

Social Justice and Human Rights: Legal Protection of Indigenous Papuan Labour in The Framework of Papua's Special Autonomy

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Abstract

This article assesses the effectiveness of labor regulations in protecting the rights of indigenous workers in Indonesia and identifies barriers to their implementation. The study uses a qualitative approach with literature and policy analysis, as well as secondary data from official documents and government reports. The results show that although Indonesia's labor regulations theoretically offer good protection, their implementation faces challenges such as lack of access to information, weak law enforcement, discrimination, and limited infrastructure. To improve legal protections, coordination between the government, entrepreneurs, and civil society is recommended, as well as measures such as regulatory socialization, stricter law enforcement, and infrastructure development. This research adds to the understanding of the protection of the rights of indigenous workers in Indonesia and provides practical recommendations to improve the existing legal framework.

Keywords: Labor Infrastructure, Legal Protection, Labor Regulation

INTRODUCTION

As an archipelago rich in natural and cultural resources, Indonesia has a lot of potential in terms of human resources, including indigenous people. Indigenous people are an integral part of the Indonesian nation who have the right to work and earn adequate salaries. Labour regulations in Indonesia have been designed to ensure legal protection for all workers, including indigenous people.

To protect workers' rights, the Indonesian government has issued Law No. 13 Year 2003 on Labour and Law No. 11 Year 2020 on Job Creation. These two regulations govern various aspects of labour, ranging from minimum wages, working hours, to social security. In addition, there are also regulations that specifically protect vulnerable groups, including indigenous people, through affirmative programmes and skills training.

For example, the government has launched an indigenous empowerment programme that aims to increase prosperity and employment opportunities for indigenous people. The programme includes vocational training, business capital assistance, and access to the labour market. With these regulations and programmes in place, it is expected that indigenous people can more easily find decent work and get adequate protection in the world of work.

However, in reality, it is not uncommon for labour rights to be violated, especially for indigenous people. These violations can include unpaid wages, excessive working hours, discrimination in treatment, and unsafe working conditions. The implementation of these regulations often faces challenges in the field. Therefore, cooperation between the government, employers, and the community is needed to ensure that the rights of workers, including indigenous people, are properly protected and they get equal opportunities in the world of work.

Given these conditions, strong legal protection for workers, especially indigenous people, is crucial. A clear legal foundation and effective law enforcement mechanisms are needed to ensure that workers' human rights are fulfilled. By understanding the complexity of the problem and formulating appropriate solutions, it is hoped that legal protection for indigenous workers in Indonesia can be better realised, so that they can work safely, comfortably, and earn a decent living.

In an effort to strengthen legal protection for indigenous labour in Indonesia, a deeper understanding of the complexity of the issues faced is required. One of the challenges often faced is the injustice and discrimination

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experienced by indigenous people in various aspects of life, including employment. As a result, there needs to be a more efficient effort in providing legal protection for them.

The Indonesian government has taken positive steps in improving legal protection for indigenous labour. One example is by issuing stricter and more specific laws and regulations regarding legal protection for labour. In addition, the government has also increased awareness and equality in various aspects of life, including in employment. Thus, it is expected that legal protection for indigenous workers in Indonesia can be better realised, so that they can work safely, comfortably, and earn a decent living.

The relevant research on Reviewing the Legal Protection of Papuan Indigenous Workers in the Papuan Special Autonomy Framework, namely from research by Ester Monalisa Tantri et al (2022) Law Number 18 of 2017 Regarding Legal Protection of Indonesian Workers Abroad, and research by Wiwin Budi Pratiwi et al (2023) Legal Protection of Workers Through the Outsourcing System in Indonesia.

The similarity of these studies is that both researchers want to discuss legal protection for labour. The difference between the two studies is that the research conducted by Ester Monalisa Tantri et al focuses more on the Indonesian government's efforts to protect Indonesian workers working abroad and the application of legal protection based on Law No. 18 of 2017. And the research conducted by Wiwin Budi Pratiwi et al focuses more on the implementation of legal protection for outsourced employees in Indonesia, especially after the Job Creation Law No. 11 of 2020 was enacted.

This journal article aims to comprehensively examine legal protection for indigenous labour in Indonesia. This article will discuss existing regulations, starting from the 1945 Constitution of the Republic of Indonesia, the Labour Law, and other relevant laws and regulations.

