

## Criminal Offense in Employment Relations Under Indonesian Labor Law

Miftah Irianto<sup>1</sup>, Hani Irhamdessetya<sup>2</sup>  
<sup>1,2</sup> Universitas Ngudi Waluyo, Indonesia  
Email Correspondence: midungokil57@gmail.com

### Abstract

Employment relations in Indonesia are primarily governed by labor law norms that aim to ensure fairness, legal certainty, and protection for workers. However, beyond civil and administrative regulations, Indonesian labor law also incorporates criminal provisions intended to address serious violations committed within the workplace. Law No. 13 of 2003 on Manpower explicitly regulates a number of labor-related criminal offenses, particularly those concerning wages, working hours, occupational safety and health, and employer obligations. These provisions were partially amended by Law No. 11 of 2020 on Job Creation, which restructured the sanction system and emphasized administrative enforcement mechanisms. This article examines labor criminal offenses within employment relations from a normative juridical perspective by analyzing statutory regulations, legal doctrines, and scholarly opinions. The study focuses on the elements of labor crimes, the scope of employer criminal liability, and the position of criminal law as an *ultimum remedium* in labor law enforcement. The findings indicate that although criminal sanctions are no longer the primary enforcement instrument, they remain essential to ensure compliance, deterrence, and protection of workers' fundamental rights within industrial workplaces.

**Keywords:** Labor Criminal Law; Employment Relations; Manpower Law; Employer Liability; Job Creation Law

### Introduction

Labor law plays a central role in regulating employment relations by establishing a legal framework that balances the interests of employers and workers. In Indonesia, labor relations are not merely contractual in nature but are imbued with social and constitutional values aimed at protecting workers as a weaker party in the employment relationship. The state's involvement in labor regulation reflects its obligation to guarantee the right to work and to ensure humane working conditions for all citizens (Fudge, 2007).

Law No. 13 of 2003 on Manpower constitutes the primary legal instrument governing employment relations in Indonesia. This law regulates various aspects of labor relations, including employment agreements, wages, working hours, occupational safety and health, and dispute resolution mechanisms. In addition to civil and administrative provisions, the Manpower Law also introduces criminal sanctions for certain violations committed by employers. These criminal provisions demonstrate that labor law enforcement is not limited to private disputes but also involves public interests protected through criminal law.

The inclusion of criminal sanctions in labor law signifies the seriousness of labor norm violations (Levinson, 2003), particularly those that directly affect workers' fundamental rights. Wage violations, excessive working hours, and neglect of occupational safety standards are not merely breaches of contract but may constitute criminal offenses when they meet the elements prescribed by law. In this context, criminal law functions as a protective instrument designed to prevent exploitation and abuse of power within employment relations.

The enactment of Law No. 11 of 2020 on Job Creation brought significant changes to Indonesia's labor law system (Koeswahyono et al., 2022). One of the most debated aspects of this law is the restructuring of sanctions, where administrative penalties are increasingly prioritized over criminal sanctions. This shift has raised concerns regarding the potential weakening of labor protection and the effectiveness of criminal law as a deterrent against labor violations. Nevertheless, criminal provisions remain applicable for serious violations that endanger workers' rights and safety.

From a legal perspective, labor criminal law is commonly positioned as an *ultimum remedium*, meaning that criminal sanctions should be applied as a last resort after administrative and civil mechanisms have failed. However, in practice, the absence of effective criminal enforcement may lead to repeated violations and undermine legal certainty. Therefore, a clear understanding of labor criminal offenses and employer criminal liability remains essential.

This article aims to provide an in-depth analysis of labor criminal offenses within employment relations under Indonesian law. Using a normative juridical approach, this study examines the concept, elements, and types of labor criminal offenses as regulated under Law No. 13 of 2003 and its amendments under the Job Creation Law. The discussion further explores the relevance of criminal liability in workplace settings, particularly within industrial environments, and highlights the importance of criminal law in safeguarding workers' rights and promoting compliance with labor standards.

### **Research Method**

This article applies a normative juridical research method, which focuses on the study of legal norms governing labor criminal offenses within employment relations. Normative legal research emphasizes written law as the primary object of analysis, particularly statutory regulations, legal doctrines, and authoritative scholarly opinions. This method is appropriate because the central issue discussed in this article concerns the interpretation and application of criminal provisions contained in Indonesian labor legislation.

