

Employment Layoff Policy During Covid-19 Pandemic (Legal Comparative Analysis Based on Indonesia and Singapore Law)

Gratianus Prikasetya

Departement of Jurisprudence, Faculty of Law Universitas Indonesia

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ABSTRACT

The Covid-19 pandemic has made Employment Layoffs in Industrial Relation become unavoidable both in developing and developed countries. Throughout 2020, the number of layoffs, which can be seen from the unemployment rate in these two countries, has increased. Employment Layoff in Indonesia is subject to the provisions of Law No. 13 of 2003 concerning Manpower Law as partially amended by Law No. 11 of 2020 concerning Job Creation, while Singapore regulates it in the Employment Act of Singapore Chapter 91. Government intervention in implementing the Layoff Policy tend to be greater in Indonesia than in Singapore. This is the impact of the Corporatist Industrial Relations Model system used in Indonesia, while Singapore uses the Contractualist Industrial Relations Model system which relies more on the industrial relations settlement mechanism to the parties. This article was prepared by using Legal Research Methods, especially comparative law between Indonesian Law and Singapore Law.

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Corresponding Author:

Email:

grat.prikasetya@gmail.com

ABSTRAK

Pandemi Covid-19 membuat Pemutusan Hubungan Kerja dalam Hubungan Ketenagakerjaan menjadi hal yang tidak dapat dihindari baik oleh negara berkembang maupun negara maju. Sepanjang tahun 2020 angka Pemutusan Hubungan Kerja yang nampak dari angka pengangguran di kedua negara ini mengalami peningkatan. Pemutusan Hubungan Kerja di Indonesia tunduk pada ketentuan Undang-Undang No 13 Tahun 2003 sebagaimana telah diubah sebagian dengan Undang-Undang No 11 Tahun 2020 tentang Cipta Kerja, sedangkan Singapura mengaturnya dalam *Employment Act of Singapore Chapter 91*. Intervensi pemerintah dalam penerapan Kebijakan Pemutusan Hubungan Kerja cenderung lebih besar ditemukan di Indonesia daripada Singapura. Hal ini merupakan dampak sistem *Corporatist Industrial Relation Model* yang digunakan di Indonesia sedangkan Singapura menggunakan sistem *Contractualist Industrial Relation Model* yang lebih menyerahkan mekanisme penyelesaian hubungan industrial kepada para pihak. Artikel ini disusun dengan menggunakan Metode Penelitian Hukum khususnya perbandingan hukum antara Hukum Indonesia dan Hukum Singapura.

INTRODUCTION

Layoff policy has become an inevitable reality faced by the business industry since the spreading of the Covid-19 Pandemic. International Labour Organisation recorded 114 million of employment loss consisted of 33 million shifts to unemployment and 81 million to inactivity in 2020.¹ The situation also happened in Indonesia. The unemployment number in August 2020 was increased by around 1.84 percent compared with August 2019.² It has not only happened in Indonesia, as the most prosperous country in South East Asia Singapore also experienced the same condition. The unemployment rate in Singapore increased around 5.19 percent in 2020.³ As one of the mechanisms in the process of employee termination, layoff policy played an important role to protect both employer and employee interest, especially in the manpower sector.

Indonesian layoff policy is regulated under the Manpower Law of the Republic of Indonesia which has amended in 2020 by Job Creation Law. The provisions regarding rights and obligations of employees and employers during layoff can be found in Chapter XII Manpower Law Year 2003.⁴ It consisted of 22 articles which were partially amended in 2020 by The Job Creation Law. This law provides rules, rights, and obligations that must be obeyed by Manpower stakeholders in the scope of layoff policy occurred in any business entity (enterprises) in the territory of the Republic of Indonesia.⁵ The law gives guidance especially related to the procedure that must be taken by both employee and employer is facing layoff policy.

Employee layoff in Singapore is regulated implicitly under the Employment Act of Singapore (Chapter 91) which was previously amended in 2009. Layoff terminology itself does not found in this Employment Act but its meaning can be interpreted from the word “termination”. According to Article 9 Paragraph (1) and (2) Employment Act, there are two types of employee termination, first is based on a contract service for a specified piece of work or period of time and the second based on a contract without a specified period of time.⁶ Based on those provisions it is known that termination in Singapore has similar meaning with layoff in Indonesia. The difference on that terminology is caused by the implementation of industrial relation system in Indonesia and Singapore which are not the same.

