

# LAW No.13/2003 IN RESPONDING TO COMPANIES SUSTAINABLE DEVELOPMENT GOALS IN INDONESIA

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## LAW No.13/2003 IN RESPONDING TO COMPANIES SUSTAINABLE DEVELOPMENT GOALS IN INDONESIA

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### ABSTRACT

Human Resources (HR) is the central factor in a company. Whatever the shape and purpose, the company set up under various visions for the benefit of human beings and in the execution of its mission managed and administered by humans. Thus HR is a strategic factor in all company activities. Employees are partners to achieve goals and objectives for advanced and developed large. Employees are assets that need to be protected and handled it very well. Employees with management should complement each other, they are like two sides of a coin are inseparable, interdependent, companies need the workers and the workers need the company. The current development is so rapid, not matched by the existence of Law No.13 of 2003 on Employment, thus often causing various disagreements, arguments and disputes between employers and workers and laborers, this is reflected on each May 1 called with labor day May Day international terms. In Indonesia, the anniversary of the laborers expressed with a massive demonstration. Throughout the demo laborers / workers occurred because of their demands that have not shed light, for example: the abolition of the contract system outsourcing, improvement of the level of wages, termination of employment, wage revoking Government Regulation 78, and the provision of various guarantees of workers. Action is also a form of expression of discontent of the workers against the government deemed insensitive to respond to their aspirations. Of course, such matters give a huge impact on the development of a company, so this paper appear to provide solutions to how the Law of Employees No.13 / 2003 provides a response to the sustained growth of a company in Indonesia.

**Keywords:** Good Governance, Good Corporate Governance, Trust, Code of Conduct.

### INTRODUCTION

Promoting sustainable development is about steering societal change at the interface between The Societal, this relates to human morals and values, relationships and institutions; The Economic, this concerns the allocation and distribution of scarce resources; and The Ecological, this involves the contribution of both the economic and the social and their effect on the environment and its resources. These are known as John Elkington's three dimensions or pillars of sustainable development. Promoting sustainable development is an on going process, whose desirable characteristics change over time, across space and location and within different social, political, cultural and historical contexts.

Employment is actually a common problem in every country, whether in industrialized countries especially in developing countries. Usually the government is most troublesome, because this issue not only concerns how to provide and provide optimum employment opportunities, but furthermore concerning national stability. High unemployment, at least can lead to warning social unrest, which can ultimately destabilize the national stability.

Singapore originally enjoyed the so-called demographic dividend, Professor Tan Kong Yam argues, in the mid-1970s and early 1980s, birth rates dropped to 2.1. However, the population is still growing due to the large number of young generation. But in the early 1990s, this condition turned around. The pressures of the elderly population are getting bigger on the demographics of Singapore.

Like other demographic countries, Singapore also faces the problem of underemployment and the burden of the elderly. Demographics of Singapore underwent changes in the structure of the labor population. Singapore's way of spurring population growth is unsuccessful, so the Singapore government takes a selective immigration way. Profensor Tan Kong Yam said Singapore's population base is not large, so every year it takes only 3 to 4 thousand technical immigrants. Thus, Singapore can still extend the period of "luck of demography".

Professor Tan Kong Yam argues, "There are two ways to solve the problem of foreign workers: First is temporary workers, such as construction workers or domestic servants with contracts for 2-3 years, usually not long in Singapore, the second is technical immigrants, with Education is relatively high or has special skills. This category of workers can stay permanent, and will be the main route to solve employment problems and demographic aging. "

Selective immigration policies are very effective. This policy successfully solves the problem of labor shortage in Singapore. Meanwhile, young age technical immigrants have stirred Singapore's growth.

Labor issues have boosted Singapore's economic growth, while economic growth has boosted national competitiveness. Moreover, Singapore uses English, so Singapore attracts many skilled workers from all over the world. In Asia's latest competitiveness evaluation, Singapore ranks first, up from 4th place last year.

