

## Legal Protection For Labour-Intensive Of Cigarette Industrial Workers Against Potential Danger To Prevent Occupational Diseases

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**Abstract.** The labour-intensive cigarette industry accounts for 91% of the total workers in the cigarette industry in East Java Province. This value is a very large portion of the entire company that absorbs workers. The novelty of this paper is the purpose of research that the existence of a legal protection particularly for labour intensive of cigarette industrial workers in Indonesia in preventing the danger of occupational disease from the point of view of the The Labour and Transmigration Office of East Java Province. So far, there are still many other disease phenomenon of occupational disease. The main key to prevent the emersion of occupational disease in Indonesia is having a legal protection among the workers which contained in the law of occupational safety and health. Occupational disease which always happened to labour intensive of cigarette industry including in list occupational disease criteria namely Chronic Construction of Lungs, and Carpal Tunnel Syndrome, Low Back Pain. The findings of this research are expected to increase the importance of understanding of legal protection particularly for labour intensive of cigarette industrial workers to prevent the infection of occupational diseases, so it can make both a compatible Industrial Relations and a comfort at work. The examination note conducted by the Inspector Labour as a representative from the government not only as the employment development side but also as a written evidence one when happening the violation of the law of occupational safety and health in labour intensive of cigarette industry and justice in Indonesia.

**Keywords:** *Labour, Legal Protection, Occupational Disease.*

### INTRODUCTION

The purpose of this study is to analyze the form of legal protection for labour-intensive cigarette industry workers against potential dangers in order to prevent occupational diseases happened. The labour-intensive cigarette industry has an obligation to provide protection for workers when are infected to occupational diseases. This study also aims to measure the extent to which employers in the labour-intensive cigarette industry implement regulations containing binding legal policies. The results of this study provide an overview for the government about the application of the law and material for further policy consideration.

The novelty of this paper is the purpose of research that the existence of a legal protection particularly for labour intensive of cigarette industrial workers in Indonesia in preventing the danger of occupational disease from the point of view of the The Labour and Transmigration Office of East Java Province. The role of the government which handles the manpower field is to foster, supervise and simultaneously provide protection for the two parties concerned, namely workers and employers. Not all companies apply the obligations of occupational health

and safety conditions in accordance with statutory regulations. If the company does not heed these regulations, the government has the authority to provide guidance to the company. If after coaching has been carried out the guidance and the company still ignore it, the government will issue Audit Notes 1 and 2 to the company<sup>238</sup>.

## 1. Labour

Law is a guide for its users, this concept is likened to a law made and regulated by the government in order to guide the limits of what is allowed and forbidden for the community<sup>239</sup>. Law, in Indonesia, is generally used by the government to regulate society which contains a formulation of public policy. This Public policy includes the interests of several parties; one example discussed in this study is about labour law which contains the arrangement of interests on the rights and obligations of the workers and the employers. In fact, there are still any different perceptions desired between them, that is the function of law<sup>240</sup>.

Related to the employment includes two parties that are related to each other. The employer wants to get a profit from his business, while the worker wants to get wages and protection at work<sup>241</sup>. The protection of labour law, especially related to the personal safety of the workers in the workplace, is being discussed by the writer now. The meaning of the word power, according to the Big Indonesian Dictionary (KBBI), is the power that can move something; strength or work activities, business and so on. "*Worker/labourer are any person who works and receives wages or other forms of remuneration*"<sup>242</sup>. So, when it is combined will be "*Manpower is every individual or person who is able to work in order to produce goods and/ or services either to fulfill his or her own needs or to fulfill the needs of the society*"<sup>243</sup>. The workers carry out their obligations as instructed by the employer are merely to get wages to fulfill their daily needs. Meanwhile, employers provide jobs for workers. The employers need the workers to help run their companies<sup>244</sup>. The research questions raised by the author in discussing the topic of Legal Protection for Labour-Intensive Cigarette Industry Workers Against Potential Dangers to Prevent Occupational Disease, what are the implementations of legal protection for labour-intensive industrial tobacco workers against potential dangers in order to prevent occupational disease?

### 1.1. Certain Labour-Intensive Industries

Having good managerial skills from an employer are needed to manage workers and consider to place a certain position in employment requiring the ability to process a company

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<sup>238</sup> Asmarani, A. Dea and D. Rahayu, *Perlindungan Hukum Atas Keselamatan dan Kesehatan Kerja (K3) Pekerja Rokok di PT Maju Melaju Lamongan*, Simposium Hukum Indonesia Volume 1 No. 1, 2019.

<sup>239</sup> Kamarusdiana, *Filasat Hukum*, IUN Jakarta Press, 2018:2.

<sup>240</sup> C. Mumme. *The State Giveth and Taketh Away: Public Sector Labour Law, the Legitimacy of the Legislative Override Power and Constitutional Freedom of Association in Canada*, *International Journal of Comparative Labour Law and Industrial Relations*, Volume 36, Issue 4 (2020) pp. 495 – 522.

