LEGAL PROTECTION OF CERTAIN TIME CONTRACT WORKERS

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ABSTRACT

A certain time work agreement (PKWT) is a work agreement between a worker/laborer and an entrepreneur to enter into a work relationship for a certain time or for a certain job. Law number 13 of 2003 concerning Employment, Law 11 of 2020 concerning job creation, and Government Regulation Number 35 of 2021 concerning Specific Time Work Agreements, Outsourcing, Working Time, Work Relations and Rest Time, and Termination of work relations. Regulate PKWT, the implementation of which creates many legal problems for the workforce. Next, he enactment of Law Number 6 of 2023 concerning the stipulation of Government Regulations in lieu of Law Number 2 of 2022 concerning Job Creation, which until now has not yet been formed into a government regulation, of course justice for PKWT workers is a serious issue. The problem in this research is how legal protection is for fixed-term contract workers (PKWT). The research method uses a socio-legal research approach, and descriptive research type. Types and sources of data use secondary materials in the form of primary legal materials, secondary legal materials and tertiary legal materials. The results of the research are: Legal protection for fixed term contract workers has not yet realized the value of justice.

Keywords: *Contract; Labor; Legal; Protection*

INTRODUCTION

Based on the 1945 Constitution[1], Article 28D paragraph (2), it is stated that every person has the right to work and receive fair and decent compensation and treatment in employment relationships. Work means working in the government, state-owned company, Regional owned enterprises (BUMD), private sector or as an individual and/or working independently. In relation to this dissertation, what will be discussed is the work carried out by a worker in a company, both a state-owned company and a state-owned company.

Regulations regarding job contracting have actually been regulated since Dutch times. Prior to the promulgation of Law No. 13 of 2003, outsourcing work agreements were regulated in the Civil Code Article 1601 b, this article stipulates that contracting a job is an agreement between two mutually binding parties, to hand over a job to a mutually binding party, to hand over a job to another party and the other party pays a price. However, the regulations in the Civil Code are still incomplete because they have not regulated work that can be outsourced, the responsibilities of companies using and providing outsourced labor and the types of companies that can provide outsourced labor.

Current outsourcing work agreements are based on Law Number 13 of 2003 concerning Employment. Based on research results, more than 50% of companies in Indonesia use outsourced staff, namely 73%. Meanwhile, 27% do not use outsourcing staff in their company's operations. This shows that the development of outsourcing work agreements in Indonesia is very rapid. The development of outsourcing work agreements was encouraged by the Law on Manpower Number 13 of 2003, in this Law, the need for labor to carry out production is supplied by labor supply companies (outsourcing).

The emergence of outsourcing work agreements is one of the results of work specialization. Having work specialization will make it easier to use outsourcing work agreements because there is a visible difference between the main business and supporting businesses. Work specialization involves dividing tasks or operations into small, highly specialized parts, each of which is assigned to different workers. The reason capital owners implement work specialization is to increase management control. Work specialization makes it easier to organize and control workers/laborers, increasing productivity, besides that work specialization allows capital owners to pay the lowest wages for the labor needed.

Law Number 11 of 2020 concerning Job Creation, is a crystallization of regulations that combines several regulations with different regulatory substance, into one legal umbrella. This means that the Job Creation Law has accommodated several laws into one package, including taxation law, Job Creation Law, forestry law, environmental law, Indonesian waters zoning law and law empowerment of small and medium enterprises, and several other legal regulations which cannot be detailed in this article. The government has its own perception of enacting Law Number 11 of 2020 concerning Job Creation, with the aim of improving Indonesia's national economy which is increasingly deteriorating.

All clusters argue that the contents of the job creation law, especially regarding regulations on guaranteeing workers' rights, do not actually provide guarantees of justice and welfare for workers in Indonesia. According to the clusters, this law, especially the regulation of employment, only favors the interests of employers or company owners.

Employment Cluster in the Job Creation, as regulated in Chapter IV Employment which accommodates 4 (four) laws, namely Law Number 13 of 2003 concerning Employment; Law Number 40 of 2004 concerning the Social Security System; Law Number 24 of 2011 concerning Social Security Administering Bodies; and Law Number 18 of 2017 concerning Protection of Indonesian Migrant Workers. More specifically, what is highlighted are the articles that regulate employment related to the protection of workers' rights guarantees.

