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FORM OF LEGAL PROTECTION FOR WORKERS THROUGH TRADE UNIONS IN PRIVATE COMPANIES

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Abstract

Legal protection for workers is a fundamental aspect of achieving social justice and workforce welfare. Workers in private companies generally have a weaker bargaining position than employers, making trade unions an important instrument for balancing industrial relations. This study aims to analyse the forms of legal protection provided to workers through trade unions and to examine the implementation of trade union functions in private companies in Makassar City, Indonesia. The research employs a normative-empirical legal approach, combining statutory and conceptual approaches with empirical data obtained through interviews and observations involving workers, trade union representatives, employers, and labour officials. The study also examines relevant legislation and legal doctrines concerning labour relations. The empirical data indicate that there were 722 trade unions in Makassar City, but only 115 had established Collective Labour Agreements (CLAs), representing approximately 15.9% of the total. This finding indicates that the implementation of collective bargaining as an instrument for protecting workers remains limited. The study further identifies an increase in employment termination disputes, with 58 cases recorded during October–December 2025. These conditions demonstrate that the function of trade unions in representing workers, channelling their aspirations, negotiating collective agreements, and protecting workers against unfair employment termination has not been implemented optimally. The obstacles include limited workers' legal awareness, inadequate organisational capacity, employer resistance, and weaknesses in legal supervision and enforcement. The study concludes that strengthening trade union capacity, increasing workers' legal literacy, improving collective bargaining mechanisms, and enhancing government supervision are necessary to achieve more effective worker protection and harmonious, fair, and dynamic industrial relations.

KEYWORDS: collective bargaining; industrial relations; workers' rights; collective labour agreements; employment termination

INTRODUCTION

Employment relationships in private companies are essentially characterised by an imbalance of economic and bargaining power between workers and employers. Employers generally possess greater authority in determining employment conditions, organisational policies, remuneration systems, and other aspects of the employment relationship, whereas workers may be vulnerable to exploitation, discrimination, and violations of their fundamental labour rights. This imbalance creates the need for legal mechanisms capable of limiting the excessive exercise of employer power and ensuring a fair relationship between the parties. Therefore, legal protection constitutes a fundamental requirement within a modern labour system to guarantee the fulfilment of workers' basic rights and to establish a balanced employment relationship based on justice, equality, and legal certainty (Davidov, 2016). In this context, labour law does not merely regulate the contractual relationship

between individual workers and employers but also provides mechanisms for collective protection.

Employment law protection should therefore not be understood solely as individual protection, but also as collective protection through workers' organisations, particularly trade unions. In industrial relations practice, collective protection can strengthen the bargaining position of workers because individual workers often have limited capacity to negotiate with employers who possess greater economic and organisational resources. Through collective organisation, workers can formulate common interests, negotiate employment conditions, monitor the fulfilment of labour rights, and take collective action when violations occur. Collective protection is consequently important in reducing the structural imbalance inherent in employment relationships and in creating a more equitable industrial relations system. (Deakin and Wilkinson 2005) emphasise that the regulation of employment relationships cannot be separated from the broader economic and institutional structures that shape workers' bargaining power. Thus, the existence of effective collective institutions becomes an important element in ensuring that labour rights are not merely recognised formally but are also implemented in practice.

Trade unions are the main instrument in realising such collective legal protection. Internationally, trade unions are recognised as an important element in industrial democracy and fair labour governance. The International Labour Organisation (ILO) considers freedom of association to be a fundamental right of workers that must be protected by the state. (ILO Convention No. 87 & 98) In Indonesia, freedom of association is constitutionally guaranteed and further regulated in Law No. 21 of 2000 on Trade Unions/Labour Unions. This law provides a legal basis for workers to form and join 2 trade unions as a means of fighting for their interests in private companies. Through labour unions, preventive legal protection can be realised, particularly through negotiations and the establishment of Collective Labour Agreements (CLA). CLA serve as legal instruments that regulate the rights and obligations of workers and employers in greater detail and are often more progressive than minimum legal regulations. (Bogg. 2019)

