

PKWT OR MODERN SLAVERY? EXPLORING THE LEGAL CONSEQUENCES OF ABUSE OF CONTRACT WORKER STATUS

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Abstract

This study discusses the misuse of the status of Fixed-Term Employment Agreements (PKWT) in the Indonesian employment system and its legal implications for worker protection within the framework of the Pancasila rule of law. The enactment of Law Number 11 of 2020 concerning Job Creation and its implementing regulations amended the limitative provisions of Article 59 of Law Number 13 of 2003 concerning Manpower, which originally provided legal certainty through time limits and an automatic conversion mechanism from PKWT to PKWTT. These changes create legal uncertainty, weaken protection for contract workers, and create potential violations of citizens' constitutional rights to decent work and livelihoods as guaranteed by Article 27 paragraph (2) of the 1945 Constitution. This study uses normative legal methods with a statutory and conceptual approach to examine the effectiveness of legal norms and their implementation practices in the field. The analysis shows that the misuse of PKWT has made employment relationships an instrument of exploitation, not protection, thus contradicting just and civilized humanitarian values. From the perspective of a Pancasila-based state based on the rule of law, the law should serve as a protector of vulnerable groups and ensure a balance between legal certainty, justice, and expediency. Therefore, a reconstruction of employment policy is needed that reaffirms the law's function as an instrument of social justice by strengthening oversight mechanisms, sanctions, and ensuring the status of contract workers in Indonesia.

Keywords: PKWT, legal certainty, worker protection

A. Background

The Republic of Indonesia firmly affirms itself as a state of law as stated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which states that Indonesia is a state of law (*rechtsstaat*). This principle means that all aspects of national and state life, including the employment sector, must be subject to and based on laws originating from Pancasila as the philosophy and foundation of the state.⁴ The values of Pancasila, particularly the second and fifth principles, emphasize the importance of just humanity and social justice for all Indonesians. In the context of industrial relations, this principle essentially demands that a balance between employer interests and worker protection be maintained, based on fair and socially just laws. However, recent labor market reforms under the Job Creation Law (Omnibus Law) have fundamentally transformed this balance, introducing policy tensions between economic flexibility and constitutional mandates for social protection.⁵

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⁴ Kasman Bakry et al., *Constitutional Law: Theory and Application of Constitutional Law in Democratic Countries: Theory and Application of Constitutional Law in Democratic Countries* (PT. Sonpedia Publishing Indonesia, 2025)

⁵ Muhamad Ali and Muh Nasir, "Legal Certainty Regarding Worker Protection with Contract Contracts," *KRAKATAU (Indonesian of Multidisciplinary Journals)* 2, no. 1 (2024): 48–53.

Philosophically, the right to obtain decent work is one of the basic rights guaranteed by the constitution. Article 27 paragraph (2) of the 1945 Constitution affirms that every citizen has the right to work and a decent living for humanity. This constitutional norm places the state in an active position in guaranteeing legal protection for workers in order to realize social welfare and fair treatment in the workplace. Therefore, the field of employment law is one of the state's important instruments in realizing the ideals of a just state based on the rule of law.⁶

Indonesian labor law encompasses all regulations relating to workers, both before, during, and after employment ends. These aspects include apprenticeships, recruitment, wage determination, occupational safety and health, social security, and industrial dispute resolution. Therefore, labor law plays a strategic role in creating a structural balance between employer interests and worker protection, particularly in the context of employment relationships established through employment agreements.⁷

In the national labor law system, employment relationships are established based on an employment agreement containing elements of work, wages, and orders. According to Law Number 13 of 2003 concerning Manpower, two types of employment agreements are recognized: In the national labor law system, employment relationships are established based on an employment agreement that contains elements of work, wages, and orders. According to Law Number 13 of 2003 concerning Manpower, there are two types of recognized employment agreements: Fixed-Term Employment Agreements (*Perjanjian Kerja Waktu Tertentu* or PKWT), commonly referred to as Fixed-Term Employment Contracts (FTC), and Indefinite-Term Employment Agreements (PKWTT). Fixed-Term Employment Contracts (PKWT)/FTC are generally known as contractual employment agreements, while PKWTT is better known as permanent employment status. Essentially, determining the form of this agreement has significant legal consequences, especially in determining the rights, guarantees, and sustainability of employee status.⁸

Fixed-term employment contracts (PKWT) are essentially intended for work that is temporary, seasonal, or can be completed within a certain time. These provisions are comprehensively regulated in Article 59 of the Manpower Law, which limits the types of work that can be bound by PKWT. PKWT may not be applied to permanent work, as this would violate the principles of justice and legal protection for workers. If these provisions are violated, the law provides strict consequences through an automatic conversion mechanism, namely changing the employment relationship status to PKWTT by law. This provision is a concrete manifestation of the principle of legal certainty and protection for workers who are vulnerable to the economic power of employers.⁹

Following the enactment of Law Number 11 of 2020 concerning Job Creation (the Omnibus Law) and the ratification of Government Regulation in Lieu of Law Number 2 of 2022, which was later enacted as Law Number 6 of 2023, the regulatory framework governing fixed-term employment contracts (*Perjanjian Kerja Waktu Tertentu*/PKWT)

⁶ HR Abdussalam and Adri Desasfuryanto, *Employment Law (Labor Law)* (PTIK, 2015).

