

Regulatory–Human Rights Tensions in Indonesia’s Labour Governance

Mansyur Bayu Saputra¹

¹ Universitas Janabadra, Yogyakarta, Indonesia

Abstract

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This study examines the conflict between economic regulation and human rights protection in Indonesia’s labor sector, particularly following major reforms under the Labor Law and the Job Creation Law, as well as their amendments up to 2024. Using a normative juridical method, the research evaluates the coherence between legal norms and industrial relations practices and analyzes how labour market flexibilization affects workers’ certainty and protection. Findings indicate persistent implementation challenges, including regulatory inconsistencies, uneven regional application, and limited institutional enforcement capacity. Additionally, emerging forms of work, such as the gig economy, create new layers of vulnerability that remain insufficiently addressed within the existing legal framework. The study highlights the need for regulatory harmonization, stronger labour inspection mechanisms, and updated legal concepts of employment to ensure that economic development goals do not compromise fundamental labour rights. The research addresses two central questions: the implementation of existing labour protection regulations and the specific urgent challenges hindering the alignment of economic policy with human rights obligations.



1. Introduction

The development of labor policy in Indonesia in recent years has placed the link between the economic agenda and the protection of workers' human rights at a critical juncture in policy. Legislative reform through the Job Creation Law (a series of changes culminating in Law No. 6/2023) introduced a deregulation logic aimed at strengthening the investment climate and increasing the flexibility of the labor market. However, these changes have also raised academic and practical debates regarding the implications of labor rights, especially in terms of expanding outsourcing, recognizing short-term contracts, and restructuring severance schemes that have been a worker protection network.¹ This expansion of the space for flexibility has the potential to shift the balance between the interests of economic efficiency and the state's obligation to protect workers' basic rights, including the right to decent work, adequate income, and freedom of association.

In the realm of implementation, a number of studies show that there is a gap between written norms and practice in the field. Empirical evaluation of the implementation of post-Job Creation provisions indicates that companies' adaptation to new rules is often faster than the ability of labor supervisory institutions to respond, resulting in increased non-standard work practices and uncertainty of employment status.² This condition is exacerbated by variations in interpretation and implementation at the regional level, which reflects the

¹ Nabiyla Risfa Izzati. "Deregulation in job creation law: The future of Indonesian labor law." *Padjadjaran Jurnal Ilmu Hukum (Journal of Law)* 9, no. 2 (2022): 4.

² Solihin Solihin, and Markoni Markoni. "Perlindungan Hukum Pekerja Pasca Pemberlakuan Undang-Undang No. 11 Tahun 2020 Tentang Cipta Kerja." *Jurnal Locus Penelitian Dan Pengabdian* 1, no. 12 (2022): 717-737.

asynchrony between national objectives and local administrative capabilities, a dynamic that widens the risk of labor rights violations without effective enforcement mechanisms.³

The normative juridical aspect needs special attention because the harmonization between labor norms and human rights principles must be the basis for the formulation and implementation of policies. A juridical analysis of the norms introduced by the Job Creation Law shows that there are areas that require further interpretation, especially related to the limitations of outsourcing and the status of contract workers, thus creating legal uncertainty for both workers and employers.⁴ In addition, legal studies highlight how the legislative process and policy framing affect the legitimacy of regulations in the eyes of the public, which in turn has an impact on compliance and effectiveness of implementation in the field.⁵

The dynamics of the modern labor market, including the emergence of the gig economy and platform forms of work, also add to the complexity of labor rights protection. Many platform workers have not been clearly accommodated within traditional legal frameworks so they are vulnerable to precarious working conditions without adequate access to social security or formal dispute resolution mechanisms.⁶ This issue emphasizes the need to review the scope of protection norms so that they

³ Nugroho Habibi, M. Dio Rhiza Amrizal, Irkham Syahrul Rozikin, and Iqbal Faza Ahmad. "Memperkuat perlindungan pekerja outsourcing: Analisis implementasi kebijakan." *Journal of Social Movements* 1, no. 1 (2024): 85-97.

⁴ Dean Fadhuroman Hafizh, Genta Maghribi, Rita Mulyani, Sastia Roria Afradyta, and Sharen Fernanda. "Analisis Praktik Outsourcing Dalam Perspektif Undang-Undang Cipta Kerja." *Jurnal Lemhannas RI* 10, no. 3 (2022): 212-223.

