

INTISARI

PELINDUNGAN HUKUM BAGI *FREELANCER* SENI DALAM SEKTOR INDUSTRI KREATIF DITINJAU DARI PERATURAN PERUNDANG – UNDANGAN TENTANG KETENAGAKERJAAN DI INDONESIA

Oleh :

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Fleksibilitas pada skema kerja *Freelancer* Seni yang diberi upah berdasarkan pekerjaan secara *on demand* cenderung menempatkan *Freelancer* Seni pada posisi yang rentan, khususnya terkait upah dan waktu kerja. Kondisi *Freelancer* Seni menjadi semakin rentan ketika dikaitkan pada fakta bahwa hubungan hukum yang terjadi antara *Freelancer* Seni dengan Pemberi *Project* belum terdefinisikan secara jelas. Tujuan penelitian ini adalah untuk mengetahui dan menganalisis hubungan hukum antara *Freelancer* Seni dengan Pemberi *Project* serta pelindungan hukum atas upah dan waktu kerja bagi *Freelancer* Seni ditinjau dari peraturan perundang – undangan tentang ketenagakerjaan di Indonesia.

Penelitian ini bersifat deskriptif dan hasil penelitiannya dianalisis menggunakan metode kualitatif. Jenis penelitian ini adalah penelitian normatif-empiris. Bahan penelitian yang digunakan dalam penelitian ini meliputi data sekunder yang diperoleh dari buku, jurnal, peraturan perundang – undangan, dan data kepustakaan terkait *Freelancer* Seni; serta data primer yang diperoleh melalui wawancara terhadap *Freelancer* Seni, Pemberi *Project*, serta narasumber. Teknik pengambilan sampel yang digunakan dalam penelitian ini adalah *purposive sampling*.

Hasil penelitian menunjukkan bahwa hubungan hukum yang terjalin antara *Freelancer* Seni dengan Pemberi *Project* bukan merupakan hubungan kemitraan, melainkan dapat berupa hubungan kerja maupun hubungan untuk melakukan jasa tertentu. Pelindungan hukum atas upah dan waktu kerja bagi *Freelancer* Seni berlaku kontekstual bergantung pada jenis hubungan hukumnya. *Freelancer* Seni berhak mendapat pelindungan atas upah dan waktu kerja sebagaimana diatur dalam peraturan perundang – undangan tentang ketenagakerjaan di Indonesia pada *project* tertentu yang memenuhi unsur hubungan kerja, sedangkan *Freelancer* Seni yang menjalankan *project* di luar hubungan kerja dapat mendapat pelindungan dari serikat pekerja serta merujuk pada kajian internasional tentang upah dan waktu kerja.

Kata Kunci : *hubungan hukum, pelindungan hukum, freelancer seni, ketenagakerja*

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ABSTRACT

LEGAL PROTECTION FOR FREELANCE ARTISTS IN THE CREATIVE INDUSTRY SECTOR IN TERMS OF INDONESIAN LABOR LAW

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The uncertainties within the work scheme of Freelance Artists that are paid for their “on demand” works is putting them in a risky position. Freelance Artists face risks related to wages and working time. Furthermore, this working condition of Freelance Artists becomes increasingly vulnerable with the fact that the legal relationship between Freelance Artists and Project Providers has not been clearly defined. This research aims to determine and analyze the legal relationship between Freelance Artists and Project Providers, as well as legal protection for wages and working time for Freelance Artists according to Indonesian labor law.

This is a descriptive research and the results are analyzed using qualitative methods. This research falls into the category of normative-empirical research. The materials used in this research include secondary data obtained from books, journals, laws and regulations, as well as library data related to Freelance Artists. Primary data is used in this research and was obtained directly through interviews with Freelance Artists, Project Providers and sources. Purposive sampling technique is used in this research.

The results from the research determines that the legal relationship that exists between Freelance Artists and Project Providers is not considered a partnership relationship, but rather a relationship based on an agreement to perform certain services and in certain projects it is a work relationship. Legal protection of wages and working time for Art Freelancers applies contextually depending on the type of legal relationship. Legal protection for wages and working time regulated by the labor law in Indonesia apply to Freelance Artists on certain projects that meet the elements of an employment relationship as regulated in Indonesia, while Freelance Artist who carry out projects outside the employment relationship can receive protection from labor unions and refer to international studies on wages and working hours.

Keywords : *legal relationship, legal protection, freelance artists, labor*

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