



Unilateral termination of employment by the company Reviewed from the Principle of Job Protection

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<p>Article History Received: 2026-04-07 Revised: 2026-04-19 Published: 2026-05-03</p> <p>Keywords: <i>Layoffs; Unilateralism; Worker Protection; Employment Law</i></p>	<p>Unilateral termination of employment (PHK) by companies is a crucial problem in industrial relations because it has the potential to cause injustice and violations of workers' rights. The practice of unilateral layoffs is often carried out without going through the procedures set by laws and regulations, thus contradicting the principle of protecting workers as parties who are structurally in a weak position. This study aims to analyze the practice of unilateral layoffs by companies from the principles of worker protection and the labor law framework in Indonesia. The research method used is normative legal research with a legislative and conceptual approach, through analysis of the Manpower Law, the Job Creation Law, and related implementing regulations. The results of the study show that the principle of worker protection emphasizes the guarantee of job security, fair treatment, and legal protection of workers' normative rights, including the right to severance pay and dispute resolution mechanisms. Unilateral layoffs that are carried out without a valid reason and without proper legal procedures are a form of violation of this principle. Therefore, consistent law enforcement and strengthening the role of labor supervision are needed to prevent unilateral layoffs and ensure effective protection of workers' rights.</p>

I. INTRODUCTION

Employment relationships are born from the existence of a labor agreement that is the basis for the formation of a legal bond between workers and employers. Employment agreements contain the rights and obligations of the parties that are reciprocal, so that they have a fundamental function as an instrument of legal protection, especially for workers who are structurally in a weaker position. Written employment agreements have stronger juridical significance because they are able to provide legal certainty, ease of proof, and normative reference in the event of industrial relations disputes. Indonesian labor law recognizes two main forms of employment agreements, namely Fixed-Time Employment Agreements and Indefinite Time Employment Agreements, the difference of which lies in the duration of the employment relationship and the inherent legal consequences, including in the case of termination of employment (Workers' Rights, 2020).

Termination of employment is one of the most crucial legal events in industrial relations because it directly touches the survival of workers and their families. Job loss not only has an impact on the economic aspect, but also has implications for social stability and the psychological condition of workers. The practice of unilateral termination of employment by companies often raises serious problems, especially when carried out without a clear legal basis, without legal procedures, and without fulfilling the normative rights of workers. This condition shows the existence of an imbalance in bargaining positions between employers and workers, where employers have greater economic and organizational power in determining the sustainability of employment relationships (Nisa et al., 2023).

Termination of employment due to the expiration of a certain employment agreement period generally does not cause a dispute because it has been agreed from the beginning by the parties. Legal issues arise when termination of

employment is carried out unilaterally by employers for reasons that are not transparent, subjective, or cannot be proven juridically. Reasons for efficiency, company restructuring, violations of work discipline, and coercive circumstances are often used as a basis for justification, although in practice they do not always meet the legal qualifications as stipulated in laws and regulations. Termination of employment in such conditions has the potential to violate workers' rights to job security, decent livelihood, and fair treatment (Jahari & Artita, 2023).

The principle of job protection is the main foundation in Indonesian labor law. This principle stems from the idea that employment relations are not in a balanced position, so the state is obliged to be present to protect the weak through coercive regulations. The 1945 Constitution of the Republic of Indonesia expressly guarantees the right of every citizen to obtain a job and a decent livelihood for humanity. The constitutional guarantee was then operationalized in Law Number 13 of 2003 concerning Manpower as amended by Law Number 6 of 2023 concerning Job Creation, which places termination of employment as the last resort that must be avoided (Sinambela et al., 2025).

The provisions of Article 151 of the Manpower Law affirm the obligation of employers, workers, and the government to strive to prevent termination of employment from occurring. This norm reflects the labor law paradigm that is oriented towards prevention, not solely dispute resolution after layoffs occur. Termination of employment can only be done if there is a valid reason and through a specified procedure, including the obligation to negotiate in advance with the employee or trade union. This obligation aims to ensure that layoffs are not carried out arbitrarily and still respect workers' rights (MEDITRIC, 2024).