[1] Anis Mashdurohatun, Erman Suparman, I Gusti Ayu Ketut Rachmi Handayani, Authority of the Constitutional Court in the Dispute Resolution of Regional Head Elections, Lex Publica, Volume.6. Issue. 1.2019.pp.52-60

The inclusion of outsourcing issues in the Job Creation Law is influenced by global economic conditions and rapid technological progress which has resulted in very tight business competition.[2] This situation requires the business world to adapt to market demands which require a fast and flexible response. For this reason, a structural change is needed in business management by reducing the span of management so that it can become more effective, efficient and productive.

Outsourcing is one of the ways used by the government to make it easier for entrepreneurs to run businesses amidst the economic crisis that has hit Indonesia for the last few years. The policy to implement outsourcing was issued by the government to improve the investment climate in Indonesia through several conveniences in the system of recruiting workers who are transferred to other parties, namely through an outsourcing system. With the outsourcing system, it is hoped that companies can save costs in financing human resources (HR) who work in the company concerned. The government argued that by legalizing the outsourcing system as an effort to provide broad employment opportunities for as many of the existing workforce as possible at that time, consideration must be given to the need for flexibility and adaptation of the labor market.[3]

The need for labor is directly proportional to market demand for the products produced. The greater the demand for a product, of course the need for labor will increase. Labor is part of the production process system, which means that the profits/losses of a company are also determined by its workforce. India also implements an outsourcing system, especially those related to Information Technology (IT), so that it is able to gain a large amount of foreign exchange.

Competition in the business world between companies means companies must concentrate on a series of processes or activities for creating products and services related to their core competencies. By concentrating on the company's main competencies, a number of products and services will be produced that have quality and competitiveness in the market, however, on the other hand, it is difficult for companies to be efficient so that production costs remain high. To reduce risks, ideas have arisen among the business world to implement an outsourcing system. Where with this system the company can save expenses in financing human resources (HR) who work in the company concerned.[4] Law no. 11 of 2020 concerning Job Creation (Job Creation Law) has abolished the provisions of Article 64 and Article 65 of the UUK and changed the provisions of Article 66 of the UUK, so that it will have an impact on the practice of the outsourcing system in Indonesia. The abolition of Article 64 and Article 65 by the Job Creation Law, means that the outsourcing system, namely the handing over of part of the work, is no longer recognized through contracting agreements, but is only permitted through agreements providing outsourced worker/labour services as regulated in Article 66 of UUK Jo. Article 81 number 20 of the Job Creation Law.

In the outsourcing system there are 2 (two) types of agreements, namely the Worker Service Provider Agreement and the Employment Agreement. A Worker Services Provider Agreement is an agreement between an employer company and a worker service provider company, where the worker service provider company (outsourcing company) will place workers with the employing company for certain work and within a certain period of time in exchange for a fee. Meanwhile, a work agreement is an agreement between an outsourcing company and workers, which can be in the form of an indefinite work agreement (PKWTT) and a certain time work agreement (PKWT). If the worker's service provider agreement ends, the worker's employment at the employing company also ends. For outsourced workers who are bound by PKWTT, wage protection still exists, in contrast to workers who are bound by PKWT, so there is no protection for continued employment, let alone wages.

The outsourcing contract work system which opens up job opportunities in all types of work and prioritizes the young workforce will cause job opportunities for workers aged 30 to become increasingly narrow. If employment opportunities in the formal sector for the older workforce become increasingly narrow, there will be an explosion in the informal sector which has so far dominated the structure of the Indonesian workforce. Apart from that, the explosion in the number of workers/laborers in the informal sector will certainly have an impact on uncertainty regarding the continuity of workers/laborers' employment which will ultimately also have an impact on the continuity of their family's livelihood.

A good relationship between outsourced workers/laborers and the company will give rise to a higher quality working relationship, where workers/laborers feel more appreciated because their rights are protected, so that workers/laborers will provide maximum performance. For this reason, the role of the government as a regulator and supervisor in the field of employment is needed, can be neutral and can guarantee the implementation of the rights and obligations of the parties in the employment relationship, as mandated by the constitution, Article 27 paragraph (2) of the 1945 Constitution of the Republic of Indonesia, "Every citizens have the right to work and a life worthy of humanity." Then it is further regulated in Article 6 of the Manpower Law which states "every worker/laborer has the right to receive equal treatment without discrimination from employers".

