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Legal Protection of Workers' Rights for Victims of Workplace Accidents: A Cross-National Comparative Analysis in the Context of Worker Welfare

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Abstract: Workers' rights to occupational safety are defined as rights that must be considered by all countries as stated in article 23 of the Universal Declaration of Human Rights. Through this, the author is interested in conducting research as a form of achieving better worker welfare and also aims to provide insight for policy makers to improve and develop regulations related to worker safety and health. This study uses a comparative method that compares regulations in Iceland, Canada, Belgium, Singapore, Australia with regulations in Indonesia using a legal research approach and a conceptual approach. The novelty in this study is to conduct a comparative study of the six countries in achieving worker welfare through aspects of worker health and safety. However, of course Indonesia needs to make other considerations in determining regulations or policies that will be adopted through implementation in other countries.

Keyword: Workers Rights, Workers Welfare, Work Accidents, Occupational Health and Safety.

INTRODUCTION

Workers' rights to workplace safety have been defined as fundamental rights that must be fulfilled by all nations and are part of human rights, as enshrined in Article 23 of the Universal Declaration of Human Rights (OHCHR, 1948; United Nations, 1948). From this perspective, the International Covenant on Economic, Social, and Cultural Rights also stipulates that state parties to the covenant must recognize the right of every individual to attain justice in terms of both employment opportunities and the conditions of employment, including aspects such as wages, safe and healthy working conditions, equal opportunities, and rest periods (Dirkareshza et al., 2023; OHCHR, 1948, 1976). Therefore, protection of life and safety at work constitutes a fundamental right that workers must receive, or in other words, decent work is inherently linked to the safety of its workers (Alli, 2008).

Furthermore, according to Article 27 paragraph (2) of the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as UUD NRI 1945), every citizen has the right to employment and a livelihood that is humane. Essentially, Article 86 of Law Number 13 of 2003 on Employment (hereinafter referred to as the Employment Law) states that every worker has the right to protection regarding occupational safety and health, moral decency, and treatment that respects human dignity and religious values.

Therefore, this aligns with the aspirations or objectives of the Sustainable Development Goals (hereinafter referred to as SDGs), specifically Goal 8: Decent Work and Economic Growth, one of its main focuses is to promote inclusive and sustainable economic growth by creating employment opportunities and decent jobs for all. This goal implies providing both remuneration and a sense of security in terms of occupational and economic safety, thereby fostering a decent life (Michelia Valerie Japian et al., 2021). It also looks at specific SDG target 8.8, which emphasizes the protection of labor rights to create a safe and secure work environment for all workers, including migrant workers, particularly female migrant workers, and those in hazardous jobs.

Furthermore, the concept of decent work can be understood as part of the foundation of the physical work environment, which needs to ensure safety, health, and protection from hazards. Thus, it is recognized that workers are part of the human resources who play a role as implementers within a company or work unit. In running a business, legal protection and occupational safety for its workers are essential. Such actions are a manifestation of protection for workers, aimed at preventing the loss of income due to workplace accidents, which can occur due to negligence or the company's lack of attention to ensuring the safety and health of its workers (Pramas Cahya & Asyhadie, 2023).

The concept of workplace accidents has also been defined by Bird and Germain in their book, which describes a workplace accident as an unwanted or unplanned event that may or may not cause property damage, injury to a worker, cessation or disruption of work progress, or a combination of impacts causing loss (Bird & Germain, 1966). Furthermore, the Domino Effect theory, proposed by H. W. Heinrich, characterizes workplace accidents as unplanned and uncontrollable events caused by an object, substance, person, or radiation that results in injury or the potential for personal injury to workers. In his theory, he classifies the causes of workplace accidents into two categories: unsafe human actions (unsafe action) and unsafe conditions (unsafe condition) (Agustian et al., 2020; Heinrich et al., 1980; Wahyuni, 2020).

According to a report titled “A Call for Safer and Healthier Working Environments” published by the International Labour Organization (ILO), more than 395 million workers worldwide experience non-fatal work-related injuries, and 2.93 million workers die due to work-related factors, an increase of over 12% compared to the year 2000. The rise in workplace accidents corresponds with a 26% increase in the global labor force from 2.75 billion to 3.46 billion (International Labour Organization, 2023; Takala et al., 2024). Additionally, data from the Asia Pacific region, which holds the world's highest population, indicate that it contributes to 63% of global deaths resulting from workplace accidents.