The country of Indonesia has in common in the right demographics too. Central Bureau of Statistics (BPS) defines productive age groups are those who are in the age range 15 to 64 years. Based on population census data in 2010, the total population of Indonesia who entered the productive age group is about 157 million people from the population of 250 million people, this is another plus point. Then let's find out how the Research conducted on LAW No.13 / 2003 IN RESPONDING TO COMPANIES SUSTAINABLE DEVELOPMENT GOALS IN INDONESIA which aims to understand the social reality of seeing the world from what it is, not the world it should be, where researchers should be open minded. Therefore, conducting qualitative research well and correctly means having a window to understand the world of psychology and social reality.

The company sustainability and accountability framework for an organization consists of performance in five overriding dimensions: Economic, Governance, Social, Ethical, and Environmental. Organization can survive and produce sustainable performance only when they continue to be profitable and creating stakeholders value. Business sustainability not only ensures long term profitability and competitive advantage, but also helps in maintaining the well being of society as a whole.

Organization Governance performance guiding to the roles and responsibilities of corporate governance participants and corporate governance report, assurance report. Business and organizations do not operate in a vacuum. Their relationship to the society and environment in which they operate is a critical factor in their ability to continue to operate effectively. It is also increasingly being used as a measure of their overall performance.

ISO 26000 provides guidance on how businesses and organizations can operate in a socially responsible way. This means acting in an ethical and transparent way that contributes to the health and welfare of society and standing for the organizations sustainable development. ISO 26000:2010 provides guidance rather than requirements, so it cannot be certified to unlike some other well-known ISO standards. Instead, it helps clarify what social responsibility is, helps businesses and organizations translate principles into effective actions and shares best practices relating to social responsibility, globally. It is aimed at all types of organizations regardless of their activity, or location. Those that link ISO 26000 with the OECD guidelines for multinational enterprises and the UN Agenda 2030 (Sustainable Development Goals).

In January 2016, the 2030 Agenda for Sustainable Development came into effect. Now, the eyes of the world are on solutions to guide international development and cooperation for the 17 initiatives (goals) over the next 15 years.

At the United Nations Sustainable Development Summit on 25 September 2015, world leaders adopted the 2030 Agenda for Sustainable Development, which includes a set of 17 Sustainable Development Goals (SDGs) to end poverty, fight inequality and injustice, and tackle climate change by 2030.

The SDGs are a new, universal set of goals, targets and indicators that UN member states will be expected to use to frame their agendas and political policies over the next 15 years. They follow and expand on the Millennium Development Goals (MDGs), which were agreed by governments in 2001 and expired at the end of 2015.

According to Professors Adriana Rosenfeld and Adriana Norma Martínez from the National University of Luján in Argentina, ISO 26000 addresses sustainable development and the 2015 development agenda in a coherent and complete way. The core subjects and issues defined by the ISO standard include human rights, labour practices, the environment, fair operating practices, consumer issues and community involvement, which encompass, among other things, the principles of equal opportunities and non-discrimination. ISO 26000 provides a visible, influential and pragmatic way to impulse change, and meet the SDGs.

The SDGs are providing valuable opportunities to advance human dignity and rights. They reaffirm the importance of freedom, peace and security, the right to development and the right to an adequate standard of living, including the claim to food and water, the rule of law, good governance, gender equality, empowerment of women and the overall commitment to just and democratic societies that support such development. This approach is similar to ISO 26000. The ISO standard recognizes the respect for human rights in one of its seven core subjects.



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Talk about Labor Law means will talk about Human rights, Labour Practices, Fair Operating Practices, community involvement and development. And of course also touched Similarly, at least two interests, the interests of workers and employers, because these two interests are often contrasted and are like two sides of a coin. Workers demanding the highest welfare while employers want to profit maximization. This also resulted in the preparation as well as changes in the Employment Act be protracted.

