



Termination Of Employment (PHK) And The Realization Of Severance Rights From The Perspective Of Labor Law

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Abstract: Termination of Employment (PHK) is a critical issue in the world of labor that often leads to conflicts between workers and employers. This study aims to examine the process of PHK and the implementation of workers' severance rights from the perspective of Indonesian labor law, particularly based on Law No. 13 of 2003 on Employment and the Job Creation Law. The research method used is juridical-normative with an approach to regulations and case studies. The results of the study show that the PHK process must be carried out in good faith and through mechanisms regulated by law, such as mediation and bipartite negotiations. However, in practice, many PHK cases do not meet legal procedures, resulting in harm to workers, including the failure to fulfill severance rights fairly. The Job Creation Law introduces several changes that may offer flexibility to employers but also create new challenges regarding the protection of workers' rights. This study recommends strengthening labor supervision and enhancing legal understanding for both workers and employers to create a harmonious industrial relationship.

Keywords: Termination of Employment; Severance Pay; Labor Law.

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1. Introduction

Termination of Employment (PHK) has long been a topic of intense debate in industrial relations, particularly between workers and employers.¹ In Indonesia, PHK is specifically regulated under Law No. 13 of 2003 on Employment, which underwent significant amendments with the introduction of Law No. 11 of 2020 on Job Creation and its subsequent derivative regulations.² The changes brought by the Job Creation Law aim to create greater flexibility in the labor market, with the overarching goal of enhancing the nation's economic competitiveness.³ By streamlining labor regulations and making it easier for businesses to adjust their workforce, the government hoped to foster a more dynamic and resilient economy.⁴ However, these legal reforms have also raised concerns, particularly with respect to the protection of workers' rights, especially in the realm of severance pay.⁵ Severance pay, or compensation for workers who are laid off, is a critical issue that often sparks disputes, as it is tied directly to the worker's livelihood after losing their job.⁶

Severance pay is not only a financial safety net for workers who lose their jobs but also serves as a form of compensation for the abrupt disruption in their employment relationship.⁷ Under Indonesian labor law, severance pay is a legal entitlement and is governed by specific provisions laid out in the Employment Law.⁸ However, despite these regulations, in practice, many workers face difficulties in obtaining severance pay in full, or in some cases, not receiving it at all. Employers may violate the procedures for PHK, either intentionally or due to negligence, which prevents workers from claiming their rightful compensation. In other cases, the enforcement mechanisms to ensure workers' rights are upheld may be weak, and government oversight may not be as robust as it should be. As a result, workers are left in a

¹ Sunarno Sunarno et al., "Resolution of Employment Termination Disputes in the Industrial Relations Court Concerning Works Rights Specifically in Relation," *Indonesian Journal of Multidisciplinary Science* 4, no. 1 (October 14, 2024): 16–26, <https://doi.org/10.55324/ijoms.v4i1.1012>.

² Suwito et al., "Contemplating the Morality of Law Enforcement in Indonesia," *Journal of Law and Sustainable Development* 11, no. 10 (October 25, 2023): e1261–e1261, <https://doi.org/10.55908/sdgs.v11i10.1261>.

³ Ahmad Ahmad, "Measuring The Application of Corporate Social Responsibility of PT. Gorontalo Minerals," *Estudiante Law Journal* 4, no. 2 (February 15, 2022): 132–45, <https://doi.org/10.33756/eslaj.v4i2.16489>.

⁴ Ahmad Ahmad, "Purifikasi Pemberian Amnesti Dan Abolisi: Suatu Ikhtiar Penyempurnaan Undang Undang Dasar 1945," *Ius Civile: Refleksi Penegakan Hukum Dan Keadilan* 5, no. 2 (October 28, 2021), <https://doi.org/10.35308/jic.v5i2.2547>.

⁵ Ahmad Ahmad and Novendri M. Nggilu, "Denyut Nadi Amandemen Kelima UUD 1945 Melalui Pelibatan Mahkamah Konstitusi Sebagai Prinsip the Guardian of the Constitution," *Jurnal Konstitusi* 16, no. 4 (2019): 785–808, <https://doi.org/10.31078/jk1646>.

⁶ Ahmad Ahmad and Nadya Lonely Bifirli Polii, "Mencari Jiwa Asas Pacta Sunt Servanda Dalam Pelanggaran General Agreement Of Tariff And Trade," *Jurnal Pendidikan Tambusai* 7, no. 1 (April 13, 2023): 1623–31, <https://doi.org/10.31004/jptam.v7i1.6036>.