Moreover, focusing on workplace accident cases in Indonesia as published by the Social Security Administration Agency for Employment (BPJS Ketenagakerjaan), the number of workplace accident cases in Indonesia from January to May 2024 has reached 162,327 incidents. In this data, the Social Security Administration Agency has divided the cases into three membership segments: wage recipients, non-wage recipients, and construction services. The details show that about 91.82% of accidents occurred among wage-recipient participants, 7.26% among non-wage recipients, and 0.91% among construction service participants

Source: (BPJS Ketenagakerjaan, "Jumlah Kasus Ketenagakerjaan di Indonesia", satudata.kemnaker.go.id, 2024 diolah oleh penulis)

Figure 1. Number of Work Accidents in Indonesia in May 2024

In essence, examining the distribution map of workplace accidents reveals that Java Island has the highest number of workplace accidents, as evident from the data for May 2024. Additionally, according to the annual report of the Social Security Administration Agency on total work accident insurance claims over the last seven years, from 2016 to 2022, there has been a consistent increase in claims (Priono, 2024). Hence, these data indicate that workplace accidents are likely to continue rising in line with the increase in the workforce.

In this context, it is evident that the role of legal protection and clear policies regarding the rights of workers who are victims of workplace accidents is a manifestation of the law's role as an embodiment of justice. Given the function of enforcing worker protection rights in ensuring workplace safety in Indonesia, the involvement of legal and policy aspects is necessary to create a safe and healthy work environment. However, based on field facts, there are several inhibiting factors in its implementation, such as a lack of understanding by employers about the importance of worker protection rights and low awareness among workers of their rights and obligations (Riyadi & Thalib, 2021; Sinaga & Zaluchu, 2017). On the other hand, overall, the implementation of worker protection rights in ensuring workplace safety requires collaboration between the government, employers, and workers to create a safer and fairer work environment, thus preventing inconsistencies that create barriers for workers who are victims of workplace accidents in accessing healthcare services.

Several previous studies support a more comprehensive writing due to their similarity in perspectives related to mechanisms that can be a reason to enhance worker welfare through changes in a country's economic structure to assist or compensate victims of workplace accidents, and the comparison of rules from various countries summarized in this article (Philipsen, 2007). Additionally, according to a reputable international journal titled "Life Chances: Labor Rights, International Institutions, and Worker Fatalities in the Global South" by Jasmine Kerrissey and Jeff Schuhrke, published in 2016, this research shares a view on fulfilling collective worker rights as a manifestation of human rights, where workers are free to assemble, thereby enhancing worker welfare and reducing work-related fatalities or accidents (Kerrissey & Schuhrke, 2016). Lastly, in a national journal by Putu Rini Situmeang, Lia Ulvi Miranata, and Ayu Pebrianti titled "Effectiveness of the Occupational Safety and Health Management System (SMK3) in Reducing Workplace Accident Rates in Batam City", a commonality with previous research includes views on the lack of strictness in supervising

the implementation of safety and health regulations, leading to workplace accidents due to non-compliance by workers or even companies.

However, previous studies have identified differences as follows: First, in the research conducted by Niels J. Philipsen, some data are no longer credible because the book was published in 2007, necessitating an adjustment. Second, the journal written by Jasmine Kerrissey and Jeff Schuhrke presents a different perspective in terms of the subject matter intensity because it discusses the mechanisms and workings of politics that significantly affect worker freedoms, whereas this article conceptualizes or addresses the fulfillment of workers' rights under applicable law to achieve worker welfare. Third, this research differs significantly from this article in that it only covers the effectiveness of the occupational safety and health management system and focuses solely on the Batam region, whereas this article discusses the rights to be received by victims of workplace accidents in the context of worker welfare with a comparative analysis across several countries.

The novelty of this research is a comparative legal study on the rights of workers who have suffered workplace accidents from four continents, particularly consisting of six different countries. Through this, it aims to generate constructive suggestions for creating an ideal mechanism concept that can be implemented by Indonesia. This research also has several objectives, namely: first, to identify the policies on the rights of workers who are victims of workplace accidents by comparing regulations and policy implementations in various countries. Second, to analyze the appropriate mechanisms that can be used as references in developing policies to achieve worker welfare in Indonesia. Therefore, this research is expected to encourage further steps in achieving welfare for workers who are victims of workplace accidents.

METHOD

In this research article, the authors utilized a comparative legal method. Comparative law, as understood, is a form of study involving the comparison of legal systems with the objective of acquiring knowledge for both theoretical and practical purposes. In line with the views of Zweigert and Kötz, comparative law is an intellectual activity with law as the object and comparison as the core of its research activities. Therefore, it is recognized that comparative law encompasses comparisons among various legal systems aimed at identifying similarities and differences (Dirkareshza et al., 2024; Ismoyo, 2019; Solikin, 2021).

