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An Analytical Study on the Legal Protection of Bank Employees from the Perspective of Indonesian Labor Law

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Abstract: Employee suspension in the banking sector constitutes an administrative measure that creates legal ambiguity within Indonesia's labor law system, particularly regarding the status of the employment relationship during the suspension period. This condition directly affects employees' normative rights, including wages, social security, health protection, and employment continuity. In practice, suspension is commonly imposed in cases involving alleged ethical violations, indications of fraud, or the need for internal investigations in accordance with regulations of the Financial Services Authority. This study aims to analyze the legal status of suspended employees under Indonesian labor law and related regulations, as well as to examine the obligations of employers in ensuring fair protection of employees' rights. This research employs a normative legal method using statutory, conceptual, and case approaches. The findings indicate that suspension does not constitute termination of employment but rather a temporary suspension of work obligations, thereby maintaining the legal employment relationship. Consequently, employees remain entitled to wages and social protection. The absence of specific regulations creates legal gaps that may disadvantage employees. This study recommends the establishment of specific regulations to ensure legal certainty and balanced protection for both parties.

Keyword: Employee Suspension, Employment Status, Labor Law, Workers' Protection, Wages and Social Security, Employment Relationship

INTRODUCTION

The banking industry is one of the most highly regulated sectors and is subject to strict supervision by financial regulators in Indonesia, particularly the Financial Services Authority (Otoritas Jasa Keuangan/OJK). Within the banking work environment, employee discipline, integrity, and accountability play a crucial role, given the inherent public trust attached to financial institutions. As financial intermediaries, banks are responsible for managing public funds prudently; therefore, any violation committed by employees—even at the level of suspicion—can have systemic impacts on public trust and the stability of the national financial system (Prasetyo & Kusumawati, 2022). Consequently, administrative measures against

employees suspected of misconduct, including suspension, are frequently implemented as part of internal disciplinary enforcement mechanisms.

Suspension, or temporary removal from duty, is a common disciplinary measure in the banking sector, particularly in cases involving alleged violations of the code of ethics, indications of fraud, manipulation of customer data, or ongoing internal and external investigations by competent authorities. In some cases, suspension is also imposed as a follow-up to requests from regulators or law enforcement agencies handling cases involving the concerned employees (Mahardika & Firmansyah, 2022). However, in practice, the implementation of suspension often creates significant legal uncertainty for both employees and banks as employers. This ambiguity stems from the absence of explicit and comprehensive regulation on suspension within Law Number 13 of 2003 concerning Manpower, as amended by Law Number 6 of 2023 on Job Creation. Indonesian labor law primarily recognizes two extreme conditions in employment relationships, namely ongoing employment and termination of employment, without providing adequate regulatory space for intermediate conditions such as suspension (Simbolon & Hasibuan, 2023).

The legal issues arising from the lack of specific regulation on suspension relate directly to a fundamental question central to this study: whether suspension constitutes a temporary termination of employment that results in the suspension of wage and benefit obligations, or merely a temporary functional reassignment that does not interrupt the continuity of the employment relationship and all its inherent normative rights. The answer to this question has significant implications for employees' rights, including full wages, access to health and employment social security under BPJS, entitlement to leave, and other rights attached to active employment status (Nugroho & Wicaksono, 2024).

Data from the Directorate General of Industrial Relations Development and Social Security for Workers of the Ministry of Manpower of the Republic of Indonesia indicate a significant increase in labor disputes in the financial and banking sectors. According to the 2023 Annual Report on Industrial Relations Dispute Resolution by the Ministry of Manpower, there were 847 industrial relations dispute cases in the financial and banking sector, representing a 23.4% increase from the previous year's 686 cases. Of these, 312 cases, or 36.8%, were directly related to issues of wages and employee status during the suspension period (Kemnaker RI, 2023).

