

Labor Flexibility versus Employment Justice: Reassessing Fixed-Term Employment Contracts under Indonesia's Job Creation Law

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Abstract

An employment relationship arises from an employment agreement between the worker and the employer, which gives rise to rights and obligations for both parties. However, in practice, workers with fixed-term contracts often experience legal uncertainty regarding the clarity of their status and the continuity of their employment relationship. The purpose of this research is to examine the legal certainty of the status of workers with fixed-term contracts in the Indonesian employment system. The research method used is normative research, using legislative, historical, and conceptual approaches. The results indicate that the PKWT regulations in the Job Creation Law provide greater flexibility for employers, but do not provide clear legal certainty regarding the change in status of workers with fixed-term contracts to fixed-term contracts. The absence of comprehensive regulations regarding the mechanism for this change in status creates the potential for prolonged abuse of contractual employment relationships and results in weak protection of workers' rights. Therefore, clearer and more stringent regulations is needed to ensure legal certainty, protection of workers' rights, and the creation of balance in employment relationships.

1. Introduction

In the process of earning a decent and sustainable income, a person enters into an employment relationship with an employer. This employment relationship is established after an employment agreement is reached between the two parties, which outlines the rights and obligations of both parties and is protected by Indonesian labor law to ensure humane working conditions.¹ According to Indonesian employment law, employment agreements are divided into two, namely Fixed Term Employment Agreements (PKWT) and Indefinite Term Employment Agreements (PKWTT).²

In an employment agreement, authority and responsibility arise from the parties.³ Existing employment agreements aim to provide protection for both workers and employers. In practice, workers must receive protection in obtaining employment at home and abroad, as well as basic worker rights, occupational safety and health, and wage and social security protection. This is intended to ensure workers feel safe, secure, and enjoy justice, as well as achieve a life of physical and spiritual prosperity, harmony, and balance between workers, employers, the business world, and other business entities.⁴

¹ Et.al Resman Bintani, *Pengantar Hukum Ketenagakerjaan* (Banten: Sada Penerbit, 2025).

² Yana Sukma Permana Syahdan, "Analisis Yuridis Terhadap Perubahan Status Perjanjian Kerja Waktu Tertentu Menjadi Waktu Tidak Tertentu Berdasarkan Peraturan," *Journal Humaniora: Jurnal Hukum Dan Ilmu Sosial* 4, no. 1 (2026): 77, file:///C:/Users/ADMIN/Downloads/copyedit+humaniorum+-syahdan (2).pdf.

³ Peggy Dian Septi Nur Angraini, *Pengantar Hukum Ketenagakerjaan* (Banten: Sada Penerbit, 2025).

⁴ Suratman, *Pengantar Hukum Ketenagakerjaan Indonesia* (Depok: Raja Grafindo Persada, 2019).

However, the fact remains that these workers often occupy the weakest or most vulnerable positions, forcing them to agree to the work agreements they have been given. Therefore, the state is present here by establishing legal regulations to protect the rights of workers who are often ignored by employers. Workers' rights are included in human rights, where all workers have the same rights. This is in accordance with the principle of equality before the law, which means everyone has the same position before the law. Therefore, the state is obliged to guarantee that all workers, whether on fixed-term or indefinite-term workers, receive fair, certain, and non-discriminatory legal protection within the Indonesian labor law system.

The existence of labor protection is to realize the welfare of workers improving the welfare of workers and their families. Regulations regarding employment were previously regulated by Law No. 13 of 2003 concerning Manpower. This regulation has undergone significant changes, especially for workers, especially PKWT workers. Currently, regulations regarding labor law are regulated in Law No. 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law No. 2 of 2022 concerning Job Creation into Law (Law No. 6/2023). The provisions in the Job Creation Law are further explained in Government Regulation No. 35 of 2021 concerning Government Regulations concerning Fixed-Term Employment Agreements, Outsourcing, and Time (GR No. 35/2021). This regulation is a form of change and renewal of the regulation of the employment system in Indonesia. The existence of the existing Job Creation Law has implications (impacts) on legal justice in employment relationships, especially for workers with PKWT. The purpose of the existence of PKWT is basically made for workers who perform work with a specific period or are temporary.⁵