The primary legal materials used in this study consist of binding laws and regulations related to labor and criminal liability. These include Law No. 13 of 2003 on Manpower, Law No. 11 of 2020 on Job Creation (Hidayah et al., 2021), and relevant implementing regulations that regulate sanctions and enforcement mechanisms. These statutory instruments are analyzed systematically to identify the scope, elements, and legal consequences of labor criminal offenses.

Secondary legal materials are employed to support and deepen the analysis. These materials include legal textbooks, academic journals, and research reports discussing labor law, criminal law policy, and employer liability. Such sources are essential to understand the doctrinal foundation of labor criminal law and its position within the broader criminal justice system. Through these materials, the study examines how labor criminal law functions as a protective mechanism for workers while also serving as a tool for regulatory compliance.

The analytical approach used in this research combines a statutory approach and a conceptual approach. The statutory approach involves examining the content and structure of labor-related criminal provisions as regulated under Indonesian law, particularly Articles 183 to 189 of the Manpower Law. Meanwhile (Befort, 2001), the conceptual approach focuses on legal doctrines such as criminal liability, *mens rea*, and the principle of *ultimum remedium* in criminal law enforcement.

This combination allows for a comprehensive understanding of labor criminal offenses both normatively and conceptually.

Data analysis is conducted qualitatively through legal interpretation and systematic reasoning. Legal norms are interpreted by considering their purpose, legal context, and underlying principles. In this process, the study does not merely describe statutory provisions but critically evaluates their effectiveness and relevance in regulating employment relations. This analytical technique enables the identification of potential gaps between legal norms and their practical implementation in workplace settings.

By employing a normative juridical method, this research seeks to provide a structured and in-depth analysis of labor criminal offenses and employer criminal liability. The method allows the study to remain focused on legal certainty and doctrinal coherence while offering insights into how criminal law contributes to the protection of workers' rights and the enforcement of labor standards within industrial workplaces.

Based on the outlined background concerning the complexity of labor law enforcement and the central position of criminal sanctions, the problem formulation to be analyzed in this study is as follows: The elements and types of labor criminal offenses most relevant to violations concerning wages, working hours, and Occupational Safety and Health (OSH) (K3) (Gordon, 2006) under Indonesian law and the position of labor criminal law as *ultimum remedium* and what are its implications for employer criminal liability within employment relations.

### **Result And Discussion**

#### **The elements and types of labor criminal offenses most relevant to violations concerning wages, working hours, and Occupational Safety and Health (OSH) (K3) under Indonesian Law**

The legal framework governing labor criminal offenses in Indonesia is primarily rooted in Law No. 13 of 2003 on Manpower. This law establishes a comprehensive regulatory system for employment relations, combining civil, administrative, and criminal mechanisms to ensure

compliance with labor standards. The inclusion of criminal provisions reflects the legislator's intent to treat certain labor violations as serious offenses that affect not only individual workers but also public order and social justice.

Labor criminal law under the Manpower Law functions as a *lex specialis* within the Indonesian criminal law system. Unlike general criminal offenses regulated under the Criminal Code, labor crimes specifically address violations arising from employment relations and target employers as the dominant party in the workplace. This special character justifies the existence of distinct criminal provisions tailored to the protection of workers' rights and welfare.

Articles 183 to 189 of the Manpower Law constitute the core of labor criminal regulation. These provisions criminalize various forms of employer misconduct, including violations related to wages, working hours, occupational safety and health, and the employment of vulnerable groups such as children. The sanctions imposed range from fines to imprisonment, depending on the severity and impact of the violation. Through these provisions, the state seeks to ensure that labor norms are not merely declaratory but enforceable through coercive measures.

The normative foundation of labor criminal offenses is closely linked to the concept of legal protection for workers. Workers are generally positioned as the weaker party in employment relations due to economic dependence and limited bargaining power. Consequently, labor law adopts a protective approach by imposing stricter obligations on employers and attaching criminal consequences to serious violations. This approach aligns with the broader objective of social justice embedded in Indonesian labor law.

