

Optimization of Legal Protection for Workers Against Invalid Contracts in Employment Law

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Abstract: Legal protection for workers is a crucial aspect of employment law to ensure welfare and job security. However, in practice, there are still many invalid employment contracts that conflict with laws and regulations, such as the misuse of Fixed-Term Employment Agreements (PKWT) that exceed the specified time limit, fictitious contracts, and agreements that do not provide legal certainty for workers. This study aims to analyze the forms of employment contracts that conflict with employment law and the obstacles to legal protection for workers. This study uses a normative legal method with a statutory approach and an analytical approach focuses on the analysis of Law Number 6 of 2023 concerning Job Creation, Law Number 13 of 2003 concerning Manpower, and other related regulations. The results show that weak supervision, low understanding of workers' rights, and the difficulty of the dispute resolution process are the main factors that hinder legal protection for workers against invalid employment contracts. Therefore, it is necessary to optimize policies and enforce stricter laws so that workers' rights can be protected effectively.

Keywords: Employment, Employment Contract, Job Creation Law

INTRODUCTIONS

Employment law plays a fundamental role in guaranteeing the rights and obligations of both workers and employers. As an instrument of protection, employment law regulates various aspects of employment relations, such as provisions regarding employment contracts, wage systems, social security, and dispute resolution mechanisms (Nasution, 2021). This regulation aims to create a harmonious employment relationship, where workers' rights to decent working conditions can be guaranteed, while employers also have legal certainty in running their businesses. With clear regulations, inequality in employment relations can be minimized so that there is no exploitation of workers or uncertainty for employers (Dalimunthe, 2023).

Employment law emphasizes the principle of balance between the rights and obligations of workers and employers. Workers have the right to receive decent wages, health insurance, leave, and protection from arbitrary termination of employment (PHK) (Maulana, 2024). Conversely, employers also have the right to obtain workers who work professionally by the agreed contract. This principle is key to building conducive industrial relations, where both parties can work together to achieve optimal productivity without either party feeling disadvantaged (Daga, 2023).

Employment law serves as a tool to create fair and just employment relations. Through clear regulations, the government can ensure that workers do not experience exploitation in the form of detrimental contracts or inhumane working conditions (Safitri, 2024). On the other hand, employers also get protection from unreasonable demands or actions by workers who violate the contract. Thus, employment law is not only an umbrella of protection for workers

but also provides legal certainty for employers in running their businesses so that a healthy and sustainable employment ecosystem is created.

Law Number 13 of 2003 concerning Employment is the main legal basis governing employment relations in Indonesia. This law provides legal protection for workers and employers in various aspects, such as work agreements, working hours, wages, and other workers' rights (Wildan, 2017). However, with the change in regulations through Law Number 6 of 2023 concerning Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into law (hereinafter referred to as the Job Creation Law), there have been various adjustments to the employment system in Indonesia. One of the main aspects that has changed is regarding the fixed-term employment agreement (PKWT), which is regulated in Articles 56 to 59 of the Job Creation Law. This regulation provides certainty regarding the form of employment contract that can be used, both for work with a fixed term and those that are not permanent so that it is expected to provide flexibility for the business world while still protecting workers' rights (Saepuloh, 2024).

Another significant change is in the regulations regarding working hours regulated in Article 77 of the Job Creation Law. This article emphasizes that every employer is required to implement the provisions on working hours with a choice of a five- or six-day workweek scheme. This regulation provides a more flexible legal basis for companies to set working hours according to their operational needs. However, there are exceptions for certain business sectors whose working hours can be regulated differently through work agreements or company regulations. It shows a balance between the interests of workers to get humane working hours and the needs of employers in adjusting their company's operations.

The wage aspect has also changed through Article 88 of the Job Creation Law, which emphasizes that every worker has the right to a decent living for humanity. The Central Government is given the authority to determine wage policies, including minimum wages, wage structures and scales, and overtime pay. With this regulation, it is expected that workers can obtain clarity and certainty regarding their rights in terms of wages while providing space for employers to implement a wage system that is in accordance with company conditions. Overall, although the Job Creation Law brings changes to the employment system, this regulation still emphasizes the protection of workers' rights, especially in terms of work agreements, working hours, and wages, so that it can create a more flexible but fair working relationship (Kurniasari, 2022).