⁷ Ahmad Ahmad, Fence M. Wantu, and Novendri Mohamad Nggilu, *Hukum Konstitusi: Menyongsong Fajar Perubahan Konstitusi Indonesia Melalui Pelibatan Mahkamah Konstitusi* (Yogyakarta: UII Press, 2020).

⁸ Ahmad, Fence M. Wantu, and Dian Ekawaty Ismail, "Constitutional Dialogue in Judicial Review at the Indonesian Constitutional Court: The Future Prospects," *Journal of Legal, Ethical and Regulatory Issues* 25, no. 1S (November 15, 2021), <https://www.abacademies.org/abstract/constitutional-dialogue-in-judicial-review-at-the-indonesian-constitutional-court-the-future-prospects-13248.html>.

vulnerable position, unable to secure the compensation they are entitled to under the law.⁹ This issue has become more pronounced in recent years, with many workers turning to legal channels in an attempt to claim their severance pay, often facing long delays and uncertainty.

On the other hand, employers also face significant challenges when it comes to fulfilling severance obligations. During times of economic downturn or crisis, companies may struggle financially, making it difficult to allocate the necessary funds for severance pay.¹⁰ The financial strain on businesses can lead to delays or, in some cases, an outright refusal to meet severance obligations. Additionally, some employers may argue that they cannot afford the financial burden of paying severance to workers they can no longer employ due to declining business performance. Administrative hurdles also contribute to the issue, as companies must navigate a complex set of regulations and legal requirements in the process of conducting a PHK. This administrative complexity can be overwhelming, particularly for small and medium-sized enterprises (SMEs), which may not have dedicated human resources or legal departments to manage such matters. These financial and administrative challenges have further complicated the relationship between employers and employees in the context of PHK.¹¹

The tension between workers' rights and the challenges faced by employers underscores the need for a thorough examination of how PHK is implemented in practice within the context of Indonesian labor law. While the intention behind recent legal reforms, such as those introduced by the Job Creation Law, is to create a more flexible and competitive labor market, the execution of these policies often falls short of providing adequate protection for workers.¹² Many critics argue that the reforms disproportionately favor employers by reducing their obligations towards workers, particularly when it comes to severance pay. This has sparked protests and debates among labor unions and advocacy groups, who contend that the changes undermine workers' economic security and social protection.¹³ The concern is that, in an effort to promote economic growth and attract investment, the government has allowed for a

⁹ Ahmad Ahmad, Viorizza Suciani Putri, and Mohamad Hidayat Muhtar, "Antara Otoritas dan Otonomi: Pertautan Hak Asasi Manusia dalam Praktik Eksekusi Putusan PTUN: Perlindungan HAM dalam Eksekusi Upaya Paksa Terhadap Putusan Peradilan Tata Usaha Negara," *Jurnal Konstitusi* 21, no. 3 (September 1, 2024): 392–412, <https://doi.org/10.31078/jk2133>.

¹⁰ Ahmad Ahmad, Fence M. Wantu, and Dian Ekawaty Ismail, "Convergence of Constitutional Interpretation to the Test of Laws Through a Constitutional Dialogue Approach: Konvergensi Penafsiran Konstitusional Terhadap Pengujian Undang-Undang Melalui Pendekatan Constitutional Dialogue," *Jurnal Konstitusi* 20, no. 3 (September 1, 2023): 514–35, <https://doi.org/10.31078/jk2038>.

¹¹ Zamroni Abdussamad et al., "Pendekatan Cultural Studies Perlindungan Hukum Bagi Penyandang Disabilitas Di Kabupaten Boalemo," *Community Development Journal: Jurnal Pengabdian Masyarakat* 4, no. 6 (December 11, 2023): 11518–26, <https://doi.org/10.31004/cdj.v4i6.16043>.

¹² Putri Regina Datunsolang, Fenty Puluhulawa, and Ahmad Ahmad, "Penegakan Hukum Terhadap Sungai Taluduyunu Akibat Pencemaran Limbah Pertambangan," *Terang: Jurnal Kajian Ilmu Sosial, Politik Dan Hukum* 1, no. 3 (July 4, 2024): 179–200, <https://doi.org/10.62383/terang.v1i3.415>.

