

# Review of the Principles of Justice in Fixed-Time Work Agreements and Their Implications for Law and Development in the Era of the Job Creation Law

Safrida

Doctoral Program Student of Law, Faculty of Law, University of North Sumatra, Medan, Indonesia.

\*Corresponding Author:

Email : [safrida751@gmail.com](mailto:sufrida751@gmail.com)

---

## *Abstract.*

*This study aims to examine the application of the principle of justice in fixed-term employment agreements (PKWT) in Indonesia within the context of the Job Creation Law. The principle of justice serves as a fundamental guideline in employment relationships, particularly in ensuring a balance between the rights and obligations of workers and employers. This research employs a normative legal approach, which involves a literature review and analysis of legal regulations, doctrines, and principles of justice relevant to PKWT. The findings indicate that the application of the principle of justice in PKWT during the era of the Job Creation Law still faces various challenges, particularly regarding the protection of workers' rights and equality in employment relationships. This study also discusses the legal implications of implementing PKWT on economic development and labor reform in Indonesia. Specifically, the impact of PKWT has the potential to accelerate economic growth through flexibility in the labor market, but it may also create uncertainty for workers, affecting social stability. Therefore, strategies are needed to ensure that labor reforms not only support economic growth but also uphold justice and protection for all parties involved.*

*Keywords: Economic Development, Job Creation Law, PKWT and Principle of Justice.*

---

## **I. INTRODUCTION**

Fixed Term Employment Agreement (PKWT) is a form of employment agreement that has long been regulated in the Indonesian employment law system. PKWT is usually used by companies to employ workers for a certain period, such as for temporary projects or non-permanent work needs.<sup>1</sup>In the employment law system, PKWT provides flexibility for employers to adjust the workforce to business needs. However, on the other hand, PKWT also poses various challenges in ensuring fair protection of workers' rights. This is increasingly relevant with the ratification of the Job Creation Law (UU Cipta Kerja), which brings significant changes to the regulation of employment agreements, including PKWT.<sup>2</sup>Fairness in employment agreements is important to ensure that both employers and workers receive balanced rights and obligations.<sup>3</sup>For example, in PKWT, workers usually do not have a guarantee of continued employment after their contract ends, which can be a problem for their economic stability. On the other hand, employers have the freedom to not extend the contract if they feel it is not necessary. This raises the question of whether workers' rights are fairly protected under the Job Creation Law, or whether it actually strengthens the position of employers in the employment relationship. In the implementation of PKWT, it is often detrimental to workers because the non-permanent contract status makes it difficult for workers to obtain social security and other rights received by permanent workers.

There is a gap between PKWT and PKWTT. Regarding PKWT, it was also found that although PKWT provides flexibility for employers, it is often used as a tool to avoid the obligation to provide full rights to workers. In PKWT, there is injustice in the implementation of PKWT, especially in the context of worker protection. However, not many have highlighted how regulatory changes due to the Job Creation Law directly affect the implementation of the principle of justice. In the context of national development,

fairness in PKWT has a major impact on the quality of the workforce and social stability.<sup>4</sup> If the principle of justice is implemented properly, it will create a healthier and more productive working relationship, which in turn will increase economic productivity and support sustainable development. This study aims to examine how the principle of justice is applied in PKWT under the Job Creation Law, and its implications for law and socio-economic development in Indonesia. With the expected results of this study, policy makers, employers, and workers are expected to understand the importance of implementing the principle of justice which not only provides benefits for employers but also protects workers' rights. The results of this study are also expected to contribute to the development of fairer employment policies and support sustainable national development.

## II. THEORETICAL STUDY

The principle of justice is a fundamental principle in law that requires every individual to receive rights appropriate to their position without discrimination.<sup>5</sup> In the legal context, justice is often defined as an attempt to balance the rights and obligations between the parties involved. John Rawls, one of the leading philosophers in the theory of justice<sup>6</sup>, explains that justice is an effort to ensure equal distribution of rights and opportunities, especially for parties who are in a less advantageous position. In labor law, the principle of justice means providing equal protection to both employers and workers, by paying attention to their conditions and rights. For example, in a work agreement situation, a worker must receive his basic rights such as decent wages, benefits, and social security.<sup>7</sup>, while entrepreneurs must also be treated fairly by being given flexibility in managing their workforce according to business needs. In the context of Fixed Term Employment Agreements (PKWT), the principle of justice becomes important because there is often an imbalance of power between workers and employers.<sup>8</sup> Employers have more control in determining the terms of employment, while workers are usually in a lower bargaining position.<sup>9</sup>, depending on the contract given by the employer. The main aspects of the principle of justice relevant to this work agreement include transparency in the making of the agreement, clarity in the rights and obligations of each party, and guarantees of legal protection for workers from potential exploitation.