<sup>241</sup> H. D. Santoso, *Perspektif Biaya Upah Tenaga Kerja Bagi Pengusaha dan Pekerja*, Kota Tua, 2019:101.

<sup>242</sup> Article 1 (3) Act Number 13 Year 2003 Concerning Manpower

<sup>243</sup> Article 1 (2) Act Number 13 Year 2003 Concerning Manpower

<sup>244</sup> A. F. Bysi, *Mediasi Dalam Penyelesaian Perselisihan Hubungan Industrial Di Dinas Sosial, Tenaga Kerja Dan Transmigrasi Kota Yogyakarta*, UIN Yogyakarta, 2016:1.

leader which are able to see based on information and technology, such as track record data both physically and mentally<sup>245</sup>. Companies are divided into several types, one of them studied is a company included in the criteria for labour-intensive industries. "*Certain labour-intensive industries are industries that have: a. Workforce of at least 200 people*"<sup>246</sup>.

The Regulation of the Minister of Industry above attracts the writer's thought because companies that absorb a lot of workers are labour-intensive industries. Labour-intensive industries have a minimum of two hundred workers; you can imagine the complexity of the potential labour problems that will arise. One of the potential employment problems discussed by the writer is about the protection of legal aspects of occupational health and safety rights. Occupational health and safety is an important prerequisite to support productivity and comfort in doing business. It is important that these conditions of occupational health and safety are to support sustainable economic development on a large scale<sup>247</sup>. Efforts are made to provide legal protection for workers particularly in labour-intensive industries so that the workers' rights are guaranteed without any discrimination to get welfare from themselves<sup>248</sup>. Labour-Intensive industries regulating many workers need an appropriate legal protection of occupational health and safety. It is similar with being conveyed by who stated that it cannot be denied that occupational health and safety are the main elements in the workplace that should be strived for so that the integrity and perfection both physically and spiritually of workers are always maintained and guaranteed, so that performance and productivity is increasing<sup>249</sup>. To date, the laws governing the occupational health and safety have always been pursued in accordance with the real conditions of employment in Indonesia.

## 1.2. Legal Protection

Legal protection, especially for occupational health and safety, is written in Act Number 1 Year 1970 Concerning Safety, since this law has been in effect until now, developments to protect workers due to their daily activities with contact with hazards in the workplace have been updated by the government. The topic of the risk of exposure of workers to potential hazards is "*(1) Safety conditions shall be prescribed by legislative regulation to: h. prevent or control the incidence of occupational disease, whether, physical or psychological, poisoning, infection or contagion*"<sup>250</sup>. Labour-intensive industries are interesting to study because these types of companies absorb a large number of workers; of course the emergence of labour-intensive industries is supported by the government because workers come from around the company. The cigarette industry requires a lot of workers in rolling tobacco into cigarette sticks, indicating that this industry is a labour-intensive industry. The labour-intensive cigarette industry is a typical industry in Indonesia since the early 17th century. The forerunner of kretek started in 1880 in Kudus and experienced rapid growth at the beginning of the 20th century

<sup>245</sup> V. De Stefano, Masters and Servers: Collective Labour Rights and Private Government in the Contemporary World of Work, *International Journal of Comparative Labour Law and Industrial Relations*, Volume 36, Issue 4 (2020) pp. 425 – 444.

<sup>246</sup> Article 1 Regulation of the Minister of Industry of the Republic of Indonesia No. 51 / M-IND / PER / 10/2013 Concerning the Definition and Limitation and Classification of Certain Labour-Intensive Industries

<sup>247</sup> WHO, Global Strategy Occupational Health for All (1994) [www.who.org](http://www.who.org)

<sup>248</sup> A. Wijayanti, *Hukum Ketenagakerjaan Pasca Reformasi*, Sinar Grafika, 2010:6

<sup>249</sup> D. Nurhayati, *Perlindungan Hukum atas Keselamatan dan Kesehatan Kerja Terhadap Pekerja di Perusahaan Bongkar Kapal (Docking) di Kecamatan Kamal Bangkalan Madura*, Trunojoyo University Madura, 2018:18.

<sup>250</sup> Article 3 Act Number 1 Year 1970 Concerning Safety.

until now and has spread in several cities<sup>251</sup>.

## 2. Occupational Disease

Occupational disease is a disease that occurs in the workplace. This disease enters the body of the worker, whether he is aware of it or not. There is a type of occupational disease that has entered the worker's body for a long time. Protection of occupational disease, the legal reference is in "*A manager may only employ a person after being satisfied that he has understood the conditions referred to above*"<sup>252</sup>. This law is made as the basis for the obligation of every employer to carry out the statutory mandate, namely to check all workers as a measure of occupational disease in the workplace. It is possible that a decrease in the performance of workers is caused by the emergence of this occupational disease.