⁵ Ahmad Fadli Fauzi. "Politik Hukum Undang-Undang Cipta Kerja Pada Aspek Hubungan Industrial." *Lex Renaissance* 8, no. 1 (2023): 20-38.

⁶ Ratih Latif Pramana. "Tantangan Pemerintah Indonesia Dalam Menghadapi Gig Economy." *Jurnal Ekonomi dan Bisnis* 2, no. 4 (2024): 857-874.

are inclusive of the variations in the forms of employment relationships that are currently developing.

In addition to substantive challenges to norms, the capacity of supervision and law enforcement is a determining factor that often hinders the realization of real protection of rights. Several local studies show that institutional weaknesses, limited resources, and political priorities at the regional level can reduce the effectiveness of labor inspections so that repeated violations are not always followed up with adequate sanctions.⁷ This creates a paradox: on the one hand the state encourages deregulation to attract investment; On the other hand, without strong oversight mechanisms, deregulation risks generating exploitation and social uncertainty for workers.

Taking into account these normative, implementive, and structural contexts, this study sets out to explore two main concerns that are the fulcrum for employment policies and practices in Indonesia. **Research Question 1:** How does the implementation of labor protection provisions in Law No. 13/2003, Law No. 11/2020 jo. Law No. 6/2023, and Law No. 39/1999 take place in industrial relations practice, especially in the context of labor market flexibility?

Research Question 2: What are the main challenges that specifically hinder harmonization between pro-investment economic regulations and the fulfillment of labor rights, and why are these issues urgent until this year?

⁷ Jefri Hari Akbar. "Politik Hukum Pengaturan Pegawai Pengawas Ketenagakerjaan Guna Meningkatkan Kualitas Ketenagakerjaan di Era Industri 4.0." *Jurnal Hukum Progresif* 8, no. 2 (2020): 167-182.

2. Methods

The research method used in this study is a normative juridical method, which is a legal research approach that focuses on the analysis of the norms, principles, and legal rules that apply in the Indonesian constitutional system. This method is used to examine the consistency, coherence, and harmony between economic regulations and human rights protection instruments in the employment sector. The normative juridical approach allows researchers to examine the text of the law as the main data, including Law Number 13 of 2003 concerning Manpower, Law Number 11 of 2020 concerning Job Creation and amendments through Law Number 6 of 2023, as well as Law Number 39 of 1999 concerning Human Rights. All of these provisions are analyzed through a legislative approach, a conceptual approach, and a historical approach to understand how norms are formed, implemented, and produced an impact on the protection of labor rights in the context of economic policy.

This research also utilizes secondary legal materials such as scientific articles, research reports, and relevant academic studies to strengthen the interpretation of legal norms. The analysis is carried out by mapping the legal structures, principles, and mechanisms that govern industrial relations, including arrangements on employment agreements, labor protection, outsourcing, and industrial relations dispute resolution. All of these legal materials are then systematically analyzed to identify potential disharmony, conflict of norms, or weaknesses in formulation that can affect the effectiveness of labor rights protection.

Through normative juridical methods, this study seeks to explain the relationship between pro-investment economic policies and state obligations in

guaranteeing workers' basic rights. The analysis focuses on how regulations are applied in practice as well as how legal norms can be improved to align economic development goals with respect, protection, and fulfillment of human rights. This approach provides a theoretical basis as well as an evaluative instrument to assess the implementation of regulations and identify structural challenges that hinder the effectiveness of labor protection within the applicable legal framework.

3. Results and Discussion

3.1. Implementation of Labor Protection Provisions in the Framework of Labor Regulation

The implementation of labor protection provisions in Indonesia's labor regulatory regime after the birth of the Job Creation Law and amendments through Law No. 6/2023 shows that there is a complex dynamic between the goal of economic flexibility and the state's commitment to the protection of workers' human rights. Normatively, Indonesia has a relatively strong legal framework through Law No. 13/2003 on Manpower and Law No. 39/1999 on Human Rights, which place the right to decent work, guarantees of protection from exploitation, and freedom of association as fundamental principles. However, the practice of its implementation underwent a significant change when the government introduced deregulation policies through the omnibus law, which was explicitly directed to rationalize labor costs and attract investment through labor market flexibility.⁸

⁸ Muhamad Rosyid Jazuli and Muhammad Fajar Anandi. "Analisis Relevansi Omnibus Law Cipta Kerja terhadap Pengembangan Sumber Daya Manusia dalam Kerangka Pembangunan Ekonomi di Indonesia Pasca-Covid-19." In *Membangun Ketangguhan Ekonomi Pada Era Pandemi*. Jakarta: Gramedia Pustaka Utama, 2021.