Laws and regulations should be drafted to benefit both workers and employers, and to provide legal certainty and benefits, preventing legal vacuums, norm conflicts, or unclear implementation in society, including for workers. Legal certainty is crucial for workers, especially those employed on fixed-term contracts, as it relates to workers' rights, which are part of human rights, and to the sustainability of future employment. Legal certainty is regulated in Article 28 D, paragraph 2 of the 1945 Constitution, which states that "Everyone has the right to work and to receive fair and proper treatment in employment." If legal justice is not realized, then the labor law established by the state to create justice and welfare for workers will not be in accordance with its original purpose. This is because the law aims to provide legal certainty in society, and the law must be based on justice.⁶

Previous studies have differed in interpretation of PKWT in Indonesian labor law. Research by Setyo Aji Wibowo, Suartini, and Sadino stated that changes to PKWT regulations in the Law No. 6/2023 tend to simplify and eliminate some provisions in the Manpower Law. This potentially opens up opportunities for repeated use of PKWT without certainty. However, its derivative regulation, GR No. 35/2021, provides a mechanism that allows for the

⁵ dan Tri Setiady Asep Rudi Gunawan, Ade Maman Suherman, "Kepastian Hukum Terhadap Tenaga Kerja PKWT Yang Dipekerjakan Kembali Setelah 5 Tahun Masa Kontrak Berdasarkan Peraturan Pemerintah Nomor 35 Tahun 2021," *Jurnal Hukum Lex Generalis* 5, no. 5 (2024): 7, <https://ojs.rewangrencang.com/index.php/JHLG/article/view/675>.

⁶ Wiwik Afifah, "Eksistensi Perlindungan Hukum Terhadap Pekerja Rumah Tangga Di Indonesia," *DIH Jurnal Ilmu Hukum* 14, no. 27 (2018): 55, <https://www.neliti.com/id/publications/369512/eksistensi-perlindungan-hukum-terhadap-pekerja-rumah-tangga-di-indonesia>.

status of PKWT to be changed to PKWTT, specifically for daily workers who meet certain requirements.⁷

Research conducted by Camella Kelvianto and Rasji states that although the PKWT regulations in Law No. 6/2023 and GR No. 35/2021 were designed to provide clear protection, in practice, repeated contractual irregularities persist. Legally, the use of PKWT should be limited to temporary employment, and PKWTT should be applied to ongoing employment. Therefore, enforcing the substance of the law is crucial.⁸ Research conducted by Jesica Christi and Edrick Edwardina Effendy states that Constitutional Court Decision Number 168/PUU-XXI/2023 emphasizes restrictions on the use of PKWT and increases legal protection for workers through clearer regulations, administrative obligations, and compensation guarantees, while encouraging the formation of more separate and comprehensive employment regulations.⁹ Research conducted by Dede Iskandar, Harmaini, Maulida Eca Ra'ufi, and Andre Fahreza states that the Job Creation Law presents a complex balance between increasing labor market flexibility and protecting workers' rights. Deregulation opens up investment and employment opportunities while simultaneously risking lowering protection standards, particularly for PKWT and severance pay. Therefore, the effectiveness of worker protection depends heavily on strengthening derivative regulations, consistent law enforcement, and constructive social dialogue between stakeholders.¹⁰ Research conducted by Chezia Maharany found that despite regulations governing PKWT, companies still terminate employment (PHK). However, they should still provide workers with their rights in the form of compensation/severance pay for their well-being. Layoffs can be carried out if both parties accept the situation, not just one party.¹¹

Based on the explanation above, the regulation regarding fixed-term workers in the Indonesian employment system still creates injustice and legal uncertainty, particularly regarding the clarity of worker status. This condition indicates a legal vacuum in the regulation that expressly regulates the certainty of changes in the status of fixed-term workers, thus opening up opportunities for deviations in employment practices. Furthermore, there is a gap between normative regulations (*das sollen*) and field practice (*das sein*) in legal protection for fixed-term workers. Therefore, this study focuses on the Status of Fixed-Term Workers in

⁷ Suartini. Sadino Setyo Aji Wibowo, "Analisis Yurisdiktor Ketentuan Perubahan Status Pekerja PKWT Menjadi PKWTT Pasca Berlakunya Undang-Undang Nomor 6 Tahun 2023," *Jurnal Ilmu Multidisiplin* 4, no. 3 (2025), <https://doi.org/https://doi.org/10.38035/jim.v4i3>.