Outsourcing is a worker who works based on a Certain Time Work Agreement (PKWT), namely a work agreement between the employer and employee to enter into a work relationship for a certain time or for a certain job. The inclusion of outsourcing provisions in the Job Creation Law is intended to invite investors to invest, so that they can create jobs and reduce the number of unemployed, which always increases every year.[5]

The daily practice of outsourcing is more profitable for the company, but this is not the case for the workers/laborers, where the outsourced contract workers feel that their welfare is not cared for by the company, because the work relationship is always in the form of a non-permanent/contract (PKWT), there is no job security and there is no there is a guarantee of career development, so that in such circumstances the implementation of outsourcing will make workers/laborers suffer and make industrial relations blurred. Therefore, social security is needed for outsourced workers so that industrial relations can exist between the company and the workforce.

In the Job Creation Law No.11 of 2020, the provisions of Articles 64 and 65 of the 2003 Manpower Law are abolished. Article 64 is the basis for implementing outsourcing in Indonesia, because it regulates the handover of work implementation to another company through an agreement. contracting out work or providing worker/labor services. The deletion of Article 64 and Article 65 is odd because in the Job Creation Law Number 11 of 2020 it is further stated that Article 66 is changed to: "(1) The

[2] Adrian Sutedi, 2009, Labor Law, Sinar Graphics, Jakarta, p. 219.
[3]Bappenas, 2003, Executive Summary, Labor Market Policies to Expand Job Opportunities, Directorate of Employment and Economic Analysis of Bappenas, p. 29. See also Agusmidah, 2011, Employment Law Dilemmas, Legal Politics Review, SofMedia, Medan, p. 32.
[4] Mohamad Faiz, Outsourcing and Manpower Management in Companies, 2023
[5] Prin Mahadi, Political Commodity Outsourcing, 18 July 2023

employment relationship between the outsourcing company and the workers/laborers it employs is based on a work agreement made in writing, either a work agreement for a certain time or a work agreement for an unspecified time.

It should be understood that in the 2003 Manpower Law, Article 64, Article 65 and Article 66 are a unity that must be seen as a whole. By removing Article 64 and Article 65 but keeping Article 66 alive, this will create legal uncertainty and confusion for business actors and workers which will actually disrupt the business and investment climate in Indonesia.

Apart from that, another problem that arises from this article is the loss of restrictions on the types of work that can be outsourced. Previously, Article 66 paragraph (1) of the Manpower Law stated that: "Workers/laborers from companies providing worker/labor services may not be used by employers to carry out main activities or activities that are directly related to the production process, except for supporting service activities. or activities that are not directly related to the production process. This means that the 2003 Manpower Law provides explicit restrictions that outsourcing may not be carried out for jobs that are central to the company. This limitation is no longer found in Article 66 paragraph (1) of the Job Creation Law. The implication is of course clear, outsourcing work relationships will increasingly mushroom, even though it has been proven that forms of triangular work relations (work relations involving a third party as an intermediary) such as outsourcing tend to be unprofitable for workers.

The pros and cons regarding outsourcing workers have currently become a dilemma because on the one hand, in terms of efficiency, outsourced workers are seen by employers as a way out in finding safe labor and on the other hand, the position of workers who work outsourced is uncertain because almost Overall, outsourced workers work on a PKWT (Specified Time Work Agreement) basis. Almost all jobs can be entered by outsourced workers nowadays, including basic jobs, which are actually prohibited by Law no. 13 of 2003 in conjunction with Law Number 11 of 2020 concerning Job Creation, the loss of job criteria that can be outsourced is a new problem.

Not long after, the government issued Government Regulation in Lieu of Law (Perpu) Number 2 of 2022 concerning Job Creation on December 30 2022, but a number of Petitioners submitted requests for formal and material review of the Perpu to the Constitutional Court (MK). According to the Petitioners, the President's subjectivity in issuing a Perpu must be based on objective circumstances. If measured from three benchmarks, the existence of this Perpu does not meet the requirements because so far the Government has used Law 11/2020 (Job Creation Law) to carry out urgent needs in resolving legal problems that fall within its scope, and so far there has been no legal vacuum. For this reason, the Petitioners in the provision ask the Court to declare that the Government's Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation is postponed from enactment until a final decision is made.

Then the government strengthened it with Law Number 6 of 2023 concerning the Determination of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation into Law, which states that to realize the goal of establishing the Indonesian State Government and realizing a prosperous, just, Indonesian society. and prosperity based on Pancasila and the 1945 Constitution of the Republic of Indonesia, the State needs to make various efforts to fulfill citizens' rights to work and a decent living for humanity through job creation. with job creation, it is hoped that it will be able to absorb as wide a workforce as possible in Indonesia amidst increasingly competitive competition and the demands of economic globalization as well as global economic challenges and crises which can cause disruption to the national economy. that to support job creation, it is necessary to adjust various regulatory aspects related to the convenience, protection and empowerment of cooperatives and micro, small and medium enterprises, increasing the ecosystem: investment, and accelerating national strategic projects, including increasing worker protection and welfare. Based on the background above, the problem in this research is how Legal protection for fixed-term contract workers.