Following this, the identified similarities and differences prove useful in resolving methodological issues related to tasks and studies of foreign law (Mousourakis, 2019). Consequently, the use of the comparative legal method indirectly forms constructive suggestions that can be implemented in Indonesia. In conducting this research, the authors compared legal regulations and policies in Canada, Iceland, Belgium, Singapore, and Australia with those in Indonesia to develop legal protection for the rights of workplace accident victims, aiming to enhance their welfare.

In addition to the comparative legal method, this article also utilizes a Conceptual Approach and a Statute Approach. According to (Solikin, 2021), a Conceptual Approach is a legal approach that generates new ideas or concepts for rules or policies. It serves as a foundation for researchers, grounded in doctrines and the views of experts in the development of legal science (Ismoyo, 2019; Muhaimin, 2020). Furthermore, the Statute Approach involves a legal method of reviewing laws and regulations pertinent to this research, serving as a comparative sample to explore the concept of legal protection for victims of workplace accidents to achieve worker welfare.

Primary data referenced in the article writing process includes:

1. Indonesia
a) Law Number 1 of 1970 on Workplace Safety
b) Law Number 13 of 2003 on Employment
2. Kanada
a) Canada Occupational Health and Safety (OHS) Regulations (SOR./86-304)
b) Canada Labour Code (CLC) R.S.C., 1985, c. L-2
3. Iceland
a) Act on Working Environment, Health, and Safety in Workplaces, No. 46/1980, as amended by act No. 81/2018.
4. Belgia
a) Act of 4 August 1996 on well-being of workers in the performance of their work (Belgian Official Gazette 18 September 1996)
5. Singapura
a) Workplace Safety and Health Act 2006 (WSHA)
b) The Employmeny Act 1968 (EA)
c) Work Injury Compensation Act 2019 (WICA)
6. Australia
a) Fair Work Act 2009
b) The Work Health and Safety Act 2011, No. 137/2011, as amended by act No. 36/2020

Using these data, several stages or advanced techniques are implemented to maximize the results. The following techniques are appropriate for analyzing various regulations or policies implemented by countries to provide legal protection to workers who are victims of workplace accidents. First, a comparative analysis technique involves data analysis by comparing policies or regulations across countries through document studies, interviews, and observations (Marx et al., 2014). This technique helps identify the actual worker welfare concepts in other countries' regulations and policies. It will identify differences or similarities with legal approaches, protection rights for victims, and obligations of companies or governments. Second, a qualitative analysis technique is used to interpret the collected data, which will then be categorized and analyzed thematically (Haryanto & Sakti, 2024; Juliet & Strauss, 2015). This technique aids in understanding the experiences of workers or their families concerning the challenges they face in achieving fairness when they become victims, as well as effective practices or policies in fulfilling legal protection for the rights of workers who are victims of workplace accidents. Third, the Cost and Benefit Analysis (CBA) method is intended to assess policy-making plans (Humas BPHN, 2020; Humas dan Kerja Sama, 2015; Kasim & Asrifai, 2021).

