



The Position of the Principle of Balance in the Preparation of Employment Agreements in Indonesia

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Abstract: Employment agreements play an important role in regulating the rights and obligations of workers and employers in Indonesia. An imbalance in bargaining power often fuels worker exploitation. This article aims to analyze the application of the principle of balance in employment agreements and examine the negotiation mechanism involving labour unions and employers to create justice. The methods used include a normative legal approach, analysis of laws and regulations, and concrete case studies. The discussion included evaluating the practice of drafting employment agreements, the impact of imbalances on industrial relations, and legal and regulatory strategies to ensure balance. The novelty of this study lies in the emphasis on the importance of union involvement and transparency in employment contracts as a solution to create fair employment relationships. The conclusion shows that the application of the principle of balance is essential to protect workers' rights and support the sustainability of the company.

Keywords: Balance, Employment Agreement, Employment.

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1. Introduction

Employment agreements have a very important role in the employment relationship between workers and employers in Indonesia. As a legal document that regulates the rights and obligations of both parties, this agreement aims to create clarity and certainty in the employment relationship.¹ With an employment agreement, both workers and employers can clearly understand their respective responsibilities, thereby reducing the potential for disputes or conflicts in the future. This is very crucial, considering that uncertainty in employment relationships can disrupt the smooth operation of the company and affect worker productivity. In addition, the employment agreement also serves as a legal protection tool for both parties. If there is a violation of the agreed provisions, this agreement can be used as a basis for dispute resolution through legal channels.²

Furthermore, employment agreements in Indonesia have an important role in regulating the rights and obligations between workers and employers. In this context, the employment agreement is a legal document that stipulates various provisions that must be complied with by both parties. Workers' rights, such as decent wages, rest time, and social protection, are set out in this agreement.³ For example, Law Number 13 of 2003 concerning Manpower states that workers are entitled to salary by the agreement and certain benefits such as health benefits and annual leave. On the other hand, the obligation of workers to carry out their duties by the instructions of their superiors is also regulated, including maintaining the confidentiality of company information and complying with applicable rules and regulations.⁴ With a clear employment agreement, both parties can understand their rights and obligations, thereby reducing the possibility of conflict in the future.

In addition, employment agreements also create balance in the employment relationship by ensuring that the employer's rights are respected. The principle of *balance of power* in the employment relationship between workers and employers in Indonesia is crucial to ensure that both parties have a balanced bargaining position.⁵ An imbalance in bargaining power can lead to the dominance of one party over the other, which often leads to worker exploitation. In many cases, employers have more power because they control resources and job opportunities, while workers, especially

¹ Aumalia Hanipah et al., "Kontrak Kerja Dalam Hukum Bisnis Ketenagakerjaan: Analisis Perlindungan Hukum Hak Dan Kewajiban Para Tenaga Kerja," *Maliyah : Jurnal Hukum Bisnis Islam* 13, no. 1 (June 25, 2023): 110–32, <https://doi.org/10.15642/maliyah.2023.13.1.110-132>.

² Adrian Radiansyah et al., *Buku Ajar Manajemen Hubungan Industrial* (Jambi: PT. Sonpedia Publishing Indonesia, 2024).

³ Ester Tantri, "Perlindungan Hukum Terhadap Tenaga Kerja Indonesia Di Luar Negeri Menurut Undang-Undang Nomor 18 Tahun 2017," *Lex Privatum* 10, no. 3 (June 27, 2022), <https://ejournal.unsrat.ac.id/v3/index.php/lexprivatum/article/view/41008>.

⁴ Deni Iskandar, Nurul Amalia, and Muhammad Misbakul Munir, "Perjanjian Kerja Waktu Tertentu (PKWT) Berdasarkan UU No 6/2023 Tentang Cipta Kerja Dan Hukum Islam," *Mandub : Jurnal Politik, Sosial, Hukum Dan Humaniora* 2, no. 1 (2024): 249–61, <https://doi.org/10.59059/mandub.v2i1.905>.

⁵ Alexander Kennedy, "Perlindungan Hak Upah Bagi Pekerja Dalam Lingkup Usaha Mikro Kecil Menengah," *Jurnal Interpretasi Hukum* 5, no. 2 (October 8, 2024): 1108–19, <https://doi.org/10.22225/juinhum.5.2.10604.1108-1119>.

in the informal or low-skilled sectors, are often in a weak position.⁶ This creates a situation where workers may feel forced to accept unfair conditions, such as low wages or unsafe working conditions, to keep their jobs. This imbalance not only harms individual workers but can also negatively impact productivity and morale in the workplace as a whole.

The impact of imbalances in employment relations is significant, especially on workers' rights and legal certainty. When workers' rights are not properly protected, they risk losing access to fair wages, occupational health and safety protection, and the right to unionize. This can result in a decrease in the quality of life for workers and their families. Additionally, uncertainty regarding these rights can create an unstable and fearful work environment, where workers are reluctant to file complaints or demand their rights for fear of dismissal or retaliation from employers. In the long run, conditions like this can hinder economic growth and create wider social discontent.⁷

The government has an important role to play in creating this balance through fair and effective regulation. By establishing labour laws that protect workers' rights, governments can help create an environment where workers feel safe to express their needs and desires without fear of negative consequences. For example, regulations regarding the minimum wage and protection against arbitrary dismissal are important measures to ensure that workers are not exploited. However, challenges remain because there is often resistance from employers who feel burdened by the regulation.⁸

Imbalances in employment relationships can also cause long-term impacts on society as a whole.⁹ If workers' rights continue to be neglected, this could fuel wider social discontent and increase the likelihood of industrial conflict. In addition, companies that do not provide adequate protection to their workers risk facing a bad reputation and losing the trust of consumers and investors. In the current context of globalization, where many companies operate across national borders, maintaining a balance in labour relations is becoming increasingly important to attract foreign investment and ensure business sustainability.

