

The Role of the State in Ensuring Workers' Welfare According to the 1945 Constitution of the Republic of Indonesia

Efendi Gunawan Sidiki
Maluku, Kab. Buru

Received: November 12, 2025

Revised: December 26, 2025

Accepted: December 27, 2025

Published: December 31, 2025

Corresponding Author:

Author Name*: Efendi
Gunawan Sidiki

Email*:
efendisidiki64@gmail.com

Abstract: *Workers' welfare constitutes an integral part of state objectives and constitutional rights as mandated by the 1945 Constitution of the Republic of Indonesia. However, constitutional norms governing the role of the state in ensuring workers' welfare are formulated in general and declarative principles, resulting in normative ambiguity in their implementation. This ambiguity has led to inconsistencies in labor policies, a shift in the state's orientation from welfare guarantor to labor market facilitator, and weakened legal certainty for workers in claiming their welfare rights. This study aims to analyze the role of the state in guaranteeing workers' welfare under the 1945 Constitution and to examine the implications of constitutional normative ambiguity on labor policy and protection. The research employs a normative juridical method using statutory, conceptual, and case approaches. The findings indicate that normative ambiguity allows the reduction of state obligations in labor and social security policies, causing workers' welfare to be compromised by economic efficiency considerations. Therefore, strengthening constitutional interpretation that affirms the state as the guarantor of workers' welfare and harmonizing labor policies with the social justice values of the 1945 Constitution are essential.*

Keywords: *Constitution, Labor Protection, Welfare State, Workers' Welfare, 1945 Constitution*

INTRODUCTION

Workers' welfare constitutes one of the main foundations in the construction of the welfare state embraced by Indonesia. Since its inception, the 1945 Constitution of the Republic of Indonesia has positioned welfare as a fundamental objective of the state, as reflected in the Preamble of the 1945 Constitution, which affirms the state's obligation to realize social justice for all Indonesian people. In the context of employment, this constitutional mandate entails the consequence that the state does not merely function as a guardian of legal order, but also as an active actor responsible for guaranteeing the protection and welfare of workers.¹

¹ Ulum, B., "Peran Hukum dalam Mendorong Pembangunan Ekonomi dan Menjamin Kesejahteraan Masyarakat: Perspektif Indonesia," *Jembatan Hukum: Kajian Ilmu Hukum, Sosial dan Administrasi Negara* 2, no. 1 (2025). <https://doi.org/10.62383/jembatan.v2i1.1215>



Constitutionally, the right to work and to a decent livelihood is affirmed in Article 27 paragraph (2) of the 1945 Constitution, while Article 28D paragraph (2) guarantees the right of every person to receive fair and decent remuneration and treatment in employment relations. In addition, Article 33 paragraph (1) and paragraph (4) of the 1945 Constitution affirm the principle of equitable economic democracy, which places human welfare as the primary objective of economic activity. This series of norms indicates that workers' welfare is not merely an issue of social policy, but constitutes part of the constitutional rights of citizens that legally bind the state.²

Nevertheless, in modern labor practices, the relationship between workers and employers tends to be unequal. Workers' bargaining positions are often weaker, particularly in the context of labor market flexibilization, contract-based employment systems, and outsourcing. This imbalance gives rise to the risk that market mechanisms, if allowed to operate without adequate state intervention, may instead sacrifice workers' welfare. Therefore, the role of the state becomes crucial as a balancer in employment relations and as a guarantor of the fulfillment of minimum welfare standards for workers.³

The principal legal issue that arises in this context is the existence of constitutional ambiguity regarding the limits of the state's role in guaranteeing workers' welfare. The norms of the 1945 Constitution are principled and declarative in nature, thereby opening broad interpretative space concerning the extent to which the state is obliged to intervene in employment relations. This ambiguity is reflected in differing interpretations between the state as a guarantor of workers' welfare and the state as a facilitator of the labor market that prioritizes economic efficiency.⁴

This constitutional ambiguity has a direct impact on the formation and implementation of legislation in the field of labor law. Law Number 13 of 2003 on Manpower, which for as long as it remains in force regulates basic labor protections, subsequently experienced a paradigm shift through Law Number 11 of 2020 on Job Creation as amended by Law Number 6 of 2023. This regulatory reform is often understood as an effort to enhance labor market flexibility, yet at the

² Republik Indonesia, Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, Pasal 27 ayat (2) dan Pasal 28D ayat (2).