RESEARCH METHODS

The type of research used is the socio legal [6]research method, namely research carried out by examining library materials (secondary data) or library legal research[7], then describing it in the analysis and discussion. The types of data used are primary and secondary data. To obtain primary data, researchers refer to data or facts and legal cases obtained directly through field research[8], including information from respondents related to the research object and practices that can be seen and related to the research object. This secondary data is useful as a theoretical basis for underlying analysis of the main problems in this research. Next, data analysis is carried out through descriptive analysis.[9]

DISCUSSION

The journey of outsourcing work agreements or what was previously known as sub-contract work in Indonesia has been quite long since the issuance of Decree of the Minister of Trade of the Republic of Indonesia Number: 264/KP/1989 concerning Sub-Contract Work for Processing Companies in Bonded Zones, which was then confirmed in Decree of the Minister of Trade of the Republic of Indonesia Number: : 135/KP/ VI1993 concerning Importation and Exit of Goods to and from Bonded Zones.

This decision is intended for garment companies in bonded zones, on the grounds that because the nature of the industry is in the export market, it is permissible to hand over part of the processing process to other companies. Apart from that, it is also to cut production costs and production time so that we can meet export market demand deadlines. So, outsourcing work agreements

[6] Adriaan W. Bedner, 2012, Socio-Legal Studies (Legal State Building Elements Series), Jakarta : Universitas Indonesia, p. 29.
[7] Ediwarman, 2010, Monograph, Legal Research Methodology, Medan: Univ Postgraduate Program. Muhammadiyah North Sumatra, Medan, p. 24. .
[8] Soerjono Soekanto, 1984, Introduction to Legal Research, Jakarta: UI Press, p.7
[9]Maniah; Bin Bon, Abdul Talib; Hariadi, Andi Kahar; Gunarto; Mashdurohatun, Anis; et al. Mapping the Competencies and Training Needs of Human Resources to Improve Employee Performance in Indonesia After the Covid-19 Pandemic, *Quality - Access to Success*, 2023, 24(195), pp. 219–225

in Indonesia were initially limited to certain production models which were only for the benefit of the export market. Policies Outsourcing work agreements are included in trade and industrial policies.

Outsourcing work agreements began to become a labor policy through the Circular Letter of the Minister of Manpower of the Republic of Indonesia Number: SE/08/MEN/1990 concerning the Responsibility of Contracting Company Workers for the Protection and Welfare of Contracting Company Workers. The emergence of this circular letter is related to the striking differences in protection and welfare between workers/laborers in employing companies and workers/laborers in job contracting companies.

This inequality is resolved by delegating responsibility for the protection and welfare of workers/laborers from the job contractor to the employer. However, this is considered too burdensome for employers who are generally foreign investors. This complaint was then responded to through the Regulation of the Minister of Manpower of the Republic of Indonesia Number: Per-02 / Men / 1993 concerning Specific Time Work Agreements. This regulation changes the legal character of work contractors from individuals to legal entities, especially foundations and cooperatives. This is intended to transfer responsibility for workers/laborers from the employer to the job contractor. So, since then the protection and welfare of workers/laborers is the responsibility of the job contractor where the worker/laborer is housed.

Entered into an outsourcing work agreement according to Employment Law Number 13 of 2003, basically this Employment Law continues existing policies by eliminating several restrictions that have previously been created. Article 65 of the Manpower Law adopts the regulations of Decree of the Minister of Trade of the Republic of Indonesia Number: 135/KP/VI/1993 concerning the Import and Exit of Goods to and from Bonded Zones.

Article 65 of the Manpower Law stipulates that "handing over part of the work to another company" must be made in a written agreement and "carried out separately from the main activity". The difference is that article 65 of the Manpower Law does not contain detailed limitations as stated in the Decree of the Minister of Trade of the Republic of Indonesia, in the form of which the employing company does not have to experience difficulties in achieving production targets limited to certain industrial sectors. Time limits for work can only be carried out by the company. those operating within limited bonded areas have their products not marketed domestically and are only intended for the export market. So, Article 65 of the Manpower Law is indeed much looser and removes all the restrictions that were made by the Indonesian Minister of Trade in 1993.