PKWT is a form of work agreement that has a specific time period, different from the Indefinite Term Work Agreement (PKWTT) which is permanent.<sup>10</sup> In Indonesian employment law, PKWT is regulated in Law Number 13 of 2003 concerning Employment, which then underwent several changes through the Job Creation Law.<sup>11</sup> PKWT is usually applied to temporary work or work that is projected to be completed within a certain time.<sup>12</sup> For example, contracts for construction projects or work that has a certain season such as the agricultural or tourism sectors. In accordance with Government Regulation No. 35 of 2021, which is a derivative of the Job Creation Law, there are several criteria that must be met in PKWT, including: the work period must not exceed 5 years, the contract must be made in writing and in Indonesian, and there is an obligation to provide compensation to workers after the contract ends. These requirements are intended to provide better protection for PKWT workers so that they continue to receive their rights even though they work for a limited period of time. The Job Creation Law brings various changes to employment, including provisions on PKWT. One of the most prominent changes is greater flexibility for employers in using PKWT. Previously, the PKWT term limit was stricter, but with the Job Creation Law<sup>13</sup>, employers can

---

now extend contracts longer and renew work contracts more easily. This is considered one of the government's efforts to increase investment and open more jobs, by providing space for employers to adjust workforce needs to dynamic business conditions.

However, this change has raised pros and cons among the public. On the one hand, employers welcome this flexibility because it can help them reduce labor costs and increase productivity. On the other hand, labor unions criticize this new regulation because it is considered to reduce protection for workers, especially in terms of job security and social rights such as health insurance and severance pay. Many argue that the Job Creation Law prioritizes the interests of employers over protecting workers' welfare. For example, in the context of PKWT, workers may experience more frequent contract extensions without certainty of permanent status, which creates economic instability for them. Labor laws play a vital role in socio-economic development. The application of the principle of fairness in employment helps create healthy and productive working conditions, which in turn encourages improvements in the quality of life and productivity of the workforce. Development theory explains that labor welfare is one of the main pillars in creating sustainable economic growth. For example, if workers feel legally protected and receive their rights fairly, they will be more motivated to perform better, which ultimately contributes to increased productivity and economic growth. The implementation of the Job Creation Law, which provides flexibility for employers in the use of PKWT, can contribute to national development by improving the investment climate and opening up employment opportunities. However, on the other hand, if it is not balanced with protection for workers, this can create job uncertainty and reduce the quality of life of workers. Therefore, it is important to balance flexibility in employment regulations and fairness for workers, so that the resulting development is inclusive and sustainable. Several previous studies have discussed the implementation of PKWT and the principle of justice. For example, research conducted by that PKWTT workers tend to get more rights and welfare facilities compared to PKWT workers.

This condition creates a significant welfare gap between PKWT workers and PKWTT workers. In his research also found that although PKWT provides flexibility for employers, it is often used as a tool to avoid the obligation to provide full rights to workers. On the other hand, examining how the Job Creation Law affects employment agreements, including PKWT. Finding that although this law provides flexibility for employers, workers tend to be disadvantaged due to continuous contract extensions without certainty of permanent employment.

### III. METHODS

Judging from the problems to be studied, the researcher uses a type of normative legal research. This type of research method is also commonly referred to as doctrinal legal research or library research. It is called doctrinal legal research because this research is only aimed at written regulations so that this research is very closely related to the library because it will require secondary data in the library.<sup>14</sup> In normative legal research, written law is studied from various aspects such as theoretical, philosophical, comparative, structural/compositional aspects. Consistency, general explanation and explanation in each article, formality and binding force of a law and the language used are legal language. So we can conclude that normative legal research has a broad scope. The nature of this research is analytical descriptive, where the purpose of analytical descriptive research is a problem-solving procedure that is investigated by describing the condition of the subject or object in the research, which can be people, institutions, communities and others at the present time based on the facts that are apparent or as they are.<sup>15</sup> The purpose of this research is to produce an accurate picture of a group, describe the mechanism of a process or relationship, provide a complete picture either in verbal or numerical form, present basic information about a relationship, create a set of categories and classify research subjects, explain a set of stages or processes, and to store contradictory information

about research subjects.<sup>16</sup> So this research will provide a description or phenomenon related to the principle of justice in PKWT.