Understanding the application of the principle of balance in the drafting of employment agreements in Indonesia is very important to create a fair and

⁶ Henny Warsilah and Dede Wardiat, *Pembangunan Sosial di Wilayah Perbatasan Kapuas Hulu, Kalimantan Barat* (Jakarta: Yayasan Pustaka Obor Indonesia, 2017).

⁷ Celina Tri Siwi Kristiyanti, *Hukum Perlindungan Konsumen* (Jakarta: Sinar Grafika, 2022).

⁸ Tini Haryani et al., "Kolaborasi Antara Pemerintah, Pengusaha, Dan Serikat Pekerja Dalam Mewujudkan Hubungan Industrial Yang Harmonis Di Kepulauan Riau," *Jurnal Ilmu Komunikasi Dan Sosial Politik* 1, no. 2 (December 11, 2023): 223-31, <https://jurnal.ittc.web.id/index.php/jiksp/article/view/399>.

⁹ Ika Nuraini Dian, "Analisis Pengaruh Tingkat Pengangguran Terbuka, Kesempatan Kerja, Dan Tingkat Pendidikan Terhadap Tingkat Kemiskinan Provinsi Lampung Tahun 2017-2022 Dalam Perspektif Ekonomi Islam" (diploma, lampung, UIN Raden Intan Lampung, 2024), <https://repository.radenintan.ac.id/34951/>.

harmonious employment relationship between workers and employers. This principle ensures that the rights and obligations of both parties are arranged in a balanced manner so that no party dominates or is exploited.¹⁰ In this context, the government plays the role of a mediator who must create regulations that protect workers' rights while still considering the interests of employers, especially in attracting foreign investment.¹¹ When the principle of balance is applied properly, workers feel more secure and valued, which in turn can increase their productivity and loyalty to the company. On the other hand, if this principle is ignored, there will be injustices that can damage employment relations and create dissatisfaction among workers.

Issues of injustice and exploitation often arise in the practice of drafting employment agreements, especially when the bargaining position of workers is weaker than that of employers. In many cases, workers may be forced to accept unfavourable conditions, such as low wages or long hours without proper compensation.¹² Hal ini sering kali diperburuk oleh kurangnya pengetahuan pekerja mengenai hak-hak mereka dan ketidakmampuan mereka untuk menegosiasikan perjanjian yang lebih baik.¹³ In addition, practices such as the use of short-term employment contracts or fixed-time work agreements (PKWT) can be used by employers to avoid long-term liability to workers.¹⁴ This imbalance is not only detrimental to individuals but can also negatively impact the overall business climate, as it creates legal uncertainty and potential conflicts between workers and employers.¹⁵

The purpose of this article is to analyze and examine the position of the principle of balance in the preparation of employment agreements in Indonesia, which is a fundamental aspect of creating fair and harmonious labour relations. In this context, the principle of balance serves to ensure that the rights and obligations between workers and employers are regulated in a balanced manner so that no party feels disadvantaged or exploited. This article also aims to explore how this principle is applied in practice, especially through negotiation mechanisms involving trade unions and employers. By understanding the application of the principle of balance, it is hoped that solutions can be found to problems that often arise in employment relations, such as unfairness in wages or inappropriate working conditions. This is

¹⁰ Asti Giri Anjani, Vonny Fatikha Azzahra, and Dian Amesti, "Perlindungan Hukum Mengenai Perjanjian Kerja Waktu Tertentu Untuk Pekerja Dalam Hukum Ketenagakerjaan," *Causa: Jurnal Hukum Dan Kewarganegaraan* 4, no. 2 (May 31, 2024): 32–42, <https://doi.org/10.3783/causa.v4i2.3455>.

¹¹ Indah Dwiprigitaningtias, *Buku Ajar Hukum Ketenagakerjaan: Hukum Ketenagakerjaan Untuk Kebijakan Pembangunan Berkelanjutan Dalam Industri Hijau* (Airiz Publishing, 2024).

¹² Sulistyowati Irianto et al., *Akses Keadilan dan Migrasi Global: Kisah Perempuan Indonesia Pekerja Domestik di Uni Emirat Arab* (Jakarta: Yayasan Pustaka Obor Indonesia, 2011).

¹³ F. Hesselbein Goldsmith M, *The Leader of The Future 2* (Jakarta: Elex Media Komputindo, 2013), 2.

¹⁴ Rinto W. Samaloisa, *Outsourcing : Kontradiksi Antara Konsep Hukum & Praktik* (Malang: Media Nusa Creative (MNC Publishing), 2016).

