

**PERLINDUNGAN HUKUM BAGI TENAGA KERJA YANG
DIBERHENTIKAN SECARA SEPIHAK OLEH PERUSAHAAN
(STUDI PUTUSAN MA RI NO. 478 K/PDT.SUS-PHI/2016)**

**Calvin
00000022841**

ABSTRAK

Penelitian ini bertujuan untuk mengetahui perlindungan hukum bagi tenaga kerja yang diberhentikan secara sepihak menurut Hukum Ketenagakerjaan dan penyelesaian kasus PHK sepihak dalam Putusan MA No. 478 K/PDT.SUS-PHI/2016 menurut UU PPHI.

Penelitian ini merupakan penelitian normatif-empiris, fokusnya adalah mengkaji hukum tertulis (hukum ketenagakerjaan) dari aspek hukum materil dan formil dalam penyelesaian kasus pada Putusan MA RI No. 478K/PDT.SUS-PHI/2016. Data yang digunakan data sekunder, berupa peraturan perundang-undangan dan Putusan PHI. Metode pengumpulan data melalui penelitian kepustakaan dan studi kasus. Pendekatan penelitian menggunakan pendekatan perundang-undangan (*statute approach*) dan pendekatan kasus (*judicial case study*). Data yang diperoleh dianalisis secara kualitatif.

Hasil penelitian menunjukkan bahwa Hukum Ketenagakerjaan materil yakni UU No. 13 Tahun 2003 tentang Ketenagakerjaan telah memberikan perlindungan kepada tenaga kerja, baik perlindungan atas kesewenang-wenangan pengusaha melakukan PHK maupun perlindungan atas hak-haknya setelah di-PHK, berupa uang pesangon, uang penghargaan masa kerja dan uang penggantian hak sesuai ketentuan Pasal 156 ayat (2), (3), dan (4). Hukum Ketenagakerjaan formil memberikan perlindungan kepada tenaga kerja yang di-PHK tanpa melalui penetapan Lembaga Penyelesaian Perselisihan Hubungan Industrial adalah batal demi hukum, dan pengusaha wajib membayar upah tenaga kerja selama proses sesuai Pasal 151 ayat (3) *juncto* Pasal 155 ayat (1) dan (2) *juncto* Putusan MK No.37/PUU-IX/2011. UU PPHI juga memberikan perlindungan kepada tenaga kerja yang di-PHK melalui mekanisme PHK dengan pembatasan waktu penyelesaiannya dan membebaskan biaya perkara untuk gugatan yang nilainya di bawah Rp.150.000.000,-. Penyelesaian kasus *aquo* di PHI tingkat pertama dengan Putusan *Verstek* No.177/Pdt.Sus-PHI/2015/PN.Mdn., telah memberikan perlindungan kepada tenaga kerja dengan menghukum Tergugat selaku Pengusaha membayar hak-hak normatifnya. Terhadap Putusan *verstek* dimaksud, Tergugat melakukan upaya hukum kasasi, bukan perlawanan melalui *verzet*, maka Putusan MA RI No. 478K/PDT.SUS-PHI/2016 menyatakan permohonan kasasi tidak dapat diterima. Hal ini menyebabkan terbuka peluang untuk mengajukan perlawanan *verzet*, sehingga belum memberikan kepastian hukum, kemanfaatan dan keadilan bagi tenaga kerja dalam kasus *aquo*.

Kata kunci: Perlindungan Hukum, Tenaga kerja, Pemutusan Hubungan Kerja, Ketenagakerjaan, Verstek.

**LEGAL PROTECTION ON EMPLOYEES TERMINATED
UNILATERALLY BY COMPANY
(CASE STUDY OF SUPREME COURT NUMBER
478K/PDT.SUS-PHI/2016)**

**Calvin
0000022841**

ABSTRACT

This study aims to determine the legal protection for workers who are dismissed unilaterally according to the Labor Law and the settlement of cases of unilateral dismissal in the Supreme Court Decision No. 478 K/PDT.SUS-PHI/2016 according to the Settlement of Industrial Relations Disputes Law.

This research is a normative-empirical research, the focus is to study written law (labor law) from the aspects of material and formal law in solving cases in the Supreme Court Decision No. 478K/PDT.SUS-PHI/2016. The data used are secondary data, in the form of laws and regulations and Industrial Relations Disputes decisions. Data collection methods are through library research and case studies. The research approach used a statute approach and a judicial case study. The data obtained were analyzed qualitatively.

The results showed that the material Manpower Law, namely Law No. 13 of 2003 concerning Manpower has provided protection to workers, both protection of employers' arbitrary dismissal of employment and protection of their rights after being laid off, in the form of severance pay, period of service pay and compensation for rights according to the provisions of Article 156 paragraph (2), (3), and (4). The formal Manpower Law provides protection for workers who are laid off without going through the stipulation of an Industrial Relations Dispute Settlement Institution that is null and void, and employers are required to pay workers' wages during the process in accordance with Article 151 paragraph (3) in conjunction with Article 155 paragraph (1) and (2) juncto MK Decision No.37 / PUU-IX / 2011. The Settlement of Industrial Relations Disputes Law also provides protection for workers who have been laid off through the mechanism of layoffs by limiting the time for completion and waiving court fees for claims whose value is below IDR 150,000,000. The settlement of the aquo case at PHI at the first level with the Verstek Decision No.177/Pdt.Sus-PHI/2015/ PN.Mdn., Has provided protection to workers by punishing the Defendant as an entrepreneur to pay for their normative rights. Regarding the verstek decision, the Defendant made an appeal, not a challenge through verzet, so the Supreme Court Decision No.478K / PDT.SUS-PHI / 2016 stated that the cassation application could not be accepted. This causes an opportunity to propose verzet resistance, so that it does not provide legal certainty, benefit and justice for workers in the aquo case.

Keyword: Legal Protection, Labor, Termination of Employment, Employment, Verstek.