been included in the context of labor law ((Schregle,2021). In this regard, labor laws act as a tool to promote worker empowerment and worker protection, regulate employment relations, legal relations related to mutual rights and obligations are created between workers and employers in exchange for remuneration (Lokiec,n/d). According to LokiecI (n/d) that in 2003 and in 2006 the International Labor Conference (ILC) adopted Recommendation (No.198) on Employment Relations covering the formulation and implementation of national policies to review, clarify and adapt the scope of relevant laws and regulations to ensure effective protection for workers in the context of work relationship.

Labor law regulates employment relations which includes constitutional law, civil law, criminal law as well as supranational ILO conventions (Ahmad,2021). While the employment relationship is a labor relationship that is based on the provisions of the labor law either nationally or in a particular sector or industry which is addressed to workers and entrepreneurs/employers and is used as the main reference to determine the nature and level of the employer's rights and obligations towards his work (ILO,2019)..

Employment relations can be interpreted as a process between employers and employees, management, and trade unions to make decisions within the organization that refers to wages, working conditions, working hours, work safety and security, as well as complaints in the workplace (Bercu and Vodă,2017). The notion of employment relations can be interpreted as a set of processes and activities developed and used by trade unions and entrepreneurs /employers to clarify, manage, reduce and resolve conflicts between employees and their representatives while accommodating various objectives for the promotion of work and social inclusion respectively (Manzano and Agugliaro,2017).

Employment relationships are more than a static interpretation of contracts between employees and employers but rather a number of relationships between skills, abilities, values, and opportunities in a workplace where the role of workers in organizations is increasingly important and varied over time. Employment relationship for workers is an employee's perception of self-development, and recognition by the organization/company for their existence in the workplace. According to experts in Arimie (2019), effective employer-employee relationships are critical to organizational success because healthy relationships can result in employee engagement and even improve employee performance as follows:

- i. The relationship between employer and employee is one of mutual dependence. Employers depend on employees to perform their functions, to ensure the smooth running of the organization. Instead, employees rely on their employers to compensate financially and create a supportive environment that meets their psychological needs; and
- ii. The employer-employee relationship is a harmonious atmosphere in which both parties practice the act of working in such a way that they communicate effectively and work pleasantly, thereby recognizing each other's needs and values which leads to increased motivation. and employee morale

On the other hand, employers are generally aware that the employment relationship has a meaning related to the motivation and commitment of workers in an effort to improve employee performance and simultaneously improve organizational/company

performance. Therefore, the employment relationship can be interpreted as a condition that determines the enactment of the provisions of the labor law and social security aimed at workers. It is the main point of reference for determining the nature and extent of the rights and obligations of entrepreneurs /employers towards their workers (ILO,2006).

Based on the description above, the factors that must be considered by the employer in the employment relationship are the factors of work safety, security, employee rights, as well as obligations and benefits that are indispensable to ensure employee job satisfaction. Thus, the juridical concept of UUCK No.11/2020 has implications for the aspect of legal certainty regarding the rights and obligations of workers and employers who are under the authority of the government as mandated by the constitution. To optimize the working relationship as the goal of the labor law, the implementation of the law is very important in accordance with constitutional guarantees. In this context, labor law is increasingly becoming a very critical issue related to the rights and obligations of workers and employers as regulated in 1945 Constitution or Undang-Undang Dasar Tahun 1945 (UUD 1945), especially during the Covid-19 outbreak.

Juridical Research Approach

This study uses a normative juridical research approach, namely the statutory approach and the analytical approach. The statutory approach is used to examine legal issues related to the dynamics of the development of labor laws in Indonesia. An analytical approach is used to analyze the juridical concept of UUCK No.11/2020 which has implications for aspects of legal certainty regarding the rights and obligations of workers and employers who are under the authority of the government as mandated by the constitution. Secondary data is data obtained from the literature through the literature that is related to the research theme. Sources of data that researchers obtained in this study are by using literature studies and field studies. The data collection techniques used in the study came from various literature in the form of library research, and the collected data were compiled by means of descriptive analysis, from theory and observations so that concrete and scientifically clear truths could be found.