In Indonesian employment law, various forms of employment contracts conflict with applicable regulations, especially Law Number 6 of 2023 concerning Job Creation and its derivative regulations. One form of deviation that often occurs is an employment contract that is not by legal provisions, where employers unilaterally determine the contents of the contract without considering workers' rights as stipulated in the law. For example, many companies use fixed-term employment agreements (PKWT) or temporary employment contracts continuously without a clear time limit, even though according to the rules, PKWT can only be applied to certain temporary jobs or projects with a predetermined maximum period.

In addition, some companies deliberately avoid the obligation to provide workers' rights, such as social security, minimum wages, and benefits, by making contracts that weaken the position of workers. It not only harms workers in terms of job security but also contradicts the principle of labor protection which is a basic principle in the national employment system.

In addition to deviations in the use of PKWT, invalid forms of employment contracts also often occur in fictitious employment agreements or contracts without clear legal status. Some companies recruit workers with long-term internships or outsourcing status without providing certainty of appointment as permanent workers, even though they have worked for

years at the company. There are also cases where workers are required to sign blank contracts or contracts that can be changed unilaterally by employers without their knowledge. This kind of practice reflects the abuse of labor flexibility which weakens legal protection for workers. Weak labor supervision and minimal legal awareness from workers themselves continue this practice to occur.

One of the main obstacles to legal protection for workers is the lack of workers' understanding of their rights. Many workers, especially in the informal sector and small industries, do not know their basic rights as regulated in Law Number 6 of 2023 concerning Job Creation and other labor regulations. The lack of education regarding the difference between a Fixed-Term Employment Agreement (PKWT) and an Indefinite-Term Employment Agreement (PKWTT) often traps workers in illegal contracts without realizing the violations that have occurred. In addition, ignorance about the right to minimum wages, social security, severance pay, leave, and protection from unilateral termination of employment (PHK) makes workers reluctant or even afraid to fight for their rights. Other factors that exacerbate this condition are low access to legal information and the lack of role of trade unions in providing education to their members. As a result, many workers choose to accept unfair treatment rather than face the risk of losing their jobs.

In addition, weak supervision and law enforcement by the authorities are major obstacles to realizing optimal labor protection. The government through the Manpower Office and related agencies has the task of ensuring that every company complies with applicable regulations. However, the limited number of labor inspectors and the lack of strict sanctions for violators have caused many companies to dare to take risks by implementing employment contract policies that are detrimental to workers. In many cases, even though there are clear violations of the law, legal action against employers who do not comply with employment provisions is often slow or does not continue due to bureaucratic factors, conflicts of interest, and weak coordination between government agencies. It provides a loophole for companies to continue implementing employment practices that are not following the law without fear of severe consequences.

Another significant obstacle is the difficulty in resolving labor disputes, either through bipartite, tripartite, or legal mechanisms. In many cases, workers who experience contract violations often have difficulty filing lawsuits because the legal procedures are complex and require a lot of money and time. Although the government has provided a dispute resolution mechanism through the Industrial Relations Court (PHI), many workers are reluctant to take this route because the process is often protracted and does not favor their interests. In addition, pressure from the company, such as the threat of layoffs or blacklisting in the world of work, also makes workers hesitate to fight for their rights. In some cases, mediation carried out by the government or labor unions is also ineffective due to the imbalance of power between workers and employers, especially if the company has strong political or economic influence. Therefore, reform is needed in the labor dispute resolution system to make it faster, more transparent, and more accessible to aggrieved workers.

