

Legal Protection for Employees Who Continue to Work During Eid Al-Fitr (Sudi SPBU Pertamina Majapura Village, Bobotsari Subdistrict)

Faisal Arnando

Universitas Muhammadiyah Purwokerto

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ABSTRACT

Eid al-Fitr is a special day, because on this day almost all industrial sectors and offices are closed to all employees. The reason for this is so that workers can perform worship and gather with their loved ones. However, not all workers can experience Eid al-Fitr with their families because they have to keep working on that day. One of the work sectors that requires workers to continue working on Eid al-Fitr is the fuel oil and gas industry, this has been regulated in the Decree of the Minister of Manpower and Transmigration of the Republic of Indonesia Number: KEP.233 /MEN/2003 concerning Types and Nature of Work Performed Continuously. Although there are legal rules that are binding and compelling, on the other hand, it should also be noted that there are workers' rights that must be fulfilled by the employer. The reality is that when Pertamina gas station workers in Majapura Village, Bobotsari Subdistrict work during Eid al-Fitr, they do not get the fulfilment of their rights that they should get. This sparked the author to compile this article with the aim of providing knowledge of legal protection that should be obtained by Pertamina gas station workers in Majapura Village, Bobotsari District with empirical juridical research methods and sociological approach methods.

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Corresponding Author:

Faisal Arnando

Faculty of Law, Universitas Muhammadiyah Purwokerto

Jl. KH. Ahmad Dahlan, Kembaran, Banyumas, Jawa Tengah 53182, Indonesia

I. INTRODUCTION

Indonesia is a multicultural country or a country that has many patterns in terms of ethnicity, race, and religion. So it is not surprising that the culture from Sabang to Merauke gave birth to various entities of different habits and customs. This is something special because not all countries can experience the colours of a multicultural yet united country. Given that Indonesia is a special country with various multicultural patterns, it is necessary to have legal protection that regulates this in order to create harmony and harmonisation in the life of the nation and state. Article 29 of the Constitution of the Republic of Indonesia reads that the State guarantees the freedom of each resident to embrace their respective religions and to worship according to their religions and beliefs¹. The legal basis can be said as a legal umbrella for every religious community for protection and justice to carry out worship activities according to what they believe in.

The legal umbrella is implemented by one form of giving a "red date" or holiday that is carried out nationally to commemorate an important day in a religion. From a sociological point of view, this action is only an act of tolerance between religious communities, but from a legal point of view, this action is not only an act of

¹ Undang-Undang Dasar Negara Republik Indonesia Tahun 1945.

tolerance but also a form of justice. The meaning of justice can be interpreted as the state being present and giving time to workers to escape from their responsibilities to focus on worship activities on important days of their religion.

Speaking of holidays, the majority of Indonesians will mention Eid al-Fitr as their holiday, because considering the majority of Indonesia's population is Muslim. So, it is not surprising that the laws that are issued are often in line with Islamic law and can be said to benefit Muslims. For example, more "red dates" are given to Eid al-Fitr than other holidays and almost all industrial sectors and offices are closed. The collective holiday has the aim that industrial and office workers can perform worship activities with focus and carry out traditional activities with their families at home.

Unfortunately, not all industrial and office sectors have cancelled all their employees. One of them is the fuel oil and gas industry. Article 2 of the Decree of the Minister of Manpower and Transmigration of the Republic of Indonesia Number: KEP.233 /MEN/2003 concerning the type and nature of work carried out continuously reads "Employers may employ workers/labourers on official holidays for work which according to its type and nature must be carried out and carried out continuously" and article 3 paragraph (1) letter (f) "Work as referred to in Article 2, namely, the provision of fuel oil and gas"².

The regulation can be used as an excuse for employers to their workers or labourers to continue to employ their workers but with unlawful intentions and objectives, namely not carrying out their responsibilities in terms of providing overtime pay rights to workers. So this can be a threat to the workers of their rights being taken for granted so that it sparks the author to write an article entitled "**Legal Protection for Employees Who Continue to Work During Eid Al-Fitr (Sudi SPBU Pertamina Majapura Village Bobotsari District)**".

II. RESEARCH PROBLEMS

In this article the author writes the formulation of the problem as follows:

How is legal protection for employees who continue to work on Eid al-Fitr?

III. RESEARCH METHODS

This article is written with a normative juridical research type and the approach used is a statutory approach. The data sources in this article are secondary data sources. Secondary data sources are obtained from books, journals, and others. So that this article will be in the nature of description analysis by describing das sollen or the law that is aspired to.

