



## LEGAL PROTECTION OF WORKERS' RIGHTS IN COMPANIES CONDUCTING COORPORATE ACTION MERGERS AND ACQUISITIONS

Afif Johan

Ramlani Lina Sinaulan

Marni Emmy Mustofa

Madeline Vanessa Audrey

Felicitas Sri Marniati

Master of Law at Jayabaya University

[johanafif@yahooo.com](mailto:johanafif@yahooo.com)

[ramlani\\_ls@jayabaya.ac.id](mailto:ramlani_ls@jayabaya.ac.id)

Article history:	Abstract:
<p><b>Received:</b> January 6<sup>th</sup> 2023 <b>Accepted:</b> February 6<sup>th</sup> 2023 <b>Published:</b> March 14<sup>th</sup> 2023</p>	<p>Article 61 paragraphs (2) and (3) of the Labor Law, states: "Work agreements do not end due to the death of the entrepreneur or the transfer of rights over the company due to sales, inheritance or grants". With regard to legal protection of workers' rights in the event that a company carries out corporate action mergers and acquisitions, it is very clear that in principle the working relationship between employers and employees continues until the employment relationship is terminated without being affected by mergers and acquisitions. The phenomenon that occurs is that the protection of workers' rights in companies carrying out corporate action mergers and acquisitions is still neglected and workers do not get legal certainty when mergers and acquisitions take place. Even though in the case of companies carrying out mergers and acquisitions, protection of workers' rights absolutely must be carried out with the provision that if in the case of mergers and acquisitions, the legal status of the working workers does not automatically end and the workers are willing to continue their working relationship, then their rights are the same and still given. This is the responsibility of the merged company or the acquiring company.</p>

**Keywords:** Legal protection , Right Worker, Mergers, Acquisitions

### INTRODUCTION

Every entitled citizens get decent work and livelihood for humanity , that is loaded in Article 27 Paragraph (2) of the 1945 Constitution of the Republic of Indonesia (hereinafter abbreviated as "1945 Constitution"), based on Chapter the clear that the State has give acknowledgment and guarantee in all Indonesian citizen that work is right important and necessary basis protected in reach decent life as human , with base that's so protection law become important in arrange connection between fellow citizens and between the State and citizen .

Connection this later form something rights and obligations Where give protection law is obligations of the State while get protection law become right nationals included moment happening cooperating action Good in the form of a merger or acquisition. related with right worker in company carry out mergers and acquisitions Article 61 paragraph (2) and (3) of the Law Employment , namely : " Agreement Work No end Because his death businessman or switch right on caused company sale , inheritance , or grants ",

Phenomena that occur is when happen good corporate action both mergers and acquisitions , problems rights worker often No talked about especially formerly before implementation of mergers and acquisition . So that problem rights worker Finally appear during the merger and acquisition process Already done . With thereby protection law to rights worker become neglected. Therefore, so that the workers get protection and certainty law to its rights, it should before the merger and acquisition process walk has talked about over formerly with worker about her rights as arranged in regulation applicable laws. After talked about so made agreement together between worker with businessman Good experienced workers termination connection Work or not experience. So that agreement together the can become umbrella binding law between second split party.

The other side, deep matter company carry out mergers and acquisitions in the practice only circles certain know about exists merger and acquisition plans. Workers or union worker often No given information about plan the corporate action. Responsible agency answer in the field employment No given announcement or information about merger and

acquisition plans. As a result, problems employment appear after the merger and acquisition process walk.

### **METHOD**

The method in this study is a normative juridical method. The normative legal research method is a scientific research procedure to find the truth based on the scientific logic of law from its normative side. The approach used is: Approach Legislation; approach taken with study all regulation relevant laws and regulations cant with issue handled law. Approach Analytical; Approach Analytical is analysis to material law For know meaning contained by the terms used in regulation legislation in a manner conceptual, all at once know its application in practices and decisions law. Approach Conceptual; Approach in study the law provides corner view analysis settlement problem in study law seen from aspect concepts the law behind it, or even can seen from contained values in normalization A regulation relation with the concepts used.