¹³ Dian Ekawaty Ismail et al., "Collocation of Restorative Justice with Human Rights in Indonesia," *Legality: Jurnal Ilmiah Hukum* 32, no. 2 (September 20, 2024): 394–417, <https://doi.org/10.22219/ljih.v32i2.35374>.

weakening of labor protections, leaving workers more vulnerable to exploitation in the event of job loss.

In light of these challenges, it becomes crucial to assess the effectiveness of existing legal regulations and their implementation. The Indonesian labor law system is designed to ensure that workers receive adequate compensation in the event of termination of employment, but the reality often falls short. Various factors contribute to this gap between the law and its implementation, including the lack of effective enforcement, limited awareness of workers' rights, and systemic inefficiencies within the legal and regulatory framework.¹⁴ As a result, many workers remain unaware of their entitlements and are unable to claim the severance pay they are owed. Even when they are aware of their rights, the lengthy and complex legal process often discourages workers from pursuing their claims, leading to significant disparities in the outcomes of PHK cases. Moreover, the lack of coordination between labor unions, government agencies, and employers further exacerbates these issues, making it more difficult to find mutually agreeable solutions.¹⁵

This study aims to explore the obstacles that arise in the implementation of PHK regulations and the realization of workers' severance rights. By identifying the key challenges and gaps in the current system, this research seeks to provide a more comprehensive understanding of the problems faced by both workers and employers in the context of PHK. Additionally, the study will assess the broader implications of these issues for the sustainability of industrial relations in Indonesia.¹⁶ A key focus will be on evaluating the impact of the Job Creation Law and its associated policies on the balance of power between workers and employers, and whether the intended economic benefits outweigh the potential negative consequences for workers.¹⁷ In doing so, this research aims to offer constructive recommendations that could contribute to the establishment of a more balanced and equitable industrial relations system in Indonesia, one that fosters both economic growth and workers' welfare.

The recommendations arising from this research could have significant implications for the future of labor law in Indonesia. By addressing the barriers to effective PHK implementation and improving the realization of severance pay, it may be possible to create a more stable and just labor market. This could involve strengthening enforcement mechanisms, enhancing the capacity of government agencies to monitor and regulate labor practices, and promoting greater transparency in the way PHK

¹⁴ Bintang Muhamad Hendri and Ahmad Ahmad, "Studying the Steps of the General Election Commission in Responding to the Recommendations of the Election Supervisory Body," *Estudiante Law Journal* 5, no. 2 (June 18, 2023): 393–406, <https://doi.org/10.33756/eslaj.v5i2.18726>.

¹⁵ Novia Rahmawati A. Paruki and Ahmad Ahmad, "Efektivitas Penegakan Hukum Tambang Ilegal," *Batulis Civil Law Review* 3, no. 2 (August 26, 2022): 177–86, <https://doi.org/10.47268/ballrev.v3i2.966>.

¹⁶ Novendri M. Nggilu and Ahmad Ahmad, "Optimalisasi Jaringan Dokumentasi Dan Informasi Hukum (JDIH) Dalam Pembentukan Produk Hukum Desa Tabongo Timur," *DAS SEIN: Jurnal Pengabdian Hukum Dan Humaniora* 3, no. 1 (January 31, 2023): 49–66, <https://doi.org/10.33756/jds.v0i0.15535>.

¹⁷ Dian Ekawaty Ismail et al., "Cyber Harassment of Public Figures: Causes and Importance of Legal Education," *E3S Web of Conferences* 594 (2024): 03005, <https://doi.org/10.1051/e3sconf/202459403005>.

cases are handled. Furthermore, there may be a need for legal reforms that better account for the financial realities faced by employers, particularly SMEs, while still ensuring that workers' rights are adequately protected. Ultimately, the goal is to create an industrial relations system that is not only responsive to the needs of businesses but also respects the fundamental rights of workers, thus contributing to a fairer and more sustainable economic environment in Indonesia.

2. Method

This study uses a juridical-normative method¹⁸ to examine the regulations related to termination of employment (PHK) and the realization of severance rights in Indonesia's labor law. The focus is on analyzing the applicable legal rules, both national and international, and evaluating their implementation in practice. The research employs several approaches, including the Statute Approach, which analyzes relevant laws such as Law No. 13 of 2003 on Employment, Law No. 11 of 2020 on Job Creation, and Government Regulation No. 35 of 2021. It also uses a Case Approach to analyze PHK cases in Indonesia through court decisions, mediation documents, and reports from labor institutions. Secondary data is used in this study, consisting of primary legal materials (legislation), secondary legal materials (literature and scientific journals), and tertiary legal materials (legal dictionaries and encyclopedias). Data is collected through a literature review and case studies to understand the practical issues.¹⁹ Data analysis is conducted qualitatively with a descriptive-analytical approach by identifying relevant legal provisions, comparing legal rules with field practices, and evaluating the effectiveness of regulations and procedures in PHK cases. The analysis results aim to provide recommendations to improve worker rights protection while maintaining flexibility for employers.²⁰