The reality of practice shows that there is a gap between legal norms and their implementation. Unilateral termination of employment is still often carried out without bipartite negotiations, without the establishment of an industrial relations dispute settlement institution, and

without payment of workers' rights such as severance pay, service award money, and compensation money. This condition raises fundamental questions about the effectiveness of the principle of labor protection in protecting workers from unilateral actions of the company. The available industrial relations dispute resolution mechanisms, ranging from bipartite, mediation, to industrial relations courts, are often unable to provide prompt and effective protection for workers affected by layoffs (Mantili, 2021).

These problems show the urgency to examine in more depth the unilateral termination of employment by companies from the perspective of the principle of job protection. This study is important to assess the extent to which labor law norms have provided adequate protection for workers, as well as to identify the factors that cause deviations in practice. An analysis of the legal basis, procedures, and implications of unilateral termination of employment is expected to provide a comprehensive picture of the weaknesses and challenges of legal protection for workers in Indonesia. This approach is also relevant to formulate normative recommendations to strengthen the position of workers in industrial relations that are fair and based on legal certainty.

II. RESEARCH METHODS

This research is a normative legal research that focuses on the study of legal norms and legal principles that govern unilateral termination of employment by companies, with a pressure point on the principle of protection of workers (Sonata, 2014). This research does not examine empirical facts, but rather places the law as a norm that aims to provide justice, certainty, and protection in employment relationships.

The approaches used include a regulatory approach and a conceptual approach. The approach to laws and regulations is carried out by examining and analyzing the legal provisions that govern employment relations and termination of employment, especially Law Number 13 of 2003 concerning Manpower as amended by Law Number 6 of 2023 concerning Job Creation and relevant implementing regulations.

A conceptual approach is used to examine the concepts, doctrines, and principles of worker protection that are developing in employment law. This approach serves as a theoretical basis in assessing the validity and legal limitations of termination of employment carried out unilaterally by the company.

The sources of legal materials used consist of primary legal materials in the form of laws and regulations, secondary legal materials in the form of textbooks, scientific journal articles, and opinions of employment law experts, as well as tertiary legal materials in the form of legal dictionaries and other supporting sources. The collection of legal materials is carried out through literature studies, while the analysis of legal materials is carried out qualitatively by interpreting legal norms systematically and prescriptively to answer research problems.

III. RESULTS AND DISCUSSION

A. The Concept of Unilateral Layoffs in Labor Law

Unilateral termination of employment is essentially a legal action in the form of termination of employment relations carried out by employers without the agreement of the employee and without going through a mechanism that has been determined by laws and regulations. The concept of unilateralism in this context is not solely interpreted as the absence of workers' consent, but also includes the neglect of legal procedures, the principle of worker protection, and the obligation to fulfill the normative rights inherent in workers. Layoffs in labor law cannot be treated as an ordinary administrative action, but rather as a legal event that has serious consequences for the survival of workers and their families (Zechariah, 2025).

Employment relations in the perspective of employment law are not only understood as contractual relationships based on the principle of freedom of contract, but also as social relationships that are loaded with human values and social justice. Workers depend on labor relations for their livelihoods, while employers have a dominant position because they control the means of production and decision-making. This

structural inequality gives birth to the need for state intervention through protective regulations (Zulkarnaen & Utami, 2016). Labor laws exist to limit the freedom of employers so that they are not used arbitrarily, especially in terms of termination of employment that has the potential to harm workers economically and socially.

The principle of worker protection is clearly reflected in the provisions of Article 27 paragraph (2) of the 1945 Constitution of the Republic of Indonesia which guarantees the right of every citizen to work and a decent livelihood for humanity. The constitutional guarantee is then further described in Law Number 13 of 2003 concerning Manpower as amended by Law Number 6 of 2023 concerning Job Creation. Article 151 emphasizes that employers, workers, trade unions, and the government are obliged to make efforts to prevent termination of employment from occurring, so that layoffs are positioned as the last step that can only be taken if preventive efforts are no longer possible (Husni & Reynaldo, 2022).