From a doctrinal perspective, labor criminal offenses consist of clearly defined elements that must be fulfilled to establish criminal liability (Hart Jr, 1958). These elements include the existence of a legal obligation imposed on the employer, a violation of that obligation, fault in the form of intent or negligence, and a legally recognized consequence. The fulfillment of these elements distinguishes criminal offenses from mere administrative violations and justifies the imposition of criminal sanctions.

The enactment of Law No. 11 of 2020 on Job Creation introduced significant changes to the enforcement structure of labor law, including the reorientation of sanctions. While the Job Creation Law emphasizes administrative penalties as the primary enforcement mechanism, it does not eliminate criminal liability altogether. Criminal sanctions remain applicable for serious violations that directly undermine workers' fundamental rights or endanger their safety and well-being.

This shift in enforcement policy reflects the application of the *ultimum remedium* principle in labor criminal law. Criminal law is positioned as a last resort, to be applied when other enforcement mechanisms prove ineffective. However, the continued existence of criminal provisions indicates that the legislature recognizes the necessity of criminal sanctions to maintain deterrence and uphold the integrity of labor standards.

In practical terms, the legal framework of labor criminal offenses serves multiple functions. It provides legal certainty by clearly defining prohibited conduct, protects workers from exploitation, and reinforces compliance through the threat of punishment. Nevertheless, the effectiveness of this framework depends largely on consistent enforcement and adequate legal awareness among employers and workers alike.

The analysis of labor criminal offenses within this legal framework demonstrates that criminal law remains an integral component of labor law enforcement in Indonesia. Despite the evolving regulatory landscape under the Job Creation Law, criminal provisions continue to play a critical role in safeguarding workers' rights and promoting fair and lawful employment practices within the workplace.

### **The Position of Labor Criminal Law as *Ultimum Remedium* and What are its Implications for Employer Criminal Liability Within Employment Relations**

Labor criminal offenses under Indonesian law are not automatically established by the mere existence of labor violations. From a criminal law perspective, an act may only be classified as a criminal offense if it fulfills the essential elements of a crime as stipulated by law. These elements serve as a legal threshold to distinguish criminal conduct from administrative or civil violations within employment relations.

In the context of labor law, the subject of criminal liability is primarily the employer or company management who possesses decision-making authority over employment policies (Lammers, 2019). The employer is legally obligated to comply with statutory labor standards, and failure to do so may result in criminal liability when the violation meets the required

elements. This position reflects the imbalance of power inherent in employment relations, where employers exercise control over working conditions, wages, and occupational safety.

The objective element of labor criminal offenses consists of unlawful acts or omissions that contravene mandatory labor norms. Such acts include the failure to pay minimum wages, the imposition of excessive working hours without proper compensation, and the neglect of occupational safety and health obligations. These acts must be explicitly prohibited by labor legislation in order to qualify as criminal conduct. The existence of a clear legal norm is essential to ensure legal certainty and prevent arbitrary criminalization.

The subjective element, or element of fault, refers to the mental state of the offender at the time the violation is committed. In labor criminal law, fault may take the form of intent (*dolus*) or negligence (*culpa*). Intent is present when the employer knowingly and deliberately violates labor standards, whereas negligence arises when the employer fails to exercise due care (Oppenheimer, 1992), resulting in harm to workers' rights. In practice, negligence is more commonly encountered in labor cases, particularly in relation to occupational safety and wage administration.

Another essential element of labor criminal offenses is the existence of legally recognized consequences. Criminal liability arises when the violation results in harm or potential harm to workers, such as economic loss, physical injury, or threats to health and safety. The presence of such consequences reinforces the public interest dimension of labor criminal law and justifies the use of criminal sanctions.

Based on these elements, labor criminal offenses under Indonesian law may be classified into several categories. One of the most prominent categories concerns wage-related offenses. Article 185 of the Manpower Law criminalizes employers who fail to pay wages in accordance with statutory minimum standards (Weil, 2011). Wages constitute a fundamental right of workers, and violations in this area directly affect their livelihood and social welfare. Practices such as delayed payment, unlawful deductions, or misclassification of workers may fall within the scope of criminal liability when conducted intentionally or negligently.