The Indonesian government has enacted Law Number 11 of 2020 concerning Job Creation. The aim of enacting this law, according to the Indonesian Ministry of Finance, as reported,1 is to create employment opportunities as widely and evenly as possible throughout Indonesia in order to fulfill the right to a decent living through facilitating and protecting MSMEs[10], improving the investment ecosystem for ease of doing business, increasing worker welfare protection, then government investment and accelerating national strategic projects.

The employment system in Indonesia also allows outsourced labor, but it is mostly used to fulfill needs in terms of quantity of labor, giving rise to the perception that outsourced labor only relies on muscles rather than brains or in other words has low education, is involved in work that is not very important and earns minimal income.

According to the 1945 Constitution, article 27 paragraph (2), the government provides protection for every citizen to obtain work and a decent living. This provision is of course inseparable from the philosophy contained in the Preamble to the 1945 Constitution which emphasizes that one of the national goals is to improve the welfare of the Indonesian people. Furthermore, according to Article 33 of the 1945 Constitution, it is stated that the economy is based on the family system.

In the field of employment, one form of protection given to people to obtain work and a decent living is regulated through the Job Creation Law Number 11 of 2020 which almost comprehensively regulates various fields of employment. However, the good intention to provide protection to workers/laborers seems meaningless with the possibility of an outsourcing system (providing workers by service companies) to work for user companies because in reality it causes various problems in its implementation.

The work relationship between workers and employers that arises due to the existence of a work agreement is actually theoretically the right of the employer and the right of the worker to start or end it. However, for workers, the legal relationship with employers is always in a subordinate relationship or a relationship where the worker's position is lower than that of the entrepreneur or employer. For outsourcing workers, this becomes even worse because the workers do not have a working relationship with the employing company.

The employment agreement in outsourcing is carried out in two stages, namely the agreement between the company using the outsourcing services and the outsourcing company as the provider of labor services, and the agreement between the outsourcing company and the workers/laborers. A work agreement[11] is an agreement between an entrepreneur or employer and an employee which contains the work conditions, rights and obligations of the parties. An employment agreement creates an employment relationship. Employment relationship is a relationship between employers and workers based on a work agreement, which has elements of work, wages and orders. There are several things that must be considered in an employment relationship, namely the rights of the entrepreneur (employers have a higher position than workers), the obligations of employers (paying wages), and the object of the agreement (work).[12]

When humans carry out activities to fulfill their daily needs, legal signs appear to regulate them. Law is a collection of rules, regulations or customary law, which a state or society recognizes as having binding force on its citizens. Occupational health is a type of social protection because the provisions regarding occupational health are related to social and social issues, namely regulations that intend to place restrictions on the power of employers to treat workers "as they wish" without paying attention to

[10]Anis Mashdurohatun, Andri Winjaya Laksana, HM Ali Mansyur, Valuation Method of Intellectual Property Rights for Copyright Products of Small and Medium Enterprises as Objects of Credit Guarantees Benefit-Based in the Digital Era, 1st UMSurabaya Multidisciplinary International Conference 2021 (MICon 2021), Atlantis Press 2023.pp.72-83.

[11] Desi Wulan Anggraini, Anis Mashdurohatun, Juridical Deed Review Of The Cooperation Agreement To Build Handover (Build Operate And Transfer) Bot Between Government And Private Sector, Jurnal Akta.Volume 6 Issue 3, September 2019,pp.93-99. See too Gunarto, Anis Mashdurohatun, Kurnia Halomoan, The Urgency Of The Public Policy Of The Construction Service Cooperatives In Realizing The Welfare Of The Community Based On Justice Value, Hamdard Islamicus, Volume. 43. Issue. 1. 2020, see too Anis Mashdurohatun, Consumer Protection Law (Review of Theory and Practice), UNISSULA Press, 2019. pp.1-137

[12] Moch. Nurachmad, 2009, Questions and Answers Regarding Labor Rights (Outsourcing), Visimedia, Jakarta.p. 2.

applicable norms, regardless of workers. as creatures of God who have human rights. Occupational health aims to protect or safeguard workers from incidents or conditions of work relations that are detrimental to their health and morality when workers carry out their work. The emphasis on "in an employment relationship" indicates that all workers who are not in an employment relationship with the entrepreneur do not receive social protection as stipulated in Chapter contains work efficiency and workforce capabilities.

Law of the Republic of Indonesia Number 13 of 2003 concerning employment in Article 1 Number 2 provides the understanding that labor is every person who is able to do work to produce goods and/or services to meet their own needs or those of the community. What is meant by worker/laborer is anyone who works and receives wages or other forms of compensation.

