

Working Hour Regulations in Employment Law in the Digital Era: Roscoe's Balancing of Interests Approach Pound

Noviati Sri Racha¹, Dini Dewi Herniati²

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Corresponding Author

Noviati Sri Racha, Doctoral Program in Law, Faculty of Law, Islamic University of Bandung

Email: noviati_sr@yahoo.com

Abstract

This paper aims to analyze how the regulation of working hours in Law No. 13 of 2003 concerning Manpower reflects the principle of balance of interests according to *Roscoe Pound* and evaluate the relevance of regulations in the context of technological developments and digitalization in the workplace. This study uses a normative legal approach with an analysis of relevant laws and regulations and literature studies to evaluate the implementation of working hours in the digital era. The results of the analysis show that although Law No. 13/2003 regulates working hours clearly, the implementation of these regulations often involves violations, especially in digital-based industries that do not have strict working time limits. Furthermore, Pound's theory emphasizes the balance of interests between workers and employers, which is a challenge in implementing laws amidst technological developments. This paper recommends the need to adjust employment regulations to be more responsive to the needs of the modern workforce and to address the challenges arising from the digitalization of the workplace.

Keyword:

Working Hours, Employment Law, Roscoe Theory Pound

1. INTRODUCTION

In Indonesia, the issue of employment law is a reflection of the social, economic and political dynamics that have continued to develop since the Dutch colonial era until the reform era. Regulations on employment continue to experience significant changes, the aim of which is to protect and guarantee the welfare of workers, the safety and survival of workers and efforts to balance the interests of workers and employers. But issues related to employment include aspects of wages, welfare and one of the main problems that arise is related to the regulation of working hours, which is still in the spotlight and a problem because everything is still felt far from expectations. This can be seen during the commemoration of World Labor Day (*Mayday*), workers voiced demands for justice on the basis of humanity, voiced a work system based on contracts, wages given, working hours and others, which overall aim to improve the welfare of workers. In the era of globalization and rapid technological development, regulations on working hours have become an important issue in employment law. Data shows that in Indonesia, workers who work *remotely job* Before Covid-19, it was only 4%, the number increased to 13% during the pandemic. Currently, there is an increase in the number of Indonesian workers who are willing to work *remotely job*, namely from 55% in 2020 to 71% in 2023. Law No. 13 of 2003 on Manpower (Labor Law), was designed to protect workers' rights and regulate fair employment relations between workers and employers. However, with changes in the way we work, the question is whether this regulation is still relevant in an increasingly flexible work environment. Excessive workloads, especially in the current digital era, make workers face increasingly unclear work hours that often exceed the limits set by law. This can have an impact on workers' mental and physical health, causing chronic fatigue that can reduce productivity. The results of the analysis show that *digital workplace / remote practices job* has an impact on four major aspects of employment relations, namely: (1) working hours and rest times; (2) occupational health and safety (K3) and social security for workers; (3) freedom of association; and (4) settlement of industrial relations disputes. Current Indonesian employment law is still not compatible with the emergence of digital workplace / remote job in all four aspects. *Roscoe's Theory Pound*, offers an interesting perspective to analyze this issue. *Pound* emphasizes

the importance of law as a tool to achieve a balance of interests between individuals and society. In the context of regulating working hours, the law should not only protect workers' rights, but also consider the interests of employers and the public interest. This paper aims to analyze the relevance of working hour regulations in the Employment Law in the context of digitalization, as well as to examine the implications of Roscoe's legal theory. Pound on working hour regulation. Thus this research will provide recommendations for improving regulations to protect workers' rights in an era of constant change.

Identification of Problems

1. How are the working hour regulations in Law No. 13 of 2003 able to reflect the principle of balance of interests according to Roscoe's theory? Pound
2. Roscoe's theory relevant? Pound with the development of technology and globalization in the regulation of working hours

2. RESEARCH METHODOLOGY

The research method used is a normative legal approach (Legal Research), with analysis of laws and regulations and conceptual literature studies on the main problems or legal issues. The studies used include:

- a) Statute Approach (Legislative Approach)© Analyze applicable laws and regulations, especially Law no. 13 of 2003, to assess its consistency and conformity with applicable legal principles.
- b) Conceptual Approach (Conceptual) Approach): Examining legal theories, such as Roscoe's theory Pound, to draw connections between the theory and practice of working hours regulation in the digital age.