Furthermore, this article will analyse the challenges faced in the implementation of these regulations, such as geographical constraints, lack of legal understanding, and lack of supervision. In addition, this article will also provide recommendations to strengthen legal protection for indigenous labour. These recommendations may include improving legal education for workers, strengthening supervision by relevant agencies, and developing economic empowerment programmes for indigenous people.

Therefore, this article formulates several problem formulations as follows; first, How does the existing labour regulation in Indonesia guarantee legal protection for indigenous people? and How is the Legal Protection of Papuan Indigenous Labour in the Framework of Papua Special Autonomy?

THEORETICAL FRAMEWORK

In addition, with the increased investment and job creation promoted by the Job Creation Law, there is an opportunity for increased OAP labour absorption. Local governments can use the provisions of the Job Creation law to encourage better skills training for native Papuans, so that they are better prepared for the needs of the labour market and the drafting of policies such as the West Papua Provincial Regulation No. 6 of 2022, which regulates the quota of native Papuan workers, can be integrated with the Job Creation law to provide additional protection and priority to native Papuans in recruitment.

METHODOLOGY

The research methodology used is descriptive and qualitative. This research aims to describe and explain phenomena, focusing on characteristics, qualities, and relationships. The descriptive approach is used to understand the legal protection of indigenous labour in Indonesia. Primary data was obtained from field observations. Secondary data was collected from official documents, government reports, and relevant previous research. Data analysis used qualitative methods to interpret the findings, with a thematic analysis approach to identify patterns and key themes in the data collected.

RESULTS AND DISCUSSIONS

Labour Regulations that Guarantee Legal Protection for Indigenous Peoples in Indonesia

a. regulations.

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Furthermore, it is also important to note that legal protection is not only limited to labour. In Indonesia, genuine rights, such as the right to work and livelihood, as well as rights and obligations as citizens, are protected by laws and other regulations, as well as human rights protections. In exercising these rights, the state and Government are responsible for safeguarding, respecting, guaranteeing, and defending the rights of indigenous people. This also includes the protection of vulnerable demographics, such as children, women, and the elderly.

With these regulations and legal protections in place, it is hoped that indigenous people can obtain fair and equal treatment, without discrimination based on social status, racial, religious, gender, or otherwise. Although labour regulations in Indonesia provide legal protection for indigenous people, there are still some challenges in its implementation. One of the main challenges is the lack of access to information. Many indigenous people are unaware of their rights as workers, making it difficult for them to fight for their rights. Socialisation and education on labour regulations need to be improved so that all workers, including indigenous people, have an adequate understanding of their rights.

Weak law enforcement is also a significant challenge. Many employers do not comply with labour regulations, and violations of workers' rights often go unpunished. The lack of effective supervision and law enforcement means that many labour rights violations go unaddressed, and the protection promised by labour regulations cannot be tangibly felt by workers. Discrimination is another problem that indigenous people often face themselves.

They often experience discrimination in recruitment, job placement and promotion processes. This discrimination not only harms workers in terms of fairness and opportunity, but also negatively impacts productivity and social cohesion in the workplace. Efforts to eliminate this discrimination require more inclusive policies and strict monitoring.

Infrastructure limitations in Indonesia's remote areas are a significant obstacle to protecting the rights of indigenous people. This includes a lack of access to education and vocational training, which makes it difficult for residents in these areas to improve their skills and competitiveness. Without adequate infrastructure, efforts to empower and improve the quality of the workforce are difficult to achieve.

These challenges show that while Indonesia's labour regulations have been designed to protect workers' rights, their implementation still requires significant improvement. Stronger and coordinated efforts are needed from various parties involved, including the government, employers, and civil society organisations, to ensure that the protection of indigenous rights can be effectively and equitably implemented throughout Indonesia.

To improve legal protection for indigenous people, some efforts that need to be made include:

Socialisation of Labour Regulations: Socialisation of labour regulations needs to be done thoroughly to indigenous people so that they understand their rights. Knowledge of these rights is important to increase their awareness and participation in a fairer world of work.

Strict Law Enforcement: Law enforcement must be carried out strictly against employers who violate labour regulations. Strict supervision and clear sanctions will provide a deterrent effect and encourage compliance with the law.

