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Legal Protection for Workers Experiencing Inter-Legal Entity Transfers within Corporate Groups in Indonesia

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Abstract. *The development of corporate groups in Indonesia has led to increasingly complex employment relations, particularly regarding the practice of transferring workers between legally distinct entities within the same corporate group. Although such transfers are economically justified by integrated business operations and centralized management, Indonesian labor law has not explicitly regulated inter–legal entity transfers. Existing regulations under the Manpower Law and the Job Creation Law primarily recognize transfers within a single legal entity as a managerial prerogative, leaving a normative gap that creates legal uncertainty and potential violations of workers' rights. This condition is reflected in judicial practice, notably in Industrial Relations Court Decision No. 10/Pdt.Sus-PHI/2021/PN Tjk, which emphasizes formal legality while offering limited substantive protection to workers. This research employs a normative juridical method with a statutory, conceptual, and case approach. Primary legal materials include labor and corporate legislation, judicial decisions, and collective labor agreements, while secondary materials consist of legal doctrines and scholarly works. Legal materials are analyzed qualitatively through systematic interpretation to assess the adequacy of existing regulations and judicial reasoning. The findings reveal that the absence of explicit legal norms governing inter–legal entity transfers within corporate groups has resulted in inconsistent practices and weakened worker protection. Transfers are often treated as managerial policies without sufficient assessment of good faith, proportionality, or the continuity of workers' rights. The study argues that legal protection for transferred workers should be constructed on a balanced integration of justice, legal certainty, and utility. It further proposes a dual protection model: preventive protection through explicit statutory regulation and strengthened cross-entity collective labor agreements, and repressive protection through progressive judicial interpretation and effective dispute resolution mechanisms. This study concludes that recognizing corporate groups as single economic units with labor law relevance is essential to ensure substantive justice, protect workers' rights, and promote sustainable industrial relations in Indonesia.*

Keywords: *Corporate; Legal; Protection; Transfer; Worker.*

1. Introduction

Indonesia's constitutional framework emphasizes the state's obligation to guarantee the right to work and to a decent livelihood for all citizens, as enshrined in Article 27(2) of the 1945 Constitution. This constitutional mandate requires the government to formulate labor policies and regulations that ensure legal certainty, fairness, and effective protection of workers' rights. Accordingly, labor law plays a strategic role in supporting national development, reducing unemployment, and promoting social welfare (Ismiatun and Bunyamin Alamsyah. 2019).

Employment relationships in Indonesia are primarily governed by Law No. 13 of 2003 on Manpower (hereinafter refer to as Manpower Law), which defines employment as a legal relationship characterized by three cumulative elements: work, command, and wages (Razzak, Muhammad Dheyu, Arief Wibisono, and Achmad Fitrian. 2023). This legal framework seeks to provide certainty by regulating the reciprocal rights and obligations of workers and employers. While adjustments to working conditions may be permissible, changes to the legal subject of an employment relationship are generally restricted (Putri, Risnawati Liani and Mahyuni Mahyuni. 2023). as such changes may undermine the continuity of employment and the legal protection afforded to workers (Sidabariba, Mauritz Tritanjaya. 2021).

Legal complexity becomes more pronounced within corporate groups, where parent companies and subsidiaries exist as separate legal entities but operate economically as a single business unit (Sulistiowati. 2013). In this context, worker transfers or mutations may occur either within the same legal entity or between different legal entities within a corporate group. Inter-entity transfers are particularly problematic because they involve a shift in the legal employer, raising critical questions regarding the continuity of employment relationships, workers' legal status, and the protection of their rights (Simamora, Melva Theresia, Budiman Ginting, and Mahmul Siregar. 2021).

Despite these complexities, Indonesian manpower legislation does not explicitly regulate worker transfers between different legal entities within a corporate group. Articles 31 and 32 of the Manpower Law merely recognize workers' general rights to choose, obtain, or change employment and emphasize principles of non-discriminatory job placement (Filly, Teuku and Anugerah Ramadhan. 2023). The absence of specific provisions governing inter-entity mutations has resulted in divergent interpretations and practices, with many companies relying on Collective Labor Agreements (CLAs) (Surya, Deden Muhamad. 2018). In practice, inconsistencies between CLAs at the parent and subsidiary levels frequently generate legal uncertainty for workers who experience inter-entity transfers.

This regulatory gap has significant practical implications. In various corporate group settings, particularly in the service sector, workers have been transferred between legally distinct entities without clear contractual arrangements, new employment agreements, or adequate guarantees of their rights. Such practices often create uncertainty regarding employment status and legal protection, leading in some cases to increased worker resignations. These conditions highlight the urgent need for clearer and more structured regulatory standards governing inter-entity worker transfers within corporate groups.