### **DISCUSSION**

#### **Workers' Rights In Companies Carrying Out Mergers and Acquisitions**

In the era of globalization and trade free moment this climate industry and competition between company become the more tight. because \_ it's so a company can Keep going survive and survive For compete with competitors, then A company must Keep going grow and create innovation. Because when something company No can compete or offset its competitors so company the will lost and then company the will experience condition bankruptcy. For avoid it, so the company can Keep going endure then it's very important For own something effort or strategy so that the company is also capable For compete. (Sudiarta, I Wayan and Novy Purwanto, I Wayan, 2014).

Therefore between several strategies as well effort company to continue survive and survive compete is with do corporate action n merger as well acquisition. However from implemented mergers and acquisitions can impact on the parties in company that is power Work company the. it Because with he did mergers and acquisitions, it is likely that the company will rearrange its organizational structure, position work, amount power work. Although thereby with exists merger or merger company, interests worker must still noticed by entrepreneurs. However although interest worker Already noticed by employers, in general merger will give birth to problems to worker company the like, Termination Connection Work (layoff). Temporary in matter company acquired, then potentially have an impact to management and policy covering company problem employment. (Terok, Reymond Hendry, 2018).

In the case of companies carrying out mergers and acquisitions, workers' rights are already protected in applicable laws and regulations, including those contained in work agreements, company regulations or collective bargaining agreements, so that workers' rights are inherent and binding, therefore it must be granted if mergers and acquisitions take place.

Results and discussion served in One composed part from a number of paragraph. this section is the most dominant part from whole articles, that is 60%. To facilitate understanding and reading, the research results are described first, followed by the discussion section. The results and discussion subtitles are presented separately.

#### **1. Workers' Rights in a Merging Company**

The legal status of workers working in the merging company does not automatically end in accordance with Article 61 paragraph (2) UUK and the rights of the workers in the company will become the responsibility of the new employer in accordance with Article 61 paragraph (3) UUK. However, due to the merger of companies, there will be a fusion of work positions, causing the number of workers owned by the company to become more than the number of existing work positions. This can lead to termination of employment, hereinafter referred to as layoffs, for workers in companies that carry out mergers.

In matter employment especially those that regulate Specific about rights worker usually poured in agreement work, rules companies and agreements Work together. For agreement Work made in a manner written every worker start connection it works with each company. Temporary For regulation company must made by each company that employs n more of 50 (fifty) people. Whereas agreement Work together owned by the existing company union worker in company these and have carry out negotiation agreement Work with being \_ umbrella law employment in the company. Therefore \_ in matter company do a merger, then her rights still in accordance as stated in the agreement work, rules company or agreement Work together and compatible with law.

In merger thing that's become differentiator is regarding continues nope connection Work workers in a company. In matter worker still employed, then worker the still get lasting rights This obtained, relationship status it works same and working time still counted. Temporary in matter the workers No next connection work, then the relationship status it works ended and given right severance pay in accordance with wages and length of work respectively.

Termination of employment or layoffs according to Hasibuan is dismissal by the organization where what is meant here is the company against the workers in the company. According to UUK Article 1 paragraph (25) Termination Connection Work or layoffs have understanding that is termination connection Work Because something reason certain later termination connection Work This can resulted ending rights and obligations between worker with entrepreneur.

Layoffs carried out by companies for workers are a form of problem in work relations faced by workers with companies, this is because by terminating workers by companies through layoffs, workers affected by layoffs will lose their jobs and income. This is what workers are afraid of, moreover remember moment this is in fact look for new job is hard thing or hard, because the more tight competition and increasingly year, batch Work the more increase.

Layoffs get to the detriment of workers, then as much as possible, the company must avoid it. It is arranged in UUK Article 151 which states that "entrepreneur must try with all attempts to terminate connection Work No happened." If all attempts are done, and still cannot avoid layoffs based on Article 151 UUK, entrepreneur must negotiate or discuss the layoffs with the party the worker concerned.

Based on this, UUK seeks to protect workers from layoffs by companies which can harm workers. Besides protecting workers from layoffs, UUK also regulates rights of workers who have been laid off, so later rights of workers can be protected.