¹⁵ "Perlindungan Hukum Terhadap Pekerja Alih Daya Yang Mengalami Pemutusan Kerja Sepihak Dalam Merger Dan Akuisisi Perusahaan," *Recht Studiosum Law Review* 3, no. 1 (May 20, 2024): 6–27, <https://doi.org/10.32734/rslr.v3i1.14235>.

important so that all parties can actively participate in the process of drafting employment agreements that reflect their needs and aspirations.

In practice, there are issues of injustice and exploitation that often occur during the preparation of employment agreements. Many workers, especially in the informal or low-skilled sectors, do not have a strong bargaining position when negotiating with employers.¹⁶ As a result, they are often forced to accept adverse conditions, such as wages that do not meet minimum standards or excessive working hours without proper compensation. In addition, the lack of understanding of their rights makes it difficult for workers to demand justice in employment agreements.¹⁷ Therefore, it is important for this article to highlight the need to educate workers about their rights and the importance of the role of trade unions in fighting for the interests of their members. Thus, the application of the principle of balance in the preparation of employment agreements can be more effective and fair, creating a better working environment for all parties.

2. Research Method

This research uses a normative legal approach,¹⁸ which focuses on research on legal principles and laws related to employment agreements in Indonesia. In this context, a *statute approach* is applied to analyze Law No. 13 of 2003 concerning Manpower and other relevant regulations. This approach is important for understanding the legal framework that governs employment relations and how the principle of balance is applied in practice. Furthermore, a conceptual approach is used to examine the concept of balance in labour agreements based on the theory of contract law and the theory of industrial relations. This approach helps in understanding the meaning and implications of the principle of balance in the context of employment relations in Indonesia. In addition, case analysis (*case approach*) is also carried out using case studies from several examples of employment agreements carried out between workers and companies. The research aims to provide a comprehensive understanding of the application of the principle of balance in the preparation of employment agreements, as well as the challenges and solutions that may be faced in practice.

¹⁶ Maisaroh Choirotunnisa, "Labor Polemics and A Comparison of Indonesian Labor Policies:," *Progress In Social Development* 4, no. 1 (January 31, 2023): 7–19, <https://doi.org/10.30872/psd.v4i1.49>.

¹⁷ Yoyo Sudaryo, Agus Aribowo, and Nunung Ayu Sofiati, *Manajemen Sumber Daya Manusia: Kompensasi Tidak Langsung Dan Lingkungan Kerja Fisik* (Yogyakarta: CV. Andi Offset, 2018).

¹⁸ Irwansyah Irwansyah, *Penelitian Hukum ; Pilihan Metode & Praktik Penulisan Artikel* (Yogyakarta: Mirra Buana Media, 2020); Peter Mahmud Marzuki, *Penelitian Hukum*, Edisi Revisi (Jakarta: Prenadamedia Group, 2014); Mukti Fajar and Yulianto Achmad, *Dualisme Penelitian Hukum : Normatif & Empiris* (Yogyakarta: Pustaka Pelajar, 2010).

3. Analysis and Discussion

3.1. Legal Framework for Employment Agreements in Indonesia

Law No. 13 of 2003 on Manpower is an important milestone in the history of labour law in Indonesia that provides comprehensive protection for workers and regulates in detail the rights and obligations of employers. This regulation not only focuses on fundamental aspects such as the definition of labour and employment as stated in Article 1, but also includes various other important provisions such as minimum wage standards, social security, occupational safety, and protection for women and child workers. This law also regulates in detail the mechanism for resolving industrial relations disputes, termination of employment (PHK) procedures, and sanctions that can be imposed on parties who violate the provisions that have been set. This reflects the government's commitment to creating a fair and dignified employment climate for all parties involved in industrial relations.

Furthermore, the presence of Law No. 13 of 2003 has had a significant impact on strengthening the bargaining position of workers in industrial relations, as well as providing legal certainty for entrepreneurs in running their businesses. This law explicitly regulates the fundamental rights of workers such as the right to form a trade union, the right to decent working conditions, and the right to adequate welfare. On the other hand, this law also provides clear guidelines for employers in managing the workforce, including provisions on working hours, wage systems, and sanctions procedures. Through this comprehensive arrangement, the labour law has succeeded in creating a balance between the interests of workers and employers, ultimately contributing to the creation of harmonious and productive industrial relations in Indonesia.¹⁹

Article 4 in Law No. 13 of 2003 concerning Manpower is a manifestation of the Indonesian government's vision in building a comprehensive and fair employment system. The objectives of employment development listed in this article not only focus on the aspect of optimal labour empowerment, but also include efforts to equalize employment opportunities and provide labour in accordance with the needs of national development.²⁰ This is reflected in the various programs and policies that have been implemented, such as job training, apprenticeship programs, and various other skill development initiatives. Moreover, this article also emphasizes the importance of realizing protection for workers in carrying out their work, including ensuring adequate occupational safety, health, and welfare. This government commitment is strengthened by the existence of an effective labour supervision system to ensure that the implementation of the law runs as it should, so as to create a harmonious industrial relationship between workers and employers.

¹⁹ Fithriatus Shalihah, "Implementasi Perjanjian Kerja Waktu Tertentu (Pkw) dalam Hubungan Kerja di Indonesia," *Jurnal Selat* 4, no. 1 (2016): 70-100.