³ Dukes, R., dan W. Streeck, "Labour Constitutions and Occupational Communities: Social Norms and Legal Norms at Work," *Journal of Law and Society* (2020). <https://doi.org/10.1111/jols.12254>

⁴ De Melo, G., "The Importance of Preserving the Normative-Principle Structure of Labor Law and Procedure in the Context of the Constitutional Rule of Law," *Scientific Journal of Applied Social and Clinical Science* (2025). <https://doi.org/10.22533/at.ed.216502503013>



same time it has generated debate regarding its consistency with the constitutional mandate to protect and ensure workers' welfare.⁵

Furthermore, the role of the state in guaranteeing workers' welfare is also realized through the social security system, particularly through Law Number 24 of 2011 on Social Security Administering Bodies. The existence of BPJS Ketenagakerjaan and BPJS Kesehatan reflects the function of the state as a provider of social protection. However, the effectiveness of this social security system in fulfilling constitutional welfare standards remains subject to debate, especially when confronted with increasingly flexible and unstable employment relationships.⁶ In the judicial sphere, the Constitutional Court plays an important role in interpreting the constitutional obligations of the state in the field of labor. Various judicial review decisions concerning labor legislation, particularly those related to the Job Creation Law, demonstrate a tension between considerations of economic efficiency and the protection of workers' constitutional rights. These decisions indicate that constitutional interpretation of workers' welfare has not yet been fully consistent and continues to leave room for normative debate.⁷

Academically, studies on workers' welfare are largely situated within the framework of economic policy and sectoral labor law. Budiyo, through his research entitled *Perlindungan Hukum Tenaga Kerja Kontrak dan Outsourcing, serta Problematika Implementasinya* (2021), highlights the weakness of worker protection in flexible employment practices, yet does not explicitly position the issue as a failure to fulfill the state's constitutional obligations.⁸ Furthermore, Hasanah and Sulistina, in their article *Perlindungan Hukum terhadap Kesejahteraan Pekerja Pasca Putusan Mahkamah Konstitusi Nomor 168/PUU-XXI/2023* (2025), analyze the implications of Constitutional Court decisions for worker protection, but their focus remains limited to aspects of post-decision policy implementation rather than the constitutional norm

⁵ Putri, C., A. Hutapea, Z. Edy, dan R., "Reform of Labor Wage Determination Provisions: Review of Welfare and Importance in the Job Creation Law," *Mahadi: Indonesia Journal of Law* 2, no. 2 (2023). <https://doi.org/10.32734/mah.v2i2.13125>

⁶ Maulina, E., dan N. Octarina, "Penyelenggaraan Jaminan Sosial Kecelakaan Kerja bagi Pegawai Negeri Sipil Sesuai Undang-Undang Nomor 5 Tahun 2014 tentang Aparatur Sipil Negara," *Perspektif* 27, no. 3 (2022). <https://doi.org/10.30742/perspektif.v27i3.838>

⁷ Hasanah, S., dan S. Sulistina, "Perlindungan Hukum terhadap Kesejahteraan Pekerja Pasca Putusan Mahkamah Konstitusi Nomor 168/PUU-XXI/2023," *Ahkam* 4, no. 4 (2025). <https://doi.org/10.58578/ahkam.v4i4.7628>

⁸ Budiyo, T., "Perlindungan Hukum Tenaga Kerja Kontrak dan Outsourcing, serta Problematika Implementasinya," *Jurnal Rechtsvinding* 5, no. 2 (2021): 145–160. <https://doi.org/10.24246/jrh.2021.v5.i2.p145-160>



ambiguity itself.⁹ Meanwhile, De Melo, through his work *The Importance of Preserving the Normative-Principle Structure of Labor Law and Procedure in the Context of the Constitutional Rule of Law* (2025), emphasizes the importance of constitutional principles in labor law, yet does not specifically examine the context of state obligations under the 1945 Constitution.¹⁰

These three studies demonstrate the existence of a clear academic gap. First, there remains a lack of studies that explicitly position workers' welfare as a constitutionally binding obligation of the state. Second, there has been limited analysis that specifically dissects the ambiguity of constitutional norms regarding the limits of the state's role in guaranteeing workers' welfare. Third, the relationship between the constitutional norms of the 1945 Constitution and modern labor policies has not been adequately analyzed in a normative and prescriptive manner. Based on the foregoing discussion, this study aims to analyze the role of the state in guaranteeing workers' welfare according to the 1945 Constitution and to examine the implications of constitutional norm ambiguity for labor policy and protection. The novelty of this research lies in positioning workers' welfare as a constitutionally binding obligation of the state that must be interpreted as legally mandatory, rather than merely as a matter of economic policy choice, thereby contributing normatively to the strengthening of labor protection in Indonesia.