Existing studies on worker mutation and corporate group employment in Indonesia reveal fragmented analytical approaches. Don P.M. Siagian (2011), in A Labor Law Study on Employee Transfers Across Limited Liability Companies, identifies the absence of explicit regulation on employee mutations and the overreliance on internal company rules, which frequently undermine workers' legal certainty (Siagian, Don PM. 2011). Sinta Romaida Simbolon (2019), in The Application of the Principles of Justice and Legal Certainty in Worker Mutation, examines judicial reasoning in mutation disputes and concludes that existing practices often fail to fully uphold fairness and legal certainty for workers (Simbolon, Sinta Romaida. 2019). Zahra Muchlisa (2022), through A Juridical Review of Termination of Employment Due to Oral Mutation Following Corporate Restructuring, focuses on termination cases arising from workers' refusal to accept mutations, revealing a tendency toward employer-oriented judicial reasoning (Muchlisa, Zahra. 2022). Other studies address related but distinct issues, including Yosca Angga Kusuma's (2024) analysis of legal protection for outsourced workers (Kusuma, Yosca Angga. 2024). Erni Istiyanti's (2024) examination of state-owned enterprise holding structures under the single economic entity doctrine (Istiyanti, Erni. 2024). and Sofiatul Istiqomah's (2021) study on holding company liability for bankrupt subsidiaries (Istiqomah, Sofiatul. 2021). While these studies contribute valuable insights, none specifically examine the legal protection of workers transferred between different legal entities within a corporate group.

Against this background, this study examines the regulation and legal protection of workers who experience inter-entity transfers within corporate groups in Indonesia. It seeks to analyze existing legal frameworks, identify normative gaps, and propose legal approaches that ensure fair treatment, legal certainty, and effective protection of workers' rights. By integrating labor law principles with corporate group theory, this research aims to reconceptualize inter-entity worker mutation as a distinct legal phenomenon and to contribute to the development of a more coherent and protective labor law framework in corporate group employment structures.

2. Research Methods

This article employs a normative legal research method, viewing law as a system of norms comprising legal principles, statutory provisions, judicial decisions, doctrines, and legal theories (Dewanto, Mukti Fajar Nur and Yulianto Achmad. 2010). The study adopts a statute approach to examine relevant constitutional, labor, and corporate regulations; a conceptual approach to analyze legal doctrines and principles related to labor protection and corporate group structures; and an analytical approach to interpret and assess the coherence, consistency, and implications of existing legal norms (Soekanto, Soerjono and Sri Mamudji. 2007). Legal materials consist of primary sources, including legislation and constitutional court decisions, supported by secondary materials such as scholarly books, theses, and journal articles, as well as tertiary references. Data are collected through document and library research and analyzed using descriptive, interpretative, and argumentative techniques, enabling systematic interpretation of legal norms and the formulation of normative arguments (Atmadja, I Dewa Gede and I Nyoman Putu Budiartha. 2024). aimed at addressing regulatory gaps and strengthening legal protection for workers experiencing inter-entity transfers within corporate groups in Indonesia.

3. Results and Discussion

3.1. The Regulation of Inter–Legal Entity Transfers within Corporate Groups in Indonesia

Inter–legal entity transfers within corporate groups are an inevitable consequence of modern business structures characterized by integrated ownership, centralized management, and economic interdependence. While corporate groups often operate as a single economic unit, Indonesian law continues to treat each company within the group as an independent legal entity (Widjaja, Gunawan and Ahmad Yani. 2006). This structural reality creates tension in labor relations, particularly when workers are transferred across legally distinct entities within the same group (Sulistiowati, 2013: 16) Such transfers raise fundamental questions regarding the continuity of employment relationships, the identity of the employer, and the scope of managerial authority under Indonesian labor law (Ismiatun and Bunyamin Alamsyah, 2019: 123).

From the perspective of labor regulation, Indonesian Manpower Law, as amended by the Job Creation Law, recognizes job transfers primarily as part of managerial prerogatives within a single legal entity. However, it does not explicitly regulate transfers across different legal entities within a corporate group. As a result, inter–entity transfers may legally be construed as terminating an existing employment relationship and creating a new one, unless otherwise agreed by the parties. This normative gap generates legal uncertainty regarding workers' employment status, length of service, wage continuity, social security participation, and severance entitlements (Razzak, Muhammad Dheyu, Arief Wibisono, et al. 2023: 86).

Corporate law further reinforces this uncertainty through the principle of separate legal entity and limited liability enshrined in the Company Law (Hartana. 2022). Despite economic integration and centralized control, each company within a corporate group remains juridically autonomous. This dualism between legal independence and economic unity creates a gray area in labor relations, particularly where human resource management is centralized while employment contracts remain entity-specific (Jayusman, et al. 2023) Practices such as job rotation, inter-entity assignments, and workforce sharing thus blur the determination of the true employer, potentially undermining workers' legal protection.