²⁰ Arsit La Udin, Junaid Gazalin, and Andy Arya Maulana Wijaya, "Strategi Dinas Tenaga Kerja Dalam Penanggulangan Pengangguran Terbuka Di Kota Baubau," *Jurnal Inovasi Penelitian* 4, no. 1 (May 31, 2023): 63-74, <https://doi.org/10.47492/jip.v4i1.2590>.

Meanwhile, Article 5 of Law No. 13 of 2003 is present as a fundamental legal basis for ensuring equality and non-discrimination in the world of labour in Indonesia. The provisions in this article expressly prohibit all forms of discrimination in the recruitment and placement process, whether based on gender, ethnicity, race, religion, or political affiliation. The implementation of this article has encouraged the creation of a more inclusive work environment and provided equal opportunities for all citizens to participate in the job market. This is also strengthened by the existence of legal sanctions for companies or employers that are proven to practice discrimination in the recruitment or labour management process. Furthermore, this article has been a catalyst in encouraging *affirmative action* initiatives for certain groups, such as persons with disabilities and women, so that they have better access to decent employment opportunities.²¹

Article 77 of Law No. 13 of 2003 concerning Manpower is a fundamental provision that regulates in detail the working hours and the overtime wage system, which reflects the government's commitment to protecting workers' rights. This provision expressly stipulates the maximum limit of working hours, which is 40 hours per week, which can be divided into 7 hours of work per day for 6 working days, or 8 working hours per day for 5 working days. This arrangement not only aims to prevent labour exploitation but also pays attention to aspects of occupational health and safety, considering that fatigue due to excessive working hours can increase the risk of work accidents and reduce productivity. Furthermore, this article also regulates in detail the mechanism for calculating overtime wages, where every working hour that exceeds the normal provisions must be paid at a higher special rate.²² This reflects the principle of fairness in employment relations, where the additional time and energy expended by workers must be compensated with commensurate compensation. A strict monitoring system is also in place to ensure employer compliance with these provisions, with strict sanctions for violators.

Meanwhile, Article 81 is present as an important instrument in ensuring the welfare of workers through the regulation of the minimum wage that must be met by employers. This provision provides fundamental protection for workers by setting a minimum wage standard that must refer to the need for a decent living (KHL) and considering the level of productivity, economic growth, and labour market conditions in each region. The implementation of this article involves the active role of local governments in determining the amount of the provincial minimum wage (UMP) and the district/city minimum wage (UMK) through a process that involves various stakeholders, including labour unions and employers' associations. The determination of this minimum wage is not only aimed at meeting the basic needs of workers and

²¹ Muhammad Dahlan and Syahriza Alkohir Anggoro, "Hak Atas Pekerjaan Bagi Penyandang Disabilitas Di Sektor Publik: Antara Model Disabilitas Sosial Dan Medis," *Undang: Jurnal Hukum* 4, no. 1 (June 5, 2021): 1-48, <https://doi.org/10.22437/ujh.4.1.1-48>.

²² Inge Nur Az'zahra Maheswari Dharmalinga, "Perbandingan Hukum Perburuhan Negara Indonesia Dengan Hukum Perburuhan Negara Singapura, Negara Malaysia, Dan Negara Thailand," *Media Hukum Indonesia (MHI)* 2, no. 2 (June 22, 2024), <https://doi.org/10.5281/zenodo.12291513>.

their families but also at preventing the practice of labour exploitation through the provision of unsuitable wages. Moreover, this article also regulates supervision and sanctions mechanisms for employers who violate the provisions of the minimum wage, as well as providing space for workers to file objections if they feel that their rights are not being fulfilled. Thus, Article 81 has become an important pillar in efforts to create a fair wage system and protect the economic rights of workers in Indonesia.

Articles 86 to 88 in Law No. 13 of 2003 concerning Manpower play a vital role in providing comprehensive protection to workers in the context of termination of employment (PHK). This series of articles regulates in detail the procedures and requirements that must be met by employers before laying off, including the obligation to carry out layoff prevention efforts such as reducing working hours, restricting overtime work, or adjusting wages according to company conditions. This provision also requires employers to negotiate with labour unions or worker representatives before deciding to layoffs, as well as obtain a determination from an industrial relations dispute settlement agency. Furthermore, these articles regulate the rights of laid-off workers, including the calculation and payment of severance pay, service period awards, and compensation money whose amount is calculated based on the length of service and the reason for layoff. This reflects the government's efforts to provide welfare guarantees for workers facing layoff situations, as well as preventing arbitrary actions from employers.²³

The implementation of these articles is also strengthened by the existence of strict supervision and sanctions mechanisms for employers who violate the provisions of layoffs. This law gives workers the right to file a lawsuit with an industrial relations dispute settlement institution if they feel that the layoffs were carried out unfairly or violated applicable provisions. In this case, workers are entitled to adequate legal assistance and defence to fight for their rights. In addition, these articles also regulate administrative and criminal sanctions for employers who are proven to have laid off workers without a valid reason or do not fulfil their obligations to pay the rights of laid-off workers. This provision not only aims to provide a deterrent effect for violators but also to build awareness among employers about the importance of respecting workers' rights in the layoff process. With this comprehensive regulation, these articles have succeeded in creating a strong legal framework for protecting the interests of workers, as well as encouraging the creation of harmonious and fair industrial relations in Indonesia.

