

Legal Protection of Educators in Non-Formal Education Institutions Given Law Number 13 of 2003 concerning Employment

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Abstract

This study aims to provide legal protection for educators in non-formal educational institutions. Protection of work agreements, rights and obligations, and social security for workers. Research method with survey approach. Data collection techniques were obtained from (1). Direct survey on research objects in the field (2). In-depth interviews with key sources (3). Documentation studies in the form of literature related to research. Data analysis and concluding by making descriptions in the form of sentences which can then be concluded. Result in that; (1) Legal protection for the parties to work agreements in non-formal institutions: it can be said that in employment relations the parties in non-formal educational institutions have not received legal protection and the parties should have agreed in writing so that they have legal force in carrying out their work. employment process following law no 13 of 2003 and the Civil Code. (2). Legal remedies that can be taken so that the parties in non-formal educational institutions receive legal protection is by means that the parties are aware of the work agreement contained in the articles of the work agreement starting from all employment mechanisms so that in the event of default in the future, each will have permanent legal force.

Keywords: Legal protection, Educators, Educational Institutions

1. Introduction

Education is an effort to prepare students through good activities in terms of guiding, teaching, and training. Amboro, K., (2019). Therefore, education capable of supporting future development is education capable of developing the potential of students. Educators devote themselves to educating and improving the quality of Indonesian people to become people of faith, piety, and noble character and master science, technology, and art in realizing a society that is progressive, just, prosperous, and civilized.

The development of the world of work is part of the development of human resource development, to run the wheel of development for the country of Indonesia which has a large population and automatically Indonesia has a lot of human resources so it is a great force for carrying out development. However, the number of human resources is not balanced with the place of employment. Affandi, H. (2019). Then a new problem arises, namely unemployment which is not good for a country. The field of employment is usually also regulated regarding the relationship between the employer and the worker, where the employer gives work orders and the worker will receive wages as compensation. From the brief description above, the working relationship was certainly formed as a result of an agreement between the giver

This agreement was then the beginning of a work agreement which eventually gave birth to a working relationship. Ardinata, M., (2020). The agreement is then stated in writing in the form of a cooperation agreement in the form of a work contract following these interests. The form of the work agreement that is made can be in the form of a series of words containing spoken or written promises of ability.

These rights and obligations are based on certain reasons that make the two parties agree on all the terms of the agreement. This is bound by Article 1337 of the Civil Code which states that "A prohibited cause, if it is prohibited by law or if it is contrary to decency or public order" so that there is an attachment that cannot be released because in making an agreement the law is needed to regulate the course of a transaction. a good agreement between the law and the agreement.

2. Research Methods

This study uses a survey method approach with quantitative research. (Sugiyono., 2018). Used to obtain data obtained in the past or at present, regarding beliefs, opinions, characteristics, behavior, and having variable relationships. To test some hypotheses about the required variables from the sample

2.1. Data collection technique

- a. Questionnaires, namely data collection carried out by researchers making a list of written questions, both closed and open
- b. Interviews are data collection carried out by the author giving questions or debriefing directly to who is the respondent related to the subject matter.

2.2. Population and sample

The population is the total number of objects to be studied that have the same characteristics. For populations with more than 100 subjects, a sample of between 10-15% or 20-25% or more can be taken depending at least on the ability of the researcher in terms of time and energy, or funds. Therefore, the population in this study totaled 66 teaching staff and 31 educational institutions in Tangerang Regency

3. Results and Discussion

3.1. Legal Protection of Educators in Non-Formal Education Institutions Review of Law Number 13 of 2003 concerning Employment

The legal protection of the parties to the employment agreement is one of the goals to be achieved in the business world, both employers, workers themselves, and private and government agencies whose main task is to manage human resources. Subhan, M., (2018). This is in line with the thoughts of the world today which demand the need for regulations

that must be implemented to create human comfort and safety in working and managing a business. The world of work is the main target regardless of any system and technology used in the production process. One aspect of human safety is avoiding work problems due to existing regulations.

The problem in efforts to protect the teaching staff profession in the form of legal protection and providing legal assistance is related to the meaning of the legal protection which makes their respective roles effectively. Mohamad., I. R., (2019). Namely the issue of the rights of educational staff which must be protected and voiced or realized. to improve the quality of institutions and human resources, namely educators.