⁸ Rasji. Carmella Kelvianto, "Perubahan Status Hukum Perjanjian Kerja Waktu Tertentu Yang Melampaui Batas Waktu Perjanjian," *Jurnal USK*, 2025, <https://doi.org/https://doi.org/10.24815/jr.v8i4-50922>.

⁹ Edrick Edwardina Effendy Jesica Christi, "Pengaturan Perjanjian Kerja Waktu Tertentu (PKWT) Pasca Putusan Mahkamah Konstitusi," *Cerdika* 6, no. 2 (2025), <http://cerdika.publikasiindonesia.id/index.php/cerdika/index>.

¹⁰ Andre Fahreza Dede Iskandar, Harmaini, Maulida Ea Ra'Ufi, "Dinamika Kepastian Hukum Hak Pekerja: Analisis Aturan PKWT Dan Kompensasi Pada Undang-Undang Cipta Kerja," *Sembilan: Jurnal Hukum Dan Adat* 4, no. 1 (2026), <https://adil.stihypm.ac.id/index.php/sembilan/article/view/158/146>.

¹¹ Chezia Maharany, "Perlindungan Hukum Terhadap Pekerja PKWT Atas Pemutusan Hubungan Kerja Sepihak Sebelum Masa Kontrak Berakhir," *Media Hukum* 2, no. 3 (2024), <https://doi.org/https://doi.org/10.5281/zenodo.12174047>.

the Indonesian Employment System from a Justice Perspective to assess the extent to which the state has acted fairly in protecting workers' rights.

2. Methods

This research method uses normative legal research. As a normative science, it is understood as a science that examines law as a rule with legal dogmatics that aims to clearly understand law as a science of rules. This normative juridical research uses several types and approaches, namely the statutory approach as the legal basis for PKWT and the conceptual approach to analyze legal concepts related to PKWT.¹² The legal sources used in this study are primary, secondary, and tertiary legal sources. The primary legal sources are laws and regulations related to this issue, such as the 1945 Constitution; Law Number 39 of 1999 concerning Human Rights (Law No. 39/1999); Law Number 13 of 2003 concerning Manpower (Law No. 13/2003); Law No. 6/2023; GR No. 35/2021. Secondary legal sources include books, journals, previous theses, and websites. Tertiary sources relate to the KBBI (Indonesian Dictionary of the Indonesian Language) and legal dictionaries. The collection techniques used were inventory, categorization, and literature study. The legal material analysis technique employed in this study utilizes normative analysis to generate prescriptive legal arguments using deductive methods.

3. Results and Discussion

Employment is a vital component of Indonesia's national development. Over time, with economic and industrial development in Indonesia, employment law has also changed.¹³ This covers a wide range of issues, from employment regulations to protecting the rights of workers and employers. These include the right to fair work and treatment, the right to a living wage, the right to working hours and overtime, the right to rest and leave, the right to occupational protection (K3), the right to social security, the right to employment status, the right to dismissal, the right to compensation for contract workers, and the right to training and development.

Meanwhile, the employer's rights include demanding that workers carry out their work even if it exceeds the agreed working hours, and the right to remind workers to fulfill and comply with all regulations in carrying out their work. In the rights that have been mentioned and explained regarding workers' rights and employers' rights, it is hereby stated that these rights must basically be implemented in a balanced and fair manner and must take place reciprocally. These rights exist because of the employment relationship between workers and employers.

An employment relationship is an abstract, legal relationship between an employer and an employee. Article 1, number 15 of Law No. 6/2023, states that an employment relationship is a relationship between an employer and an employee or laborer based on an employment agreement that includes elements of work, wages, and orders. This is also explained by Abdul

¹² Hartiwiningsih and Soehartono. Karjoko, Lego, *Metode Penelitian Hukum*, ed. Megafuri. -, Daryono; Apriandhini, Ed. 2, Cet (Tangerang Selatan: Universitas Terbuka, 2022).

¹³ Et.al San Mikael Sinambela, "Perkembangan Dan Dinamika Hukum Ketenagakerjaan Di Indonesia," *Jurnal Ilmu Hukum Dan Sosia* 2, no. 1 (2024): 26, <https://doi.org/https://doi.org/10.51903/hakim.v2i1.1539>.