Government Regulation (PP) Number 35 of 2021 concerning Fixed-Time Work Agreements, Outsourcing, Working Time and Rest Time, and Termination of Employment, is an important regulation that regulates Fixed-Time Work Agreements (PKWT), outsourcing, working time, and rest time in Indonesia. This PP provides more in-depth details about the rights and obligations of workers and employers in

²³ Sonhaji Sonhaji, "Tinjauan Yuridis Mengenai Hak-Hak Khusus Pekerja Perempuan Berdasarkan Undang-Undang Nomor 13 Tahun 2003 tentang Ketenagakerjaan," *Administrative Law and Governance Journal* 2, no. 3 (August 1, 2019): 454–69, <https://doi.org/10.14710/alj.v2i3.454-469>.

the context of PKWT. One of the main aspects regulated is the contract time limit, where PKWT can only be applied to temporary work or to certain projects that have a clear term. This aims to prevent abuse of PKWT status by employers, which can often result in workers being trapped in precarious working conditions without adequate legal protection. With this limit, it is hoped that the employment relationship will be more transparent and fair for both parties.²⁴

In this PP, the rights of PKWT workers are explained in detail. Workers are entitled to receive wages in accordance with the agreed provisions, including allowances if any. In addition, they are also entitled to rest time and annual leave after meeting certain conditions. For example, workers who have worked for 12 months continuously are entitled to 12 working days of annual leave. These rights are important to ensure the well-being of workers during the life of their contract. On the other hand, employers also have an obligation to pay wages on time and provide a safe and healthy work environment. This creates a balance in the employment relationship and ensures that both parties understand their rights and obligations.²⁵

The obligations of workers in PKWT are also clearly regulated in this PP. Workers are expected to carry out their duties in accordance with the agreed agreements, maintain the confidentiality of company information, and comply with applicable internal rules and policies. These obligations include work discipline, professional ethics, and responsibility for the safety of themselves and colleagues. With this obligation, it is hoped that workers can contribute optimally to the company while maintaining integrity and professionalism in their work.²⁶

In addition, Government Regulation No. 35 of 2021 also regulates outsourcing, where companies can use the services of labour from a third party to carry out certain jobs. In this case, the law stipulates that outsourced workers must have the same rights and protections as permanent workers, including the right to a minimum wage and social security. This is important to prevent the exploitation of outsourced labour that often occurs in the field. With this arrangement, it is hoped that all workers, regardless of their contractual status, can enjoy equal legal protection.

The Decree of the Minister of Manpower Number 100 of 2004 is an important regulation in the regulation of Fixed-Time Work Agreements (PKWT) in Indonesia. This decision provides guidelines for companies in drafting employment contracts that are in accordance with applicable legal provisions, thus creating clarity and certainty for both parties. In the context of PKWT, this decision stipulates that the employment contract must be made in writing and contain important information, such as the identity of the worker and employer, job description, amount of wages,

²⁴ Thrisya Elisabeth Engelina Ch A. Langi, Jemmy Sondakh, and Edwin N. Tinangon, "Tinjauan Yuridis Mengenai Pekerja Yang Mengundurkan Diri Sebelum Masa Perjanjian Kerja Waktu Tertentu (Pkw) Berakhir," *Lex Administratum* 12, no. 2 (April 22, 2024), <https://ejournal.unsrat.ac.id/v3/index.php/administratum/article/view/55274>.

²⁵ Ibid.

²⁶ Ibid.

and contract period. With this guideline, it is hoped that companies can prepare contracts that not only meet legal aspects but also protect workers' rights.²⁷

One of the important points in the Decree of the Minister of Manpower No. 100 of 2004 is the affirmation of the time limit for PKWT. This regulation stipulates that PKWT can only be used for temporary work or for certain projects with a clear duration. This aims to prevent the abuse of PKWT by employers, where workers can be continuously employed with contract status without permanent guarantees. In this case, the decision emphasizes the need for transparency in determining the contract period and the conditions that must be met so that the employment relationship remains fair and equitable.²⁸

This decree also regulates the rights and obligations that must be complied with by both parties. Workers who are bound by PKWT are entitled to decent wages in accordance with the agreement as well as other benefits such as annual leave and social security. On the other hand, employers have an obligation to pay wages on time and provide a safe working environment. In addition, this decision emphasizes the importance of fulfilling the basic rights of workers, including the right to information about working conditions and legal protection in the event of a violation of the provisions of the contract.²⁹

In practice, the Decree of the Minister of Manpower No. 100 of 2004 also provides guidance for companies in drafting employment agreements in accordance with other laws and regulations. For example, the company must ensure that the content of the contract does not conflict with the provisions of Law No. 13 of 2003 concerning Manpower or other relevant regulations. This is important so that the employment contract drafted is not only legally valid but also reflects the principles of fairness and balance between the rights and obligations of the worker and the employer.

