

Legal Protection of Workers' Rights in Employment Relationships in Indonesia: A Normative Analysis and Implementation

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Abstract : The enactment of Law Number 13 of 2003 concerning Manpower was motivated by the disadvantaged position of workers in employment placement and industrial relations systems that accentuated unequal positions and conflicting interests, rendering previous regulations inadequate for contemporary demands. This study aims to analyze the implementation of legal protection for workers' rights within employment relations in Indonesia, and to identify barriers and corresponding remedial efforts. Employing a normative juridical approach with qualitative-deductive analysis, this research reveals that despite juridical equality between workers and employers under Pancasila, the 1945 Constitution, and Law No. 13/2003, practical asymmetries in power relations persist, undermining the fulfillment of workers' fundamental rights. Key obstacles include regulatory loopholes, non-egalitarian legal culture, weak enforcement oversight, and companies' financial constraints. Addressing these issues requires state intervention through regulatory refinement, strengthened labor supervision, and dispute resolution mechanisms that prioritize substantive justice over mere contractual freedom. This study contributes to mapping the dichotomy between protective norms and field implementation, while offering actionable policy recommendations.

Keywords: *Legal Protection, Workers' Rights, Employment Relations, Power Asymmetry, Regulatory Implementation*

INTRODUCTION

In carrying out development, several supporting factors are required, such as capital, natural resources and labour. These three factors are of vital importance and cannot be separated from one another. Of these three factors, the labour factor plays a role that is no less important than the other supporting factors. This is supported by the very large population; labour is a vital form of capital. Given that the labour factor must be taken into account in this development process, efforts are required to nurture, guide and protect the workforce in order to create well-being in relation to their work.¹

Essentially, the protection of workers is intended to ensure that they are treated with greater respect. Workers are given the opportunity to fulfil their various social duties and obligations, and to develop their potential, thereby improving their quality of life and enabling them to live a

¹ Shintia Yunita Arini, "Building Worker Welfare: A Multidisciplinary Analysis of Health and Safety in Various Work Contexts," *Indonesian Journal of Occupational Safety and Health* 14, no. 2 (2025): 133–35, <https://doi.org/10.20473/ijosh.v14i2.2025.133-135>.

dignified life as human beings. To ensure the success of such protection, comprehensive, integrated and sustainable planning and implementation are required.

One of the reasons behind the enactment of Law No. 13 of 2003 on Employment was that several existing legal provisions in force to date including some that were colonial legacies placed workers at a disadvantage in employment placement services and an industrial relations system that emphasised differences in status and interests, and were therefore deemed no longer suitable for present-day needs and future demands.² It is hoped that the enactment of Law No. 13 of 2003 on Labour will: uphold the protection and security of workers; implement various international instruments on workers' rights that have been ratified; and, as a member of the United Nations (UN), uphold and implement the Universal Declaration of Human Rights (UDHR).

One way in which the objective of social justice in the field of labour can be achieved is by protecting workers against the unlimited power of employers through existing legal means. Protection for workers/labourers is enshrined in the fourth paragraph of the Preamble to the 1945 Constitution (UUD 45) and Article 27(2), Article 28D(1) and (2). Protection for workers can be achieved by providing guidance and assistance, as well as by enhancing the recognition of human rights and ensuring physical and socio-economic protection through applicable regulations.

In general, there are several workers' rights that must be protected, including: the right to work, the right to fair pay, the right to form and join trade unions, the right to health and safety protection, the right to due process, the right to equal treatment, the right to privacy, and the right to freedom of conscience. Employers' rights include: the right to establish work regulations and agreements; the right to carry out redundancies and close a company; the right to form and join a trade union; and the right to outsource part of the work to another company.³ The protection of workers' rights can also be achieved through guidance, supervision and law enforcement in the field of labour.⁴

Legally, the position of workers is one of freedom and equality. In practice, however, the relationship between employers and workers is often unequal. Several obstacles and issues remain, including: regulatory factors; cultural factors relating to workers, employers and law enforcement officials; although in theory employers and employees are on an equal footing, in practice this is

² Peraturan Pemerintah RI, *Undang-undang (UU) Nomor 13 Tahun 2003 tentang Ketenagakerjaan*, Pemerintah RI (Yogyakarta: Pustaka Pelajar, 2003).

