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Basic Legal Study On Workplace Health And Safety Protection In Indonesia

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Abstract. This study aims to examine the legal history and the concretization of the value of Pancasila as a legal basis in protecting the occupational safety and health of workers in Indonesia. The research method used in this study is a type of normative research using the Statute Approach. The analysis technique in this study was carried out in a descriptive way to describe the legal conditions and protection of workers in Indonesia. The results of this study indicate that the birth of labor law in Indonesia is based on a long history of labor suffering due to slavery, forced cultivation, slavery to forced labor, not vice versa because employers corporations are persecuted by the treatment of workers and employers. National labor law, specifically the Work Safety Health Act, must be able to position workers as independent legal subjects, not arbitrarily controlled by other legal subjects, be treated humanely in accordance with their dignity and status, and obtain justice as a weak party. In addition, to avoid discrimination, it must show the principle of unity in work relations, between employers and workers in corporations, or broader unity in industrial relations, namely between employers' organizations, labor organizations, and government

Keywords. Law, Labor, Occupational Health Safety

Introduction

Article 27 paragraph (3) of the 1945 Constitution of the Republic of Indonesia Third Amendment states that "the State of Indonesia is a state of law". The inclusion of this provision in the Body of the 1945 Constitution of the Republic of Indonesia shows the growing commitment of a country, that the Indonesian state must be a state of law, precisely the state of Pancasila. All applicable laws (*ius constitutum*) and those that will apply (*ius constituendum*) must be a derivation of the values of the Pancasila as the source of all sources of law (Winarno, 2011).

Pancasila as a national personality law is the result of the noble agreement of the Indonesian people so that it becomes a basic norm (*grundnorm*) (Indrati,2007). Pancasila has a variety of positions and functions, each of which is understood in accordance with the context of the process of objectively forming Pancasila. All positions and functions of the Pancasila do not stand alone, but if grouped they will return to the two positions and functions of the Pancasila, namely "as the basis of state philosophy" (*philosofische grondslag*) and "as a view of the life of the nation" (as views of life of nation) (Kaelan,2013).

Before continuing the explanation of the concept of the rule of law Pancasila, it is worth exploring the initial formulation of the rule of law idea itself, and alluding as necessary regarding the two concepts of the rule of law that are widely known (Nasional,2008).

An understanding of the rule of law already exists in ancient Greek literature. Plato in the 4th century BC in his book entitled *Nomoi* formulated, "the implementation of good governance governed by law". By his student Aristotle, in the book *Politica* made a formula, "a good state is a country governed by the constitution and fair justice". Humans decide be a good society and moral, so that makes it be fair. When this situation materializes, what is called the rule of law is created (Busro,1983).

Moh. Kusnardi and Harmaily Ibrahim explained Aristotle's formula. Initially arising from the policy (state) is small and has a small population, all state affairs are carried out by deliberation (ecclesia), where all citizens participate in the affairs of organizing the country. A rule of law is a statute that stands on a law that guarantees justice to its citizens. Justice is an absolute requirement for achieving happiness in life for its citizens (Ibrahim, 1983). It is not the real people who rule the country, but a fair mind, whereas the real authority is only the holder of law and balance.

Immanuel Kant first formulated the idea of a rule of law in the form of theory in continental European countries. The initial idea of the ideals of the law was aimed at opposing the power of "absolutism" the power of kings, aristocrats or groups, therefore in the process of its development *rechtsstaat* had more revolutionary characteristics. Kant formulated his theory, that a state can only be called a rule of law if it has the characteristic of "the protection of human rights (HAM)", so the concept of the rule of law (*rechtsstaat*) was born, although initially, the rule of law meant "the state of night watchman" (*nachtwachterstaat*) or "police state" (*l'etat gendarme*) (Erwin, 2011).

In the middle of the 20th century, the understanding of the rule of law shifted, the state must be responsible for the welfare of its people. The state (also Indonesia) is not only a night watchman (*nachtwachterstaat*) but must actively carry out efforts to realize the welfare of its people (workers/laborers). Thought of the rule of law which is influenced by liberalism then shifts / develops towards the welfare state (*welfarestaat*) which seeks the creation of people's welfare. Julius Stahl also placed guarantees on the protection of human rights as a feature or element of the welfare state (Padmo, 1989).