METHOD

This study constitutes a normative juridical legal research with a prescriptive-analytical character. The research focuses on the analysis of constitutional norms and statutory regulations governing the role of the state in guaranteeing workers' welfare, as well as the implications of normative ambiguity for the protection of workers' constitutional rights.¹¹ The approaches employed include a statutory approach by examining the 1945 Constitution, the Manpower Law, the Job Creation Law, and the BPJS Law, a conceptual approach by analyzing the concepts of the welfare state and citizens' constitutional rights, as well as a case approach through the analysis of

Constitutional Court decisions related to employment and social security. The legal materials used consist of primary legal materials in the form of the 1945 Constitution, statutes, and Constitutional Court decisions, secondary legal materials in the form of books and scholarly journal articles on labor law and constitutional law, and tertiary legal materials in the form of legal dictionaries and encyclopedias. The analysis is conducted through systematic and

⁹ Hasanah, S., dan S. Sulistina, "Perlindungan Hukum terhadap Kesejahteraan Pekerja Pasca Putusan Mahkamah Konstitusi Nomor 168/PUU-XXI/2023," *Ahkam* 4, no. 4 (2025). <https://doi.org/10.58578/ahkam.v4i4.7628>

¹⁰ De Melo, G., "The Importance of Preserving the Normative-Principle Structure of Labor Law and Procedure in the Context of the Constitutional Rule of Law," *Scientific Journal of Applied Social and Clinical Science* (2025). <https://doi.org/10.22533/at.ed.216502503013>

¹¹ Marzuki, P. M., *Penelitian Hukum, Edisi Revisi* (Jakarta: Kencana, 2017).



teleological interpretation in order to formulate the constitutional obligations of the state in guaranteeing workers' welfare in a normative manner.

RESULTS AND DISCUSSION

Ambiguity of Constitutional Norms Regarding the Role of the State in Ensuring Workers' Welfare

Normatively, the 1945 Constitution positions workers' welfare as an integral part of state objectives and the constitutional rights of citizens. This is explicitly reflected in Article 27 paragraph (2) and Article 28D paragraph (2) of the 1945 Constitution, which guarantee the right to work, a decent livelihood, as well as fair remuneration and treatment in employment relations. In addition, Article 33 of the 1945 Constitution affirms the principle of economic democracy oriented toward social justice. However, these norms are formulated as general and declarative basic principles, without providing clear operational boundaries regarding the extent to which the state is obliged to intervene to ensure workers' welfare.¹² This principled normative construction gives rise to ambiguity in interpreting the role of the state. On the one hand, constitutional norms may be interpreted as a strong mandate for the state to act actively as a guarantor of workers' welfare. On the other hand, the same norms are often interpreted minimally as legitimizing the state merely to create a regulatory framework that allows market mechanisms to operate. This interpretative tension indicates that the 1945 Constitution has not provided firm normative parameters regarding the boundary between the constitutional obligations of the state and the operational space of market mechanisms in employment relations.¹³

This normative ambiguity affects the direction of labor policy. In the context of the welfare state, the role of the state should not be limited to regulatory functions, but should also encompass protective and distributive functions. However, in practice, labor policies in Indonesia often place greater emphasis on economic efficiency and labor market flexibility. This indicates a shift in the meaning of workers' welfare from a binding constitutional right to a policy variable that can be negotiated in accordance with economic needs.¹⁴ The lack of clarity in constitutional norms is also reflected in the relationship between the 1945 Constitution and subordinate legislation. Law Number 13 of 2003 on Manpower was initially designed with a protective approach toward workers. However, through Law Number 11 of 2020 on Job Creation

¹² Zaporozhan, V., dan C. Negrila, "The Constitutional Guarantees of the Fundamental Right to Work," *National Law Journal* (2023). [https://doi.org/10.52388/1811-0770.2023.1\(249\).02](https://doi.org/10.52388/1811-0770.2023.1(249).02)

¹³ Sciuchina, N., "Constitutional Values and Legal Regulation of Labor Relations," *National Law Journal* (2024). [https://doi.org/10.52388/1811-0770.2023.2\(250\).12](https://doi.org/10.52388/1811-0770.2023.2(250).12)

¹⁴ Dukes, R., dan W. Streeck, "Labour Constitutions and Occupational Communities: Social Norms and Legal Norms at Work," *Journal of Law and Society* (2020). <https://doi.org/10.1111/jols.12254>



as amended by Law Number 6 of 2023, a policy reformulation occurred that emphasized flexibility in employment relations and ease of doing business. This reform raises normative questions regarding the conformity of such policies with the binding constitutional mandate of workers' welfare.¹⁵