The intersection between labor law and corporate law therefore becomes critical in assessing the legality of inter–legal entity transfers. While business efficiency and flexibility may justify workforce mobility within corporate groups, such practices cannot rely solely on unilateral managerial authority. Worker consent, clear contractual arrangements, and harmonized collective labor agreements across group entities are essential to prevent the erosion of workers' rights (Surya, Deden Muhamad, 2018: 172). In the absence of explicit statutory regulation, reliance on internal company policies or collective agreements without strong legal grounding risks weakening legal certainty and worker protection.

Judicial practice illustrates these regulatory shortcomings, particularly as reflected in Decision No. 10/Pdt.Sus-PHI/2021/PN Tjk. In this case, permanent employees were transferred between companies within the same corporate group and subsequently refused the transfer. The employer treated such refusal as voluntary resignation under Article 168(1) of the Manpower Law. While the Court correctly affirmed the workers' permanent employment status by applying the principle of worker protection (in dubio pro labor), it simultaneously acknowledged transfer as a legitimate managerial prerogative without conducting a substantive assessment of proportionality, good faith, or the actual impact on workers' welfare.

This decision exposes a structural weakness in Indonesian labor law, namely the absence of explicit norms governing inter–legal entity transfers. By equating refusal of a disputed transfer with voluntary resignation, the Court prioritized formal legality over substantive justice. Such an approach creates the risk that inter-entity transfers may be misused as an indirect mechanism to circumvent termination obligations, thereby reinforcing power asymmetries between employers and workers within corporate groups.

The regulatory vacuum surrounding inter–entity transfers poses legal risks for both workers and employers. For workers, it creates uncertainty regarding continuity of employment, accrued rights, and protection against disguised termination. For companies, unclear norms increase exposure to labor disputes, overlapping liabilities among group entities, and administrative uncertainty. Consequently, any future regulatory framework must balance corporate operational needs with the fundamental objectives of labor law, namely justice, protection, and legal certainty.

From a justice perspective, regulation of inter–legal entity transfers must ensure fairness and proportionality. Drawing on Aristotelian justice, distributive justice requires that transfer policies consider workers' tenure, qualifications, and contributions, while commutative justice demands equal treatment regardless of the legal entity involved. Corrective justice further requires that any loss of rights arising from transfers be remedied through compensation or legal restoration (Apeldoorn, L.J. van. 2004). These principles are reinforced by John Rawls' theory of justice as fairness, which emphasizes free and informed consent, as well as the obligation that institutional arrangements benefit those in vulnerable positions (Kurniawan, Faizal, et al. 2018).

Legal certainty constitutes the second foundational pillar of future regulation. In line with legal theories advanced by Austin, Utrecht, and Radbruch, the law must provide clear, predictable, and enforceable norms governing procedures, rights, obligations, and accountability in inter–entity transfers (Atmadja, et al. 2024: 27). Future regulation should recognize corporate groups as economically integrated units with labor law relevance, define inter–entity transfers as administrative transformations that do not terminate employment relationships, and mandate consent, preservation of rights, and joint liability between entities. Such a framework would modernize Indonesian labor law by reconciling economic realities with constitutional mandates on decent work, justice, and legal protection.

3.2. Legal Protection for Workers Experiencing Inter–Legal Entity Transfers within Corporate Groups in Indonesia

Legal protection for workers experiencing inter–legal entity transfers within corporate groups must be understood as an integral component of labor law in a welfare-oriented rule of law. In the welfare state paradigm, the role of the state extends beyond maintaining public order to actively ensuring the fulfillment of social and economic rights, including the right to decent work and fair protection in employment relations. Accordingly, labor law should not be narrowly conceived as a mechanism for resolving disputes after violations occur, but rather as a normative system designed to prevent arbitrary employer actions from the outset. In this context, legal protection functions as a safeguard that limits managerial power while providing legal certainty and security for workers.

Inter–legal entity transfers within corporate groups reflect the growing complexity of modern industrial relations shaped by integrated ownership, centralized management, and economic unity. Although corporate law continues to recognize each company as a separate legal entity, business reality often treats the group as a single operational unit. This structural tension creates legal risks for workers who are transferred between entities, including uncertainty regarding employment status, continuity of service, and preservation of normative rights. Without adequate legal safeguards, such transfers may weaken workers' bargaining positions and expose them to disguised forms of termination, thereby necessitating a strong and structured system of legal protection.