3.2. Application of the Principle of Balance in the Preparation of Employment Agreements

An evaluation of the practice of drafting employment agreements in Indonesia shows that although there is a clear legal framework through Law No. 13 of 2003 and various related regulations, there are still many challenges in its implementation. One of the main challenges is the lack of understanding among workers regarding their rights in employment agreements. Many workers, especially in the informal sector, do not have adequate access to information regarding the legal provisions governing employment agreements. This often results in workers receiving unfair or adverse conditions without being aware of the rights they should be entitled to. In addition, companies also sometimes do not fully comply with existing regulations, resulting in unfairness in employment relations. Therefore, it is important to increase education and

²⁷ R. A. Aisyah Putri Permatasari, "Perlindungan Hukum Bagi Pekerja Kontrak Yang Di Phk Saat Masa Kontrak Sedang Berlangsung," *Mimbar Keadilan*, 2018, <https://doi.org/10.30996/mk.v0i0.1608>.

²⁸ Ibid.

²⁹ Ibid.

socialization about the rights and obligations in the employment agreement so that all parties can actively and informatively participate in the drafting process.³⁰

The practice of drafting a Collective Labor Agreement (PKB) also shows progress and obstacles. PKB is the result of negotiations between trade unions and employers which aims to create a mutual agreement on the rights and obligations of each party. Although the PKB provides a platform for workers to voice their aspirations, often the negotiation process does not run optimally. Several factors such as unequal bargaining position between workers and employers, as well as the lack of union involvement in negotiations, can hinder the achievement of a fair agreement. In some cases, companies prefer to draft labour agreements unilaterally without involving workers, thus ignoring the principle of deliberation that should be the basis for making PKB. This creates dissatisfaction among workers and has the potential to cause conflicts in the future.³¹

An analysis of the application of the principle of balance in employment agreements in Indonesia shows that although there is a clear legal framework, its implementation often does not reflect justice for both parties. The principle of balance aims to ensure that the bargaining position between workers and employers is balanced so that no party feels disadvantaged. However, in practice, many employment agreements are drafted in the form of standard contracts by employers, which does not provide room for workers to negotiate the content and terms of the agreement. This creates injustice, where workers are often forced to accept adverse conditions without an adequate understanding of their rights. This imbalance is exacerbated by the lack of labour law enforcement and legal uncertainty that still exists in the field so the principle of balance that should be the basis for the preparation of employment agreements is often neglected.

In addition, an evaluation of employment agreement drafting practices shows that many workers do not have sufficient access or understanding of the content of the contracts they sign. In many cases, workers are not involved in the process of drafting employment agreements, so they are unable to voice their needs or concerns. This creates a situation where workers' rights are often violated without consequences for employers. For example, clauses in contracts that are detrimental to workers, such as reductions in leave rights or working hours that are not in accordance with the provisions of the law, are often accepted without opposition.

A case study on the imbalance of bargaining power in the preparation of employment agreements in Indonesia can be seen through the implementation of Government

³⁰ Elvira Fitriyani Pakpahan, Heriyanti, and Mikael Jonatan Sitompul, "Efektivitas Pengawasan Pemerintah Terhadap Perizinan Tenaga Kerja Asing Menurut UU No. 13 Tahun 2003: Analisis Yuridis Normatif," *Jurisprudensi: Jurnal Ilmu Syariah, Perundang-Undangan Dan Ekonomi Islam* 16, no. 2 (September 25, 2024): 468–82, <https://doi.org/10.32505/jurisprudensi.v16i2.9237>.

³¹ Toni Siswanto, Rini Winarsih, and Muhammad Ajid Husain, "Peran Serikat Pekerja Dalam Penyusunan Perjanjian Kerja Bersama (Pkb): (Studi Kasus Di Pt. Pradipta Perkasa Makmur – Jombang)," *Justicia Journal* 12, no. 2 (September 18, 2023): 205–22, <https://doi.org/10.32492/jj.v12i2.12205>.

Regulation Number 35 of 2021, which regulates Certain Time Work Agreements (PKWT). In this context, the regulation extends the term of the employment contract from the previous maximum of three years to five years. While for employers this provides flexibility in human resource management, for workers, especially those in low bargaining positions, it has the potential to increase uncertainty and vulnerability. Low-skilled workers are often stuck in long-term contracts without guaranteed career advancement or adequate protection. This uncertainty creates a situation where workers feel forced to accept unfavourable conditions in order to keep their jobs, thus harming their well-being in the long run.³²

The impact of this imbalance is not only felt by individual workers but also affects the dynamics of industrial relations as a whole. In many cases, workers who are bound by PKWT do not get the same rights as permanent workers, such as access to social security and severance pay when their contract expires. This creates injustice in the workplace, where contract workers feel marginalized and do not have adequate legal protections. For example, in situations where contracts are not renewed, contract workers are often not entitled to severance pay, which should be their right. This injustice can lead to conflicts between workers and employers, as well as lower morale and productivity in the work environment. Thus, this imbalance of bargaining power has a far-reaching impact that can harm all parties.