Differences about whether the revision of the Labor Law was also happening at the level of the pros and cons of workers on the revision of the Employment Act. Meanwhile, the business community wants the provisions in the Labor Law are classified on the private sector, revised. One of the provisions that are considered burdensome to entrepreneurs is on severance pay, and the existing provisions in the Labor Law should not make entrepreneurs discouraged. A number of its provisions is for example restricted the right of employers to terminate employment (FLE), due to the Labor Law, employers are not exempt to layoff, but must go through a court decision, and the high rate of compensation for layoffs.

At the end of 2011, the Indonesian Institute of Sciences (LIPI) briefly describes the results of studies of the Employment Act in the plenary session of the National Tripartite Cooperation Institution. Reportedly, this LIPI study results are used by the government to incorporate the revised agenda of the Employment Act into national legislation program priorities 2012. But the House rejected the revised plan, seen as unfavorable to workers.

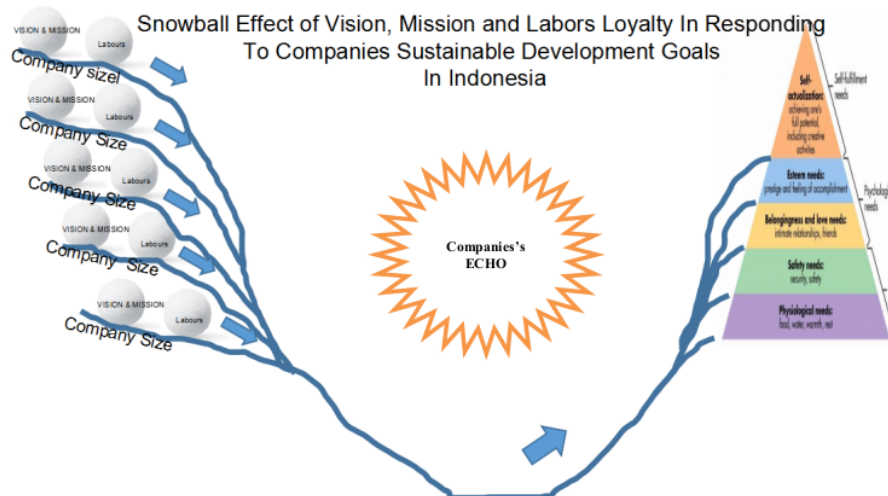
Researchers LIPI Team members who participated reviewing the revised Labour Law, Tuti Handayani was confused with Parliament's rejection of it. Because, LIPI and stakeholders are still discussing the draft revision. "And the draft has not been given to the House of Representatives," said Tuti hukonline in building LIPI Jakarta, Tuesday (24/4). Although the House of Representatives rejected the revision of the Labor Law, LIPI still guarding revised their promise Labor Law. The goal is that the revision does not deviate significantly from the results of research that has been done. LIPI will make a more detailed study on the revision of the Labor Law which is scheduled for completion later this year. Previous LIPI reviewing has six aspects. Namely regarding foreign workers (TKA); labor relations associated labor contract system and outsourcing; long break; payment; strike; Layoffs and compensation. Government through the National Tripartite Cooperation Institution should not plan to continue using LIPI study to complete the revision of the Labor Law. However, both workers and employers do not support it. Regardless of the argument between the interests of employers and workers, are more important things in addition to the revision of the labor law is labor law enforcement, turns inspectors have not been able to enforce laws and regulations related to employment. The issues stem from the weakness of labor inspectors. Again the lack of supervision performed by labor offices be the cause of many violations of the implementation of the Labor Law. Even if there should be a revision of the Labor Law, the needed preparation, particularly from the two sides, namely the workers and the employer, because process of formation of laws in Parliament is very complicated. The process of revision of the Labor Law will polemical because of interests between workers and employers is difficult to achieve an ideal starting point. Moreover, the business paradigm embracing system of liberal capitalism. Workers demanded a prosperous life while businessman wants a big profit with his small capital.