Occupational disease is a disease caused by the type of work or work environment<sup>253</sup>. A disease is confirmed as occupational disease, having the characteristics of the disease occurring because of work. The first occupational disease that can arise in the cigarette industry is the use of addictive substances as raw material for cigarette production. The use of this addictive substance can be inhaled and settles into the worker's body for a long time can lead to occupational disease. "*(1) Safeguarding the use of materials containing addictive substances is directed so as not to disturb and endanger the health of individuals, families, communities and the environment. (2) Addictive substances as referred to in paragraph (1) include tobacco, products containing tobacco, solids, liquids and gases which are addictive in nature, the use of which may cause harm to themselves and / or the surrounding community*"<sup>254</sup>. Additives in the form of tobacco used by the cigarette industry have the potential to harm the health of workers<sup>255</sup>. If a worker is affected by occupational disease, of course the worker cannot work optimally; this constraint is sometimes the employer does not know the cause. The employer only knows that based on the worker's performance the decline is causing losses to the company.

The labour-intensive cigarette industry is prone to occupational diseases, because workers have types of work that are associated with potential hazards. Researching that the danger of repeated pressure on the skin of workers can cause occupational marks in the form of calluses or calluses, which are the skin that is often exposed to repeated friction or pressure. Callus on the skin of the palms is experienced by workers of all ages<sup>256</sup>. Another study [20]<sup>257</sup> stated that workers in industry, construction, printing, gilding, leather crafts and others have the highest

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<sup>251</sup> S. Radjab, Dampak Pengendalian Tembakau Terhadap Hak-Hak Ekonomi, Sosial dan Budaya, Serikat Kerakyatan Indonesia (SAKTI) dan Center For Law and Order Studies (CLOS), 2013:xiii.

<sup>252</sup> Article 8 (2) Act Number 1 Year 1970 Concerning Safety.

<sup>253</sup> F. E. B. Setyawan, V. S. Setijanto, R. Zahara, Modul Pelatihan Hiperkes & Keselamatan Kerja Bagi Dokter Perusahaan, CDME FK-UMM, 2020:260.

<sup>254</sup> Article 113 Law No. 36 of 2009 concerning Health

<sup>255</sup> D. P. P. Sari, Budiono, N. A. Yunita D., Faktor Terkait Gangguan Fungsi Paru Pada Pekerja Wanita di Industri Rokok Prae Lajar Semarang, Jawa Tengah, Jurnal Kesehatan Masyarakat (e-Journal) Volume 5, Nomor 5, Oktober 2017 (ISSN: 2356-3346).

<sup>256</sup> B. Priatna, Peraturan Pemerintah Tentang Dermatitis Akibat Kerja, Simposium Dermatitis Akibat Kerja dalam Rangka PIT IV PERDOSKI. Ilmu Penyakit Kulit dan Kelamin. Airlangga Periodical of Dermatovenereology. Agustus 1997; 9/3: 63-6.

<sup>257</sup> Marks JG, Elsner P, DeleoVA, eds., Etiology Of Occupational Skin Disease, Contact & Occupational Dermatology. St. Louis: Mosby; 2002: 303-11.

risk of callus. Callus can occur on the skin of the palms, as well as other parts of the skin. According to a survey showed that the percentage of callus on the palms is 75%<sup>258259</sup>. Our body, especially the skin, has the ability to adapt to changes in the environment, mechanical trauma, and the nature of work. This ability varies from person to person depending on the length of exposure and the type of trauma [22]<sup>260</sup>. Previous research above became the rationale for the preparation of this scientific paper. This research is expected to provide information about the factors that cause occupational disease in the hands of labour-intensive cigarette industry workers.

A company must have a strategy to deal with occupational disease, providing legal protection for workers who are infected occupational disease is mandatory. Through the existence of labour social security which is supervised by the government will provide protection for every Indonesian citizen including labour-intensive cigarette industry workers, even though in reality not all workers fully understand the benefits of the social security program provided by companies for workers<sup>261</sup>.

## LITERATURE REVIEW

Not only in Indonesia, but also other countries such as Canada, the function of labor law also guarantees protection for workers in the workplace. The employment law there is the result of the government's formulation in making a public policy on the employment sector. If you do not comply with the law, it can be interpreted as a form of violation of the rights of workers, of course there are legal sanctions<sup>262</sup>.

In 2013 stated that the government targets excise revenue to the state of IDR 88.2 trillion. In terms of employment, it absorbs some 600,000 workers<sup>263</sup>. This data when compared with the conditions of employment, especially in East Java Province, is still very relevant. Mandatory Employment Report Data for labour-intensive cigarette companies in East Java Province in the first quarter of 2020, there were 182 companies. All labour-intensive tobacco companies are able to absorb 77,485 workers. This value is a very large portion of the total companies that absorb labour in East Java Province<sup>264</sup>. The analogy of the more workers in a company, the more potentially exposed to danger. The danger referred to is the occurrence of occupational disease because for seven or eight hours a day it is in contact with the potential

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<sup>258</sup> B. Priatna, Peraturan Pemerintah Tentang Dermatitis Akibat Kerja, Simposium Dermatitis Akibat Kerja dalam Rangka PIT IV PERDOSKI. Ilmu Penyakit Kulit dan Kelamin. Airlangga Periodical of Dermatovenereology. Agustus 1997; 9/3: 63-6.