From the perspective of constitutional law, ambiguity in constitutional norms has the potential to weaken the binding force of the constitution as the highest source of law. Constitutional norms that are not consistently translated into statutory law open excessive space for policy discretion by legislators. As a result, workers' welfare is no longer treated as a minimum standard that the state is obliged to fulfill, but rather as an interest that may be compromised in pursuit of economic development objectives.¹⁶

Furthermore, this normative ambiguity has a direct impact on legal certainty for workers. Workers encounter difficulties in using constitutional norms as a basis for claiming welfare rights when their implementation depends on changing sectoral policies. This condition weakens the position of the constitution as an instrument for the protection of rights and instead strengthens the dominance of market-oriented approaches in employment relations.¹⁷ Therefore, the ambiguity of constitutional norms regarding the role of the state in ensuring workers' welfare must be understood as a serious legal issue. Without a constitutional interpretation that affirms the state as the guarantor of workers' welfare, labor policies will continue to exist in tension between the mandate of social justice and the logic of economic efficiency. In this context, strengthening the normative interpretation of the 1945 Constitution is a prerequisite to ensure that workers' welfare is truly treated as a constitutional obligation of the state, rather than merely an optional policy objective.¹⁸

Implementation of the State's Role in Labor Policy and Social Security

The role of the state in ensuring workers' welfare does not end with the formulation of constitutional norms, but must be concretely realized through labor policies and social security systems. Within the framework of the welfare state, the state has a positive obligation to

¹⁵ Putri, C., A. Hutapea, Z. Edy, dan R., "Reform of Labor Wage Determination Provisions: Review of Welfare and Importance in the Job Creation Law," *Mahadi: Indonesia Journal of Law* 2, no. 2 (2023). <https://doi.org/10.32734/mah.v2i2.13125>

¹⁶ Ulum, B., "Peran Hukum dalam Mendorong Pembangunan Ekonomi dan Menjamin Kesejahteraan Masyarakat: Perspektif Indonesia," *Jembatan Hukum* 2, no. 1 (2025). <https://doi.org/10.62383/jembatan.v2i1.1215>

¹⁷ Setiawan, S., "Perlindungan Hukum Negara terhadap Hak Warga Bekerja di Era Digital," *Jurnal Rechts* 12, no. 1 (2023). <https://doi.org/10.56013/rechts.v12i1.2030>

¹⁸ Hasanah, S., dan S. Sulistina, "Perlindungan Hukum terhadap Kesejahteraan Pekerja Pasca Putusan Mahkamah Konstitusi Nomor 168/PUU-XXI/2023," *Ahkam* 4, no. 4 (2025). <https://doi.org/10.58578/ahkam.v4i4.7628>



establish regulations, institutions, and oversight mechanisms capable of protecting workers from social and economic risks inherent in employment relations. Therefore, the implementation of the state's role serves as the primary indicator of whether the constitutional mandate of the 1945 Constitution is genuinely fulfilled or merely reduced to a normative slogan.¹⁹

One of the most tangible forms of implementing the state's role is the regulation of minimum wages. The state, through central and regional governments, establishes minimum wage policies as an instrument to guarantee a decent standard of living for workers. Normatively, this policy is a direct derivative of Article 27 paragraph (2) and Article 28D paragraph (2) of the 1945 Constitution. However, in practice, the determination of minimum wages is often subject to tension between workers' welfare interests and investment climate demands. This condition indicates that the constitutional obligation of the state is frequently negotiated against macroeconomic considerations, so that the protection of workers' welfare does not always become the primary priority.²⁰

The implementation of the state's role is also reflected in the regulation of employment relations through Law Number 13 of 2003 on Manpower and subsequent policy changes introduced by the Job Creation Law. Labor reforms brought by the Job Creation Law introduce greater flexibility in employment relations, including the expansion of contract-based employment systems and the facilitation of termination of employment. From a constitutional perspective, this policy presents normative problems because it potentially shifts the role of the state from a guarantor of welfare to a facilitator of the labor market. The state remains present as a regulator, but its protective function toward workers experiences weakening.²¹ In addition to employment regulation, social security constitutes the primary instrument of the state in ensuring workers' welfare. Through Law Number 24 of 2011 on BPJS, the state establishes a national social security system that includes work accident insurance, old-age benefits, pension benefits, and health insurance. Theoretically, the existence of BPJS reflects the implementation of welfare state principles and the responsibility of the state for social risks faced by workers. However, the