Another concrete example is the case in the construction sector, where many workers are bound to employment agreements that are unilaterally drafted by employers. In many cases, clauses in contracts often favour employers and ignore the basic rights of workers. For example, some contracts include an exoneration clause that exempts the employer from liability for certain obligations, such as work safety or overtime pay. This creates structural injustices in employment relations, where workers do not have the power to negotiate the content of contracts. In addition, the workers' lack of understanding of their rights further exacerbates this situation. This kind of injustice not only harms individuals but can also negatively impact the company's reputation and the overall stability of the industry. Therefore, it is important to strengthen legal protections for workers and ensure that the principle of balance is applied fairly in the drafting of employment agreements in Indonesia.³³

3.3. Impact of Injustice in Employment Agreements

Imbalances in employment agreements in Indonesia have a significant impact on workers' welfare. One of the main impacts is the increasing uncertainty regarding career paths and job stability. With regulations that allow Fixed-Time Work Agreements (PKWT) to be extended for up to five years, workers are often stuck in

³² Jihan Fadzillah, "Perlindungan Hukum Terhadap Buruh yang Tidak Mendapatkan Upah Minimum Provinsi (UMP) dengan Perjanjian Kerja Tertentu (PKWY) pada Masa Pandemi (Studi di Dinas Ketenagakerjaan Provinsi Sumatera Utara)" (Thesis, Universitas Medan Are, 2022), <https://repositori.uma.ac.id/handle/123456789/17234>.

³³ Eko Yulian Isnur, "Tolok Ukur Asas Itikad Baik Dalam Kontrak Kerja Konstruksi" (Thesis, Universitas Islam Indonesia, 2017), <https://dspace.uui.ac.id/handle/123456789/8751>.

contracts that do not provide opportunities for career development. Low-skilled workers, in particular, are in a weak bargaining position, so they tend to accept adverse conditions in order to keep their jobs. This has the potential to lead to stagnation in their professional development and skills, which in turn can reduce competitiveness in the job market. This uncertainty creates an uncondusive work environment, where workers feel pressured and unmotivated to perform at their best.³⁴

Another impact of imbalances in employment agreements is the financial vulnerability experienced by workers. Many PKWT workers do not get severance pay when their contract expires, especially if the contract is not extended by the employer. In a situation where workers lose their jobs in the absence of severance pay or other financial support, they risk serious economic hardship. This is further exacerbated by the lack of social protection for contract workers, such as job loss insurance. This financial uncertainty can affect the quality of life of workers and their families, as well as add to the psychological stress that can impact mental and physical health. Therefore, imbalances in employment agreements are not only detrimental to individuals but can also have a domino effect on society as a whole.

In addition, imbalances in employment agreements also have an impact on industrial relations in Indonesia. When workers feel that their rights are being ignored or not respected, this can trigger conflicts between workers and employers. Workers may feel compelled to strike or protest as a form of dissatisfaction with unfair working conditions. This kind of conflict not only harms workers and companies but can also destabilize the economy and create uncertainty in the labour market. In addition, companies that are often involved in conflicts with workers risk losing their reputation and the trust of consumers and investors.

The implications for employers in the long run if they do not apply the principle of balance in the employment agreement can be very significant and detrimental. When companies ignore this principle, they tend to draft unfair employment contracts, which can ultimately lead to dissatisfaction among workers. This dissatisfaction often leads to high turnover rates, where workers who feel unappreciated or pressured will look elsewhere for job opportunities.³⁵ High turnover not only disrupts company productivity but also increases recruitment and training costs for new workers. In the long run, companies that do not pay attention to the balance in the working relationship risk losing their best talent, which is essential for growth and innovation.³⁶

³⁴ Mawar Jeni Pratista and Zainuddin, "Kajian Hukum Terhadap Peran Perusahaan Outsourcing Dalam Peningkatan Kesejahteraan Tenaga Kerja Di Indonesia," *UNES Law Review* 6, no. 2 (2023): 7573–80, <https://doi.org/10.31933/unesrev.v6i2.1653>.

³⁵ Otti Ilham Khair, "Analisis Undang-Undang Cipta Kerja Terhadap Perlindungan Tenaga Kerja Di Indonesia," *Widya Pranata Hukum : Jurnal Kajian Dan Penelitian Hukum* 3, no. 2 (September 27, 2021): 45–63, <https://doi.org/10.37631/widyapranata.v3i2.442>.

³⁶ Zunan Setiawan et al., *Pengantar Administrasi Bisnis : Teori Komprehensif* (Jambi: PT. Sonpedia Publishing Indonesia, 2024).

In addition, imbalances in employment agreements can create a negative work environment, which has an impact on worker morale and motivation.³⁷ Workers who feel that their rights are being ignored or disrespected are more likely to experience stress and dissatisfaction, which can affect their performance.³⁸ This unhealthy work environment can lead to a decrease in productivity and output quality, as well as increase the likelihood of conflicts between workers and management. This dissatisfaction can also trigger strikes or protests from workers, which not only disrupt the company's operations but can also damage the company's reputation in the eyes of the public. In today's information age, a company's reputation is essential to attract customers and investors; Therefore, injustice in employment relationships can have a detrimental long-term impact on the company's image.

From a legal perspective, employers who do not apply the principle of balance in the employment agreement are also at risk of facing lawsuits.³⁹ When workers feel aggrieved by a provision in a contract, they may choose to take the matter to court or a dispute resolution agency. Lawsuits can lead to high legal costs and wasted time resolving disputes, as well as creating uncertainty for the company's operations. Additionally, adverse court decisions can force companies to pay compensation to workers or drastically change their employment practices. It's not just a financial issue; Legal decisions can also set precedents that affect how other companies structure their employment agreements.