One example of a case regarding part-time contract workers is the case of termination of employment carried out by PT. Vietmindo Energitama by only providing compensation money in the form of one month's full salary and a one-way return ticket to Manado, which is clearly not in accordance with the provisions of the law. applies. Frangky Raymond Luntungan is an employee of the defendant (PT.Vietmindo Energitama) who started working on January 9 2019 and receives a net salary every month with the following details:

1. Basic Wage: Rp. 6,902,083.33,-
2. Position Allowance: Rp. 2,250,000,-
3. Shift Allowance: Rp. 1,000,000,-
4. Incentive 20% of basic salary: Rp. 1,380,416.67,-
5. Site Allowance of 15 USD/Day
6. One month annual bonus, 1 month basic salary until May 9 2019

The Plaintiff worked well without ever receiving a letter of reprimand from the Defendant, but suddenly the Plaintiff received CEO Decree No.002/SK/CEO/HR-EXPAT/V/2019 regarding the release and release of duties to the Plaintiff since 11 June 2019 with only provide salary for the remaining working days until June 11 2019 and provide appreciation or compassion in the amount of 1 month's salary in full and provide accommodation for returning to Manado One Way. That the defendant's argument for making the unilateral decision mentioned above was because the mining operations located in Uong Thuong Vietnam at that time had their work area blocked by contractors and had not yet been cleared so that the mining operations could not run as they should. That the Defendant's action of making a unilateral decision to the Plaintiff since June 11 2019 for the reasons mentioned above and 56 only giving appreciation/compensation of 1 month's salary even though the plaintiff's work contract still has 7 months remaining (ending January 9 2020) is an unlawful act and has been violates the agreement in the Employment Agreement for a Certain Period.

That apart from the Defendant having violated the agreement in the Employment Agreement for a Certain Time, dated January 10 2019, the Defendant has also violated the provisions regulated in Law Number 13 of 2003 concerning employment in Article 62 "If one of the parties terminates the employment relationship before the end of the specified period of time stipulated in a work agreement for a certain period of time, or the end of the work relationship is not due to the provisions as intended in Article 61 Paragraph (1), "the party who ends the work relationship is obliged to pay compensation to the other party in the amount of the worker/laborer's wages until the end of the term employment agreement". On July 3 2019, the Plaintiff contacted the Defendant via email to Mr. Hendra Gunawan as Board of Director in Jakarta and Mr. Eko Satriono as CEO of PT. Vietmindo Energitama with the intention of discussing well and amicably so that the company's decision could be reconsidered, however The defendant still insisted that he could only give appreciation for 1 (one) month's salary. On 22 October 2019, the Plaintiff gave two subpoenas to the Defendant, the first subpoena on 22 October 2019 and the second subpoena on 26 November 2019,

Another case is the case of PT MNC SKY Vision, Tbk with Walter Monginsidi Situmorang. The Plaintiff, namely Walter Monginsidi Situmorang, truly has a legal relationship, namely an employment relationship with the Defendant as stated in the Specific Time Work Agreement (PKWT) as Exhibit T1(a), T-1(b) and Exhibit T-1(c) submitted. by the Defendant. The working relationship between the Plaintiff and the Defendant, where it is true that the Plaintiff received a salary from the Defendant in the form of payment of a sum of money as wages to the Plaintiff, as in Exhibits P-1 and P-2, submitted by the Plaintiff. The employment relationship between the Plaintiff and the Defendant with a Specific Time Work Agreement (PKWT) as evidence submitted by the Defendant in the point above, proves that the length of the employment agreement does not exceed 3 years.

Work that is defined as permanent work is work that is continuous, not intermittent, not limited by time and is part of a production process. This is a cumulative requirement that must be met before work can be considered permanent work. In fact, the employment relationship between the Plaintiff and the Defendant does not meet the requirements as outlined in the point above, namely a permanent employment relationship, because these requirements are not met, so the employment relationship between the Plaintiff and the Defendant must be interpreted as temporary employment. The non-permanent nature of the work relationship between the Plaintiff and the Defendant can in itself be the basis for the work relationship between the Plaintiff and the Defendant being created as an employment relationship based on a Specific Time Work Agreement (PKWT). The working relationship between the Plaintiff (ic. Walter Monginsidi Situmorang) and the Defendant (ic. PT. MNC SKY Vision, Tbk) has been implemented as mandated by the provisions of Article 59 of Law No. 13 of 2003 and basically the Specific Time Work Agreement (PKWT) has been implemented. regulated explicitly by Law no. 13 of 2003 concerning Employment and Decree of the Minister of Manpower & Transmigration of the Republic of Indonesia No. 100/MEN/VI/2004 concerning the implementation of Specific Time Work Agreements. Some of the considerations mentioned above also mean that the Panel of Judges is of the opinion that the Plaintiff's working relationship with the Defendant ends based on the Specific Time Work Agreement (PKWT) with all the legal consequences for those who bind themselves to the agreed Work Agreement. Before the matter between the Plaintiff and the Defendant reached the Industrial Relations Court, the matter had gone through a mediation process at the Medan City Government's Social and Labor Service. The Plaintiff and Defendant had been summoned by the Medan City Government's Social and Labor Service to carry out mediation.