³ Andre Marten et al., "Tinjauan Hukum Perdata terhadap Perjanjian Kerja: Hak dan Kewajiban Pekerja serta Pengusaha Civil," *Andre Marten, Alvaro Anatolius Vivaldy Nonga Universitas* 4, no. 1 (2025): 26–34, <https://doi.org/10.528117812825>.

⁴ Lilih Ilah Solihah dan Fenny Fatriani, "PERAN SERIKAT PEKERJA DALAM PENEGAKAN HUKUM KETENAGAKERJAAN DI INDONESIA," *Media Keadilan: Jurnal Ilmu Hukum* 16, no. 1 (22 April 2025): 45, <https://doi.org/10.31764/jmk.v16i1.28876>.

not the case; and the ability of companies to fulfil workers' rights.⁵ Although Indonesia already has a comprehensive labour regulatory framework, most of the legal instruments inherited from the colonial era and the early post-independence regulations still place workers in a subordinate position within the industrial relations system. This imbalance led to the enactment of Law No. 13 of 2003 on Labour, which is intended to: (1) guarantee legal protection and certainty for workers; (2) incorporate ratified international instruments on workers' rights; and (3) fulfil Indonesia's commitment as a UN member state to upholding the Universal Declaration of Human Rights. The constitutional basis for this protection is enshrined in the Preamble to the 1945 Constitution, Paragraph IV, as well as Article 27(2), Article 28D(1) and (2), and Article 33 of the 1945 Constitution.⁶

Several previous studies have examined the issue of legal protection for workers in Indonesia from various perspectives. Hendriko⁷ analysed the gap in legal protection between permanent and contract workers, and found that contract workers are in a more vulnerable position than permanent workers; however, this study focused solely on differences in employment status without analysing the structural and cultural factors underlying the inequality. Fahmi & Suartini⁸ examines the inconsistencies in redundancy regulations following the Job Creation Law, and highlights the simplification of procedures and the reduction in severance pay, which have the potential to weaken worker protection; however, its weakness lies in its focus on the procedural aspects of redundancy without addressing the impact on workers' rights in a holistic manner. Meanwhile, the Research Team from Makassar State University⁹ evaluates legal protections for outsourced workers following the Job Creation Law, and concludes that the flexibility granted to companies has the potential to weaken worker protections; however, this study has not yet conducted an in-depth analysis of how outsourced workers can defend their rights in practice, including access to dispute resolution bodies.

⁵ Marten et al., "Tinjauan Hukum Perdata terhadap Perjanjian Kerja: Hak dan Kewajiban Pekerja serta Pengusaha Civil."

⁶ Peraturan Pemerintah RI, *Undang-undang (UU) Nomor 13 Tahun 2003 tentang Ketenagakerjaan*.

⁷ Klaudine Shyne Hendriko, "The Gap in Legal Protection Between Permanent Employees and Contract Workers in Indonesia," *Jurnal Masyarakat Hukum Indonesia (MHII)*, n.d., <https://doi.org/https://doi.org/10.5281/zenodo.20024613>.

⁸ Suartini Arif Nailul Fahmi, "Disharmonisasi Pengaturan Pemutusan Hubungan Kerja dalam UU Cipta Kerja dan UU Penyelesaian Perselisihan Hubungan Industrial Serta Implikasinya terhadap Perlindungan Pekerja," *Jurnal Hukum Lex Generalis* 6, no. 5 (2026), <https://doi.org/doi.org/10.56370/jhlg.v6i5.2525>.

⁹ Wafiqah Wardah Siti Syarifah, "Protection of Outsourced Labor in the Industrial Relations System: A Juridical Analysis of the Job Creation Law," *Jurnal Office: Jurnal Pemikiran Ilmiah dan Pendidikan Administrasi Perkantoran* 10, no. 2 (2024), <https://journal.unm.ac.id/index.php/jo/article/view/5316>.