3. Analysis and Discussion

This section is the core of the article, where the analysis or results of the research are presented clearly and concisely. It is essential to summarize the scientific findings rather than overwhelming the reader with excessive data or figures. The results should provide a comprehensive overview of the key outcomes derived from the research, offering insights into the topic based on the analysis conducted. In addition, it is crucial to highlight the differences between the findings of this study and those of previous research. By comparing and contrasting the current results with prior publications, the article can offer new perspectives, demonstrate the unique contributions of the research, and address gaps or inconsistencies found in earlier studies. This comparative approach helps to position the research within the broader academic discourse, showcasing its relevance and impact.

¹⁸ Peter Mahmud Marzuki, *Penelitian Hukum*, Edisi Revisi (Jakarta: Prenadamedia Group, 2014).

¹⁹ Irwansyah Irwansyah, *Penelitian Hukum ; Pilihan Metode & Praktik Penulisan Artikel* (Yogyakarta: Mirra Buana Media, 2020).

²⁰ Mukti Fajar and Yulianto Achmad, *Dualisme Penelitian Hukum : Normatif & Empiris* (Yogyakarta: Pustaka Pelajar, 2010).

3.1. Termination of Employment (PHK) in the Perspective of Labor Law

Termination of Employment (PHK) is a critical point in industrial relations, marking the end of a working relationship between employees and employers when they can no longer continue their collaboration. Under the framework of Law No. 13 of 2003 on Employment, PHK is subject to strict regulations to ensure fairness and protect workers from arbitrary dismissal. The law mandates specific procedures that must be followed before termination, including bipartite negotiations, mediation, and, if necessary, resolution through the Industrial Relations Court (PHI).²¹ These procedures were designed to safeguard workers from unfair treatment, ensuring that both parties are given a chance to resolve disputes before the termination occurs. Workers who are subject to PHK are entitled to severance pay, and the law emphasizes the importance of providing a just cause for dismissal. This legal framework was established to foster a balance between protecting workers' rights and allowing employers to manage their workforce effectively, thus creating a more stable industrial environment.

However, with the enactment of Law No. 11 of 2020 on Job Creation, significant amendments were introduced to the labor regulations, especially concerning PHK provisions. The intent behind these reforms was to enhance labor market flexibility and encourage businesses to be more competitive and agile in response to economic changes. Law No. 11 of 2020 simplifies and streamlines the processes surrounding PHK, offering employers greater flexibility to terminate employment without adhering to the rigorous procedures that were previously mandated under Law No. 13 of 2003. While the law's primary goal is to foster economic growth and attract investment, it has sparked concerns about the potential erosion of workers' rights and protections.²² One of the key changes is the reduction in workers' compensation rights in cases of termination outside the prescribed legal mechanisms. This alteration is seen as a move that could disproportionately benefit employers, especially in the context of economic challenges, while leaving workers more vulnerable to unjust or hasty dismissals.

The concerns surrounding the new provisions introduced by Law No. 11 of 2020 revolve primarily around the potential for reduced job security and less protection for workers. The reduction of workers' rights to compensation in cases where PHK occurs outside of the established procedures has been a particularly contentious issue. Under the previous law, workers were entitled to severance pay and other compensations if the termination was deemed unjust or not carried out in accordance with the legal processes. However, the new law has significantly reduced these entitlements, raising fears among labor unions and workers' rights groups that it will lead to exploitation

²¹ Mohamad Rivaldi Moha et al., "The Comparative Law Study: E-Commerce Regulation in Indonesia and Singapore," *JURNAL LEGALITAS* 16, no. 2 (October 30, 2023): 248-59, <https://doi.org/10.33756/jelta.v16i2.20463>.