⁷ Indra Afrita, *Employment Law and Industrial Relations Dispute Resolution in Indonesia* (Absolute Media, 2015).

⁸ Duwi Aprianti, "Legal Protection for Workers in Fixed-Term Employment Agreements (PKWT)," *Saraswati Law Journal* 3, no. 1 (2021)

⁹ Mifta Aina Harnani and Rio Arif Pratama, "Legal Protection in Fixed-Term Employment Agreements (PKWT) That Are Repeatedly Carried Out Continuously," *J-CEKI: Jurnal Cendekia Ilmiah* 4, no. 3 (2025): 2413–34.

underwent fundamental changes that reflect a broader shift in Indonesia's labor policy orientation. The Job Creation Law repealed the provisions of Article 59 of the Manpower Law, which previously prescribed strict time limits and detailed requirements for the implementation of PKWT. Subsequently, in a derivative regulation, Government Regulation Number 35 of 2021, Article 8 stipulates that fixed-term employment contracts may last up to five years and can be extended by mutual agreement of the parties, thereby removing the rigid restrictions contained in the previous law. This regulatory transformation represents a deliberate policy shift toward prioritizing labor market flexibility over protective legal frameworks, generating systemic tension between Indonesia's constitutional commitment to social justice and its pursuit of investment-driven economic growth.

The government's rationale for these changes was driven by efforts to create labor market flexibility and attract investment through regulatory simplification. However, in practice, these changes have created potential distortions in legal protection for workers. The freedom given to employers and workers to determine the length of their employment contracts based on agreement is often illusory due to the workers' relatively weak bargaining position.¹⁰ Field practice shows that many workers are forced to agree to extensions of their fixed-term employment contracts (PKWT) to maintain their employment, even though the type of work they perform is actually permanent. As a result, the meaning and function of PKWT as a temporary employment mechanism have become obscured.¹¹

Here's the fully rewritten and refined paragraph incorporating your replacements and additions, maintaining a strong academic tone and clear socio-legal reasoning:

This phenomenon reflects a deeper structural tension within Indonesia's contemporary labor policy transformation: the misuse of fixed-term employment contracts (PKWT) exemplifies the broader conflict between flexibility-oriented market reforms and justice-based constitutional mandates. From a socio-legal perspective, this situation invites a profound normative critique PKWT, initially designed as a mechanism of economic efficiency, increasingly operates in practice as a form of precarious labor, approaching what critical labor theorists describe as "modern slavery" or bonded labor conditions. This terminology is employed here as a normative and socio-legal critique, not as a formal legal classification under international criminal law, to underscore the structural dependency and exploitation embedded in Indonesia's current labor system. Workers are often contracted repeatedly without assurances of continuity, deprived of severance pay, and left without employment status certainty, placing them in conditions of structural dependence where the right to work becomes a tool of economic coercion. Under such circumstances, the principles of social justice and human dignity, as enshrined in Pancasila and the 1945 Constitution, face serious erosion. This misuse of PKWT thus serves as a microcosm of a larger policy dilemma whether Indonesia's legal framework can effectively reconcile market-driven flexibility with its constitutional duty to uphold worker dignity and social welfare.

¹⁰ Abdul Hakim, *Basics of Indonesian Employment Law*, 4th edition revised edition (PT. Citra Aditya Bakti, 2014).

¹¹ Yusmedi Yusuf and Muhammad Rizqi Fadhilillah, "Legal Protection Efforts for Termination of Employment (PHK) for Workers with Fixed-Term Employment Agreements (PKWT) Based on Employment Law," *Al-Zayn: Journal of Social Sciences & Law* 3, no. 3 (2025): 2628–36.

In employment law practice, various court decisions demonstrate the continued systematic violation of the provisions of the PKWT. Based on the Banda Aceh District Court Decision Number 9/Pdt.Sus-PHI/2024/PN Bna, the panel of judges ruled that J&T Express workers were entitled to PKWTT status because the employment relationship had exceeded the PKWT time limit without a new agreement and was carried out continuously without a break. A similar case occurred in the Pontianak District Court Decision Number 34/Pdt.Sus-PHI/2024/PN Ptk, where PT Borneo Resort Pontianak workers who had worked for more than five years through repeated contract extensions were declared permanent workers. Meanwhile, in the Surabaya District Court Decision Number 15/Pdt.Sus-PHI/2020/PN Sby, the judge ruled that an employment agreement renewed without a time limit legally becomes a PKWTT. These three cases demonstrate that the practice of misuse of PKWT is still widespread and that the enforcement of norms regarding legal certainty has not been implemented consistently in the field.