Another significant category of labor criminal offenses relates to violations of working hours and overtime regulations. The Manpower Law establishes limits on daily and weekly working hours to protect workers' physical and mental health. Employers who systematically impose excessive working hours without proper compensation may be held criminally liable, particularly when such practices result in worker fatigue or workplace accidents. These offenses highlight the close relationship between labor standards and occupational safety.

Occupational safety and health violations represent a critical area of labor criminal law, especially in industrial and manufacturing environments. Employers are legally obligated to provide a safe working environment, adequate protective equipment, and appropriate safety training. Failure to fulfill these obligations may result in criminal liability (Duff, 2007) when workplace accidents occur as a consequence of employer negligence. In such cases, criminal sanctions serve both punitive and preventive functions by encouraging employers to prioritize safety in workplace management.

In addition to individual employer liability, labor criminal law also recognizes the possibility of corporate criminal liability. Modern labor relations are often structured through corporate entities, where decisions affecting labor standards are made at the organizational level. Under Indonesian law, corporations may be held criminally liable for labor offenses committed in the course of business activities, provided that the offense is attributable to corporate policies or management decisions. This approach reflects the evolving understanding of criminal responsibility in complex economic organizations.

The classification of labor criminal offenses and the identification of their elements demonstrate that labor criminal law is not merely punitive in nature but serves as a mechanism to uphold justice and balance in employment relations. By clearly defining prohibited conduct and attaching criminal consequences to serious violations, the law seeks to protect workers' rights while promoting lawful and responsible business practices.

### **Conclusion and Recommendations**

Labor criminal law constitutes an essential component of employment law enforcement in Indonesia. Although labor relations are predominantly regulated through civil and administrative mechanisms, the inclusion of criminal provisions under Law No. 13 of 2003 on Manpower demonstrates the legislator's intention to treat certain labor violations as serious offenses that threaten workers' fundamental rights and public order. The existence of criminal sanctions

reinforces the binding nature of labor norms and ensures that compliance is not merely voluntary but legally enforceable.

This study finds that labor criminal offenses are characterized by clearly defined elements that distinguish them from administrative violations. The fulfillment of objective and subjective elements, including unlawful conduct, fault, and legally recognized consequences, is required to establish criminal liability. In this regard, criminal law serves as a legal filter that limits the use of punitive measures to serious violations that justify state intervention. Such an approach reflects the balance between legal certainty and fairness within employment relations.

The enactment of the Job Creation Law has reshaped the enforcement landscape of labor law by prioritizing administrative sanctions over criminal penalties (Coffee Jr, 2007). While this policy shift aims to create a more flexible business environment, it also raises concerns regarding the potential weakening of deterrence against labor violations. Nevertheless, criminal liability remains applicable for serious offenses, particularly those involving wage violations, excessive working hours, and occupational safety and health. The continued existence of criminal provisions confirms that labor criminal law still plays a vital role as an *ultimum remedium*.

From the perspective of workplace practice, employer and corporate criminal liability are crucial to addressing structural labor violations. Individual liability alone is often insufficient to capture the organizational nature of labor offenses committed within corporate settings (Ramasastry, 2002). The recognition of corporate criminal liability enables the law to respond more effectively to systemic violations arising from corporate policies and management decisions. Strengthening the application of corporate liability is therefore essential to ensure accountability and to promote compliance with labor standards.

Based on the analysis conducted in this article, several recommendations may be proposed. First, law enforcement authorities should strengthen coordination between labor inspectors and criminal justice institutions to ensure consistent enforcement of labor criminal provisions (Kanbur & Ronconi, 2018). Second, legal awareness among employers and workers must be enhanced through education and training programs that emphasize the legal consequences of labor violations. Third, the application of criminal sanctions should remain selective but firm, focusing on serious violations that directly harm workers' rights and safety.

In conclusion, labor criminal law remains a necessary instrument to protect workers' rights and to uphold justice within employment relations. Despite the evolving regulatory framework under the Job Creation Law, criminal sanctions continue to serve as a critical safeguard against serious labor violations. Effective enforcement, supported by legal awareness and institutional capacity, is indispensable to ensure that labor criminal law fulfills its protective and deterrent functions in the workplace.

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