<sup>259</sup> E. Setiyawati, D. Artami, F. Waskito, S. A. Febriana, Prevalensi dan Faktor Risiko Dermatitis Tangan Pada Perajin Pandan, Kumpulan Abstrak Pertemuan Ilmiah Tahunan IX PERDOSKI. Malang; 2-4 Agustus 2007: 211.

<sup>260</sup> S. Aisah, Reaksi Kulit Terhadap Trauma Mekanis, Dalam : Djuanda A, Hamzah M, Aisah S, eds. Ilmu Penyakit Kulit dan Kelamin. Jakarta; Balai Penerbit FK UI; 2007: 226-27.

<sup>261</sup> Mediasuti, Rahma and S. H. Juliani, Perlindungan Hukum Pekerja Rokok Terhadap Pemenuhan Peran Badan Penyelenggara Jaminan Sosial (BPJS) di PT. Djarum Kudus, Diponegoro Law Journal Volume 5, Nomor 3, Tahun 2016.

<sup>262</sup> C. Mumme. The State Giveth and Taketh Away: Public Sector Labour Law, the Legitimacy of the Legislative Override Power and Constitutional Freedom of Association in Canada, International Journal of Comparative Labour Law and Industrial Relations, Volume 36, Issue 4 (2020) pp. 495 – 522.

<sup>263</sup> S. Radjab, Dampak Pengendalian Tembakau Terhadap Hak-Hak Ekonomi, Sosial dan Budaya, Serikat Kerakyatan Indonesia (SAKTI) dan Center For Law and Order Studies (CLOS), 2013: xiii

<sup>264</sup> <https://siwalan.disnakertrans.jatimprov.go.id> (Desember 2020).

danger to the safety of workers. Possible occupational disease<sup>265</sup> such as inhaling the aroma of tobacco doing repetitive work, cutting movements of tobacco remains, and work ergonomics.

## METHOD, DATA, AND ANALYSIS

### 1. Method

The approach method used in this research is empirical juridical normative. The normative juridical approach means a method used to solve research problems by examining legal norms and then continuing to conduct research on problems in the field. The research specification used is descriptive analytical, namely solving the problem that is investigated by describing the situation of the research object when conducting the research. This research is descriptive because this method has the intention of providing a detailed, systematic and comprehensive description of all data related to this research topic.

Qualitative methods do not need to take into account the amount of data being analyzed, but rather take into account the data from its ability to represent real situations in real life. The analysis process is carried out by comparing all the data obtained with the existing laws and regulations so that problems appear. The data presented is not merely a narrative description, but is accompanied by a continuous analysis process until the conclusion is drawn. The next step in the qualitative data analysis process is to draw conclusions based on the data obtained.

### 2. Data dan Analisis

The data collected in this study is doing some interviews. The Interviews are used as a method to collect some information by presenting some questions and answers that lead to structured research objectives. The interviews with informants are primary data or main data in answering research questions. The interviews with the employers of the labour-intensive cigarette industry, some workers and company doctors or paramedics were conducted in a free and structured manner. Structured interviews, where the researcher prepared a list of questions before interviewing the informant, but does not rule out the possibility of developing a broader question than what is in the list of questions<sup>266</sup>. This research examined the literature study, namely collecting, selecting and researching laws and regulations, books, theories, and reading sources related to the problem under study.