Although Indonesia already has a comprehensive labour regulatory framework and the studies mentioned above have made significant contributions, there remains a research gap that has not been adequately addressed. Previous studies have tended to discuss workers' legal protection in normative and doctrinal terms without critically examining its implementation on the ground following labour reforms. There is a lack of analysis regarding the dichotomy between legal equality and socio-economic asymmetry in labour relations practice, as well as the absence of a systematic mapping of the structural and cultural barriers that hinder the effectiveness of legal protection.

In light of this, this study offers a novel approach by integrating normative analysis with a critical evaluation of regulatory implementation in a holistic manner, as well as formulating contextual and evidence-based solutions. This study not only addresses regulatory aspects but also analyses legal culture, oversight, and corporate financial capacity as variables influencing the effectiveness of legal protection. Consequently, this study is expected to contribute to mapping the dichotomy between protective norms and on-the-ground implementation, whilst offering more operational policy recommendations for stakeholders.

This study focuses on two research questions. Firstly, to what extent do the legal protections for workers' rights set out in Law No. 13 of 2003 on Manpower correspond to their implementation in industrial relations practice in Indonesia? Second, what are the inconsistencies and disharmonies in regulations within Indonesia's labour law system that act as barriers to the realisation of substantive legal protection for workers, and what efforts are being made to resolve them?

METHOD

This study employs a normative legal approach combined with a socio-legal perspective.¹⁰ This approach was chosen because the main focus of the research is on the positive legal norms governing the protection of workers' rights, particularly those set out in the 1945 Constitution, Law No. 13 of 2003 on Manpower, and other implementing regulations.¹¹ A socio-legal perspective has been incorporated to bridge the gap between *das Sollen* (the law as it ought to be) and *das Sein* (the law as it actually is), so that this study not only analyses the regulatory text but also assesses its implementation in industrial relations practice.¹²

¹⁰ Moleong, *Metodologi Penelitian Kualitatif*, PT Remaja Rosdakarya (Pt Remaja Rosdakarya, 2021).

¹¹ Soerjono Soekanto, *Metode Penelitian Hukum* (Jakarta: Rineka Cipta, 2017).

¹² A. Wijayanti, *Hukum Ketenagakerjaan Pasca Reformasi*. (Jakarta: Sinar Grafika., 2009).

The research design is descriptive-analytical, aiming to systematically describe the legal protection framework whilst identifying gaps between legal norms and practice, and critiquing regulations that are not yet responsive.¹³ The data used consists of secondary data comprising primary legal sources (the 1945 Constitution, Law No. 13/2003, the Civil Code), secondary legal sources (textbooks, academic journals, official reports from the Ministry of Manpower, industrial relations court rulings), and tertiary legal sources (legal dictionaries and official government websites). Data collection was carried out through a systematic literature review by searching official legal documents and academic journals via databases.¹⁴

Data analysis employed qualitative techniques using deductive reasoning, namely the application of general principles of labour law and the principles of contract law to evaluate the phenomenon of inequality in industrial relations practice. To ensure the validity of the research findings, source triangulation was carried out by comparing information from various primary, secondary and tertiary legal sources. Thus, it is hoped that the results of this research will provide a comprehensive and accurate picture of the alignment between worker protection standards and their implementation in Indonesia.

RESULT AND DISCUSSION

Overview of Key Labour Law Principles

Labour law can be defined as a body of rules governing the legal relationships between workers, employers, workers' organisations, employers' organisations and the government, including mechanisms for dispute resolution and decision-making in the field of labour. This definition emphasises that labour law is not merely of a private-contractual nature, but also involves public intervention to balance the power relations between workers and employers, as the scope of labour law encompasses both public and private law simultaneously.¹⁵ Labour law serves as a means of social protection for workers who are in a weaker economic position than employers.¹⁶ The essential elements of an employment relationship include the existence of work, the exercise of direction or supervision by the employer, and the payment of wages or remuneration. The

¹³ Soekanto, *Metode Penelitian Hukum*.

¹⁴ S. Soekanto, *Penelitian Hukum Normatif*. (Jakarta: PT Raja Grafindo Persada, 2003).