This provision shows that Indonesia's positive law does not prohibit termination of employment absolutely, but provides strict restrictions on the reasons and procedures. Layoffs can only be carried out if they are based on legitimate reasons as stipulated in the law and are carried out through procedures that guarantee the protection of workers' rights. Employers are required to negotiate in advance with workers or labor unions, and fulfill workers' rights in the form of severance pay, service award money, and compensation in accordance with the provisions of laws and regulations. Violation of these provisions makes the layoff potentially qualified as a unilateral layoff that is contrary to the law (Damayanti, 2024).

The concept of unilateral layoffs is also closely related to the principles of justice and legal certainty in industrial relations. Layoffs carried out without clear reasons, without sufficient evidence, or without a mechanism for resolving industrial relations disputes reflect a disregard for the principles *due process of law*. Law Number 2 of 2004 concerning Industrial Relations Dispute Settlement stipulates that any layoff dispute must

be resolved first through bipartite negotiations and can proceed to the mediation, conciliation, or industrial relations court stage. This provision emphasizes that termination of employment cannot be done unilaterally based on the unilateral will of the employer alone (Remen et al., 2018).

Termination of employment carried out without following legal mechanisms ultimately not only harms workers, but also has the potential to create legal uncertainty in industrial relations. The practice of unilateral layoffs reflects the weak implementation of the principle of job protection and the still dominant economic approach in company policies. This condition creates urgency to re-establish the principle of worker protection as the main basis in assessing the validity of termination of employment, so that industrial relations can run in a fair, balanced, and socially justice-oriented manner (Prawesti & Rizal, 2024).

B. The Principle of Worker Protection as the Basis for Limiting Layoffs

The principle of worker protection is a fundamental principle in labor law that departs from the reality of the imbalance of bargaining positions between workers and employers. Entrepreneurs generally have structural advantages in the form of control of capital, means of production, and managerial authority, while workers depend on labor relations as the main source of livelihood. This dependency puts workers in a vulnerable position to unilateral actions, especially in the form of termination of employment. This condition gives birth to the need for state intervention through regulations aimed at protecting workers from potential abuse of power by employers (Catur et al., 2020).

The principle of worker protection is not only ethical or moral, but has strong juridical legitimacy in the national legal system. Article 27 paragraph (2) of the 1945 Constitution of the Republic of Indonesia guarantees the right of every citizen to obtain a job and livelihood that is suitable for humanity. The constitutional guarantee is the normative basis for the formation of laws and regulations in the field of labor that place workers as legal subjects that must be

protected. Law Number 13 of 2003 concerning Manpower as amended by Law Number 6 of 2023 concerning Job Creation internalizes this principle by limiting the authority of employers to terminate employment relationships (Triyani & Tarina, 2021).

These restrictions are clearly reflected in the provisions of Article 151 of the Manpower Law which affirms the obligation to strive so that termination of employment does not occur. This norm places layoffs as a last resort that can only be carried out if there is a legitimate reason and after going through the specified procedures. The obligation to negotiate between the employer and the worker before the layoff occurs shows that the labor law does not provide room for the employer to unilaterally terminate the employment relationship without considering the interests of the worker.

The principle of worker protection is also reflected in the employer's obligation to fulfill the normative rights of workers if termination of employment is unavoidable. The right to severance pay, service award money, and compensation money is a form of economic protection intended to minimize the social and economic impact of job loss. This obligation emphasizes that termination of employment is not solely a matter of termination of contractual relationships, but a legal event that must be accompanied by social and legal responsibility on the part of the employer (Azis et al., 2019).

The principle of worker protection also serves as a measuring tool in assessing the validity of unilateral termination of employment. Termination of employment without clear reasons, without sufficient evidence, or without following the industrial relations dispute settlement mechanism reflects a violation of this principle. Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes emphasizes that layoff disputes must be resolved through bipartite stages, mediation, conciliation, or industrial relations courts. This provision strengthens the position of workers by providing a control mechanism against the unilateral actions of employers (Situmeang et al., 2023).