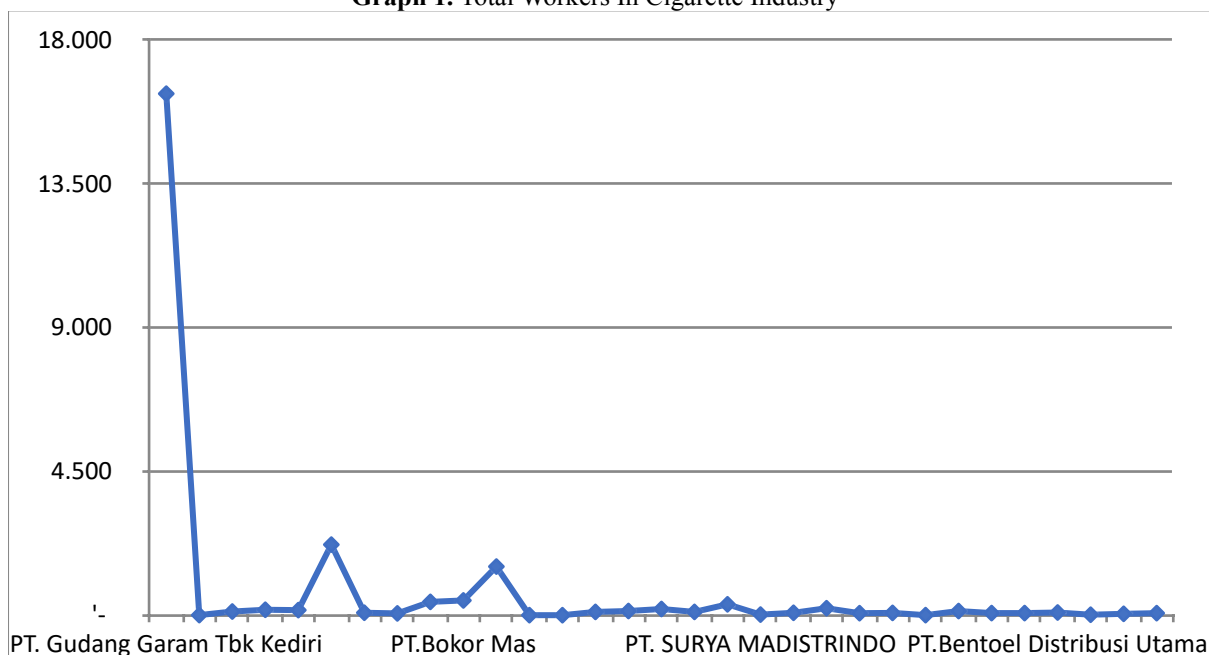
Of course, there is a need for legal protection if in labour-intensive cigarette companies there are occupational diseases for workers, both during and after work. Mandatory Employment Reporting Data for labor-intensive cigarette companies in East Java Province in the first quarter of 2020 recorded 192 companies. All cigarette companies are able to absorb 77,485 workers.

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<sup>265</sup> ILO List of Occupational Diseases (revised 2010) [https://www.ilo.org/safework/info/publications/WCMS\\_125137/lang--en/index.htm](https://www.ilo.org/safework/info/publications/WCMS_125137/lang-en/index.htm)

<sup>266</sup> F. E. B. Setyawan, Pendekatan Pelayanan Kesehatan Dokter Keluarga Pendekatan Holistik Komprehensif, Zifatama. Jakarta, 2019:85.

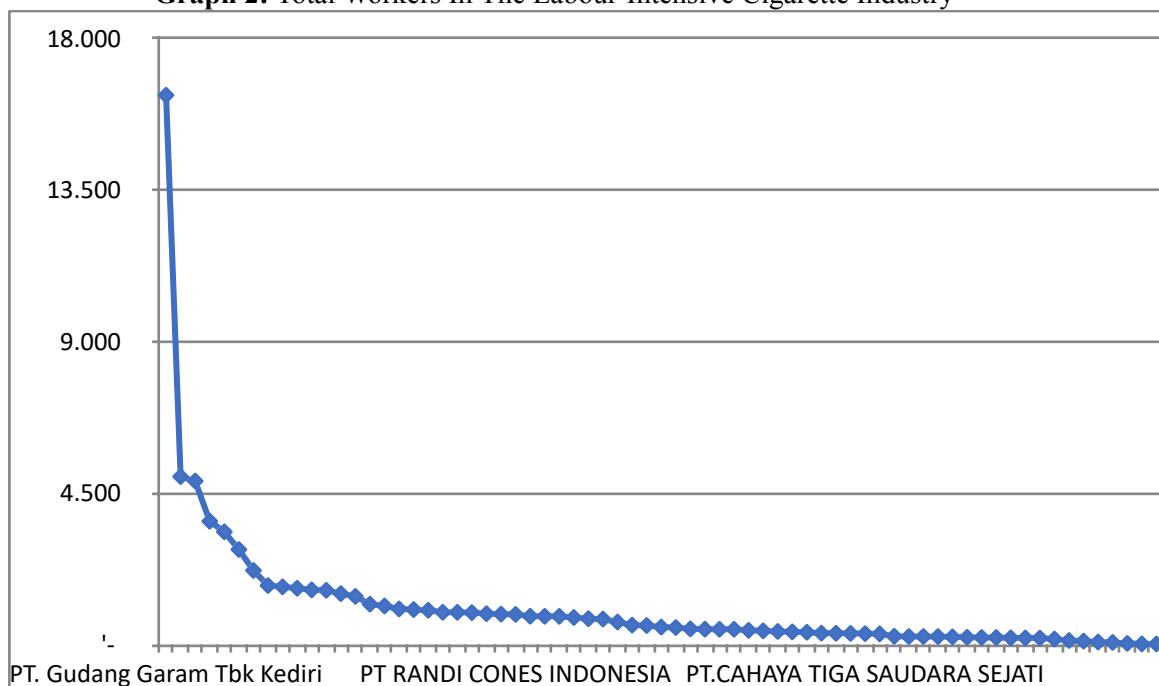
**Graph 1. Total Workers In Cigarette Industry**



<https://siwalan.disnakertrans.jatimprov.go.id>

The graph of the total workers in the cigarette industry compiled from the Department of Manpower and Transmigration of East Java Province imagines that the industry absorbs a lot of workers, even in one of the cigarette industries it has around 16,000 workers. This is a feature and significance in researching labor conditions in the cigarette industry.