The research method used is a normative juridical approach. Normative juridical research is usually known as the study of documents, using qualitative methods in analyzing data and using secondary data as sources, such as regulations, court decisions, books, legal theories, and doctrines (Sunaryati,1994) that occurs in society and is not in harmony with the law so that it becomes a legal problem (Soekanto & Mamudji,1995). This research data comes from secondary data sources, data from various sources based on published literature studies. These secondary data are in the public domain available in various published sources and are investigated and analyzed by researchers. in a qualitative descriptive manner that emphasizes the use of scientific logic (Bachtiar,2018). This study uses a legal approach, a case approach, and a conceptual approach related to labor issues in Indonesia today. The data collection technique used is library analysis which aims to find out theories, methods, and approaches that can be studied related to this research. Literature analysis as a data analysis technique serves to record carefully, and focuses on primary sources (Al-Ma'ruf,2010).

Results and Discussions

The Application of Workers' Rights and Obligations during the Covid-19 outbreak from Labor Law Perspective in Indonesia, and it can be described as shown in Figure 1 below as follows:

Figure 1: The Application of Workers' Rights and Obligations during the Covid-19 outbreak from Labor Law Perspective in Indonesia (processed)

Recognitions of Labor Law

In general, Indonesian employment or labor law is governed by Law No. 13/2003 (UUK No.13/2003), dated 25 March 2003, regarding labor (the Labor Law), as amended by Law No. 11/2020, dated 2 November 2020, regarding Job Creation (the Job Creation Law or UUCK No.11/2020). Molenaar in Azhar (2015) states that employment law was originally called labor law or *arbeidrechts* in Dutch, part of the applicable law, which basically regulates the relationship between workers and employers, between workers

and workers, and between workers and the authorities. In this sense, it should be limited to the law concerned with people who work based on work agreements/work for other people (Azhar,2015).

The government has issued government regulations to implement both the Labor Law and the Job Creation Law, namely: Government Regulation No. 35 of 2021, dated 2 February 2021, regarding Fixed-Term Employment Contracts, Outsourcing, Work and Rest Time, and Termination of the Work Relationship; and Government Regulation No. 36 of 2021, dated 2 February 2021, regarding Salary. The two other main statutes are: Law No. 2/2004, dated 14 January 2004, regarding industrial relations dispute settlement; and Law No. 21/2000, dated 4 August 2000, regarding labor unions. In addition to the above laws, employers and employees are also subject to company regulations (or work rules) or a collective labor agreement (CLA), if applicable, as well as the express provisions of the employment agreement between the employer and the employee.

In its development, labor law has the following elements: a series of written and unwritten regulations; regulate the occurrence of working relationships between workers and employers; there are people who work for and under other people, earning wages as remuneration; and arrangements for the protection of workers/laborers covering issues of illness, menstruation, pregnancy, childbirth, the existence of worker/ labor organizations and so on (Hamid and Hasbullah,2021).

Labor law has gained recognition as a distinctive branch of law in the academic legal community as a separate branch of legal practice which includes employment, remuneration, working conditions, trade unions, and industrial relations (Labour law,2021). Labor law is increasingly developing in line with the era of globalization and the development of information technology as well as triggering the rapid growth of the industrial and trade sectors so that it has an impact on employment and employment opportunities. This has resulted in the establishment of companies that absorb a lot of labor so that labor law is needed to regulate the relationship between the company and its workforce if one day there is a dispute in the employment relationship.

In the context of Indonesian labor law that the term manpower can be interpreted everything related to the workforce both before, during and after the work period which aims to: empower and utilize the workforce optimally and humanely; realize equal employment opportunities and the provision of manpower in accordance with the needs of national and regional development; provide protection to workers in realizing welfare; and improve the welfare of the workforce and their families (Article 1 number 2 of UUK No.13/2013). Meanwhile, the provisions that confirm that every worker has the same opportunity to get a job without discrimination Article 5 of UUK No.13/2013).

Resources of Labor Law

Sources of labor law in Indonesia are based on several applicable labor laws and regulations such as UUK No.25/2003, which regulates the rights and obligations of workers and employers in industrial relations, UUCK No. 11/2020; Law Number 21 of 2001 concerning Trade Unions/Labour Unions (Law No. 21/2001), which regulates the rights and obligations of trade unions/ workers in detail; Law No. 2 of 2004 concerning Settlement of Industrial Relations Disputes (Law No. 2/2004), which regulates the process of settling cases arising from disputes in industrial relations; Law No.1 of 1970 concerning Occupational Safety (Law No.1/1970); and Regulation of the Minister of Manpower of the Republic of Indonesia No. 6 of 2016 concerning Holiday Allowances (*Peraturan Menteri Tenaga Kerja Republik Indonesia Nomor 5 tahun 2016 tentang Pedoman Penyelesaian Kerugian Di Kementerian Ketenagakerjaan* or *Permen No. 6/2016*) as well as other laws and regulations that usually regulate more specific matters (Wageindicator-Data-Academy.org, 2021).