The rights possessed by educators of non-formal educational institutions in carrying out their duties are:

- a. Get promotions and awards according to work assignments and achievements
- b. Obtain protection in carrying out duties and intellectual property rights
- c. Obtain the opportunity to improve learning competence to expedite professional tasks
- d. Obtaining and utilizing facilities and infrastructure
- e. Have the freedom and describe assessments and participate in determining student graduation, awards, or sanctions
- f. Obtain a sense of security and assurance of safety and health in carrying out tasks
- g. Have the freedom of association in professional organizations
- h. Have the opportunity to play a role in determining policy
- i. Gaining the opportunity to develop and improve academic qualifications
- j. Obtain professional and field training and development

3.2. Facts of Legal Protection of Educators in Non-Formal Education Institutions

Facts and realities in the field show that the condition of teaching staff has not received optimal legal protection. Fitriani, R., (2016). In fact, in many cases, non-formal education staff are not aware of the existence of this protection program and are not aware of their professional association with education staff in the Tangerang district. those from educational institutions and teaching staff said that their educational institutions were running as usual, there were only learning and learning processes.

Table 1. Problems of Emerging Educators

No	Problem	Information
1.	The umbrella is not complete	There are no government regulations yet
2.	Law	discriminatory
3.	Lack of socialization	Regarding rights in Termination of Employment
4.	legal knowledge and understanding	Legal aid institution as a complaint center
5.	Not evenly distributed facilities	Lack of operational funds, there is none
6.	legal protection	Allowance

Source: Data processed in 2022

In the general problems above, it is necessary to have an agreement to regulate more technical matters in the running of an institution. This challenge must be answered with the

readiness of the parties, both workers and job owners. In this study, the emphasis is on providing legal protection in work agreements between employers and workers/laborers, to avoid problems occurring in the future in all forms related to employment so that a sense of security and comfort will be created when carrying out the work process in the work environment, especially problems wage system. In labor law there are several sources, namely:

- a. Legislation
- b. Customs
- c. Decisions of officials or government
- d. Treaty
- e. Work regulations
- f. Work agreement or collective labor agreement.

Employment requirements are very important and need to be complied with according to the provisions of the law so that employment relations can work in a balanced manner between rights and obligations because they have been regulated in written regulations and have permanent legal force for the parties in executing work agreements in written form. A'yun, M. P. H., (2021). Therefore, the existence of the Labor Law will provide special protection for workers and employers, so that in carrying out their work they will feel calmer and more comfortable. And when in practice

Article 86 of Law Number 13 of 2003 concerning employment also explains that:

- a. Optimal work morale and decency. Labor in a company is a party that has an important role, therefore the rights and obligations need to be given to workers. Regarding the rights and obligations of workers who work as educators in non-formal educational institutions
- b. The rights of educators in non-formal schools include: (1). Workers are entitled to receive wages which are income, consisting of basic wages and allowances. Provisions for remuneration are based on education level, skills, worker status, class, and years of service. (2). Workers are entitled to rest time (leave) following applicable laws and regulations (3). Workers are entitled to be included in the Social Security program.
- c. The obligations of teaching staff in non-formal schools include: (1). Every employee must do his job to the best of his ability. (2). Every workforce uses standard services in educational institutions (3). Every worker is required to enter and leave work on time.

Based on the laws and regulations that have been described which form the basis according to the author's observers and the results of interviews and conducting questionnaires on the owners of educational institutions and teaching staff in educational institutions, especially in the Balaraja sub-district. Disantara, F. P., (2020). Are not in the form of legal entities but privately owned only using the permission from the local government and workers who on average have limited skills such as their knowledge is still below the quality of education, they work because of economic demands to support their families this is due to the limited employment opportunities, like it or not and like it or not they have to work to earn money.

An agreement is a relationship between two or more parties that creates legal consequences with an agreement. While the agreement is a condition that there must be two or more parties where one party has the right to demand something where the other party is obliged to fulfill something. The source of the agreement is in the agreement and the law contained in Article 1233 of the Civil Code that "Each agreement is born either because of

agreement, good because of the law".

3.3. Implementation of Legal Protection for Educators in Non-Formal Education Institutions

According to Law Number 13 of 2003 concerning Manpower, Article 51 paragraph (1) states that agreements are divided into two based on the form of the work agreement, namely:

- a. A work agreement made in writing is an agreement made by work written above, namely a work agreement that must be made following the regulations per applicable law.
- b. Work agreements made verbally are worked agreements made according to the conditions of society in an unwritten way.

