

Legal Analysis of the Guarantee of Protection of the Rights of Pt Freeport Workers, Victims of Armed Violence by the Organisasi Papua Merdeka (OPM) Reviewed from a Legal Perspective

Reza Firmansyah Hardian¹, Budi Santoso²

¹Master of Law Student, Diponegoro University Semarang

²Lecturer of Faculty of Law, Diponegoro University Semarang

ABSTRACT: The construction of labor is also included in national construction, where labor has a crucial mandate. There are many problems that have been experienced by workers, including the payroll system, outsourcing practices, problems with labor supervision mechanisms, and violence against workers, specifically the shooting carried out by the separatist movement, the OPM. Few workers receive welfare and comfort when working. Thus, the purpose of this journal is number one to find out the form of legal protection for PT. Freeport workers and number two, to find out the state's contribution in operating protection for PT. Freeport workers who are victims of OPM attacks. The research method in writing this journal is to use a normative legal doctrinal problem approach, a type of legislative and conceptual approach, analytical descriptive research specifications, types of secondary data sourced from primary legal materials in the form of related laws and regulations, secondary legal materials in the form of books, literature, and related articles, and tertiary legal materials in the form of KBBI, and scientific dictionaries, and data collection techniques are library studies and internet studies with qualitative analysis techniques. The results of the research from the formulation number one, tend to favor the priority of rights and obligations that must be fulfilled by PT. Freeport Indonesia. PT. Freeport Indonesia in this context did not take straightforward steps when taking responsibility for the shooting case that hit employees. And there is no specific service so that the perpetrators get very strict sanctions. Second, that the state has failed to ensure the guarantee of human rights protection for workers and related civilians, for all forms of crimes committed by armed groups that often occur in Papua.

KEYWORDS: Legal Protection, Workers' Rights, PT Freeport, Organisasi Papua Merdeka (OPM)

I. INTRODUCTION

The state as an institutional order is a place for a group of people who live together in an organized rule based on legal regulations, and thus can be said to be a state of law. The state of law (Rechtsstaat) is translated as a state that organizes its government based on deep laws embedded in a series of normative devices, modeled on fundamental principles that serve as a guide for assessing government parameters and the behavior of people who serve in government. Based on law, Indonesia is called a state of law, especially it can also be said to be a welfare state which in that definition is used to take preventive measures against the arrogance of government authority for the people which is carried out only based on personal will (extra legal).

The 1945 Constitution of the Republic of Indonesia persuaded a major revolution in all sectors of life sociologically, which has occurred a revolution in the substance of legal ideals as a fundamental principle that guides the implementation of the legal system in Indonesia. Society as a sociological entity develops into a state, the values of life that also develop along with each other. Shared dreams in one group develop and grow into the dream of the state. Indonesia, apart from being viewed as a state of law, is also viewed as a welfare state (Welfarestate) which has the meaning that Indonesian society must be prosperous. The Crucial Goal of the state in an effort to manifest the welfare of the people, makes Indonesia have to be proactive in intervening in the socio-economic life of the community, with the existence of holistic construction efforts nationally. The national holistic construction efforts currently being carried out in Indonesia are construction efforts that are continuous in order to manifest a prosperous, just, and prosperous society based on Pancasila and the Law

OPM is a movement that aspires to separate from Indonesia which was formed around 1965 which aspires to manifest the independence of the West Papua domain from the Indonesian government. When the reform era had not yet arrived, the province which is currently divided into Papua and West Papua was called by the diction Irian Jaya. When on July 1, 1971, Nicolaas Jouwe and two other OPM commanders, Seth Jafeth Raemkorem and Jacob Hendrik Prai raised the Morning Star flag and proclaimed the

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establishment of the Republic of West Papua. However, this republic did not last long, because of the suppression by the Indonesian military under the orders of President Soeharto. (new order). When in 1982 the OPM Revolutionary Council emerged with the rallying of international community support to support the independence of the region. They sought support through, among others, the UN, the Non-Aligned Movement, the South Pacific Forum, and ASEAN. OPM feels that their territory is being colonized by their own society where they are not supported by the local community, with their actions that want to separate themselves from Indonesia. This makes the conduciveness of Timika City, Papua become abnormal from carrying out acts of terror to carrying out cruel actions, namely shooting at PT Freeport employees who are labeled as OPM seizing the power of the OPM

Along with the development of time, the Papuan community of PT Freeport workers voiced their unrest towards the existence of OPM. However, the case is rarely highlighted to the public, so that the wider community does not know much and does not pay attention to the problems related to OPM. Correlating with the explanation above, the author wants to conduct research on legal protection for PT Freeport workers in Timika and the role of the state in providing protection for PT Freeport workers who are victims of OPM attacks. In addition, the reason the author wants to research the two things above is that he feels that the Papuan community working at PT Freeport does not get a definite guarantee of life but the lives of workers are threatened due to shootings carried out by OPM