According to Black’s Law Dictionary, Layoff is employment suspension or termination with or without notice due to no fault of the employee.⁷ Layoff is commonly occurred because of several issue such as lack of work, cash, or material. By considering this definition both layoff in Indonesia and termination in Singapore have the same meaning which is the end of employment relationship between employee and employer. It carries implications that the practice of layoff must be able to protect the parties particularly employee as the weaker one.

¹ International Labour Organization, *Covid-19 and The World of Work*, https://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/briefingnote/wcms_767028.pdf published on 25 January 2021, accessed on 10 November 2021.

² Badan Pusat Statistik Republik Indonesia, https://www.bps.go.id/website/materi_ind/materiBrsInd-20201105120056.pdf, accessed on 10 November 2021.

³ <https://www.statista.com/statistics/378643/unemployment-rate-in-singapore/> accessed on 10 November 2021

⁴ Indonesia, *Undang-Undang tentang Ketenagakerjaan*, UU No 13 Tahun 2003

⁵ *Ibid.*, Art. 150.

⁶ Republic of Singapore, *Employment Act of 2009*, Art. 9 Paragraph (1) and (2)

⁷ Black’s Law Dictionary 2nd Edition

Employment relationship is a legal relationship which is not equal in nature for the parties. Employers as the job giver are usually become the party who benefits more than employee. Employers have more power relation to do than employees who do not have any option other than following the employers will. This condition leaves an obligation for the state especially the lawmakers to ensure legal protection for Employees. Some protections which commonly provided for laid off employees are severance allowance, unemployment benefits and other forms of compensation.⁸ Another protection provided by ILO in regarding with the layoff is a principle that forbid an employment termination without any valid reason related to the employment relationship.⁹ As the member state of ILO, Indonesia and Singapore have provided such protection in their national legal system.

Government of Indonesia has regulated the justification of layoff, layoff procedures, layoff limitations, and compensation fees for laid-off employees in their National Manpower Law. Those controls are possible since Indonesia is still applying Corporatist Industrial Relation beside accommodating Contractually Industrial Relation Model.¹⁰ On another side, Singapore as a developed country has tend to fully implemented Contractually Industrial Relation Model that cause several obstacles for the government to intervene employment relationship between employers and employees.

METHODS

This article explains legal protections for laid-off employees provided by Indonesia and Singapore. To give broad understanding related the issue, this article is constructed by using legal research method with legal comparative approach. It is presented by comparing layoff policy in Indonesia regulated under Manpower Law of Republic of Indonesia with employee termination guidance under Employment Act of Singapore. The systematics of this article are constructed into two subchapters explaining each Indonesia and Singapore Layoff mechanisms and one subchapter elaborating legal protection for laid-off employee both in Indonesia and Singapore.

RESULTS AND DISCUSSION

1. Layoff Mechanism based on Indonesian Legal System

Layoff is regulated under Manpower Law of Republic of Indonesia Year 2003 which has particularly amended in 2020 by Job Creation Law. Several articles from Manpower Law Year 2003 were deleted, amended, or added in 2020. The main spirit in Manpower Law of Indonesia is layoff avoidance.¹¹ Manpower stakeholders such as employer, employee, employee union, and the government must strive their best to avoid layoff from employment relationship. If the employers can no longer avoid layoff, some procedures must be followed. The fundamental aspect which must be obeyed is the prohibition of conducting layoff without any specific reason and information.¹² If the employee refusing layoff intention, the employer is not allowed to make one sided dismissal decision. The process then shall be resolved through bipartite and other negotiations provided by the law.

⁸ International Labour Organization, *Termination of Employment Convention (No. 158)*, (Geneva, ILO, 1982), Art. 12.

⁹ *Ibid*, Art. 4.

¹⁰ Aloysius Uwiyono, *et al.*, *The principles of labor Act*, Jakarta, Rajawali Pers, 2014), page. 7-8.

¹¹ Indonesia, *Manpower Law of Republic of Indonesia*, *Op. Cit*, Art.151 Paragraph (1).