The rule of law, the concept of the Anglo Saxon rule of law which developed in Britain and the United States. Albert Venn Dicey in "Introduction to the law of the constitution", introduces the term the rule of law (simply defined, "legal order"). The fundamental element of government whose authority under the law (rule of law) is the guarantee of human rights by law and court decisions (due process of law). Kaelan and Achmad Zubaidi are of the opinion that community movements that want the power of the king and state administrators must be limited and regulated through statutory regulation. Implementation in relation to all the regulations of the Invitation is often termed the rule of law. Said by Hadjon, the rule of law has an evolutionary characteristic.

Friedman argues, between the notion of the rule of law or *rechtsstaat* and rule of law complement each other, and are difficult to separate. Some describe the notion of the rule of law and the rule of law almost the same, but there are also opinions although the rule of law and rule of law are inseparable but have their respective emphases (Friedman, 1960).

For example, criminal politics (criminal policy) to tackle crime is as an effort to provide welfare laborers through strict protection of K3 workers / laborers in the workplace, including by regulating their socio-economic life. This new idea is known as *welvaartstaat*, *verzorgingsstaat*, welfare state, social service state, or state of material law. Then it becomes *raison d'etre*, revising or supplementing Dicey's thoughts about the formal state (Zubaidi, 1962). Protection of basic rights (work rights) in the workplace (workplace) that is weak socio-economically, the state must actively provide justice above the pleasures of stronger and more powerful parties (entrepreneurs / limited liability companies). The concept of OSH protection Workers in the workplace must be derived from or guided by the concept of the Pancasila rule of law. That is, the concept of OSH protection of workers/laborers must be realized on the elements of communal, religious and family.

In work relations, the social, economic and psychological position of workers is far below that of employers, therefore workers' welfare must be fulfilled in line with national

development goals, in the Fourth Paragraph of the Opening of the 1945 Constitution of the Republic of Indonesia (Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 n.d.). The desire and determination of the state for the welfare of society (workers) must be in line and implemented in the protection of the basic rights (basic rights, human rights) of workers in the workplace, in terms of K3 protection of laborers in the workplace. The state, by recalling the historical and teleological factors of national labor law, then through legislation (the policy formulation of the corporate criminal liability system in the UUKK) should be able to provide justice (welfare) to workers. The UUKK must play a role in safeguarding the functioning of the social system for workers in their weak position over the corporation/entrepreneur who gains and enjoys business activities.

Methodology

As a legal science, the type of research used in this study is legal research (legal research, *rechtsonderzoek*), often called normative legal research or normative juridical (normative juridical) which is prescriptive, namely, what should be, which should be (should / ought), the ideal, which is justly done to find the truth of coherence. Normative legal research puts the law as a norm system regarding principles, norms, rules of law, court decisions, agreements and doctrines (Marzuki,2010).

The object of legal research studies (*ondrezoek-research*) is the law which is conceptualized as a norm or rule, that is legislation. So, essentially normative research is research that studies and analyzes the legal norms set out in the rules set by the authorities. If you see the law as a system of abstract regulations, then Satjipto Rahardjo holds the focus on the law as an institution truly autonomous and the consequence is the use of normative methods, or so-called normative analytics (Nurbani ,2013). The primary legal material in this study is legislation, court decisions and jurisprudence that have permanent legal force (*incracht van gewijsde*) regarding work accident cases incorporate workplaces which are concretizations (law in action) of legislation, and Draft Law Number 1 of 1970 along with official records or minutes during the process of making both the government and the DPRGR at that time. in making legislation. The legislation that will be reviewed, among others:

Basic Laws (*grondwet, grundgesetz*) that have been in effect in Indonesia, starting from the 1945 Constitution, the United Republic of Indonesia Constitution (RIS) 1949, the Provisional Constitution (UUDS) 1950, up to The current constitution, namely the 1945 Constitution of the Republic of Indonesia (URI NRI);

Labor/employment laws that have been in effect in Indonesia, starting with Law Number 12 of 1948 (Work Law of 1948), jo. Law Number 1 of 1951 concerning the Statement of the Enactment of the Employment Act of 1948 Number 12 of the Republic of Indonesia for all of Indonesia (State Gazette of the Republic of Indonesia of 1951 Number 2), Law Number 14 of 1969 concerning Basic Provisions concerning Labor (State Gazette of the Republic of Indonesia Year 1969 Number 55, Supplement to the State Gazette of the Republic of Indonesia Number 2912), up to the current law, namely Law Number 13 of 2003 concerning Labor (State Gazette of the Republic of Indonesia of 2003 Number 39, Supplement State Gazette of the Republic of Indonesia Number 4279), in lieu of Law Number 14 of 1969;

While the secondary legal material in this study is secondary legal materials in the form of all publications about the law that are not official documents. Publications on law include textbooks, legal journals, legal papers, lecture materials or legal lectures which have been published, written interview results relevant to the research topic, legal dictionaries, as well as comments on court decisions on non-legal material (Triwulan,2014). Researchers also use

non-legal materials, can be about books on political science, economics, sociology, philosophy, culture or non-legal research reports and non-legal journals insofar as they have relevance to the topic of this research.

