

EFFECTIVENESS OF THE JOB CREATION LAW TO GUARANTEE CONTRACT WORKERS' RIGHTS

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ABSTRACT

Legal protection for contract workers in a Fixed-Term Employment Agreement (PKWT) is a major concern in the Indonesian labor system. Law Number 6 of 2023 on Job Creation regulates the provisions on PKWT with the aim of providing a balance between workers flexibility for companies and protection of contract workers' rights. This regulation includes rights to compensation, social security, as well as more detailed arrangements regarding contract time limits. However, in its implementation, there are still various challenges, such as weak supervision, companies' lack of understanding of the regulation, and the existence of practices that harm contract workers. This research uses a normative legal approach to analyze the effectiveness of this regulation to protect workers' rights. The results show that stricter supervision, increased socialization of workers' rights, and strengthening the role of trade unions are needed to ensure a more effective implementation of the regulation. With these steps, it is hoped that a more just and equitable employment system can be realized.

Keywords: legal protection, PKWT, contract workers, Job Creation Law, social security, compensation, labor inspection.

INTRODUCTION

Labor law in Indonesia has undergone significant development since the Soekarno administration, which emphasized protection for workers. Along with social and economic changes, regulations in the labor sector continue to undergo adjustments in order to create a balance between the rights of workers and the needs of employers. One of the important changes in labor law is the enactment of Law Number 6 of 2023 which is an improvement of Law Number 11 of 2020 on Job Creation, which was previously declared conditionally unconstitutional by the Indonesia Constitutional Court. This law aims to provide legal protection for contract workers, especially in a Fixed-Term Employment Agreement (PKWT), as well as ensuring that the application of the employment agreement is carried out fairly.

Workers play an important role in improving economic competitiveness. The government strives to improve the quality and quantity of human resources in order to meet the demands of an increasingly dynamic industry. One way to do this is by regulating the working relationship between workers and business owners through a clear and fair work agreement. However, in practice, there are still various problems faced by contract workers, such as unilateral termination of employment, unclear rights and obligations, and lack of understanding of applicable regulations (Nirwana & Damayanti, 2024).

Work agreements in labor law are divided into two main types, namely Fixed-Term Work Agreements (PKWT) and Indefinite Time Work Agreements (PKWTT). PKWT is often used by companies because it is considered more flexible, especially to deal with changes in market demand or seasonal labor needs. The latest regulation through Law Number 6 of 2023 aims to clarify the limitations and provisions of non-permanent contracts to protect the rights of contract workers, including compensation after the end of the working period, social security, and mechanisms for resolving labor disputes (Suyuti et al., 2023).

Although this regulation has been implemented, challenges in its implementation still occur frequently. Many companies do not understand or implement the provisions of the law thoroughly, so there are still cases of contract workers who do not get their rights in accordance with applicable regulations. This creates job uncertainty and has the potential to trigger disputes between workers and business owners. Therefore, further studies are needed to analyze how the effectiveness of the implementation of Law Number 6 of 2023 to provide protection for contract workers as well as legal remedies that can be taken in case of violation of existing provisions (Purba et al., 2024).

With more detailed provisions related to PKWT in the Job Creation Law, it is hoped that a balance between company flexibility and protection of workers' rights can be achieved. This regulation is also expected to create a fairer employment system and provide legal certainty for all parties involved in the working relationship (Maharany, 2024).

This study aims to analyze the legal protection for contract workers in a specific time work agreement (PKWT) based on Law Number 6 of 2023 on Job Creation. This study is conducted to understand the extent to which the law can provide legal certainty and balance between workers' rights and the flexibility of companies to recruit workers. In addition, this study also aims to identify problems that still arise in the implementation of regulations related to PKWT and explore legal remedies that can be taken by workers to resolve disputes that may arise. Thus, it is hoped that the results of this research can provide a more comprehensive understanding of legal protection for contract workers as well as the contribution of regulations to create a more fair and equitable working relationship.

METHODS

This research uses a normative legal approach that focuses on the study of laws and regulations as well as legal doctrines related to the protection of contract workers in a specific time work agreement (PKWT). This method is carried out by examining various legal sources, including Law Number 6 of 2023 on Job Creation, government regulations governing the implementation of PKWT, and relevant court decisions.