¹² *Ibid*, Art. 151 Paragraph (2)

In the event when the negotiations are not be able to meet the interest of the parties, it must be brought to Manpower Institution before delegating it to Industrial Relation Court. These procedures cause employers cannot unilaterally lay off workers without any specific reason including Covid-19 Pandemic. Layoff can be carried out if there is an agreement from the two parties concerned or if there is a settlement of the dispute from the authorized party. The mechanism for settling industrial relations disputes is regulated in Law no. 2 of 2004 concerning the Industrial Relations Dispute Court (“Law of Industrial Relations Dispute Court”). Article 2 Law of Industrial Relation Dispute Court states that industrial relations disputes consisted of rights disputes; disputes over interests; disputes between trade unions/labor unions in only one company; and includes termination disputes. Bipartite is the first step to resolve certain industrial relation dispute. If this step could not fulfil the parties interest then it will be followed by mediation. Mediation is carried out by a mediator who is in each of the district / municipal manpower offices responsible for manpower affairs.

However, if mediation fails to take place, the procedure for further dispute resolution is through conciliation. Termination disputes can also be resolved through arbitration in accordance with the provisions of the applicable law. If indeed the procedure for settling disputes outside the court has been carried out and it does not get a resolution, the worker or employer can bring the dismissal dispute to the court, namely the Industrial Relations Dispute Court.

To create legal certainty especially in Manpower Sector, Government has provided several additional layoff provisions through Job Creation Law of 2020. The law amended Manpower Law of 2003 and added these reason allowed to be used as layoff standing i.e: 1) Change in status, merger, consolidation, or change in company ownership; 2) The company closes due to lose or due to force majeure; 3) The company is declared bankrupt; 4) Workers/laborers make serious mistakes 5) Workers/laborers enter the retirement age; 6) The worker/laborer resigns on his own accord; 7) The worker/laborer dies; 8) Workers/laborers are absent for 5 consecutive working days; 9) Workers/laborers experience prolonged illness/disability; 10) The company is doing efficiency; 11) The company is in a state of postponement of its debt payment obligations; 12) Workers/laborers cannot perform work for 6 (six) months due to being detained by the authorities for allegedly committing a criminal act; 13) The company commits an act that is detrimental to workers/laborers; 14) Workers/laborers make serious mistakes.¹³

However, employers who lay off their employees must still fulfil their obligations in accordance with the laws and regulations, namely fulfilling what is already the right of the workers in the event of layoff, namely the right to get compensation or severance pay. The obligation of employers to pay severance pay to workers who are laid off is regulated in Article 156 of the Job Creation Law, which contains 3 articles, namely: 1) Upon termination of employment, the entrepreneur is obligated to pay severance pay and/or service pay, as well as compensation for unpaid entitlements; 2) The severance pay as referred to in paragraph (1) shall be provided with the following conditions regulated under this article; 3) The period of service reward money as referred to in paragraph (1) shall be given under the following conditions stipulated in this provision; 4) The compensation money that should be received as referred to in paragraph (1) includes: annual leave that has not been taken and has not failed; the costs or fees associated with returning workers/laborers and their

¹³ Art 154A Job Creation Law which amended Manpower Law Year 2003

families to the location where the workers/laborers are accepted to work; and any other terms stipulated in work agreements, company regulations, or collective bargaining agreements; 5) Further provisions regarding the provision of severance pay, period of service pay, and compensation for rights as referred to in paragraph (2), paragraph (3), and paragraph (4) shall be regulated in a Government Regulation.¹⁴

The provisions described above is an obligation that must be fulfilled by employers who carry out layoff. The amount of severance pay to which workers are entitled is determined by law in accordance with the reasons for dismissal by the employer. The calculation and amount of severance pay which is the right of each worker affected by the layoff are regulated in the implementing regulations for the Job Creation Law, namely Government Regulation No. 35 of 2021. The existence of amended regulations and new rules that exist in the Job Creation Law regarding layoff for workers provides legal certainty for workers to receive what is rightfully theirs. The Job Creation Law provides better legal protection for workers. This is because many cases of unilateral layoff were carried out by employers even before the occurrence of COVID-19, but the fate of these workers has been neglected to date. These employers give any reasons so that they can do layoff without compensation to workers. Many of them do not receive the rights they should receive because they have been laid off by the company where they work so that all they can do is just keep quiet.