Several regulations contained in UUK No.13/2003 related to employment are regulated in UUCK No.11/2020, as the latest labor law in Indonesia. However, UUCK No.11/2020 has amended and deleted a number of articles in Law No.13/2003 so that it has very significant implications for the rights and obligations of workers, namely reducing and weakening the position of workers. UUCK No.11/2020 tends to further strengthen the position of entrepreneurs because the law is considered to have the potential to reduce the right of everyone to work and receive fair and proper compensation and treatment in employment relationships as regulated in various laws and regulations as follows:

- i. Everyone has the right to recognition, guarantees, protection, and fair legal certainty, and equal treatment before the law, and everyone has the right to work and receive fair and proper remuneration and treatment in an employment relationship (Article 28D of UUD 1945 paragraph 2).
- ii. In order to establish laws and regulations, it must be carried out based on the principles of establishing good laws and regulations, which include: (1).clarity of purpose, (2).appropriate forming institution or official, (3).compatibility between types, hierarchies, and content materials, (4).can be implemented, (5).usability and effectiveness, (6).clarity of formulation, and (7).openness (Article 5 of the Act. Number 12 Year 2011).
- iii. The material content of laws and regulations must reflect the principles of (a).protection, (b).humanity, (c).nationality, (d).kinship, (e).Nusantara, (f). *Bhinneka Tunggal Ika*, (g) justice, (h).equality of position in law and government, (i).order and legal certainty, and/or (j).balance, harmony, and harmony (Article 6 paragraph 1 of the Law. Number 12 Year 2011).
- iv. Formation of Legislation which reads as follows: “*Academic Papers are manuscripts of research results or legal studies and other research results on a certain problem that can be scientifically justified regarding the regulation of the problem in a Draft Law, Draft Provincial Regulation, or Draft District/City Regional Regulations as a solution to the problems and legal needs of the community*” (Article 1 paragraph 11 of Law Number 15 of 2019).

UUCK No.11/2020 tends to ignore the 4 (four) points above since it was in the stage of the Draft Law (*Rencana Undang-Undang* or RUU) being discussed until it was passed into law by the House of Representatives and the President has received a wave of protests in Indonesia. UUCK No.11/2020 officially came into effect after being signed by President Joko Widodo on November 2, 2020. If viewed from the philosophical, juridical, sociological aspects as well as the preparation process, UUCK No.11/2020 related to the employment cluster is not transparent and inappropriate, as regulated in Article 5 and Article 6 paragraph (1) of the Law Number 12 of 2011 in conjunction with Article 1 paragraph (11) of Law Number 15 of 2019 (Law No.15/2019) concerning the Establishment of Legislation (Thea, 2020).

However, several other articles that have been regulated in UUK No. 13/2003 are still maintained in UUCK No. 11/2020. Then, the wage policy regulated in UUCK No.11/2020 can be interpreted that the direction is back to a low-wage system because UUCK No.11/2020 is considered to tend to harm workers. According to Thea (2020) this is due to:

- i. UUCK No.11/2020 inserts Article 88C paragraph (1) of UUK No.13/2003 which states that the Governor can set the Regency/City minimum wage (*Upah Minimum Kerja* or UMK) with certain conditions.
- ii. The abolition of the working relationship time limit through a certain time work agreement (*Perjanjian Kerja Waktu Tertentu* or PKWT) has the opportunity to cause the status of workers to continue to be PKWT forever without ever being appointed as permanent employees (*Perjanjian Kerja Waktu Tidak Tertentu* or PKWTT) by eliminating the PKWT time limit which was previously regulated in Article 59 of UUK No.13/2003. According to Government Regulation Number 35 of 2021 which is a derivative rule of UUCK No.11/2020 that PKWT is a work agreement between a worker/laborer and an entrepreneur to establish a working relationship for a certain time or for certain jobs.
- iii. There is no restriction on the types of work that can be outsourced by removing Articles 64 and 65 of UUK No.13/2003.
- iv. Severance compensation for workers who have been laid off (*Pemutusan Hubungan Kerja* or PHK) has been reduced in number
- v. UUCK No.11/2020 further facilitates the layoff mechanism because the law eliminates the phrase “null and void” while the provisions of UUK No.13/2003 regulate layoffs through the determination of the industrial relations dispute settlement agency.
- vi. Unskilled Foreign Workers (*Tenaga Kerja Asing* or TKA) have the potential to easily enter Indonesia; and
- vii. Long breaks (leave) can be lost due to UUCK No.11/2020