Obtainable rights accepted by workers if experienced layoffs due to merger of a company divided by 2, i.e., first received rights of worker if worker is again willing to continue connection work with company that does merger, which led to company making layoffs of worker and second received rights of worker if company itself who doesn't willing accept workers in his company who do merger company (merger) or in other words it's the company that doesn't willing continue connection work, so company make layoffs of worker.

Based on arrangement such, then if the Company does merger of a company, company own right to make layoffs. If company is not willing to accept or employees who have been laid off by the company because worker does not want to continue connection work for companies that do merger of a company (merger), workers are entitled to receive severance pay as big once, long service award money as big once and also entitled to receive reimbursement right in accordance with Chapter Article 41 PP Number 35 of 2021.

### 2. Workers' Rights in the Doing Company Acquisition

In the acquisition process done by a company resulted in happening control of company so that potential too happen change structure of directors. With thereby potentially cause change policy of company including regarding employment. In matter acquisition under the Limited Liability Company Law Article 127 paragraph (2) of the directors law company actually required to announce summary design acquisition. And minimum that's the minimum in one letter news and obligatory announce also by written to the workers in period 30 days time before summons of the GMS. And in explanation Article 127 paragraph (2) of the Limited Liability Company Law explains that "Announcement intended to give chance to concerned parties to find out exists plan it and submit objection if they feel interests harmed."

Thus it should be before signing is done agreement acquisition, company must first make announcement to worker about plan the acquisition however. After exists announcement plan acquisition, worker mind, then worker own right to submit application for layoffs or resign self. And if it's the other way around businessman acquires objections to accepting workers, the acquiring employer can also lay off employees of worker however matter the cannot done in a manner unilateral by both sides.

### 3. Position Worker After Acquired

In the acquisition process, all parties should avoid layoffs so as not to cause problems. Layoffs arranged in the Labor Law, the Job Creation Law and Government Regulation Number 35 of 2021 of 2021 concerning Agreement Certain Working Time, Outsourcing, Working Time And Rest Time, And Termination Connection Work, including reasons for layoffs. For worker the problem of layoffs is scourge, because have connection with problem fundamentals about economy nor burden psychology for worker. Layoffs will cause loss income of workers, meanwhile problem related psychology with loss of one's status and increase burden life of worker. Even layoffs get creeping into the problem unemployment and crime. There are layoffs like that very easy leave behind with ambition founding Republic of Indonesia as poured in the 1945 Constitution. Article 27 paragraph (2) of the 1945 Constitution states "Every entitled citizens on decent work and livelihood for humanity"

Regarding the position of workers after the acquisition, Article 61 paragraphs (2) and (3) of the Manpower Law states that in principle Agreement Work between company with workers / laborers no end because switch right on caused company exists sale company. That is, relationship Work between businessman with worker still continues until he ended connection Work the and exist transition or change ownership on company does not affect the relationship status work.

With happening acquisition, responsibility for workers' rights including regarding employment relations is regulated in agreement acquisition. If in agreement acquisition no include clause regarding workers' rights, then at the time happening termination connection work if not completed before the acquisition, related rights and obligations with employee become not quite enough answer businessman new. As for the calculation of working time calculated since commencement connection work at the company prior to acquisition and its rights apply as provision in the Labor Law, and guarantees for workers' rights to be not quite enough answer businessman new.

### 4. Protection of Workers' Rights In Companies Carrying Out Mergers and Acquisitions

There is Merger act, then there is parties certain belonging weak / small position become risky. As for the weak party whose position crucial if the merger occurred including those who are weak in a manner structural, financial, localization, and consequences exists application appraisal rights. Protection weak party in a manner structural which is meant with weak party in structure is that position party the in structure distribution authority from something very weak company compared to with position party other. Protection weak party in a manner financial kindly juridical there is strong tree in structure position, for example holder stock, however because bond weak financially between those concerned with company, for example because the stock minority, then the consequences the corresponding

position is also the end become weak . Protection to holder share especially holder share minorities are very important in Merger law , aside protection such other parties party employee company . Protection weak party in a manner localization In matter This party the is involved party \_ with company but own weak position in a manner localization . It means party the is at Far from company or even outsiders company That alone , however have connection with company . Change of status, merging , smelting or change ownership company , fine part nor whole can made as reason for businessman For end connection Work with worker or laborer or employee . Termination connection Work meant can happen because of 2 (two) things as following : Entrepreneur with merger , consolidation and or new ownership status No willing continue connection Work with worker or labour . Worker or laborer No willing continue connection Work with entrepreneur ( with ownership status new ) , though conditions work offered No experience change . Change of status, merging , smelting or change ownership companies and workers / laborers No willing continue connection work . In such things , workers / laborers entitled on severance pay once . Otherwise , if Because state change , merge or smelting companies and entrepreneurs No willing accept worker or workers in his company , then workers / laborers entitled twice the severance pay .