Discussion

Concretization of Pancasila Values in Labor Protection

Basically, the birth of labor law in Indonesia, especially related to the protection of workers in work relations, one of the most important parts is the protection of workers' K3 against the background of the dark and long history of the Indonesian people both as slaves or laborers by the practice of slavery, stretching (horigheid, perhorigheid) / forced cultivation (cultuurstelsel), servitude (pandelingschap), forced labor (rodi) / pancen, poenale sanctie, romusya, kinrohosi, and fujingkau or iugun yanfu from the Dutch occupation to the Japanese occupation.

The sadistic, barbaric, and beyond humanitarian treatment carried out both by the Dutch East Indies authorities to the people (slaves / laborers) as well as by employers/entrepreneurs or corporations (by the VOC trade alliance and plantation companies) to the workers. Slaves/laborers are exploited, controlled, treated arbitrarily, trampled on their dignity and so they do not have the right to live on their lives. Workers are extorted without wages or with relatively small wages, often without food, without rest, and without paying attention to their safety and health (K3).

Thus, the nature of the birth of labor law in Indonesia is due to a long history of suffering from slaves / laborers due to slavery, bondage (horigheid, perhorigheid) / forced cultivation (cultuurstelsel), slavery (pandelingschap), forced labor (rodi) / pancen, poenale sanctie, romusya, kinrohosi, and fujingkau or iugun yanfu, not vice versa because the employer or the entrepreneur/ corporation is persecuted by the treatment of workers/employers and entrepreneurs. Precisely at the time, the 'VOC (Vereenigde Oostindische Compagnie) and plantation companies in the Dutch East Indies era received various facilities and facilities from the authorities. The VOC, for example, was a special trade union alliance because it was supported by the state and given special facilities. The VOC may have an army and may negotiate with other countries. It can be said that VOC is a state within a state. Something ironic, behind all these special facilities, the VOC and the plantation companies are detached from corporate criminal responsibility in labor protection (K3).

In the days of the poenale sanctie, criminal provisions were only directed at workers, while the employer/entrepreneur or corporation (VOC trade union and plantation companies) was not touched by Koeli Ordonantie 1880 (Stb.111 1880). Labor law at that time was served with the Dutch East Indies law which was very contrary to the philosophical values of Pancasila. In Rawls's opinion, the law must be a role model so that people can take a position while paying attention to the interests of their individual (Shidarta,2008).

After the birth of the Pancasila on June 1,1945 or more precisely after the Proclamation, then as an independent and sovereign state of labor life, it must be in harmony with the Pancasila as a view of life. Exploring and exploring the noble values of Pancasila is something very principle because these values become an important aspect of the need for OSH protection of workers/laborers in the workplace.

However, Pancasila as the philosophy of life of the Indonesian people was not only valid since the proclamation, but long before that was in the days of the previous ancestors. All activities are carried out on the basis of humanity and justice, by always upholding the name of God. All problems related to people's lives are resolved on the basis of deliberation.

Therefore, Pancasila should have been ingrained in every life of the Indonesian nation, including life in work relations (Kartasapoetra, 1986).

The issue of values is the subject of philosophical values (axiology), a branch of philosophy. Value is basically used to refer to abstract nouns and is interpreted as something that is worth (goodness) goodness (goodness). Assessing means weighing, which is a human activity to connect something with something else, which is then followed by giving a decision. The decision states whether something is positive (useful, beautiful, good, and so on) or vice versa, is negative. This is related to the elements that exist in humans, namely the body, mind, taste, intention, and beliefs. Thus, value is captured as the nature or quality of something that is beneficial to human life, both physically and mentally. Pancasila values for humans are used as a basis, reason, or motivation in attitude and behavior, whether they are aware or not. Pancasila became a source of values, a value guideline that functioned to assess the practice of slavery and Dutch law at the time.