In addition to preventive protection, trade unions also play a role in repressive legal protection when workers' rights are violated. Trade unions have the authority to represent workers in the settlement of industrial relations disputes, whether through bipartite mechanisms, mediation, conciliation, arbitration, or litigation in the Industrial Relations Court. Various international studies show that the existence of trade unions contributes significantly to improving compliance with labour laws in private companies, including in the areas of wages, working hours, occupational safety and health, and social security. (Bryson, Forth & George. 2020)

However, the effectiveness of legal protection through labour unions often faces various obstacles in practice. One of the main obstacles is the practice of union busting, or actions by employers that directly or indirectly weaken the existence and activities of labour unions. (Gall. 2013). Such union busting practices can take the form of intimidation of union officials, discrimination in promotion or transfer, and even termination of employment for workers who are active in union activities. This situation means that the legal protection that should be provided through trade unions is not functioning optimally. (ILO, 2018)

Another challenge faced by trade unions is limited internal capacity, in terms of human resources, legal knowledge, and negotiation skills. Without adequate support, it is difficult for trade unions to effectively function as protectors of workers' rights. (Frege & Kelly. 2004) Changes in labour regulations, including deregulation and labour market flexibilisation

policies, also affect the form and effectiveness of legal protection for workers. A number of Scopus studies show that pro-market labour reforms often weaken workers' bargaining position if not balanced by strengthening the role of trade unions. (Kaufman. 2018)

In the context of private companies, increasingly flexible employment conditions require trade unions to adapt to more innovative legal protection strategies that are responsive to economic and technological changes. Without such adaptation, trade unions risk losing their relevance in the modern industrial relations system. (Heery. 2020) Legal protection through trade unions also has a social justice dimension, as it aims to ensure that workers are treated fairly and humanely. This protection includes respect for the dignity of workers as legal subjects and not merely as factors of production. (Sen. 2009). Therefore, a study of the forms of legal protection for workers through trade unions in private companies is important to assess the extent to which existing legal instruments are able to respond to the challenges of contemporary industrial relations. This study is also relevant for identifying normative and implementative gaps in worker protection. (De Stefano. 2016)

Based on the foregoing discussion, this study aims to analyse the forms of legal protection provided to workers through trade unions in private companies and to assess the effectiveness of such protection in ensuring the fulfilment of workers' rights. The study focuses not only on the normative recognition of trade union functions but also on how those functions are implemented within industrial relations practice. In particular, the study examines the role of trade unions in representing workers, channelling workers' aspirations, negotiating and establishing Collective Labour Agreements, and protecting workers when labour rights are violated. By examining the relationship between legal norms and their practical implementation, this study seeks to identify the factors that influence the effectiveness of trade unions as instruments of worker protection and to contribute to the development of industrial relations based on justice, legal certainty, and respect for workers' fundamental rights (Davidov et al., 2017).

METHODS

This study employs an empirical legal research method, which focuses on examining the application of legal norms in practice within society, particularly regarding legal protection for workers through trade unions in private companies. Empirical legal research aims to understand how the law operates in practice (law in action), including the effectiveness of legislation in providing protection to workers. The approach used in this study is the socio-legal approach, which examines the interaction between legal norms and social realities in the field of labour and industrial relations. This approach focuses on the practice of freedom of association, the role and function of trade unions, and the implementation of legal protection mechanisms for workers in private companies. Furthermore, this study also employs a conceptual approach, which involves examining the concepts, doctrines, and views of labour law experts regarding legal protection, industrial relations, and trade unions. This approach is used to strengthen the analysis of empirical findings and to provide a comprehensive understanding of the relationship between theory and practice in the field. The data used in this study consists of primary and secondary data. Primary data was obtained directly from the field through interviews with relevant parties, such as workers, trade union officials and employers, as well as through observation of industrial relations within the company. Secondary data was obtained from primary, secondary, and tertiary legal sources, such as legislation in the field of labour, textbooks, academic journals, previous research findings, as well as legal dictionaries and encyclopaedias. Data collection techniques were carried out

through interviews, observation, and library research. Interviews were conducted in a structured or semi-structured manner to obtain in depth information regarding the implementation of legal protection for workers. Observation was carried out to directly observe working conditions and the role of trade unions within the company. Library research was conducted to supplement and strengthen the field data. All data obtained was then analysed using qualitative analysis methods, namely by systematically processing, classifying, and interpreting the data to obtain a clear picture of the implementation of legal protection for workers through trade unions in private companies. The results of this analysis are then used to draw inductive conclusions regarding the effectiveness and challenges of implementing legal protection in the field of labour relations.