These figures reflect the urgent need for legal certainty in the implementation of suspension within the banking sector. In the absence of adequate regulation, both employees and banks are placed in legally vulnerable positions. Employees risk losing their rights unlawfully, while banks may face industrial relations disputes that could damage their reputation and incur significant legal costs (Rahmawati & Santosa, 2023). From a juridical perspective, the suspension of bank employees intersects with several interrelated legal instruments that must be examined systematically. First, Law Number 13 of 2003 concerning Manpower, as amended by Law Number 6 of 2023 on Job Creation, serves as the *lex generalis* of labor law. Second, Government Regulation Number 35 of 2021 provides more detailed provisions regarding fixed-term employment agreements, outsourcing, working hours, rest periods, and termination of employment. Third, OJK regulations on banking governance bind banks at the sectoral level. Fourth, collective labor agreements and company regulations function as *lex specialis* within the internal corporate framework (Simbolon & Hasibuan, 2023).

Research by Wirawan and Subiyantoro (2023) on the implementation of labor law in the banking sector found that most industrial relations conflicts related to suspension stem from two main issues. First, the imbalance of bargaining power between banks as employers and employees as workers, exacerbated by the absence of clear legal protection. Second, the lack of employee awareness regarding their legal rights during suspension, leading many to accept

unpaid suspension as normal, even though it contradicts applicable legal provisions. From a comparative labor law perspective, the regulation of employee suspension varies across jurisdictions. Countries with well-developed labor law systems, such as Germany, France, the Netherlands, and the Scandinavian countries, have long explicitly regulated suspension with high standards of worker protection (Hartini & Purwadi, 2022). In Southeast Asia, Singapore and Malaysia have developed more comprehensive legal frameworks than Indonesia in regulating employment relationships during suspension (Tan & Lim, 2023).

This study aims to contribute both academically and practically to the development of Indonesian labor law, particularly in the banking sector. Academically, it seeks to fill the gap in legal literature concerning bank employee suspension, which remains limited. Practically, the findings are expected to serve as a reference for policymakers, bank management, labor unions, and employees in understanding and determining appropriate legal responses to suspension. Specifically, this study aims to: first, analyze the legal status of suspended bank employees; second, examine the normative rights that must be fulfilled during suspension; third, assess inconsistencies between banking regulations and labor law; and fourth, formulate constructive policy recommendations (Nugroho & Wicaksono, 2024).

METHOD

This research is a normative legal research with statutory, conceptual, and case approaches. The data used are in the form of primary, secondary, and tertiary legal materials obtained through library research. The legal materials include labor and banking laws and regulations, OJK regulations, as well as relevant court decisions. The analysis is conducted qualitatively using legal interpretation techniques in a grammatical, systematic, teleological, and comparative manner to identify legal constructions, normative gaps, and to formulate appropriate legal solutions.

RESULTS AND DISCUSSION

Concept and Characteristics of Bank Employee Suspension under Indonesian Labor Law

In Indonesian labor law literature, the term “suspension” is not explicitly defined in Law Number 13 of 2003 concerning Manpower nor in Law Number 6 of 2023 concerning Job Creation. The absence of a formal definition creates broad room for interpretation, which in turn results in diverse and inconsistent practices among banks operating in Indonesia. Etymologically, the term “suspension” originates from the Latin word *suspendere*, meaning to hang or to postpone, which in the labor context refers to a temporary suspension of work obligations without terminating the employment relationship (Mahardika & Firmansyah, 2022).

In Indonesian banking practice, suspension can generally be classified into two main categories based on its purpose. First, preventive suspension, which is applied as a precautionary measure during the investigation process of alleged violations or criminal acts. Its purpose is to prevent the concerned employee from obstructing the investigation, damaging or eliminating evidence, or continuing actions that may harm the bank and its customers. Second, punitive suspension, which constitutes part of a progressive disciplinary sanction after a violation has been proven. This type of suspension is imposed as a penalty for violations that have not reached the level requiring termination of employment, but are sufficiently serious to warrant sanctions beyond mere warnings or written reprimands (Prasetyo & Kusumawati, 2022).

Mahardika and Firmansyah (2022), in their study on suspension mechanisms in the banking sector, found that most major banks in Indonesia regulate suspension through Collective Labor Agreements or Company Regulations. Of the 25 banks included in their sample, 18 regulated suspension within such instruments, 4 had no formal regulation on

suspension, and 3 addressed suspension implicitly through provisions on progressive disciplinary procedures. Nevertheless, these internal provisions are often not aligned with the principles of labor protection guaranteed by law, indicating a gap between internal bank regulations and the higher national labor law framework.

