

CHAPTER ONE

INTRODUCTION

A. Background of Research

The pandemic of COVID-19, in the first instance, happened in Wuhan City, Province of Hubei, China, in December 2019.¹ On January 7, 2020 on this virus and was later renamed Acute Coronavirus 2 (SARS-CoV-2).² The disease was referred to by the World Health Organization (WHO) as Coronavirus Disease 2019 or COVID-19.³ Wuhan is the source of the disease and this city is one of the most populated in China, which has around 11 million population.⁴

Patients reported with this virus have signs including fever, tiredness, dry toxicity, shortness of breath, joint problem, excessive phlegm, sore throat, cold headache, vomiting, diarrhea, hemoptysis, and inflammation nose.⁵ The occurrences in all patients were reported to be infected mostly in Wuhan market, the famous market selling several types of animals, meat products, including mammal's species that are not traded in many other markets.⁶ This

¹ Adityo Susilo et al, "Coronavirus Disease 2019: Tinjauan Literatur Terkini Coronavirus Disease 2019: Review of Current Literatures", *Penyakit Dalam Indonesia Journal*, Vol.7, No. 1 (2020), p.1.

² Fachry, A, Ahmad, F, & Shollahuddin, A, "Legal Protection of Labor Rights During the Coronavirus Disease 2019 (COVID-19) Pandemic", *Journal Pembaharuan Hukum*, Vol. 7, No. 2 (2020), p.3.

³ *Ibid*, p. 15

⁴ Nur Rohmi Aida, 2020, *Mengenal Kota Wuhan, Kota di Cina yang Diduga Sumber Virus Corona*, taken from <https://www.kompas.com/tren/read/2020/01/24/113301265/mengenal-kota-wuhan-kota-di-china-yang-diduga-sumber-virus-corona>, (accessed on 3 October 2020 at 10.30 Am).

⁵ Uwe Wollina et al, "Cutaneous Signs in COVID-19 patients: A review", *Wiley Online Library*, Vol. 33, Issue. 5 (2020), p. 1-2.

⁶ Jospet Fuk-Woo Chan et al, "A Familia Cluster of Pneumonia Associated with the 2019 Novel Coronavirus Indicating Person-to-Person Transmission: a Study of a Family Cluster", *CrossMark Journal*, Vol. 395, (2020), p. 515.

market sells more than 112 kinds of live animals, including bats, mice, lizards, snakes, and etcetera.⁷ The pandemic of COVID-19 occurred globally and has been infected more than 200 countries, one of these countries is Indonesia.⁸ The government of Indonesia has been declared this disease as a national disaster and threatens public health and safety and various sectors, including the social and economic, and trade sectors.⁹

The government has issued many policies to deal with this pandemic and eliminates the undesirable effects for our country.¹⁰ Enacting social distancing and issuing the government regulation no 21 of 2020 concerning Large-Scale Social Restriction (LSSR) and Minister of Health Regulation (PMK) Number 9 of 2020 relating to LSSR (Large-Scale Social Restriction Guideline) with the goal this policy can handle and reduce this problem effectively.¹¹ This regulation also regulates any job which can and cannot work outside in another word we know it works from home (WFH).¹²

⁷ Catrin Sohrabi et al, "World Health Organization Declares Global Emergency: A Review of the 2019 Novel Coronavirus (COVID-19)", *International Journal of Surgery*, (2020), p. 1-2.

⁸ Alfi Yuda, 2020, *WHO Jelaskan 14 Fakta untuk Patahkan Mitos Soal Virus Corona COVID-19*, taken from <https://www.liputan6.com/bola/read/4215519/who-jelaskan-14-fakta-untuk-patahkan-mitos-soal-virus-corona-COVID-19>, (accessed on 5 October 2020 at 13.00 pm).

⁹ Herninda Pitaloka et al, "The Economic Impact of the COVID-19 Outbreak: Evidence from Indonesia", *Journal Inovasi Ekonomi*, Vol. 05, No. 02 (2020), p. 3-4.

¹⁰ BBC News Indonesia, 2020, *Virus corona: Jokowi Umumkan Langkah Pengendalian COVID-19, Tapi Tanpa "Komando Nasional"*, taken from <https://www.bbc.com/indonesia/indonesia-51897307>, (accessed 12 October 2020 at 11.05 am).

¹¹ Tahir Saleh, 2020, *Permenkes PSBB Akhirnya Terbit Simak Poin Kursialnya*, taken from <https://www.cnbcindonesia.com/news/20200405061921-4-149831/permenkes-psbb-akhirnya-terbit-simak-poin-poin-krusialnya>, (accessed on 4 October 2020, at 01.02 pm).

¹² M. Rikhardus Joka, "Implikasi Pandemi COVID-19 Terhadap Pemenuhan Hak Hukum Pekerja Yang Diputuskan Hubungan Kerja Oleh Pengusaha", *Jurnal Bina Mulia Hukum*, Vol. 9, No. 1 (2020), p. 6-7.