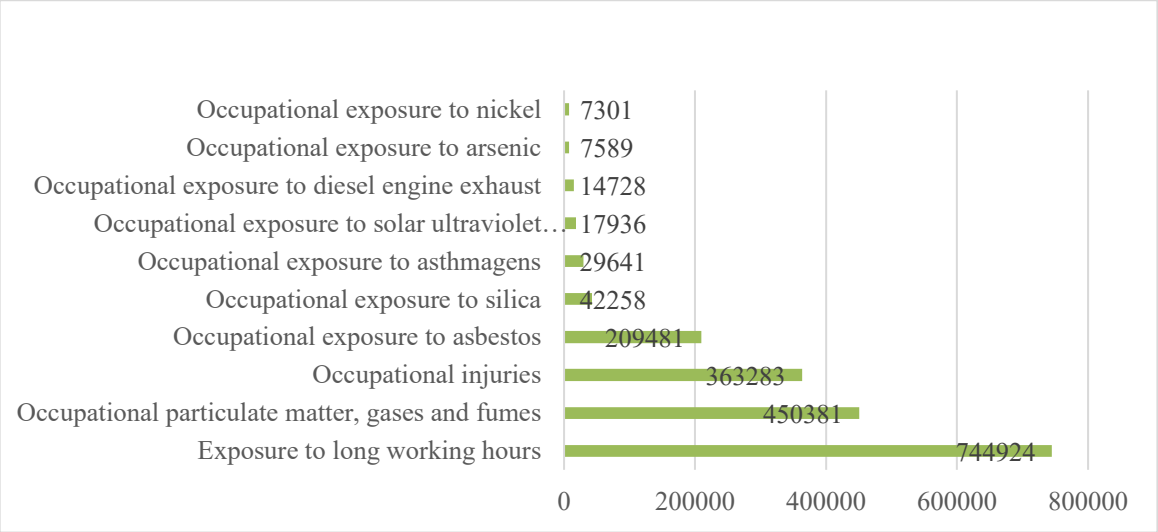
RESULTS AND DISCUSSION

Worker Rights Protection Policies for Workplace Accident Victims Across Countries in the Context of Worker Welfare

The importance of implementing worker welfare (employee well-being) has garnered special attention in several countries, as it not only relates to enhancing the quality of life for workers but also closely correlates with increased company productivity and worker retention in those countries. According to the Workplace Learning Report 2024 published by LinkedIn, 90% of companies worldwide are concerned about worker retention rates (LinkedIn Learning, 2024). Consequently, in 2023, improving worker retention became one of the special focuses among the four main areas of improvement in global companies.

Furthermore, fulfilling each of the workers' rights becomes a primary solution in enhancing worker welfare, which indirectly can enhance the company's image and increase its productivity. Therefore, improving worker welfare aligns with a solution that optimizes efforts to reduce the risk of workplace accidents.

Achieving worker welfare undoubtedly faces several challenges, such as the lack of adequate social protection or, in other words, insufficient coverage for workplace accident insurance. This aligns with the statement by Kurniasih Mufidayati, the Vice Chair of Commission IX of the Indonesian House of Representatives, regarding the large number of workers who do not receive adequate social protection, especially concerning workplace accident insurance (Commission IX, 2023). Additionally, Article 1 number 1 of Law Number 40 of 2004 on the National Social Security System states that social security is a form of social protection intended to guarantee a decent standard of living for all people.



Source: (International Labour Organization, "Statistic and Database", ilo.org, 2023 diolah oleh penulis)

Figure 1. Top 10 Occupational Risk Factor and Total Number of Attributes Deaths

Thus, the importance of social security, especially insurance against workplace accidents, aligns with the urgency of reducing the risk of workplace accidents and enhancing worker welfare. According to a report by the ILO, approximately 2.78 million workers die annually from occupational diseases and accidents, with 13.7% resulting from workplace accidents. Furthermore, about 860,000 workers experience workplace accidents daily worldwide, and 6,400 workers die from occupational diseases and accidents every day (Agustian et al., 2020; Sukmawati, 2020). The ILO also identifies three main factors contributing to workplace accidents: human factors, job factors, and environmental factors. A survey conducted by the ILO identified the ten leading causes of occupational diseases and accidents with the highest mortality rates. Therefore, to mitigate these severe outcomes, it is imperative for countries to develop policies and regulations aimed at reducing workplace accident cases and protecting the rights of the victims. The following are some countries and their policies on the prevention and protective measures for workplace accident victims:

1. Iceland

Iceland is a country with a high quality of life index, reflecting its strong performance in aspects of worker welfare, including employment, health, environmental quality, social connections, civic engagement, and even safety and life satisfaction (Gudmundsdottir & Fries-Tersch, 2016). According to data published by Hagstofa Islands in the category of Starfsánægja in 2022, 90.8% of individuals reported satisfaction with safety, social health, and work-life balance (Hagstofa Islands, 2022). This demonstrates that the country has a reputation for effectively ensuring the protection of workers' rights. In addition to the high level of societal welfare, the Icelandic government has established several regulations to support legal certainty for its citizens. The country's arrangements, both nationally and internationally, ensure workers' rights with legal protection.

Iceland's government participates in supporting the legal protection of the importance of occupational safety and health in the international legal aspect by ratifying the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), the Occupational Safety and Health Convention, 1981 (No. 155), the Occupational Safety and Health Recommendation, 1981 (No. 64), and other instruments related to the protection of workers' rights in social guarantees, particularly in aspects of safety and health at work. Based on the rationale in conventions as established by the ILO, it is explained that workplace accidents, diseases, and even deaths have a negative effect on both workers and employers. Ásmundur Einar Daðason, the Minister of Social Affairs and Children from 2019-2021 noted that the ILO conventions promote a culture of preventive safety and health and progressively achieve a safe and healthy work environment. Therefore, Iceland has ratified 24 international labor conventions and one international protocol related to these issues. Furthermore, Iceland is a part of the Agreement on the European Economic Area (EEA Agreement), which has specific provisions in the field of occupational health and safety (Gudmundsdottir & Fries-Tersch, 2016).