However, in the Job Creation Law which has been legalized and regulated, the provisions that employers who lay off their workers must and must provide severance pay to their workers in accordance with applicable regulations. This is described in Article 185 which contains: 1) Whoever violates the provisions referred to in Article 42 paragraph (2), Article 68, Article 69 paragraph (2), Article 80, Article 82, Article 88A paragraph (3), Article 88E paragraph (2), Article 143, Article 156 paragraph (1), or Article 160 paragraph (4) is subject to imprisonment for a minimum of 1 (one) year and a maximum of 4 (four) years and/or a fine of at least Rp. 100,000,000 (one hundred million rupiahs) and a maximum of Rp. 400,000,000.00 (four hundred million rupiahs); 2) The criminal act as meant in paragraph (1) is a criminal act.¹⁵

According to above mentioned provision, it can be concluded that whoever violates Article 156 paragraph (1), which clearly states that in the event of employment termination, employers are obliged to pay severance pay, reward money, and compensation money should be received by workers in accordance with the applicable law. In addition, if the entrepreneur is not willing to pay severance pay as stipulated in the law, the entrepreneur could be subject to criminal charges and the entrepreneur will face the state. This means that the state is in front of the workers, protecting workers, facing the employers. The government pays special attention to workers affected by layoff in order to get their rights that is severance pay from companies and related institutions.¹⁶

Apart from the right to receive severance pay, one form of legal protection for workers regulated in the Job Creation Law is that workers/laborers who experience termination of employment are entitled to a guarantee of losing their job. Job loss security is provided by

¹⁴ Indonesia, Job Creation Law, Law No 11 year 2020, Chapter IV, Article 156.

¹⁵ Indonesia, Job Creation Law, Law No 11 year 2020, Chapter IV, Article 185.

¹⁶ Aris Cahyadi, "UU Cipta Kerja Jamin Kepastian Pesangon Bagi Pekerja yang Terdampak PHK" <https://investor.id/national/uu-cipta-kerja-jamin-kepastian-pesangon-bagi-pekerja-yang-terdampak-phk>, accessed on 26 April 2021.

the labor social security administering agency and the Central Government.¹⁷ The regulations regarding the Job Loss Guarantee are further regulated in Government Regulation Number 37 of 2021 concerning the Implementation of the Job Loss Guarantee Program.

Based on Article 1 PP. 37 of 2021, what is meant by Job Loss Security, hereinafter referred to as JKP, is social security provided to workers/laborers who have experienced employment termination in the form of cash benefits, access to labor market information, and job training.¹⁸ The government provides social security to workers/laborers who have experienced layoff in the form of cash, access to job market information, and job training through the JKP program organized by BPJS Ketenagakerjaan.¹⁹ However, not all reasons for layoff were accepted in the JKP program. Based on Article 20, it is stated that JKP benefits for participants who experience layoff are exempted for reasons of dismissal due to resignation, permanent total disability, retirement, or death. In addition, there are conditions that must be met by workers and the costs that must be paid by workers to benefit from the JKP program. All requirements, procedures, the number of contributions, and other arrangements related to job loss insurance are regulated in Government Regulation Number 37 of 2021.

During a pandemic like the Indonesian government urges employers or companies not to lay off workers. There are still many efforts that can be done to prevent layoff when the spread of COVID-19 is rampant. To avoid layoff, the Minister of Manpower, Ida Fauziyah, issued a Circular of the Minister of Manpower of the Republic of Indonesia Number M / 3 / HK.04 / III / 2020 of 2020 concerning Protection of Workers / Laborers and Business Continuity in the Context of Preventing and Combating Covid-19. In SE Menaker M / 3 / HK.04 / III / 2020, the Minister of Manpower asked the governors to implement wage protection for workers/laborers related to the COVID-19 pandemic, as follows:

1. For workers/laborers who are categorized as People Under Monitoring (ODP) for COVID-19 based on a doctor's statement so that they cannot come to work for a maximum of 14 days or according to Ministry of Health standards, their wages are paid in full.
2. For workers/laborers who are categorized as suspected cases of COVID-19 and are quarantined/isolated according to a doctor's statement, their wages are paid in full during the quarantine/isolation period.
3. For workers/laborers who do not come to work due to being sick with COVID-19 and proven by a doctor's statement, the wages will be paid according to statutory regulations.
4. For companies that limit their commercial activities as a result of government policies in their regions to prevent and control COVID-19 which results in part or all of their employees / workers not coming to work, while still paying attention to business continuity, size and method of changing wages / salaries. labor

¹⁷ Indonesia, Job Creation Law, Law No 11 year 2020, Chapter IV, Article 46A.