Pancasila as a source of values (Pancasila values) called the basic norm (Grundnorm), staatsfundamentalnorm or the highest norm animates all the laws and regulations below in accordance with the hierarchy of laws and regulations. The results of the assessment inspired the birth of national law, one of which is labor law as part of Indonesian national law, including a UUKK that is devout, humane, creates a sense of unity, mutual respect in a democratic system, and is just. Justice here is certainly more directed to those who are weaker sociologically, psychologically, and economically, namely the workers.

Aristotle in his book, "Nicomachean Ethics", justice is a virtue related to human relations. Fair can mean according to the law and what is comparable, that is, what should be. Someone, in this case, the employer/corporation is said to be acting unfairly if taking basic rights that should be the rights of laborers, such as the right to protection of K3 laborers. Entrepreneurs/corporations who ignore the law are also unfair. Vindicative justice of the natural law philosopher Thomas Aquinas is to impose penalties or compensation in criminal acts (K3 protection of workers/laborers). Fair if the employer/corporation is convicted by a body or fine in accordance with a criminal offense.

Louis O. Kattsoff distinguishes two types of values, namely: intrinsic value and instrumental value. Intrinsic value is something that from the beginning has been valuable, while the instrumental value is the value of something because it can be used as a means to an end. Pancasila has intrinsic value because it has been valued from the beginning. The originality of the noble values of Pancasila was initially the view of people's lives in attitude and behavior for each individual member of the community concerned. Furthermore, in a broader scope, the groups of people who form themselves as a nation need a special outlook on life. The view of life that can be the same grip for all groups of people as a nation to behave and behave. The view of the nation's life was lifted from the peaks of the view of the life of all groups of people through a selection process into a shared way of life for other community groups in the nation.

The view of life that has undergone a logical selection process is systematically reorganized so that the national outlook on life. The nation's life view is carried on when the nation-state is established, then the nation's life view becomes the state's life view. Therefore, after Indonesia gained its independence, criminal policy through the penal policy in administrative legislation with a crime in the field of labor / K3 was considered in accordance with the values of the Pancasila and the 1945 Constitution. Not long after Indonesia's independence seemed to be replaced Law Number 33 of 1947 jo. Law Number 2 of 1951 concerning the Declaration of the Enactment of the Accident Law of 1947 Number 33 of the Republic of Indonesia for the whole of Indonesia, Law 12 of 1948 jo.

Law Number 1 of 1951 concerning the Declaration of the Enactment of the Employment Act of 1948 Number 12 of the Republic of Indonesia for All of Indonesia, hereinafter Law 14 of 1969 (finally replaced with Law 13 of 2003), and UUKK which is the implementation of Article 9 and Article 10 of Law 14 of 1969 jo. Article 86 of Law 13 of 2003. The means of punishment (penal policy, law enforcement policy) chosen by lawmakers in the UUKK can certainly be captured in accordance with the values of Pancasila. This is evident in the philosophical elements found in the UUKK consideration section. The ultimate goal of the UUKK penal policy is to protect the community to achieve the welfare of the community, in this case, the protection and welfare of workers as a weak party based on the noble values of Pancasila. Notonagoro, divides three kinds of core values, namely values: (1) material, (2) vital, (3) spirituality.

Something said to be of material value if it is useful for the human body, while it is vital if it is useful for humans to do activities. If you pay attention to the material value and vital value is almost the same as the instrumental value of Louis O. Kattsoff. Spiritual values are distinguished from: (a) truth or reality values, which are based on human reason (ratio), (b) beauty value, which is derived from the human aesthetic taste, (c) values of moral goodness, which are based on will human, and (d) religious value, which is rooted in human belief, accompanied by appreciation through reason and conscience. So, what has value is not only something that is tangible (material things but also something that is not tangible (immaterial). Something that is immaterial often has very high and absolute value to humans, such as religious values. In relation to philosophy, the value of the results of philosophical thought by its owner is considered to be the most correct, the wisest, and the best. For humans, values serve as the basis, reason, or motivation in all their actions.