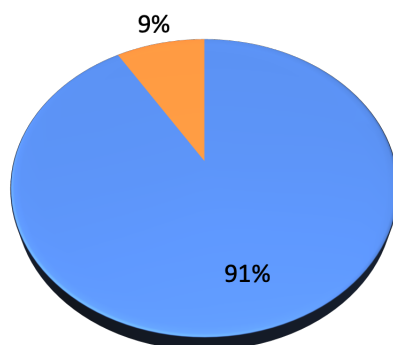
**Graph 2: Total Workers In The Labour-Intensive Cigarette Industry**



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If the general data on the number of workers in the cigarette industry are detailed in the labor-intensive cigarette industry, it can be seen in the graph of total workers above. The existing data illustrates that the cigarette industry in Indonesia is still dominated by the labor-intensive cigarette industry.

**Graph 3: Total Workers In The Cigarette Industry**  
 ● Total Workers in the Labor-Intensive Cigarette Industry (77.485 employee)  
 ● Total Workers in Non-Labor-Intensive Cigarette Industry (7.477 employee)



<https://>

[siwalan.disnakertrans.jatimprov.go.id](http://siwalan.disnakertrans.jatimprov.go.id)

Other data available at the Department of Manpower and Transmigration of East Java Province is the comparison between the number of workers in the labor-intensive cigarette industry compared to the non-labor-intensive cigarette industry. The labor-intensive cigarette industry accounts for 91% of the total workers in the cigarette industry. This value is a very large portion of the entire company that absorbs workers in East Java Province. The analogy of the more workers in a company, the more potentially exposed to danger. Of course, there is a need for legal protection if labor-intensive cigarette companies occur occupational disease for workers, both during and after.

## RESULT AND DISCUSSION

The cigarette industrial production process is divided into two types, namely machine and manual. Manual production means rolling tobacco raw materials into cigarettes using human hands, so it takes a lot of workers in the production process. The labour-intensive cigarette industry uses tobacco leaves as the main raw material. The informants in the study were employers and some workers who have worked for more than 10 (ten) years in the labour-intensive cigarette industry, and several company paramedics who often treat victims of work accidents. According to the informant, the target of manual labour is 2,000 sticks / day, working in 8 (eight) hours / day. The longer the work experience as a manual cigarette rolling, the faster it will be to complete the cigarette target. The workers are quite diverse in terms of age, ranging from a dozen years to fifty years. Workers, who are around fifty years old, usually have some experiences in rolling cigarettes; the target number of cigarettes set by the head of the company has been common for them.



Every day, the workers doing activities in the cigarette industry are always in contact with sources of danger such as the raw material used, namely tobacco leaves. The informant said that at this time, before rolling the tobacco leaves were put into plastic bags first, this was intended to save the aroma from the tobacco leaves and reduce the risk of being inhaled by the workers. Before using the tobacco silo box, many workers complained of shortness of breath and were referred to the company polyclinic for examination and treatment. Diseases that affect workers' lungs are medically called chronic obstructive pulmonary disease. According to the informant, as a company doctor, the closure of the respiratory tract was due to a reaction from the swollen respiratory nucleus, which led to excessive mucus and a persistent cough. At certain times the worker's chest feels sore due to the body's lack of oxygen. The head of the labour-intensive cigarette industry implements work safety by giving free masks every day to all workers before entering the workplace area. The masks distributed are made of three layers of cloth, it is hoped that the dust from the tobacco leaves will not be inhaled into the workers' lungs. The reasons for workers refusing, among others, are because they are not comfortable wearing them at work, but after the socialization of occupational health and safety laws, punishment if workers violate the rules, over time the workers become aware and orderly.

The scope of Occupational health and safety also discusses work ergonomics. According to an informant in the labour-intensive of cigarette industry has made changes to the construction of the seats for cigarette rolling workers. The beginning, before the head understood occupational health and safety, the seats used to work were in the form of long boards for 6 (six) workers with all the same dimensions. The seats are used by all workers whether they have high or low priests, fat or thin. Low posture workers when working will try to adjust the height of the work table with their back bent back. Sometimes workers with high posture also try to bend their body forward to fit the work table. After several years of doing their daily work, the workers often complain of pain in thier backs. The impact of this pain complaint is that they often ask for permission to take a break and see a decrease in the performance of the cigarettes rolled every day. After a study of human research and development of the labour-intensive cigarette factory industry on ergonomic issues, the seating construction is adjusted to the body posture of each worker. The result of the change in seating construction has made workers' complaints about occupational disease, back pain, referred to by company doctors with the medical term low back pain to be minimal.