¹⁸ Indonesia, Government Regulation No. 37 Year 2021, Article 1.

¹⁹ CNN Indonesia, "Aturan Lengkap Jaminan Kehilangan Pekerjaan Bagi Korban PHK" <https://www.cnnindonesia.com/ekonomi/20210222162009-78-609440/aturan-lengkap-jaminan-kehilangan-pekerjaan-bagi-korban-phk>, accessed on 27 April 2021.

is carried out in accordance with the agreement between the entrepreneur and the worker / laborer.²⁰

Based on this circular, to avoid layoff, employers can make changes in the amount and method of payment of workers/laborers who have been temporarily laid off due to the COVID-19 outbreak, based on the agreement of the parties.²¹

2. Layoff Mechanism based on Singapore Legal System

Singapore is one of the countries that has felt the impact of the spread of COVID-19 in the world. The Singapore government has also issued several policies to stop the spread of COVID-19 in Singapore. Singapore is a country that is currently one of the world's trade centers, even with its amazing titles, such as being the country with the most competitive economic development in the world, having strong economic indicators that far outperform Asian countries, even among the highest in the world. . The country known as the lion statue is not big, but a small country that has a small population but can improve its country's economy very well. Singapore is known as one of the developed countries in Southeast Asia. However, this country with amazing economic growth has also felt the negative impact of the spread of COVID-19. Economic growth in Singapore since the outbreak of this pandemic has decreased and many officials predict that the decline in economic growth in Singapore will be the worst recession since the country was declared independent.

The Singapore economy has slipped further into recession this quarter since the extension of its lockdown status, dealing a devastating blow to many business sectors.²² Launched the BBC, economic growth in this tiny country shrank 41.2% compared to the previous quarter.²³ This is the biggest contraction in Singapore's history. The magnitude of the contraction really shows how big the impact of the Covid-19 pandemic is on this country. Official data also shows that Singapore's second-quarter Gross Domestic Product (GDP) shrank by 12.6% compared to last year.²⁴ Singapore became one of the first countries in the world to release economic growth data during the pandemic. The decline in numbers is sufficient to illustrate the magnitude of the impact of the coronavirus outbreak on the world.

A clear example of weakening the Singapore economy is the occurrence of layoff. Based on the unemployment rate data in June, the number of people who lost their jobs rose to the highest level in a decade. Not only that, but the number of jobs also recorded the sharpest quarterly decline because the labor market felt the initial effects of Covid-19.²⁵ According to a labor market report released in June by the Ministry of Manpower (MOM), the unemployment rate increased to 2.4 percent from 2.3 percent in the previous quarter.

²⁰ Erizka Permatasari, "Hak Korban PHK Imbas Wabah COVID-19" <https://www.hukumonline.com/klinik/detail/ulasan/lt5e877921a4f81/hak-korban-phk-imbah-wabah-covid-19/>, accessed on 26 April 2021.

²¹ Ibid.

²² Prihastomo Wahyu Widodo, "Ekonomi Singapura rontok terparah sepanjang sejarah, akibat virus corona" <https://internasional.kontan.co.id/news/ekonomi-singapura-rontok-terparah-sepanjang-sejarah-akibat-virus-corona>, accessed on 27 April 2021.

²³ BBC, "Ekonomi Singapura: Akibat pandemi virus corona, Singapura masuk resesi" <https://www.bbc.com/indonesia/dunia-53400428>, accessed on 27 April 2021.

²⁴ Ibid.

²⁵ Rehia Sebayang, "Contoh Nyata Resesi Singapura: PHK" <https://www.cnbcindonesia.com/news/20200716145356-4-173264/contoh-nyata-resesi-singapura-phk>, accessed on 27 April 2021.