Furthermore, it is in the context of employment that workers and employers bind themselves in a legal relationship through a bond or work agreement that has been agreed upon by both parties, written or oral and based on law. As the legal *aegium* asserts that *Inde Datae Leges Be Fortier Omnia Posset*. That is, laws are made, otherwise the strong will have unlimited power.

Thus, the rights and obligations between workers and employers are an important concern to create legal guarantees and certainty if a dispute arises in the employment relationship. In Indonesia, the law governing disputes between workers and employers is Law No. 2 of 2004 concerning Settlement of Industrial Relations Disputes (*Undang-Undang Nomor 2 Tahun 2004 tentang Penyelesaian Perselisihan Hubungan Industrial* or UUPHI No. 2/2004).

Dispute Settlement in Industrial Relations

UUPHI No.2/2004 provides for the resolution of labor problems related to disputes regarding work agreements for a certain time – work agreements for an indefinite period of time, illegal strikes, wages given to workers when carrying out the process of termination of employment (process wages), termination of employment on grounds of efficiency, termination of employment due to serious errors in the protection of women's rights, the right of association and allegations of union-busting. This is carried out in a bipartite manner between the company/employer and their employees, dispute resolution by involving third parties in conciliation or mediation efforts, and dispute resolution through the Industrial Relations Dispute Settlement or *Penyelesaian Perselisihan Hubungan Industrial* (PHI) mechanism.

The PHI is a special court established within the district court with the authority to examine, hear and give decisions on industrial relations disputes. In this case, the PHI can be interpreted as a forum for workers' struggle to fulfill their rights as a legal decision. This is in line with the goal of optimizing human labor in order to create equal employment opportunities, provide legal protection, create and improve the welfare of workers/laborers and their families. and no discrimination (Hamid, 2020).

The application and resolution of workers' rights issues can also be pursued through the criminal and civil justice systems. This is due to the potential for cases of labor exploitation by employers against workers becoming a black hole and avulnerable point so that it becomes a critical issue in labor law and criminal law in Indonesia (Hamid, 2021). The issue of protecting workers' rights still creates problems so that normative protection efforts are needed so that workers' rights are regulated both in the constitution and in various forms of legislation. Therefore, efforts to apply criminal sanctions for employers related to industrial relations disputes are in accordance with the laws and regulations in the Indonesian legal system as *ius poenale* and *ius puniendi*.

The definition of *ius puniendi* is the right to impose a crime, criminal law in the subjective sense (*ius puniendi*) which is a regulation that regulates the rights of the state and state equipment to threaten, impose and carry out punishments against someone who violates the prohibitions and orders that have been regulated in the criminal law obtained by the state from the regulations that have been determined by criminal law in an objective sense (*ius poenale*). In other words, *ius puniendi* must be based on *ius poenale*, and this

can be done when labor/worker problems that arise are caused by violations of workers' rights (Hamid,2021). Therefore, *ius poenale* and *ius puniendi* as criminal sanctions for violators can be used as a treatment in the context of the rights and obligations of workers and employers in the perspective of labor law in Indonesia.

Thus, the application of criminal sanctions for employers is expected to prevent and minimize arbitrary actions that may be carried out by employers against workers by implementing UUCK No. 11/2020 which is full of controversy by piggybacking on the Covid-19 issue. In the field of manpower in Indonesia, there is already a method or procedure that applies and must be obeyed and followed by both parties, either through negotiation, mediation, conciliation, arbitration or resolved in the Industrial Relations Court and can also be resolved in the District Court.