Other occupational diseases that can arise are caused by repetitive movements, fast and in a short time. They often occur in labour-intensive cigarette industry workers, namely occupational disease called CTS (Carpal Tunnel Syndrome). The informant of this study is as a doctor for a cigarette industry company, the informant said that CTS is a disturbance in the tunnel around the wrist that narrows due to stiffness. The initial symptom of CTS is pain, this occupational disease is not easy to solve the problem because it is not enough with pain medication but what you have to do is rest your hands in the sense that labour-intensive cigarette industry workers must be sent home for a certain period of time or are transferred to a position with minimal hand movement. Workers continue to do repeated movements while working with a target of 700 (seven hundred) cigarettes / hour. An activity to cut with manual scissors the remaining tobacco leaves at the end of the cigarette, because the repetition of this movement causes CTS. However, a new problem arose, namely that workers' income was reduced as a result of management's decision to rest workers. The management of the company rarely reports the incidence of occupational disasters to stakeholders such as the Ministry of Manpower, because the obstacles if occupational disease occurs must be resolved completely, not only the act of treating CTS disease. Several labour-intensive cigarette industries that have

analyzed the emergence of CTS have developed a new way of cutting the tip of a cigarette with a knife driven by the push of a button. The movement of pressing this button has less potential for CTS for labour-intensive cigarette industry workers.

The problem solving of occupational disease is not only simple enough to treat the disease, but also requires a policy and commitment from the employer to protect the safety of workers. Interview with the informant as a company doctor that the diseases experienced by some workers in the workplace can be categorized as occupational disease, an indication Occupational disease is handled by doctors and company paramedics. The obligation to carry out health checks is already in the law as a legal regulation to guarantee safety at work.

The emergence of occupational diseases in the labour-intensive cigarette industry should be prevented as much as possible so that the production process is not disrupted. However, some cigarette industries are reluctant or unwilling to report the incidence of occupational disease in the workplace. The non-disclosure of information conveyed by management to the government is an obstacle in efforts to reduce occupational disease. Some of the obstacles that exist in reality include:

1. The courage of a company doctor can be a trigger for management to be better, or even the end of the contract for a company doctor who works in the labour-intensive cigarette industry.
2. Companies are reluctant to report occupational disease at work, because they do not understand the importance of basic legal protection for labour-intensive cigarette industry workers.
3. Fear of the good name of company can be tainted by the incidence of occupational disease.

Occupational health and safety is a major element in the workplace that should be strived for so that the integrity and perfection of workers both physically and spiritually are always maintained and guaranteed, so that performance and productivity can increase. Legal protection is also required to fulfill the company's obligation to carry out periodic medical examinations and the company is required to have a medical record of every employee. Special checks also need to be carried out when in the labour-intensive cigarette industry has indications of the emergence of occupational disease. *"All companies must have regular health checks for workers at least once a year"*<sup>267</sup>. Legal protection is an effort to protect legal subjects, in the form of rules that are preventive or repressive in nature, either verbally or in writing. The basic theory of legal protection is that the form of legal protection is divided into two objectives, namely preventive and repressive legal protection<sup>268</sup><sup>269</sup>. Preventive legal protection is legal protection that aims to prevent disputes, while repressive legal protection is legal protection that aims to resolve a dispute. Protection of the law as a function of law itself is that the law provides justice, order, certainty, benefit and peace<sup>270</sup>.

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<sup>267</sup> Article 3 paragraph (2) Minister Of Manpower Regulation Number: Per.02 / Men / 1980 Concerning Worker Health

<sup>268</sup> P. M. Hardjon, *Perlindungan Hukum Bagi Rakyat Indonesia*, PT. Bina Ilmu, 1982:2

<sup>269</sup> L. F. Nola, *Upaya Perlindungan Hukum Secara Terpadu Bagi Tenaga Kerja Indonesia (TKI)*, *Negara Hukum*: Vol. 7, No. 1, Juni 2016

<sup>270</sup> A. L. Suryamizon, *Perlindungan Hukum Preventif Terhadap Kekerasan Perempuan Dan Anak Dalam Perspektif Hukum Hak Asasi Manusia*, *Marwah: Jurnal Perempuan, Agama dan Jender* (p-ISSN:1412-6095|e-ISSN: 2407-1587) Vol.16, No. 2, 2017, pp. 112–126

Article 1 The Constitution Of The State Of The Republic Of Indonesia Of The Year 1945, which is a law to protect the life of both individuals and groups in the life of a society and a state. Particularly for the basic legal protection from the manpower side. *“Each citizen shall be entitled to an occupation and an existence proper for a human being”*<sup>271</sup>. *“Each person has the right to recognition; security, protection and certainty under the law that shall be just and treat everybody as equal before the law”*<sup>272</sup>. The position of the workers can be seen in two ways, namely from a juridical perspective and from a socioeconomic perspective. From a juridical perspective, workers need legal protection from the state against the possibility of illegal actions by employers. *“All citizens shall have equal status before the law and the government and hold without exemption the law and the government in esteem”*<sup>273</sup>. *“Every person is available for a job shall have the same opportunity to get a job without discrimination”*<sup>274</sup>, *“Every worker/ labourer has the right to receive equal treatment without discrimination from their employer”*<sup>275</sup>.