¹⁵ Muh Aqil Fatahillah dan Andi Tenri Padang, "Analisis tentang Hukum... ANALISIS TENTANG HUKUM KETENAGAKERJAAN DI INDONESIA," *Siyasatuna: Jurnal Ilmiah* ... 2, no. 2 (2021): 402–13, <https://journal3.uin-alauddin.ac.id/index.php/siyasatuna/article/view/22744%0Ahttps://journal3.uin-alauddin.ac.id/index.php/siyasatuna/article/download/22744/11872>.

¹⁶ Atika Ayu Setia Harnum, "Kepastian Hukum dan Keadilan Sosial dalam Hukum Ketenagakerjaan Indonesia," *Jurnal Review Pendidikan dan Pengajaran (JRPP)* 8, no. 2 (2025): 5014–18, <http://journal.universitaspahlawan.ac.id/index.php/jrpp>.

existence of this public intervention forms the initial basis for assessing the alignment between legal norms and their implementation, as set out in the first research question: namely, whether the legal norms designed to protect workers are genuinely reflected in industrial relations practice.

An employment contract, as the basis of an employment relationship, is governed by Article 1601a of the Civil Code and reinforced by Article 1(14) of Law No. 13 of 2003. An employment contract is valid if it meets four cumulative requirements: (1) agreement between the parties; (2) legal capacity; (3) the existence of the agreed work; and (4) the agreed work does not conflict with public order, morality, or legislation.¹⁷ However, a critical analysis of the first condition ('agreement') reveals a fundamental flaw in the context of unequal employment relationships. In theory, an agreement presupposes that both parties are on an equal footing in terms of bargaining power. Research by Wulansari et al.¹⁸ A study on gig economy workers in Indonesia reveals that the existence of extensive labour reserves and workers' weak bargaining power have created a significant power imbalance between workers and companies. Consequently, the flexibility promised to workers is merely a myth and actually increases their precariousness. In conventional employment relationships, a similar phenomenon occurs: workers in need of employment often lack the bargaining power to negotiate the terms of an agreement, so that the 'agreement' is more a form of one-sided compliance than a genuine consensus.¹⁹

This highlights a disconnect between the ideal legal norms governing employment contracts and the sociological realities faced by workers. The termination of an employment relationship is strictly regulated under Article 61 of Law No. 13/2003, which covers the death of the worker, the expiry of the employment contract, a final and binding decision by a dispute resolution body, or the occurrence of specific circumstances agreed upon in the contract. Article 61(2) and (3) expressly state that an employment contract does not terminate due to the death of the employer or the transfer of rights to the company. The workers' rights become the responsibility of the new employer, unless otherwise specified in a transfer agreement that does not diminish the workers' rights.²⁰

However, following the enactment of Law No. 6 of 2023 on Job Creation, there has been a significant lack of regulatory consistency regarding the rules on redundancies. Fahmi & Suartini²¹

¹⁷ Subekti, *Hukum Perjanjian*.

¹⁸ Anindya Dessi Wulansari et al., "Hiding behind the platform: the myth of flexibility for gig workers in Indonesia," *South East Asia Research* 32, no. 1 (2024): 22–40, <https://doi.org/10.1080/0967828X.2023.2292101>.

¹⁹ Soekanto, *Penelitian Hukum Normatif*.

²⁰ Peraturan Pemerintah RI, *Undang-undang (UU) Nomor 13 Tahun 2003 tentang Ketenagakerjaan*.

²¹ & Suartini Fahmi, A. N., "Disharmonisasi Pengaturan Pemutusan Hubungan Kerja dalam UU Cipta Kerja dan UU Penyelesaian Perselisihan Hubungan Industrial Serta Implikasinya terhadap Perlindungan Pekerja," *Jurnal Hukum Lex Generalis* 6, no. 5 (2026).

clearly found that the Job Creation Law simplifies redundancy procedures and reduces the amount of severance pay, which previously served as an important safeguard for workers. Research by Baqi & Fesya²² Using a critical legal analysis approach, this study reinforces these findings by concluding that although the Job Creation Law claims to provide flexibility in industrial relations, in practice it has the potential to weaken legal protection for workers facing unilateral dismissal. The inconsistency between the Job Creation Law and Law No. 2 of 2004 on the Settlement of Industrial Relations Disputes (PPHI) gives rise to serious legal uncertainty.