Presence of Workers and Employers

The existence of workers and employers is a very important and strategic factor in the industrial world. This is like two sides of a coin, if there are no workers the entrepreneur will certainly not be able to run his business in accordance with the goals and objectives of the business that have been set (Hamid,2020). The quality of workers/laborers becomes very important because a qualified workforce or competitive workforce as human capital is the most valuable asset in organizations/companies and countries (Andriani,2021). Based on the quality, the workforce is divided into three forms, namely educated workers, skilled workers, and uneducated workers (Welianto,2021). An educated workforce tends to have experts with adequate knowledge and skills (Jabbouri & Farooq,2020). In this case, the notion of an educated workforce can be interpreted as workers who have expertise in certain or special fields obtained from the field of education. For example, lecturers, doctors, teachers, lawyers, accountants, and so on (DSL,2021).

Trained workers are workers who have expertise in certain or special fields obtained from experience and training. For example driver, tailor, mechanic, and so on; and the notion of uneducated and untrained workers, workers who rely on labor, do not require prior education or training. For example, coolies, housemaids, manual laborers, and so on (DSL,2021). This section highlights the rights and obligations of workers and employers in the perspective of labor law in Indonesia that are relevant during the Covid-19 outbreak, especially in the employment sector. This effort is very important to do so that workers do not automatically become victims of employers to reduce workers' rights and even terminate employment by smuggling reasons for the Covid-19 outbreak. This is because the position of workers is generally considered weaker when compared to employers (Azhar,2015).

However, problems related to employment in the legal system in Indonesia are labor law issues that are often handled using a public law approach (Isnur,2014). In general, the notion of public law is the law that regulates the relationship between the state and equipment or the relationship between the state and its citizens (Kansil,2002). While the notion of private law (*Privatatrecht* or *Civilrecht*) is a law that regulates the relationship between one person and another with an emphasis on individual interests which gives freedom for the parties to determine their own dispute resolution based on their concepts and interests (Weinrib,1995 in Praseaningsih,2014).

Scholten in Utrecht (1989), public law is a special law (*bijzonder recht*) because it is based on special principles, and public law will limit private law, although it does not eliminate it. The concept of public law or special law (*bijzonder recht*), the law that regulates/protects the interests of the state as ruler (Sanusi,2002) placing workers/workers as a weak group that must be protected, becoming a private law) which assumes the position of workers is equal to that of employers (Weinrib,1995 in Praseaningsih,2014:371).

According to Weinrib (1995) in Praseaningsi (2014), if there is a dispute in the relationship, the court can intervene to resolve the dispute peacefully and authoritatively, for examples of private law or civil law, and civil law in a broad sense can be interpreted as civil law (*Burgerlijkrecht*) and commercial law (*Handelsrecht*) and the meaning of civil law in a narrow sense is only civil law. Furthermore, the related issue regarding the rights and obligations of workers and employers in the perspective of labor law in Indonesia is that labor law still has shortcomings or limitations both in terms of interpretation and application. This is a challenge in itself in national legislation in Indonesia.

Rights and Obligations of Workers

In Indonesia, the definition of worker/laborer/employee is found in several laws and regulations, workers are workers who work in an employment relationship with employers by receiving salaries, wages, or other forms of compensation (see Article 1 No. 3 of Law No.25 of 1997 concerning Manpower; Article 1 Number 4 of Law No 4 of 2016 concerning Public Housing Savings; Article 1 Number 11 of Law No 40 of 2004 concerning the National Social Security System; Article 1 Number 8 of Law No 24 of 2011 concerning the Social Security Administering Body; and Article 1 Number 4 of Law No 4 of 2016 concerning Public Housing Savings).

The definition of workers/laborers in this study includes all people who are able to do work and already have a job in an employment relationship (Soepomo,1999 in Hamid,2020:259) which includes those working in the formal sector who receive regular wages and enjoy adequate legal recognition and protection (UN CESC,2006; ILO 2019). The labor sector in Indonesia has many rules that are regulated in labor law and must be followed by workers and employers. Various laws and regulations regulated in labor law are related to collective agreements or work agreements (Article 52 of UUK No. 13 of 2003) includes the provisions of wages, security, and health insurance when workers are in the work environment.