²² Ahmad Ahmad, Muh Ramdhani Hamzah, and Gunawan Rena, "Upaya Pemerintah Dalam Mengurangi Dampak Negatif Pertambangan Batu Hitam Di Daerah Gorontalo," *Depositi: Jurnal Publikasi Ilmu Hukum* 2, no. 2 (May 27, 2024): 422-30, <https://doi.org/10.59581/deposisi.v2i2.3293>.

and unfair dismissals.²³ Critics argue that the reduction of procedural safeguards undermines the protection of workers, leaving them at the mercy of employers who may take advantage of the relaxed provisions to terminate employment without just cause. As a result, the reforms introduced by Law No. 11 of 2020 have created a growing divide between the interests of workers and employers, and there is an urgent need to reassess the balance between flexibility for businesses and safeguarding the fundamental rights of workers.

3.2. Realization of Severance Pay in PHK

Severance pay is a legal entitlement that employers must provide to workers who are affected by Termination of Employment (PHK), as regulated under Article 156 of Law No. 13 of 2003 on Employment. The law clearly stipulates that severance pay consists of several components, including severance pay based on the length of employment, service award pay, and compensation for entitlements such as unused annual leave and relocation expenses. These regulations aim to protect workers by ensuring they are financially supported after losing their jobs, providing compensation for their loyalty and service to the company.²⁴ The provision of severance pay is a crucial aspect of labor law, designed to safeguard workers' rights and offer them a safety net while they search for new employment opportunities. Despite these clear regulations, there is often a significant gap between the law and its implementation, leading to discrepancies in how severance pay is actually provided.

In practice, many workers find themselves unable to claim their severance pay in full, or in some cases, not receiving it at all. Several factors contribute to this problem, including employers' financial difficulties, which may lead them to delay or avoid severance payments altogether. Some employers may take advantage of legal loopholes, such as claiming that the termination was for reasons other than those outlined in the law, or may engage in unilateral actions that bypass the necessary procedures for PHK. This lack of proper implementation has resulted in numerous cases where workers are left without their rightful compensation, forcing them to seek legal recourse, often with little success due to lengthy processes and administrative inefficiencies.²⁵ Case studies have highlighted how this issue is prevalent across various industries, particularly in times of economic downturn, when businesses face financial constraints and are less inclined to honor severance obligations. As a result, workers who have lost their jobs may be left without the necessary support to bridge the gap until they find new employment.

²³ Kurnia Ningsih Kolopita Kolopita, Erman I. Rahim, and Ahmad Ahmad, "A Comparative Study Of The Implementation Of A Closed Proportional System In The Perspective Of A Country With A Presidential System," *Estudiante Law Journal* 1, no. 1 (February 25, 2024): 36–45, <https://doi.org/10.33756/eslaj.v1i1.24858>.

²⁴ Yovita Arie Mangesti et al., "Term Limitation of Indonesian Parliamentarians Seen from Constitutionalism," *Revista de Investigações Constitucionais* 11 (November 15, 2024): e263, <https://doi.org/10.5380/rinc.v11i2.91104>.

²⁵ Mohammad Abdi Lanjahi et al., "Analisis Yuridis Terhadap Perlindungan Ekspresi Budaya Tradisional Provinsi Gorontalo," *Perkara : Jurnal Ilmu Hukum Dan Politik* 1, no. 3 (August 20, 2023): 161–82, <https://doi.org/10.51903/perkara.v1i3.1347>.

The introduction of the Job Creation Law in 2020 further complicated the situation by offering provisions aimed at providing more flexibility for employers, one of which is the Employment Loss Guarantee (JKP) program managed by BPJS Ketenagakerjaan. The JKP program is designed to offer workers affected by PHK some financial support in the form of temporary compensation, aimed at helping them during the transition period while they search for new work.²⁶ Although this program provides additional protection for workers, it does not replace the employer's obligation to pay severance according to the regulations set forth in Law No. 13 of 2003. However, there is growing concern that some employers may view the JKP program as a substitute for their responsibility to provide severance pay, leading to a potential shift in how severance is viewed and provided.²⁷ This situation poses a significant challenge to the effective protection of workers' rights, as employers may feel less inclined to fulfill their severance obligations, relying on the JKP program as a means of fulfilling their financial obligations to workers.²⁸ Consequently, the introduction of JKP has created confusion and concern, as it risks undermining the fundamental intent of severance pay and further complicates the implementation of workers' rights under the law.