The essence of Pancasila itself is the values or precisely the values summarized in a complete and complete value system. The philosophical system contains fundamental values, which in essence contain the basic values of God, humanity, unity, society, and justice. This is called the (philosophical) Pancasila system. As a philosophical system, Pancasila places itself as a subject that gives an assessment of everything related to social life (including the life of industrial society in work relations), nation and state. Pancasila is the *subjectivus genetivus*, namely the view of the life of the Indonesian people. Pancasila is a product of the process of philosophizing the Indonesian people, because it is a product, meaning that the values of Pancasila itself are final. As a system of values or outlook on life, the values of Pancasila are used for practical purposes, namely to provide an assessment in social life, including the life of industrial society, especially the working relationship between laborers and employers/corporations. Pancasila provides an assessment of employment relationships so that the imposition of corporate responsibility in crime K3 protection becomes a necessity to balance the different positions between employers/corporations and laborers. The law is basically used to protect the public (Yulia,2010).

The final goal (goals, final destination) of the law is to achieve prosperity and justice. Justice is a basic human right. The upholding of justice demands eternal and universal every human being throughout the world. Justice will give birth peace, then the purpose of law in the context of social life is to create social justice. The labor conditions that were once served with the Dutch East Indies law were very contrary to the values of the Pancasila philosophy. The noble values of Pancasila are appropriately translated into national law, one of which is labor law (K3 protection law) which is just (Undang-Undang Nomor 13 Tahun 2003 n.d.). Exploring the values of Pancasila is something very principle because awareness and deep understanding are important aspects of the need for corporate responsibility for criminal acts of protecting OSH of laborers in the workplace. Law that is based on Pancasila contains the

state ideals (staatsidee), and speaks of state ideals one important aspect is the legal aspects. Therefore Indonesia calls itself a state based on the law (rechtsstaat), not based on mere power (machtsstaat)(Nazriyah ,2002). The legal aspect of the state's mind is called the legal ideal (rechtsidee). Law originating from the colonial era is not based on Pancasila (Rusli,2011).

The ideals of the law of the Indonesian people who lived in colonial times were very much against the ideals of colonial law. The principles of colonial law are a denial of human rights (HAM). The authority of the authorities or employers/entrepreneurs / corporations boils down to the absence of legal certainty for the people of Indonesia. The labor law that prevailed in the Dutch East Indies was not a law in the real sense, because the law was aimed at making the people miserable and suffering. Basically, the new law can be regarded as a law if the law is just. Justice is the ideals and goals of law which are realized through law.

The ideal of law (rechtsidee) implies that in essence the law as a rule of community behavior is rooted in the ideas, tastes, intentions, inventions, and thoughts of the people themselves. So, the ideals of law are ideas, intentions, inventions, and thoughts, regarding the law or perception of the meaning of law which basically consists of three elements: justice, expediency (doelmatigheid) and legal certainty. Radbruch, speaking of the existence of a legal ideal (idee des Rechts) whose thesis was accepted by the legal science community, said that the legal ideal was supported by the presence of three basic values (Grundwerten), namely justice (Gerechtigheit), expediency (Zweckmaeszigkeit), and certainty law (Rechtssicherheit, rechtszekerheid). Even so, not a few are of the opinion, that among the three legal objectives, justice is the most important legal objective, some even argue that the sole legal purpose. Bismar Siregar, more or less believes that it will sacrifice legal certainty to uphold justice, because the law is only a means, while the aim is justice. Objectives must not be sacrificed because of means (Siregar,1989). Bismar Siregar's opinion is actually in line with the theory of the purpose of eastern law which places justice as the goal of the law. It said, "Justice is harmony, and harmony is peace" (Dwisvimiar ,2011).

Pancasila as a rechtsidee and grundnorm must be feminine, animate the reform of law (law reform) in Indonesia, both at the level of structure (all legal institutions and their apparatuses), substantial (legal material, that is, all legal rules, legal norms, and legal principles, both written or unwritten, including court decisions and cultural law (opinions, beliefs, habits, ways of thinking, ways of acting, both law enforcement and citizens). The process of concretization to the norm is then filled with the basic values of Pancasila (grundnorm). Hans Kelsen called Grundnorm a legal ideal and viewed it as "the source identity and as the source of the unity of legal system" (Raz,1973). Achmad Ali, who also quoted from Hans Kelsen, said that grundnorm is the mother of legal regulations, in a legal system. Grundnorm is like a fuel that drives the entirely legal system. In this case, Pancasila is a grundnorm that gave birth to the UUKK in seeking the protection of K3 laborers. Pancasila as well as also a star guide (leitztern) policy on legal reform in Indonesia.