RESEARCH METHODS

This study uses a normative legal method, namely a method that focuses on the study of applicable positive law by examining legal norms in laws and regulations, legal doctrines, and court decisions related to worker protection against invalid employment contracts. This approach focuses on a normative study of legal regulations governing employment

relationships, especially in the context of employment contracts that conflict with employment law. With this method, the study will examine various relevant regulations, including Law Number 6 of 2023 concerning Job Creation, Law Number 13 of 2003 concerning Manpower, and its derivative regulations such as Government Regulations and Decrees of the Minister of Manpower. In addition, the normative legal method is also used to analyze the decisions of the Industrial Relations Court (PHI) and the Constitutional Court relating to employment disputes, to gain a deeper understanding of the implementation of legal protection for workers in cases of employment contracts that violate legal provisions.

This study also uses a statute approach and an analytical approach. The legislative approach is performed by examining and analyzing various regulations governing employment relations in Indonesia to identify legal loopholes and weaknesses in implementing worker protection. This approach helps in understanding how applicable regulations are applied in employment practices and whether there are inconsistencies in the existing legal system. Meanwhile, the analytical approach is used to examine the effectiveness of the implementation of regulations and find solutions that can optimize legal protection for workers. The approach is conducted by analyzing how employment law is implemented in practice and whether there are obstacles that cause workers to remain vulnerable to illegal employment contracts. With a combination of normative legal methods, a legislative approach, and an analytical approach, this study is expected to contribute to strengthening the legal system that is more in favor of protecting workers' rights.

RESULTS AND DISCUSSION

Forms of Employment Contracts that Contradict Employment Law

Employment contracts in Indonesian employment law are regulated in Law Number 13 of 2003 concerning Employment which was later amended through Law Number 6 of 2023 concerning Job Creation. An employment contract is defined as an agreement between workers and employers that contains the terms of employment, rights, and obligations of both parties (Pane, 2024). Based on Article 56 of the Job Creation Law, employment agreements can be made for a specific or indefinite period. A Fixed-Term Employment Agreement (PKWT) is intended for work that has a specific time limit or nature, while an Indefinite-Term Employment Agreement (PKWTT) applies to work that is permanent and ongoing.

In its implementation, the employment contract must meet the valid requirements of the agreement as stipulated in Article 1320 of the Civil Code, which includes: (1) agreement of the parties, (2) legal capacity of the worker and employer, (3) the existence of a clear object in the employment agreement, and (4) does not conflict with the law, morality, and public order (Salim, 2021). In addition, Article 57 of the Job Creation Law requires that the PKWT must be made in writing in Indonesian and Latin letters. If there is a difference in interpretation between Indonesian and a foreign language in the employment contract, the agreement in Indonesian applies. Article 59 of the Job Creation Law emphasizes that PKWT can only be used for work that is temporary or has a certain time limit, such as (a) work that is completed in one time or is temporary, (b) work that has a completion period that is not too long, (c) seasonal work, (d) work related to new products or activities that are still in the trial stage, and (e) work that is not permanent. Therefore, employers cannot use PKWT for permanent work, because this can harm workers by eliminating their rights to long-term job security.

If the employment contract does not meet the requirements set out in the laws and regulations, then the contract can be considered invalid or null and void. The implication of an invalid contract is that workers can lose their rights, such as decent wages, social security, and

other employment protections (Sianturi, 2024). The applicable legal provisions provide protection for workers by regulating sanctions for employers who violate employment regulations, including the obligation to change the status of PKWT workers to PKWTT if there are deviations in the employment contract made. Therefore, compliance with employment contract regulations is very important in creating a fair and balanced employment relationship for both workers and employers.

Employment contracts that conflict with laws and regulations can have negative impacts on both workers and employers. This practice not only harms workers' rights but also risks legal consequences for employers who violate it. Some common forms of employment contract violations include paying wages below standard, no social security, violation of leave rights, and extension of Fixed Term Employment Agreements (PKWT) that do not comply with legal provisions. One form of violation that often occurs is paying wages below the standard set out in the wage policy. Based on Article 88 of the Job Creation Law, every worker has the right to a decent living, and the government has an obligation to determine wage policies that include minimum wages, overtime pay, and wages in various other working conditions (Widodo, 2025). If employers provide wages below the standard set by the government, this can be categorized as a violation of workers' rights that can be subject to sanctions by statutory provisions. The absence of social security for workers is also a serious violation of workers' rights. Social security for workers, such as BPJS Employment and BPJS Health, is a right that must be provided by employers in accordance with the provisions of the Job Creation Law and other related regulations. Employers who do not register their workers in the Social Security program can be subject to administrative and criminal sanctions, as regulated in applicable laws and regulations. The right to rest and leave is also often ignored in employment practices that are not in accordance with the law. Article 79 of the Job Creation Law stipulates that employers are required to provide rest and leave time to workers, including annual leave of at least 12 working days after workers have worked for 12 consecutive months. If the employer does not provide this leave right, then the worker has the right to demand his rights by applicable legal provisions.