The data sources used in this study include laws and regulations, legal journal articles, and conceptual literature that discusses the issue of working hour regulations and Roscoe's theory.

3. RESULT AND DISCUSSION

In the world of employment, the regulation of working hours is an important aspect that must be considered in order to create harmonious industrial relations. The Manpower Law is a comprehensive legal framework for regulating industrial relations in Indonesia which functions to protect workers' rights while regulating the interests of employers, and one of the aspects discussed in this regulation is the regulation of working hours. In Article 1 number (14) of the Employment Law, it can be interpreted that an Employment Agreement is an agreement between a worker or laborer and an employer or employer of the worker which includes the terms of employment, rights and obligations of each party. Regarding working hours, the provisions have been regulated in articles 77 to 85. Article 77 paragraph (1) stipulates that employers are required to comply with the provisions on working hours which regulate two systems, namely: 7 working hours in one day or 40 working hours in one week for six working days and 8 working hours in one day or 40 working hours in one week for five working days. Article 77 paragraph (2) stipulates that overtime work can only be done for a maximum of three hours in one day and fourteen hours in one week. In both work hour systems, there is a maximum working time limit of 40 hours in one week. If the working time exceeds these provisions, then the excessive working hours will be considered overtime, so that workers or laborers are entitled to receive overtime pay. These work time provisions only regulate the working time limit of 7 or 8 hours a day and 40 hours a week and without specifying when the working time starts and ends. Therefore, the regulation regarding the start and end of working hours every day and during the week must be clearly regulated according to the needs of the parties in the Employment Agreement, Company Regulations (PP) or Work Time Agreement.

In the context of the regulation of working hours regulated in the Manpower Law, the interests of the community, in this case the state, to create order and legal certainty have been regulated comprehensively, so that both workers and employers are legally protected. This provision reflects an effort to balance the interests of workers and employers. However, in practice, violations of this provision often occur, indicating challenges in the implementation of the law. With the regulation of working hours, the interests of workers are represented, because they obtain certainty regarding working hours and wages and overtime provisions, so that workers have the opportunity to rest. In addition, this law provides special protection for female and child workers by limiting working hours and types of work that can be done, thus showing an effort to protect vulnerable groups of workers and employers also have a healthy and productive workforce and their safety is protected. On the other hand, the interests of employers benefit from the certainty of payment of

wages, regulation of working hours and rest times, which allows employers to calculate the profits to be obtained. The law also provides employers with some flexibility to set working hours, especially in certain circumstances such as emergencies or increased production. This flexibility is intended to increase productivity, but it also has the potential to exploit workers if not strictly monitored.

The law also regulates monitoring mechanisms for the implementation of working hours regulations. However, in practice, supervision is often weak and ineffective, making it important for better enforcement of the Employment Law on company practices in protecting workers' rights. With the current era of industrial revolution 4.0 and 5.0, automation is increasingly reducing the need for human labor, and the work intensity for the remaining workers tends to increase. The convenience of the current information technology system through *internet platforms*, *cloud computing* even *artificial intelligence*, spurring globalization which increases business competition and encourages companies to increase their productivity so that it can have an impact on increasing the workload for their employees. Digital transformation in the workplace provides employees with the flexibility to work from home, allowing workers to socialize with their families while completing their tasks for their employers. This allows them to work more efficiently and reduce the total time required to complete work. Through digital transformation, it is possible for companies to offer flexible working hours, which prioritize productivity over the number of hours spent at work and conduct regular workload reviews which were previously rigid in conventional working hours. These steps can help employees achieve a balance between personal life and work, but are also believed to have a positive impact on the productivity and performance of the organization as a whole. Thus, a deeper understanding of the implementation of the digital workplace and its impact on employee behavior is very important to create a better and more productive work environment in today's digital era. Research conducted by Masrur et al., found that hybrid work flexibility is increasingly popular among digital generation workers (generation Z) at the Mars Learning Center who feel that hybrid work flexibility provides comfort and increases their productivity. The hybrid work model is seen as a solution to achieve balance between personal life and work.

