

ANALISIS HUKUM TERHADAP PELAKSANAAN PELINDUNGAN HAK-HAK PEKERJA DALAM KEPAILITAN DI INDONESIA

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INTISARI

Penelitian ini bertujuan untuk mengetahui dan menganalisis hambatan dalam pelaksanaan perlindungan hukum terhadap hak-hak pekerja dalam kepailitan. Tujuan lain dari penelitian ini adalah untuk mengetahui dan menganalisis upaya hukum yang ditempuh oleh pekerja untuk mendapatkan hak-haknya dalam kepailitan.

Penelitian ini menggunakan metode yuridis-empiris dengan sifat deskriptif-analitis. Penelitian yuridis dilakukan melalui studi kepustakaan guna memperoleh data sekunder yang bersumber dari bahan hukum primer, sekunder, dan tersier, dengan alat pengumpulan berupa studi dokumen. Penelitian empiris dilaksanakan melalui penelitian lapangan dengan teknik wawancara terhadap para narasumber dan responden menggunakan pedoman wawancara sebagai instrumen penelitian. Data yang diperoleh kemudian dianalisis secara kualitatif dan disajikan secara deskriptif dengan penalaran deduktif-induktif sehingga disajikan dengan lengkap, sistematis, dan teliti yang selanjutnya dapat menghasilkan suatu kesimpulan dari penelitian ini.

Hasil penelitian menunjukkan bahwa, pertama, pelaksanaan perlindungan terhadap hak-hak pekerja dalam kepailitan sering kali sulit diwujudkan karena adanya sejumlah hambatan, yaitu adanya tarik menarik prioritas pembayaran antara pekerja dan pajak, dualisme kewenangan pengadilan Niaga dan PHI, ketiadaan batas waktu bagi kurator dalam menentukan PHK, serta tidak optimalnya peran aktif kurator dalam melindungi pekerja. Kedua, Langkah-langkah hukum yang dapat ditempuh pekerja untuk mendapatkan hak-haknya dalam kepailitan dapat dilakukan melalui dua jalur, yaitu litigasi dan non-litigasi. Langkah hukum litigasi meliputi: pengajuan tagihan piutang kepada Kurator, verifikasi, *renvooi*, serta pengajuan gugatan ke Pengadilan Hubungan Industrial. Sementara itu, Upaya hukum non-litigasi dilakukan melalui: peran kolektivitas pekerja, konsultasi dan pengaduan kepada Dinas Ketenagakerjaan, serta lobi dan advokasi publik.

Kata Kunci: *Kepailitan, Hak-Hak Pekerja, Pelindungan Hukum, Upaya Hukum.*

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***LEGAL ANALYSIS OF THE IMPLEMENTATION OF LABOUR RIGHTS
PROTECTION IN BANKRUPTCY IN INDONESIA***

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ABSTRACT

This study aims to identify and analyse the obstacles in the implementation of legal protection for workers' rights in bankruptcy. Another objective of this research is to examine the legal remedies pursued by workers to obtain their rights in bankruptcy proceedings.

The research employs a juridical-empirical method with a descriptive-analytical approach. The juridical research was conducted through a literature study to obtain secondary data derived from primary, secondary, and tertiary legal materials, using document studies as the data collection instrument. The empirical component was carried out through field research using interviews with selected informants and respondents, guided by a structured interview protocol. The collected data were then analysed qualitatively and presented descriptively using deductive-inductive reasoning, allowing the study to be reported in a comprehensive, systematic, and accurate manner, ultimately leading to the formulation of conclusions.

The research findings indicate that, first, the implementation of legal protection for workers' rights in bankruptcy is often difficult to realize due to several obstacles, namely the existence of overlapping legal norms, namely between Law Number 6 of 2023 concerning the Job Creation Law and Law Number 28 of 2007 on General Provisions and Tax Procedures regarding payment priority, as well as between Law Number 37 of 2004 on Bankruptcy and Suspension of Debt Payment Obligations and Law Number 2 of 2004 on the Settlement of Industrial Relations Disputes concerning the dual authority of courts in resolving workers' rights in bankruptcy. In addition, there is a legal vacuum regarding the obligation of the Curator to actively protect workers and the absence of regulation on the time limit for the Curator to determine whether termination of employment should be carried out. Second, the legal steps that workers can take to secure their rights in bankruptcy can be pursued through two channels: judicial and non-judicial. Judicial measures include submitting claims to the Curator, undergoing verification, *renvooi*, and filing a lawsuit with the Industrial Relations Court. Meanwhile, non-judicial measures include strengthening workers' collectively, consulting and filing complaints with the Manpower Office, as well as lobbying and public advocacy.

Keywords: *Bankruptcy, Workers' Rights, Legal Protection, Legal Remedies.*

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