From a normative perspective, the repeal of Article 59 of the Manpower Law and the relaxed provisions on PKWT duration under the Job Creation Law engender significant legal uncertainty. Legal theory defines legal certainty as requiring laws to be clear, consistent, unambiguous, and free from subjective interpretation, ensuring predictable application. Without explicit PKWT time limits, worker protections become contingent on parties' interpretations in employment relationships, heightening risks of rights violations such as unfair treatment, livelihood insecurity, and indeterminate legal status.¹²

The absence of an automatic conversion mechanism from fixed-term contracts (PKWT) to indefinite-term contracts (PKWTT) in the post-Job Creation Law legal regime substantially weakens workers' bargaining positions. Under the previous system, workers benefited from legal guarantees that converted their contracts to permanent employment if employers violated provisions; this critical safeguard has now been eliminated. Consequently, workers have lost a powerful legal instrument to protect their rights against exploitation. This regulatory shift fosters structural inequalities in Indonesia's labor market, giving rise to a precariat class workers trapped in prolonged uncertainty without adequate social protections such as severance or benefits continuity. Beyond labor economics, this situation constitutes a human rights concern, directly challenging respect for human dignity in the workplace as enshrined in Pancasila and the 1945 Constitution. The reform thus highlights a fundamental tension between market flexibility and Indonesia's constitutional commitment to social justice.¹³

From a sociological-legal perspective, changes to the labor regulatory structure through the Omnibus Law create a dilemma between economic efficiency and social protection. The government argues that flexible employment relationships are necessary to address the challenges of globalization and industrial digitalization. However, this argument often overlooks the reality that unlimited flexibility can lead to exploitative practices. From a progressive legal perspective, legislative policies must favor structurally disadvantaged groups. Therefore, if regulations strengthen the position of

¹² Muhammad Reza Triangga et al., "Legal Certainty for PKWT Employees in Contract Termination," *Harapan Economic Education Journal* 5, no. 05 (2025).

¹³ Satria Adhi Prana and Margo Hadi Pura, "Legal Protection and Certainty for Workers with Fixed-Term Employment Agreements (PKWT) Post-Law Number 11 of 2020 Concerning Job Creation," *Justitia Journal: Journal of Law and Humanities* 9, no. 7 (2022): 3413–18.

employers without guaranteeing real protection for workers, the law no longer fulfills its function of justice.

Based on this reality, the legal consequences for companies that employ workers on fixed-term contracts (PKWT) that violate statutory regulations are a crucial issue to examine. This concerns not only administrative or civil violations but also broader moral and social implications. Implementing PKWTs that deviate from the provisions can result in violations of the principles of justice and good corporate governance. In the long term, this practice has the potential to undermine the national legal system that upholds certainty, justice, and humanity.

B. Identified Problems

The identified problem is the inequality and legal uncertainty in the application of Fixed-Term Employment Agreements (PKWT) following the enactment of the Job Creation Law and its derivative regulations. The elimination of time limits and the absence of a mechanism for automatic conversion to permanent employment have weakened legal protections for workers, opened up opportunities for misuse of PKWT for permanent employment, and given rise to the practice of repeated contracts without certainty of status and rights. This situation contradicts the principles of social justice, legal certainty, and respect for human dignity as mandated by Pancasila and the 1945 Constitution.

C. Research Methods

The research method used in this study is a normative legal research method with a statute approach *and* a conceptual approach. Normative¹⁴ legal research was chosen because the focus of the study lies in the analysis of positive legal norms that regulate Fixed-Term Employment Agreements (PKWT) and their legal consequences if they are not implemented in accordance with statutory provisions. Research data was obtained through a literature study by examining primary legal materials in the form of Law Number 13 of 2003 concerning Manpower, Law Number 11 of 2020 concerning Job Creation, and their derivative regulations, including related court decisions. Secondary legal materials were obtained from literature, academic journals, and other relevant scientific works. The analysis was conducted qualitatively by interpreting and comparing the development of legal norms,¹⁵ in order to find consistency, legal certainty, and legal protection for PKWT workers in Indonesia.

D. Research Findings and Discussions

Legal Implications of Misuse of PKWT Status in Indonesia

A Fixed-Term Employment Agreement (PKWT) is a legal instrument in industrial relations that serves to provide certainty regarding temporary, fixed-term employment. Within the framework of Indonesian labor law, the PKWT is intended to facilitate flexible employment arrangements while still protecting workers' rights from potential exploitation by employers. However, in practice, PKWTs are often misused by companies to reduce labor costs, avoid the obligation to provide benefits inherent in permanent employment status, and extend contract work periods beyond applicable legal limits. This phenomenon has serious legal implications because it potentially violates the

¹⁴ Irwansyah, *Legal Research: Choice of Methods and Practice of Writing Articles* (Mirra Buana Media, 2020).