In addition, this study also examines legal literature and scientific journals that discuss aspects of workers' protection as well as comparisons with labor systems in various countries. An analysis of the principles of justice in labor law is also part of this study to understand how the regulation is applied in practice and its impact on workers and business owners.

Using a normative legal approach, this study aims to gain an understanding of the legal aspects governing employment relationships in PKWT and provide an overview of the effectiveness of regulations to provide protection to contract workers in Indonesia.

RESULTS AND DISCUSSION

In an ever-changing job market, fixed-term contracts are an attractive alternative for companies to optimize their human resources, while providing opportunities for workers to engage in various projects that can enhance their skills and experience. A Fixed-Term Employment Agreement (PKWT) is a form of employment contract that regulates the relationship between workers and business owners for a predetermined period of time or for a specific job. Unlike the indefinite term employment agreement (PKWTT), PKWT has a clear time limit and does not guarantee permanent employment for workers. PKWT is often used by companies in situations where workers are needed only for specific projects or seasonal work. Therefore, although PKWT offers flexibility for business owner and opportunities for workers, it is important for both parties to understand the rights and obligations contained in this agreement, in order to create a fair and mutually beneficial working relationship (Rumimpunu, 2024).

In a bid to boost economic growth and create jobs, the Job Creation Law seeks to adapt labor regulations to the evolving needs of the industry thereby creating a more adaptive work environment. Law Number 6 of 2023 on Job Creation brings significant changes in the provisions of non-permanent contracts. One of the main changes is the extension of the contract time limit from a maximum of three years to five years. This aims to provide more flexibility for companies to meet workers' needs in accordance with market dynamics. However, this change also poses challenges for workers, especially with regard to job security and their rights after the contract period ends. Therefore, while extending the contract time limit in PKWT may provide benefits for companies, it is important for workers to remain vigilant and understand the implications of this change, so that they can protect their rights and ensure career continuity in the future (Ari et al., 2024).

On the one hand, non-permanent contracts provide flexibility for companies to manage their workers according to operational needs. However, on the other hand, workers on non-permanent contracts often face job insecurity and weaker legal protection compared to permanent workers. Therefore, clear regulations and strict supervision from the government are needed to ensure that the rights of contract workers are protected (Nawakshara & Purwaningsih, 2024).

In labor protection efforts, this law is an important step to create a balance between the company's need for flexibility and the protection of workers' rights so as to encourage more harmonious and productive working relationships (Rasyid & Tinambunan, 2024). Law Number 6 of 2023 stipulates several basic rights for workers on non-permanent contracts, including the right to compensation after the contract period ends, social security, working time in accordance with regulations, and the right to leave and decent wages. This regulation aims to reduce uncertainty and ensure that contract workers retain their basic rights. With a clear regulation on the basic rights of workers in non-permanent contracts, it is expected that workers can feel more secure and protected, while companies can also run their operations more efficiently and responsibly (Sukendro et al., 2024).

One of the important provisions in the Job Creation Law is the provision of compensation for workers who have completed their contract period. This compensation is given based on the length of service and is a form of appreciation for workers who have contributed to the company. If the company does not pay the compensation stipulated in the law, the company may be subject to administrative sanctions. With this provision, it is expected that workers feel more valued and motivated to give their best for the company, while the company can also build a good reputation as a workplace that respects employee rights (Makadolang et al., 2024).

Law Number 6 of 2023 also stipulates that contract workers are entitled to protection through social security programs managed by BPJS Ketenagakerjaan and BPJS Kesehatan. This includes work accident insurance, old age insurance, pension insurance, and job loss insurance. Unfortunately, in practice, many companies still do not enroll their contract workers in these social security programs (Latri et al., 2024).

Regulations related to working time and rest periods for contract workers are regulated in the Job Creation Law. Contract workers are entitled to a maximum working time of 40 hours per week as well as the right to rest and annual leave. However, violations often occur where contract workers are forced to work beyond the specified time limit without receiving proper overtime compensation (Purba et al., 2024).

To ensure company compliance with the PKWT regulation, the government has an important role to play in conducting supervision. This supervision is carried out through labor inspections that aim to ensure that companies comply with workers' rights in accordance with applicable regulations. However, there are still many cases where companies violate the rules without getting strict sanctions (Nirwana & Damayanti, 2024).