From the explanation above, it can be concluded that an agreement is something that is mutually binding between two parties and fulfills each other's balanced rights and obligations so that justice and comfort are created in work by entering into a written agreement between the owner of the educational institution and the teaching staff/labor.

An agreement can be said to be a valid agreement if it fulfills the conditions stipulated in Article 1320 of the Civil Code, where there is an agreement between the parties and the object of the agreement as well as the characteristics attached to the agreement if it is expressly agreed upon by the parties. A. Permatasari, Tarigan., et al., (2021). In contract law, several important principles can be found that need to be known, the principles in contract law as mentioned below.

- a. Open system. This principle means that everyone may enter into any agreement, even though it has not been stipulated in the work agreement. This principle is often referred to as the principle of freedom of contract. Even though this principle applies, the principle of freedom to contract is limited by three things, namely not prohibited by law, not contrary to immorality, and not contrary to the public interest, but in an agreement.
- b. Consensual is obligatory. The principle of freedom of contract Agrees for those who bind themselves "the essential principle of contract law, this principle determines the principle of "consensual" autonomy which determines the existence of an agreement thus with the principle of freedom of contract not only belonging to the Civil Code but is universal and in countries that adhere to contracts with the Anglo-Saxon system and known as the freedom of contract, which means that the parties are free to make a contract and regulate the contents of the contract themselves as long as it fulfills the following conditions: (1). Fulfilling the conditions of a contract (2). Not prohibited by law

3.4. Legal Protection Factors for Educators in Non-Formal Education Institutions

The factors that led to defaults in work agreements at non-formal educational institutions in Balaraja vary greatly according to the conclusions from interviews with parties in non-formal educational institutions in Tangerang District.

- a. The ethical factor is not good. In carrying out an agreement, good faith is needed from the parties to the agreement. However, in the implementation of work agreements, defaults often arise because the agreement is not based on good ethics.
- b. Economic factor. Another factor that occurs in work agreements is the economic factor where the parties often ignore a worker because of other interests, especially those related to the economy so they ignore their rights and obligations both as educators and as owners of educational institutions.

- c. Lazy cultural factor. Between the two parties, it seems lazy to take care of what is managed by the owner and those who become educators.

Table 2 Respondents' Responses to the Implementation of the Agreement of the Parties

No	Response	Amount	Percentage
1	respondent	14	85%
2	Yes	6	25%
Amount		20	100%

Source: Data processed in 2022

If you pay attention to table 2 above, it is illustrated that the respondent said yes to carrying out the agreement verbally regarding the employment agreement in terms of wages carrying out the agreement in the Balaraja sub-district. Abdillah, L.A. (2020). The parties feel that this is not an important matter for non-formal educational institutions. After all, they need workers because of difficulties in finding work and other factors because they are sure of verbal and family agreements.

Table 3. Data of Tangerang District Educational Institutions

No	Kecamatan	Sekolah Non Formal	Status	Bentuk
1.	Keritang	LKP RumahBelajar Indragiri	Swasta	Kursus
2.	Keritang	PKBM Al-Barakah	Swasta	PKBM
3.	Reteh	LKP Saudara Komputer	Swasta	Kursus
4.	Reteh	LKP Smart Computer	Swasta	Kursus
5.	Reteh	PKBM Mandiri	Swasta	PKBM
6.	Enok	LKP Samad Course	Swasta	Kursus
7.	Tanah Merah	PKBM Merah Putih	Swasta	PKBM
8.	Balaraja	Qorina	Swasta	Kursus
9.	Tempulng	Voic	Swasta	Kursus
10.	Kempas	PKBM Mutiara Ilmu	Swasta	PKBM

Source: Data processed in 2022

Based on the results of interviews with teaching staff, on average these educators receive wages that are not following even far from the average and even the salary they get can be every five months and every seven months the salary is issued. Darmawan, H., (2017). And this is what they have to do to get a written work agreement because if in the future the workers get into legal problems there is strong evidence in court and legal protection/certainty.

3.5. Efforts to Obtain Legal Protection for Educational Personnel in Non-Formal Education Institutions.

In the Big Indonesian Dictionary Effort is an attempt, an endeavor to achieve a purpose, solve a problem, find a way out, and so on. Basuki, U., (2020). Almighty. getting legal protection is a right of workers and job providers or employers that they must receive after they carry out a right and obligation, while what is meant by rights is everything that must be obtained by everyone who has been around since birth even before birth. In the Big Indonesian

Dictionary, rights have the meaning of something right, property, possession, authority, power to do something because it has been determined by law, rules, etc.) right power over something or to claim something, degree or dignity. while the obligation is something that must be carried out, a necessity, a thing that must be carried out.