Protection law to power Work is One must law as mandate constitution The 1945 Constitution , because rights power work which is right basic man Because related with need life human , so in a manner law burden not quite enough answer law especially lies with the state government as mandate constitution . More than that , entrepreneur own not quite enough answer main in accordance provision applicable laws in the field employment .

### **Legal Position of Company Rules and Agreements Collaboration in the Case of Companies Carrying Out Mergers and Acquisitions**

According to Article 52 paragraph (1) of the Law Number 13 of 2003 concerning Employment mentioned \_ that " agreement Work made on one of the bases promised job No can contrary with order general , decency , and conditions regulation applicable laws " . So that provision This confirm that agreement Work fulfil terms of " lawful causation " in A agreement. So position agreement Work more low from regulation company and regulations legislation . Whereas position Agreement Collaborative work is faced in Company Regulations . In matter This use return principle lex superior derogat inferior legi ie more provisions \_ tall rule out low terms . \_ Based on Article 108 paragraph (2), 111 paragraph (4), and 129 of the Law Number 13 of 2003 concerning employment above and can concluded that provision it also acknowledged that position law agreement Work together is more tall from the rules company .

position agreement Work together in Constitution Number 13 of 2003 concerning Employment was also emphasized position as one means For build industrial relations . Industrial relations involve actors in the production process goods and/ or services consisting \_ from element employers , workers / labourers , and the government based on Pancasila values and the 1945 Constitution of the Republic of Indonesia .

As an agreement, a collective labor agreement cannot be separated from the terms of the validity of an agreement in general, which according to Article 1320 of the Civil Code must meet the following conditions, namely the agreement of those who bind themselves, the ability to make an agreement, a certain matter and a cause lawful. Quoting Abdul Khakim , agreement Work together must fulfil element subjective and objective as condition legitimate agreement Work in Article 52 of the Law Number 13 of 2003 concerning Employment .

As for the concept agreement Work together based on Constitution Number 13 of 2003 concerning employment reviewed from aspect freedom contract , very clear agreement Work together This adhere very thick individual understanding , can seen at the moment negotiation or discussion between union workers / union laborer with businessman No There is emphasis and intervention from government . Each has interest and do Power bid with limitation principle faith ok .

In the case of companies carrying out mergers and acquisitions, the position of the collective agreement has been regulated in Law Number 13 concerning Manpower as stated in Article 131 paragraph (2) which states that "In the event of a merger and each company has a collective labor agreement , the applicable collective labor agreement is a collective labor agreement that is more beneficial to workers/laborers."

And in paragraph (3) Law number 13 of 2003 concerning employment states that "In the event of a company merger (merger) between companies that have a collective labor agreement and companies that do not yet have a collective labor agreement, the collective labor agreement applies to the merging companies ( merger) until the expiration of the collective labor agreement period.

In matter protection rights workers , agreement Work together own very important role . this \_ Because lasting habit This There is that enshrined rights \_ in agreement Work together more Good from law . Therefore If before mergers and acquisitions of employees has get more rights \_ Good from listed laws in agreement Work together , then agreement Work together the become umbrella law in protection rights workers at the company .

### **Union Role Fighting for Rights Worker and Complete Dispute Industrial Relations Within Companies Conducting Mergers and Acquisitions**

Generally \_ position worker individually located in position weak in fight for his rights , then with become member union workers / union laborer will improve good bargaining in a manner individual nor whole . Union workers / union laborer can participate as well as supervise (control) the implementation rights workers at the company . because it , union workers / union workers play a big role important for worker including moment company mergers and acquisitions .