One of the most striking aspects of implementation is the change in the structure of the employment relationship, especially related to the expansion of the space for the use of Fixed-Time Work Agreements (*Perjanjian Kerja Waktu Tidak Tertentu/PKWT*) and outsourcing. Empirical studies show that after the enactment of the Job Creation Law, companies broadly adjusted recruitment patterns to take advantage of the new flexibility space, often by switching the status of permanent workers to contract or outsource, in order to reduce severance obligations and long-term cost burdens.⁹ These changes directly affect job security and income continuity of workers, especially in the manufacturing, logistics, and retail sectors. Thus, the implementation of work protection norms is under structural pressure due to corporate orientation that is increasingly responsive to deregulatory incentives.

In addition, variations in implementation at the regional level are important factors that determine the extent to which labor protection norms can be operated effectively. Local governments have a strategic role in setting minimum wages, conducting labor inspections, and resolving industrial relations disputes. However, various studies show that administrative capacity, bureaucratic integrity, and policy cohesion between regions are very diverse, resulting in inequality in worker protection between regions.¹⁰ In some industrial areas, the limited number of labor supervisors and weak company reporting have led to violations such as overtime, wage cuts, and unregulated work status that are difficult to detect.

⁹ Solihin Solihin, and Markoni Markoni. "Perlindungan Hukum Pekerja Pasca Pemberlakuan Undang-Undang No. 11 Tahun 2020 Tentang Cipta Kerja." *Jurnal Locus Penelitian Dan Pengabdian* 1, no. 12 (2022): 717-737.

¹⁰ Maulana Mukhlis. "Implikasi Undang Undang Omnibus Lawterhadap Dinamika Kebijakan Penyelenggaraan Ketenagakerjaan Di Daerah." In *Seminar Nasional Ilmu Lingkungan*. 2021.

In the normative dimension, the implementation of human rights provisions also faces interpretive challenges. Norms regarding the right to decent work, non-discrimination, and fair working conditions are still often understood narrowly by business actors, so that the rights of certain workers are not applied substantively, but only formally administrative.¹¹ For example, the obligation to provide full employment social security for contract or outsourced workers is still often compromised through non-transparent employment agreements. This shows that although legal norms have been formulated, their implementation has not fully internalized the principle of human rights protection.

The transformation of the labor market structure also affects the effectiveness of the implementation of legal provisions. The presence of digital work and economic platforms creates new categories of workers that are often not legally included in the definition of workers in the Labor Law. Many gig workers are considered partners, not workers, so they do not enjoy minimum protections such as social security, minimum wage, or protection against unilateral termination (Pratama, 2024). Thus, the implementation of employment norms is still oriented towards traditional employment relations and is not inclusive of contemporary forms of work.

From an institutional perspective, the effectiveness of implementation is greatly influenced by the ability of supervisory institutions to crack down on violations. Recent studies show that the labor supervision system still faces

¹¹ Zulia Devi Ananta, Ari Puji Astuti, Putri Ananta Rahayu, Moh Jauhari Ibrahim, and M. Isa Anshori. "Memahami tindakan diskriminasi di tempat kerja: perspektif hukum dan etika." *Trending: Jurnal Manajemen Dan Ekonomi* 2, no. 3 (2024): 106-120.

limitations in terms of resources, authority, and sanctions enforcement mechanisms.¹² In many cases, corporate violations are resolved through administrative coaching, not strict legal sanctions. As a result, the implementation of labor protection has become dependent on voluntary compliance of companies, rather than strong enforcement mechanisms.

At the same time, the legitimacy of the labor policy also affects its implementation. The process of legislating the omnibus law, which is controversial and considered less participatory, has caused some labor communities and trade unions to view the new regulation as a form of reduction of rights.¹³ This low legitimacy affects the acceptance rate of industrial relations actors and can weaken implementation due to the emergence of social resistance.