A good understanding of the rights and dispute resolution mechanisms is very important for contract workers, so that they can protect themselves and get justice when facing violations (Rafianto & Sayudi, 2024). When there is a violation of contract workers' rights, dispute resolution can be carried out through several mechanisms, such as bipartite negotiations, mediation, conciliation, and a lawsuit to the Industrial Relations Court (PHI). However, in practice, many contract workers lack understanding of their rights and the legal mechanisms available to resolve their disputes. Therefore, more intensive education and socialization efforts regarding workers' rights and existing legal procedures are needed so that contract workers can be more proactive in fighting for their rights and creating a fairer work environment (Maharany, 2024).

Although the PKWT regulation has been updated through the Job Creation Law, implementation in the field still faces various obstacles. Many companies have yet to understand or willfully ignore the provisions in this law. There are still challenges in terms of law enforcement and protection for contract workers, especially in the informal sectors.

One of the main impacts of the use of PKWT is the lack of job stability for contract workers. Unlike permanent workers, non-permanent workers face uncertainty as their employment contracts have a clear time limit. This situation often leads to unrest, especially if the company does not provide clarity regarding the possibility of contract extension or opportunities to become permanent workers.

This situation reflects the challenges faced in the implementation of labor regulations, where despite a strong legal foundation, awareness and compliance on the part of companies still need to be improved to protect workers' rights (Warin & Darmawan, 2024). In practice, many contract workers face the risk of unilateral termination without receiving proper compensation. Law Number 6 of 2023 does provide protection for contract workers by requiring compensation if the contract ends, but violations are still common. This requires strict supervision from the authorities so that workers' rights can be truly enforced (Nawakshara & Purwaningsih, 2024). Therefore, it is important for the government and relevant agencies to improve supervision and law enforcement, as well as educate workers about their rights so that every contract worker can feel safe and protected to carry out their duties.

One of the challenges in Indonesia's labor system is the significant difference in protection between workers with a Fixed-Term Employment Agreement (PKWT) and an Indefinite-Term Employment Agreement (PKWTT). Juridically, this difference reflects inequality in the legal protection afforded to both categories of workers. Workers on non-permanent contracts receive stronger job security, including the right to greater severance pay in the event of termination, as well as better promotion and career development opportunities within the company. This is regulated in various statutory provisions, including the Labor Law and company regulations governing the rights of permanent workers (Purba et al., 2024).

In contrast, contract workers are often considered as temporary labor, which results in their limited access to the same benefits. In many cases, workers on fixed-term contracts are denied equal rights, such as social security, annual leave, and adequate severance pay, which should be the basic rights of every worker. Although Law Number 6 of 2023 on Job Creation has attempted to provide more protection for contract workers, consistent implementation and enforcement remains a challenge.

This legal uncertainty can lead to contract workers feeling marginalized and undervalued, which in turn can affect their motivation and productivity. Companies often prefer to hire contract workers to avoid the greater liabilities associated with permanent workers, creating inequities in the labor market (Ari et al., 2024). Therefore, better reforms are needed in Indonesia's labor system to ensure that all workers, whether on non-permanent or permanent contracts, receive equal and fair protection (Sukendro et al., 2024). This includes strengthening regulations governing the rights of contract workers, increasing legal awareness among workers, as well as stricter supervision from the authorities to enforce these rights. This is expected to create a more inclusive and equitable work environment, where every worker can contribute optimally without worrying about unfair treatment.

Trade unions play an important role in fighting for the rights of contract workers. With labor unions, contract workers have a platform to file grievances and fight for their rights collectively. However, in some cases, contract workers often do not have access to labor unions due to the temporary nature of the employment relationship.

For companies, the use of PKWT provides benefits in terms of workers' flexibility. By using contract workers, companies can adjust the number of workers based on operational needs without having to be bound by long-term obligations such as those that apply to permanent workers. This is especially beneficial for seasonal or project-based industries.

While PKWT provides flexibility for companies, its main drawback is the lack of certainty and stability for workers. Many contract workers find it difficult to access social security, receive proper job training, and face discrimination in career opportunities compared to permanent workers. Therefore, labor policies need to consider the balance between the needs of companies and the protection of workers' rights.