¹⁵ Zainudin Ali, *Legal Research Methods* (Sinar Grafika, 2021).

principles of worker protection, social justice, and legal certainty, which are fundamental principles in the Indonesian labor law system.¹⁶

An employment agreement between a worker and an employer is essentially a form of civil contract subject to the principle of freedom of contract as stipulated in Article 1338 of the Civil Code (KUHPerduta). However, in the employment context, this principle does not apply absolutely. The state limits this freedom to maintain a balance between the weak position of workers and the economically strong employer. This is where employment law plays a role as public law, aiming to provide protection to parties who are socially and economically more vulnerable.¹⁷ Through Law Number 13 of 2003 concerning Employment (UUK), the state emphasizes that the form and content of an employment agreement must comply with applicable laws and regulations, so that any violation of these provisions has legal consequences that bind the parties.¹⁸

PKWT is strictly regulated in Article 59 of the Manpower Law. Based on this provision, PKWT can only be made for temporary work, work that is estimated to be completed in a short time, seasonal work, or work related to new activities that are still in the exploration stage. This provision shows that the main character of PKWT is temporary, not continuous, and closely related to a particular project or activity. Therefore, if an employment relationship based on PKWT turns out to meet the characteristics of permanent work, namely activities that are continuous and become the core of the company's activities, then by law the agreement changes to an Indefinite Term Employment Agreement (PKWTT) or permanent workers. This is emphasized in Article 59 paragraph (7) of the Manpower Law which states that if PKWT does not meet the requirements as stipulated in the previous paragraph, then the agreement changes to PKWTT from the time the employment relationship takes place.¹⁹

This provision essentially provides legal certainty and protection for workers from abuses of contractual employment relationships. In the context of civil law, the principle of this change in status is known as legal implication by operation of law, which is a change in status that occurs automatically due to a violation of an imperative legal norm. This means that workers do not need to wait for a decision from an employer or specific institution to obtain legal protection; this change is valid by law as a form of substantive justice. However, following the enactment of Law Number 11 of 2020 concerning Job Creation (UUCK) and its implementing regulations, namely Government Regulation Number 35 of 2021 concerning Fixed-Term Employment Agreements, Outsourcing, Working Hours, Rest Periods, and Termination of Employment, the regulations regarding PKWT have undergone quite fundamental changes.²⁰

The Job Creation Law repeals Article 59 of the Manpower Law, which previously regulated the time limits and renewal of PKWT contracts. This new regulation extends

¹⁶ Paksi Rafi and Rasji Rasji, "Legal Protection for PKWT Workers in the Case of Unilateral Layoffs by PT Far East Seating: Study of Decision Number 2/Pdt. Sus-PHI/2024/PN Smg," *MORALITY: Journal of Legal Studies* 11, no. 1 (2025): 31–43.

¹⁷ Ishar Pulungan, "Legal Certainty for Employees with Fixed-Term Employment Agreements Reviewed by the Job Creation Regulation," *Supremasi Jurnal Hukum* 5, no. 02 (2022).

¹⁸ Nazmi Amalia Putri et al., "Legal Protection for Child Laborers According to Law Number 13 of 2003 Concerning Manpower," *LEX CRIMEN* 12, no. 4 (2024).

¹⁹ Rachmatika Lestari et al., "Bipatrit Assistance in Employment Cases," *Indonesian Journal of Legal Community Engagement* 5, no. 1 (2022): 59–76.

²⁰ Rizky Dian Bareta et al., "The Role of Public Service Agencies in the Legal Politics of the Omnibus Law on Job Creation," *Journal of Treasury Management* 1, no. 1 (2020): 1–20.

the PKWT term to a maximum of five years, with the possibility of extension based on mutual agreement. This change was intended to provide flexibility for businesses to easily adapt their workforce needs to economic dynamics. However, empirically, this change has opened up wider opportunities for abuse. Many companies have exploited this new provision to extend workers' contracts indefinitely, even for permanent jobs.²¹ This contradicts the spirit of worker protection that underpins the philosophy of Indonesian labor law.