The principle of worker protection is ultimately not only oriented towards the individual protection of workers, but also aims to create fair, harmonious, and sustainable industrial relations. This principle serves as a guideline for judges, mediators, and other stakeholders in assessing whether a termination of employment has met the standards of justice and legal certainty. The placement of the principle of worker protection as the basis for restricting layoffs emphasizes that the authority of employers in employment relations is not absolute authority, but authority that must be carried out responsibly and in line with the goals of labor law, namely the realization of social justice and worker welfare (Charada, 2010).

C. Legal Implications of Unilateral Layoffs on Workers' Rights

Unilateral termination of employment that is carried out without complying with the provisions of the law carries significant legal implications for workers. The sudden loss of jobs leads to the disconnection of the source of income that is the main support for the lives of workers and their families. This impact is not only economic, but also affects the psychological condition of workers in the form of uncertainty, anxiety, and a decrease in a sense of security in work relationships. This consequence shows that unilateral layoffs are not just a matter of ending contractual relationships, but legal events that have a broad social and humanitarian dimension (Anisah & Damayanti, 2024).

The provisions of the labor law provide strict limits on the act of termination of employment that is carried out not in accordance with procedures. Layoffs that are carried out without a valid reason, without negotiation, or without the fulfillment of the normative rights of workers can qualify as legally invalid layoffs. Article 151 of the Manpower Law emphasizes the obligation to avoid layoffs and requires negotiations between employers and workers before layoffs are carried out. Violations of these provisions provide a legal basis for workers to demand the restoration of rights through the mechanism of resolving industrial relations disputes.

The juridical implications of unlawful unilateral layoffs open up space for workers to file lawsuits, both in the form of fulfilling normative rights and restoring legal standing. Law Number 2 of 2004 concerning Industrial Relations Dispute Settlement provides procedural protection through the dispute resolution stages starting from bipartite negotiations, continuing with mediation or conciliation, and leading to examination by the Industrial Relations Court if no agreement is reached. This mechanism emphasizes that labor law is not only preventive, but also repressive in ensuring justice for workers who are harmed by unilateral layoffs (Mantili, 2021).

Workers' rights to compensation are one of the most obvious legal implications of unilateral layoffs. Employers are still obliged to fulfill workers' rights in the form of severance pay, service award money, and compensation in accordance with the provisions of laws and regulations, even if the layoffs are carried out unilaterally. The obligation is intended as a form of economic protection to reduce the negative impact of job loss and as a legal sanction for employers who do not carry out their normative obligations appropriately (Remen et al., 2018).

Another equally important implication is the increased potential for industrial relations conflicts. Unilateral layoffs carried out without a strong legal basis tend to trigger prolonged disputes between workers and employers. These conflicts not only harm workers in terms of time, cost, and energy, but also have an impact on the company's operational stability and the employment climate in general. Legal uncertainty arising from unilateral layoffs has the potential to reduce workers' trust in the labor law system and weaken harmonious industrial relations.

The legal implications of unilateral layoffs ultimately affirm the importance of applying the principle of worker protection consistently in labor relations practices. Termination of employment that is carried out without paying attention to the provisions of the law and workers' rights not only violates legal norms, but also contradicts the main purpose of labor law, which is to realize social justice, legal certainty, and

welfare for workers. Strict enforcement of the law against the practice of unilateral layoffs is an important prerequisite to ensure that industrial relations run fairly and balanced (Zairudin, 2022).

D. Efforts to Prevent and Enforce the Law against Unilateral Layoffs

Prevention of the practice of unilateral termination of employment requires the active role of the state in ensuring compliance with labor law norms. The state not only functions as a regulator, but also as a supervisor and law enforcer responsible for ensuring that the protection of workers' rights is implemented effectively. Employment supervision is a strategic instrument to control the implementation of employment relations and prevent arbitrary actions by employers, especially in the process of termination of employment (Wibowo & Herawati, 2021).

The function of normative labor supervision is regulated in Law Number 13 of 2003 concerning Manpower and its implementing regulations, which give authority to labor supervisors to conduct inspections, guidance, and enforcement of violations of labor regulations. Effective supervision acts as a preventive measure to encourage employers to comply with legal procedures and reasons in terminating employment. Weak supervision has the potential to open up space for unilateral layoffs that harm workers and create legal uncertainty (Utami, 2013).