R. Budiono, who believes that there are three elements of an employment relationship that must be met:¹⁴

1) Work

In an employment contract, the object of the agreement is the work promised by the employer to the employee and which the employee must perform. The Job Creation Law does not specifically define the definition of a worker due to the wide variety of types and scopes of work. In an employment relationship, there must be work agreed upon and carried out by the employee. However, work carried out independently must comply with existing guidelines. The employee performing the work must do it themselves and may not delegate the work to others. This is because if the work is assigned to or performed by others, it is difficult to consider the implementation of the employment contract.¹⁵

2) Salary

Salary are crucial in an employment relationship. Wages are the primary reason workers bind themselves to employers by performing work. According to Edwin B. Filippo, in his article "Principles of Personal Management," salary are defined as the price for services received or provided by another person for the benefit of an individual or legal entity. Article 94 of Law No. 6/2023 explains the components of salary, which consist of basic salary and fixed allowances. The basic salary is at least 75% (seventy-five percent) of the basic wage and fixed allowances. The allowances provided by companies include not only fixed allowances but also variable allowances. Fixed allowances are allowances provided routinely every month by the company or workplace, such as family allowances, position allowances, functional allowances, and others. Meanwhile, variable allowances include meal allowances, transportation allowances, and other allowances.

3) Instruction

An instruction is an instruction given by an employer (entrepreneur) to a worker to perform a task. This order is flexible and does not have to be included in the employment agreement, so it is called differentiating, meaning the worker must be willing to work under the instruction of another person, namely the employer, and is obligated to carry it out. In an employment agreement, the most important role is the element of the instruction. The absence of the element of the order is said to not be an employment agreement. The positions of both parties with the element of the order are not equal; the first party has a higher position, so it is the party giving orders, while the other party has a position below the part being instruction. Due to the inequality of the positions of the two parties, it can be called an employment agreement.

From the employment relationship then emerged two forms of employment agreements namely PKWT and PKWTT. There are differences in the regulation of employment relationships between PKWT and PKWTT.¹⁶ PKWT is a form of employment relationship that is based on a certain period of time or the completion of a certain job. A Fixed Term

¹⁴ Abdul R. Budiono, *Hukum Perburuan* (Jakarta: PT Indeks, 2011).

¹⁵ Presly Prayogo Karel Hein Tampone, Carlo A Gerungan, "Hubungan Kerja Dalam Perspektif Hukum Ketenaga Kerjaan Berdasarkan Undang-Undang Cipta Kerja No 6 Tahun 2023," *Lex Crimen* 12, no. 5 (2024), <https://ejournal.unsrat.ac.id/v3/index.php/lexcrimen/article/view/59263>.

¹⁶ et.al Muhammad Rifa'i, "Perbedaan Hukum PKWT Dan PKWTT Pasca UU Cipta Kerja: Analisis Yuridis Perlindungan Pekerja," *Journal of Innovative and Creativity* 6, no. 1 (2026): 2350, <https://joecy.org/index.php/joecy%0A>.

Employment Agreement or what is called PKWT is a form of employment relationship recognized in the employment system in Indonesia and has the aim of accommodating work needs or rights and obligations that are temporary or have a certain time limit. The construction of an employment agreement according to article 1601 a of the Civil Code states that the formulation of an employment contract is an agreement between two parties where the first party (worker) binds himself to carry out professional activities ordered by the second party with agreed compensation.

Over time, regulations regarding PKWT have undergone significant changes, from Law No. 13/2003 to Law No. 6/2023, which provides greater flexibility in implementing employment relationships. However, this flexibility in the content of these regulations has created problems in providing legal certainty for workers, particularly regarding the clarity of employment status for fixed-term workers and non-fixed-term workers. This is because the regulations defining fixed-term workers remain open to multiple interpretations and do not provide a clear guarantee regarding the continuity of the employment relationship. Therefore, further analysis is needed to assess whether they comply with legal certainty.