The data source used in this study is secondary data. Where secondary data is data that includes official documents, books, research results in the form of reports and so on.<sup>17</sup> In this study, secondary data consists of primary legal materials and secondary legal materials. Primary legal materials consist of laws and regulations relating to employment issues such as Law 13 of 2003 concerning Employment, the Job Creation Law and Government Regulation No. 35 of 2021 concerning Fixed-Term Employment Agreements, Outsourcing, Working Hours and Rest Hours and Termination of Employment. Secondary legal materials are materials that provide explanations regarding primary legal materials such as textbooks written by influential legal experts in legal journals, opinions of scholars, jurisprudence and the results of recent symposiums or legal magazines relating to the problems in this study.<sup>18</sup> Data collection used in this study was conducted through library research. Library research is conducted to obtain theoretical concepts or doctrines, opinions or conceptual thoughts and previous research related to the object of this study in the form of laws and regulations. Library research is research to obtain secondary data. The secondary data of this study are laws and government regulations in collecting supporting data other than legal materials used through secondary data.

#### **IV. RESULTS AND DISCUSSION**

This section will discuss the application of the principle of justice in Fixed-Term Employment Agreements (PKWT) before and after the enactment of the Job Creation Law, as well as its impact on national development. In addition, various opinions will be outlined that support and oppose the PKWT regulations in the Job Creation Law. The results of this study will also be linked to the theories that have been described previously, and a comparison will be made with previous research to see the suitability or differences.

##### **Implementation of the Principle of Justice in PKWT Before and After the Job Creation Law**

The implementation of PKWT has been widely violated, because the work done by the indefinite-term workers includes the type and nature of work that is prohibited for employment for fixed-term workers. The legal consequences of the incorrect object of the work done will result in the agreement being null and void by law, and the employment relationship will automatically change to an indefinite-term worker (PKWTT).<sup>19</sup> Before the Job Creation Law came into effect, the application of the principle of justice in Fixed-Term Employment Agreements (PKWT) was more limited and heavily dependent on the Manpower Law No. 13 of 2003.<sup>20</sup> The principle of justice in this context is applied through restrictions on the types of work that can use PKWT and a clear contract duration.

For example, PKWT is only allowed for temporary or seasonal work. This is intended to protect workers' rights, so that no one is trapped in a repeated contract status and does not get job certainty. Case examples in the field show that workers in the construction and manufacturing sectors often use PKWT in short-term projects, but protection of their rights is stronger than after the Job Creation Law was implemented. After the Job Creation Law came into effect, there were several significant changes in the PKWT regulations related to the principle of justice. One of the main changes is the flexibility in the duration of the contract, where companies are given more space to determine the length of the PKWT without strict limitations as before. In addition, the rules related to social security<sup>21</sup> for contract workers also experienced changes that favored corporate interests, despite some efforts to strengthen workers' rights in the

long term. These changes were seen by some as a reduction in worker protections, especially for those who rely on short-term work for a living.

### **Pros and Cons of Implementing PKWT in the Job Creation Law**

Those who support the implementation of PKWT in the Job Creation Law argue that this change can provide greater flexibility for companies to adapt to the dynamics of the labor market. This flexibility is considered important to increase the competitiveness of companies, especially in sectors that require temporary or seasonal workers. In an unstable economic situation, the ability to regulate the number of workers more flexibly is also considered an effective strategy to maintain business continuity and reduce operational costs. The government also supports this change with the view that it will open up more jobs, even though they are temporary in nature. On the other hand, there have been many criticisms regarding the implementation of PKWT under the Job Creation Law. Trade unions and workers' rights activists believe that this regulation worsens employment conditions, especially in terms of uncertainty of work status and protection of workers' rights. Workers in the PKWT system are more vulnerable to sudden termination of employment without any guarantee of a future. In addition, other criticisms state that the implementation of a more flexible PKWT tends to weaken the bargaining position<sup>22</sup> workers in front of employers, so that the aspect of justice becomes increasingly marginalized. This is also feared to increase social instability and widen economic disparities.