Research on Australian employees working from home shows that employees value the flexibility and convenience of remote working, citing reduced travel time, improved work-life balance and increased productivity. However, the study notes a lack of social interaction and potential isolation. The research provides insights for companies to design work policies that are more responsive to employee needs. On the other hand, the convenience offered by digital platforms often leaves workers trapped in work routines without clear time limits, making it difficult to implement conventional working hour rules. The implementation of the digital workplace model, which allows workers to do their work through digital media, and not in the workplace, has a significant impact on working hours and rest times. Normatively, the provisions regarding working hours and rest times regulated in the Manpower Law can still accommodate digital workplace practices, even though there is no specific workplace in the company building. Entrepreneurs as employers can still determine a working time system that is appropriate for their workers. The problems that arise in the digital workplace present various different consequences compared to the implementation of conventional work. In the conventional work process, work is completed directly at the work location, while in the digital workplace, work depends on a technology platform that allows for remote collaboration. The presence of digital platforms, as well as the increasing trend of remote *work jobs*, and the gig economy have blurred the boundaries between work time and rest time, creating new challenges in time management and productivity. The development of technology and globalization has brought significant changes in the world of work with the emergence of new concepts in working such as 'gig economy' workers. According to Roscoe's theory *The working relationship between gig workers and companies can be understood as a relationship based on a contractual agreement or partnership*. Legally, partnership is defined as cooperation based on mutual need and mutual benefit involving large and small business actors, as regulated in the Republic of Indonesia Law Number 20 of 2008 concerning Micro, Small and Medium Enterprises (MSMEs). *Roscoe Pound*, is a legal expert known for his *sociological school of thought jurisprudence*, which is more directed at "legal reality" compared to the position and usefulness of law in society. This legal reality essentially reflects the will of society, so it is not only limited to the law written in books (*law in books*). *Sociological Jurisprudence* creates a balance between written law which is needed for legal certainty (*positivism*). *law*) and the law that lives in society (*living law*) as a form of recognition of the important role of society in the formation of law and legal direction. *Pound* 's school of thought emphasizes

the interaction between law and society and in Indonesia, *Pound's thinking* was developed by Mochtar Kusumaatmadja.

According to *Pound's opinion* Law should be understood as a social institution that aims to meet the needs of society. *Sociological Jurisprudence* is a school of thought in legal philosophy that studies the reciprocal relationship between law and society, while the sociology of law is a branch of sociology that analyzes the influence of society on law. Thus, the *Sociological approach Jurisprudence* focuses on the legal aspect and its impact on society, while the sociology of law examines the relationship from the perspective of society towards law. The core of this thinking emphasizes that effective law is law that is appropriate and in harmony with the legal norms that live in society. *Roscoe Pound* views law as a tool of social engineering (*Law as a tool*) of *social engineering and social controle*) aims to create conformity and balance in society, so that it can effectively meet the interests and needs of individuals in society. In his view, justice symbolizes the effort to achieve appropriate and impartial harmony in fighting for the interests of society. In order to achieve this goal, there needs to be coercive power implemented by state authorities to ensure compliance with the law and maintain social balance. To carry out its role as a social engineering tool, *Roscoe Pound* then classified the various interests that must be protected by law into several categories. The first category is the public interest (*interest*), which includes the interests of the state as a legal entity and protection of the interests of society. The second category is the interests of society (*social interest*), which includes protection of peace and order, protection of social institutions, prevention of moral decline, and prevention of rights violations. In addition, social interests also include efforts to improve the welfare of society. The third category is private interests (*private interest*), which focuses on the interests of individuals and families. This classification illustrates the complexity of the role of law in protecting various interests in society. Pound 's classification, two significant main points can be drawn. First, the approach to law can be understood as a means to achieve social goals and sustainable social development. Second, it plays an important role in explaining legal premises, which strengthens the awareness of legislators, judges, lawyers, and legal academics about the principles and values that are relevant in dealing with each specific problem.