RESULTS AND DISCUSSION

1.1 The Role of Trade Unions in Representing Workers in Collective Labor Agreements

Pursuant to Article 1(21) of the Labour Law in conjunction with Article 1(2) of Minister of Manpower Regulation No. 28/2014, a CLA is an agreement resulting from negotiations between a trade union registered with the competent labour authority and an employer, or several employers or an employers' association, setting out the terms and conditions of employment, as well as the rights and obligations of both parties. A Collective Labour Agreement may serve as the basis for individual employment contracts. When drafting an employment contract, reference must be made to or be guided by the Collective Labour Agreement; therefore, the employment contract must elaborate on the contents of the Collective Labour Agreement. The provisions contained in the CLA are automatically incorporated into the individual employment contracts to be drawn up, and companies are permitted to form trade unions comprising at least 10 members who can represent the workers in drawing up a Collective Labour Agreement (CLA) setting out the rights and obligations of workers, employers and trade unions; there is only one CLA per company, applicable to all workers within the company. In collective bargaining negotiations with an employer, a trade union may represent workers if it has more than 50 per cent of the total workforce at the relevant company. If there is only one trade union within a company but it does not have more than 50% of the total workforce, the trade union may represent the workers in negotiations with the employer, provided that the trade union in question has received the support of more than 50% of the total workforce through a ballot.

The most important function of a CLA is to provide protection for workers. Whereas an employment contract is an individual agreement, a CLA is a collective agreement. Its collective nature provides greater legal protection than what an individual worker could achieve on their own. (Ahmad Rizki Sridadi. 2016). As a binding agreement, a CLA is a reciprocal agreement (wederkerge overeenkomst) between the parties entering into it. In this regard, research findings confirm that there are still private companies in Makassar City that do not have a Collective Labour Agreement (CLA). This situation is due to a lack of understanding and awareness among employers and workers regarding the urgency of a CLA as a legal instrument that regulates employment relationships in a fair and balanced manner. Furthermore, the weak role of trade unions in facilitating the CLA negotiation process—whether due to limited membership, low worker participation, or the trade unions' limited institutional capacity—also acts as a barrier to the formation of CLA in private companies.

Furthermore, the suboptimal guidance and supervision provided by labour authorities also contribute to low levels of compliance by companies in drafting CLA, meaning that

industrial relations in a number of companies are still based on individual employment contracts that tend to be unilateral and fail to provide adequate legal protection for workers. The research data obtained from the database of the Makassar City Department of Labour regarding the number of trade unions and the registration of Collective Labour Agreements (CLA) in private companies in Makassar City are presented in Table 1. Table 1 shows that there are 722 trade unions in private companies in Makassar City, while only 115 have registered Collective Labour Agreements. The table also indicates that only 4 CLA were registered in 2024 and 3 in 2025.

Table 1.1 : Data on Trade Unions and Collective Labour Agreement Registrations in Private Companies in Makassar City

Number of Trade Unions in Private Companies in Makassar	722
Companies with Registered Collective Agreements	115
Number of Collective Agreement Registrations in 2024	4
Number of Collective Agreement Registrations in 2025	3

As shown in Table 1, there are 722 trade unions in private companies in Makassar. Of this total, only 115 trade unions have a Collective Labour Agreement (CLA). This situation indicates that the majority of trade unions in private companies do not yet have a CLA as an instrument for regulating labour relations between workers and employers. Furthermore, in 2024, only 4 CLA were registered, whilst in 2025, this figure fell to 3 registrations. These figures indicate a decline in the annual registration of CLA, reflecting the low rate of CLA formation and registration in private companies. This decline is significant, given that the relatively large number of trade unions is not matched by the number of CLA established and registered. This situation has the potential to undermine legal certainty regarding the regulation of rights and obligations between workers and employers. This condition is particularly evident in several private companies in Makassar City that have not yet established a CLA, despite the presence of trade unions within the companies. The findings concerning these companies are presented in Table 2.