3.3. Challenges in the Implementation of Severance Pay Rights

One of the key challenges in the implementation of severance pay rights is the lack of awareness among workers regarding their entitlements in the case of Termination of Employment (PHK). Many workers, especially those in low-wage or informal sectors, do not fully understand their legal rights to severance pay or the procedures involved in claiming it.²⁹ This lack of knowledge significantly hampers their ability to assert their rights when faced with wrongful termination or when they are not compensated according to the law. In some cases, workers may not even be aware that they are entitled to severance pay, or they may not understand the full extent of their compensation rights, such as service award pay or unused leave. Without this awareness, workers are less likely to challenge unjust dismissals or demand the compensation they are owed, leaving them vulnerable to exploitation by employers. In this context, providing comprehensive education on workers' rights and legal resources is crucial to empowering workers to protect themselves and claim their entitlements effectively.

²⁶ Maya Lasena et al., "Cockfighting Gambling Criminal Acts Commitment," *Estudiante Law Journal* 4, no. 2 (June 1, 2022): 77-90, <https://doi.org/10.33756/eslaj.v4i2.16039>.

²⁷ Sri Winda Latif, Lisnawaty w Badu, and Ahmad Ahmad, "Penyalahgunaan Kewenangan Oleh Aparat Desa Ditinjau Dari Aspek Pidana: (Putusan Pn Gorontalo Nomor 1/Pid.Sus-Tpk/2020/Pn Gto)," *Jembatan Hukum : Kajian Ilmu Hukum, Sosial Dan Administrasi Negara* 1, no. 2 (May 8, 2024): 135-55, <https://doi.org/10.62383/jembatan.v1i2.236>.

²⁸ Fence M. Wantu et al., "Indonesian Constitutional Interpretation: Constitutional Court Versus the People's Consultative Assembly," *Journal of Legal, Ethical and Regulatory Issues* 24, no. 6 (July 1, 2021): 1-717, <https://www.abacademies.org/abstract/indonesian-constitutional-interpretation-constitutional-court-versus-the-peoples-consultative-assembly-11463.html>.

²⁹ Indah Amanah Poetri Soedasno 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>.

Another significant challenge is the insufficient supervision and enforcement of labor laws by the government. While regulations regarding severance pay and PHK procedures are clearly outlined in the law, weak government oversight often leads to employers neglecting their legal obligations.³⁰ Labor authorities may lack the resources, personnel, or political will to monitor and enforce these laws effectively. This oversight gap allows employers to exploit the system by either delaying severance payments, underpaying workers, or circumventing the legal procedures altogether. In many cases, workers who do attempt to claim severance pay face bureaucratic hurdles or lengthy legal processes that discourage them from pursuing their claims. The Industrial Relations Court (PHI), which should serve as an avenue for resolving disputes, is often overwhelmed with cases, leading to delays and backlogs.³¹ This lack of effective enforcement of labor laws creates an environment where employers feel little pressure to adhere to the regulations, resulting in widespread violations of workers' rights.

The economic crisis, whether in the form of recessions or downturns in specific industries, represents another challenge in the implementation of severance pay rights. During such periods, many employers face financial strain and may claim that they are unable to fulfill their severance obligations due to financial difficulties.³² Economic hardship often leads employers to argue that paying severance is an unsustainable burden, especially if they are experiencing reduced profits, layoffs, or downsizing operations. In some cases, employers may use the economic crisis as an excuse to terminate workers' contracts without compensating them according to the law, citing financial distress as justification for their inability to pay severance.³³ This poses a significant dilemma, as workers, who may already be financially vulnerable, are left without the necessary support they need during periods of unemployment. While laws are in place to ensure severance payments, the economic crisis provides employers with a plausible reason to delay or avoid payment, putting workers at risk of unfair treatment.³⁴ In this context, there is a need for both legal reforms and more robust social safety nets to protect workers during times of economic uncertainty and to ensure that severance pay is honored, even in challenging financial conditions.

³⁰ 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>.

³¹ A. H. Asari Taufiqurrohman et al., "The Role of Islamic Law, Constitution, and Culture in Democracy in the UAE and Indonesia," *AHKAM: Jurnal Ilmu Syariah* 24, no. 1 (June 30, 2024): 83–100, <https://journal.uinjkt.ac.id/index.php/ahkam/article/view/33155>.

³² Mohammad Syauqi Pakaya and Ahmad Wijaya, "Efektivitas Penegakkan Hukum Terhadap Lingkungan Hidup Dalam Pertambangan Emas Tanpa Izin Di Desa Popaya, Kecamatan Dengilo, Kabupaten Pohuwato," *Borneo Law Review* 6, no. 2 (2022): 236–53, <https://doi.org/10.35334/bolrev.v6i2.3246>.