Human Rights are a series of rights that have been attached to the true existence of humans as creatures of God Almighty and are His gifts that must be respected, upheld, and protected by the State, law, government, and every person for the honor and protection of human dignity and honor. Rights are interests that are protected by law, while human rights are fundamental and absolute interests that must be protected by law. Protection aspires to guarantee that every individual has economic, social, and cultural rights freely and safely. Everyone has the right to recognition, guarantee of protection, and fair legal treatment and to receive legal certainty and equal treatment before the law. According to Sudikno Mertokusumo, every right in it contains four elements, namely: Subject of law; Object of law; Legal relationship that remembers other parties with obligations; and Legal protection

Protection and guarantee of protection of human rights in Indonesia is marked by the Amendment to the 1945 Constitution, namely human rights issues are allocated in Chapter XA Article 28A to 28J. Human rights regulations are also found in TAP MPR No. XVII / MPR / 1998 concerning Human Rights which assigns high state institutions and all government apparatus to respect, enforce, and disseminate understanding of human rights to the entire community. The government is considered to have declined in the quality of protection of PT Freeport Indonesia workers. increasing the quality and quantity of eradicating crimes against PT Freeport workers who died due to OPM actions. For this reason, the State must pay attention, socialization, alert monitoring in this problem and react carefully and thoroughly and investigate human rights violations, namely investigations into problems that take the lives of workers that are not in accordance with the principles of human rights for workers. In this case, the State has an important role in protecting PT Freeport workers who died as a result of being shot dead by OPM which violates the right to a prosperous life for workers which is a criminal act committed by OPM against PT Freeport workers.

Referring to all Timika Papua residents who work at PT. Freeport who are Indonesian citizens, both indigenous Papuans and non-Papuans, have not received welfare for themselves and a sense of security that is feared by PT. Freeport workers. Of course this is a state problem that has failed to protect workers who died as a result of human rights violations committed by OPM. Therefore, PT Freeport workers must know the role of the state with legal protection for them and the state is obliged to actively guarantee and protect the Human Rights of PT. Freeport workers who work well, and to obtain justice for PT. Freeport workers. Based on the explanation of the problems above, the author is interested in conducting research and writing it in a journal in order to meet the requirements for conducting a final thesis hearing with the title "Legal Analysis of The Guarantee of Protection of The Rights of PT Freeport Workers, Victims of Armed Violence by The Organisasi Papua Merdeka (OPM) Reviewed From A Legal Perspective"

II. RESEARCH METHOD

The research in this journal is a qualitative legal research, with a normative legal doctrinal problem approach, with a statue approach and conceptual approach research type, and analytical descriptive research specifications. The normative legal approach in this journal is used to understand the laws and regulations governing the protection of the rights of PT Freeport workers who are victims of armed violence by the Organisasi Papua Merdeka (OPM). The research in this journal uses secondary data, with data collection techniques of literature research and internet research. The data analysis technique in this journal is a qualitative technique to describe the forms of legal protection that can be given to PT Freeport workers who are victims of armed violence from the OPM so that they can provide accountability based on applicable laws and theories and concepts.

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III. DISUCSSION

All paragraphs must be indented. All paragraphs must be justified.

A. Analysis of the Form of Legal Protection for the Rights of PT Freeport Workers Who Were Victims of Armed Violence by the Organisasi Papua Merdeka (OPM) Reviewed from a Legislative Perspective

Indonesia guarantees the basic rights of its citizens including the right to work, a decent life, and fair treatment. Article 27 paragraph (2) of the 1945 Constitution states that "every citizen has the right to work and a decent living for humanity". This is reinforced by Article 28D paragraph (2) of the 1945 Constitution which provides "every person the right to work and receive fair and decent remuneration and treatment in employment relations" (emphasized in the Human Rights Law Article 38 paragraph 2). In other words, the state is obliged to protect its workforce - including PT Freeport workers - so that they can work in a safe and decent environment.

Freeport workers if become victims of armed violence by OPM, a violation of their rights to life, safety, and human dignity has occurred. Constitutionally, the state must guarantee law enforcement and the restoration of victims' rights. This means that the authorities must handle the incident as a criminal act and ensure that the victims or their families receive fair treatment according to the law. With this constitutional principle, workers who are victims of OPM violence still have the right to security protection and justice, as mandated by the constitution and related laws and regulations.