Table 2 shows that six private companies, namely PT Sumber Alfaria Trijaya Tbk (Alfamart), PT Indomarco Prismatama (Indomaret), PT Sentral Sari Primasentosa, PT Indo Retail Abadi, PT Bumi Menara Internusa, and PT Paguntaka Cahaya Nusantara, do not yet have a CLA. Instead, their employment relationships are regulated through individual employment agreements or company regulations.

Table 1.2 : Private Companies in Makassar City Without a Collective Labour Agreement (CLA)

Company Name	Type of Business	PKB	Legal basis For the employment relationship
PT sumber Alfaria Trijaya Tbk (Alfamart)	Modern Retail	None Employment	contract (individual/ Company regulations)
PT Indomarco Prismatama (Indomaret)	Modern Retail	None Employment	contract (individual/ Company regulations)
PT Indo Retail Abadi	Retail	None Employment	Individual Employment
PT Bumi Menara Internusa	Fisheries Processing Industry	None Employment	Company Regulations
PT Paguntaka Cahaya Nusantara	Services/ Outsourcing	None Employment	Individual Employment Agreements
PT Sentral Sari Primasentosa	Distribution/ Retail	None Employment	Company Regulations

As shown in Table 2**,** a number of private companies in Makassar City do not yet have a Collective Labour Agreement (CLA), including PT Sumber Alfaria Trijaya Tbk (Alfamart), PT Indomarco Prismatama (Indomaret), PT Sentral Sari Primasentosa, PT Indo Retail Abadi, PT Bumi Menara Internusa, and PT Paguntaka Cahaya Nusantara. This situation indicates that the regulation of labour relations in these companies is still based on individual employment contracts or company regulations, rather than through collective bargaining mechanisms. However, Article 116 of Law No. 13 of 2003 on Manpower stipulates that a CLA must be drawn up by a trade union or several trade unions registered with the labour authorities in consultation with the employer. Furthermore, Article 119(1) of Law No. 13 of 2003 states that the CLA applies to all workers in the relevant company, thereby serving as a vital instrument in ensuring legal certainty and protection for workers collectively.

Furthermore, Article 4(c) and (d) of Law No. 21 of 2000 on Trade Unions/Labour Unions emphasise that one of the objectives of establishing a trade union is to act as a party in the drafting of collective labour agreements, as well as to advocate for and protect the rights and interests of workers. Consequently, the absence of collective bargaining agreements in these companies suggests that trade unions are not yet fulfilling their role in collective bargaining to the full, whether due to the unions' weak bargaining position or a lack of commitment on the part of employers to fostering democratic and fair industrial relations.

The results of the research regarding private companies in Makassar City that have Collective Labour Agreements (CLAs) are presented in Table 3. Table 3 shows six private companies that have implemented CLAs, namely PT Chen Woo Fishery, PT Jea Phinisi Indonesia, PT Kawasan Industri Makassar, PT Ocean Champ Seafood, PT Pyramid Raccah Sakti, and PT Makassar Tene, with varying numbers of workers ranging from 44 to 1,127 employees. These data demonstrate that CLA implementation exists across several business sectors, including seafood processing, industrial management services, and sugar refining.

Table 1.3 : A private company in Makassar that has a Collective Labor Agreement (CLA).