The opinion expressed by Satjipto Raharjo, the position of Pancasila for the Indonesian people can be said to be the basic norm (basic norm, grundnorm). Grundnorm is a source of value for the legal system, like gasoline that drives the entirely legal system. Grundnorm becomes a value system whose essence can be as a basic value and a goal value. Basic value means a source of value for regulators and policymakers, assessors in its implementation, as well as a foundation for fighting for something. Meanwhile, the value of the goal means something that must be fought for (Raharjo,1982).

Through an understanding of the ideals of the law as described above, it can be understood that the Indonesian people crave the development of law (labor law / UUKK)

which is based on the ideas, tastes, intentions, creations and original thoughts of the Indonesian people themselves. The ideals of law for the Indonesian people are rooted in Pancasila as a philosophical foundation in arranging the basic framework and structure of state organizations as formally formulated in the Preamble of the 1945 Constitution, especially in Alenia IV. It is the will of the people based on Pancasila that makes it sovereign. That people's sovereignty based on Pancasila is the basis. The people's willingness to be sovereign, which later became the basic law, is the main measure of Pancasila which is the way of life as well as the basis of state life.

The formation of national law is bound to the philosophical values of Pancasila (as well as sociological and juridical values). An independent and sovereign nation builds in accordance with values that are considered good and ideal according to the philosophy it believes in, namely Pancasila. Criminal policy (UUKK criminal policy) in an effort to protect laborers in the workplace must be based on the philosophy of Pancasila (and the 1945 Constitution of the Republic of Indonesia), so that what is the ultimate goal for welfare, justice, prosperity both material and spiritual can be realized.

Employment development that is integrated with national development is carried out in the context of the development of Indonesian people as a whole and the development of Indonesian society as a whole to create a prosperous, just, prosperous, equitable society, both material and spiritual based on Pancasila (and the 1945 Constitution of the Republic of Indonesia). Pancasila has instrumental value when applied in the development of labor laws based on Pancasila (and the 1945 Constitution of the Republic of Indonesia). The application of Pancasila values can be seen in the concept of industrial relations. Article 1 point 16 of Law Number 13 the year 2003 states, "industrial relations is a system of relations formed between actors in the process of producing goods and/or services consisting of elements of employers, laborers, and the government based on values Pancasila and the 1945 Constitution of the Republic of Indonesia.

" There is also a section on considerations to consider the letter (a) of Law Number 2 of 2004 which states that "harmonious, dynamic and fair industrial relations need to be realized optimally in accordance with Pancasila values." More concretely related directly to the protection of K3 laborers in the workplace, mentioned the right of laborers to get protection for welfare. The application of the Pancasila values in question is certainly not to say only to the three laws above and other laws related to employment, but also to all laws in force in Indonesia. This is not difficult to understand, because all laws are always preceded by a philosophical basis in weighing considerations.

Labor Safety and Health Protection (K3) in the Human Rights Perspective

Worker Protection K3 in the 1945 Constitution basic law based on Pancasila values, namely the 1945 Constitution. All laws, laws, and regulations that govern life must be guided by basic laws, including the UUKKK. All stakeholders involved in industrial relations must adhere to the values which are manifestations of the overall values contained in Pancasila and the 1945 Constitution which constitute the basic law.

The Pancasila values are described in more detail in the Preamble to the 1945 Constitution. Sentence by sentence in the Preamble to the 1945 Constitution can be captured by the existence of residing in those values. For example, in paragraph 1 it is said: "That in fact freedom is the right of all nations, and therefore colonialism over the world must be abolished because it is not in accordance with humanity and justice". Here it is clearly contained the values of independence, humanity, and justice, all of which can be linked to the values of the Pancasila as formulated in the precepts of the Pancasila. Likewise in the following paragraphs. National labor law, especially the UUKK must be able to position

laborers as independent legal subjects, not arbitrarily controlled by other legal subjects, treated humanely in accordance with their dignity and dignity, and obtain justice as a weak party.

The Preamble to the 1945 Constitution contains four main ideas, which are nothing but the precepts of the Pancasila itself. The first point of view states that the united state is a country that protects all Indonesian people and all Indonesian blood, overcomes all class and individual understandings, overcomes all religions and beliefs in God Almighty. This mindset is clearly identical to the Pancasila 3rd precepts. National law on labor / UUKK must show the principle of unity in work relations, between employers and laborers in corporations, or broader unity in industrial relations, namely between employers' organizations, workers' and workers' organizations and the government. A sense of unity both in work relations and in industrial relations will avoid acts of discrimination because by itself will be linked to the values of God and humanity.