### **The Impact of PKWT Implementation on National Development**

The implementation of fair PKWT has a direct impact on socio-economic development in Indonesia. If the principle of justice in employment is implemented properly, it can help create decent working conditions for all workers, improve their welfare, and encourage labor productivity. Higher productivity ultimately contributes to national economic growth. Conversely, if the principle of justice is ignored in the implementation of PKWT, this can cause dissatisfaction among workers, which has an impact on low work motivation and productivity. The changes brought by the Job Creation Law, especially related to PKWT, also have a significant impact on national development. On the one hand, greater workforce flexibility can support economic growth, especially in industrial sectors that require rapid adaptation to changes in market demand. However, on the other hand, if not balanced with adequate protection for workers, this can worsen social and economic disparities. These impacts need to be considered comprehensively so that the implementation of PKWT not only benefits employers but also contributes to more inclusive development.

### **The Relationship between Research Results and Basic Theory**

The results of this study are directly related to the theory of the principle of justice in labor law. The principle of justice, which emphasizes the balance between the rights and obligations of workers and employers, is the main basis for assessing the implementation of PKWT. This study shows that in practice, the principle of justice is often neglected, especially in terms of contract duration and social security protection for contract workers. This finding is in accordance with the theory of justice discussed in the previous section, where the importance of protection for vulnerable groups such as contract workers is the main focus. The Job Creation Law brings changes in the balance of rights and obligations between workers and employers. If previously workers had stronger guarantees regarding their work status, this change in regulations benefits employers more by providing greater flexibility in regulating PKWT. The results of this study indicate that although there have been efforts to increase workforce flexibility, its impact on the balance of rights and obligations still needs to be studied further, especially in terms of social security and job certainty.

### **Comparison of Research Results with Previous Research**

This study is in line with several previous studies that show that the implementation of PKWT in Indonesia still does not fully fulfill the principle of justice. Several previous studies have highlighted weaknesses in PKWT regulations, especially regarding worker protection. For example, research by [Researcher A] found that overly flexible contract durations can lead to job instability for workers. The

results of this study support this view, but also highlight several new aspects related to the changes brought by the Job Creation Law. Although there are similarities in findings with previous studies, this study also found some differences in terms of the economic impact of the implementation of PKWT. Several previous studies emphasized the negative impact of PKWT flexibility on workers' welfare, while this study found that such flexibility can provide benefits to companies and economic growth in certain situations. However, these results also show that without proper protection, these economic benefits can be accompanied by increased social instability.

## V. CONCLUSION

Based on normative legal analysis, it was found that although the Job Creation Law provides flexibility in regulating PKWT, the application of the principle of justice is still not optimal. The main challenge lies in the protection of workers' rights which is often inadequate, as well as the imbalance of interests between workers and employers. The legal implications of the application of the Job Creation Law to PKWT show the potential for improvement in employment regulations, but stronger law enforcement is needed to ensure justice for all parties. On the other hand, the impact of the application of PKWT on economic development in Indonesia is quite significant, because flexibility in employment relationships can increase the competitiveness of the labor market. However, it should be noted that this flexibility also risks creating uncertainty for workers, which in turn can affect social stability.

## VI. SUGGESTION

The implementation of fair PKWT has a direct impact on socio-economic development in Indonesia. If the principle of justice in employment is implemented properly, it can help create decent working conditions for all workers, improve their welfare, and encourage labor productivity. Higher productivity ultimately contributes to national economic growth. Conversely, if the principle of justice is ignored in the implementation of PKWT, this can cause dissatisfaction among workers, which has an impact on low work motivation and productivity.

The changes brought by the Job Creation Law, especially related to PKWT, also have a significant impact on national development. On the one hand, greater workforce flexibility can support economic growth, especially in industrial sectors that require rapid adaptation to changes in market demand. However, on the other hand, if not balanced with adequate protection for workers, this can worsen social and economic disparities. These impacts need to be considered comprehensively so that the implementation of PKWT not only benefits employers but also contributes to more inclusive development.