Rights and obligations have a very close relationship. Sianturi, S. (2020). Obligations are divided into two kinds, namely perfect obligations which are always related to the rights of others, and imperfect obligations which are not related to the rights of others, perfect obligations have a basis of justice, while imperfect obligations are based on morality. . Rights are something of urgency in this life, everyone has the right to get rights after fulfilling obligations. One of the rights and efforts that can be made to educators in non-formal educational institutions as workers utilizing employers of non-formal educational institutions is to provide in the form of:

- a. Manpower training facilities and comparative studies. The provision of workforce training and comparative studies is the company's obligation so that the quality of education is guaranteed.
- b. The workplace maintains and cares for the cleanliness of the work environment is a supporting factor in carrying out work as an educator.
- c. Working Hours and Rest Hours prevent workers from feeling tired and bored at work which can result in service or quality from educational institutions.

In Article 1 paragraph 1 (one) of Law, Number 3 of 1992 concerning Workers' Social Security, Workers' Social Security is a legal protection for workers in the form of compensation in the form of money as a replacement for a portion of lost or reduced income and services as a result. events or conditions experienced by workers in the form of work accidents, illness, pregnancy, childbirth, old age, and death.

Labor social security is a guarantee when something unexpected happens that will happen without prior knowledge. Asri, M., (2020). Therefore, it is necessary to make efforts to get legal protection by registering with the social security organizing body for workers or with insurance, until now the non-formal educational institutions have not registered with the workers' social security party or with the insurance party because the owner of the educational institution considers it not so important plus to take care of it requires money. 131

Educators can take legal action related to receiving wages below the minimum wage, so Law Number 13 of 2003 concerning Manpower has regulated sanctions for employers who do not implement them, namely criminal legal remedies. In accordance with Article 185 paragraph (1) "For those who violate the provisions of Article 42 paragraph (1) and paragraph (2), Article 68, Article 69 paragraph (2), Article 80, Article 82, Article 90 paragraph (1)) , article 143, and article 160 paragraph (4) and paragraph (7), can be punished with sanctions and or a fine of at least Rp. 100,000,000.00 (one hundred million rupiah) and a maximum of Rp. 400,000,000.00 (four hundred million rupiah)).

So from that article regarding the minimum wage it is a violation of Article 90 paragraph (1), namely employers are prohibited from paying lower than the minimum wage in accordance with Article 89 paragraph (1) namely the minimum wage which consists of: minimum wage according to the province, district, city ; and sector-based minimum wages.

4. Conclusions and Suggestions

4.1. Conclusion

Based on the results of research and discussion, the authors can conclude as follows:

- a. Legal protection for the parties to the work agreement at Non-formal Education Institutions in terms of Law Number 13 of 2003 concerning Employment in the city

of Balaraja is that the parties do not receive legal protection, namely, in the work agreement the educators do not receive legal protection in the wages received does not match the minimum wage.

- b. Legal remedies that can be taken if the parties do not get legal protection in work agreements at Non-formal Education Institutions in terms of Law Number 13 of 2003 concerning Employment are for educators to take legal remedies related to receiving wages below the minimum wage, namely criminal legal remedies as stipulated in Law Number 13 of 2003 concerning Manpower, it has regulated sanctions for employers who do not implement them, namely criminal remedies. This is regulated in Article 185 paragraph (1) and/or a fine of at least IDR 100,000,000.00 (one hundred million rupiahs) and a maximum of IDR 400,000,000.00 (four hundred million rupiahs). Before starting work, make a written agreement with the parties related to the rights and obligations that will be carried out.

4.2. Suggestion

Based on the results of the research and conclusions, several suggestions can be recommended, namely the following:

- a. Managers of non-formal education institutions in their work agreements must continue to provide wages according to the minimum wage so as not to violate the criminal provisions stipulated in Article 185 paragraph (1) of Law Number 13 of 2003 concerning Manpower.
- b. For the teaching staff of non-formal education institutions, it is better to prioritize the deliberations so that they agree on the purpose of the work agreement made, namely for the common good.
- c. For future researchers to add variables in their research so that there is a better agreement between owners of non-formal educational institutions and teaching staff in providing wages following the standard wage provisions in the teacher wage system in non-formal educational institutions.

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