In this context, collective agreements or work agreements are work agreements (*Arbeidsoverenkoms*) between workers/laborers and employers or employers (Article 1601 of the Civil Code or *Kitab Undang-Undang Hukum Perdata* or KUHPerdata; and Article 1 number 14 of UUK No. 13/2003, provides the meaning, namely: A work agreement is an agreement between a worker/laborer and an entrepreneur or employer that contains the terms of work, the rights, and obligations of both parties), and made in writing containing various rules in the form of welfare guarantees for workers and workers' families, for example, minimum wages, working hours, holidays, sick pay, and provisions for dismissal (Ahmad,2021).

According to Scott (2021), employers and employees have several rights and obligations at work. Rights at work protect employees from potentially harmful events such as unsafe working conditions or discrimination and workplace obligations hold employees accountable for their actions and ensure workers behave ethically and responsibly (Scott (2021). Furthermore, the rights and obligations of workers/laborers include guarantees for respect, protection, and fulfillment of human rights which are clearly stated in the constitution as well as in various national laws. In this regard, Indonesia has ratified many key international instruments on human rights and rights at work (Hidayat,2020:9-10). The rights and obligations of workers/laborers in Indonesia include the following:

Table 1: Rights and Obligations of Workers in Indonesia

No	Rights	Obligations
1	The right to obtain work protection, the employer as referred to in Article 35 paragraph (1) that in employing workers is obliged to provide protection that includes the welfare, safety, and health of both mental and physical workers (See Chapter VI article 35 paragraph (3) of UUK No. 13 / 2003).	1 The obligations of workers can be conceptualized into two points (Sudikno,2003) as follows: a. Workers are required to do their jobs. Carrying out a job is the main task of a work that must be done alone, however, with the permission of the employer it can be represented; and workers are required to pay compensation for fines. b. If a worker commits an act that harms the company either intentionally or unintentionally, then according to legal principles, the worker is obliged to pay compensation and a fine.
2	Every worker/labor has the right to obtain protection for a. Occupational safety and health; b. Morals and decency; and c. Treatment in accordance with human dignity and values as well as religious values; and to protect the safety of workers/laborers in order to realize optimal work productivity, workplace safety, and health efforts are carried out, and the protection as referred to in paragraphs (1) and (2) is carried out in accordance with the applicable laws and regulations (Mertokusumo,2003).	2 Employees have responsibilities towards their employers, even if they work part-time or do not have a written contract with their employer. These are the main responsibilities of employees : a. To personally do the work they are hired to do, to do their job carefully and seriously (In some cases, they can be fired or disciplined if they are often late for work, or if they are absent too often or for no apparent reason.); b. To avoid putting themselves or others in danger; to follow their employer's instructions (There are some exceptions. For example, if the employer asks an employee to do something dangerous or illegal, the employee does not have to follow these instructions; and c. Be loyal (Éducaloi, 2021)
3	The right to wage protection (Sudikno,2003).	
4	Related to Wage (article 88 of the UUK No 13 of 2003) as follows: a. Every worker/labor earns an income that fulfills a decent living for humanity; b. In order to realize an income that fulfills a decent living for humanity as referred to in paragraph (1), the government establishes a wage policy that protects workers/laborers; c. Wage policies that protect workers/laborers as referred to in paragraph (2) include: 1) Minimum wages; 2) Overtime wages; 3) Wages are absent from work due to absence; 4) Wages are absent from work due to other activities outside their work; 5) Wages for exercising their work rights and time off; 6) Form and method of payment of wages; 7) Fines and deductions from wages; 8) Things that can be calculated with wages; 9) Proportionate structure and scale of wages; 10) Wages for severance pay; 11) Wages for income tax calculation.	

Table Cont'd

5	Every worker has the same opportunity without discrimination to get a job (Chapter III Article 5 of UUK No. 13 /2003).
6	Every worker/labor has the right to receive equal treatment without discrimination from employers (Chapter III Article 6 of UUK No. 13/ 2003)
7	Every workforce has the right to obtain and/or improve and/or develop work competencies in accordance with their talents, interests, and abilities through job training (Chapter V Article 11 of UUK No.13/2003).
8	Every worker/labor has the same opportunity to take part in on-the-job training in accordance with his/her field of work (Chapter V Article 12 of UUK No. 13/2003).
9	Every worker has the same rights and opportunities to choose, get, or change jobs and earn a decent income at home or abroad (Chapter VI Article 31 of UUK No.13/2003).
10	Every worker/labor and his/her family have the right to obtain labor social security (Chapter X, third part, Article 99 paragraph (1) of UUK No. 13/2003).