2. Belgium

Workplace safety and health in Belgium are covered under the Act of 4 August 1996 on the well-being of workers in the performance of their work (Belgian Official Gazette, 18 September 1996) and royal decrees. The enactment of this law modified Belgian law by amending the Framework Council Directive 89/391/ECC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work. The legal contributions and decisions made by the royal decrees eventually led to the formation of “le Code sur le bien-être au travail” (the Code on Well-being at Work). This code applies to every employer who employs at least one worker and in its implementation, the Act of 4 August 1996 is applicable to both the private sector and public services. Essentially, the presence of this code gradually replaces previous regulations for worker protection with the Règlement général pour la protection du travail – RGPT, in effect since 1947 (Service public fédéral Emploi, 2020). While the RGPT regulations provided detailed and prescriptive articles, the Code on Well-being at Work is based on a new, object-oriented style from the framework directive. A key feature of the workplace code is the emphasis on prevention and the extension of the concept of safety and health at work to meet the concept of worker welfare. Worker welfare can be defined as an ensemble of factors related to working conditions, including safety and health, psychosocial aspects, ergonomics, workplace hygiene, and workplace enhancement (Philipsen, 2007).

Besides internal services, there are also external services that can be useful for prevention and protection with a multidisciplinary preventive approach and a primary focus on risk assessment. This is embodied in Art. 40 of the Act of 4 August 1996 on the well-being of workers in the performance of their work, which states that the provision of external services as a form of prevention and protection at the workplace requires accreditation from the Federal Public Service Employment, Labour, and Social Dialogue, and must have an ISO9001 certified system. Furthermore, through the obligations to establish internal and external services as protection and prevention for workers, in the embodiment of the concept of worker welfare in the aspect of protecting the rights of workers as victims of occupational diseases and accidents, Belgium also has policies regarding compensation bodies and insurance to assist in the implementation of prevention policies, studies and analysis of workplace accidents, studies, and risk assessments, actions in the field of information, as well as training and promotion for workers and employers.

Assuralia is one example of a professional association of private insurance companies representing both Belgian and foreign community insurance operating in Belgium. Besides private insurance professionals, Assuralia Belgium also has a public institution under the

supervision of FPS Security and managed by the Management Committee, which consists of representatives of employer and employee organizations. According to this description, the public institution is known as the Federal Agency for Occupational Risks (Fedris) (FEDRIS, 2023). Historically, Fedris was formed from the merger of two previous companies, the Fonds Des Accidents du Travail and the Fonds Des Maladies Professionnelles. Therefore, fundamentally, Fedris is a public social security agency ensuring that the rights of victims of workplace accidents and occupational diseases are respected.

3. Canada

Canada has laws and public policies aimed at protecting the rights of workers. The presence of regulations concerning equality in the workplace is encapsulated in the Canadian Human Rights Act and the Employment Equity Act. Broadly, the Canadian Human Rights Act addresses prohibitions against discrimination based on gender, race, ethnicity, or other grounds, while the Employment Equity Act mandates employers to take active steps to enhance employment opportunities for specific groups, such as those with disabilities. Additionally, the responsibilities of employers towards workers and the respect for workers' rights are more clearly regulated in the Canada Labour Code (CLC) R.S.C., 1985, c. L-2, which serves as the implementing rule or Lex Specialis for the Canada Occupational Health and Safety (OHS) Regulations (SOR./86-304).

Specifically located within the CLC, Part II, Sec. 123(1), it is stated that the presence of this code does not diminish or negate any rights of workers as outlined in the Canadian Human Rights Act. Consequently, in the legal framework of Canada, there is no overlap in regulations. Instead, one rule synchronizes with another to create better legal certainty. A deeper look into Part II of the CLC reveals the division of strong roles to the parties (both workers and employers) in implementing, identifying, and resolving issues related to health and safety at work. Historically, the provisions within this code are designed to empower both employers and workers to address health and safety issues independently, thus creating a safer workplace environment. The Canada Labour Code or CLC also discusses workers' rights, including the right to know, the right to participate, and the right to refuse work.