From a banking law perspective, OJK Regulation Number 17/POJK.03/2023 concerning the Implementation of Governance for Commercial Banks stipulates that banks are required to implement robust internal control systems, including in handling cases of alleged misconduct involving employees. This regulation implicitly acknowledges the need for temporary removal from duty for employees under investigation; however, it does not provide adequate guidance regarding the treatment of employees' rights during such periods. This regulatory incompleteness further exacerbates the legal uncertainty already present in Indonesian labor law (Wirawan & Subiyantoro, 2023).

Wirawan and Subiyantoro (2023) also found that, in practice, the duration of employee suspension in banks varies significantly, ranging from a few days to several months. Based on collected data, the average duration of investigative suspension in major Indonesian banks is 47 working days, or approximately two months, with a range from a minimum of 5 working days to a maximum of 180 working days. This substantial variability reflects the absence of clear standards and tends to depend more on managerial discretion rather than definite legal provisions.

The Legal Status of Suspended Bank Employees: Between Termination of Employment and Functional Reassignment

The central question of whether the suspension of bank employees constitutes a form of temporary termination of employment or merely a temporary functional reassignment must be addressed through a careful juridical analysis of the definitions and characteristics of each concept within Indonesian labor law. This analysis is crucial, considering that the differing legal qualifications carry significantly different consequences for employees' rights (Nugroho & Wicaksono, 2024).

Termination of employment, as regulated in Article 1 point 25 of Law Number 13 of 2003 as amended by the Job Creation Law, is defined as the cessation of an employment relationship due to certain reasons resulting in the termination of rights and obligations between the worker and the employer. From this definition, termination of employment has three essential elements: a definitive, not temporary, cessation; based on certain grounds; and resulting in the termination of all rights and obligations. Based on this analysis, suspension cannot be categorized as termination of employment because it does not fulfill the first element; suspension does not definitively end the employment relationship, but merely temporarily suspends the obligation to work (Simbolon & Hasibuan, 2023).

On the other hand, the concept of reassignment (mutation) in labor law refers to the transfer of position, role, or workplace within the same company or group of companies. Reassignment generally does not reduce the normative rights of employees, including wages and benefits, except under certain conditions explicitly regulated in employment agreements or collective labor agreements. However, this concept is also not entirely appropriate to describe suspension, because in suspension, employees are not transferred to another position but are temporarily relieved of all work obligations without any alternative assignment (Prasetyo & Kusumawati, 2022).

The Supreme Court, in Decision Number 267 K/Pdt.Sus-PHI/2023, has provided an important clarification regarding the legal status of suspension. In its ruling, the Supreme Court explicitly stated that suspension carried out by the employer while continuing to pay wages cannot be categorized as termination of employment. Furthermore, the Court emphasized that during the suspension period, the employment relationship remains fully in effect, and

consequently, all employer obligations—particularly the payment of full wages and attached benefits—remain applicable and must not be reduced. This decision constitutes a significant jurisprudence and serves as a primary reference in resolving disputes concerning the suspension of bank employees in Indonesia.

In line with this decision, the Industrial Relations Court of Jakarta, in Decision Number 188/Pdt.Sus-PHI/2022/PN.Jkt.Pst, also affirmed that the suspension of wage payments during investigative suspension constitutes a violation of Article 93 paragraph (2) of the Manpower Law. The Court held that investigative suspension represents a condition in which the employee does not work not by their own will and not due to proven fault, thereby falling within the exception to the “no work, no pay” principle as stipulated in the law (Rahmawati & Santosa, 2023).

Nugroho and Wicaksono (2024), in their doctrinal analysis, argue that suspension constitutes a distinct category of labor administrative action (*sui generis*) that is neither equivalent to termination of employment nor reassignment. Suspension possesses unique characteristics: it suspends the obligation to work without terminating the employment relationship, creating a legal condition in which the employee does not perform work duties but remains, from a juridical standpoint, an active employee entitled to all legal protections attached to such status. This proposition is supported by analogy with the concept of *schorsen* (suspension) recognized in classical Dutch labor law doctrine, which forms one of the foundations of Indonesian labor law.