Source: From various sources (processed)

Based on table 1, it can be interpreted that workers/labors who are bound by a work agreement with the company must be able to fulfill their obligations as workers. On the other hand, employers are required to fulfill all provisions related to the laws and regulations as regulated in the articles of UUK No. 13 of 2003. According to Consideration letter d of UUK No. 13/2003, workers/labors are entitled to legal protection, and the form of protection for workers is intended to guarantee the rights of workers. basic rights of workers/laborers and guaranteeing equal opportunity and treatment without discrimination on any basis to realize the welfare of workers/laborers and their families by taking into account the development of the progress of the business world. Thus, the purpose of the legal protection of the rights and obligations of workers/laborers is to guarantee legal certainty and provide protection for human rights for workers/laborers so that they can enjoy all the rights that have been stipulated in accordance with legal provisions (Soekanto,2006). The legal protection of the rights and obligations of workers/laborers is an absolute and important issue in the context of the perspective of labor law in Indonesia (Hamid,2021)

Rights and Obligations of Employers

In Indonesia, the definition of employer as referred to in the labor law is an individual, partnership, or legal entity that runs a company owned by itself; an individual, partnership, or legal entity that independently operates a company that is not his own; individual, partnership, or legal entity residing in Indonesia representing a company domiciled outside the territory of Indonesia. Then, related to the definition of the company are as follows: (a). any form of business that is a legal entity or not, owned by an individual, owned by a partnership, or owned by a legal entity, both privately owned and state-owned that employs workers/laborers by paying wages or other forms of remuneration; and (b). social enterprises and other businesses that have management and employ other people by paying wages or other forms of remuneration (Soekanto,2006).

According to Soekanto (2006), an employer has the right to: hire employees, organize work and provide instructions and regulations relating to work management, terminate and dissolve employment contracts within the limits established by law. On the other hand, the employer as an employer/entrepreneur has an obligation to comply with laws, contracts, and agreements, treat employees equally regardless of the origin, religion, gender, age, or political views of workers (Soekanto,2006). During the Covid -19 outbreak, employers are expected to be able to maintain and improve the safety and health of workers/labors and promote a good work environment to ensure health and safety in the workplace. These efforts can be carried out by employers by providing the necessary resources with the aim of simultaneously improving the performance of workers/labors and organizations/companies. Therefore, employers are expected to be able to maintain business continuity because the Covid-19 pandemic has changed the new work order so that a new control strategy is needed in the implementation of the Occupational Health and Safety Management System (*Kesehatan dan Keselamatan Kerja* or K3) in the workplace. Employers and workers must be able to consistently implement a work culture in the new normal era, namely wearing masks, maintaining distance, washing hands with soap (*Memakai masker, Menjaga jarak, Mencuci tangan pakai sabun* or 3M) as the health protocol. This effort is carried out to maintain business continuity and protect workers/laborers to prevent the spread of the Covid-19 virus and to overcome Covid-19 in the workplace environment. Employers are expected to have a business strategy plan that is adaptive during the Covid -19 outbreak, puts forward work safety factors based on strict health protocols, and implements them through collective agreements consistently. Therefore, employers are expected not to do unproductive things, such as piggybacking on the issue of the Covid -19 pandemic to justify exploiting workers. As an example, pay lower wages for workers/laborers or even terminate employment unilaterally for reasons of force majeure or overmacht with reference to UUCK No.11/2020 which is considered to be full of harm to the workers. It is better if the conditions are forcing then

the entrepreneur can take a more humane way as regulated in UUK No.13/2003 (Articles 151, 163,164,165,166, and 167 of UUK No.13/ 2003 regarding employers having the right to terminate their employment for workers/labors).