4. Australia

Workers are a crucial element within the economic life spectrum. Thus, it is acknowledged that workers play a role as supporters in the economic activities of a country and in enhancing company productivity. However, they also act as individuals who can increase the value and livelihood for themselves, their families, and their communities. To fulfill their roles and responsibilities, workers must be protected by law to ensure their rights are met. In Australia, the regulation of these rights includes the right to work and rights within employment, governed by industrial legislation such as the Fair Work Act 2009 and the Work Health and Safety Act 2011 (WHS). Besides national regulations or laws, Australia has ratified several covenants related to the legal protection of workers' rights, including the International Covenant on Economic, Social, and Cultural Rights.

In its implementation, as a worker in Australia, there are regulations that govern rights at the workplace, as outlined in the Fair Work Act 2009, sec. 341. In addition to rights, workers also have roles and responsibilities which are further explained in employment laws, employment instruments, and more detailed rules set by industry bodies. Moreover, with the common law system implemented in Australia, which is a federation divided into six states and two territories, the regulatory system is quite diverse. This is evidenced by the varying worker compensation schemes tailored to regional scopes, such as in South Australia where the WorkCover Corporation (Safe Work Australia, 2020) is tasked with collecting, analyzing, and publishing information and statistics related to occupational health and safety, or worker equality, rehabilitation, and compensation. However, even if looking at the jurisdictional

regulations in general, there is no legal requirement for a practice authority to publish reports on the number of accidents (Lunney, 2012).

5. Singapore

Singapore views workers' rights as crucial entitlements held by the Singaporean workforce to ensure the protection of their interests and welfare. The Employment Act of 1968 clarifies the assurance of fair treatment at the workplace and includes legal processes for regulating working hours, overtime pay, the Central Provident Fund (CPF), and leave entitlements (Fattah, 2024; Ministry of Manpower, 2023). With the growing population, it is vital for the government to enhance wages while ensuring better welfare prospects and job protection. This is evidenced by the significant changes in workers' rights in Singapore over the last decade. Notable policy changes include: First, the introduction of the Progressive Wage Model (PWM) for low-wage workers in 2012, which stipulates that minimum wages must be paid to workers in certain industries and increase as workers progress in their careers. Second, the increment of the retirement and re-employment ages was announced during the National Day Rally 2019, where the official retirement age was raised from 62 to 65 years, and the re-employment age from 67 to 70 years, to be phased in starting 2022. This adjustment aligns with increasing life expectancy and health levels. Third, policies concerning CPF contributions for older workers to enhance protection for CPF contributions (Ho, 2023).

Beyond general worker rights, the country also focuses on the rights of employees who suffer workplace accidents. According to the Work Injury Compensation Act 2019 (WICA), employers are mandated to provide medical benefits to workers and compensation for claims related to workplace accidents and diseases. However, there have been instances of false claims, prompting the Ministry of Manpower Singapore (hereafter referred to as MOM) to publish case studies on workers' compensation fraud (Foreign Manpower, 2021). The enactment of this law facilitates workers to file claims for workplace accidents or diseases without the need for civil lawsuits, thus offering a straightforward alternative for resolving compensation claims. WICA outlines three primary types of compensation available for claims: medical leave wages, medical expenses, and lump-sum compensation. Additionally, Singapore has the Workplace Safety and Health Council, which plays a role in creating programs that support all aspects of workplace safety and health. The programs offered by the WSH Council are diverse, such as the WSH Advocate, bizSAFE, WSH Influencer, Return to Work Programme, and the iWorkHealth program, which aims to conduct online surveys to help companies and workers identify common workplace stress triggers (Legal Service Commission South Australia, 2024; WSHCouncil, 2020).

6. Indonesia

Workplace accidents are a frequent and daunting risk for workers, especially those in unsafe environments. Consequently, the Indonesian government has enacted several public policies grounded in legislation aimed at providing guarantees and legal protection for workers who suffer accidents and occupational diseases. Among the regulations forming the basis for creating key policies that govern the protection of workers' rights as victims of workplace accidents in Indonesia is the Employment Law, which addresses industrial relations and includes protections for workers in their work environments.

In addition to this law, other legislation discusses the government's role in establishing a social security system, encapsulated in the Law Number 40 of 2004 on the National Social Security System (hereafter referred to as the SJSN Law). Article 5 of the SJSN Law specifies that there are social security administering bodies effective from the enactment of this law. Specifically, Article 5 Paragraph (3) outlines that there are four types of social security administering bodies in Indonesia, consisting of PT Jamsostek, PT Taspen, PT Asabri, and PT Askes. However, on 1 January 2014, PT Askes and PT Jamsostek underwent consolidation and reorganization, resulting in the formation of a new entity, the Social Security Administration Agency (BPJS).