The second point of view states that the state aims at realizing social justice for all people in the framework of realizing an independent, united, sovereign, just and prosperous state. In this case, the state is obliged to advance public welfare, develop the intellectual life of the nation, and participate in carrying out world order based on independence, lasting peace, and social justice. This second point of thought is identical with the 5th principle of the Pancasila. Various parties and parties argue that justice is the main goal of the law itself. Thus, national labor law / UUKK must be able to support the creation of justice in employment relations. Justice will protect workers K3 / labor, where the position of laborers as a very weak party, both economically, socially, and psychologically. The position of the laborer is the essence of the existence of labor law.

The third point of view asserts that the state sovereignty of the people is based on democracy and deliberation/representation. Our country has the sovereignty of the people, it has a democratic system of government which we call Pancasila democracy. This is a manifestation of the 4th principle of Pancasila. Industrial society which is a place where entrepreneurs meet with is not impossible in achieving corporate objectives dealing with many differences of opinion to secure the interests of each party. Usually, the interests of both parties contradict each other, which if differences of opinion are not managed properly will cause greater problems, such as strikes to the closure of the company (lockout). All efforts to protect K3 laborers must be deliberated between the employer/corporation and the Safety Committee, P2K3, with a family spirit. Decisions taken must be morally accountable to God Almighty, uphold the dignity of human beings, human dignity, truth values, and for the common good.

The fourth point of view states that a state based on a Godhead is based on just and harmonious humanity. Our country is not an atheist state, nor is it a theocracy. Our country upholds the existence of all religions and beliefs in God Almighty. This is an embodiment of the 1st and 2nd precepts of the Pancasila. The second and fourth basic thoughts or basic values of God, human values, and the value of justice (first precept, second precept, and fifth precept) are the dominant basic values as a basis for guidance in practical needs that underlie the principles, norms, and behavior underneath to provide guarantees K3 protection for laborers in the workplace. However, as explained, it does not mean the first and third thoughts or the value of unity and the value of deliberation (the third principle and the fourth principle) are set aside because it turns out that all the values of the Pancasila are a single entity that does not stand alone

Explanation of the 1945 Constitution states, the Basic Law creates the main points of thought contained in the preamble in its articles. Explanation of the 1945 Constitution

explicitly emphasizes the relationship between the main points of thought in the Preamble, which is none other than the Pancasila itself and the Body of the 1945 Constitution. This means that the main points of thought contained in the Preamble to the 1945 Constitution (Pancasila) are embodied in the Article of the Body of the 1945 Constitution. In other words, when elaborating further Pancasila, it cannot be explained directly from the precepts (Erwin, 2011). Human rights and the constitution are very relevant, especially in the concept of the rule of law. The concept of the rule of law in Indonesia is realized in the form of protection of citizens in the Constitution of the Republic of Indonesia. The law is an important instrument in protecting and upholding human rights in Indonesia. Sri Sumantri argues, in general, one of the most fundamental material in the constitution (the Basic Law) is the guarantee of human rights (Anwar, 2011).

The enforcement of human rights in the constitution in Indonesia has a different history in terms of regulation and mention. The Indonesian people, as a European colony, tended to follow the pattern of Continental European national law, namely the civil law system. Consequently, "human rights depend on the constitution". This means that human rights are only recognized, protected and promoted as long as they are contained in the constitution. Conversely, in countries that adopt a common law system, "the constitution depends on human rights". If in the constitution that has been compiled there are human rights provisions that have not been loaded, then the constitution must be amended to include those not yet contained human rights.

The history of human rights awareness does not start from the perspective of thinking that humans have human rights, but from the perspective of thinking that humans (slaves, laborers) must be freed from inhumane cruel treatment by employers, entrepreneurs and / or corporations and the authorities of the Dutch East Indies. The practice of slavery, stretching (*horigheid, perkhorigheid*), forced cultivation (*cultuurstelsel*), slavery (*pandelingschap*), forced labor (*rodi / pancen*), *poenale sanctie, romusya, kinrohosi, and fujingkau or iugun yanfu* which resulted in torture and suffering of extraordinary people. Related to corporate criminal liability in the event that the K3 labor protection is not implemented, starting from the perspective of the thought that laborers must be freed from any threat of industrial accidents that could be detrimental, while the corporation can freely enjoy the benefits of business results. However, long before the formulation of the Pancasila and the 1945 Constitution, even since the days of previous ancestors, the implementation of human rights had colored Indonesian society. All activities and problems related to people's lives are carried out and resolved in mutual cooperation, deliberation, and on the basis of humanity and justice.