One of the main legal implications of the misuse of PKWT status is the loss of legal certainty for workers regarding their employment status. In industrial relations practices, workers who are contracted continuously with PKWT status do not receive the same protections as permanent workers, such as the right to severance pay, comprehensive social security, and livelihood security. This practice creates a condition of dependency and uncertainty that leads to modern forms of exploitation, where workers remain under economic pressure to accept repeated contracts to maintain their jobs. From a social justice perspective, this situation clearly contradicts the values embodied in Pancasila, particularly the second and fifth principles, which affirm the principles of just and civilized humanity and social justice for all Indonesian people.²²

Several court decisions also demonstrate how the misuse of PKWT (Working Permit) impacts the emergence of industrial relations disputes. In the Banda Aceh District Court Decision Number 9/Pdt.Sus-PHI/2024/PN Bna, the Panel of Judges ruled that workers employed beyond the contract period without written renewal and without a break period should be declared permanent workers. Similarly, in the Pontianak District Court Decision Number 34/Pdt.Sus-PHI/2024/PN Ptk, the panel of judges considered that repeated contract extensions of more than five years for permanent work were contrary to the principles of PKWT and therefore the employment relationship changed to PKWTT. A similar case was also found in the Surabaya District Court Decision Number 15/Pdt.Sus-PHI/2020/PN Sby, where the employer was proven to have renewed the employment contract without a grace period as stipulated by law. In all these decisions, the courts consistently stated that workers have the right to permanent worker status (PKWTT) along with applicable compensation.

The consistency of these decisions demonstrates the important role of the judiciary in upholding the principle of legal certainty and protecting workers. However, from a normative perspective, the elimination of the automatic status conversion provision in the Job Creation Law undermines the effectiveness of this legal protection. Currently, changing a worker's status relies more heavily on the court process of proving their status, which is time-consuming, expensive, and requires legal expertise that not all workers possess. As a result, many violations of the provisions of the PKWT never reach a fair legal resolution, and workers choose to accept the situation to maintain their income.

Theoretically, the misuse of PKWT also contradicts the principle of legal protection theory put forward by Utrecht, which states that the law must protect human interests through fair and rational regulations. Legal protection for workers stems from the paradigm that industrial relations cannot be left solely to the logic of the market, but

²¹ Rakhmat Nopliardy and Ibelashri Justiceka, "A Study of Legal Protection for Fixed-Term Contract Workers (PKWT) in the Job Creation Law," *Jurnal Terapung: Ilmu-Ilmu Sosial* 4, no. 2 (2022): 10–21.

²² Ambrosia Christava Niwanoti Serrao and Any Suryani Hamzah, "Legal Certainty for PKWT Workers After the Enactment of Law Number 6 of 2023 Concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 Concerning Job Creation into Law," *Private Law* 5, no. 3 (2025): 651–62.

must be balanced by the role of the state in ensuring distributive justice.²³ In this context, the flexibility of employment relations cannot be used to justify practices that demean workers' dignity, because in labor law, humans are positioned as subjects with human value, not merely factors of production.

Furthermore, the legal implications of misuse of PKWT (Fixed Work Agreements) include potential administrative and civil sanctions for employers. Under Article 81, point 15 of the Job Creation Law, violations of PKWT provisions are subject to administrative sanctions, including fines, suspension of business activities, and even permit revocation. Meanwhile, in a civil context, workers can sue for a change in status to a PKWTT (Working Permit) and demand compensation for the rights they would otherwise receive as permanent employees. However, the effectiveness of these sanctions remains questionable, given weak labor oversight in the field and limited legal access for workers to defend their rights.

Another implication is evident in the relationship between national law and international norms. Indonesia has ratified several International Labour Organization (ILO) conventions, including Convention No. 122 on Employment Policy and Convention No. 158 on Termination of Employment. These conventions emphasize the need for job security and fair treatment for all workers. The misuse of fixed-term contracts (PKWT) that places workers in an uncertain status contradicts the spirit of these international conventions. This has the potential to undermine Indonesia's reputation in its efforts to realize the principle of decent work, which is a global agenda item for the ILO.

From an economic perspective, the misuse of PKWT (Fixed Term Work Agreements) may appear beneficial for companies because it can reduce long-term labor costs. However, from a legal economic perspective, this practice creates market distortions by sacrificing workers' rights for the sake of corporate efficiency. In the long term, uncertainty about employment status can reduce productivity, diminish loyalty, and increase the potential for industrial conflict.²⁴ Therefore, regulations that are too lenient regarding the implementation of PKWT actually contradict the original purpose of the Job Creation Law, which is to create a sustainable investment climate with strong legal certainty.

Thus, it can be concluded that the misuse of PKWT status has multidimensional legal implications: normatively it violates positive law; sociologically it creates uncertainty and exploitation of workers; and morally it contradicts the basic values of Pancasila and the principles of the Indonesian rule of law. To address this problem, concrete steps are needed in the form of regulatory reconstruction that reaffirms the legal boundaries of PKWT, strengthens labor oversight mechanisms, and ensures the existence of effective sanctions for violators. In addition, the state must reaffirm the function of labor law not only as an instrument of economic development, but also as a means of social protection that guarantees the welfare and respects human dignity as workers.

²³ Saleh Saepuloh and Akbar Sayudi, "Legal Analysis of Legal Protection for Workers with Fixed-Term Employment Agreements (PKWT) According to Law Number 06 of 2023 concerning the Stipulation of Regulations in Lieu of Law Number 02 of 2022 concerning Job Creation to Become Law.," *As-Syar'i: Jurnal Bimbingan & Konseling Keluarga* 6, no. 2 (2024): 2145–64.