Moreover, BPJS was established due to the Law Number 24 of 2011 on the Social Security Administering Body (hereafter referred to as the BPJS Law), as stipulated in Article 5 paragraph (1). BPJS for Employment, in particular, is obligated to report to the president and is responsible for administering programs related to workplace accident insurance, old age benefits, pensions, and death benefits. Thus, the Indonesian government continues to strive to enhance worker welfare through the establishment of BPJS as an entity operated for the public interest and based on the principles of humanity, benefit, and social justice for all Indonesians. Despite these intentions, the implementation on the ground sometimes contrasts with the expectations.

Appropriate Mechanisms for Implementation in Indonesia to Achieve Worker Welfare

The aspect of improving the quality of employment encompasses many layers and dimensions, which ultimately leads to complexity in dispute resolution, necessitating the role of law as a mediator to provide protection and justice for the disputing parties. This is evidenced by several workplace accidents in 2023 that have continually increased, indirectly also raising the number of deaths due to workplace accidents in Indonesia. One notable workplace accident in Indonesia that captured public attention occurred on December 24, 2023, at a smelter plant owned by PT Indonesia Tsingshan Stainless Steel (ITSS) in Morowali, Central Sulawesi. The incident resulted in 59 workers being injured, 21 of whom died due to an explosion from smelter furnace number 41 during maintenance (Nola, 2024; Puspapertiwi & Pratiwi, 2023).

However, according to Aulia Haki, the Head of Advocacy and Campaign for the Central Sulawesi Environmental Forum (Walhi), this incident was not the first of its kind as a similar workplace accident occurred on April 27, 2023, claiming the lives of two workers. This was due to the company's failure to provide appropriate safety equipment, improper work hours, uncontrolled use of equipment, and irregular work rotations (Puspapertiwi & Pratiwi, 2023). Therefore, it can be seen that the occurrence was due to the company's negligence towards the safety rights of the workers, which fundamentally is regulated under Article 86 of the Employment Law.

Additionally, another irony is that most workplace accident cases end only with the payment of compensation, and if such accidents are taken to court, the penalties often imposed are very low and not commensurate with the damages incurred. This is evidenced by the explosion case at PT Marcopolo Shipyard in Tanjunguncang, which killed two subcontractor workers who were performing tank cleaning. In this case, the subcontractor's management, which supplied workers to PT, was found guilty by the industrial relations court but was only fined IDR 100,000 (one hundred thousand rupiah) (Batamnews, 2022; Nola, 2024). Hence, these cases underline the urgency for Indonesia to revise laws concerning occupational safety and health or to create mechanisms that can resolve workplace accident issues to achieve the concept of worker welfare.

Furthermore, a comparative analysis of the legal regulations concerning worker safety in countries like Canada, Singapore, Iceland, Australia, and Belgium reveals several commonalities not present in Indonesia’s Occupational Safety and Health Law (UU K3) or the Employment Law, such as clarity in the penalties imposed, rules regarding the importance of safety certifications to prevent workplace accidents, and legal protection for the rights of workers outside Indonesia, such as sailors (Adela, 2018; Cahyadi, 2017). Therefore, it can be said that the legislative framework on the protection of the safety and health of workers in Indonesia lacks specificity and flexibility in ensuring clarity for workers in obtaining their rights.

Table 1. Regulatory points that can be adapted by Indonesia

	Pasal yang dapat dipertimbangkan untuk diadaptasi
Canada	• Canada Occupational Health and Safety (OHS), Part X, Sec. 10.1-10.2 • Canada Occupational Health and Safety (OHS), Part X, Sec. 10.4 (1)-10.6 • Canada Occupational Health and Safety (OHS), Part X, Sec. 10.4 7 (1) • Canada Occupational Health and Safety (OHS), Part XIX
	• Labour Code (CLC), Part II, Sec. 122(1) and 122.1
Singapore	• Workplace Safety and Health Act 2006, Part 6 • Workplace Safety and Health Act 2006, Part 7, Sec. 31 • Workplace Safety and Health Act 2006, Part 10, Sec. 46 • Workplace Safety and Health Act 2006, Part 10, Sec. 50 • Workplace Safety and Health Act 2006, Part 10, Sec. 51
	• Work Injury Compensation Act 2019 (WICA) part 1, Sec. 9 • Work Injury Compensation Act 2019 (WICA), Part 5
Iceland	Act on Working Environment, Health, and Safety in Workplaces, No. 46/1980, as amended by act No. 81/2018, Art. 30, 37, 38, and 40
Australia	The Work Health and Safety Act 2011, No. 137/2011, as amended by act No. 36/2020, Sec. 30 A, 30 A (1), 33, 38, and 80-82A
Belgium	• Belgian Official Gazette 18 September 1996, Chapter II, Art. 4 • Belgian Official Gazette 18 September 1996, Chapter V • Belgian Official Gazette 18 September 1996, Chapter Vbis • Belgian Official Gazette 18 September 1996, Sub-section 3