Singaporeans' unemployment rate increased from 3.3 percent to 3.5 percent. Between 3.2 percent and 3.3 percent among residents - or Singapore citizens and permanent residents.²⁶

The rate of layoff in Singapore is not as high as those in Indonesia during a pandemic like this. One of the Singapore companies that have carried out massive layoff of its employees is Singapore Airlines (SIA). Singapore Airlines is the latest airline to announce layoff due to the pressure of COVID-19. Singapore Airlines (SIA) laid off 4,300 employees or about 20 percent of its workforce due to the coronavirus.²⁷ In addition, layoff also occurred for Exxon Mobil Corp. employees. The layoff affected 7% of Exxon employees in Singapore. That number is approximately 300 out of a total of 4,000 employees working in a country that is Exxon's largest petroleum and petrochemical processing complex.²⁸

Therefore, not only in Indonesia, these workers need legal protection from their respective countries regarding the layoff they experience due to the spread of COVID-19. Singapore has one of the most developed regulatory regimes in this field, while remaining business-friendly. The Global Competitiveness Report 2019 named the country as the best performer in terms of labor-employer relations protection.²⁹

In Singapore, the laws governing labor are regulated in a single law known as the Employment Act (the EA). This law was designed as a form of protecting workers' rights in Singapore. It establishes a minimum set of terms and conditions for employers who hire workers covered by this law.³⁰ Part-time employees who fall under the EA also enjoy the protection of the EA through the Employment (Part-Time Employees) Regulations. If this legislation applies to the employment of an employee then the company must comply with the applicable obligations imposed on employers and provide terms to the employee that are no less favourable than those in the EA.³¹

The Singapore Employment Act protects all employees working in Singapore under a contract of service with an employer — both local and foreign workers.³² An employee is protected by the EA if employed under any of the following terms: full time; part-time; temporary; or under contract. However, there are several categories of employees that are not covered by the law, namely: Seafarers; Local workers; Legal counsel employees, or civil servants (legal boards are certain autonomous Government agencies, such as the Accounting and Corporate Regulatory Authority (ACRA), Monetary Authority of Singapore (MAS), etc.). If an employee is not covered by the Manpower Act, the terms and conditions of employment will be governed by a special employment contract between the employee and the employer.³³

²⁶ Ibid.

²⁷ CNN Indonesia, “Singapore Airlines PHK 4.300 Karyawan karena Corona” <https://www.cnnindonesia.com/ekonomi/20200911064040-92-545181/singapore-airlines-phk-4300-karyawan-karena-corona>” accessed on 27 April 2021.

²⁸ IDX Channel, “Dampak Pandemi, Exxon Mobil PHK Masal 300 Karyawan”, <https://www.idxchannel.com/economics/dampak-pandemi-exxon-mobil-phk-masal-300-karyawan>, accessed on 27 April 2021.

²⁹ Corporate Service.com, “Singapore Employment Law” <https://www.corporateservices.com/singapore/singapore-employment-law/>, accessed on 27 April 2021.

³⁰ Corporate Service.com, “Singapore Employment Law” <https://www.corporateservices.com/singapore/singapore-employment-law/>, accessed on 27 April 2021.

³¹ Ibid.

³² Ibid.

³³ Ibid.

Singapore's Minister of Manpower stated that either the employer or the employee can terminate the service contract. Termination can occur because the worker resigns; employers terminate workers; or because the contract terms have expired, such as when a project or contract period is over.³⁴ Both parties must follow the terms and conditions of termination as stated in the service contract.³⁵ The basic EA requirements for a termination are as follows:

- 1) Employees must give their employer advance notice in writing. They may also use their annual leave to offset the notice period.
- 2) If an employee decides to terminate without notice, he or she will have to pay compensation in lieu of notice.
- 3) The employer is not required to give a reason for termination, as long as due notice has been given.
- 4) If termination is due to misconduct, the employer must hold an inquiry before taking any disciplinary action. If the employee believes that he or she has been wrongfully dismissed, a wrongful dismissal claim may be filed at the Tripartite Alliance for Dispute Management (TADM).³⁶

The fourth point above states that if an employee can establish that he or she was wrongfully dismissed, in addition to bringing a case to court, they may also file a complaint with MOM via the Tripartite Alliance Dispute Management ("TADM"). The tripartite partners of the Tripartite Alliance for Dispute Management (TADM) are the Ministry of Manpower (MOM), the National Trades Union Congress (NTUC), and the Singapore National Employers Federation (SNEF).³⁷ TADM serves as an institution that organizes mediation and advisory between employees and employers. Through the TADM, workers can claim wrongful dismissal under the Manpower Act and the Child Development Joint Savings Act for dismissal without fair or sufficient reasons.³⁸ Before arranging for mediation, TADM will determine whether the claim for wrongful dismissal can be substantiated. If the worker's dismissal claim against the wrong employer cannot be resolved through TADM, the worker may file a claim in the Employment Claims Court.³⁹