Discrimination occurs because the position between employers and workers is not the same. It was explained that legally the position of workers was free, but socially and economically the position of workers was not free<sup>276</sup>. In essence, the position of the worker and the employer is different from the position between the seller and the buyer. The State of Indonesia has protected the position of workers as regulated by several laws relating to employment. *“(1) every worker/ labourer has the right to receive: a. Occupational safety and health protection; b. Protection against immorality and indecency; c. Treatment that shows respect to human dignity and religious values. (2) In order to protect the safety of workers/ labourers and to realize optimal productivity, an occupational health and safety scheme shall be administered. (3) The protection as referred to under subsection (1) and subsection (2) shall be given in accordance with valid statutory legislation”*<sup>277</sup>. *“(1) Every enterprise is under an obligation to apply an occupational safety and health management system that shall be integrated into the enterprise’s management system.(2) Rulings concerning the application of the occupational safety and health management system as referred to under subsection (1) shall be determined and specified with a Government Regulation”*<sup>278</sup>. The rules contained in Indonesian law must be enforced and there are sanctions if the rules are violated by someone<sup>279</sup>.

## CONCLUSION

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<sup>271</sup> Article 27 (2) The Constitution Of The State Of The Republic Of Indonesia Of The Year 1945

<sup>272</sup> Article 28D (1) The Constitution Of The State Of The Republic Of Indonesia Of The Year 1945

<sup>273</sup> Article 27 (1) The Constitution Of The State Of The Republic Of Indonesia Of The Year 1945

<sup>274</sup> Article 5 Act Number 13 Year 2003 Concerning Manpower

<sup>275</sup> Article 6 Act Number 13 Year 2003 Concerning Manpower

<sup>276</sup> A. Khakim, Pengantar Hukum Ketenagakerjaan Indonesia berdasarkan Undang-Undang Nomor 13 Tahun 2003, Bandung: Citra Aditya Bakti, 2003:6-7

<sup>277</sup> Article 86 Act Number 13 Year 2003 Concerning Manpower

<sup>278</sup> Article 87 Act Number 13 Year 2003 Concerning Manpower

<sup>279</sup> Article 27 (1) The Constitution Of The State Of The Republic Of Indonesia Of The Year 1945

The information conveyed shows a real incident that the employer has implemented worker protection, but it has not been maximized according to applicable laws because there are still workers who do not care about their safety. Indonesia has compiled a public policy such as a labour law that guarantees safety and provides protection for labour-intensive cigarette industry workers. Preventive legal protection while working in order to prevent the occurrence of occupational diseases has been clearly stated in Article 8 Act No. 1 Year 1970 Concerning Safety, which requires the management of the labour-intensive cigarette industry to periodically check workers' health conditions. Legal protection for workers is very important to be guided because in labour law it is binding and regulating by industrial relations actors. Law is based on the principle of justice which reflects noble norms that uphold human values. Law enforcement is not only an obligation to comply with laws, but also the implementation of judicial decisions. All judicial decisions based on legislation are a form of protection for labour-intensive cigarette industry workers, in the realm of positive law they receive justice.

Repressive legal protection, namely legal protection that aims to resolve a dispute in industrial relations, the phenomenon of disputes related to the incidence of occupational disease in the labour-intensive cigarette industry was observed by the writer while serving as a Labour Inspector. When they are on duty to check labour conditions, especially regarding occupational safety and health, the labour-intensive cigarette industry often encounters violations of the law, one of the violations of the law, such as not conducting regular health checks for workers. The inspection note compiled by the labour inspector aims in addition to being a justicial preventive for manpower fostering with a period of obligations, as well as a justicial repressive when the labour-intensive occupational safety and health violation problem occurs and this examination note is written evidence in court at Indonesia.

### **IMPLICATION/ LIMITATION AND SUGGESTIONS**

When on duty to examine labor conditions, especially regarding occupational health and safety the labor-intensive cigarette industry often encounters legal violations, one of which is a violation of the law such as not carrying out regular health checks for workers. The violation is written in a memorandum of examination or a warning so that the leader of the labor-intensive cigarette industry fulfills his obligations. The protection of labor law creates comfort in industrial relations in particular and a just and prosperous society in general. Occupational diseases that occur in labor-intensive cigarette industry workers have become an important issue of employment in Indonesia, therefore the government prepares public policies in the form of legal protection that must be obeyed by industrial relations actors.

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