Prevention of Discrimination: Efforts to prevent discrimination against indigenous people in recruitment, job placement, and promotion processes are necessary. This includes developing inclusive and equitable policies and training employers to understand the importance of diversity and inclusion.

Infrastructure Development: Infrastructure development in remote areas is essential to improve access to education and vocational training. Adequate infrastructure will open up opportunities for indigenous people to improve their skills and participate in a more competitive labour market.

By implementing these measures, it is hoped that legal protection for indigenous peoples can be enhanced, ensuring equitable access to their rights, and supporting the creation of more inclusive and equitable working conditions across Indonesia.

Legal Protection of Indigenous Papuan Labour in the Framework of Papua Special Autonomy

Indonesia has various enforcement mechanisms in place to address violations of labor rights, such as indigenous peoples. These mechanisms include oversight by the Ministry of Manpower, mediation processes, arbitration, and specialized labor courts. With these various mechanisms, the government seeks to ensure that workers' rights are protected and violations are effectively and fairly addressed.

Special Autonomy for Papua is a policy of the Indonesian government to accelerate the development and welfare of the Papuan people. In the context of employment, legal protection for indigenous Papuan workers is a major focus to ensure they can obtain their rights fairly and equally.

Papua, with its abundant natural and cultural wealth, faces challenges in terms of the welfare of its people. One of the main issues is the lack of access to decent work for indigenous Papuan workers. Factors such as low levels of education, lack of skills training, and discrimination, contribute to this problem. These inequalities require special attention within the framework of Papua Special Autonomy to ensure the rights of indigenous Papuan workers are protected and recognized.

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These inequalities require special attention within the framework of Papua Special Autonomy to ensure the rights of indigenous Papuan workers are protected and recognized. Papua's Special Autonomy provides a legal basis for local governments to regulate and protect indigenous Papuan workers. Law Number 21 of 2001 on Special Autonomy for Papua Province, Regional Regulation Number 4 of 2013 on the Implementation of Employment in Papua Province, and Papua Governor Regulation Number 100 of 2019 on the Protection of Indigenous Papuan Workers are some of the important regulations that support this protection. With these regulations, local governments have the legitimacy to create policies that can overcome the various obstacles faced by indigenous Papuan workers.

Indigenous Papuan workers have the same rights as other workers, including the right to work, decent wages, social security, and occupational safety. These rights are protected by various laws and regulations, both at the national and local levels. The protection of these rights ensures that indigenous Papuan workers can work in fair conditions and receive proper welfare.

To protect indigenous Papuan workers, the Papuan local government has made various efforts, such as improving education and skills training, developing a labor information system, enforcing labor laws, and empowering the economy of indigenous Papuans.

These measures are expected to improve the quality of indigenous Papuan workers and provide them with greater opportunities for decent work.

Despite these efforts, there are still challenges in protecting indigenous Papuan workers. These include a lack of awareness among indigenous Papuans about their rights, limited access to labor information and services, and discrimination against indigenous Papuans. To overcome these challenges, comprehensive solutions are needed, such as increasing socialization about the rights of indigenous Papuan workers, expanding access to employment information and services, and conducting anti-discrimination campaigns.

Special Autonomy for Papua provides an opportunity for local governments to formulate more targeted policies and programs to protect indigenous Papuan workers. Thus, Special Autonomy for Papua can contribute to the improvement of welfare and justice for indigenous Papuans. Policies tailored to local needs and conditions are expected to have a significant positive impact on indigenous Papuan workers.

Legal protection for indigenous Papuan workers is an important part of Papua's development. By providing fair access to employment and other labor rights, indigenous Papuan workers can play an active role in the development of their region and improve their welfare. Effective policy implementation within the framework of Papua's Special Autonomy is expected to address the various challenges that exist and realize social justice for all Papuans.

One of the main mechanisms is supervision by the Ministry of Manpower. The ministry has an inspectorate tasked with overseeing the implementation of labor regulations in all companies in Indonesia. Labor inspectors conduct regular inspections and can take action against companies that violate the rules. They are also authorized to impose administrative sanctions and recommend further legal action if serious violations of workers' rights are found.

The mediation process is another important mechanism in labor dispute resolution. Mediation is conducted by labor mediators who are tasked with facilitating the settlement of disputes between workers and employers in a peaceful and fair manner. Through mediation, both parties are expected to reach an agreement that is favorable to both parties without the need to go through a lengthy and expensive court process.