²⁴ Bambang Sukendro et al., "Legal Protection of Workers' Rights with Pkwt to Pkwtt Status in Outsourcing Work," *Sigli Social Humanities Journal* 7, no. 1 (2024): 423–34.

Within the framework of Indonesia's rule of law, the law must not only regulate economic relations between workers and employers, but also serve as an instrument of substantive justice. The core values of Pancasila must serve as the foundation for the formulation and implementation of employment policies. The meaning of "social justice for all Indonesian people" in the fifth principle implies a moral and legal obligation for the state to ensure a balance between economic interests and workers' human rights. Therefore, the misuse of PKWT (Fixed Term Work Agreements) must be seen as a violation of constitutional principles and not simply an administrative error. The state, through its legal instruments, is obligated to uphold the protection of all workers so that the ideals of a just, prosperous, and civilized rule of law are truly realized in the nation's social and economic life.

Legal Certainty and Protection for Contract Workers from the Perspective of a Rule of Law State

In the concept of a state based on the rule of law, the existence of law is not only understood as a set of formal rules that regulate social life, but also as a means to realize substantive justice for all citizens. The basic spirit of the principle of the Indonesian state based on the rule of law as stated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, emphasizes that Indonesia is a state based on the rule of law based on Pancasila. Pancasila, as the basis of the state and the source of all sources of law, contains fundamental values that inspire every formation and implementation of law, including in the field of employment. The values of just and civilized humanity and social justice for all Indonesian people are the main guidelines in forming equitable employment relations between workers and employers.²⁵

Protection of workers is truly a manifestation of the principle of just and civilized humanity as reflected in the second principle of Pancasila. In the context of employment, workers are not only considered as a factor of production, but as human beings who have dignity and worth that must be respected. Therefore, every policy and legislation in the field of employment must be directed at protecting workers' rights as part of human rights. This right has been constitutionally affirmed in Article 27 paragraph (2) of the 1945 Constitution which states that every citizen has the right to work and a decent living for humanity. This means that the state has an obligation to ensure that the employment relationship between employers and workers runs fairly, with dignity, and in accordance with legal principles that protect the weak in the social and economic structure.

Legal certainty in the employment sector plays a central role in maintaining balanced industrial relations. Legal certainty means clarity, consistency, and stability in applicable legal regulations, so that all parties can clearly understand their rights and obligations. In the context of employment agreements, particularly Fixed-Term Employment Agreements (PKWT), legal certainty is crucial because it determines the length of employment, the status of the employment relationship, and the rights inherent therein. PKWT is regulated in Law Number 13 of 2003 concerning Manpower as an employment agreement that can only be applied to work that is temporary or will be completed within a certain period. This provision provides legal protection for workers to prevent misuse of this form of employment contract that could be detrimental to either party.²⁶

²⁵ Philipus Hadjon, *Legal Protection for the Indonesian People*, 12th Edition (PT Bina Ilmu, 2017).

²⁶ Equino Mikael Makadolang et al., "Legal Protection for Workers Under Fixed-Term Employment Agreements (PKWT) Who Are Terminated Prematurely," *Lex Privatum* 13, no. 3 (2024).

However, following the issuance of Law Number 11 of 2020 concerning Job Creation and its implementing regulations, Government Regulation Number 35 of 2021, the regulations regarding PKWT underwent a fundamental shift. The time limit previously strictly stipulated in Article 59 of the Manpower Law was removed and replaced with a more relaxed provision, with a maximum term of five years, with the possibility of extension based on an agreement between the worker and the employer. This normative change raises serious issues from a legal certainty perspective. The old provisions provided a strict control mechanism, whereby any violation of the PKWT rules would automatically convert the agreement into an Indefinite-Term Employment Agreement (PKWTT). However, in the new post-Job Creation legal system, this automatic conversion mechanism was removed, thereby eliminating workers' legal status if employers violate the terms of the employment agreement.²⁷

This change creates legal uncertainty because the provisions regarding the time limits and qualifications for types of work eligible for the PKWT system are unclear. Consequently, in industrial relations practice, many companies are again exploiting legal loopholes by extending workers' contracts indefinitely. Workers who should be entitled to permanent employment are retained as contract workers, which directly impacts the loss of their rights to severance pay, comprehensive social security, and the right to long-term protection. Sociologically, this situation demonstrates a decline in the legal protection system for workers in Indonesia and threatens the principle of social justice as stipulated in Pancasila.

In the theory of a state based on the rule of law, one of the key elements that must be fulfilled is the protection of human rights. According to Jimly Asshiddiqie, Indonesia's rule of law emphasizes the concept of a constitutional state, which not only upholds the supremacy of law formally but also focuses on substantive justice and the protection of citizens' rights.²⁸ In the context of contract workers, legal protection is not simply provided through written norms but must be realized through concrete implementation on the ground. When new regulations actually weaken the position of workers, it can be said that the law has lost its function as a tool of social control that ensures justice and balance.