Based on the decision regarding Special Civil Cases (Industrial Relations Disputes), the legal consequences arising from decision No: 82/Pdt.Sus-PHI/2016/PN-Mdn are with several considerations from the Panel of Judges that the plaintiff's working relationship with the defendant ends and all The rights demanded by the plaintiff, such as collateral confiscation and forced money, were unreasonable and unfounded to be granted, so these demands were rejected by the Panel of Judges.

Another case is regarding the layoff case which began with unilateral layoffs carried out by PT PCC on 15 of its workers on behalf of Yansen, Rudistoyo Titu, Arianto, Apriantoni, Gulden, Wawento, Seven Bana, Senggono, Agustinus, Berkatno, Munding Laya, Aliman, Hariandinata and Hendri Aprilianto (hereinafter referred to as the Workers or Plaintiffs). PT PCC is a company operating in the coal industry. Before the layoffs occurred, the workers went on strike to demand their rights. On the other hand, PT PCC considered that the workers had violated Article V paragraph (2) letter n of the Work Agreement, namely striking or delaying work due to actions that were not in accordance with a work strike. Furthermore, PT PCC did not call the striking workers to return to work so that the workers did not return to work as they should, which resulted in PT PCC carrying out unilateral layoffs. As a result of the unilateral layoffs carried out by PT PCC, the workers filed a lawsuit with the Industrial Relations Court at the Palangkaraya District Court, which the Panel of Judges then decided on the layoffs and sentenced PT PCC to pay the remaining wages to the workers according to the remaining PKWT time. PT PCC then filed an appeal and the decision of the Panel of Judges of the Supreme Court was to decide on layoffs and PT PCC to pay compensation to the workers in the amount of half the remaining wages until the end of the PKWT.

Based on this case, the Supreme Court gave decision Number 778 K/Pdt.Sus-PHI/2018. The case in this decision is between the entrepreneur PT PRIMA COAL CHEMICAL (hereinafter referred to as PT PCC) as the Cassation Petitioner (formerly the Defendant) against his workers, namely Yansen, Rudistoyo, Titu, Arianto, Apriantoni, Gulden, Wawento, Seven Bana, Senggono, Agustinus, Berkatno , Munding Laya, Aliman, Hariandinata and Hendri Aprilianto as Cassation Respondents (formerly Plaintiffs). In this decision, the Panel of Judges of the Supreme Court was of the opinion that the reasons for the cassation of the Cassation Petitioner were justified. According to the Panel of Judges of the Supreme Court, Judex Facti or the District Court has applied the law incorrectly by declaring layoffs by paying compensation or remaining wages to workers (Casation Respondent/formerly Plaintiff) until the end of the PKWT.

In carrying out development, several supporting factors are needed, such as capital, nature and labor. These three factors are very important things that cannot be separated from each other. Of these three factors, the workforce factor plays a role that is no less important than other supporting factors. This is supported by a very large population, which is a very important capital. Considering that the workforce factor in the development process must be taken into account, therefore efforts are needed to develop, direct and protect the workforce to create prosperity related to what they do. Basically, protection for workers is intended to ensure that workers become more humanized. Workers have the opportunity to carry out various social duties and obligations, can develop their potential, so that in turn they can improve their quality of life and therefore live a decent life as human beings. To be successful in protecting workers, it requires comprehensive, integrated and continuous planning and implementation. One of the backgrounds to the birth of Law Number 13 of 2003 concerning Employment is that several laws and regulations in force so far, including some which are colonial products, place workers in a disadvantageous position in labor placement services and the industrial relations system which emphasizes differences. position and interests so that they are deemed no longer appropriate to current needs and future demands. 1 The enactment of Law Number 13 of 2003 concerning Employment is expected to: Enforce the issue of protection and guarantees for workers; Implementing various international instruments on labor rights that have been ratified; As a member of the United Nations (UN), it upholds and implements the Universal Declaration of Human Rights (HAM).