¹⁹ Ulum, B., "Peran Hukum dalam Mendorong Pembangunan Ekonomi dan Menjamin Kesejahteraan Masyarakat: Perspektif Indonesia," *Jembatan Hukum* 2, no. 1 (2025). <https://doi.org/10.62383/jembatan.v2i1.1215>

²⁰ Putri, C., A. Hutapea, Z. Edy, dan R., "Reform of Labor Wage Determination Provisions: Review of Welfare and Importance in the Job Creation Law," *Mahadi: Indonesia Journal of Law* 2, no. 2 (2023). <https://doi.org/10.32734/mah.v2i2.13125>

²¹ Budiyo, T., "Perlindungan Hukum Tenaga Kerja Kontrak dan Outsourcing, serta Problematika Implementasinya," *Jurnal Rechtsvinding* 5, no. 2 (2021): 145–160. <https://doi.org/10.24246/jrh.2021.v5.i2.p145-160>



effectiveness of this system is highly dependent on employer compliance and the capacity of the state to conduct supervision and law enforcement.²²

In practice, various problems persist in the administration of employment social security, ranging from employer non-compliance in registering workers, limited coverage for non-standard workers, to weak sanctions for violations of social security obligations. This condition indicates that although the state has established legal and institutional instruments, the implementation of the constitutional obligation to ensure workers' welfare has not yet been fully effective. The state tends to rely on administrative mechanisms and voluntary compliance rather than strong law enforcement.²³ The tension between labor market flexibility and worker protection has become increasingly evident in the context of contemporary labor policy. On the one hand, the state is required to create a competitive business climate that is adaptive to global economic changes. On the other hand, the state remains bound by the constitutional mandate to protect workers' rights and welfare. This tension demonstrates that the implementation of the state's role is often compromise-oriented, thereby creating the potential for workers' welfare to be sacrificed in favor of short-term economic efficiency interests.²⁴ To clarify patterns in the implementation of the state's role in labor policy and social security, the following analytical table is presented to illustrate forms of state intervention along with the accompanying normative issues.

²² Maulina, E., dan N. Octarina, "Penyelenggaraan Jaminan Sosial Kecelakaan Kerja bagi Pegawai Negeri Sipil Sesuai Undang-Undang Nomor 5 Tahun 2014 tentang Aparatur Sipil Negara," *Perspektif* 27, no. 3 (2022). <https://doi.org/10.30742/perspektif.v27i3.838>

²³ Yuliansyah, D., M. Iqbal, dan R. Fitri, "Fulfillment of Employment Social Security Rights as an Employer's Legal Obligation toward Workers," *Jurnal Geuthèë* 8, no. 1 (2025). <https://doi.org/10.52626/jg.v8i1.398>

²⁴ Dukes, R., dan W. Streeck, "Labour Constitutions and Occupational Communities: Social Norms and Legal Norms at Work," *Journal of Law and Society* (2020). <https://doi.org/10.1111/jols.12254>



Table 1. State Intervention in Labor Policy and Social Security Framework

Policy Aspect	Form of State Intervention	Legal Basis	Normative Issues
Wage Regulation	Determination of minimum wage standards	1945 Constitution; Manpower Law; Job Creation Law	Economic efficiency considerations often override constitutional welfare standards
Employment Relations	Regulation of fixed-term contracts and termination of employment	Manpower Law; Job Creation Law	Weakening of job security and reduced protection for workers
Social Security	Administration of employment and health social security schemes (BPJS)	Law No. 24 of 2011 on BPJS	Limited enforcement against non-compliant employers
Labor Supervision	Labor inspection and compliance monitoring	Manpower Law	Insufficient state capacity and fragmented supervision mechanisms

The table shows that the implementation of the state's role continues to face structural problems. The state has been present through regulation and institutions, yet it has not fully and consistently carried out its role as a guarantor of workers' welfare. The main normative problem lies in the absence of an explicit affirmation that workers' welfare constitutes a minimum constitutional standard that must not be compromised by market considerations.²⁵ Thus, the implementation of the state's role in labor policy and social security remains in an ambivalent condition. The state is present, but its presence is not yet fully oriented toward fulfilling the constitutional obligation to ensure workers' welfare. Without strengthening the constitutional orientation in policy formulation and implementation, workers' welfare will continue to occupy a subordinate position to market logic and economic interests.