The constitutional human rights instrument in the 1945 Constitution precedes the Universal Declaration of Human Rights (UDHR), the Declaration of Human Rights (UDHR) or the General Statement on Human Rights, which was accepted and announced by the UN General Assembly on December 10, 1948 through resolution 217 A (III). This means the noble values of Pancasila as the view of the life of the Indonesian nation which animates the 1945 Constitution really respects human rights. Human rights in Pancasila have actually been formulated in the Preamble to the 1945 Constitution which is then detailed in the trunk which is the basic law, constitutional and fundamental law for the state of the Republic of Indonesia (<http://business-law.binus.ac.id/2016/04/29/pancasila-sebagai-landasarn-pengaturan-ham-di-indonesia/> n.d.). Article 27 paragraph (2) of the 1945 Constitution states, "each citizen has the right to work and a decent living for humanity". Article 27 paragraph (2) is an embodiment of the values of the Pancasila, and if returned to the values of the Pancasila then dominated by the value of God, human values, and the value of justice (the first principle, the second

principle, and the fifth principle) or the second principle and fourth in the preamble of the 1945 Constitution.

Article 27 paragraph (2) above is basically a combination of two sentence phrases, namely sentence phrases; "Every citizen has the right to decent work" and the phrase "every citizen has the right to a decent living". The phrase, "every citizen has the right to decent work" is more appropriate to work in accordance with human dignity or human dignity (free from inhuman treatment, degrading, free from slavery), including guarantees for K3 protection of laborers at work, such as: safe, comfortable and healthy work environment conditions. Meanwhile, "every citizen has the right to a decent livelihood" is more intended to the problem of wages and other forms paid to laborers. Although the two-sentence phrases are as a whole that has coherence in the protection of laborers the concentration of this research is only on the issue of "the right to decent work", specifically related to K3 protection of workers ". Regarding rights, Mochtar Kusumaatmadja and Arief Sidharta said:

Definition of rights basically consists of freedom to do or not do something related to something or to certain legal subjects or all legal subjects without obstruction or interference from any party, and these freedoms have a legal basis (recognized or given by law) and are therefore protected law.

The rights contained in the constitution are referred to as constitutional rights, but not all constitutional rights are human rights (which are universal) because there are so-called people's rights or citizens' rights (the citizen's constitutional rights), which are only applies to the country concerned (so it is not a universal human right). For example, Article 27 paragraph (2) is part of constitutional rights which is the citizen's constitutional rights. Confusing the terms of the rights of citizens and human rights, Max Boli Sabon argues, "basically all human rights are the citizens' constitutional rights because the difference is not a substantial difference, but only a difference in the environment". Based on Max Boli Sabon's opinion, Article 27 paragraph (2) which is rung as the people's right or citizens' rights (the citizen's constitutional rights) is essentially human rights in the corporate workplace (Sidharta,2000).

The right of every citizen to decent work in Article 27 paragraph (2) especially to guarantee K3 protection of workers in the workplace, such as a safe, comfortable, and healthy work environment, so if it is explored deeper it will eventually become a right of life and the life of the laborer at work. The reason is, the workplace contains many potential sources of danger which at any time can cause industrial accidents that take lives. Thus it is very reasonable if the protection of K3 laborers is included as universal human rights, and is classified as fundamental human rights (supra-positive rights, elementary rights, nondelegable). Article 27 paragraph (2) is also contained in Article 23 of the Universal Declaration of Human Rights (UDHR).

Conclusion

The nature of the birth of labor law in Indonesia is due to a long history of suffering from slaves/laborers due to slavery, stretching (horigheid, perhorigheid) / forced cultivation (cultuurstelsel), slavery (pandelingschap), forced labor (rodi) / harvest, poenale sanctie, romusya, kinrohosi, and fujingkau or iugun yanfu, not vice versa because the employer, or entrepreneur / corporation is persecuted by the treatment of the workers / laborers and employers. National labor law, especially the UUKK must be able to position workers / laborers as independent legal subjects, not arbitrarily controlled by other legal subjects,

treated humanely in accordance with their dignity and dignity, and obtain justice as a weak party.

National law on labor/UUKK must show the principle of unity in work relations, between employers and workers / laborers in corporations, or broader unity in industrial relations, namely between employers' organizations, workers' and workers' organizations and the government. A sense of unity both in employment relations and in industrial relations relations will avoid acts of discrimination.

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