Law Number 39 of 1999 expands the scope of protection for every person as a subject of human rights. Article 1 of the Human Rights Law affirms that human rights are natural rights that are "protected by the state, law, government, and every person for the honor and protection of human dignity and honor." In this context, Article 8 affirms that "the protection, advancement, enforcement, and fulfillment of human rights are primarily the responsibility of the government." More specifically, the Human Rights Law regulates various fundamental rights that are violated by acts of violence. For example, Article 4 codifies the right to life, the right not to be tortured, the right to personal freedom and equality before the law as rights that cannot be reduced by anyone. Article 5 affirms that every person has the right to receive equal treatment and legal protection in accordance with human dignity. Article 9 affirms the right of every person to live and improve their standard of living and "be peaceful, safe, happy, prosperous physically and mentally." Article 29 further affirms that "Everyone has the right to protection of themselves, their families, their honor, dignity, and their property." Thus, PT Freeport workers as victims of OPM violence experienced violations of human rights (rights to life and personal safety) as guaranteed by the Human Rights Law.

Based on these provisions, the state is obliged to uphold justice for victims. Article 17 of the Human Rights Law provides the right to obtain justice through a free and impartial legal process. Victims have the right to file complaints and criminal charges against the perpetrators (for example, murder/assault is punishable by the Criminal Code) and demand that the state punish the perpetrators according to the law. If the OPM's violence is categorized as a gross human rights violation (even though the OPM is not an apparatus), the state is still obliged to investigate (for example through a general court or the National Human Rights Commission) and provide rehabilitation or compensation to the victims. In addition, the right to personal integrity (Article 21: "Everyone has the right to personal integrity...may not be the object of research without consent") and the right to be treated according to their dignity (Article 5(1)) demand that victims receive health assistance, psychological protection, and the fulfillment of other basic rights. In short, from a human rights perspective, the state is obliged to protect and restore the rights of victims of OPM violence in accordance with the provisions of Law 39/1999.

Law No. 13/2003 (Employment) places worker protection as a fundamental matter. Article 86 of Law 13/2003 states that every worker has the right to receive protection for occupational safety and health, morals and morality, and treatment in accordance with human dignity. This means that companies are required to create a safe working environment. Article 87 emphasizes the company's obligation to implement an integrated K3 management system. In the case of OPM violence, the incident occurred in the context of work in a vulnerable area. Although OPM is not the company's direct responsibility, the company's obligation to ensure safety includes organizing security (e.g. security posts, evacuation training, cooperation with the authorities) to the maximum extent possible.

Furthermore, the Manpower Law regulates social security for workers. Article 99 states that "Every worker and his/her family has the right to receive social security for workers". Now this social security is organized through BPJS Ketenagakerjaan (Law No. 24/2011). It contains the Work Accident Insurance (JKK) and Death Insurance (JKM) programs. If a Freeport worker is injured or dies due to violence, the family is entitled to JKK or JKM compensation according to BPJS regulations. Thus, the right to financial compensation and medical facilities is fulfilled by the state through BPJS.

At the civil level, victim workers can also claim their remaining employment rights. For example, if the victim loses their life or is disabled so that they cannot work, according to Articles 164–168 of Law 13/2003 they or their families are entitled to severance pay, long service bonus money, and compensation money. If the company is negligent in protecting safety, workers have the right to file a claim for compensation or criminal sanctions (Articles 187–191 of Law 13/2003). Finally, the right to wages and social protection still applies: for example, if the victim receives wages or other benefits after death (according to company policy) or if the worker is laid off due to this incident, the right to severance pay and benefits is regulated by Law.

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Overall, the labor law combines the principle of respect for human rights with the practical obligations of companies. Freeport workers who are victims of OPM violence have legal protection in the form of work safety guarantees (Law 13/2003 Articles 86–87), social security through BPJS (Law 13/2003 Article 99), as well as wage rights and other compensation according to the provisions. The state and companies are equally responsible for ensuring that these rights are fulfilled, so that workers who are victims receive fair treatment according to the law.

Based on constitutional, human rights, and employment principles, PT Freeport workers as citizens and workers have the right to comprehensive protection. The Constitution requires the state to protect the right to life and work (Article 27(2) of the 1945 Constitution), the Human Rights Law mandates the enforcement of justice and recognition of human dignity, and the Employment Law requires safety guarantees and social compensation. In the context of OPM violence, these three legal frameworks require authorities to take action against perpetrators, companies to provide guarantees, and the state to ensure the fulfillment of the rights of victims and their families. All of these legal bases support the comprehensive and integrated protection of the rights of workers who are victims of OPM armed violence

B. Analysis of Solutions that the State Can Provide as a Form of Responsibility in the Framework of Legal Protection for the Rights of PT Freeport Workers Who Are Victims of Armed Violence by the Free Papua Organization

The Republic of Indonesia based on the 1945 Constitution has a constitutional mandate to protect all Indonesian people and all Indonesian territory (Preamble to the 1945 Constitution, fourth paragraph). This responsibility for protection is not only against threats from abroad, but also from internal threats including armed violence by separatist groups such as the OPM. In the context of violence against PT Freeport workers, there are real challenges in realizing effective, fair, and comprehensive legal protection.