From the perspective of legal protection theory, Soerjono Soekanto emphasized that legal protection has two main dimensions: preventive protection and repressive protection. Preventive protection serves to prevent violations through clear and firm regulations, while repressive protection serves to restore the rights of workers who have been harmed through law enforcement.²⁹ In the case of PKWT, preventive legal protection should be realized through contract time limits and strict supervision of its implementation. However, with the deregulation that removed the limitation articles and automatic conversion, the preventive function of the law is no longer effective. Workers who are harmed must go through the repressive mechanism of lawsuits in industrial relations courts to obtain their rights, which certainly requires time, money, and courage that not all workers have.

²⁷ Christine Octavia and Gunardi Lie, "Legal Review of PKWT Workers Who Are Employed Continuously," *Sigli Social Humanities Journal* 6, no. 2 (2023): 833–46.

²⁸ Jimly Asshiddiqie, *Indonesian Constitution & Constitutionalism* (Secretary General and Clerk's Office of the Constitutional Court of the Republic of Indonesia, 2006).

²⁹ Soerjono Soekanto, *Factors Influencing Law Enforcement* (PT. Raja Grafindo Persada, 2008).

The legal uncertainty arising from these changes to the employment system has also negatively impacted the balance of industrial relations. Employment relationships that should have been built on the principle of mutually respectful partnerships have become unequal and exploitative. Workers have become a subordinate group, losing bargaining power over employers due to fear of losing their jobs. This situation also has social consequences in the form of increasing economic inequality, social dissatisfaction, and weakened solidarity in the workplace. Yet, according to Pancasila, one of the primary goals of a state based on the rule of law is to create social justice for all Indonesians, including fair employment opportunities and welfare.

Normatively, the weak protection of contract workers also demonstrates the lack of consistency in legal principles in Indonesia.³⁰ In a positivistic approach, the law must be certain and logical, and not open to multiple interpretations. The lack of clarity regarding the PKWT time limit and the automatic conversion mechanism has resulted in ambiguous legislation and opened up the opportunity for differing interpretations at the implementation level. As a result, the rule of law has shifted to rule by contract, where workers, as the weaker party, are forced to comply with the terms of the contract due to an imbalance in bargaining power. This situation emphasizes the urgency for the state to re-emerge as a strong regulator, ensuring that the application of the principle of *pacta sunt servanda* is not used to legitimize violations of the principle of justice.

In addition to constitutional and normative aspects, the humanitarian dimension of employment law must also be considered. Contract workers whose contracts are continuously extended without any certainty of status can potentially experience psychological stress, economic uncertainty, and insecurity. From a human rights perspective, this condition can be categorized as a violation of the right to decent work and fair treatment in the workplace, as guaranteed in Article 23 of the Universal Declaration of Human Rights (UDHR) 1948 and the ILO Convention on the Fundamental Rights of Workers. Indonesia, as an ILO member state, has a moral and legal obligation to ensure that all workers are treated fairly, without discrimination, and with guaranteed employment status.³¹

In terms of implementation, the weak legal protection for contract workers is also due to the ineffectiveness of the labor inspection system. Labor inspectors often lack the resources and authority to prosecute violations of the provisions of the PKWT (Fixed-Term Contract) agreement. Meanwhile, the dispute resolution mechanism through industrial relations courts is often considered slow and leads to uncertain outcomes. As a result, many workers choose not to pursue legal action even when their rights are violated. This situation reinforces the view that in the reality of employment relations in Indonesia, the law has not fully protected workers, but remains in the shadow of economic logic.³²

From the perspective of John Rawls' theory of justice, just laws must provide greater protection to those in vulnerable positions. Rawls's difference principle

³⁰ Raynold Sebastian Hasiholan Gultom and Muthia Sakti, "Greenwashing Practices: Legal Protection and Corporate Responsibility Viewed from Indonesian Law," *Journal of Legal Interpretation* 4, no. 3 (2023): 626–41.

³¹ Haikal Arsalan and Dinda Silviana Putri, "Legal Reform and Human Rights in the Settlement of Industrial Relations Disputes," *Jurnal HAM* 11, no. 1 (2020): 39, <https://doi.org/10.30641/ham.2020.11.39-50>.

³² Audina Afriani et al., "Resolution of Industrial Relations Disputes Caused by the Right to Overtime Pay at PT Tirta Investama, Langkat Regency, Linked to Law No. 2 of 2004," *VISA: Journal of Vision and Ideas* 3, no. 3 (2023): 536–44.

emphasizes that inequality can only be justified if it benefits the least advantaged in society.³³ The implementation of unlimited fixed-term employment contracts (PKWT) without strong protection mechanisms completely violates this principle. In fact, eliminating contract time limits weakens workers' rights and strengthens employer dominance, creating a legal system far from just. Therefore, from the perspective of distributive justice and the Pancasila rule of law theory, this policy requires fundamental criticism.