Some countries have implemented stricter policies to regulate contract workers. For example, in European countries, contract workers enjoy almost equal rights with permanent workers, including access to social security and strong legal protection. This can be a reference for Indonesia to develop policies that are more balanced between company flexibility and workers' welfare (Maharany, 2024).

If contract workers experience rights violations, there are several legal mechanisms that can be pursued, such as filing a report with the Department of Labor, filing a lawsuit with the Industrial Relations Court, or seeking the assistance of a labor union. However, in many cases, contract workers are reluctant to report violations for fear of losing their jobs or do not have the resources to face lengthy legal proceedings.

As the regulator, the government has the responsibility to ensure that the provisions regarding non-permanent contracts in Law Number 6 of 2023 are properly implemented. This includes strict supervision of companies, enforcement of sanctions for violators, and education of workers and employers on their rights and obligations. Without adequate supervision, existing legal provisions risk not providing effective protection for contract workers (Purba et al., 2024).

The changes to labor regulations in Law Number 6 of 2023 have a major impact on the workers' landscape in Indonesia. If implemented well, this regulation can create a balance between workers' flexibility and the protection of workers' rights. Juridically, this law seeks to provide a legal framework that is more adaptive to industry needs, while still safeguarding workers' basic rights. However, without effective oversight, this policy could further weaken the position of contract workers and increase job insecurity.

It is important to understand that weak supervision can lead to abuse by companies, where contract workers may not get the rights they should receive, such as proper compensation, social security, and protection from unilateral layoffs (Mardikaningsih, 2023). This has the potential to create injustice in the labor market, where contract workers are treated as workers who do not have the same rights as permanent workers.

Therefore, continuous evaluation of the implementation of this law is crucial to ensure that the objectives of workers' protection can be achieved. This evaluation should involve various stakeholders, including the government, labor unions, and business owners, to gain a comprehensive perspective on the effectiveness of the regulation. There needs to be a clear reporting and enforcement mechanism to deal with violations that may occur. Thus, it is hoped that these regulatory changes become a formality, and can truly improve workers' welfare and create a more equitable and sustainable working environment.

CONCLUSION

Based on this study, legal protection for contract workers in a Fixed-Term Employment Agreement (PKWT) has been regulated in Law Number 6 of 2023 on Job Creation. This regulation aims to balance the need for labor flexibility for companies with the protection of the basic rights of contract workers. Some aspects of protection that have been regulated include the right to compensation, social security, and clearer contract time limits. However, in its implementation, there are still various challenges, including companies' lack of understanding of this regulation, weak supervision, and the persistence of practices that harm contract workers, such as unilateral termination without proper compensation. Therefore, the effectiveness of this regulation is highly dependent on strict supervision from the government as well as increased legal awareness among workers and employers.

In order for the PKWT regulation in Law Number 6 of 2023 to be optimally implemented, it is necessary to increase supervision from the authorities on the compliance of companies to implement labor regulations. The government must be more active in conducting labor inspections and imposing strict sanctions on companies that violate the provisions. Socialization to workers regarding their rights and obligations in PKWT needs to be improved so that they can better understand the legal protections available. Increasing the role of trade unions is also important to help contract workers to fight for their rights. Further reforms in the labor system also need to be made to reduce the protection gap between non-permanent and permanent workers, in order to create a more equitable and sustainable working environment.