During This worker was in a very weak position in protect as well as fight for rights , then For protect as well as fight for rights they in work , worker form something union worker . As for roles from union worker is give protection and defense to rights worker as well as increase proper welfare . There is union worker this is very useful for worker , because union worker always try give protection to worker .

Union worker in operate role represent worker can into a deep bargaining position effort protection rights worker . Especially speak terms of mergers and acquisitions has also regulated in UUPT where in accordance with Article 127 paragraph (3) UUPT stated that laborer as interested parties entitled For obtain design Mergers and Acquisitions at the Company's office are counted since date announcement until the date the GMS was held . Even in Article 127 paragraph (2) UUPT and explanation , Summary design must announced for interested parties , incl \_ workers , opportunity state he objected . But in the end , the decision about mergers and acquisitions determined in GMS meeting .

With many phenomenon problem about rights worker when company do mergers and acquisitions , then existence union worker absolute needed For help fight for rights workers and deliver protection to rights worker . Union worker can operate roles and functions as institution social control employment so that before implementation of mergers and acquisitions problem rights worker can negotiated especially first and agree together so that No raises problem after mergers and acquisitions occur .

### CONCLUSION

Based on description and discussion in chapter before , then writer give conclusion as following : That in matter company do mergers and acquisitions , then protection to rights worker absolute must done with provision as following : If in terms of mergers and acquisitions , the legal status of workers working in companies that do mergers and acquisitions No in a manner automatic end in accordance Article 61 paragraph (2) UUK and for the workers willing continue connection it works , then her rights still given and not can minus , relationship status it works permanent and tenure worker still continue . it become not quite enough answer company results merger or companies that take over / cquire ; If in terms of mergers and acquisitions , workers experience termination connection Work so based on Government Regulation Number 35 of 2021 concerning Agreement Certain Working Time , Outsourcing , Working Time And Rest Time , And Termination Connection Work workers , workers entitled get compensation

### REFERENCE

1. Abdul R. Bodiono , Labor Law , (Jakarta: Index , 2009), p. 79
2. Ayu Ratna Hari Putri, Legal Protection of Affected Workers ' Rights Termination Connection Work Consequence Company Efficiency Based Constitution Number 13 of 2003 concerning Employment in Semarang City ( Study Supreme Court Decision Number 474/K/PDT.SUS-PHI/2013), Diponegoro Law Review Volume 5, Number 2, Year 2016
3. Djumadi (2008). Labor Law Agreement work . Jakarta: Raja Grafindo Persada . p . 116
4. Edy Sutrisno Sidabutar , Manual Settlement of layoffs, Elpress , Jakarta, 2007, p.20
5. I Made Udiana , Reconstruction Arrangement Completion Dispute Foreign Investment , ( Denpasar: Udayana University Press, 2011), p.6
6. Aloysius Uwiyono , et al. 2014. Principles of Labor Law . Jakarta: Rajawali Press. p . 65
7. Kartasapoetra and Rience Indraningsih , " Principles of Labor Law " , Print I, Armico , Bandung, 1982, pp.43-44
8. Munir Fuady , About Law Acquisition , Take over and LBO, Citra Aditya , 2001
9. Rizki Istighfariana Achmad , Workers' Legal Protection Post Happening Company Acquisitions , Jurist-Diction: Vol. 2 No. 4, July 2019, p 1466
10. sonhaji . " Analysis Juridical Termination Connection Work Consequence Error Heavy Worker ." Administrative Law & Governance Journal 2, No. 1 (2019): 60 – 78.
11. Sudiartha , I Wayan & Novy Purwanto , I Wayan. " Legal Consequences of Company Takeover or Acquisition Regarding Company Status and Employee Status at PT ( Limited Liability Company ) " Kertha Semaya 2 , No. 05 (2014): 1 – 6
12. Terok , Reymond Hendry. " Labor Law Protection In Company Merger (Merger) Based on Constitution Number 13 of 2003 concerning Employment ." Lex Private 6, No. 9 (2018): 1
13. zaeni Asyhadie , Work Law : Labor Law Field Connection Work , PT. RajaGrafindo Persada , Jakarta, 2007, pp. 190-191