Hartini and Purwadi (2022), in their comparative study, add a dimension by examining German law, where the concept of *Suspendierung* (suspension) is comprehensively regulated under the *Betriebsverfassungsgesetz* (Works Constitution Act). In Germany, suspension may only be imposed for a limited period and must be accompanied by full wage payment, unless it can be proven that the employee has caused direct harm. This German legal framework may serve as a model for the development of more certain and equitable suspension regulations in Indonesia.

Normative Rights of Bank Employees During the Period of Suspension

Referring to the above legal status analysis, which affirms that suspension does not terminate the employment relationship, suspended bank employees remain active employees bound by a valid employment relationship. The most fundamental juridical consequence of this status is the continued applicability of all employees’ normative rights during the suspension period. These rights can be categorized into several main clusters, each with its own legal basis and protection mechanisms (Simbolon & Hasibuan, 2023).

The first cluster is the right to wages and financial compensation. Article 93 paragraph (1) of Law Number 13 of 2003 establishes the basic principle of “no work, no pay,” which states that wages are not paid if the employee does not perform work. However, this principle is balanced and limited by Article 93 paragraph (2), which provides comprehensive exceptions. Paragraph (2) stipulates that employers are obligated to pay wages if employees are unable to perform their work due to justified reasons, including illness, fulfilling obligations to the state, performing religious duties, exercising rest rights, and carrying out trade union activities. Although suspension is not explicitly mentioned, employers remain obligated to pay wages based on a systematic and teleological interpretation of the overall worker protection provisions in the Manpower Law (Mahardika & Firmansyah, 2022).

An empirical study conducted by Prasetyo and Kusumawati (2022) on 20 banks (15 private national banks, 3 state-owned banks, and 2 foreign banks) found significant disparities in wage payment practices during suspension. Eight banks implemented a 50% wage reduction during investigative suspension on the grounds that employees were not performing productive functions. Five banks suspended all wage payments until the investigation process was

completed and the employee's status was determined definitively. Only seven banks consistently paid full wages during suspension, generally based on provisions in Collective Labor Agreements that explicitly regulated the matter. These practices of wage reduction or suspension clearly contradict existing legal provisions and constitute violations of employees' normative rights.

The second cluster is the right to social security protection. Based on Law Number 40 of 2004 concerning the National Social Security System and Law Number 24 of 2011 concerning BPJS, the employer's obligation to register employees and pay contributions to BPJS Employment (covering work accident insurance, old-age security, pension security, and death benefits) and BPJS Health does not cease as long as the employment relationship continues. Since suspension does not terminate the employment relationship, these obligations remain fully applicable. The suspension of BPJS contribution payments during the suspension period not only causes financial harm to employees but may also deprive them of their entitlement to social security benefits if a covered risk occurs during that period (Wirawan & Subiyantoro, 2023).

The third cluster is the right to leave and rest entitlements that have already accrued. Based on Article 79 of the Manpower Law, annual leave rights that have accrued to employees do not lapse merely because the employee is under suspension. The suspension period cannot be counted as a substitute for annual leave unless there is a written agreement voluntarily made between the employee and the bank. Practices by some banks that treat the suspension period as the consumption of employees' annual leave quotas are legally invalid and may be challenged through industrial relations dispute resolution mechanisms (Hartini & Purwadi, 2022).

The fourth cluster is the right to protection of dignity and reputation. Bank employees who are suspended during the investigation process should be treated in accordance with the presumption of innocence, which is a fundamental principle in the Indonesian legal system based on the rule of law (*rechtsstaat*). Actions by banks that publicize the suspension status of employees—whether through internal announcements, dissemination of information to business partners, or communication to customers—prior to legal certainty regarding the employee's wrongdoing may be categorized as unlawful acts under Article 1365 of the Civil Code, resulting in immaterial losses to the employee (Simbolon & Hasibuan, 2023).

The fifth cluster is the right to procedural certainty and transparency. The principle of due process in labor law requires that any administrative action affecting employees' rights be carried out through clear and transparent procedures, providing employees with the opportunity to defend themselves. Suspension decisions must be communicated in writing to the employee, specifying the legal basis, duration of suspension, conditions of suspension, and available appeal mechanisms if the employee objects. The absence of transparent procedures not only violates due process principles but may also weaken the legal position of the bank if the dispute is subsequently brought before the courts (Nugroho & Wicaksono, 2024).