Constitutional Court Decision No. 132/PUU-XXIII/2025, as analysed by Wadrianto & Triadi,²³ In fact, it strengthens workers' constitutional rights by holding that the one-year time limit for bringing a claim following dismissal creates procedural injustice. This ruling serves as a key instrument for balancing the relationship between employers and workers and promoting the harmonisation of labour regulations. Thus, this sub-section concludes that regulatory inconsistencies are the main obstacle to achieving fair legal protection for workers.

Legal Protection of Workers' Rights: A Normative Analysis and Implementation

Legally speaking, Article 27(2) of the 1945 Constitution places workers and employers on an equal and balanced footing before the law. Articles 28D(1) and (2) of the 1945 Constitution even explicitly guarantee the right to recognition, security, protection and fair legal certainty, as well as the right to work and to receive fair remuneration and treatment in employment relationships.²⁴ However, this legal equality does not automatically translate into equality in practice.

This study found that, in socio-economic terms, there is a significant imbalance between the positions of workers and employers. Workers in need of employment are in a weak bargaining position, whilst employers, who control capital and the labour market, hold a dominant position. Wulansari et al²⁵ This demonstrates that the structural situation, in which the labour supply is vast and workers' bargaining power is weak, has created a significant power imbalance between workers and employers. This asymmetry in the power relationship means that workers often have no choice but to accept working conditions unilaterally determined by employers. This gap between legal equality and socio-economic inequality provides an initial answer to the first problem statement:

²² A. A. A. Baqi, A., & Fesya, "The Principle of Justice in Unilateral Termination of Employment: A Critical Legal Analysis of the Job Creation Law.," *INSAN Jurnal* 2, no. 2 (2025).

²³ I. Wadrianto, G. K., & Triadi, "Normative Legal Analysis from the Perspective of Legal Discovery Theory (Constitutional Court Decision Number 132/PUU-XXIII/2025). PKM Uika Bogor.," 2025.

²⁴ Wijayanti, *Hukum Ketenagakerjaan Pasca Reformasi*.

²⁵ Wulansari et al., "Hiding behind the platform: the myth of flexibility for gig workers in Indonesia."

normatively, protection already exists, but its implementation has failed because it is not balanced by mechanisms capable of balancing the bargaining power of both parties.

The Civil Code sets out the obligations of employees in Articles 1603a, 1603b and 1603c. Employees are required: (1) to perform their work personally and may not be replaced by a third party without the employer's permission; (2) to comply with the rules and instructions issued by the employer; and (3) to pay compensation or a fine if they commit an act that causes loss to the company, whether through wilful misconduct or negligence.²⁶ Meanwhile, Law No. 13 of 2003 grants employers certain rights, including: the right to draw up work regulations and employment contracts, to make redundancies on specific grounds, to close a business, to establish a company organisation, and to outsource part of the work to another company (Section 64 of Law No. 13 of 2003).²⁷

A critical analysis of the above provisions reveals a structural imbalance. Workers' obligations are set out in detail and are binding, whilst employers' rights are defined broadly and flexibly. Conversely, although workers' rights are regulated, they are often 'discretionary' (facultative) because their implementation depends heavily on the employer's good faith and the weakness of oversight mechanisms.²⁸ This normative imbalance contributes to the low effectiveness of legal protection for workers' rights in Indonesia.

An in-depth analysis of this study found that the root cause of the discrepancy between norms and implementation (the first research question) lies in structural and cultural power imbalances. Structurally, the capitalist economic system adopted by Indonesia grants capital holders (business owners) a dominant position in the relations of production. Workers, as the owners of labour power, lack commensurate bargaining power, particularly amidst high unemployment rates and low vertical mobility.

Culturally, the paternalistic mindset that remains deeply rooted in Indonesian society reinforces the dominant position of employers. Workers often believe that 'the employer is king', so that all the employer's demands must be met without much protest. A culture of deference, fear of redundancy, and a lack of legal awareness make workers reluctant to fight for their rights, even though these rights are, in theory, guaranteed by law.²⁹ To conduct a more systematic analysis, this study employs Lawrence M. Friedman's theory of legal systems in examining the Job Creation Law.