Assessing compliance with the principle of legal certainty requires first understanding the normative concept of a PKWT as defined in the statutory regulations. Normatively, a PKWT is defined in Law No. 6/2023 as an employment agreement based on a specific time period or the completion of a specific job, which is essentially intended for temporary and non-continuous work. PKWT is regulated in Articles 56-59 of Law No. 6/2023. There are several characteristics of fixed-term work agreements, namely:

- 1) Fixed-term employment agreements are based on a specific time period;
- 2) Fixed-term employment agreements are based on the completion of specific work.
- 3) Fixed-term employment agreements are made in writing.
- 4) Fixed-term employment agreements cannot require a probationary period.
- 5) Fixed-term employment agreements can only be made for specific jobs that, by type and nature or work activities, will be completed within a specific time period.

In addition to regulating the characteristics and conditions for establishing a PKWT, statutory regulations also explicitly regulate the conditions that cause the termination of an employment relationship, as explained in Article 61 of Law No. 6/2023, namely as follows: Death of the Worker/Laborer;

- 1) Expiration of the Employment Agreement term;
- 2) Completion of a specific job;
- 3) A legally binding court decision and/or decision of an Industrial Relations Dispute Resolution Institution;
- 4) The existence of certain circumstances or events stipulated in the Employment Agreement, Company Regulations, or Collective Bargaining Agreement that may result in the termination of the Employment Relationship.

The provision regarding the expiration of an employment contract as one of the grounds for termination of an employment relationship demonstrates the importance of regulating the duration of PKWT in labor law. Furthermore, a discussion of regulations governing the time limits and extensions of PKWTs is relevant for assessing the extent to which laws and regulations provide legal certainty for workers and employers.

The regulations governing the work period for PKWT are regulated in Law No. 6/2023, which is further explained in Article 5 paragraphs (1) and (2) of GR No. 35/2021, which states that the maximum period is 5 (five) years and can be extended again, not to exceed 5 years. This is different from the previous regulation in Law No. 13/2003, regulated in Article 59 paragraph 4, which states that a permanent employment agreement based on a certain period can be made for a maximum period of 2 (two) years and can only be extended once for a maximum period of 1 (one) year.

The latest regulations now provide greater flexibility regarding the duration and extension of contract workers. However, this flexibility also raises questions about legal certainty and the potential for extension by employers. This situation has the potential to lead employers to abuse their status by retaining workers on PKWT for extended periods without appointing them as PKWTT. PKWT agreements differ from those for other types of employment. Several types of employment are regulated by labor law: fixed-term contract workers, indefinite-term contract workers, and outsourced workers. These three types of employment have their own characteristics. Many people assume that fixed-term contract workers are the same as skilled outsourced workers, but the two actually have different characteristics and definitions. The differences between fixed-term contract workers, indefinite-term contract workers, and outsourced workers are as follows:

1) Contract Workers on PKWT

For contract workers in a PKWT, the creation mechanism must be made in writing for the first PKWT, PKWT extension, and PKWT update, and must be written in Indonesian. For workers in a fixed-term period, no probationary period is permitted, even for a short probationary period. The term of the PKWT has been regulated in Government Regulation Number 35 of 2021, which is a maximum of five years and can be extended but not allowed to exceed five years. Viewed from the type and nature of the work that can be completed within a certain time, which is divided into several types, namely Work that is completed once or temporarily, Work that is estimated to be completed in a not too long time, a maximum of 3 (three) years, Seasonal work, Work related to new products, and casual daily work.¹⁷

2) Permanent workers on PKWTT

Permanent workers with a PKWTT can be made verbally or in writing. While verbal implementation in the employment agreement can actually be said to be valid, in practice, it guarantees very minimal legal protection. Therefore, if the agreement is verbal, the employer is obliged to make a letter of appointment as PKWTT.¹⁸ Thus, not all employment agreements are required to be in written form.¹⁹ The term in this employment agreement has no limits like PKWT; the employer does not determine how long the worker must complete the work or is

¹⁷ Gregory Mankiw, "White House Council of the Economic Advisors," *Economic of the President*, 2015, <http://www.scholar.harvard.edu/mankiw/home>.

¹⁸ Sela Nopela Milinum, "Problematika Fleksibilitas Outsourcing (Alih Daya) Pasca-Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja Klaster Ketenagakerjaan problems Of Outsourcing flexibility After Law Number 11 Of 2020 On Job Creation Of Employment Cluster," *Jurnal Hukum Lex Generalis* 3, no. 5 (2022): 413, <https://ojs.rewangrencang.com/index.php/JHLG/issue/view/27>.