Employees who believe their dismissal was unjustified or unfair may file a written appeal with the Minister of Manpower under the Employment Act.⁴⁰ This appeal must be filed within one month of the dismissal of the case. If the Minister determines that the dismissal was unjust, he or she may order the employer to either reinstate the employee and compensate him for the time spent on leave, or to compensate the employee for the time spent on leave.⁴¹ Any employee, whether or not covered by the Employment Act, may file an unfair dismissal claim with the Employment Claims Tribunal.

³⁴ Ministry of Manpower, "What is Termination" <https://www.mom.gov.sg/employment-practices/termination-of-employment/what-is-termination>, accessed on 27 April 2021.

³⁵ Ibid.

³⁶ Corporate Service.com, "Singapore Employment Law", <https://www.corporateservices.com/singapore/singapore-employment-law/>, accessed on 28 April 2021.

³⁷ TADM, "About Us" <https://www.tal.sg/tadm/About>, accessed on 28 April 2021.

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ INS Global, "How to Terminate an Employee in Singapore" <https://ins-globalconsulting.com/how-to-terminate-an-employee-in-singapore/>, accessed on 28 April 2021.

⁴¹ Ibid.

Unlike some Asian countries such as Indonesia, Singapore does not have laws requiring employers to pay severance pay when an employee is terminated. However, if any employee is fired, the company must pay compensation, which usually ranges from two weeks to one month's salary per year, provided they have been with the company for more than two years.⁴² In order to maintain a positive relationship with the laid-off employee, the company may decide to pay in good faith even if the employee has not worked for the company for more than two years.⁴³

In the Employment Act Article 14 paragraph 3 it is explained that in the case of dismissal by the employer of the worker without notification and if the worker feels that the reasons presented by the employer are just made up excuses or without reasons, the worker can apply for 2 types. court claims, namely claim for reinstatement or claims for receipt of compensation. Then, in paragraph 3, it is explained that if the court hearing the claim believes the employee was terminated without cause or justification, the court may, notwithstanding any rule of law or agreement to the contrary, order the employer to reinstate the employee in a previous job and to pay the employee an amount.⁴⁴

Based on the explanation above regarding the legal protection of workers who have been laid off due to the spread of COVID-19, it can be concluded that in Singapore, workers' legal protection is regulated in the Employment Act. However, the Employment Act does not regulate the amount of compensation or compensation to be received by workers who have suffered losses due to unilateral layoff by the employer. The Employment Act stipulates that worker who are dismissed for reasons that are unfair to workers can appeal to the competent authority to regain their rights, namely to be reinstated or choose to receive compensation according to a court decision or receive severance pay according to the agreement in the work agreement was created before.

CONCLUSION

Both Indonesia and Singapore Legal System have provided specific regulations for protecting employers and employee in facing layoff policy. Indonesian law forbids the practice of layoff policy without any specific ground or reason. Article 154A of Manpower Law of Indonesia classifies several reasons to be used as layoff ground. In facing Covid-19 Pandemic, this provision also allow employer to dismiss its employee due to company closure caused by pandemic situation which declared as *force majeure*.

On another hand, the layoff practice in Singapore is regulated under Article 9 and 14 of Employment Act of 2009. As a country with Contractually Industrial Model, the layoff practice in Singapore is totally implemented based on employer and employee consent. Notwithstanding, The Employment Act of Singapore is still giving general guidance for layoff practice. Singaporean employers are allowed to terminate their employee with or without notice before but they obligated to pay several amounts of compensation fee regulated under Employment Act. They are also allowed to dismiss their employee by using the same mechanism as termination of contract. Reinstatement and compensation fee become protection provided by the law for employee. Indonesia and Singapore Legal System also provide certain mechanism to dissolve layoff dispute in specific dispute settlement organ as Industrial Relation Court and Employment Tribunal.

⁴² Ibid.

⁴³ Ibid.

⁴⁴ Singapore, Employment Act, Article 14 Paragraph 3.

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