This has become the focus of researchers regarding the rights and obligations of workers and employers in this study during the COVID-19 outbreak. This argument is because UUCK No. 11/2020 has become a critical issue in Indonesia at this time because the government makes it easy for entrepreneurs as the right of business actors to lay off workers (Thea,2021). Based on this new labor law, only with a letter of notification to the workers can carry out layoffs without first negotiating with the labor union or workers concerned (Thea,2021). According to the Government Regulation Number 35 of 2021 concerning Work Agreements for Certain Time, Outsourcing, Working Time and Rest Time, and Termination of Employment (*Peraturan Pemerintah Nomor 35 Tahun 2021 tentang Perjanjian Kerja Waktu Tertentu, Alih Daya, Waktu Kerja dan Waktu Istirahat, dan Pemutusan Hubungan Kerja* or PP PKWT-PHK), that layoff is made in the form of a letter and submitted legally and properly by the entrepreneur to the worker/worker and/or labor union no later than 14 (fourteen) working days before the layoff and for workers on probation, the notification letter is submitted no later than 7 (seven) working days before the layoff. In the context of layoffs, the Indonesian government is expected to protect and guarantee legal certainty for workers/labors through the application of criminal sanctions to employers. This can be implemented as regulated in the Indonesian legal system, as *ius poenale* and *ius puniendi*. On the other hand, the government is expected to provide the right policies for entrepreneurs in order to maintain business continuity during the Covid -19 outbreak as an economic stimulus to avoid layoffs which will have an impact on increasing unemployment which can worsen the condition of society and the economy of a country as a whole. During the Covid-19 outbreak, the government is still expected to be consistent in carrying out comprehensive and sustainable economic stimulus, especially in the employment sector. This is done by accelerating the implementation of vaccinations and the application of health protocols for workers and the general public as well as encouraging potential sectors to carry out activities. Potential sectors include infrastructure, health, education, communication, and the manufacturing industry as well as economic and financial digitization which is expected to boost the acceleration of economic recovery in Indonesia. investment in 2021. The efforts made by the government are expected to avoid the growth rate of the unemployment rate in Indonesia which has reached 2.56 million people out of 29.12 million people of working age due to the impact of the Covid -19 pandemic (Andryanto, 2021). According to Andryanto (2021), the open unemployment rate (*Tingkat Pengangguran Terbuka* or TPT) is based on data released by the Central Statistics Agency (BPS) that in 2020 there were 9.77 million open unemployed.

Facing various challenges that emerged during the Covid -19 outbreak, the government is expected to be able to optimally assist entrepreneurs so that their businesses can survive and thrive by facilitating access to banking to increase business capital circulation, encouraging potential business sectors and Micro, Small, and Medium Enterprises Sector and Medium (MSME). In this context, these efforts provide a multiplier effect for the employment sector in Indonesia, among others being able to create as many jobs as possible, expand job opportunities and employment opportunities for the working-age population, and train job seekers to have an entrepreneurial spirit. or open your own business. Furthermore, the government is expected to be consistent in conducting supervision, monitoring, education, supervision, and legal action (criminal sanctions) to entrepreneurs who are proven to have violated the applicable laws and regulations.

Conclusion

Based on the results of the study, it can be seen that the rights and obligations of workers and employers have been guaranteed in the constitution. Facing very volatile conditions due to the Covid-19 outbreak, every country, including Indonesia, must inevitably respond to survive and thrive in various sectors of life. One of them is the employment sector which has been hit hard by the Covid-19 pandemic. The results of this study indicate that UUCK No.11/2020 has deleted, changed, and inserted several articles contained in UUCK No.13/2003. This has an impact on the weakening position of workers when compared to employers. For example, in terms of termination of employment (*Pemutusan Hubungan Kerja* or PHK), employers are easier to lay off and are also related to the rights of other workers. This provides flexibility to be used by employers because several things related to layoffs and others tend to have been amputated by UUCK No.11/2020 (very contrasting when compared to the rights of workers regulated in UUCK No.13/2003). Thus, this cannot be justified at all because it has ignored the provisions stipulated in the 1945 Constitution and the ILO which has been ratified by Indonesia. Furthermore, in order to guarantee and provide legal certainty to workers during the Covid-19 outbreak, the government is expected to be more intensive in supervising the behavior of related entrepreneurs in industrial relations. The government is also expected to consistently be able to apply sanctions to entrepreneurs who are proven to have violated the law by piggybacking on the Covid-19 issue, in the form of criminal sanctions. On the other hand, the government is able to maintain the stability of the national economy caused by the impact of the Covid-19 outbreak through economic stimulus packages to entrepreneurs such as easy access to banking related to additional working capital, implementation of regulations, and an effective and efficient business supervision system, and others. This is very important in order to utilize business activities so as to open new job opportunities for workers so as to reduce the unemployment rate in Indonesia.

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