¹⁹ Siti Halilah dan Mhd Fakhurrahman Arif, "Asas Kepastian Hukum Menurut Para Ahli," *Jurnal Hukum Tata Negara* 4, no. 2 (2021), file:///C:/Users/ADMIN/Downloads/334-Article Text-553-1-10-20220119 (2).pdf.

not limited to a certain time period. Meanwhile, regarding the trial period (probation) in a fixed-term employment agreement, it is permitted for a maximum of three months.

3) Outsourcing

Outsourcing comes from two words: out and source. The word "out" means "outside" and the word "source" means "source." Combined, outsourcing is an external source. The definition of outsourcing is the activity of delegating operations or the implementation of a part of the production process to another party outside the company. According to Gregory Mankind, "Outsourcing is a growing phenomenon, but it's something we should realize is probably a plus for the economy in the long run. It's just a new way of doing international trade." Outsourcing regulations in Law Number 13 of 2003 stipulate clear limitations on outsourcing work, which is a form of work outside the main activity or that is not related to the production process except for supporting activities. Meanwhile, Law No. 6/2023 no longer includes limitations on work that is prohibited from being performed by outsourced workers.²⁰ This results in employers having the opportunity to act arbitrarily towards outsourced workers. Outsourcing differs from PKWT and PKWTT. Outsourcing is often associated with fixed-term employment contracts because the work involves a predetermined time frame. However, the mechanisms for carrying out the work and the rights granted are different. Unlike PKWT, outsourcing involves three parties: the worker, the outsourcing company, and the employer. Outsourced workers are required to enter into a written agreement registered with the local Manpower Office. This agreement is drawn up by the outsourcing company before they are assigned to work for the employer. Regarding the rights of outsourced workers, they enjoy all the PKWT and PKWTT, but with a focus on severance pay/compensation. This is because the rights of outsourced workers depend on the outsourcing company, which often leads to differences and potential injustice in practice.

After explaining the characteristics, rights, and protections of contract workers under PKWT, PKWTT, and outsourced workers, it is clear that they have different characteristics, rights, and levels of protection. PKWTT workers have a stronger position regarding employment continuity, while outsourced workers face complex employment relationships involving third parties. Meanwhile, PKWT contract workers are in the most vulnerable position because their employment relationship is limited by time or the completion of a specific job.

The government is responsible for providing protection, balance, and justice for all Indonesian citizens without discrimination because everyone has the same position before the law in accordance with the principle of equality before the law. This is stated in the fourth paragraph of the preamble to the 1945 Constitution: "to protect the entire Indonesian nation and all of Indonesia's homeland". Meanwhile, regarding legal certainty, it is explained in Article 28 D paragraph 1 of the 1945 Constitution: "Everyone has the right to recognition, guarantees, protection, and fair legal certainty as well as equal treatment before the law". This states that laws and regulations must provide legal justice by not making differences between workers and employers.

²⁰ Siti Hailatul Umami and Abshoril Fithry, "Mekanisme Penyidikan Dan Penuntutan Tindak Pidana Cybercrime: Tinjauan Hukum Indonesia," *Prosiding SNAPP : Sosial Humaniora, Pertanian, Kesehatan Dan Teknologi* 2, no. 1 (2024), <https://doi.org/10.24929/snapp.v2i1.3129>.

The regulation regarding the status of workers with PKWT to PKWTT was previously regulated in Law No. 13/2003, in Article 59 paragraph 7, which states that if a PKWT does not meet applicable provisions, it will legally be changed to PKWT. This provision provides clarity and strong protection for workers because there are explicit consequences for violating the PKWT. Meanwhile, changing worker status without violations can still be changed to a PKWTT, but it depends on the company's regulations.

Law No. 6/2023, further explained in GR No. 35/2021, actually regulates the work period for PKWT, which is five years and can be extended once but cannot exceed five years. However, in the regulations regarding violations of PKWT provisions, there is no general norm that explicitly states that violations of PKWT provisions as a whole result in a change in status to PKWTT. Regulations regarding status changes are more partial; for example, in Article 10 paragraph (4), which states that daily workers who work 21 days or more for 3 consecutive months change their status to PKWTT. Meanwhile, other provisions such as the prohibition on the use of PKWT for permanent work are also regulated, but are not directly formulated in a clear norm regarding the legal consequences. This situation has implications for legal certainty for workers. On the one hand, the principle of protection remains in place, and changing the status of a PKWT to a PKWTT is still possible. However, on the other hand, the lack of a single, comprehensive normative formulation, as in the previous law, can lead to multiple interpretations and potentially reduce legal certainty, as workers must prove specific violations to be recognized as permanent employees.