The implementation of labor protection provisions in Indonesia shows that although legal norms have been formulated to balance the interests of investment and worker protection, practices in the field experience inconsistencies due to economic pressures, institutional variations, narrow normative interpretations, and the emergence of new forms of work. Therefore, harmonization between economic regulation and human rights protection requires institutional strengthening, adaptive policy responses, and stricter law enforcement so that the goal of labor protection can be realized substantively.

¹² Rizki Amalia Fitriani, Rahmad Satria, Agustinus Astono, Angelia Pratiwi Mastiurlani Christina Sitorus, and Setyo Utomo. "Efektivitas pengawasan ketenagakerjaan terhadap upah minimum pekerja." *Jurnal USM Law Review* 5, no. 2 (2022): 809-818.

¹³ Muhamad Rosyid Jazuli and Muhammad Fajar Anandi. "Analisis Relevansi Omnibus Law Cipta Kerja terhadap Pengembangan Sumber Daya Manusia dalam Kerangka Pembangunan Ekonomi di Indonesia Pasca-Covid-19." In *Membangun Ketangguhan Ekonomi Pada Era Pandemi*. Jakarta: Gramedia Pustaka Utama, 2021.

3.2. Major Challenges in Harmonization of Economic Regulation and Labor Rights

The challenges in harmonizing the economic deregulation agenda and the protection of human rights in the employment sector are increasingly prominent after the enactment of the Job Creation Law and changes through Law No. 6 of 2023. The two main challenges that will specifically affect the dynamics of industrial relations until 2024 are: (1) the expansion of labor market flexibility that results in uncertainty of employment status and weak long-term protections for workers; and (2) the limited effectiveness of the labor law supervision and enforcement mechanism. These two challenges not only affect the quality of workers' rights protections but also show how the imbalance between economic interests and human rights continues to recur in Indonesia's labor policy.

The first challenge is related to the expansion of work flexibility which is increasingly legalized through changes in labor regulations. Policies regarding the expansion of the use of fixed-term contracts (PKWT), strengthening the legality of outsourcing, and restructuring severance pay have significantly changed the employment landscape.¹⁴ This deregulation allows companies to shift economic risks to workers through non-standard work patterns, as found in various post-implementation studies of the Job Creation Law. For example, the increase in the use of PKWT in the manufacturing and service sectors shows that companies are increasingly oriented towards cost efficiency rather than protecting work

¹⁴ Nabiyla Risfa Izzati. "Deregulation in job creation law: The future of indonesian labor law." *Padjadjaran Jurnal Ilmu Hukum (Journal of Law)* 9, no. 2 (2022): 4.

sustainability.¹⁵ This uncertainty of status has a direct impact on workers' limited access to social security, income security, and bargaining positions in negotiations.

Uncertainty in employment relations also arises for workers in the platform sector or the gig economy. Application-based transportation workers, online couriers, and digital service workers are often not recognized as formal workers so they do not obtain normative rights as stipulated in the Manpower Law.¹⁶ The absence of a legal framework that expressly protects platform workers enlarges the space for exploitation, especially through algorithmic determinations that place workers in subordinate positions without proper protections. This situation shows how economic deregulation has not fully considered the development of new forms of employment relations that require the integration of human rights principles into the adaptation of labor norms.

In addition to structural vulnerabilities in contract workers and platform workers, the strengthening of work flexibility also gives rise to inequalities in industrial relations. The increasingly expansive outsourcing space leads to fragmentation of the employment structure, where outsourced workers tend to receive lower wages, weaker job security, and limited access to unions.¹⁷ This condition is in line with the findings of the study that labor-intensive sectors experience an increase in outsourcing practices without adequate controls, thus

¹⁵ Solihin Solihin, and Markoni Markoni. "Perlindungan Hukum Pekerja Pasca Pemberlakuan Undang-Undang No. 11 Tahun 2020 Tentang Cipta Kerja." *Jurnal Locus Penelitian Dan Pengabdian* 1, no. 12 (2022): 717-737.

¹⁶ Ratih Latif Pramana. "Tantangan Pemerintah Indonesia Dalam Menghadapi Gig Economy." *Jurnal Ekonomi dan Bisnis* 2, no. 4 (2024): 857-874.

¹⁷ Dean Fadhurowman Hafizh, Genta Maghribi, Rita Mulyani, Sastia Roria Afradyta, and Sharen Fernanda. "Analisis Praktik Outsourcing Dalam Perspektif Undang-Undang Cipta Kerja." *Jurnal Lembarnas RI* 10, no. 3 (2022): 212-223.

triggering an increase in industrial relations disputes.¹⁸ This structural inequality is a substantive challenge because it weakens the bargaining position of workers in the entire process of industrial relations.