The theoretical foundation of legal protection in Indonesian administrative and labor law is closely associated with the work of Philipus M. Hadjon, who conceptualizes legal protection as a logical consequence of the rule of law (*rechtstaat*). According to Hadjon, all forms of power—whether exercised by the state or private actors—must be constrained by law to prevent arbitrariness and protect fundamental rights. Legal protection thus serves as an instrument to ensure recognition, respect, and fulfillment of human rights, particularly in asymmetric relationships such as employment relations where workers are structurally subordinate to employers (Atmadja, et al. 2021: 166-167).

Hadjon distinguishes legal protection into preventive and repressive forms. Preventive legal protection aims to provide legal subjects with the opportunity to understand, anticipate, and object to potentially harmful decisions before they are implemented. It operates as an anticipatory mechanism that prevents disputes and aligns legal regulation with principles of justice and efficiency. Repressive legal protection, by contrast, functions after a violation has occurred, through judicial or quasi-judicial mechanisms that provide remedies and correction

(Atmadja, et al). a From Hadjon's perspective, preventive protection is normatively preferable because preventing harm is more just and efficient than resolving disputes after losses have materialized.

In employment relations, the relevance of preventive legal protection is heightened by the inherent imbalance of power between workers and employers. Workers' economic dependence and limited bargaining power make them particularly vulnerable to managerial policies, including transfer decisions. In the absence of clear legal boundaries, inter–legal entity transfers may be used as instruments of pressure, unilateral efficiency measures, or covert strategies to erode workers' rights. Therefore, labor law must prioritize preventive safeguards to ensure that transfer policies are predictable, transparent, and constrained by legal norms that protect workers' legitimate interests.

However, Indonesian positive law has not yet provided explicit regulation governing inter–legal entity transfers within corporate groups. Existing provisions under the Manpower Law, as amended by the Job Creation Law, regulate transfers only within the context of a single employer and a single employment relationship. This regulatory gap weakens preventive legal protection by granting employers broad discretion to transfer workers across entities without clear guarantees regarxding continuity of service, employment status, or normative rights. As a result, workers are left without a normative reference to assess the legality and consequences of such transfers, undermining the preventive function of labor law.

The absence of preventive norms also increases reliance on repressive legal protection, particularly through industrial relations dispute resolution mechanisms. In practice, workers who experience detrimental inter–entity transfers may challenge such policies through bipartite negotiations, mediation, or litigation before the Industrial Relations Court (PHI). Repressive protection becomes essential when preventive mechanisms fail, as it enables workers to seek judicial review of transfer policies, challenge abuses of managerial authority, and obtain remedies such as recognition of employment status, payment of normative rights, or compensation for losses incurred.

Judicial practice, notably Decision No. 10/Pdt.Sus-PHI/2021/PN Tjk, demonstrates both the importance and limitations of repressive legal protection. In that case, workers who refused transfer to another legal entity within a corporate group were deemed to have resigned under Article 168 of the Manpower Law. While the court affirmed their status as permanent employees, it interpreted the refusal of transfer in a formalistic manner without thoroughly examining good faith, proportionality, or the substantive impact of the transfer on workers' rights. This illustrates a gap between formal legal protection and substantive justice, where access to dispute resolution exists but does not always yield equitable outcomes.

Ultimately, effective legal protection for workers experiencing inter–legal entity transfers requires the integration of preventive and repressive mechanisms. Preventive protection should be strengthened through explicit statutory norms, reinforced collective labor agreements—including cross-entity agreements within corporate groups—and participatory transfer procedures that require consultation and consent. Repressive protection must be supported by progressive judicial interpretation that prioritizes substantive justice over formal legality. Together, these forms of protection ensure legal certainty, uphold workers' rights, and prevent inter–entity transfers from becoming instruments of disguised termination, thereby aligning Indonesian labor law with constitutional principles of justice, protection, and decent work.

4. Coclusion

In conclusion, this study demonstrates that the regulation of inter-legal entity transfers within corporate groups in Indonesia must be grounded in a balanced integration of justice, legal certainty, and utility, as current positive law-namely the Manpower Law and the Job Creation Law-fails to explicitly regulate such transfers, resulting in legal uncertainty and insufficient substantive protection for workers, as reflected in Industrial Relations Court Decision No. 10/Pdt.Sus-PHI/2021/PN Tjk, which emphasized managerial prerogative without adequately assessing good faith and substantive fairness. Accordingly, future legal development should recognize corporate groups as a single economic unit while ensuring continuity of employment, length of service, and social security rights. Legal protection for affected workers must be strengthened through a dual approach combining preventive measures-such as explicit statutory norms, strengthened collective labor agreements including cross-entity agreements, and participatory transfer procedures-and repressive mechanisms that guarantee access to effective dispute resolution and substantive judicial review. To this end, the government and lawmakers are urged to establish specific regulations harmonizing labor and corporate law, while corporate group management should adopt transparent, fair, and participatory internal transfer policies that prevent the erosion of workers' rights and promote equitable and sustainable industrial relations.

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