## REFERENCES

- [1] Ibrahim, Jhony, 2011, Theory and Methods of Normative Legal Research, Malang: Banyuwangi Publishing,
- [2] Asikin, H.Zainal and Amiruddin, 2012, Introduction to Legal Research Methods, Jakarta: Rajawali Pers,
- [3] Dr. Drs. Setiyanti, SE, SH, MM, MH, 2024, Principles of Justice for Workers with Fixed-Term Employment Contracts, Bekasi, PT Dewangga Energi Internasional,
- [4] Ari Endrawati, E. (2024). The Influence Of The Job Copyright Law On The Welfare and Rights of Workers in Indonesia. Mendapo: *Journal of Administrative Law*, 5(2), 168–182. <https://doi.org/10.22437/mendapo.v5i2.31837>
- [5] Davin, AA, & Rasji, R. (2024). Legal Protection for PKWTT (Indefinite Term Employment Agreement) Workers Who Do Not Receive Wages. *Journal of Law, Humanities and Politics*, 4(4), 968–986. <https://doi.org/10.38035/jihhp.v4i4.2159>
- [6] Dean Fadhurohman Hafizh, Genta Maghribi, Rita Mulyani, Sastia Roria Afradyta, & Sharen Fernanda. (2022). Analysis of Outsourcing Practices in the Perspective of the Job Creation Law. *Journal of the Indonesian National Resilience Institute*, 10(3), 64–75. <https://doi.org/10.55960/jlri.v10i3.298>
- [7] Desika, AA, Suratman, & Zamzami, A. (2023). Legal Protection for Workers with Fixed-Term Employment Agreements (PKWT) in the Hotel Services Sector (Case Study at Savana Hotel & Convention Malang). *DINAMIKA*, 29(2), 8017–8036.

- [8] Himas Muhammadiyah Imammullah El Hakim. (2021). Strengthening the Dimensions of Ethics and Principles as Strengthening the Environmental Law System in Indonesia. *Audito Comparative Law Journal (ACLJ)*, 2(3), 155–170. <https://doi.org/10.22219/aclj.v2i3.18041>
- [9] Idtesis, Empirical and Normative Legal Research Methods, <https://idtesis.com/method-penelitian-Hukum-empiris-dan-normatif/>
- [10] Khair, OI, Tinggi, S., Pemerintahan, L., & Negara, A. (2021). Analysis of the Job Creation Law on Workforce Protection in Indonesia. *Widya Pranata Hukum*, 3(2). <https://ejournal.widyamataram.ac.id/prosiding-uwm.com/index.php/pranata/article/view/442>
- [11] Lestari, DP (2022). Normative Legal Analysis of Compensation Provision for Fixed-Term Employment Agreements (PKWT) Based on the Job Creation Law. *Lex Generalis Law Journal*, 3(5), 339–349. <https://doi.org/10.56370/jhlg.v3i5.160>
- [12] Listiyani, N., Nopliardy, R., & Justiceka, I. (2022). Study of Legal Protection for Fixed-Term Contract Workers (PKWT) in the Job Creation Law. *Floating Journal: Social Sciences*, 4(2), 10. <https://doi.org/10.31602/jt.v4i2.8230>
- [13] Mahesa Pramana, O., Ginting, S., & Fitriani, A. (2024). Fulfillment of Workers' Rights Reviewed from the Legal Ideals of the Indonesian Nation. *Journal of Innovation Research and Knowledge*, 4(3), 1805–1817. <https://republika.co.id/berita/Ekonomi/bisnis-global/17/10/09/oxjm77383-migration-pekerja-akan-berib>
- [14] Noviana, E., Suriaatmadja, TT, & Sundry, RI (2022). The Principle of Balance in Employment Agreements between Workers and Employers in Order to Realize Justice for the Parties. *Jurnal Wawasan Yuridika*, 6(1), 84. <https://doi.org/10.25072/jwy.v6i1.533>
- [15] Nur Fatin, Understanding Descriptive Research and Its Objectives, <https://seputarpengertian.blogspot.com/2017/pengertian-penelitian-dekristif-cepat-besarnya.html?m=1>
- [16] Putri, CK, & Putra, M. (2022). Workers' Rights in Fixed-Term Employment Agreements (PKWT) After the Enactment of Law Number 11 of 2020 Concerning Job Creation. Kertha Negara: *Journal of Legal Science*, 10(4), 392–406. <https://ojs.unud.ac.id/index.php/kerthanegara/article/view/90572>
- [17] Law No. 13 of 2003 concerning Manpower
- [18] Law no. 11 of 2020 concerning Job Creation
- [19] Government Regulation No. 35 of 2021 concerning Fixed-Term Employment Agreements, Outsourcing, Working Hours and Rest Hours, and Termination of Employment.