Enforcement of labor law also plays an important role in providing a deterrent effect against violations of termination of employment. Consistent law enforcement emphasizes that termination of employment is not the absolute authority of the employer, but a legal action that must be subject to the principles of worker protection and the provisions of laws and regulations. The law enforcement mechanism through the settlement of industrial relations disputes, as stipulated in Law Number 2 of 2004, provides a legal channel for workers to demand justice if they experience unilateral layoffs (Hidayatullah & Nugroho, 2022).

Increasing workers' legal awareness is another important aspect in efforts to prevent unilateral layoffs. Workers who understand their rights and obligations tend to be more able to resist or sue the employer's actions that are contrary to the law. This legal awareness is not only related to normative understanding, but also includes practical knowledge of industrial relations dispute resolution procedures, the right to compensation, as well as the available legal protection mechanisms. The role of trade unions becomes relevant in this context as a forum for education and advocacy for workers (Karo et al., 2022).

Accessibility to industrial relations dispute resolution mechanisms also determines the effectiveness of legal protection for workers. Simple, fast, and low-cost procedures are prerequisites so that workers are not hindered in fighting for their rights. Bipartite negotiations, mediation, conciliation, and industrial relations tribunals are designed as a unified system aimed at preventing the escalation of conflicts and ensuring fair dispute resolution. The effectiveness of this mechanism is highly dependent on the commitment of law enforcement officials and employment institutions in carrying out their functions professionally.

Synergy between labor supervision, strict law enforcement, and increasing workers' legal awareness is the main key in preventing the practice of unilateral layoffs. An approach that only relies on unsupervised regulation and effective law enforcement has the potential to turn legal norms into mere written rules without coercion. The integration of all these elements is expected to be able to create fair industrial relations, ensure the protection of workers' rights, and encourage the creation of a harmonious and sustainable labor climate.

IV. CONCLUSION AND SUGGESTIONS

A. Conclusion

Based on the results of the research and discussion, it can be concluded that unilateral termination of employment by a company cannot be legally justified if it is not based on valid reasons and is not carried out in accordance with the procedures determined by laws and

regulations. In the Indonesian labor law system, termination of employment is not positioned as an absolute right of the employer, but rather as a legal action limited by protective norms to ensure the protection of workers as structurally unbalanced parties.

The principle of worker protection has a central role in assessing the validity of termination of employment, especially in the context of unilateral layoffs. This principle demands a guarantee of job security, fair treatment, and the fulfillment of workers' normative rights as a consequence of the termination of the employment relationship. Termination of employment that is carried out without paying attention to this principle not only violates positive legal provisions, but also contradicts the goals of labor law that are oriented towards social justice and worker welfare.

Indonesia's labor law has basically provided a legal protection mechanism for workers who experience unilateral layoffs through an industrial relations dispute settlement system. This mechanism reflects the state's commitment to ensuring access to justice for workers. The main challenge lies in the implementation and effectiveness of law enforcement, especially in the aspect of labor supervision and consistency in the application of norms by the authorities. This condition shows that legal protection for workers is not enough only to be regulated normatively, but also requires strong institutional support and fair law enforcement.

B. Suggestion

The government needs to strengthen the labor supervision function more effectively and sustainably, especially in supervising the implementation of termination of employment by companies. Law enforcement against the practice of unilateral layoffs must be carried out firmly and consistently in order to provide a deterrent effect and prevent the recurrence of similar violations in the future. Strengthening the capacity and independence of the labor supervisory apparatus is a strategic step in realizing real legal protection for workers.

Increasing workers' legal understanding and awareness of their rights and obligations also needs to be a major concern. Employment law education, whether through the role of the government, trade unions, and related institutions, is expected to empower workers to be more proactive in protecting their rights and making effective use of industrial relations dispute resolution mechanisms.

Employers are expected not to view termination of employment solely as a managerial instrument, but as a legal action that has social and juridical consequences. Compliance with the principles of worker protection and the provisions of labor law is an important prerequisite for creating harmonious, fair, and sustainable industrial relations, in line with the goals of national employment development.

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