Arbitration is also used to resolve labor disputes. In this process, an independent arbitrator is appointed to provide a decision that is binding for both parties. Arbitration is often chosen because the process is faster than the general courts. The arbitrator's decision is final and must be adhered to by both parties, resulting in faster legal agreements for workers and employers.

Finally, specialized labor courts, such as the Industrial Relations Court (PHI), play an important role in labor law enforcement. PHI has jurisdiction to handle a wide range of labor disputes, including disputes over rights, interests, and termination of employment. This court provides a forum for workers and employers to resolve their disputes fairly and based on the law. Decisions made by PHI have binding legal force, thus providing effective protection for labor rights.

Rescue

The Ministry of Manpower and the Manpower Office in the regions are authorized to rescue workers who experience violations of their rights. In this case, the Ministry of Manpower and the Manpower Office act as protectors and law enforcers for workers who experience violations of their rights.

Law Enforcement

Civil servant investigators (PPNS) of the Ministry of Manpower and police investigators are authorized to conduct investigations and inquiries into violations of labor regulations. PPNS and police investigators act as law enforcers in charge of investigating and prosecuting violations of labor regulations.

Settlement of Labor Relations Disputes

Workers who experience violations of their rights can submit work disputes to the Institute for Settlement of Labor Relations Disputes (LP-HK). LP-HK acts as a mediator in charge of resolving labor relations disputes between workers and employers in a fair and equitable manner.

How enforcement mechanisms address violations of indigenous labor rights varies and is influenced by many factors. One key factor is legal awareness, which means that both workers and employers must understand their rights and obligations. A high level of legal awareness will help ensure that labor regulations can be applied more effectively.

Access to information also plays an important role in the effectiveness of law enforcement. Workers should be able to access adequate information about enforcement mechanisms and their rights. Without good access, workers may not know how to report violations or fight for their rights, so violations may continue to occur without proper redress.

Law enforcement capacity is another factor that determines the effectiveness of law enforcement. Investigators, and judges who have sufficient capacity in handling cases of labor rights violations will be better able to enforce regulations firmly and fairly. Training and competency improvement for law enforcers are needed to ensure they can carry out their duties properly.

Government commitment also greatly affects the effectiveness of law enforcement. Governments that have a strong commitment to enforcing labor regulations will be more active in conducting supervision and taking action against violations. Consistent political and policy support from the government is essential to create an enabling environment for effective law enforcement.

Finally, a work culture that respects labor rights is also an important factor. In workplaces where there is a culture of respect for workers' rights, violations are less likely to occur, and workers feel more valued and protected. A good work culture will develop a favorable relationship between employees and employers, which in turn will support effective enforcement of labor regulations.

Some of the challenges in enforcing violations of indigenous labor rights include underreporting, lack of evidence, lengthy processes, and unfair verdicts. Many workers dare not report violations of their rights for fear of being fired or intimidated by employers. This fear results in many cases of labor rights violations going uncovered and unaddressed.

In addition, the difficulty of obtaining evidence of labor rights violations is also a major obstacle. Many violations occur without witnesses or adequate documentation, making it difficult to investigate and prosecute. Without strong evidence, law enforcement is less effective and often perpetrators of violations cannot be charged.

The lengthy and convoluted process of resolving labor disputes is also a significant challenge. Time-consuming legal processes and bureaucratic red tape discourage many workers from reporting their cases or pursuing the legal process to completion. This results in many cases not receiving adequate resolution and labor rights not being optimally protected.

Unfair verdicts from labor courts also add to the complexity of law enforcement. Sometimes, verdicts are not in favor of workers despite clear evidence of violations. This can be due to corruption, bias, or judges' lack of understanding of labor issues. These unfair decisions undermine workers' trust in the justice system and law enforcement, and hinder efforts to protect their rights.

Some of the efforts to improve the effectiveness of law enforcement on violations of indigenous labor rights include socialization of labor laws, improved access to information, strengthening the capacity of law enforcers, strict law enforcement, and changes in work culture. Socialization of labor laws to workers and employers is an important first step to ensure that all parties understand their rights and obligations. With good socialization, awareness of labor regulations can increase, so that violations can be minimized.