Rejuvenating discourse Law No. 13 of 2003 has been hotly discussed at the State Palace for President Jokowi has given the call to replace Law No. 13 of 2003, the word "replaced" leaving interpretation harming workers, employers were also alarmed because of various problems such as wage, expansion of outsourcing, employee costs were very high and others. Law No. 13 of 2003 does not come from a strong academic study, only discussed in small groups so many parties involved, it is necessary to evaluate the Act No.13 of 2003 has given many articles that had no binding legal force, due to some articles in Law No. 13 of 2003 has carried out judicial Review to the Supreme Court.

Several articles that should be in the revision of the Law No. 13 of 2003 which among them about the strike that is:

1. Article 143 paragraph (1) where there is clear intent of the phrase "hindering" is like, but no penalty is given if the offenders will face Article 185 paragraph (1) it is considered as a crime.
2. Article 144 point (a) "Change" is not explained what, if replacing temporary or permanent, but no penalty is given if the offenders will face Article 187 paragraph (1) it is considered a criminal offense infringement.
3. Article 148 which, if the company does not perform according to the procedure will be penalized in accordance with Article 188 paragraph (1) it is considered a criminal act of infringement, while under section 142 if the strike is carried out not in accordance with provisions only considered the strike to be invalid, the legal effects set in Articles 6 and 7 of protesting Decree No. 232 / Men / 2003 that the worker qualifies as lost to follow up (no work no pay) procedure is the same with Article 168 if not present, it is not comparable with the sanction of law accepted by employers.
4. Article 169 paragraph (1) point (c) burdensome for entrepreneurs, which, after the Constitutional Court, the worker can apply for Termination anytime.
5. As well as the efforts of workers to layoffs to get 2 of Article 156 paragraph (2), (17) and (4), this is done the workers in order to get compensation that can be greater than the resigned 17 just getting their rights in accordance with Article 156 paragraph (4) or lay-off due to retirement is just getting its due in accordance with Article 167 paragraph (5).

Actually, the best deal is mutual trust, build and based on trust, as our ancestors did, but the world has too advanced, so trust it faded along with the development. Settlement between employers and workers is about conscience.



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Judicial Review on Law No.13 / 2003 which was 14 years old and had been properly carried out, but it is no less important is how good governance in the application, such as a recent example occurred in the application of Government Regulation 78 (PP) on the authority of the Governor in establishing the Provincial Minimum Wage (UMP), the Minimum Wages City (UMK), and Sectoral Minimum Wage State (UMSK) mandated the PP78 is obliged to follow the provisions of decisions that have been agreed upon by the parties Depeda (Regional Wage Council consisting of Government, Employers, Workers) who was appointed by Governor Decree, and if one party does not sign the agreement, the governor can not set a minimum wage figures, UMK, UMSK. But what happens is the governor does not respect the hierarchy of the Act, so that the establishment of UMK and UMSK and laws that are done because of the element - political elements which resulted in the Entrepreneurs make legal effort to report to the State Administrative Court the decision, and this impact split the Employers and Workers.

13 Legislation, in the context of the Indonesian state, is a written regulation 14 established by a state institution or a public binding authority. Lower legislation should not conflict with higher legislation. Law Number 12 Year 2011 on the Establishment of Laws and Regulations.



Under the provisions of this Act, the types and hierarchies of the laws and regulations of the Republic of Indonesia are as follows:

- 1) The 1945 Constitution of the Republic of Indonesia;
- 2) The Decree of the People's Consultative Assembly;
- 3) Act / Government regulation in lieu of law;
- 4) Presidential Regulation;
- 5) Provincial Regulations;
- 6) Regency / City Regulation.

From the above case, it is known that the government itself has not provided a good example. As good as any law or regulation but not appreciated by those who carry it out, it is only a mere article.

The wage increase is not a problem rooted in the settlement of labor / workers, but lowering the living cost is the right solution to provide cost small / light for education, health, housing mortgage, groceries and transportation. The government should look inward, be a government that really be the people.

Singapore has a strong commitment to the law, its officials have carried out their responsibilities clearly, but Indonesia is still far from the hope of the people who miss the Good Government.

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