Juridical Analysis Based on the Job Creation Law and Its Implementing Regulations

The enactment of Law Number 6 of 2023 on Job Creation (the Job Creation Law), which replaces several provisions of Law Number 13 of 2003 concerning Manpower, introduces a new dimension that must be analyzed in the context of bank employee suspension. Although the Job Creation Law does not specifically regulate suspension—an unfortunate legislative omission—several of its amendments have relevant implications for mechanisms in handling problematic employees within the banking sector (Rahmawati & Santosa, 2023).

One of the significant changes introduced by the Job Creation Law is the restructuring of provisions concerning termination of employment, which are now regulated more comprehensively under Articles 151 to 172 of the amended Manpower Law. In particular,

Article 151 stipulates the obligation of employers and employees to make efforts to avoid termination of employment through various measures, including reduction of wages and benefits, reduction of working hours, and temporary cessation of activities. This provision further strengthens the argument that before an employment issue results in termination, there exist intermediate instruments that may be applied, and suspension can be understood as one of such instruments (Rahmawati & Santosa, 2023).

Government Regulation Number 35 of 2021, as an implementing regulation of the Job Creation Law, provides more detailed provisions regarding termination procedures. Article 36 of Government Regulation Number 35 of 2021 stipulates that in the process of termination that has not yet received a court decision or agreement between the parties, the employer may release the employee from the obligation to work while continuing to pay wages. This provision—commonly referred to as “suspension pending termination” in industrial relations practice—formally acknowledges the existence of a temporary suspension of work obligations as a legitimate mechanism within Indonesian labor law.

Nugroho and Wicaksono (2024) argue that Article 36 of Government Regulation Number 35 of 2021 implicitly recognizes suspension as a legitimate human resource management instrument within the Indonesian labor law system. This argument is reinforced by the application of the legal principle *a fortiori*: if in the process of termination—which constitutes a more severe and definitive action—the employer is still required to pay wages, then in the case of suspension, which is temporary and does not lead to termination, the obligation to pay wages must also apply, even with the same or stricter standards.

In the context of banking regulation, OJK Regulation Number 17/POJK.03/2023 concerning the Implementation of Governance for Commercial Banks emphasizes the obligation of banks to apply principles of good governance in all aspects of their operations, including human resource management. The principle of fairness, as one of the five pillars of Good Corporate Governance, requires banks not to unilaterally or arbitrarily deprive employees of their rights during the investigation process. Furthermore, OJK Regulation Number 27/POJK.03/2022 concerning Fit and Proper Test provides mechanisms for the temporary suspension of bank management or officials during the assessment process, which may serve as a normative analogy in regulating the suspension of bank employees in general (Wirawan & Subiyantoro, 2023).

Hartini and Purwadi (2022), in their study analyzing the conformity of Indonesian banking suspension practices with International Labour Organization (ILO) standards, found that Indonesia still lags significantly behind international protection standards. ILO Convention No. 158 on Termination of Employment and Recommendation No. 166, as its complementary instrument, provide clear guidance that during investigations of alleged misconduct, employees are entitled to full wages unless it can be proven that they have caused direct harm. Although Indonesia has not ratified ILO Convention No. 158, these provisions may serve as benchmarks of international best practices that should guide the development of national labor law.

Juridical Analysis Based on the Job Creation Law and Its Implementing Regulations

One of the most critical findings of this study is the existence of significant inconsistencies between banking regulations issued by the Financial Services Authority (OJK) on the one hand and the prevailing labor law provisions on the other, particularly concerning the mechanisms for handling problematic bank employees. This inconsistency creates a normative dilemma that is not easily resolved without systematic regulatory harmonization (Rahmawati & Santosa, 2023).

On the one hand, OJK regulations require banks to promptly take administrative actions against employees suspected of being involved in serious violations, including removal from duty (which in practice is interpreted as suspension), as part of prudent internal control

mechanisms. This provision reflects the regulator's interest in maintaining the integrity of the banking system and protecting customer interests and financial stability. From this perspective, employee suspension is not only permitted but, in certain circumstances, mandatory (Simbolon & Hasibuan, 2023).