Labor has a significant role as one of the elements in the development and progress of an institution or company.¹³ It cannot be denied that labor also gets the impact because of this pandemic.¹⁴ This matter has become polemic that continues to give restlessness for labor, especially those who depend their life on their work. The problem that occurred when the pandemic of COVID-19 has existed is many workers were fired.¹⁵

Based on the data from the Ministry of Manpower of 7 April 2020, because of the COVID-19 pandemic, there had been 39,977 companies in the formal sector send their worker home and laid them off. In total, there have been 1,010,579 workers affected by the virus. In detail, 873,090 workers from 17,224 companies were laid off and 137,489 workers were laid off from 22,753 companies. Meanwhile, the number of companies and workers affected in the informal sector were 34,453 companies and 189,452 workers.¹⁶

Most workers were fired because the company could not pay the workers' salaries.¹⁷ Some labor did not get anything like severance pay or

¹³ Hestux2, 2016, *Peran Serikat Pekerja Dalam Suatu Perusahaan*, taken from <https://gspbagel.wordpress.com/2016/08/04/peran-serikat-pekerja-dalam-suatu-perusahaan/>, (accessed 05 October 2020 at 09.00 am).

¹⁴ Reynas Abdila, 2020, *Tak Hanya Pekerja Kantoran, Buruh Tani Juga Terdampak Pandemi Virus Corona*, taken from <https://www.tribunnews.com/bisnis/2020/05/01/tak-hanya-pekerja-kantor-buruh-tani-juga-terdampak-pandemi-virus-corona>, (accessed 07 October 2020 at 09.45 am).

¹⁵ Muhammad Adi Rahman, Ahmad Zuhdi Dwi Kusuma, Hafiz Arfyanto, "Employment Situations of Economic Sectors Impacted by the COVID-19 Pandemic", *Smeru Research Institute*, No. 1 (2020), p. 2.

¹⁶ Jawahir Gustav. R, *Pandemi COVID-19*, 2020, *Apa Saja Dampak Kerenagakerjaan Indonesia*, taken from <https://www.kompas.com/tren/read/2020/08/11/102500165/pandemi-COVID-19-apa-saja-dampak-pada-sektor-ketenagakerjaan-indonesia->, (accessed on 2 October 2020 at 03.10 pm).

¹⁷ Maryani, "Analisis Pemutusan Hubungan Kerja dan Relevansinya dengan Force Majeure di Masa Pandemi COVID-19 dalam Perspektif UU Ketenagakerjaan", *Al-Hikmah Law Journal*, Vol. 2, No. 1 (2021), p. 149.

compensation.¹⁸ The company argued with the reason of "force majeure" that reason make company felt calm firing employees without any responsibilities.¹⁹

Naturally, it is very contrary to the protection of labor rights, which is guaranteed by the 1945 Constitution, namely fair legal certainty and equal treatment because the workers have the right to receive compensation, fair, and proper treatment of the work they have done for supports their rights for life.²⁰ One of the workers' rights is the right to get wages and severance pay which is normatively regulated in Act No. 13 of 2003 concerning Manpower.²¹ This law has been updated with Law No. 11 of 2020 concerning Job Creation Act . But the worker's right including wages and severance pay is no longer accommodated and even forgotten by the parties who must pay it.²²

As already mentioned above, the COVID-19 pandemic has affected the labor forces in many issues. Labor protection is essential as a foundation for labor to fight for their rights. Thus, the implementation of legal protection toward labor, especially in the laid-off issue, is needed to be re-assessed

¹⁸ KumparanBISNIS, 2020, *Cerita Korban PHK: Tak Dapat Pesangon, Gaji Tertahan Perusahaan*, taken from <https://kumparan.com/kumparanbisnis/cerita-korban-phk-tak-dapat-pesangon-gaji-tertahan-perusahaan-1tCcsuIF2U0>, (accessed on 2 October 2020 at 02.00 pm).

¹⁹ Imas Novita Juaningsih, "Analisis Kebijakan, PHK Bagi Para Pekerja Pada Masa Pandemi COVID-19 di Indonesia", *ADALAH Buletin dan Keadilan Journal*, Vol. 4, No. 1 (2020), p. 192.

²⁰ Ahmad Saleh, "Masalah Ketenagakerjaan dan Pengangguran di Indonesia", *Cano Ekonomos Jurnal Ilmiah Ekonomi*, Vol. 6, No. 2 (2017), p. 5-6.

²¹ Resa Ari Yuana, Devi Rahayu, 2020, "Perlindungan Hukum Terhadap Pekerja Atas Pemutusan Hubungan Kerja Sepihak di PT.X Jombang", *Prosiding Semir Nasional Hukum & Teknologi*, Vol. 1, No.1, p. 97.

²² Rully R. Ramli, 2020, *Banyak Perusahaan Tak Bayar Kompensasi Kata Menaker*, taken from: <https://money.kompas.com/read/2020/02/21/080600226/banyak-perusahaan-tak-bayar-kompensasi-sesuai-aturan-ini-kata-menaker>, (accessed on 13 October 2020, at 14.21 pm).

because the number of terminated employments during the COVID-19 pandemic were so high. Therefore, the legal protection of labor is absorbing and a crucial issue that must be discussed.

B. Problem Formulation

The problem formulation of this research is:

1. Have the provisions of labor rights in the prevailing law been well implemented during the COVID-19 pandemic?
2. Is the termination of labor due to the pandemic COVID-19 permitted or not?

C. Objective of Research

The objective of this research is:

1. To identify and examine whether labor rights and the extent of the prevailing law have been implemented or not during COVID-19.
2. To analyze the judicial reason to terminate the labor as the impact of pandemic COVID-19.

D. Benefits of Research

The benefits of this research are:

1. Theoretical Aspect. The research benefits the development of legal science regarding worker protection during the COVID-19 pandemic under Labor Law.
2. Practical Aspect. The research contributes to government and Labor law in making a better policy and to conflicting parties in resolving issues.