Misuse of the Fixed-Term Employment Agreement (PKWT) scheme is frequently a problem in employment relationships. Based on Articles 56-59 of the Job Creation Law, PKWT can only be applied to certain jobs that are temporary in nature, such as jobs that only last a short time, are seasonal, or are related to certain projects. However, in practice, many employers extend PKWT continuously without a clear legal basis, which is contrary to statutory provisions. Misuse of PKWT can cause the employment contract to be considered null and void so that workers can demand status as permanent workers or an Indefinite-Term Employment Agreement (PKWTT) (Amri).

An employment contract that contains clauses that conflict with statutory regulations can result in the cancellation of the clause. Based on the principles of contract law in Articles 1337 and 1338 of the Civil Code (KUH Perdata), an agreement whose contents conflict with the law, morality, and public order is considered invalid null, and void (Sinaga, 2018). Thus, if there are provisions in the employment contract that violate employment regulations, such as wages below the minimum standard or the elimination of annual leave rights, then the clause cannot be enforced, and workers' rights must still be fulfilled under relevant legal provisions.

In addition to the cancellation of clauses that are contrary to the law, employers who violate employment regulations can be subject to administrative and criminal sanctions. Based on the Job Creation Law and its derivative regulations, administrative sanctions can be in the form of written warnings, restrictions on business activities, temporary suspension of some or

all business activities, and revocation of business licenses. For example, employers who do not pay wages by the minimum wage provisions can be subject to sanctions under Article 185 of Law Number 13 of 2003 concerning Manpower, which has been amended in the Job Creation Law. In addition to administrative sanctions, in some cases of serious violations, employers can also be subject to criminal sanctions, such as fines or imprisonment, especially if the violations committed have an impact on the exploitation of workers or violations of workers' human rights.

Another legal consequence is the restoration of workers' rights that have been harmed due to the employer's non-compliance with employment regulations. This restoration of rights includes payment of unpaid wages, replacement of ungranted leave rights, and registration of workers in the employment social security program. If the employer is proven to have committed a violation, workers can file a lawsuit with the Industrial Relations Court (PHI) or report the violation to the labor supervisory agency to be given sanctions and an order to restore rights. In some cases, the restoration of workers' rights can also be carried out through a mediation mechanism or bipartite negotiation between workers and employers.

Optimizing Legal Protection for Workers in Contracts that Conflict with Employment Law

Legal protection for workers in employment contracts that conflict with the law is a crucial aspect of employment law in Indonesia. The Employment Law and the Job Creation Law stipulate that every employment agreement must meet the standards set by law. However, in practice, there are still many employment contracts that contain clauses that are detrimental to workers, such as wages below the minimum provisions, elimination of leave rights, and fixed-term employment agreements (PKWT) that do not comply with regulations. Clauses such as these conflict with legal provisions and can impact workers' welfare, thus requiring legal intervention to provide stronger protection.

Legally, the consequences of employment contracts that violate the rules can be analyzed based on the principles in the Civil Code, especially Articles 1337 and 1338, which state that agreements that conflict with the law, morality, or public order are considered null and void. This means that clauses that are detrimental to workers have no legal force and cannot be enforced. Regarding employment, this means that workers still have their rights by applicable regulations, even though there are provisions in the contract that are contrary to the law. In addition, employers who include illegal clauses in employment contracts can be subject to administrative and criminal sanctions by applicable employment regulations.