The legal justice of PKWT has tended to shift following the enactment of Law No. 6/2023. While previously more firm and explicit, the current regulations have become more flexible and diffuse, necessitating more active interpretation and enforcement in practice to ensure worker protection. Furthermore, with the five-year work period, which can be extended once but not beyond five years, this provision in practice provides a relatively long time frame for the use of PKWT. This situation has the potential to create injustice for workers, as companies have more room to maintain their status as PKWT workers for a longer period. As a result, workers may continue to be in temporary employment relationships without any guarantee of being promoted to PKWTT. This can certainly affect job stability and workers' bargaining power, and open up the possibility of abuse by companies in maintaining a continuous contractual employment pattern. This results in implications or impacts that are detrimental to PKWT workers due to the lack of regulations regarding the change of employment status from PKWT to PKWTT after a contract for a sufficiently long period. These impacts include:

1) Access to other work after the contract ends

In this case, workers who have a five-year contract period, even with the possibility of a maximum extension of five years, will have difficulty finding other work after the contract. This is because workers' age after being unemployed by a company increasingly faces a less productive age. For example, a 25-year-old person enters into a PKWT employment relationship with a five-year employment period and, after the contract period ends, is extended by the company for another five years. After the contract period ends, the worker becomes 35 (thirty-five) years old. Therefore, at this age, workers will have difficulty finding other work because many companies are looking for workers who are still young or still

very productive. This risks reducing opportunities for workers and causing losses for workers, resulting in them not receiving continued wages to meet their needs.

2) Right to Severance Pay

Workers with a PKWT status are essentially not entitled to severance pay, as are workers with PKWTT. This is because the termination of the employment relationship under a PKWT is not classified as a PHK, but rather ends by law within the agreed-upon time frame. This provision is stipulated in Law No. 6/2023, which clearly differentiates the rights of workers with PKWT and PKWTT. Due to the absence of a change in status from a PKWT to a PKWTT despite having worked for a relatively long period, workers lose the opportunity to obtain severance pay, which, in nominal and substantial terms, provides more economic protection than PKWT compensation. Although PKWT workers still receive compensation as stipulated in GR No. 35/2021, the amount of compensation is relatively small and not comparable to the severance benefits that permanent workers should receive.

3) Right to career path

The absence of clear regulations regarding the obligation to change worker status from a PKWT to a PKWTT in legislation results in uncertain career paths for PKWT workers. In this case, workers who have worked for a relatively long period of time remain in a temporary employment relationship with no guarantee of being promoted to permanent employment. In fact, in essence, an ongoing employment relationship that is not limited to temporary work should provide opportunities for workers to obtain a more permanent employment status. GR No. 35/2021 does indeed limit the use of PKWT to specific jobs and for a specific period. However, the absence of explicit provisions regarding the obligation to appoint workers to PKWTT after a specified period of time actually leaves companies with room to retain workers on PKWT status without any clear career progression. As a result, workers not only experience uncertainty about their employment status but also lose opportunities for advancement, job stability, and the rights generally afforded to permanent employees. This situation weakens workers' bargaining power within the employment relationship, as career continuity depends entirely on company policy. Therefore, the absence of regulations regarding career paths has the potential to create injustice and is inconsistent with the principles of protection and legal certainty for workers as mandated by Law No. 6/2023.

4) Right to social security

Workers with PKWT status essentially retain their rights to social security as stipulated in Law Number 40 of 2004 concerning the National Social Security System and Law Number 24 of 2011 concerning the BPJS, which is implemented by BPJS Ketenagakerjaan. This social security includes, among other things, work accident insurance, death insurance, old-age insurance, and pension insurance. Normatively, both PKWT and PKWTT workers have the same rights to receive social security protection. However, in practice, PKWT often do not receive optimal access to social security. This is due to the temporary nature of the employment relationship, which means that not all companies consistently enroll fixed-term workers in social security programs. Furthermore, limited employment periods also result in relatively small social security benefit accumulations, particularly in old-age security and pension programs. The lack of a change in status from a PKWT to a PKWTT further exacerbates the situation, as workers remain in recurring short-term employment

relationships without any guarantee of continued social protection. Consequently, workers face the risk of unfair access to ongoing social security benefits, which can ultimately impact their long-term well-being. This situation demonstrates that although the right to social security has been legally regulated, its implementation has not yet fully provided optimal protection for PKWT workers.