IV. RESULT AND DISCUSSION

A. Legal Protection to Gas Station Employees Who Continue to Work on Eid Al-Fitr DayThe purpose of legal protection in the world of work is to ensure that the system of work relations takes place in harmony without pressure from strong parties to weak parties³. Produk hukum yang sekarang berjalan seharusnya dapat memberikan hak-hak yang dimiliki oleh pekerja oleh pemberi kerja. So that Article 4 of Law Number 13 Year 2003 on Labour is no longer a fictional story, but can become a true reality for the welfare of workers..

During the collective leave for Eid al-Fitr, not all work sectors stop their activities. For example, the work sector in the field of oil and gas procurement under PT Pertamina. The regulation is contained in which reads "Employers can employ workers / labourers on official holidays for work which according to the type and nature must be carried out and carried out continuously" and article 3 paragraph (1) letter (f) "Work as referred to in Article 2, namely, the provision of fuel oil and natural gas" so it can be concluded that gas station employees still go to work to carry out their responsibilities as they should on Eid al-Fitr.

Eid al-Fitr is usually marked by a long "red date" or it can be said to be a joint leave set by the government. Leave is a condition of a worker who can be released from work responsibilities within a certain period of time. In labour law, the rules regarding leave are very diverse, ranging from menstrual leave, maternity leave, sick leave, and so on. However, in this article, the leave related to the title is annual leave. Annual leave is a holiday that can be taken by workers during the year. According to Law No. 13/2003 on Labour, the amount of annual leave given is only 12 days if you have worked for 12 consecutive months⁴. The relationship between collective leave and annual leave is that collective leave taken by workers can reduce the amount of annual leave.⁵

² Keputusan Menteri Tenaga Kerja dan Transmigrasi Republik Indonesia Nomor : KEP.233 /MEN/2003 Tentang Jenis dan Sifat pekerjaan Yang Dijalankan Secara Terus Menerus

³ I Dewa Ayu Sasmitha Iswara Dewi, Ni Ketut Supasti Dharmawan, *Perlindungan Hak Berlibur (Cuti) Bagi Tenaga Kerja Wanita Pada Perusahaan Perdagangan Pariwisata, Jurnal Kertha Semaya 10 No. 2 Tahun 2022.*

⁴ Undang-Undang Nomor 13 Tahun 2003 Tentang Ketenagakerjaan

⁵ Surat Edaran Menteri Ketenagakerjaan Nomor: M/3/HK.04/IV/2022 Tentang Pelaksanaan Cuti Bersama Oleh Perusahaan

Considering that Eid al-Fitr day is classified as annual leave or collective leave, but petrol station employees are required to continue working. Even though this has become the risk and responsibility of working in the oil and gas procurement sector, it does not mean that it eliminates the rights owned by gas station employees as it should be and employers or employers are obliged to carry out their responsibilities by providing their employees with their rights according to applicable regulations. The rights referred to are regarding overtime pay and or the provision of holiday reimbursement at the specified time.

Overtime is an action taken by workers to carry out their work responsibilities beyond the specified working time, resulting in overtime pay. Overtime wage is a type of wage given by the company as compensation to workers for continuing to do work beyond working hours (7 (seven) hours a day and 40 (forty) hours a week) at the request of the company.⁶ However, in certain circumstances employers may employ workers/labourers on official holidays based on an agreement between workers/labourers and employers.⁷ If there is an employer who employs workers/labourers exceeding the provisions of the working time, then the excess time is referred to as overtime working time, then the worker is entitled to receive overtime pay⁸. So it can be concluded that gas station workers who carry out their work responsibilities on Eid al-Fitr are categorised as overtime and are entitled to overtime pay.

V. CONCLUSION

Eid al-Fitr is usually marked by collective leave, which means that most industrial and office sectors close their business activities. However, on the other hand, there are industrial and office sectors that continue to carry out their activities, namely industries in the field of oil and gas procurement, so that workers or labourers in this field continue to carry out their work responsibilities as they should. Although this is a consequence and has been regulated in the Decree of the Minister of Manpower and Transmigration of the Republic of Indonesia Number: KEP.233 /MEN/2003 concerning Types and Nature of Work Performed Continuously, but there are still the rights of gas station workers or labourers that must be considered, instead of using the legal basis to step over the rights of their workers. The right to note is that if a worker or labourer works on a national holiday such as Eid al-Fitr then the employer is obliged to label or stamp that the worker is working with an overtime system and must be paid according to applicable regulations.

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⁶ Arifuddin Muda Harahap, *Pengantar Hukum Ketenagakerjaan*, (Malang: Literasi Nusantara, 2020).

⁷ Keputusan Menteri Tenaga Kerja dan Transmigrasi Republik Indonesia Nomor : KEP.233 /MEN/2003 Tentang Jenis dan Sifat pekerjaan Yang Dijalankan Secara Terus Menerus

⁸ Ida Hanifah, *Hukum Ketenagakerjaan Indonesia*, (Medan: Pustaka Prima, 2020)