On the other hand, labor law obliges banks to continue fulfilling all obligations toward suspended employees, including the payment of wages and benefits, payment of BPJS contributions, and the fulfillment of other normative rights. In the absence of explicit regulations governing how these two interests should be reconciled, banks are placed in an uncomfortable position between two demands that both have strong legal foundations (Nugroho & Wicaksono, 2024).

Wirawan and Subiyantoro (2023) identify at least five points of inconsistency between banking regulations and labor law related to suspension. First, the issue of suspension duration: OJK regulations do not limit how long an employee may be suspended, whereas the principle of legal certainty in labor law requires a clear time limit. Second, the issue of wages: OJK regulations do not explicitly regulate the obligation to pay wages during suspension, creating room for interpretation that suspension may be carried out without pay. Third, the issue of procedures: OJK regulations primarily address aspects relevant to prudential supervision, while due process from the employee's perspective receives insufficient attention. Fourth, the issue of restoration of reputation: there is no specific mechanism regulating how banks should restore the reputation of employees proven not guilty after the suspension period ends. Fifth, the issue of reintegration: there is no guidance on how employees who are proven not guilty should be reinstated to their original positions with all rights fully restored.

Addressing these inconsistencies requires a comprehensive approach and coordination between the Ministry of Manpower as the labor regulator and OJK as the banking regulator. Ideally, the Ministry of Manpower should issue a Ministerial Regulation on employee suspension mechanisms applicable across all sectors, which should then be followed by OJK regulations that

Comparative Perspective on the Legal Protection of Suspended Bank Employees Across Countries

To enrich the analysis and provide references for the development of Indonesian labor law, a comparison with practices and regulations in several relevant countries is highly valuable. This comparative approach is not intended to adopt foreign legal systems in their entirety, but rather to identify best practices that can be adapted to the legal and social context of Indonesia (Hartini & Purwadi, 2022).

In Malaysia, the Industrial Relations Act 1967 and the Employment Act 1955 jointly provide relatively comprehensive protection for suspended employees. The main principle upheld is that suspension with full wage payment constitutes a minimum standard that cannot be reduced by employment agreements, except where there is a clear legal basis justifying such reduction. In addition, Malaysia has specific provisions on "suspension pending inquiry," which explicitly regulate a maximum of two weeks of suspension without pay as an immediate measure, after which full wages must be paid until the investigation is completed (Tan & Lim, 2023).

In Singapore, the Employment Act (Cap. 91A) provides strong protection for employees in the context of suspension. The law stipulates that employers cannot arbitrarily suspend wage payments during a suspension period exceeding two working days without the employee's written consent. This practice is supported by the Tripartite Alliance for Fair and Progressive Employment Practices (TAFEP), which issues guidelines on fair suspension practices, requiring transparent communication and fair procedures in the implementation of suspension (Tan & Lim, 2023).

In Australia, the Fair Work Act 2009 provides a mechanism closest to suspension in the context of Indonesian labor law, namely the stand down provisions regulated in Part 3-5 Division 3. Stand down is permitted under conditions of force majeure or operational incapacity that cannot be avoided, but it does not apply in the context of employee investigations. For investigative cases, the Fair Work Commission has developed strong jurisprudence affirming that employers are required to pay full wages during the investigation period, and that the duration of investigations must be proportional to the complexity of the case (Nugroho & Wicaksono, 2024).

In Germany, the Betriebsverfassungsgesetz and the Bürgerliches Gesetzbuch (BGB) jointly regulate employee suspension in a highly comprehensive manner. German law adheres to the principle that suspension (Suspendierung) without pay is only permissible as part of a disciplinary process that has reached a certain stage and must follow strict procedures, including the involvement of the works council (Betriebsrat). For investigative suspension, full wages must be paid without exception, and the bank or company is required to bear all investigation-related costs, including the employee's legal expenses if the employee is proven not guilty (Hartini & Purwadi, 2022).

The comparative experiences from these four countries consistently demonstrate two key principles: first, full wage payment during investigative suspension is a minimum standard that cannot be reduced; and second, transparent, fair, and time-limited procedures are prerequisites for the validity of suspension measures. These principles are aligned with the direction of Indonesian labor law development, which emphasizes worker protection and legal certainty, and should serve as a foundation for the formulation of comprehensive regulations on bank employee suspension in the future (Tan & Lim, 2023).