²⁶ Subekti, *Hukum Perjanjian*.

²⁷ Peraturan Pemerintah RI, *Undang-undang (UU) Nomor 13 Tahun 2003 tentang Ketenagakerjaan*.

²⁸ Wijayanti, *Hukum Ketenagakerjaan Pasca Reformasi*.

²⁹ Siti Syarifah, "Protection of Outsourced Labor in the Industrial Relations System: A Juridical Analysis of the Job Creation Law."

Friedman divides the legal system into three elements: legal structure, legal substance, and legal culture. Firstly, from the perspective of legal structure, the weak oversight role of the central government, regional authorities, and industrial relations courts poses a serious obstacle. Secondly, from the perspective of legal substance, regulatory changes in the Job Creation Law have the potential to reduce labour protection. Thirdly, from the perspective of legal culture, the pros and cons within society highlight the need for a better understanding of employment rights and obligations.³⁰

The implication of this finding is that the ideal legal protection enshrined in the text of the law is reduced to a mere ‘normative promise’ that is difficult to realise in practice. Without a change in legal culture and the strengthening of workers’ bargaining power, the gap between *das Sollen* and *das Sein* will persist. By integrating the three elements of Friedman’s legal system, it can be concluded that the discrepancy between norms and implementation is caused by systemic failures involving weak oversight structures, imbalanced regulatory substance, and a legal culture that is not yet egalitarian.

Barriers to Legal Protection of Workers’ Rights

The first obstacle identified in this study is a regulatory loophole exploited by employers. Although Law No. 13/2003 is fairly comprehensive, there are still provisions that are open to multiple interpretations or lack adequate implementing regulations. For example, in the outsourcing system and Fixed-Term Employment Contracts (PKWT), many companies use PKWT on a rotating or continuous basis to avoid granting permanent employee status.³¹ This practice is often referred to as ‘contract rolling’, which involves repeatedly extending contracts without ever appointing workers as permanent employees. In theory, this practice is actually prohibited, but due to weak oversight and the absence of strict penalties, it continues to take place.

Furthermore, following the implementation of the Job Creation Law, regulatory inconsistencies have arisen, further weakening worker protection. Fahmi & Suartini³² specifically identifies two forms of disharmony. Firstly, vertical disharmony: inconsistencies between the Job Creation Law, as the *lex posterior*, and Law No. 13/2003, as the *lex specialis*, regarding the regulation of redundancies, severance pay and outsourcing. Second, horizontal disharmonisation:

³⁰ F. U. Nabila, P., Waluyo, W., & Najicha, “Pengaturan Perlindungan Tenaga Kerja dalam Undang-Undang Nomor 6 Tahun 2023 Perspektif Teori Sistem Hukum,” *Notary Law Journal* 5, no. 1 (2025).

³¹ Solihah dan Fatriani, “PERAN SERIKAT PEKERJA DALAM PENEKAKAN HUKUM KETENAGAKERJAAN DI INDONESIA.”

³² Arif Nailul Fahmi, “Disharmonisasi Pengaturan Pemutusan Hubungan Kerja dalam UU Cipta Kerja dan UU Penyelesaian Perselisihan Hubungan Industrial Serta Implikasinya terhadap Perlindungan Pekerja.”

a lack of alignment between the Job Creation Law and Law No. 2 of 2004 on Industrial Relations Dispute Resolution in the mechanism for resolving industrial relations disputes.

Research Baqi & Fesya³³ reinforces this finding by demonstrating that changes to redundancy procedures in the Job Creation Law have the potential to strengthen the dominance of employers' interests over workers' protection. The simplification of redundancy procedures and the reduction in severance pay—which previously amounted to nine times the worker's monthly wage—weakens workers' bargaining position. Furthermore, regulations regarding the outsourcing of core business activities have been relaxed, allowing companies to easily outsource almost their entire production process. These vertical and horizontal inconsistencies create legal uncertainty that is detrimental to workers. This addresses the second research question regarding regulatory inconsistencies and disharmony as the primary obstacles to workers' legal protection.