In an effort to improve the legal protection system for contract workers, the state needs to reformulate employment policies that are oriented towards the principles of justice and legal benefits.³⁴ This reform must restore the position of labor law as public law that functions to correct inequality in employment relations, not merely as an instrument to facilitate labor market flexibility. Legislators must review the substance of the provisions on PKWT (Fixed-Term Work Agreements) in the Job Creation Law to ensure that time limits and effective legal protection mechanisms are implemented, including the possibility of reviving the automatic conversion mechanism to guarantee legal certainty. Furthermore, improving labor oversight, empowering labor unions, and providing access to legal aid for contract workers should be national policy priorities.

Ideally, legal protection for contract workers in Indonesia's constitutional state should reflect the balance between certainty, justice, and utility, as proposed by Gustav Radbruch in Three Concepts of Justice. Legal certainty is achieved through clear and consistent rules; justice is realized through protection of the vulnerable; and utility is achieved when the law is able to provide welfare for society as a whole. In this context, labor laws that prioritize unlimited flexibility have the potential to eliminate two other important elements: justice and certainty.³⁵ Therefore, labor law reform should be directed at realizing synergy between economic growth and social protection, rather than placing the two in a conflicting position.

Thus, legal certainty and protection for contract workers is not merely a technical issue in employment, but rather a manifestation of the fundamental values of Indonesia's rule of law. The law must serve as a protector, not a servant of economic power. The state, through its legal apparatus and institutions, must ensure that every worker receives humane, fair, and dignified treatment. Without adequate legal protection, contract workers will continue to be trapped in a cycle of modern exploitation that erodes human values. Therefore, strengthening legal certainty and protection for contract workers is not only a legal demand, but also a moral calling to realize the ideals of a state based on the rule of law, Pancasila, which upholds social justice for all Indonesians.

E. Conclusions

Based on the entire discussion, it can be concluded that the Fixed-Term Employment Agreement (PKWT) system in Indonesia has experienced a shift in meaning from a legal instrument aimed at providing certainty for temporary work to a tool for workforce flexibility that is vulnerable to abuse by companies. Misuse of PKWT creates

³³ Pandu Dewanto, "Reconstruction of judges' considerations in civil dispute decisions based on justice values," *Jurnal Ius Constituendum* 5, no. 2 (2020): 303–24.

³⁴ Pulungan, "Legal Certainty for Employees with Fixed-Term Employment Agreements Reviewed by the Job Creation Regulation."

³⁵ Khalisha Adela Morris, "A Legal Review of Worker/Laborer Rights in Outsourcing Companies in the Aspect of Legal Certainty Protection," *Jurnal Serina Sosial Humaniora* 1, no. 3 (2023): 170–81.

legal uncertainty, violations of the principle of justice, and neglect of workers' constitutional rights as guaranteed by Article 27 paragraph (2) of the 1945 Constitution. Changes to norms in the Job Creation Law that eliminate the automatic conversion mechanism from PKWT to PKWTT have weakened legal protection for contract workers and reduced the quality of legal certainty in employment relations. As a result, workers are increasingly vulnerable to exploitation, loss of social security, and uncertain status.

From the perspective of a Pancasila rule of law, the law should guarantee social justice through protection of the vulnerable. Therefore, the state needs to reformulate employment policies by reaffirming the function of law as a protector of workers, strengthening supervision of employment relations, and ensuring that the principles of certainty, justice, and humanity are implemented harmoniously in the national employment law system.

Moving forward, reconstructing Indonesia's employment policy framework requires a deliberate rebalancing of labor market flexibility and worker protection within the constitutional mandate of a Pancasila-based rule of law. This reconstruction must entail three critical dimensions: first, legislative reform to restore protective mechanisms such as automatic conversion thresholds and explicit time limits on contract renewals that prevent the structural circumvention of permanent employment status; second, institutional strengthening of labor inspection and dispute resolution mechanisms to ensure consistent enforcement across sectors, particularly in informal and vulnerable employment contexts; and third, stakeholder engagement that centers worker voice in policy design, ensuring that flexibility measures do not operate unilaterally in favor of capital. The urgency of this reconstruction is underscored by the growing precariat in Indonesia's labor market and the widening gap between constitutional promises of social justice and the lived reality of contract workers. Only through such comprehensive policy reform can Indonesia honor its constitutional commitment to guarantee decent work and human dignity while maintaining the economic dynamism necessary for sustainable development. This rebalancing is not merely a technical legal adjustment but a fundamental assertion of the state's role as guarantor of social welfare and a vindication of Pancasila's promise of justice for all Indonesians.

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