Imbalances in employment agreements in Indonesia are often the main trigger for disputes between workers and employers. When workers' bargaining positions are weaker, they tend to accept unfair conditions in employment contracts, such as low wages, excessive working hours, and lack of social protection. For example, in the case of Fixed-Time Work Agreements (PKWT), many workers are stuck in short-term contracts without guaranteed renewal or proper compensation when the contract expires. This uncertainty creates tension between workers and employers, which can spark conflicts and disputes. In many cases, workers feel compelled to go on strike or file lawsuits as a form of protest against the injustices they experience. Therefore, this imbalance is not only detrimental to workers but can also disrupt the operational stability of the company.

The impact of this imbalance can also be seen in the form of an increase in the number of legal disputes submitted to the industrial relations court. When workers feel their rights are being violated, they tend to seek legal avenues for justice. However, legal proceedings are often time-consuming and costly and do not guarantee satisfactory

³⁷ Indah Amanah Poetri Soedarno Oei Pantouw and Ahmad Ahmad, "Perlindungan Hukum Terhadap Masyarakat Akibat Penambangan Emas Di Sungai Tulabolo Yang Tercemar Merkuri," *Borneo Law Review* 6, no. 2 (2022): 187-204, <https://doi.org/10.35334/bolrev.v6i2.3242>.

³⁸ Ahmad, Fence M. Wantu, and Novendri M. Nggilu, *HUKUM KONSTITUSI (Menyongsong Fajar Perubahan Konstitusi Indonesia Melalui Pelibatan Mahkamah Konstitusi)* (Yogyakarta: UII Press, 2020).

³⁹ Chami Yassine et al., "Admissibility of Lawsuits Based on Interest under Algerian Civil and Administrative Procedures," *Jambura Law Review* 6, no. 2 (July 22, 2024): 286-303, <https://doi.org/10.33756/jlr.v6i2.24309>.

outcomes for workers. In addition, legal uncertainty regarding the interpretation of labour regulations often makes workers feel confused and hopeless. This creates a situation where disputes not only harm the parties involved but can also have a negative impact on the industry as a whole. Companies involved in legal disputes risk losing their reputation and trust from customers and investors, which in turn can affect their financial performance.

Imbalances in employment relationships can also lead to the emergence of broader social problems. When workers feel they don't have access to fight for their rights, this can spark frustration and anger among the public. In this context, social discontent can develop into mass protests or larger labour movements, which can disrupt social and economic stability. This dissatisfaction is often exacerbated by a lack of dialogue between workers and employers, where both parties do not listen to each other or understand each other's perspectives.⁴⁰

To ensure balance in the drafting of employment agreements in Indonesia, effective legal and regulatory strategies are needed. One of the main approaches is the application of the principle of balance in employment agreements, which aims to achieve a balanced bargaining position between workers and employers. In this context, it is important for the government to strengthen the regulations that govern the process of drafting employment agreements, including setting minimum standards that employers must comply with. For example, Law No. 13 of 2003 on Manpower provides a clear legal framework regarding the rights and obligations of workers and employers. However, to strike a real balance, there needs to be stricter law enforcement and oversight of often unilateral contracting practices.⁴¹

In addition, it is important to involve the union in the process of negotiating the employment agreement. Trade unions have an important role to play in representing workers' interests and ensuring that their rights are protected. Through social dialogue between trade unions and employers, it is hoped that a fair and balanced agreement can be reached. Regulations that support the existence of trade unions, such as Law Number 21 of 2000 concerning Trade Unions/Trade Unions, must be properly implemented to provide space for workers to negotiate. With the involvement of trade unions, the bargaining position of workers can increase, so that they are not only the parties who accept the terms of the contract without being able to negotiate.

The application of the principle of transparency in the preparation of employment agreements is also an important strategy to ensure balance. Employers must be required to provide clear information regarding the content of the contract, including the rights and obligations of each party. This can be done through regulations that

⁴⁰ Achmad Hidir and Rahman Malik, *Teori Sosiologi Modern* (Kab. Agam: Yayasan Tri Edukasi Ilmiah, 2024).

⁴¹ Harry Ismaryadi, Khairani Khairani, and Yussy Adelina Mannas, "Implementasi Asas Itikad Baik Dalam Pemberian Kesempatan Penyelesaian Pekerjaan Pengadaan Barang Jasa Pemerintah," *Unes Journal of Swara Justisia* 7, no. 2 (July 8, 2023): 680–94, <https://doi.org/10.31933/ujsj.v7i2.363>.

require companies to draw up contracts openly and provide opportunities for workers to understand and negotiate the contents of the contract before signing it. Thus, workers will be better prepared and have enough knowledge to protect their rights. In addition, the government can provide an educational platform for workers about their rights in employment agreements so that they can actively participate in the negotiation process.

4. Conclusion

In conclusion, the application of the principle of balance in the preparation of employment agreements in Indonesia is very important to create a fair and harmonious employment relationship between workers and employers. Despite a clear legal framework through Law No. 13 of 2003 and various related regulations, practices on the ground often do not reflect fairness, especially for workers with weak bargaining positions. This imbalance can trigger labour disputes, harm workers' welfare, and negatively impact the company's reputation and stability. Therefore, effective legal and regulatory strategies are needed, including increased union involvement, transparency in contract drafting, and periodic evaluation of labour regulations. With these measures, it is hoped that a better working environment can be created, where workers' rights are respected and their well-being is guaranteed while supporting the sustainability and growth of companies in Indonesia.

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