In other words, this classification functions to bridge the gap between legal principles and their application in practice, which in turn increases clarity in legal cases and ensures consistency in law enforcement. *Roscoe's Theory Pound* emphasizes the importance of law to create social harmony by balancing various interests in society. In the context of employment, there are several interests that need to be considered . First, the interests of workers which include aspects of health, safety, welfare. Second, the interests of employers who focus on productivity and business profits and the interests of society in general which include order, social welfare. Understanding and accommodating all these interests is very important to create harmonious and sustainable industrial relations , and all parties can feel fair and balanced benefits. *Roscoe Pound* emphasized the importance of balance in making contracts, stating that contracts must reflect the free will of both parties. Therefore, according to Pound, the essence of a contract is achieving a fair and equitable balance. *Pound* emphasized that contracts can function as a means to affirm human existence and human existence. Furthermore, contracts can be further narrowed down to private contracts, which are relevant in the context of the relationship between the parties who make the agreement. The balance in this contract is achieved through the principle of *freedom of contract* , which is in line with *Roscoe's thinking Pound* that every individual should be treated fairly and equally. *Roscoe's theory Pound* in this context to emphasize that the law serves as a tool to achieve social balance, and remains relevant in the regulation of working hours in the digital era. The drastic changes that have occurred in the world of work due to digitalization have significantly changed the landscape of the world of work, blurring the boundaries between work time and free time, especially for workers involved in the digital economy. The flexibility offered by digital work is often used by companies to demand that workers are always available. This poses a challenge in implementing the principle of balance of interests initiated by *Pound*.

In the midst of this dynamic, it is important to re-evaluate the existing legal framework so that it can answer the needs of workers and at the same time maintain company productivity in an increasingly complex work structure. *Pound's* theory is particularly relevant in the context of labor law regulation in the digital era, as it emphasizes the importance of adapting the law to ever-changing social developments. In the digital era, labor law needs to be continuously updated to accommodate new forms of work and emerging challenges, such as flexible work that is often used by companies to reduce traditional working time constraints. While the principle of balancing interests remains important, reinterpretation in different contexts is necessary to ensure the protection of workers' rights without hampering the innovation and flexibility offered by

digitalization. The challenge lies in formulating clear and effective rules that can protect workers' welfare while encouraging technological progress. Using *Pound's framework*, the principle of balancing interests can be used as a guide to formulating fair and sustainable policies, although its implementation in practice requires adjustments to accommodate the dynamics of the world of work that are constantly changing and developing. Challenges in implementation regulation of working hours for *gig economy workers* is the weakness in law enforcement and weak and ineffective supervision, resulting in many violations of established regulations. In addition, low worker awareness of their rights opens up opportunities for employers to violate regulations without significant consequences. Economic pressures to increase productivity and competitiveness often sacrifice worker welfare, as companies tend to prioritize profits over protecting employee rights. In addition, rapid technological developments and changes in the form of work add to the difficulty of updating and adjusting regulations, so that existing regulations are unable to keep up with the dynamics of the labor market.

4. CONCLUSION

The regulation of working hours regulated in Law Number 13 of 2003 has attempted to create a balance between the interests of workers and employers. In this case, theory *Roscoe Pound* is particularly relevant, as he stresses the importance of "*social engineering*" or social engineering through law as a tool to achieve certain social goals. Law is not just a collection of rules, but also functions as an instrument to create fair and humane working conditions, as well as increase productivity. The analysis resulting from the application of *Roscoe's theory Pound* provides a deeper understanding of the complexity of the problem of regulating working hours in the modern era.

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