The second challenge relates to the weak effectiveness of supervision and law enforcement, which has become a chronic problem in the Indonesian labor system. Although labor protection norms are clearly included in various laws, their implementation is often hampered by limited resources, mismatch of local government priorities, and weak capacity of labor inspectors.¹⁹ In many cases, the number of inspectors is not proportional to the number of companies that must be supervised, causing violations of labor norms to rarely lead to adequate sanctions. This shows that there is a structural gap between the formation of national policies and the operational capabilities of supervisory institutions.

Variations in interpretation and implementation of policies at the regional level also weaken the effectiveness of law enforcement. Some regions tend to prioritize the investment climate over worker protection, so new regulations are implemented without paying attention to the human rights principles inherent in labor protection.²⁰ This difference in orientation gives rise to legal uncertainty and hinders the realization of harmonization between economic goals and the protection of labor rights.

¹⁸ Nugroho Habibi, M. Dio Rhiza Amrizal, Irkham Syahrul Rozikin, and Iqbal Faza Ahmad. "Memperkuat perlindungan pekerja outsourcing: Analisis implementasi kebijakan." *Journal of Social Movements* 1, no. 1 (2024): 85-97.

¹⁹ Jefri Hari Akbar. "Politik Hukum Pengaturan Pegawai Pengawas Ketenagakerjaan Guna Meningkatkan Kualitas Ketenagakerjaan di Era Industri 4.0." *Jurnal Hukum Progresif* 8, no. 2 (2020): 167-182.

²⁰ Ahmad Fadli Fauzi. "Politik Hukum Undang-Undang Cipta Kerja Pada Aspek Hubungan Industrial." *Lex Renaissance* 8, no. 1 (2023): 20-38.

One example of a real case that illustrates the challenges of implementation is the increase in industrial relations disputes after the enactment of the Job Creation Law, especially in the transportation and manufacturing sectors. The case of mass strikes of outsourced workers in the logistics sector in 2023 shows that there are complaints related to wage cuts, contract uncertainty, and lack of access to collective bargaining. The dispute shows that regulatory changes are not followed by improved supervision mechanisms, so that the expansion of flexibility actually increases the chances of violations of workers' rights.²¹

The urgency of handling these two challenges until 2024 is very high because these two aspects are directly related to the sustainability of labor rights protection in the midst of national economic changes. Uncertainty in employment relations and weak law enforcement have the potential to erode the quality of decent work and hinder the fulfillment of the state's obligations in protecting the socio-economic rights of the working community. In addition, failure to address these challenges can widen inequality, increase industrial conflicts, and undermine the legitimacy of economic policies that are supposed to favor inclusive and equitable development.

4. Conclusion

This study shows that the relationship between economic regulation and human rights protection in the employment sector is in a complex and dynamic condition. The implementation of labor law norms, especially after the existence of

²¹ Maulana Mukhlis. "Implikasi Undang Undang Omnibus Lawterhadap Dinamika Kebijakan Penyelenggaraan Ketenagakerjaan Di Daerah." In *Seminar Nasional Ilmu Lingkungan*. 2021.

a deregulation framework through regulatory reforms such as the Labor Law and the simplification of regulations through the Job Creation Law and subsequent amendments, shows an imbalance between the goal of economic growth and the fulfillment of workers' basic rights. On the one hand, the state encourages labor market flexibility to improve economic competitiveness and efficiency; On the other hand, this flexibility opens up space for job uncertainty, decreased protection, and greater potential vulnerability for workers. The various challenges identified ranging from weak law enforcement, limited capacity of supervisory institutions, to the insynchronization of norms and field practices show that the problem of labor protection does not only come from the substance of the rules, but also from how the rules are implemented.

The presence of workers in non-standard work situations, the rise in short-term contractual practices, and the increasingly fragmented dynamics of industrial relations reinforce the urgency to ensure that any economic policy remains within the framework of respect for human rights. Therefore, efforts to harmonize regulations need to be directed at strengthening substantive protection, increasing supervisory capacity, and updating law enforcement mechanisms so that economic development does not run at the expense of the dignity and welfare of workers. Balancing these two interests is the key to creating fair, sustainable, and humanitarian-oriented industrial relations.

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