Toward an Ideal Legal Framework for the Regulation of Bank Employee Suspension in Indonesia

Based on the entire analysis above, an ideal legal framework can be formulated as the regulatory basis for bank employee suspension in Indonesia. This legal construction is built upon the fundamental principles of labor law that protect workers' interests, while also taking into account the interests of banks in maintaining integrity and compliance with banking regulations (Wirawan & Subiyantoro, 2023).

First, suspension regulation must explicitly define suspension as a distinct type of labor administrative action (*sui generis*), different from termination of employment and reassignment, yet not terminating the employment relationship. This definition is essential to provide legal certainty that has thus far been lacking and to serve as the basis for regulating the rights and obligations of the parties during the suspension period (Rahmawati & Santosa, 2023).

Second, the regulation must establish a proportional maximum duration for suspension. Based on comparisons with practices in various countries and considering that banking investigations generally require more time than those in other industries, a limit of 60 working days for investigative suspension, with a possible extension of 30 working days through bipartite agreement or determination by an industrial relations mediator, may be considered a reasonable standard (Nugroho & Wicaksono, 2024).

Third, the regulation must explicitly stipulate the obligation to pay full wages during the investigative suspension period, with the provision that wage reductions may only be applied after the employee's fault has been proven through a lawful and fair process. The obligation to pay contributions to BPJS Employment and BPJS Health must also be explicitly stated to remain in effect throughout the suspension period, without exception (Simbolon & Hasibuan, 2023).

Fourth, the regulation must establish suspension procedures that meet due process standards, including: written notification to the employee accompanied by a clear explanation of the reasons for suspension; the employee's right to be accompanied by legal counsel or a trade union representative; the employee's right to provide explanations and defend themselves; the obligation of the bank to complete the investigation within the stipulated time frame; and an appeal mechanism against suspension decisions deemed invalid (Hartini & Purwadi, 2022).

Fifth, and equally important, the regulation must explicitly govern the obligation of banks to fully restore the rights of employees who are proven not guilty after the suspension period ends. This restoration must include: reinstatement to an equivalent or better position; payment of any outstanding wages and benefits; restoration of the employee's reputation through official notification to all relevant parties; and compensation for immaterial losses suffered as a result of unjustified suspension (Wirawan & Subiyantoro, 2023).

CONCLUSION

Based on the comprehensive juridical analysis conducted in this study of various legal instruments, court jurisprudence, and relevant scholarly literature, several key conclusions can be drawn. First, the suspension of bank employees, whether preventive or punitive in nature, does not constitute termination of employment but rather a temporary suspension of work obligations that does not sever the continuity of the employment relationship. During the suspension period, the employment relationship remains fully in effect, and therefore banks are obligated to fulfill all legal obligations toward employees, including the payment of full wages, contributions to BPJS Employment and BPJS Health, and the protection of other normative rights. This conclusion is supported by the jurisprudence of the Supreme Court in Decision Number 267 K/Pdt.Sus-PHI/2023 and the Industrial Relations Court of Jakarta in Decision Number 188/Pdt.Sus-PHI/2022/PN.Jkt.Pst.

Second, there exists a significant legal vacuum within the Indonesian labor law system regarding the mechanism of employee suspension, particularly in the banking sector. The absence of explicit and comprehensive regulation has led to inconsistent practices that disadvantage employees and increase the potential for industrial relations disputes. Normative reconstruction through systematic and teleological interpretation of Article 93 of the Manpower Law, Government Regulation Number 35 of 2021, and OJK regulations may serve as a temporary solution, but it cannot fully substitute the need for clear and comprehensive regulation. Third, comparative analysis with the legal systems of Malaysia, Singapore, Australia, and Germany demonstrates that full wage payment during investigative suspension and the implementation of transparent and fair procedures constitute minimum international standards that should also be adopted within the Indonesian labor law system.

Fourth, the government, through the Ministry of Manpower in coordination with the Financial Services Authority (OJK), should promptly formulate and enact specific regulations governing employee suspension comprehensively, including legal definitions, types of suspension, maximum duration, obligations regarding wages and social security, due process procedures, and mechanisms for restoring the rights of employees proven not guilty. Such regulation is expected to provide legal certainty for all parties while strengthening the competitiveness of Indonesia's industrial relations system in the global context.

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