Legal protection for victims of violence does not stop at legal action against the perpetrators, but also includes preventive measures, handling of violations (repressive), and recovery of the victim's condition (rehabilitative). Therefore, to optimize the protection of workers' rights, it is necessary to understand the actual obstacles faced by the state and the systematic solutions that can be implemented

Strengthening the proactive security system can be done by increasing the presence of security forces (TNI-Polri) around the Freeport operational area with an intelligence-based approach, not just militaristic. Strengthening the proactive security system can also be done by developing an early warning system to detect potential OPM attacks early on through satellite technology, drones, and informant networks

Strengthening corporate law and employment protection is done by requiring companies to conduct regular security risk audits in accordance with the principles of human rights due diligence (referring to the principles in the UN Guiding Principles on Business and Human Rights). Strengthening regulations can also be done by increasing occupational safety standards through the full implementation of Law No. 1 of 1970 concerning Occupational Safety and Law No. 13 of 2003 concerning Manpower (Articles 86 and 87) and forming regional regulations (Perda) that require companies in conflict-prone areas to have emergency evacuation protocols and conflict risk insurance.

Increasing the capacity of law enforcement can be done by making efforts to firmly enforce the law against perpetrators of armed violence by strengthening investigations and prosecutions based on the Criminal Code, Law No. 5 of 2018 on Terrorism, and the Criminal Procedure Code and optimizing the role of the National Human Rights Commission to ensure that the law enforcement process does not violate human rights principles

Security forces must be trained in human rights-based standard operating procedures (human rights based approach to law enforcement), so that they continue to uphold the due process of law. The application of this principle can also be done by implementing the Regulation of the Chief of Police No. 8 of 2009 concerning the Implementation of Human Rights Principles and Standards in the Implementation of Police Duties. Increasing sanctions against Non-State Actors is carried out by determining separatist groups as actors who can be held accountable under national and international criminal law if their actions meet the criteria for crimes against humanity.

The restoration of victims' rights is carried out by ensuring the fulfillment of victims' compensation rights through BPJS Employment for Work Accident Insurance (JKK) and Death Insurance (JKM) as regulated in Law No. 24 of 2011 concerning BPJS. In addition, it can also be done by providing quick access to heirs of workers who are victims of violence to obtain severance pay, compensation, and other employment rights (Law No. 13 of 2003 Article 156 in conjunction with 164-168)

IV. CONCLUSION

Based on the results of the research and analysis that have been conducted, it can be concluded that legal protection for the rights of PT. Freeport Indonesia workers who are victims of armed violence by the OPM has not been running optimally as it should. In principle, both based on the provisions of Law Number 39 of 1999 concerning Human Rights, Law Number 13 of 2003 concerning Manpower, and the principle of corporations being responsible for human rights, PT. Freeport Indonesia should actively fulfill its legal obligations to protect workers from the threat of violence, guarantee the recovery of victims, and ensure that perpetrators of

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violence are prosecuted. However, in reality, the company has shown weakness in taking quick, firm, and systematic steps to address the impact of violence on its workers. There have been no adequate proactive actions, either in the form of special treatment for victims or in fighting for law enforcement against perpetrators of violence.

On the other hand, the obstacles faced in the protection efforts stem from various factors, such as weak corporate response, limited coordination between companies and law enforcement officers, and complex regional security situations. The state, as the holder of primary responsibility for protecting human rights, also faces challenges in creating a safe environment and ensuring effective restoration of victims' rights. Therefore, a comprehensive solution strategy is needed, including a preventive approach (preventing violence through increasing security and risk mitigation in the work environment), repressive (effective law enforcement against perpetrators of violence), and rehabilitative (restoring victims' rights through compensation, medical, psychological assistance, and social security)

Overall, this study shows that protecting the rights of workers who are victims of violence is not only the obligation of the state, but also the direct obligation of the company as a business actor. PT. Freeport Indonesia must strengthen its commitment to respecting human rights by taking concrete, measurable, and sustainable steps to ensure security, justice, and recovery for all its workers, especially those affected by armed violence. The state also needs to improve the legal protection system for workers in conflict-prone areas so that human rights principles can be enforced in a real and effective manner

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