Nama Perusahaan	Sektor Usaha	Jumlah Pekerja
PT. Chen Woo Fishery	Seafood Processing Industry	121
PT. Jea Phinisi Indonesia	Joint Utilisation of Industrial Labour	1.127
PT. Kawasan Industri Makassar	Industrial Management Services	44
PT. Ocean Champ Seafood	Processing and Preservation Industry	296
PT. Pyramid Raccah Sakti	-	148
PT. Makassar Tene	Refined Sugar	381

As shown in Table 3, several private companies in Makassar City have established Collective Labour Agreements (CLA) with their respective trade unions. A Collective Labour Agreement (CLA) is a written agreement that must be drawn up between an employer and a trade union in accordance with Article 115(1) of Law No. 13 of 2003 on Manpower. This CLA serves as a set of rules governing the rights and obligations of both parties in a specific workplace, as stipulated in Article 116(2), which states that the CLA contains provisions on working conditions, wages, working hours, and other binding terms between the employer and the workers.

In practice, a CLA is valid for a maximum of two years and may be extended by mutual agreement, in accordance with the provisions of Article 117. The entire process of registering and recording CLAs is governed by implementing regulations issued by the Ministry of Manpower to ensure legal protection for both workers and employers. The CBA data presented in this table shows a number of private companies in Makassar City that have

fulfilled their obligation to enter into a CBA with their respective trade unions, reflecting the practical implementation of the provisions of Articles 115 and 116. Various business sectors, such as the seafood processing industry, industrial management services, and the sugar refining industry, demonstrate a diverse range of implementation tailored to the needs of each sector.

The number of workers listed for each company indicates the extent of protection and legal certainty enjoyed by the workforce under the agreed collective bargaining agreements. Thus, Collective Labour Agreement serve as a strong foundation for maintaining harmonious industrial relations and resolving disputes. fair labour practices in accordance with statutory provisions.

1.2 The role of trade unions as a channel for voicing concerns in the fight for their members' rights.

A trade union is a voluntary, independent, open and accountable organisation established by workers, whether employed within or outside the workplace. Its primary objective is to advocate for, uphold and safeguard the rights and responsibilities of workers, whilst maximising the welfare of workers and their families. This is regulated under Article 1(1) of Law No. 21 of 2000 on Trade Unions.

Legal regulations and international human rights agreements protect essential human rights, namely the freedoms of association, assembly and expression within the framework of trade unions. In accordance with Article 1 of Law No. 39 of 1999 on Human Rights. Human rights themselves constitute a set of inherent rights that are intrinsically linked to the very essence and existence of human beings as God's creation and are bestowed upon them. In order to protect and uphold human dignity, the state, the legal system, the government, and every individual are obliged to recognise, protect, and defend these rights. Freedom of expression is a fundamental and inherent right of every individual, recognised as a human right. Progress in the recognition and safeguarding of human rights has led to the growing understanding that rights are absolute, unalterable and inviolable, and cannot be diminished under any circumstances. Rights that can be diminished are those that can be restricted or set aside, whereas non-derogable rights are those that cannot be diminished. (Lembaga Studi dan Advokasi Masyarakat. 2013).

Trade unions were established with Pancasila as the state ideology and the 1945 Constitution as the official charter of the Indonesian nation. Meanwhile, companies recruit foreign workers selectively for specific roles and limited working hours, using fixed-term employment contracts that do not guarantee permanent employment. Foreign workers, as nationals of other countries. Foreign workers in Indonesia are prohibited from establishing trade unions because they do not comply with Pancasila and the 1945 Constitution. The enactment of Law No. 21 of 2000 on Trade Unions was driven by three main considerations. Firstly, the aim is to uphold fundamental rights such as the ability to form groups, assemble, express oneself, and the right to fair employment and a decent standard of living, whilst ensuring fair treatment under the legal system. Furthermore, this Convention recognises the importance of creating and promoting independent, transparent, self-governing, democratic and accountable labour organisations.

A number of fundamental workers' rights are considered necessary to be guaranteed in general, although their implementation may be significantly influenced by economic developments, as well as socio-cultural factors and the norms prevailing among the population and the nation in which the company operates. The above description illustrates that the role of trade unions as a channel for expressing the aspirations of their members in

the fight for their rights is a fundamental function that is normatively guaranteed by legislation. However, the effectiveness of this role in industrial relations practice does not always meet expectations. Therefore, to gain a more comprehensive understanding of how trade unions fulfil this role, it is necessary to examine concrete examples from the field, particularly within private companies that demonstrate a discrepancy between statutory provisions and empirical reality.