³³ Usman Rasyid et al., "Reformulation of the Authority of Judicial Commission: Safeguarding the Future of Indonesian Judicial Power," *Jambura Law Review* 5, no. 2 (July 31, 2023): 386–413, <https://doi.org/10.33756/jlr.v5i2.24239>.

³⁴ Ahmad Ahmad and Novendri M. Nggilu, *Constitutional Dialogue: Menguatkan Intraksi Menekan Dominasi (Konvergensi Terhadap Pengujian Norma Di Mahkamah Konstitusi)* (Yogyakarta: UII Press, n.d.).

3.4 Efforts to Improve Workers Rights Protection

To address the challenges in the implementation of severance pay rights, several crucial steps must be taken, starting with strengthening the supervision and enforcement of labor laws.³⁵³⁶ The government must improve its oversight mechanisms to ensure that employers adhere to the prescribed procedures for Termination of Employment (PHK) and provide the necessary severance pay to workers. This could involve increasing the number of labor inspectors, enhancing training for government personnel, and using technology to monitor compliance in real time.³⁷ Additionally, greater accountability for employers who fail to meet their obligations should be established, with stricter penalties for violations. By improving government supervision, workers will be better protected, and employers will be less likely to exploit legal loopholes or neglect their duties. Moreover, enhancing legal education for workers is essential in empowering them to understand their rights. Many workers are unaware of the laws that protect them, and this knowledge gap leaves them vulnerable to exploitation. Providing accessible, comprehensive education through workshops, online platforms, and partnerships with labor unions can equip workers with the tools they need to advocate for themselves and seek justice when their rights are violated.³⁸

Furthermore, the Employment Loss Guarantee (JKP) program, introduced by the Job Creation Law, should be optimized to serve as a supplemental form of protection for workers affected by PHK, rather than as a replacement for the employer's obligation to provide severance pay. While the JKP program provides some financial assistance to workers during periods of unemployment, it should not be viewed as a substitute for severance pay, which remains the employer's responsibility. The government must ensure that employers continue to fulfill their severance obligations, while JKP serves as an additional safety net. To improve the efficiency of the system, dispute resolution mechanisms also need to be faster and more accessible. Workers who face unfair PHK or who are denied severance pay should have a streamlined process for seeking justice, whether through mediation, arbitration, or court procedures. By reducing the time and complexity involved in dispute resolution, workers can receive the compensation they are owed without unnecessary delays. This combined approach – strengthening oversight, enhancing education, optimizing the JKP program, and improving dispute resolution – will create a more effective and fair system that ensures workers' rights are upheld, even in challenging economic times.

³⁵ DIAN EKAWATY ISMAIL et Al, "Model for Legal Settlement on Damage to the Tanjung Panjang Nature Reserve in Pohuwato Regency," *Russian Law Journal* 11, no. 3s (April 5, 2023), <https://doi.org/10.52783/rlj.v11i3s.734>.

³⁶ Rifky Pulubolo, Mutia Cherawaty Thalib, and Ahmad Ahmad, "Legal Process for Banking Negligence in Violations of Customers' Privacy Rights and Personal Data," *Estudiante Law Journal* 1, no. 1 (January 25, 2024): 1-13, <https://doi.org/10.33756/eslaj.v1i1.24195>.

³⁷ Rafael Ferreira et al., "Decision Factors for Remote Work Adoption: Advantages, Disadvantages, Driving Forces and Challenges," *Journal of Open Innovation: Technology, Market, and Complexity* 7, no. 1 (March 1, 2021): 70, <https://doi.org/10.3390/joitmc7010070>.

³⁸ Maisaroh Choiratunnisa, "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>.

3.5 Evaluation of the Effectiveness of the Job Creation Law

The Job Creation Law has brought significant changes to industrial relations, particularly in aspects of termination of employment and severance pay rights. However, its effectiveness remains a topic of debate. Some provisions in the law are perceived to favor employers more, while worker protections tend to be weakened. To ensure that this law truly fosters harmonious industrial relations, a comprehensive evaluation is necessary.³⁹ This includes reviewing the impact of the law's implementation, identifying legal gaps that may disadvantage workers, and refining regulations to achieve a balance between flexibility for employers and the protection of workers' rights.

Collaboration⁴⁰ between the government, employers, and labor unions is key to achieving this goal. Through constructive dialogue, it is hoped that industrial relations in Indonesia can evolve toward greater fairness and equity.