Even though there are clauses that are contrary to the law, workers' rights must still be guaranteed in accordance with applicable normative provisions. These rights include minimum wages, social security, leave rights, and protection against arbitrary termination of employment (Khair, 2021). The government, through labor supervision, has an important role in ensuring that every worker gets their rights, even if there are deviations in the employment contract made by the employer. With strong legal protection, workers can be better protected from exploitation and can work in fairer conditions in accordance with the labor principles applicable in Indonesia.

Legal certainty in employment regulations is a fundamental factor in maintaining a balance in employment relations between workers and employers. Legal certainty ensures that the rights and obligations of both parties can be enforced in accordance with applicable laws and regulations (Agista, 2023). Employers have an obligation to guarantee legal certainty for workers, especially in terms of wages, social security, and working hours. The Manpower Law

and the Job Creation Law have regulated these aspects to ensure that workers receive proper protection and do not experience uncertainty in their employment relationships.

Regulations that guarantee legal certainty in employment contracts include various regulations, such as the provisions in Law Number 13 of 2003 concerning Manpower which regulates basic workers' rights, as well as the Job Creation Law which updates several regulations regarding work and employment systems. These regulations regulate various important aspects, ranging from provisions on fixed-term employment agreements (PKWT) and indefinite-term employment agreements (PKWTT), protection for contract and outsourcing workers, to working time limits and minimum wages. With clear regulations, workers have a strong legal basis to demand their rights if there is a violation by the employer.

Legal uncertainty in employment regulations can have a negative impact on workers, including abuse of employment contracts that are detrimental to them. For example, outsourcing practices that are not by the provisions can lead to unclear worker status and eliminate the normative rights that they should receive. In addition, termination of employment (PHK) that is carried out unilaterally and not by procedures can cause injustice to workers who lose their livelihoods without proper compensation. Therefore, legal certainty in employment regulations must continue to be strengthened so that every worker gets maximum protection and does not experience exploitation in employment relationships. Sanctions for employers who violate labor law provisions aim to ensure compliance with regulations and protect workers' rights. Administrative sanctions are a form of punishment given to employers who commit labor violations in the mild to moderate categories. Based on the Job Creation Law, administrative sanctions can be written warnings, fines, restrictions on business activities, temporary suspension of company operations, and revocation of business licenses (Yuliardi, 2022). Sanctions This sanction is given to encourage employers to immediately correct the violations committed and ensure compliance with applicable regulations.

In addition to administrative sanctions, employers who commit serious violations can be subject to criminal sanctions. For example, if an employer intentionally does not pay workers' wages by applicable provisions or exploits workers, they can be subject to criminal penalties in fines or imprisonment. The Manpower Law and the Criminal Code (KUHP) regulate criminal penalties for certain violations, such as forced labor, discriminatory treatment, and actions that threaten the safety and health of workers. These criminal sanctions aim to provide a deterrent effect for employers so that they do not ignore workers' rights to profit.

The impact of the application of sanctions on employers greatly affects compliance with labor laws. If law enforcement is carried out consistently and firmly, it will create a fairer and more conducive working environment for workers. However, the effectiveness of law enforcement also depends on the monitoring and enforcement mechanisms carried out by the government. Weak supervision can cause many employers to continue to commit violations without real consequences. Therefore, synergy is needed between the government, trade unions, and the community in overseeing the implementation of employment regulations so that workers' rights can be optimally protected.

Protection of workers' rights is part of human rights that must be respected, guaranteed, and protected by the state and employers. One of the main principles in protecting workers' rights is the principle of non-discrimination in employment relations. This principle is regulated by various international human rights instruments, such as the International Labor Organization (ILO) Convention and the Human Rights Law in Indonesia. This principle prohibits all forms of discrimination in employment, whether based on gender, race, religion,

or physical condition. With this principle, workers have the same rights to obtain decent work and be treated fairly in the work environment.

In addition, workers have fundamental rights to decent working conditions, including fair wages, humane working hours, and access to social security. Decent wages must be adjusted to the minimum standards set by the government to ensure the welfare of workers and their families. Humane working hours must also be considered to prevent exploitation of workers, such as working hours that exceed the provisions without proper compensation. In addition, social security such as health insurance and old age benefits are workers' rights that must be fulfilled by employers to protect against socio-economic risks.