The second obstacle is a legal culture that is not yet egalitarian. Employers often fail to recognise the strategic value of workers as partners, rather than merely as tools of production. Conversely, workers are often unaware of their rights due to low legal literacy, particularly in the informal sector and among SMEs. The third obstacle is weak supervision and law enforcement. The number of labour inspectors is disproportionate to the number of companies in Indonesia, resulting in supervision that is reactive (based on reports) rather than preventive (routine checks). Mild administrative sanctions also fail to act as a deterrent.³⁴ The fourth obstacle is the limited financial capacity of companies, particularly SMEs, which is often the reason why workers' rights are not upheld, such as their exclusion from the BPJS Ketenagakerjaan scheme.

From a wage policy perspective, Kunarti et al.³⁵ In his research on minimum wage policy, he found that the current minimum wage structure does not adequately guarantee workers' welfare. The limited 'alpha' parameter (0.1–0.3) restricts the scope for wage negotiations between employers and trade unions. This study recommends reformulating the wage formula to truly reflect the value of work and workers' welfare.

Meanwhile, from the perspective of digital transformation, Fajri³⁶ criticised the fact that, although the Job Creation Law aims to improve procedural efficiency through the digitalisation of

³³ Baqi, A., & Fesya, "The Principle of Justice in Unilateral Termination of Employment: A Critical Legal Analysis of the Job Creation Law."

³⁴ S. Soekanto, *Kesadaran hukum dan kepatuhan hukum*. (Jakarta: Rajawali Pers, 2012).

³⁵ Siti Kunarti et al., "Reformulation of Minimum Wage Policy and Its Implications Concerning Justice and Workers' Welfare in the Context Indonesian law," *Volksgeist: Jurnal Ilmu Hukum dan Konstitusi* 8, no. 1 (2025): 213–30, <https://doi.org/10.24090/volksgeist.v8i1.12975>.

³⁶ A. N. Fajri, "Inclusive Legal Framework for Digital Transformation in Industrial Dispute Resolution: A Normative Analysis of the Job Creation Law and Its Implications for Workers' Human Rights," *Universitas Terbuka Conference* 3, no. 1 (2025).

dispute resolution, this regulation fails to incorporate the principles of inclusivity and the protection of workers' human rights. The digital divide, particularly for informal and vulnerable workers, poses a serious risk to equal justice. Furthermore, Constitutional Court Decision No. 132/PUU-XXIII/2025, as analysed by Wadrianto & Triadi³⁷ emphasises that the one-year time limit for bringing a claim following redundancy creates procedural injustice, particularly given the length of the mediation process. This ruling is significant as it strengthens workers' constitutional rights and improves access to justice for vulnerable workers.

Contextual Response Measures

Based on the identification of the obstacles outlined above, this study proposes a number of comprehensive measures. Firstly, there is a need for regulatory harmonisation, both vertically and horizontally. Fahmi & Suartini³⁸ recommends harmonising the Job Creation Law and the Industrial Relations Law so that a balance of interests between workers and employers can be achieved. Revisions to the ambiguously worded provisions in the Job Creation Law must be carried out immediately to restore standards of worker protection. Constitutional Court Decision No. 132/PUU-XXIII/2025 also calls for legislative amendments to the Labour Law to institutionalise the principles of substantive justice.³⁹

Secondly, the legal framework needs to be strengthened by increasing the number and quality of labour inspectors, as well as by developing a risk-based compliance audit system and digitising reporting. Fajri⁴⁰ recommends hybrid dispute resolution models and digital literacy programmes to ensure that digital transformation does not come at the expense of workers' rights. Administrative sanctions need to be strengthened to act as a deterrent, for example by revoking the operating licences of companies that repeatedly violate workers' rights.

Thirdly, there is a need for a reformulation of wage policy that is more equitable. Kunarti et al.⁴¹ recommends revising the minimum wage formula by broadening the scope of negotiations and strengthening the government's role in protecting workers' interests whilst ensuring business sustainability. A fair wage must be commensurate with the value of the work performed, taking

³⁷ Wadrianto, G. K., & Triadi, "Normative Legal Analysis from the Perspective of Legal Discovery Theory (Constitutional Court Decision Number 132/PUU-XXIII/2025). PKM Uika Bogor."