Sumber: (Penulis, 2024)

The data presented in the table above indicate various articles and clauses within the legal frameworks of several countries that govern worker welfare in the aspects of safety and health. This information can serve as a foundation for Indonesia to update its regulations or, in other words, to adopt legislation to reform the UU K3. Legislative adoption or borrowed legislation is a process of transferring legal knowledge from one jurisdiction to another, with the primary goal of benefiting from another country's experiences in formulating and implementing laws (Portnoi, 2016). Therefore, to achieve efficiency in legislation formulation, innovation such as adopting the best laws from other countries is necessary, which must be re-adapted to fit the developments within the country and the global context, as applied by the Indian Constitution (Clearias Team, 2023).

On the other hand, the role of the CBA method is crucial in the formation and evaluation of laws when adopting legislation from other countries. CBA functions as a feasibility assessment for policy provision before law formation, converting potential impacts along with the calculation of costs and benefits, thus aiding the government in identifying the best policy alternatives. Through CBA analysis, it becomes evident that every decision taken has associated benefits and costs that need to be considered.

This aligns with the Iceberg Theory, which illustrates the losses caused by workplace accidents, considering not only the direct costs but also the indirect costs that factor into the total losses (Katigaku, 2022; Manuele, 2011). Consequently, thorough consideration by the government is necessary in reforming the law under the UU K3, recognizing that the losses from workplace accidents are greater than those that are visible. The presence of direct losses is apparent as they relate to material damage or human life, which are types of losses that can be calculated clearly and definitively. However, one cannot overlook the indirect losses, which include costs such as facility damage, emergency actions, production delivery delays, and business reputation losses that can affect the stock value of the company.

Based on this, establishing the appropriate mechanisms to achieve worker welfare within the scope of health and safety at work, while still protecting the company's image, requires government intervention to amend laws related to health and safety at work. This must be done while considering the rights of workers and the losses incurred by the parties involved.

Considering that the penalties stipulated in Article 15 paragraph (2) of the UU K3 state that violators may only face imprisonment for three months and a maximum fine of IDR 100,000 (one hundred thousand rupiah), which contrasts with other countries, such as Singapore, where different sanctions are specified for each type of violation as seen in the Workplace Safety and Health Act 2006, Part 10, Sec. 31, 50, and 51. Furthermore, the application of penalties can be implemented differently as described in the Work Health and Safety Act 2011, No. 137/2011, as amended by Act No. 36/2020, Sec. 30 A.

Then, beyond the non-specific and flexible nature of the sanctions provided by the UU K3 in terms of prohibitions and other policies, which are still general and not operational, there is a contrast with Iceland, which strictly regulates the state's role in providing safety standardization for all machinery operated, whether sold or used within companies in the country. This is done to facilitate the verification and assurance of safety for the machinery used, as stated in Article 30 of the Act on Working Environment, Health, and Safety in Workplaces, No. 46/1980, as amended by Act No. 81/2018. Consequently, it is evident that there is a need for the role of the government or the House of Representatives in proposing changes related to the UU K3 as evidence to achieve worker welfare, particularly in guaranteeing health and safety rights which indirectly has a real correlation in enhancing the productivity value of companies in Indonesia.

CONCLUSION

The importance of the concept of worker welfare has become a special focus worldwide due to its association with enhancing company productivity and worker retention in those countries. Consequently, various countries have different public policies yet share the same perspective of providing welfare for their workers, especially in terms of legal certainty for ensuring worker safety and health.

The differences observed in public policies and regulations across these countries suggest that Indonesia could potentially adopt certain measures to enhance legal certainty, thereby creating more specific and flexible regulations. However, it is also essential to consider factors such as legislative drafting methods and other implementation theories to specifically address worker safety and health. Therefore, the role of the government, along with the House of Representatives, is crucial in implementing changes to the laws governing worker safety and health to establish more specific and flexible regulations.

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