REFERENCES

- Ari, M. A., Rijal, S., & Mayasari, R. E. (2024). Pelatihan Penyusunan Kontrak Kerja dan Perlindungan Hukum bagi Tenaga Kerja Informal. *TENANG: Teknologi, Edukasi, dan Pengabdian Multidisiplin Nusantara Gemilang*, 1(1), 21-27.
- Irfansyah, M. F., Darmawan, D., & Hardyansah, R. (2024). Implementation of the Principle of Good Faith in Contract Performance. *Bulletin of Science, Technology and Society*, 3(2), 51-56.
- Latri, A. A., Riyanto, R. K., Firdaus, M. B., & Arjuna, M. G. S. (2024). Hak Pekerja di Era Gig Economy: Perlindungan Hukum bagi Pekerja Lepas dan Kontrak. *Media Hukum Indonesia (MHI)*, 2(2), 375-383.
- Maharany, C. (2024). Perlindungan Hukum Terhadap Pekerja PKWT Atas Pemutusan Hubungan Kerja Sepihak Sebelum Masa Kontrak Berakhir. *Media Hukum Indonesia*, 2(3), 332-339.
- Makadolang, E. M., Maramis, R. A., & Siar, L. (2024). Perlindungan Hukum Terhadap Pekerja pada Perjanjian Kerja Waktu Tertentu (PKWT) yang di Berhentikan Sebelum Waktunya. *Lex Privatum*, 13(3), 1-10.
- Mardikaningsih, R. (2023). Reviewing Wage Policies to Ensure Employee Welfare. *Legalis et Socialis Studiis*, 1(3), 18-25.
- Nawakshara, M. V., & Purwaningsih, S. B. (2024). Keabsahan Kontrak Verbal di Indonesia di Bawah Undang-Undang Ketenagakerjaan. *Journal Customary Law*, 1(3), 15-15.
- Nirwana, R. P., & Damayanti, R. (2024). Kontrak Kerja serta Perlindungan Hukum Hak dan Kewajiban Pekerja dalam Sistem Ketenagakerjaan di Indonesia. *Media Hukum Indonesia (MHI)*, 2(4), 523-529.
- Octavianto, A. D., Isnaeni, M., Putra, A. R., Dzinnur, C. T. I., & Zulkarnain, A. (2023). Legal Safeguards for Employees Encountering Workplace Accidents. *Legalis et Socialis Studiis*, 1(3), 35-42.
- Purba, M. Y., Wijayati, A., & Nadapdap, B. (2024). Perlindungan Hukum Terhadap Pekerja dalam Perjanjian Kerja Waktu Tertentu (PKWT) Ditinjau dari Undang-Undang No. 6 Tahun 2023. *Jurnal Kolaboratif Sains*, 7(4), 1513-1520.
- Raflianto, M. C., & Sayudi, A. (2024). Analisis Perlindungan Hukum Terhadap Pekerja Harian Lepas Menurut Undang-Undang No. 13 Tahun 2003 tentang Ketenagakerjaan. *As-Syar'i: Jurnal Bimbingan & Konseling Keluarga*, 6(2), 2232-2249.
- Rasyid, M. R., & Tinambunan, W. D. (2024). Kewajiban Pengusaha Terhadap Pekerja Yang Mengalami Kecelakaan Kerja Menurut UU No. 13 Tahun 2003. *Jurnal Ilmiah Wahana Pendidikan*, 10(14), 718-726.

- Republik Indonesia. (2023). *Undang-undang Nomor 6 Tahun 2023 tentang Penetapan Peraturan Pemerintah Pengganti Undang-undang Nomor 2 Tahun 2022 tentang Cipta Kerja menjadi Undang-undang*. Lembaran Negara Republik Indonesia Tahun 2023 Nomor 41. Tambahan Lembaran Negara Nomor 6856. Sekretariat Negara, Jakarta.
- Rojak, J. A. (2024). Public Ethics and HR Governance in Public Administration. *Bulletin of Science, Technology and Society*, 3(3), 7-13.
- Rumimpunu, S. L. (2024). Perlindungan Hukum Terhadap Pekerja Kontrak atas Pemutusan Hubungan Kerja oleh Perusahaan Ditinjau dari Undang-undang Ketenagakerjaan. *Lex Administratum*, 12(3), 1-9.
- Sukendro, B., Budiman, A., & Bhakti, T. S. (2024). Perlindungan Hukum Terhadap Hak-Hak Pekerja dengan Status PKWT ke PKWTT pada Pekerjaan Outsourcing/Alih Daya. *Jurnal Sosial Humaniora Sigli*, 7(1), 423-434.
- Suyuti, M., Hardyansah, R., Darmawan, D., Wibowo, A. S., & Khayru, R. K. (2023). Challenges to the Implementation of the Job Creation Law on Workers' Constitutional Rights. *Bulletin of Science, Technology and Society*, 2(3), 51-57.
- Warin, A. K., & Darmawan, D. (2024). Fostering Adaptive Employees: The Importance of Continuous Feedback in HR Development. *Bulletin of Science, Technology and Society*, 3(3), 27-34.