³⁸ Fahmi, A. N., "Disharmonisasi Pengaturan Pemutusan Hubungan Kerja dalam UU Cipta Kerja dan UU Penyelesaian Perselisihan Hubungan Industrial Serta Implikasinya terhadap Perlindungan Pekerja."

³⁹ Wadrianto, G. K., & Triadi, "Normative Legal Analysis from the Perspective of Legal Discovery Theory (Constitutional Court Decision Number 132/PUU-XXIII/2025). PKM Uika Bogor."

⁴⁰ Fajri, "Inclusive Legal Framework for Digital Transformation in Industrial Dispute Resolution: A Normative Analysis of the Job Creation Law and Its Implications for Workers' Human Rights."

⁴¹ Kunarti et al., "Reformulation of Minimum Wage Policy and Its Implications Concerning Justice and Workers' Welfare in the Context Indonesian law."

into account the level of difficulty, responsibility and skills required, and must not fall below the regional minimum wage.

Fourthly, from the perspective of legal culture, there is a need to improve legal literacy among workers and employers. Nabila et al.⁴² emphasises the importance of a better understanding of employment rights and obligations among all stakeholders. Labour law education programmes need to be promoted, whether in schools, universities or in the workplace, so that both parties understand that harmonious industrial relations can only be achieved if rights and obligations are mutually respected.

Fifthly, judges hearing industrial relations disputes must not base their rulings solely on the freedom of contract. Judicial decisions must reflect substantive justice by taking into account the unequal bargaining positions of the parties. In line with Constitutional Court Decision No. 132/PUU-XXIII/2025, judges must apply legal interpretation (*rechtvinding*) through teleological and systematic interpretation to fill gaps in the law that are detrimental to workers. Pro-worker judicial activism needs to be applied in cases where there is an imbalance of power between workers and employers.

CONCLUSION

Based on the research findings and discussion outlined above, this study has found that there is a discrepancy between the legal protection of workers' rights under Law No. 13 of 2003 on Manpower and its implementation in industrial relations practice in Indonesia. From a legal-normative perspective, Indonesia has a robust legal framework for worker protection, as guaranteed by Article 27(2) and Article 28D of the 1945 Constitution and Law No. 13/2003. However, in practice, a significant gap has been identified. From a socio-economic perspective, the positions of workers and employers are highly unequal. Workers find themselves in a position of weak bargaining power due to high unemployment rates and low vertical mobility, whilst employers, who control capital, hold a dominant position. This asymmetry in the power relationship means that 'agreements' in employment contracts are more a form of one-sided compliance than a genuine consensus. Consequently, legal protection of workers' rights in Indonesia is adequate in theory, but its implementation fails because it is not balanced by mechanisms capable of equalising the bargaining power of both parties.

This study also identified that inconsistencies and disharmony in regulations within Indonesia's labour law system constitute a major obstacle to the realisation of substantive legal

⁴² Nabila, P., Waluyo, W., & Najicha, "Pengaturan Perlindungan Tenaga Kerja dalam Undang-Undang Nomor 6 Tahun 2023 Perspektif Teori Sistem Hukum."

protection for workers. These obstacles include vertical disharmony between the Job Creation Law as *lex posterior* and Law No. 13/2003 as *lex specialis* regarding the regulation of dismissal, severance pay, and outsourcing, as well as horizontal disharmony between the Job Creation Law and Law No. 2 of 2004 on Industrial Relations Dispute Resolution in the mechanism for resolving industrial relations disputes. Furthermore, other obstacles identified include regulatory loopholes exploited through the practices of contract rolling and outsourcing of core work, a legal culture that is not yet egalitarian, weak labour inspection, the limited financial capacity of MSMEs, minimum wage policies with alpha parameters that restrict wage negotiations, and digital access gaps in dispute resolution. Recommended resolution measures include vertical and horizontal regulatory harmonisation, revision of ambiguously worded provisions, strengthening of labour inspection, improving legal literacy among workers and employers, and providing inclusive digital access within industrial relations dispute resolution mechanisms.

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