In the impacts that have been explained, if there is no change in status from PKWT workers to PKWTT will result in losses to workers. Therefore, there should be legal justice related to the regulation that the status of PKWT that has been contracted by the company for a long time can be changed to PKWTT with the conditions that have been determined in the legislation, so that the regulation governing PKWT provides benefits not only to employers but also provides benefits to workers to establish a good working relationship. Therefore, the regulation of PKWT in the employment system in Indonesia has not been fully realized and does not meet the principle of legal justice, especially in the absence of regulations regarding the transfer of status of PKWT workers to PKWTT after a contract of five years or more. In addition, in practice, many companies take advantage of this loophole so that many workers are contracted for years without any change in status to PKWTT.

Legal justice is crucial for achieving the goals of law. One of the primary indicators used to assess whether the principle of legal justice is met is the existence of equal protection, not only from the employer's perspective but also from the employee's perspective. This normative justice is essential for ensuring that every legal provision is understood and implemented equitably. According to John Rawls' theory of justice in the book *Theories of Justice: Six Theories of Justice* written by Karen Lebacqz, justice is based on the concept of a social contract. The principle of justice is equality. According to John Rawls, no one is allowed to dominate choices or take advantage of fair opportunities, such as the advantages of natural gifts or social positions. Therefore, the principle of justice is the result of equality. This principle does not use certain concepts such as human kindness, but rather looks at the minimum nature of humans as free, equal, and rational beings.²¹

Regarding the problem of the lack of guarantees for changing the status of PKWT workers to PKWTT even though workers have had a long period of service. The position of workers in this employment relationship is included in the vulnerable group position, while employers or employers are in a strong group position. This condition shows that it does not fully reflect the values of justice and morality in employment relationships as stated by John Rawls. The absence of regulations that require changing the status of PKWT to PKWTT after a certain period of work means workers have the potential to continue to be in a contract employment relationship position without any guarantee of job continuity, career path, or optimal work protection.

Meanwhile, the concept of justice according to Pancasila is comprehensive and oriented towards balancing various interests in society. This justice is not limited to the legal-formal aspect, but also includes substantive dimensions based on the ethical, moral, and cultural

²¹ Karen Lebacqz, *Teori-Teori Keadilan: Six theories of Justice* Terjemahan Yudi Santoso (Indianapolis:Augsbung Publishing,1986).

values of the Indonesian nation.²² In the context of employment relations, the value of justice is reflected through the regulation of changes in worker status from a PKWT to a PKWTT after fulfilling certain conditions or work periods as regulated in laws and regulations. This regulation aims to prevent the misuse of the use of PKWT in the long term and to provide protection and certainty of work status for workers, so that a balance of rights and obligations is created between workers and employers. Therefore, clearer regulations are needed regarding the work period limits for PKWT and the mechanism for changing the status to PKWTT so that workers obtain justice and legal protection if there is a practice of using long-term work contracts.

4. Conclusions

The regulation of PKWT following the enactment of Law No. 6/2023 and GR No. 35/2021 indicates a shift towards greater flexibility in employment relationships. However, this flexibility has not been matched by clear regulations regarding the mechanism for changing the status of PKWT workers to PKWTT, thus creating legal uncertainty for workers. The absence of clear and comprehensive norms regarding this status change opens up opportunities for employers to retain workers with PKWT status for long periods. This has resulted in weak worker protection, both in terms of economic aspects, job security, and career development. The regulation of PKWT in the Indonesian employment system does not fully meet the principle of legal certainty as guaranteed in the 1945 Constitution of the Republic of Indonesia. Therefore, stricter regulations are needed to ensure a balance between flexible employment relationships and the protection of workers' rights.

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²² Irwan Triadi Joy Catherine Carina Tambunan, "Konsep Keadilan Menurut Pancasila Dan Relevansinya Dalam Penegakan Hukum," *Media Hukum Indonesia* 3, no. 4 (2025): 477-86.

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