Implications of Normative Ambiguity for the Protection of Workers' Constitutional Rights

The ambiguity of constitutional norms regarding the role of the state in ensuring workers' welfare carries serious implications for the protection of workers' constitutional rights. The principled nature of the norms of the 1945 Constitution, without clear operational parameters, causes state obligations to be easily reduced in policy practice. In this context, workers' welfare

²⁵ Hasanah, S., dan S. Sulistina, "Perlindungan Hukum terhadap Kesejahteraan Pekerja Pasca Putusan Mahkamah Konstitusi Nomor 168/PUU-XXI/2023," *Ahkam* 4, no. 4 (2025). <https://doi.org/10.58578/ahkam.v4i4.7628>



is often positioned as a policy objective contingent upon economic conditions, rather than as a constitutional right that must be consistently fulfilled by the state.²⁶ One of the most tangible implications is the potential decline in workers' welfare standards in the name of efficiency and labor market flexibility. When constitutional norms are interpreted in a minimalist manner, the state tends to provide greater space for market mechanisms to determine working conditions, wages, and social security. As a result, labor protection becomes uneven and highly dependent on sectoral policies that may change in accordance with the political and economic direction of the government.²⁷

Normative ambiguity also creates legal uncertainty for workers in claiming the fulfillment of welfare rights. Although the 1945 Constitution guarantees the right to work and a decent livelihood, workers often face difficulties in using these constitutional norms as an effective basis for claims when implementing regulations are ambiguous or even contradictory. This condition weakens the function of the constitution as an instrument for rights protection and instead strengthens the dominance of administrative approaches and market-oriented policies.²⁸ Within this situation of normative ambiguity, the Constitutional Court holds a strategic role as the final interpreter of the constitution. Through judicial review of labor legislation, the Constitutional Court seeks to balance economic development interests with the protection of workers' constitutional rights. However, Constitutional Court decisions indicate that the protection of workers' welfare is often still placed within a framework of compromise, rather than as an absolute and binding minimum constitutional standard.²⁹

Another important implication is the fragmentation of labor rights protection. In the absence of a strong and consistent constitutional interpretation, the protection of workers' welfare depends on sector, type of employment relationship, and workers' positions within labor market structures. Workers in non-standard employment relationships become the most vulnerable group to reduced protection, despite constitutionally possessing equal rights to

²⁶ De Melo, G., "The Importance of Preserving the Normative-Principle Structure of Labor Law and Procedure in the Context of the Constitutional Rule of Law," *Scientific Journal of Applied Social and Clinical Science* (2025). <https://doi.org/10.22533/at.ed.216502503013>

²⁷ Putri, C., A. Hutapea, Z. Edy, dan R., "Reform of Labor Wage Determination Provisions: Review of Welfare and Importance in the Job Creation Law," *Mahadi: Indonesia Journal of Law* 2, no. 2 (2023). <https://doi.org/10.32734/mah.v2i2.13125>

²⁸ Setiawan, S., "Perlindungan Hukum Negara terhadap Hak Warga Bekerja di Era Digital," *Jurnal Rechts* 12, no. 1 (2023). <https://doi.org/10.56013/rechts.v12i1.2030>

²⁹ Hasanah, S., dan S. Sulistina, "Perlindungan Hukum terhadap Kesejahteraan Pekerja Pasca Putusan Mahkamah Konstitusi Nomor 168/PUU-XXI/2023," *Ahkam* 4, no. 4 (2025). <https://doi.org/10.58578/ahkam.v4i4.7628>



welfare.³⁰ Therefore, normative ambiguity cannot be regarded merely as a theoretical issue, but rather as a structural problem with direct consequences for the fulfillment of workers' constitutional rights. Without strengthening constitutional interpretation that affirms the state as the guarantor of workers' welfare, labor policy will continue to operate within tension between the mandate of social justice and the demands of economic efficiency. In this context, reinforcing constitutional orientation is essential to ensure that workers' welfare is not degraded into a mere policy variable.

CONCLUSIONS

Normatively, the 1945 Constitution positions workers' welfare as part of the objectives of the state and the constitutional rights of citizens. However, these constitutional norms are formulated as general principles, giving rise to ambiguity in the interpretation of the state's role. This ambiguity has resulted in inconsistent labor policies, a shift in state orientation from welfare guarantor to market facilitator, and weakened legal certainty for workers in claiming welfare rights.