In this regard, research findings confirm that the high rate of redundancies in private companies is due to the fact that some companies have yet to adopt a Collective Labour Agreement (CLA) as an instrument for regulating employment relations. The absence of a CLA means that employment relationships are based solely on individual employment contracts or company regulations drawn up unilaterally by employers, thereby weakening protection for workers and creating an environment where redundancies can occur easily.

The number of redundancies recorded in private companies in Makassar City during the period from October to December 2025 is presented in Table 4. Table 4 shows that 58 redundancy cases were recorded during the three-month period, consisting of 17 cases in October, 20 cases in November, and 21 cases in December. The data indicate an increasing trend in the number of redundancies during the period under review.

Table 2.1 : Number of Redundancies in Private Companies in Makassar City, October–December 2025

Month	Number of Redundancies
October	17 cases
November	20 cases
December	21 cases
Total	**58 cases**

As shown in Table 4, a total of 58 redundancy cases were recorded during the period from October to December 2025, comprising 17 cases in October, 20 cases in November, and 21 cases in December. The increase in the number of redundancies in December indicates dynamics in industrial relations that have the potential to lead to disputes between workers and employers, particularly regarding workers' statutory rights.

In this context, the role of trade unions becomes highly strategic as a channel for expressing workers' aspirations and a protector of members' rights. Normatively, the status and functions of trade unions are regulated under Law No. 21 of 2000 on Trade Unions. Article 4 of that law states that trade unions aim to provide protection, defend rights and interests, and improve the welfare of workers and their families.

Consequently, the redundancy figures for the October–December 2025 period highlight the urgent need to strengthen the role of trade unions as a channel for members' concerns. The higher the redundancy figures, the more crucial the role of trade unions becomes in ensuring that every dismissal is carried out in accordance with legal procedures, upholding the principle of fairness, and guaranteeing the fulfilment of workers' statutory rights.

In industrial relations practices across various private companies, situations still arise where a Collective Labour Agreement (CLA) has not been established, despite the presence of a trade union within the company. The absence of such a CLA results in a lack of detailed and progressive provisions regarding the protection of workers' rights, including mechanisms for preventing and managing redundancies.

As a result of the absence of a CLA, employers tend to rely solely on individual employment contracts and company regulations, which are generally drawn up unilaterally

by the employer. This situation weakens workers' bargaining power, meaning that in certain circumstances, employers carry out redundancies on the grounds of efficiency, restructuring, or a decline in company performance without fully involving the trade union.

CONCLUSION

1. Based on the discussion, it can be concluded that trade unions have two important functions in providing legal protection for workers. First, trade unions function as representatives of workers in the formulation and implementation of Collective Labour Agreements (CLAs). Through collective bargaining, trade unions can strengthen workers' bargaining positions and ensure that workers' rights and interests are incorporated into employment arrangements. However, this function has not been optimally implemented, as reflected in the limited number of companies that have CLAs and the continued reliance on individual employment agreements.
2. Second, trade unions function as a channel for workers to voice their concerns and fight for their members' rights. Trade unions provide workers with collective mechanisms to communicate grievances, negotiate with employers, and seek resolution of industrial disputes. Nevertheless, the effectiveness of this function is still constrained by low worker participation, limited institutional capacity, lack of legal awareness, and employer intervention in trade union activities. Therefore, the effectiveness of legal protection through trade unions requires not only adequate legal regulations but also stronger trade union institutions, active worker participation, respect for freedom of association, and consistent government supervision and law enforcement.

ADVICE

Trade unions should strengthen their institutional capacity, increase workers' legal awareness and participation, and optimise their role in collective bargaining and the protection of workers' rights. Employers should respect trade union independence and support the establishment and implementation of Collective Labour Agreements. The government should strengthen supervision and law enforcement to ensure freedom of association and effective protection of workers' rights. Through cooperation among trade unions, employers, workers, and the government, fair and harmonious industrial relations can be achieved.

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