The state is important in guaranteeing workers' rights through policies and regulations that favor workers and effective monitoring mechanisms. The government needs to ensure that existing regulations not only protect economic interests but also guarantee workers' welfare. In addition, strengthening labor supervision is necessary so that there are no violations of workers' rights, such as exploitation and deduction of normative rights. With the active role of the state in enforcing labor laws and cooperation between the government, labor unions, and employers, it is hoped that workers' rights can be optimally protected following human rights principles.

The mechanism for resolving industrial relations disputes in Indonesia has been regulated in Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes. This law emphasizes that any dispute between workers and employers must be resolved through various stages, starting from bipartite negotiations to settlement through the Industrial Relations Court. This mechanism aims to provide a fair and efficient solution for both parties and maintain the stability of labor relations.

The first stage of dispute resolution is bipartite negotiation, a direct negotiation process between workers and employers without involving a third party. Based on Article 3 of Law No. 2 of 2004, this negotiation must be carried out through deliberation to reach a consensus within a maximum of 30 working days (Mantili, 2021). If within that period no agreement is reached or one party refuses to negotiate, the dispute can be brought to the next stage, namely settlement through conciliation, mediation, or arbitration. Conciliation is carried out by a conciliator registered with the local employment agency following Article 17 and 18. This conciliation is usually applied in disputes of interest or disputes over the termination of employment that cannot be resolved bipartitely (Wijaya, 2021).

Meanwhile, mediation is a settlement process carried out by labor mediators at the district/city level as stipulated in Article 8. In both conciliation and mediation, a neutral party will help both parties reach an agreement that benefits all parties. Besides, arbitration is used in disputes of interest and between labor unions in one company according to Article 29 and Article 30, where the arbitrator appointed by the Minister has the authority to resolve this dispute. If the settlement through conciliation, mediation, or arbitration does not reach an agreement, the dispute can be brought to the Industrial Relations Court (PHI) as stipulated in Article 55 and Article 56. This court has the authority to decide various types of disputes, including disputes over rights, disputes over interests, and disputes over termination of employment. PHI functions as a formal legal mechanism that allows workers to claim their rights judicially if no settlement can be reached through previous non-litigation mechanisms.

CONCLUSION

Legal protection for workers in contracts that conflict with the law is a crucial aspect of labor law, especially in ensuring legal certainty and justice for workers. The Job Creation Law and other regulations stipulate that contracts that violate legal provisions are null and void,

while workers' rights must still be protected. In addition, legal certainty in employment relations is very important to prevent contract abuse and employment practices that are detrimental to workers. Administrative and criminal sanctions for employers who violate the rules aim to increase compliance with employment regulations.

From a human rights perspective, protection of workers' rights includes the principle of non-discrimination, decent working conditions, and the role of the state in ensuring that these rights are fulfilled. If a dispute occurs, industrial relations resolution mechanisms through negotiation, mediation, arbitration, and courts are provided to ensure justice for workers. With effective regulations and resolution mechanisms, it is hoped that legal protection for workers can be realized optimally. Legal protection for workers in contracts that conflict with the law is a fundamental aspect of labor law to ensure that workers' rights remain protected even if there are detrimental clauses in the employment agreement. Legal certainty in employment regulations is key to creating fair and balanced industrial relations between workers and employers, with regulations governing wages, social security, and protection from unlawful employment practices.

Employers who violate employment law provisions can be subject to administrative and criminal sanctions to improve compliance and the effectiveness of law enforcement. From a human rights perspective, workers' rights to decent working conditions must be guaranteed by the state through policies that protect them from exploitation. When a dispute occurs, various settlement mechanisms are available such as bipartite negotiations, mediation, arbitration, and the Industrial Relations Court to ensure justice for workers. With the implementation of clear regulations and effective dispute resolution mechanisms, it is hoped that legal protection for workers can run optimally and create a more equitable employment system.

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