The implications of normative ambiguity are reflected in the potential decline of workers' welfare standards, fragmentation of rights protection, and dependence of protection on fluctuating sectoral policies. Under these conditions, the Constitutional Court plays an important role as the guardian of the welfare constitution, yet the interpretations produced have not fully affirmed workers' welfare as a minimum constitutional standard that cannot be compromised. Therefore, it is necessary to reaffirm the role of the state in labor legislation as the executor of constitutional obligations, rather than merely as a market regulator. The harmonization of the Manpower Law and the Job Creation Law with the welfare values embodied in the 1945 Constitution must become a primary agenda of legal reform. In addition, strengthening the state's role in labor supervision and optimizing the role of the Constitutional Court as the interpreter of the welfare constitution constitute strategic steps to ensure fair and sustainable protection of workers' constitutional rights.

REFERENCES

Bachmid, F., & Ihsan, A. (2022). Pola Dan Mekanisme Pengisian Jabatan Hakim Agung Pada Mahkamah Agung Republik Indonesia Menurut Sistem Ketatanegaraan Indonesia Berdasarkan Uud 1945. *Palar / Pakuan Law Review*. <https://doi.org/10.33751/palar.v8i1.4309>.

³⁰ Muslim, S., S. Hadiyantina, H. Mundzir, K. Hadiwinata, dan D. Supaat, "Reconstruction of Fulfilling the Rights of Domestic Helpers in Employment Relations as a Form of Respect for Human Rights," *Yuridika* 38, no. 2 (2022). <https://doi.org/10.20473/ydk.v38i2.41214>



- Budiyono, T. (2021). Perlindungan Hukum Tenaga Kerja Kontrak Dan Outsourcing, Serta Problematika Implementasinya. , 5, 145-160. <https://doi.org/10.24246/jrh.2021.v5.i2.p145-160>.
- De Melo, G. (2025). The Importance of Preserving The Normative-Principle Structure Of Labor Law and Procedure In The Context of The Constitutional Rule Of Law. *Scientific Journal of Applied Social and Clinical Science*. <https://doi.org/10.22533/at.ed.216502503013>.
- Dukes, R., & Streeck, W. (2020). Labour Constitutions and Occupational Communities: Social Norms and Legal Norms at Work. *Journal of Law and Society*. <https://doi.org/10.1111/jols.12254>.
- Fauzan, E., Yulianingsih, I., & Azizah, A. (2020). Konstitusionalitas Perlindungan Petambang Garam Melalui Regulasi Daerah. , 10, 77-90. <https://doi.org/10.15578/jksekp.v10i1.8349>.
- Ferdian, S., & Firdaus, L. (2025). Peran Strategis Serikat Pekerja Dalam Melindungi Hak Dan Kesejahteraan Tenaga Kerja Dilingkungan Perusahaan. *SINERGI : Jurnal Riset Ilmiah*. <https://doi.org/10.62335/sinergi.v2i5.1176>.
- Filyushchenko, L. (2020). Guarantees of the Rights of Workers in the Labor Regulation. , 15, 116-123. <https://doi.org/10.17803/1994-1471.2020.110.1.116-123>.
- Hanifah, I. (2020). Peran Dan Tanggung Jawab Negara Dalam Perlindungan Hukum Tenaga Kerja Indonesia Yang Bermasalah Di Luar Negeri. , 5, 10-23. <https://doi.org/10.30596/dll.v5i1.3303>.
- Hasanah, S., & Sulistina, S. (2025). Perlindungan Hukum terhadap Kesejahteraan Pekerja Pasca Putusan Mahkamah Konstitusi Nomor 168/PUU-XXI/2023. *AHKAM*. <https://doi.org/10.58578/ahkam.v4i4.7628>.
- Irianti, E., Azzarin, S., & Sumantri, F. (2025). Urgensi Perlindungan dalam Perspektif UU Nomor 40 Tahun 1999 Pasal 8 Terhadap Jurnalisme Kritis (Studi Kasus pada Peristiwa Kepala Babi di Tempo). *Innovative: Journal of Social Science Research*. <https://doi.org/10.31004/innovative.v5i4.19774>.
- Marzuki, P. M. (2017). *Penelitian hukum* (Edisi revisi). Kencana.
- Maulina, E., & Octarina, N. (2022). Penyelenggaraan Jaminan Sosial Kecelakaan Kerja Bagi Pegawai Negeri Sipil Sesuai Undang-Undang Nomor 5 Tahun 2014 Tentang Aparatur Sipil Negara. *Perspektif*. <https://doi.org/10.30742/perspektif.v27i3.838>.
- Maulina, E., & Octarina, N. (2022). Penyelenggaraan Jaminan Sosial Kecelakaan Kerja Bagi Pegawai Negeri Sipil Sesuai Undang-Undang Nomor 5 Tahun 2014 Tentang Aparatur Sipil Negara. *Perspektif*. <https://doi.org/10.30742/perspektif.v27i3.838>.