When humans carry out activities to fulfill their daily needs, legal signs appear to regulate them. Law is a collection of rules, regulations or customary law, which a state or society recognizes as having binding force on its citizens. Occupational health is a type of social protection because the provisions regarding occupational health are related to social and social issues, namely regulations that intend to place restrictions on the power of employers to treat workers "as they wish" without paying attention to applicable norms, regardless of workers. as creatures of God who have human rights. Occupational health aims to protect or safeguard workers from incidents or conditions of work relations that are detrimental to their health and morality when workers carry out their work. The emphasis on "in an employment relationship" indicates that all workers who are not in an employment relationship with the entrepreneur do not receive social protection as stipulated in Chapter contains work efficiency and workforce capabilities.

The work agreement in question can be understood in Article 1 number 14 of Law Number 11 of 2020 concerning Job Creation. "A work agreement is an agreement between a worker/laborer and an entrepreneur or employer which contains the work conditions, rights and obligations of the parties."

The elements of a work agreement that form the basis of a work relationship in accordance with the provisions of Article 1 number 15 of the Job Creation Law are:

a. The existence of work (arbeid), namely work in accordance with the agreement between the worker and the employer as long as it does not conflict with statutory regulations, morality and public order. The work element is the most important in the work relationship because this is what causes the parties to enter into a work agreement;

b. Under orders (gezag ver houding), in the employment relationship orders are the basis of the position in the employment relationship between the employer and the worker or worker so that the employer has the right and at the same time the obligation to give orders relating to his work. Orders are considered as a unique element of employment relationship with the existence of orders in the employment relationship gives rise to a subordination or superior relationship between the employee and the employer;

c. There is a wage (loan), because with a wage the purpose of the employment relationship becomes clear. A person does work basically with the aim of getting wages in order to fulfill his life's needs; On the other hand, in the Job Creation Law in Article 1 number 30, namely: "Wages are the rights of workers/laborers which are received and expressed in the form of money as compensation from entrepreneurs or employers to workers/laborers which are determined and paid according to a work agreement, agreement or statutory regulations. The invitation includes benefits for workers/laborers and their families for work and/or services that have been performed."

Law of the Republic of Indonesia Number 13 of 2003 concerning employment in Article 1 Number 2 provides the understanding that labor is every person who is able to do work to produce goods and/or services to meet their own needs or those of the community. What is meant by worker/laborer is anyone who works and receives wages or other forms of compensation.

Generally, contract workers are bound by a certain time work agreement or also known as PKWT. According to Government Regulation Number 35 of 2021, a Certain Time Work Agreement/PKWT is a work agreement between a

worker/laborer and an entrepreneur to enter into a work relationship for a certain time or for a certain job. As a result of this agreement, an employment relationship arises between the company and the contract employee so that the contract employee will be directly bound to the company where they work. The meaning of being directly bound is that the rights and obligations arising from contract employees must be carried out and fulfilled by the company where the contract employee works.

Eliminate restrictions on the types of work that can be outsourced. Previously, Article 66 paragraph (1) of the Manpower Law stated that: "Workers/laborers from companies providing worker/labor services may not be used by employers to carry out main activities or activities that are directly related to the production process, except for supporting service activities. or activities that are not directly related to the production process. This means that the 2003 Manpower Law provides explicit restrictions that outsourcing may not be carried out for jobs that are central to the company. This limitation is no longer found in Article 66 paragraph (1) of the Job Creation Law. The implication is of course clear, outsourcing work relationships will increasingly mushroom, even though it has been proven that forms of triangular work relations (work relations involving a third party as an intermediary) such as outsourcing tends to be unprofitable for workers.

CONCLUSION

Regulations on the Protection of Certain Term Contract Workers Are Not Fairly Based, meaning that restrictions on the types of work that can be outsourced are removed. Previously, provisions in the Manpower Law stated that: "Workers/laborers from companies providing worker/labor services may not be used by employers to carry out main activities or activities that are directly related to the production process, except for supporting service activities. or activities that are not directly related to the production process. This means that the 2003 Manpower Law provides explicit restrictions that outsourcing may not be carried out for jobs that are central to the company. This limitation is no longer found in those provisions. The The implication is of course clear, outsourcing work relationships will increasingly mushroom, even though it has been proven that forms of triangular work relations (work relations involving a third party as an intermediary) such as outsourcing tend to be unprofitable for workers.

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