3.6 Psychological Impact of Termination of Employment on Workers and Their Families

Termination of Employment (TOE) not only causes financial distress but also has significant psychological impacts on workers and their families. Job loss is often accompanied by feelings of anxiety, stress, and uncertainty about the future. This is especially true when termination occurs suddenly or without fair negotiation, leaving workers feeling undervalued or treated inhumanely. For most workers, a job is not just a source of income but also a part of their identity and personal pride. Losing a job can lead to a decline in self-esteem, depression, and other mental health issues. This situation also affects workers' families, who may face pressure due to reduced income and changes in household dynamics.

In this context, the roles of the government and companies become crucial. Beyond providing financial⁴¹ compensation, companies can offer psychological support programs for affected workers. For example, they can provide counseling or reskilling programs to help them secure new employment. The government, through the Job Loss Guarantee (JKP) program, can also provide career and psychological counseling services as part of comprehensive protection for workers who have lost their jobs.

³⁹ 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>.

⁴⁰ Jeffrey S. Lowe, Natalie Prochaska, and W. Dennis Keating, "Bringing Permanent Affordable Housing and Community Control to Scale: The Potential of Community Land Trust and Land Bank Collaboration," *Cities* 126 (July 1, 2022): 103718, <https://doi.org/10.1016/j.cities.2022.103718>.

⁴¹ Shrabanti Maity, "Rawls' Difference Principle, Self-Help Group, Financial Inclusion and Social Cohesion—Lore or Actuality? Experience of Central Assam," *Humanities and Social Sciences Communications* 11, no. 1 (February 8, 2024): 1–13, <https://doi.org/10.1057/s41599-024-02708-z>.

4. Research Result

The research findings indicate that the implementation of Termination of Employment (PHK) often does not comply with the procedures set out in the laws and regulations, particularly Law No. 13 of 2003 on Employment and the amendments made through Law No. 11 of 2020 on Job Creation. The mandated mediation and bipartite consultation processes are frequently neglected by both employers and workers. Employers tend to carry out unilateral PHK for reasons such as efficiency or financial conditions, while workers often lack an understanding of the legal procedures that can protect their rights. This has led to many PHK cases resulting in industrial disputes that must be resolved in the Industrial Relations Court (PHI).

Regarding the realization of severance pay rights, the research found that the implementation in practice is often suboptimal. Many workers do not receive severance pay in accordance with applicable regulations due to various factors, such as weak government oversight, legal loopholes exploited by employers, or the financial incapacity of employers. In addition, changes in regulations through the Job Creation Law, which introduced the Employment Loss Guarantee (JKP) program as additional protection for workers, while considered positive, have also led to interpretations that this program replaces the employer's obligation to provide severance pay.

Another factor affecting the implementation of severance pay rights is the lack of education for workers regarding their rights and the weak dispute resolution mechanisms, which can take a long time. The research findings also show that there is an imbalance between legal protection for workers and the flexibility granted to employers through new regulations. While employers are given greater freedom in implementing PHK, workers face challenges in ensuring their rights are fulfilled, particularly regarding the compensation they should receive after PHK.

Overall, the research found that the implementation of regulations related to PHK and severance pay still has various weaknesses that need to be addressed. Stricter oversight, legal education for workers, and improvements in the regulations are necessary so that PHK implementation and severance pay provision can be carried out more fairly and in line with the principles of labor protection.

5. Conclusion

Termination of Employment (PHK) is a crucial issue in industrial relations that requires serious attention, both from a legal perspective and in its practical implementation. Based on the analysis, PHK should be carried out in accordance with the procedures outlined in the laws and regulations to protect workers' rights, including the right to severance pay. However, the reality on the ground shows that many employers do not comply with these obligations, due to reasons such as financial constraints, lack of supervision, or legal loopholes.

Law No. 11 of 2020 on Job Creation has brought significant changes to PHK regulations, providing greater flexibility for employers but creating new challenges regarding workers' rights protection. Although the Employment Loss Guarantee

(JKP) program has been introduced to support workers affected by PHK, this program has not fully addressed issues related to the realization of severance pay.

To create a fairer and more harmonious industrial relationship, efforts should be made to enhance oversight, provide legal education for workers, and improve labor dispute resolution mechanisms. Continuous evaluation of the implementation of the Job Creation Law is also necessary to ensure that a balance between the interests of workers and employers is maintained. With these measures, it is expected that workers' rights, particularly the right to severance pay, can be realized more effectively and in accordance with the principles of justice.

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