- Muslim, S., Hadiyantina, S., Mundzir, H., Hadiwinata, K., & Supaat, D. (2022). Reconstruction of Fulfilling the Rights of Domestic Helpers in Employment Relations as a Form of Respect for Human Rights. *Yuridika*. <https://doi.org/10.20473/ydk.v38i2.41214>.
- Natamiharja, R. (2025). Peran Negara dalam Menjamin Kebebasan Bereksresi Menurut Konstitusi dan Hukum HAM. *Kajian Ilmiah Hukum dan Kenegaraan*. <https://doi.org/10.35912/kihan.v4i1.4574>.
- Putri, A., & Gunadi, A. (2025). Legal Consequences of Employer Non-Compliance In Fulfilling Social Security Obligations For Workers Subjected to Unilateral Termination. *Jurnal Al-Dustur*. <https://doi.org/10.30863/aldustur.v8i1.8702>.
- Putri, C., Hutapea, A., Edy, Z., & , R. (2023). Reform of Labor Wage Determination Provisions: Review of Welfare and Importance in the Job Creation Law. *Mahadi: Indonesia Journal of Law*. <https://doi.org/10.32734/mah.v2i2.13125>.
- Reza, F. (2020). Pembentuk Undang-Undang Di Indonesia Menurut UUD NRI 1945 Serta Kedudukan DPD Dalam Pelaksanaan Fungsi Legislasi Pasca Putusan Mahkamah Konstitusi. *The Journal of Men's Studies*, 21, 41-51. <https://doi.org/10.22373/jms.v21i1.6425>.
- Roedy, R., Irwanto, B., & Taufik, R. (2025). Peran strategic thinking dalam menjaga stabilitas keamanan regional dan mewujudkan kesejahteraan nasional sesuai amanat UUD 1945. *Jurnal Praksis dan Dedikasi Sosial*. <https://doi.org/10.17977/um022v8i12025p166-173>.
- Sagandykov, M. (2024). Freedom of Labor in the context of Constitutionalization of Social and Labor Relations: History and Current State. *Lex Russica*. <https://doi.org/10.17803/1729-5920.2024.207.2.049-059>.
- Sciuchina, N. (2024). Constitutional values and legal regulation of labor relations. *National Law Journal*. [https://doi.org/10.52388/1811-0770.2023.2\(250\).12](https://doi.org/10.52388/1811-0770.2023.2(250).12).
- Setiawan, S. (2023). Perlindungan Hukum Negara Terhadap Hak Warga Bekerja Di Era Digital. *JURNAL RECHTENS*. <https://doi.org/10.56013/rechtens.v12i1.2030>.
- Shchukina, N. (2024). Implementation of child protection' constitutional guarantees in the branch legislation. *Vector European*. <https://doi.org/10.52507/2345-1106.2024-1.12>.
- Ulum, B. (2025). Peran Hukum dalam Mendorong Pembangunan Ekonomi dan Menjamin Kesejahteraan Masyarakat : Perspektif Indonesia. *Jembatan Hukum : Kajian ilmu Hukum, Sosial dan Administrasi Negara*. <https://doi.org/10.62383/jembatan.v2i1.1215>.



- Winata, M., & Putri, I. (2019). Penegakan Putusan Mahkamah Konstitusi Nomor 13/PUU-XV/2017 Mengenai Hak Mendapatkan Pekerjaan dan Hak Membentuk Keluarga. *Jurnal Konstitusi*. <https://doi.org/10.31078/jk1549>.
- Wulandari, A., & Razak, A. (2021). Peran Negara Atas Ketersediaan Air Bersih Dalam Perspektif Social Good Dan Economic Good Di Indonesia. *Khatulistiwa Law Review*. <https://doi.org/10.24260/klr.v2i1.33>.
- Yuliansyah, D., Iqbal, M., & Fitri, R. (2025). Fulfillment of Employment Social Security Rights As An Employer's Legal Obligation Toward Workers. *Jurnal Geuthèë: Penelitian Multidisiplin*. <https://doi.org/10.52626/jg.v8i1.398>.
- Zaporojan, V., & Negrila, C. (2023). The Constitutional Guarantees of The Fundamental Right to Work. *National Law Journal*. [https://doi.org/10.52388/1811-0770.2023.1\(249\).02](https://doi.org/10.52388/1811-0770.2023.1(249).02).