Strict law enforcement against employers who violate labor regulations is a key factor in improving the effectiveness of law enforcement. Violating employers must be given appropriate sanctions so that there is a deterrent effect and compliance with regulations increases. This step also shows that the government is serious about protecting labor rights.

The Indonesian government has taken positive steps in recent years to improve legal protection for labor.

One example is by issuing stricter and more specific laws and regulations regarding legal protection for labor. In addition, the government has also increased awareness and equality in various aspects of life, including in employment. Thus, it is hoped that legal protection for workers in Indonesia can be realized better, so that they can work safely, comfortably, and earn a decent living.

To ensure accountability and provide a deterrent effect for businesses that violate the law, strict and fair sanctions must be applied. The Indonesian government has stepped up law enforcement against unethical business offenses in recent years. Strict and fair sanctions are needed to ensure accountability and provide a deterrent effect for offending businesses.

A change in work culture to strengthen respect for labor rights is essential. By building a fair and inclusive work culture, companies can create a work environment that respects and protects workers' rights; this will improve the health and productivity of the workforce and increase productivity and harmony in the workplace.

The lengthy and convoluted process of resolving labor disputes is also a significant challenge. Time-consuming legal processes and bureaucratic red tape discourage many workers from reporting their cases or pursuing the legal process to completion. This results in many cases not receiving adequate resolution and labor rights not being optimally protected.

The effectiveness of law enforcement tools in addressing violations of indigenous labor rights in Indonesia, as analyzed in the article, reveals various challenges and shortcomings in the implementation of labor regulations. Although Indonesia's labor laws have been designed to provide broad legal protections, their effectiveness is greatly affected by factors such as lack of access to information, weak law enforcement, discrimination, and limited infrastructure, especially in remote areas.

The existing legal framework in Indonesia, as in many other countries, explicitly covers the rights of indigenous workers. However, these laws are often not effectively implemented. Lack of access to information on labor rights leaves many indigenous workers unaware of their rights or how to report violations. This reflects the need for better socialization programs and targeted education for indigenous people.

Law enforcement agencies in Indonesia face various challenges in enforcing labor regulations. The capacity of these agencies is often limited by a lack of adequate resources and infrastructure, especially in remote areas. Weaknesses in law enforcement are often caused by a lack of trained human resources and inadequate infrastructure. This underscores the importance of increasing the capacity of law enforcement agencies through training, technological support and adequate budget allocations.

Access to justice for indigenous labor in Indonesia remains limited. Geographical, cultural and language barriers often prevent them from seeking justice. Access to grievance mechanisms and legal aid is still inadequate. To address these issues, more accessible and affordable legal aid services and simpler and more transparent grievance procedures are needed.

Regular workplace inspections and surveillance are important tools to ensure compliance with labor regulations. However, in Indonesia, the effectiveness of these inspections is still limited. The lack of trained inspectors and reduced frequency of inspections are the main obstacles. The participation of trade unions and civil society organizations can play an important role in improving the effectiveness of inspections by providing support and monitoring working conditions.

Strict and consistent enforcement of sanctions against violations is essential to create a deterrent effect. It has also been identified that inconsistent and less stringent sanctions often reduce the effectiveness of law

enforcement. In addition, providing fair compensation to victims of violations should be a priority to ensure labor rights are respected and restored.

Finally, the social and political context in Indonesia affects the effectiveness of law enforcement. Discrimination against indigenous people remains a significant problem and emphasizes the need for efforts to prevent discrimination through education, public awareness campaigns, and affirmative policies.

More intensive coordination between the government, employers, and civil society organizations is needed to improve the socialization of regulations, strict law enforcement, and infrastructure development in remote areas. With these measures, legal protection for workers in Indonesia can be realized more effectively and fairly.

CONCLUSION

Indonesia's labor regulations have provided legal protection that includes the right to work, decent pay, reasonable working hours, occupational safety and health, training, and dispute resolution for indigenous people. However, its implementation still faces obstacles such as lack of access to information, weak law enforcement, discrimination, and limited infrastructure in remote areas. To improve these protections, intensive efforts are needed from the government, employers, and communities, including through wider socialization of regulations, strict law enforcement, prevention of discrimination, and development of infrastructure to improve access to education and job training, as well as promoting a work culture that respects labor rights.

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